


**Proposed
National Pollutant Discharge Elimination
System (NPDES) Concentrated Animal
Feeding Operation (CAFO) Reporting Rule**


December 2011



Purpose of Today's Webcast

- Inform the public about proposed rulemaking
- Highlight comment solicitation
 - Comment on any aspect of the proposed rule
 - Comment on specific requirements where EPA has solicited comments


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Agenda

- Rule Schedule
- Background
- Proposal Overview
- Next Steps
- Questions (at the end of the presentation)


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Rule Schedule

October 21, 2011	Proposed NPDES CAFO Reporting Rule published in the Federal Register
October 21, 2011 – December 20, 2011	60-day public comment period
July 13, 2012	Final action on proposal


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Rulemaking History

- In 2008, EPA issued revised regulations in response to the *Waterkeeper* decision.
- Subsequently, industry and environmental groups filed petitions for review of the 2008 rule.
- EPA committed in a 2010 settlement agreement with environmental petitioners to propose a rule requiring CAFOs to provide 14 items of facility information to EPA.


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Background

- U.S. Government Accountability Office
 - 2008 report: *Concentrated Animal Feeding Operations: EPA Needs More Information and a Clearly Defined Strategy to Protect Air and Water Quality from Pollutants of Concern*
 - "EPA does not have data on the number and location of CAFOs nationwide and the amount of discharges from these operations".
- Basic information would assist in implementation of the Clean Water Act (CWA).
 - Improve compliance with existing regulations, and
 - Allow government and interested stakeholders to make informed decisions regarding ways to protect the environment.


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Background (cont.)

- Better data on CAFOs will help EPA to:
 - Assess NPDES program needs;
 - Identify and permit CAFOs that discharge;
 - Conduct education, outreach, compliance assistance or enforcement;
 - Estimate CAFO pollutant loadings - by facility, by watershed, or some other geographical area;
 - Determine potential sources of water quality impairments and take steps to address those impairments.


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Applicability of Proposed Rule

- Applies to CAFOs as defined in 40 CFR 122.23(b):
 - The operation must first be an AFO in order to be a CAFO.
 - An AFO is a CAFO if it meets the regulatory definition of a Large or Medium CAFO or has been designated as a CAFO by the permitting authority or EPA.
- AFOs that do not confine the required number of animals to meet the definition of a Large or Medium CAFO would not be required to submit the information.


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Proposal Overview

- Two options for obtaining basic information from CAFOs:
 - Option 1: All CAFOs submit information
 - Option 2: Only CAFOs in a "focus watershed" submit information
- EPA also requests comment on three alternative approaches to achieve improved water quality protection:
 - Obtain information from existing data sources;
 - Expand network of compliance assistance and outreach tools; and
 - Require state reporting.


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Information Requirements: What information would CAFOs need to submit to EPA?

- CAFOs would provide the following information:
 - Contact information for the CAFO owner OR an authorized representative;
 - Location of the production area by either latitude and longitude OR by a street address;
 - NPDES permit status of the CAFO;
 - Number and type of animals at the CAFO; and
 - Number of acres available for land application.
- EPA proposes to allow authorized representatives to serve as a CAFO's point of contact and to allow the location of the production area to be identified either by latitude and longitude or by a street address to preserve the privacy of a CAFO owner.


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Info. Requirements: Comment Solicitation

- Section 308(b)(1) of the CWA requires that information collected by the Agency be available to the public, except upon a satisfactory showing to the Administrator that any part of the information, report, or record is confidential business information.
- EPA is aware of both security and privacy concerns regarding the potential public release of the information to be collected by this rule.
- EPA is soliciting comment on the following:
 - Alternatives to submission of the latitude and longitude that would provide general information on a facility's location but not specific coordinates;
 - Allowing CAFOs to report numbers of animals confined in ranges; and
 - Appropriate formats or venues to make collect information available to the public.


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Submission Requirements: How CAFOs would submit the information to EPA?

- CAFOs would provide the information to EPA electronically using a web-based system.
- Paper reporting also is an option.
- EPA would not mail the survey form to CAFOs to notify operations of the requirement to respond.
- A paper survey form would be available from:
 - Final Rule Federal Register Notice,
 - NPDES program website, or
 - Mailed to the CAFO, upon request, from the EPA's Office of Water in Washington, D.C.


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Submission Requirements: Comment Solicitation

- EPA intends to conduct extensive outreach to the CAFO industry to ensure that all CAFOs know of the existence of this rule and any requirement to respond.
- EPA seeks comment on the most effective ways to notify CAFOs, when the rule is finalized, that they must submit information to EPA.


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Proposed Option 1: Who would submit?

- All CAFOs
- Exception: If an NPDES-authorized state chooses to respond on behalf of the state's CAFOs.
- The state may choose to respond on behalf of the state's CAFOs if:
 - The state submits all of the data items, and
 - The state provides the information to EPA electronically.


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Proposed Option 1: Timeframes

Entity	Timeframe	Activity
States that choose to report	90 days (3 mos.) after the effective date of the rule	Must submit information 90 days after the effective date of the rule
EPA	150 days (5 mos.) after the effective date of the rule	Makes publicly available within 60 days of the end of the state reporting period a list of CAFOs for which the states have submitted data
CAFOs not appearing on the CAFO list	240 days (8 mos.) after the effective date of the rule	Must submit information within 90 days of the end of the notification period
CAFOs on the CAFO list that prefer to provide information themselves	240 days (8 mos.) after the effective date of the rule	May submit information within 90 days of the end of the notification period


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Proposed Option 1. Timeframes (cont.)

- CAFOs with NPDES permit coverage would be required to submit the information once.
- CAFOs without NPDES permit status would be required to submit/update the information every ten years.

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Proposed Option 2: Who would submit?

- Only those CAFOs in an identified "focus watershed"
- "Focus watershed" determined based on:
 1. Water quality concerns associated with CAFOs (nutrients, sediment, etc.)

AND

 2. One or more of the following criteria:
 - High priority watershed (such as vulnerable ecosystems, drinking water supply source, watersheds with high recreational value or outstanding national resource waters);
 - Vulnerable soil types;
 - High density of animal agriculture; and/or
 - Other relevant information.


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Proposed Option 2: Informing CAFOs of the Need to Submit

- EPA would first explore adequacy of existing data on CAFOs in focus watershed.
- In the event existing data on CAFOs are inadequate, EPA would publish a Federal Register (FR) notice describing the focus watershed.
- EPA would conduct a range of outreach activities lasting at least 30 days, including:
 - Public meetings,
 - Notices in newspapers, and/or
 - Other local media.


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**Proposed Option 2:
How much time
would CAFOs have to respond?**

- CAFOs in a focus watershed would have 90 days after EPA conducted its outreach to submit their information.
- The specific deadline for submitting the information would be published in the FR.


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Alternative Approaches

- EPA recognizes that there may be other ways to achieve the proposal's objectives, and the Agency solicits comment on alternative approaches to achieve improved water quality protection.
- The proposal outlines three alternative approaches, which include:
 - An approach that would obtain data from existing data sources;
 - An approach that would expand EPA's network of compliance assistance and outreach tools; and
 - An approach requiring NPDES-authorized states to submit the information as specified by proposed paragraph § 122.23(k)(2) to EPA, which would require rulemaking.


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NEXT STEPS

- 60-day public comment period ends 12/20/11
 - Submit comments by email, fax, or mail; or online at www.regulations.gov
 - Complete details about how to submit comments are contained in the FR
- Continue outreach to interested stakeholders
- Take final action on proposal by July 2012

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Questions

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- For more information about the proposed NPDES CAFO Reporting Rule, visit:
<http://cfpub.epa.gov/npdes/afo/aforule.cfm>
- Additional questions:
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