

commercial and recreational fishing industries.

Among the costed facilities, EPA identified 117 facilities belonging to small businesses, seven belonging to small organizations, and one academic/research facility. For commercial facilities, the small business results for the facility closure analysis and associated loss in jobs and increase in local unemployment rates, financial health, credit test, and the sales test results for 20,000 to 100,000 lb/yr category are the same as those presented in Table VI.B.1 (see DCN 20448 for details about small business analysis), assuming cash flow analysis. That is, all these impacts fall on small businesses. The only difference from Table VI.B.1 is in the one percent sales test for the 100,000 to 475,000 lb/yr category, where the number of facilities exceeding the test threshold drops from 54 to 53 when restricted to small businesses.

VII. Solicitation of Comments

A. Alligator Production

As discussed in the proposal, alligator production is not subject to Part 451. As ascertained through contacts with industry experts, alligator production facilities do not discharge effluents from their production systems. Instead, effluents are treated in one-or two-stage lagoons and then applied to crop or forested land. EPA verified the information by reviewing the data from the detailed survey. Alligator producers do not meet the definition of a CAAP because they do not exceed the minimum threshold of discharging 30 days annually. In EPA's view, after having reviewed detailed data, these operations are not CAAPs and are similarly operated to CAFOs. EPA may recommend to permit writers that they consider applying requirements similar to CAFOs when permitting alligator production facilities. EPA seeks comment on whether this would be an appropriate approach for these operations.

B. BMPs

EPA also seeks comment on BMP language that might be included in the final rule or accompanying guidance. For example, in Idaho's general permit, these practices by CAAP facilities are prohibited to ensure protection of State Water Quality Standards for hazardous materials, deleterious materials, and floating, suspended or submerged matter.

- Discharging hazardous materials is prohibited.
- Discharging sludge, grit, and accumulated solid residues associated

with CAAP operations and fish processing is prohibited.

- Practices (e.g., the removal of dam boards in raceways or ponds) which allow accumulated solids to be discharged to waters of the United States is prohibited.
- Discharging untreated cleaning wastewater (e.g., obtained from a vacuum or standpipe bottom drain system or rearing/holding unit disinfection) to waters of the United States is prohibited.
- Sweeping, raking, or intentionally discharging accumulated solids from raceways or ponds to waters of the United States is prohibited.
- Containing, growing or holding fish within an offline or full-flow settling basin is prohibited.

EPA seeks comments on whether these prohibitions, or any other specific requirements for BMP plans, should be included in the final rule or accompanying guidance.

EPA also seeks comment on whether it should modify the structure of the proposed BMP provisions so that the regulation would require specific best management practices and, separately, require sources to develop a BMP plan describing how they intend to meet those requirements. For example, EPA proposed that the BMP plan for flow-through systems must minimize excess feed entering the aquatic animal production system. (See proposal at 40 CFR 451.15(a); see also proposal at 40 CFR 451.25(a) (recirculating systems).) EPA may restructure the regulation so that a source would be required by its NPDES permit to minimize excess feed and, separately, to develop a BMP plan to describe how the source intends to comply with that requirement. Under this approach, the BMP plan, while required by permit, would simply be a tool to help the source implement the substantive permit requirement: minimizing excess feed. EPA also seeks comment on whether to require review of BMP plans by the permitting authority and, if so, how such a requirement should be expressed.

C. Disposal of Drugs and Chemicals

Information on practices for the disposal of drugs and chemicals is limited. EPA seeks comment on existing practices for the disposal of expired drugs and chemicals.

D. Differentiating Between Warm and Cold Water Species

Data from two warm water facilities indicated that they appear to comply with the proposed limits, but EPA recognizes that such facilities can have different wastewater characteristics than

cold water species production facilities. EPA seeks comments and data regarding the ability or inability of warm water facilities to achieve the proposed limits for either flow-through or recirculating system effluents, as appropriate.

E. Combining the Proposed Recirculating and Flow-Through Subcategories Into One Subcategory

EPA may combine flow-through production systems and recirculating systems under a single subcategory with two sets of effluent limits: one that would apply to the discharge of full flow effluents and one that would apply to off-line treatment or recirculating system effluents. We received several comments indicating that there is not a clear distinction between recirculating and flow-through systems. EPA seeks comments on the establishment of a continuous discharge subcategory which would apply to wastewater discharges from both recirculating and flow-through systems.

F. Revised Economic Impact Methodology

For this notice, EPA projected impacts only when they occur using two out of the three forecasting methods. EPA seeks comment on basing its closure analysis for the final rule on impacts that occur using one of the three methods.

G. Factoring Unpaid Labor Charges in the Impact Analysis

EPA is not estimating a charge for unpaid labor reported by CAAP facilities when conducting its economic impact analysis. EPA seeks comment on methods and data that support the estimation of charges for unpaid labor and management in cash flow and net income analyses.

H. Facilities Excluded From the Economic Impact Analysis

Facilities that are excluded from closure analysis include:

- Start-ups (where the first year of income is negative yet this is not indicative of future earnings).
- Cost centers (that transfer production to other facilities under the same ownership at no cost or the cost is set to the operating costs).
- Facilities where the company does not record income statement information at the facility level.
- Facilities that are likely to close under baseline conditions without regard to the rule.

EPA seeks comment on omitting such facilities from the closure analysis.