

EPA's new CAFO rule

Last month, the Environmental Protection Agency announced its new rule governing how concentrated animal feeding operations (CAFOs) are regulated. It is the biggest change in environmental regulations the beef industry has seen at the federal level since 1974, when EPA first implemented effluent limitation guidelines for large livestock confinement operations.

The 420-page rule serves as the new "foundation" for all state-run CAFO permitting programs, because individual state regulatory agencies can create environmental regulations that are more stringent than the EPA rule, but not less. Currently, forty-five states are authorized to administer their own permitting programs. Some states have already enacted many of the provisions included in the new EPA rule, including requirements for nutrient management plans and mortality management. Several states also require operations with fewer than 1,000 head to register with the state and apply for a permit. The new EPA rule will have nominal impact on cattle feeders in these states.

What Has Changed?

- New CAFO Category - the "Medium CAFO"
- No more "animal units"
- Land application areas are now a part of the CAFO

- Nutrient management plans and record-keeping are required
- Compulsory sampling and testing of waste and land application areas
- New inspection mandates for Large CAFOs

EPA had originally proposed reducing the CAFO threshold from 1,000 animal units to something between 300 and 750 animal units—a change favored by environmental groups but opposed by the livestock industry. The final rule strikes a compromise between the two groups by creating a new category of CAFO—the "Medium CAFO." To be designated as a "Medium CAFO," an operation must confine between 300 and 1,000 head of beef cattle or veal. It must also either discharge wastewater through a man-made ditch or pipe, or allow surface water to run through an area where animals are confined. A facility with less than 300 head of capacity can only be considered a CAFO if the EPA or state permitting authority specifically designates them as such. "Large CAFOs" are those operations with more than 1,000 head capacity.

The new rule makes no distinction between a veal calf and a mature bull—both now equal one head. However, a cow-calf pair is equal to only one head until the calf is weaned, at which point they are considered two different animals.

Land application areas are now considered part of the CAFO. Fields and pastures owned or controlled by a feeding operation that are used for manure or wastewater application will now be included in the CAFO's permit. Any runoff of manure or wastewater from fields will be considered a discharge unless the CAFO can prove it followed site-specific nutrient management practices when applying the material.

All CAFOs will need to develop a site-specific nutrient management plan for their operation. The nutrient management plan will describe how much manure and wastewater is generated, the land available for application, and the record-keeping system that is used to ensure that nutrients, such as nitrogen and phosphorus, are not overapplied on fields. Manure and wastewater must be tested annually for nutrient content. Results must be given to any third parties taking the material offsite. Soil samples from land application areas must also be collected and analyzed periodically. The nutrient management plan must be kept up to date and be available for examination by regulators. Records must be kept on site for a minimum of five years.

Large feedlots will have to perform a variety of inspections under the new rule, including weekly inspections of all stormwater containment structures and daily inspection of water lines carrying drinking and cooling water. Depth markers or depth sensing devices must be installed in all lagoons, and must be monitored.

What Didn't Change?

- CAFOs will not have to determine if there is a hydrologic connection between surface water and groundwater;
- No "co-permitting" system, which would have made packers with captive supplies and feeders who retain ownership of cattle jointly liable with the CAFO for how the manure and wastewater is handled and applied;
- No change in the definition of an animal feeding operation (AFO).

Compliance with the new rule will cost the livestock industry \$335 million per year, according to the EPA. Anticipating the financial burden imposed by the rule, Congress increased funding for conservation programs in the 2002 Farm Bill by \$20.9 billion. The USDA Environmental Quality Incentives Program (EQUIP) was authorized at \$200 million in 2002 and is scheduled to increase to \$1.3 billion by 2007. Sixty percent of those funds are earmarked for livestock operations. CAFOs of all sizes will be eligible for EQUIP funds.

New operations will have to meet the requirements of the EPA rule before they receive a permit. Existing operations that are already permitted will have to come into compliance when they renew their permits. More information on the new rule can be obtained at www.epa.gov/agriculture.

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