

EPA Proposals Would Affect More Livestock Producers



The Environmental Protection Agency is proposing new regulations for concentrated animal feeding operations (CAFOs) across the United States in an effort to maintain strict water quality standards.

BY ABRA UNDEHEUER

If farmers and ranchers hope that, in the near future, regulation of agricultural operations will lessen, they can keep dreaming. The Environmental Protection Agency (EPA), under court order to make changes, has outlined new standards for concentrated animal feeding operations (CAFOs). If adopted, producers could face harsh regulations because of the *proposed* changes.

Earlier this year, the EPA proposed ways to revise and to update water quality regulations that address the effects of manure, wastewater and other process waters generated by CAFOs. Concerns being addressed by this rule include both ecological and human health effects.

The reason? The EPA believes that manure from lagoons or excessive land application can reach waterways through runoff, erosion, spills or groundwater. The runoff results in

excessive nutrients (nitrogen, phosphorus and potassium) and other pollutants in the water. "Any CAFO that discharges waste into lakes or streams in the U.S. needs a permit," explains Mark Matthews of the EPA.

Larry Jennings of Jennings Farm, Lathrop, Mo., previously worked as a chemist for wastewater treatment plants and is familiar with the regulations with which they have been complying the past several years. Jennings says that it was only a matter of time before more regulations would be applied to CAFOs, and that time finally has come.

Existing CAFOs will need to comply with the new regulations 60 days after they are released Dec. 15, 2002. Other operations could be affected as early as Dec. 15, 2005. Although this may seem impossible, Jennings knows from his experience with the

EPA that producers will be expected to comply by the deadlines. Because producers are aware of the possibility, the EPA expects them to change aspects of their operations that could be affected so they will be prepared if required to comply.

When finalized, the regulations could affect virtually every livestock operation in America. That's why Jennings recommends producers ask themselves, "What should I do? How can I be prepared?" It may mean changing an aspect of the operation so regulation would not be needed.

With the proposed rules, an estimated 80 hours/year would be spent on recordkeeping and nutrient-management planning. Records would need to be maintained for at least five years.

Matthews says that once the final proposal is approved, states will go through a process of changing their regulations. Permits essentially will be issued by the states.

The document contains more than 185 pages of proposed changes. Therefore, this is just a brief overview of a few changes that could affect beef producers and crop farmers.

1. Smaller operations will be regulated.

There are two proposed breakdown points for the number of animals an operation has and how the operation would be affected. Operations with as few as 300 cattle could be affected. EPA estimates of how many operations would be regulated nationwide as a result of the change range from 25,500 to 39,300.

For both the current regulations and the proposed alternatives, an enterprise first must meet the definition of an "animal feeding operation" (AFO) before it can be considered a CAFO.

The EPA defines an AFO as a "lot or facility where animals have been, are or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period *and* where crops, vegetation forage growth or postharvest residues are not sustained over any portion of the lot or facility in the normal growing season."

Once an enterprise is classified as an AFO, it also may be considered a CAFO.

Current regulations define a CAFO for beef producers as an AFO with more than 1,000 cattle. If an AFO has 300-1,000 cattle, it is considered a CAFO if a stream runs through it or if it discharges to a stream through a manmade conveyance (for example, a ditch or a pipe).

If an AFO has less than 300 head, it still can be designated a CAFO if the permitting authority determines the facility is a significant contributor of water pollution.

There are two proposed options for changing how the EPA determines which AFOs are CAFOs. The first would reduce the current limit by half. In other words, AFOs with 500 or more cattle would be required to comply with the CAFO regulations. If an AFO has less than 500 head, it still could be designated as a CAFO by the permitting authority under certain circumstances.

Under the second option, an AFO with more than 1,000 beef cattle still would be considered a CAFO. Operations with 300-1,000 head would be defined as CAFOs unless six conditions are met.

- 1) No direct contact of animals with U.S. waters.
- 2) Sufficient storage and containment to meet 25-year, 24-hour design specifications.
- 3) No evidence of discharge in the past five years.
- 4) Production area is not within 100 feet (ft.) of U.S. waters.
- 5) Implementing a permit nutrient plan (PNP) for land application of manure and wastewater.
- 6) Less than 12 tons of manure transported off-site to a single recipient annually, unless the recipient has complied with the requirements for off-site shipment of manure.

If an AFO has less than 300 beef cattle, the permitting authority still could designate it as a CAFO if it's considered a significant contributor to water pollution.

The EPA encourages comments from producers regarding cutoff levels other than the two included in the proposal. See Table 1 for the number of animals by species that would qualify an operation as a CAFO within each of the three options.

The low percentage of CAFOs with permits under the current rules is a primary reason the EPA supports revising the status quo.

Table 1: Number of animals in inventory necessary to require an operation to be regulated under proposed rules

Animal type	Current limit 1,000 AU*	Proposal 1 500 AU	Proposal 2 300 AU
Cattle & heifers	1,000	500	300
Veal	1,000	500	300
Mature dairy cattle	700	350	200
Swine over 55 lb.	2,500	1,250	750
less than 55 lb.	10,000	5,000	3,000
Chickens	100,000	50,000	30,000
Turkeys	55,000	27,500	16,500
Ducks	5,000	2,500	1,500
Horses	500	250	150
Sheep or lambs	10,000	5,000	3,000

*animal units

2. Implementation of a PNP. According to John Lory, University of Missouri environmental nutrient specialist, a PNP dictates how you manage manure for land application on a field. "Currently, farmers determine how much nitrogen they need for their crop and apply accordingly. In many cases, there is no limit on what may be applied," Lory says.

However, the proposal states that, under certain conditions, if you have a high level of phosphorus in your field or a probability of phosphorus runoff in your field, you will be required to switch to a phosphorus-based application rate. No manure could be applied on high-risk fields.

A phosphorus soil test could be required every three years. Manure could be tested annually or sometimes twice a year. A five-year cropping plan also may be required. In addition, a management plan would need to be developed by a certified nutrient management planner. Beef operations would need to monitor wells to demonstrate no movement of nutrients to groundwater.

3. Regulation of off-site transfer of excess manure. Two proposals fall under this regulation. Proposal A would require the manure to be transferred only to recipients who certify they will apply manure appropriately, and a record of manure transfers would be required.

If permitted operators were to apply manure for themselves, soil-test results, soil phosphorus status, yield goals, actual yields, and manure application method and rates would be required.

Proposal B would have no certification requirement.

4. Duty to apply for a permit. Under the current rule, larger operations are given a permit and expected to comply. However, if smaller operations are required to comply, they also will be responsible for applying for

a permit. The operation must maintain a permit until the facility is properly closed, including proper closure of manure storage.

Processors who exercise substantial operational control over contract growers would need to be co-permitted. The co-permitting requirement could be waived if the state has an adequate and enforceable program for excess manure or if the processor implements an "Environmental Management System" with contractors, in which case the third party would be audited for compliance.

Voice your opinion

There still is time to comment about the EPA proposal. In fact, the agency encourages all interested individuals and groups to comment and to provide suggestions regarding the proposed regulations.

The deadline for submitting comments about the proposed changes has been extended to **July 30**. The government must review all written comments.

Remember that merely stating your frustration about the proposal is not enough. Specific areas of the plan should be referenced when providing a rebuttal about how it will affect your farm and other operations. Any references should be cited in your comments.

Send an original and three copies of your written comments and enclosures. The following header must be included with every comment:

RE: National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitations Guidelines and Standards for Concentrated Animal Feeding Operations (CAFOs), January 12, 2001 Federal Register, Volume 66, Number 9, pp. 2959-3145.

The EPA suggests you contact organizations of which you are a member to find out if they are commenting on the proposed regulations. A copy also should be submitted to your federal legislators.

Comments may be submitted by e-mail to cafos.comments@epa.gov.

The postal address is:

Concentrated Animal Feeding Operation Proposed Rule
 USEPA Office of Water
 Engineering and Analysis
 Division (4303)
 1200 Pennsylvania Ave., N.W.
 Washington, DC 20460

If you have any questions about the process, call the CAFO hot line at (202) 564-0766.

A copy of the proposed regulations can be found at www.epa.gov/owm/af0.htm.

