

The new category

Medium CAFO

By Philip Brink

EPA expands its reach.

Is your operation a Medium CAFO? EPA recently released its new rule for concentrated animal feeding operations. With it, the agency created a new regulatory category—the Medium CAFO. To be defined as a Medium CAFO, an operation must confine between 300 and 999 head of beef cattle and meet either of the following two criteria:

- Discharge polluted wastewater from the confinement area through a man-made ditch, flushing device or other similar structure.

- Allow surface water originating outside the feedlot to run through the area where animals are confined. This could include a creek, tributary or ditch.

It is also important to note that the new EPA rule eliminates the term “animal units.” From now on, a weaned calf counts as one animal, just like a 2,000-pound bull. However, a cow-calf pair is only counted as one animal until the calf is weaned.

Obtaining a federal or state-issued environmental permit can provide a few benefits for a Medium CAFO, but it should be carefully weighed against the disadvantages. A permit may supply a measure of protection if your operation is subjected to a complaint or lawsuit, but only if you have maintained compliance with the conditions of the permit and have kept good records that prove it.

On the other hand, the cost associated with doing the upfront work necessary to obtain a permit can be sizeable. This will likely include surveying, geotechnical testing, design, excavation, construction and gathering a small mountain of information. For example, storage ponds will

need to be excavated to hold a certain amount of runoff and other wastewater that may be generated. Ponds must also be lined to meet seepage requirements and have permanent liquid-level measuring devices installed. A pump, piping and distribution system is also generally needed to dewater storage structures.

Stormwater runoff from land application fields owned or controlled by the CAFO will be considered that CAFO's discharge unless the permit holder can demonstrate that a nutrient-management plan was being followed and that all appropriate site-specific management practices were employed to prevent the runoff. Annual reports of environmental-management activities must be prepared and provided to the regulatory agency. Some or all of the information in these reports will be accessible to the public, which includes activist groups.

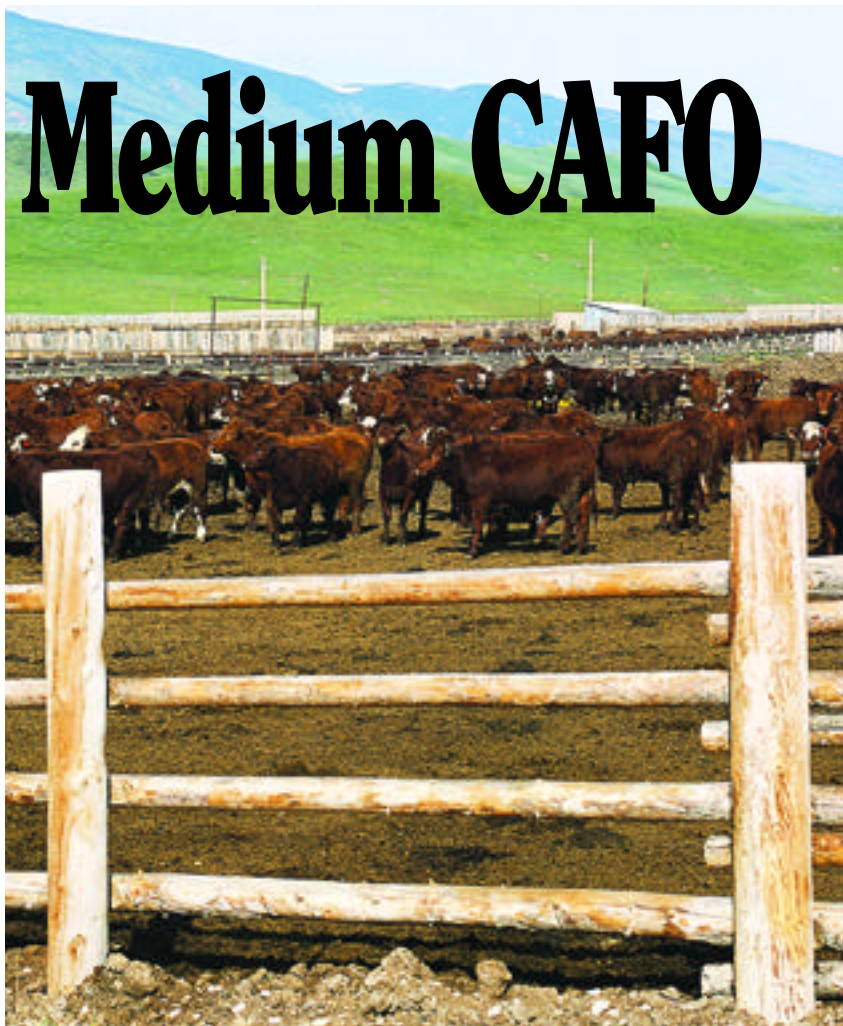
Large CAFOs can achieve economies of scale by spreading their environmental-compliance cost across more animals. Confinement operations with less than 1,000 head do not have this advantage.

In most cases, the best way operations in the Medium CAFO category can help level the playing field is to install and maintain best management practices and avoid the cost associated with obtaining and complying with a permit.

Minimizing your exposure

Control your runoff. Eliminate the conditions that could cause your operation to be considered a Medium CAFO. Start by getting pens out of the creek. Most smaller operations were originally built by a stream so animals could have ready access to water and shelter. It was a sound idea, but unfortunately, it is now an environmental liability. Operations such as these will need to move fences or remove pens altogether to eliminate confined-animal access to surface water. A vegetative strip can be installed between the creek and remaining pens to buffer runoff.

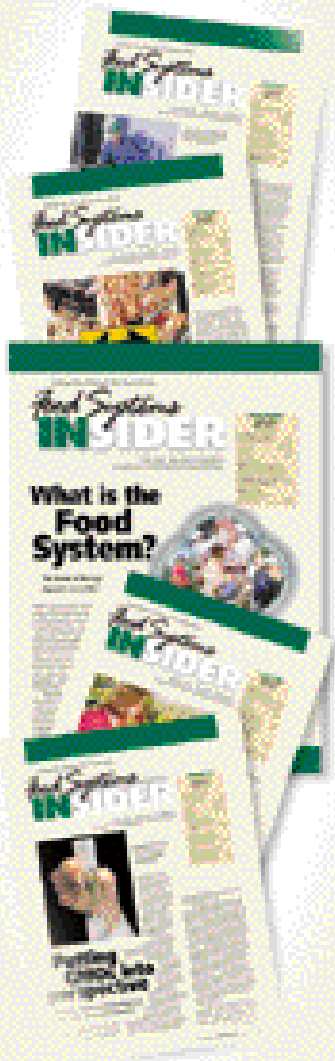
Plug or remove pipes that funnel pen runoff into streams. Ideally, runoff from pens and manure stockpile areas should be temporarily captured by a terrace or settling basin, where solids



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can drop out of suspension. Any runoff that is not impounded should be directed through a grass filter strip or similar structure to help remove sediment.

Manage your nutrients

One feature that operations of all sizes will increasingly have in common is that nearly everyone will need to have some kind of nutrient-management plan. A plan is required for most Large and Medium CAFOs, and non-CAFOs will have to develop comprehensive nutrient-management plans in order to obtain cost-share funding through the NRCS-Environmental Quality Incentive Program. Nutrient-management plans provide a means for operators to prove that manure and wastewater (if applicable) are being correctly land applied.

Nutrient-management plans are site-specific and will include the acreage and soil characteristics of fields where waste products will be applied, methods and rates of application, crop yields, test results of soils and waste materials, and individual nutrient-balance calculations. Once the initial document is created, it becomes a planning and recordkeeping tool.

Keep good records

If state or EPA inspectors visit your operation, they will want to see your facility and review your records. Records should be kept up-to-date and stored on site for at least five years. At a minimum, your records should contain the following information:

- Precipitation records
- Manure removal data, including individual dates of removal, the amount hauled, where it was taken and the name of the hauler
- Land application of manure and wastewater (if applicable)
- Lab test results of land application areas, manure, wastewater and wells
- Annual crop yields from land application fields
- Nutrient-balance calculations on land application areas
- Installation and maintenance of best management practices
- Mortality disposal

Maintain a tidy operation

Determining whether a facility is a

Medium CAFO is partially subjective. Like everyone, regulatory officials are influenced by their own perceptions and prejudices. A neat, orderly facility is perceived as a well-run operation that responsibly manages its environmental liabilities. These operations typically receive less regulatory scrutiny and are more likely to get the benefit of the doubt when there is a question. Clean, organized facilities are also less likely to receive neighbor complaints, even if they produce the same amount of odor and dust as their more sloppy counterparts.

Look at your facility through the eyes of a regulator

The new rule gives state and EPA inspectors the authority to designate an operation as a Medium CAFO if an inspection determines that the operation is a "significant contributor of pollutants to waters of the U.S." Thus, even if your facility does not meet either of the two previously mentioned criteria, it can still be deemed a Medium CAFO. Look at your operation critically and address all areas that an inspector could point to as potential contributors of pollutants to surface waters.

Most operators will be better off if they can avoid being designated as a Medium CAFO because of the permit requirements that go along with the designation. Although it may seem burdensome to make the improvements necessary to avoid the classification, rest assured that this option is easier than achieving and maintaining compliance with a state or federal permit. If your operation is inspected and designated as a Medium CAFO, get help from an experienced environmental professional. Inspectors are not infallible, so do not immediately assume that the designation was correctly applied. You may be able to have the CAFO designation rescinded by installing some control structures and initiating monitoring practices.

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