

Be prepared for your future  
Deanne Meyer  
Livestock Waste Management Specialist  
University of California, Davis

The U.S. Environmental Protection Agency (EPA) has recently released Executive Order 13132. This order addresses proposed regulatory changes to the National Pollutant Discharge Elimination System Concentrated Animal Feeding Operation (CAFO) Regulations and effluent limitation guidelines (ELG) for feedlots. In short, the document provides a framework for new regulations that will be proposed by mid-December. The new regulations will effect many livestock and poultry facilities.

The Animal Feeding Operations (AFO) Strategy identified the need for EPA to revise and rewrite effluent limitation guidelines for poultry and swine (by December, 2001) and for beef and dairy (December, 2002). A series of lawsuits and affiliated court injunctions require that EPA review and revise all effluent limitation guidelines by December, 2001. The newly released Executive Order establishes the direction and intent of the agency through the review process.

What's required now?

Currently, the Federal definition of a CAFO has three tiers. The first is defined by size and has an exemption. A facility that has 1,000 animal units (700 milking and dry cows) is a CAFO—UNLESS it only discharges during a 25-year, 24-hour storm event. The middle tier is for dairies with 200 to 699 milking and dry cows. These facilities are a CAFO if they discharge through a manmade conveyance to water's of the State. The last tier contains facilities that discharge to water's of the State regardless of size. There are NO requirements related to land application of manure.

Once a facility is identified as a CAFO it must obtain an NPDES permit from either the State or the Federal EPA. This permit requires that facilities not discharge, except during a 25-year, 24-hour storm event. Violation of the permit can result in fines of \$27,500 per day, plus additional fines imposed by State and County agencies. Violations can be prosecuted as criminal (potential jail time) or civil, depending on intent and severity of the discharge.

There are opportunities for confusion, loopholes, and non-compliance. EPA suggests that the revised ELG changes will permit many more facilities, eliminate exemptions, and achieve compliance.

What changes might you see in the December document?

1. The number of animals (note animals, not animal units) necessary to define a CAFO will be reduced. One suggestion is to reduce it to 200 dairy

animals and include part or all of the replacement stock. Another option is to more clearly define the middle tier. Potential new criteria include: if the facility has been cited for a water quality violation in the last 5 years, if there is direct contact with water's of the US in the confined area, if the feedlot or storage area is within 100 feet of a water of the U.S., if there is insufficient storage capacity to store the storm event, if the operator does not have or is not implementing a nutrient management plan or if the operators is transporting manure off-site for land application and the recipient is not implementing an acceptable nutrient management plan.

2. Eliminate the exemption clause for large facilities that do not discharge except in the event of a 25-year, 24-hour storm event.
3. Eliminate confusion for beef operations where cattle are pastured during part of the year. Facilities will more easily classify as an AFO and depending on size, as a CAFO.
4. Require permit nutrient plans (this isn't described in detail, but may resemble presently discussed Comprehensive Nutrient Management Plans).
5. Co-permit corporate entities that exercise substantial operational control with the CAFO.
6. Ensure adequate public involvement in the permitting process. Alternatives include: making general permit Notice of Intents available to the public and requiring individual permits for all large CAFO. Individual permits currently afford a greater level of public involvement than general permits.
7. Incorporate land application of manure (include land not under the control of the CAFO). The suggestion is to use soil phosphorus standards. Other methods may be used, subject to common acceptance.
8. Define improper timing of land application.
9. Require documentation by the CAFO permittee for manure transported off-site (nutrient content and obligations under the Clean Water Act to not pollute ground or surface waters.
10. Maintain records for soil and manure testing, facility inspections, maintenance activities and nutrient application.
11. Require proper facility closure.
12. Establish setback requirements for the application of manure in areas adjacent to surface water, tile drain inlets, and sinkholes.
13. Restrict application of manure to frozen, snow covered, or saturated ground.
14. Assess potential connection between groundwater under manure storage areas and surface water.
15. Monitor surface waters adjacent to land where manure is land applied.
16. Mandate specific practices such as dry or drier manure handling and anaerobic digestion with methane capture for liquid manure systems.

Since CAFO have been subject to NPDES permits beginning in the mid-1970s, EPA reasons that full compliance with existing regulations have been achieved.

Therefore, any additional cost or burden to States will be the result of the limited revisions that are being proposed.

What does this mean to you?

Plan to respond. If you plan to continue in the dairy industry, you need to reply to the ELG when they are released in December. Keep in mind that the EPA has the responsibility to protect our ground and surface waters. They aren't particularly concerned about how an operator pays for compliance. There is no part of our constitution that suggests that if an industry **MUST** contaminate the environment to survive, that it should be allowed to continue.

**DO YOUR HOMEWORK.** If you haven't already begun to track manure nutrients, **START.** In all major dairy states, your local Cooperative Extension Agent or Advisor can provide you with helpful tools. Also, you can get assistance from the USDA Natural Resources Conservation Service and numerous consultants. You may consider hiring a certified crop consultant to assist with your manure and fertilizer application decisions. This is an **INVESTMENT** that can pay off by reducing or targeting your fertilizer need and by potentially reducing contamination and subsequent mitigation measures.

**STAY INFORMED.** The information super highway has resulted in information overload for most producers. Identify your credible sources. Be wise enough to separate fact from fiction. Consult with your Cooperative Extension Agent or Advisor, Land Grant College milk procurement company if you need assistance.

**GET INVOLVED.** Work with your regulatory community and producer group. Dialogue is critical. It takes time. There are numerous things that yield results sooner. Consider time spent to be an investment in your future.

One last thing, if you think you can pull political strings, ignore the regulators, or go untouched, you might want to make a phone call. Your local dairy broker may be able to put the "for sale sign" on your right property now. The standards of acceptability from production systems have changed. Numerous groups will hold EPA accountable for enforcing environmental regulations.

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Websites:

**Regulatory information:**

For more information related to the joint USDA NRCS/US EPA Animal Feeding Operation Strategy go to:

<http://www.epa.gov/owm/afo.htm>

For information on US EPA NPDES permit guidance (still under development) to:

<http://www.epa.gov/owm/afoguide.htm>

EPA has a compendium of state programs and regulations. This can be found at :

<http://www.epa.gov/owm/stcpfin.pdf>

To read the language of the draft comprehensive nutrient management plan go to December 9, 1999 Federal Register and request information on comprehensive nutrient management plan

<http://www.gpo.ucop.edu/cgi-bin/gpogate>

To more fully understand the ramifications of the NRCS draft comprehensive nutrient management plan you must read their nutrient management policy. From their website additional information is available related to manure management. Go to:

<http://www.nhq.nrcs.usda.gov/BCS/nutri/manage.html#nm>

The NRCS agricultural waste management handbook is at:

<http://www.ncg.nrcs.usda.gov/awmfh.html>

Report to Congress:

<http://www.cnie.org/nle/ag-48.html>

**Technical information:**

The Midwest Plan Service has a web site for their documents:

<http://www.mwpsdq.org>

The National Farmstead Assessment System homepage can be found at:

<http://www.wisc.edu/farmasyst/>

The Natural Resource, Agriculture, and Engineering Service (formerly Northeast Regional Agricultural Engineering Service):

<http://www.nraes.org/>

University of Nebraska manure matters website:

<http://www.ianr.unl.edu/manure>

A website for North Carolina is:

<http://www.bae.ncsu.edu/programs/extension/publicat/wqwm/animops.html>

A website for Iowa is:

<http://www.ae.iastate.edu/waste.htm>

Information from the Ohio State University:

<http://www.ag.ohio-state.edu/~farmnet/links/nutmgt.html>

This is the location for the research white paper on air quality from USDA

<http://www.nhq.nrcs.usda.gov/faca/Policies/CAFO.htm>

Association of particulate matter components with daily mortality and morbidity in urban populations. 2000. [Http://www.healtheffects.org/Pub/ppLippmann.pdf](http://www.healtheffects.org/Pub/ppLippmann.pdf)

EPA> '> s Proposed Regulatory Changes to the

- > 1. National Pollutant Discharge Elimination System Concentrated Animal Feeding Operation (CAFO) Regulations
- > 2. Effluent Limitation Guidelines for Feedlots.
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> A link to the Inside Washington website is attached. If the link is inactive, the URL is <http://www.iwpextra.com> The document number to request is ee00623.pdf.

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> ; <<IWP Document Service.url>>

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> <http://www.iwpextra.com/default.htm>