

EPA's design for this rule to adopt these ANSI-certified standards as national minimum requirements for all States to incorporate into all permits for covered animal feeding operations. EPA received a number of comments suggesting that EPA should specifically include the GELPPs and ANSI/ASCE 7-98 as authorized alternative management standards in the final CAFO rule. EPA decided not to do so for the reasons discussed above.

In any event, it is important to note that the standards set out in this rule may be better characterized as representing regulatory decisions EPA is directed to make by the Clean Water Act, rather than as "technical standards". Consistent with Section 6(c) of OMB Circular A-119, EPA would not be obliged to consider the use of voluntary consensus standards as possible alternatives to the regulatory standards being adopted.

It should be noted that the effluent guideline rule (40 CFR 412) provides for voluntary alternative performance standards developed and applied in NPDES permits on a site-specific basis. CAFOs that voluntarily develop and adopt such performance standards in their NPDES permits may need to use previously approved technical

standards to analyze for some or all of the following pollutants: nitrogen, phosphorus, BOD, and TSS. Consensus standards have already been promulgated in tables at 40 CFR 136.3 for measurement of all of these analytes.

Further, the rule specifically provides that the determination of land application rates for manure is to be done in accordance with technical standards established by the State. In establishing such standards, States may rely on standards already established by USDA or other existing standards or may develop new standards.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

In implementing the requirements of the Environmental Justice Executive Order, EPA reviews the environmental effects of major federal actions significantly affecting the quality of the human environment. For such actions, EPA reviewers focus on the spatial distribution of human health, social and economic effects to ensure that agency decisionmakers are aware of the extent to which those impacts fall disproportionately on covered communities. EPA has determined that this rulemaking is a major federal

action. However, the Agency does not believe this rulemaking will have a disproportionate effect on minority or low-income communities. The proposed regulations will reduce the negative effects of CAFO waste in the nation's waters to benefit all of society, including minority communities.

*K. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule can not take effect until 60 days after it is published in the **Federal Register**. This will be effective April 14, 2003. This action is a "major rule" as defined by 5 U.S.C. 804(2).

BILLING CODE 6560-50-P