

is overestimated and might actually include a number of medium and large broiler operations that should not be considered small businesses.

(2) Estimated financial effects on small businesses. For the 2001 proposal, EPA conducted a preliminary assessment of the potential impacts on small business CAFOs based on the results of a costs-to-sales test (66 FR 3101). This screen test indicated the need for additional analysis to characterize the nature and extent of impacts on small entities. Based on the results of this initial assessment, EPA projected that it would likely not certify that the proposal, if promulgated, would not impose a significant economic impact on a substantial number of entities. Therefore, EPA convened a SBAR Panel and prepared an Initial Regulatory Flexibility Analysis (IRFA) pursuant to sections 609(b) and 603 of the RFA, respectively. The 2001 proposal provides more information on EPA's small business outreach and the Panel activities during the development of this rulemaking (66 FR 3121). Section XI of this preamble presents EPA's Final Regulatory Flexibility Analysis (FRFA),

as required under section 604 of the RFA. More detailed information on this analysis is provided in section 4 of the *Economic Analysis*.

In examining the effects on small businesses for the final rule, EPA followed the same approach used to evaluate the impacts on other existing CAFOs, described in section VIII.B.1(a). For the purposes of this analysis, EPA assumes that the costs that will be incurred by those sized operations to comply with BPJ-based limitations under the revised NPDES regulations are similar to the estimated costs that would be incurred if Medium CAFOs had to comply with the ELG.

For past regulations, EPA has often analyzed the potential impacts to small businesses by evaluating the results of a costs-to-sales test, measuring the number of operations that will incur compliance costs at varying threshold levels (including ratios where costs are less than 1 percent, between 1 and 3 percent, and greater than 3 percent of gross income). EPA conducted such an analysis at the time of the 2001 proposal, indicating that about 80 percent of the estimated number of

small businesses directly subject to the rule as CAFOs might incur costs in excess of three percent of sales.

EPA believes that its more refined analysis used for its general analysis (presented here) better reflects the potential impacts to regulated small businesses. Using this approach, EPA's analysis indicates that the final rule could cause financial stress to some small businesses, making these businesses vulnerable to closure. Among the estimated 6,200 small businesses, EPA estimates that 262 Large and Medium CAFOs might be vulnerable to facility closure (Table 8.3). Thus, EPA estimates that potential facility closures associated with this rule constitutes about 4 percent of all affected small business CAFOs. Medium CAFOs comprise the majority (about 85 percent) of these estimated number of closures. These results do not consider long-run market adjustment or cost share assistance through federal and State conservation programs. More detailed information is provided in the *Economic Analysis*.

TABLE 8.3.—FINANCIAL EFFECTS ON SMALL BUSINESS CAFOs

Sector	Number of small businesses	Number			Percent of total operations		
		Affordable	Moderate	Stress	Affordable	Moderate	Stress
CAFOs >1,000 AU:							
Fed Cattle .....	538	522	0	16	97	0	3
Veal .....	5	5	0	0	100	0	0
Heifer .....	97	88	0	9	91	0	9
Dairy .....	0	—	—	—	—	—	—
Hogs .....	0	—	—	—	—	—	—
Broilers .....	1,303	763	532	9	58	41	1
Layers: Dry <sup>1</sup> .....	0	—	—	—	—	—	—
Layers: Wet <sup>1</sup> .....	383	383	0	0	100	0	0
Turkeys .....	0	—	—	—	—	—	—
Total .....	2,326	1,795	532	34	76	23	1
Operations 300–1,000 AU (Defined as CAFOs):							
Fed Cattle .....	174	7	0	167	4	0	96
Veal .....	7	7	0	0	100	0	0
Heifer .....	230	189	0	41	82	0	18
Dairy .....	1,330	1,306	24	0	98	2	0
Hogs .....	1,485	1,483	2	0	100	0	0
Broilers .....	520	263	248	10	51	48	1
Layers: Dry <sup>1</sup> .....	24	24	0	0	100	0	0
Layers: Wet <sup>1</sup> .....	24	24	0	0	100	0	0
Turkeys .....	31	31	0	0	100	0	0
Total .....	3,825	3,334	274	228	87	7	6

Source: USEPA. See *Economic Analysis*. May not add due to rounding. Assumes that the costs that will be incurred by those sized operations to comply with BPJ-based limitations under the revised NPDES regulations are similar to the estimated costs that would be incurred if Medium CAFOs had to comply with the ELG.

<sup>1</sup> "Layers: dry" are operations with dry manure systems. "Layers: wet" are operations with liquid manure systems.

*d. Economic effects to new CAFOs.*  
EPA evaluated impacts on new source CAFOs by comparing the costs borne by

new source CAFOs to those estimated for existing sources. That is, if the expected cost to new sources is similar

to or less than the expected cost borne by existing sources (and that cost was considered economically achievable for