

SUMMARY OF PROPOSED RULEMAKING: CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)

U.S. Environmental Protection Agency
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ISSUE:

- # Concentrated animal feeding operations (CAFOs) confine large numbers of animals, and store wastewater and manure in a contained area for extended periods of time.¹

- # Two existing interrelated regulations affect CAFOs (promulgated in the early 1970s):
 - permitting regulations that define “CAFO” (determine which animal feeding operations must obtain a NPDES permit);
 - technology-based performance standards for new and existing facilities (performance standards must meet an affordability test under CWA).

- # EPA published proposed revisions to existing regulations on January 12, 2001.

- # EPA’s proposal discussed a wide range of regulatory options and solicited comment on a significant number of possible alternatives.

- # Proposed revisions would address shortcomings in the existing regulations by:
 - clarifying applicability of regulations to the largest 5% to 10% of the industry, (remaining 90% to 95% of all AFOs would continue to be addressed through voluntary programs);
 - requiring that integrators exerting “substantial operational control” over CAFOs obtain permits (share liability);
 - establishing requirements to foster sound manure management (land application does not exceed nutrient needs for crop growth);
 - establishing animal-sector specific requirements applicable to manure storage and handling based on practicability and affordability;
 - swine and poultry wastes can be stored in covered areas to eliminate storm water contamination,
 - beef and dairy operations with a hydrologic link between groundwater and surface water can install liners in containment lagoons to prevent leaking.

- # Effluent guidelines for CAFOs are being developed under a court ordered schedule. The Administrator must take final action on these regulations by December 15, 2002.
 - EPA intends to finalize the NPDES permitting regulations at the same time as the effluent guidelines are finalized.

¹ CAFOs constitute a small share of all animal feeding operations (AFOs) in the livestock and poultry industries, estimated at about 3% of all AFOs based on definitions under the existing Federal regulations. The majority of AFOs are not CAFOs and therefore are not subject to the existing Federal regulations.

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- # EPA estimates that the proposed CAFO regulations will cost existing operations defined as CAFOs about \$830 million and \$925 million annually (\$1999, pre-tax).
- # EPA's economic impact analysis indicates that the proposed CAFO regulations may result in 1,900 to 2,400 facility closures (assuming no cost passthrough). This is an estimated 7percent to 8 percent of all CAFOs—estimated by EPA at 26,000 or 32,000 operations nationally.
- # EPA has conducted extensive outreach with stakeholders including:
 - completed nine public meetings held across the country;
 - established a working group between USDA and EPA to pursue discussions between the two agencies on the rulemaking and other agricultural issues;
 - conducted outreach on the rationale and the cost analysis supporting the proposal.

STATUS & NEXT STEPS:

- # Public comment period ended on July 30, 2001. EPA had extended the comment period (originally set at 120-days) an additional 75-days in response to requests from the public.
- # To date, EPA has received about 12,000 comments on the proposed rule.
 - substantive comments were received by:
 - all major trade associations and industry organizations;
 - land grant universities (including the Food and Agricultural Policy Research Institute (FAPRI) who provided a review of EPA's cost and economic analysis on behalf of the House Agriculture Committee);
 - State departments of agriculture and natural resources;
 - Small Business Administration;
 - National and State Farm Bureau organizations;
 - environmental groups;
 - private citizens/farmers.
 - about 75 percent (9,000 comments) are form letters (consisting of roughly 100 varieties).
- # A preliminary summary of major stakeholder concerns:
 - States:
 - creates additional workload
 - does not recognize state programs
 - Agricultural community:
 - EPA's authority to establish land application requirements and to require groundwater protection.
 - expansion of scope (i.e., businesses that would be subject to regulation)
 - costs and economic impacts

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- Environmental community:
 - does not require individual permits
 - does not require controls that specifically address pathogens, antibiotics and hormones
 - does not require state-of-the-art technology

STATUS & NEXT STEPS: (continued)

Selected data and information obtained by EPA or submitted to the Agency during the comment period and clarifications of the proposed rule will be published in the Federal Register Schedule in a Notice of Data Availability (NODA) this fall.

Schedule of upcoming events:

• Publication of NODA	October 2001
• NODA comment period closes (45-days)	December 2001
• Pre-option selection briefings	January 2002
• Draft Final Rule	July 2002
• OMB review (90 days)	August 2002
• Administrator signature of Final Rule	December 2002
• Publication in Federal Register	January 2003