



Producers' Compliance Guide for CAFOs

Revised Clean Water Act Regulations for Concentrated Animal Feeding Operations (CAFOs)

A guide to complying with EPA's 2003 revisions to the National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitations Guidelines and Standards for Concentrated Animal Feeding Operations



This document is only a guide to help you determine whether you might be regulated under the revised regulations for Concentrated Animal Feeding Operations (CAFOs) and, if you are, what you might be required to do. This guide gives a general description of the federal CAFO regulations and therefore it does not necessarily contain the full set of detailed requirements in those regulations. It is very important to read the federal regulations and any state regulations for CAFOs and check with the agency that regulates CAFOs in your state to find out whether you need a permit and what your other legal requirements might be. If you do need a permit for your operation, you must carefully read the requirements in your permit and work with your permitting authority to find out exactly how to comply. Meeting the requirements described in this guide is not enough to ensure that you are in compliance with all the legal requirements that apply to your operation.



Recycled/Recyclable

Printed with vegetable-based ink on paper that contains a minimum of 50% post-consumer fiber content processed chlorine-free.

Producers' Compliance Guide for CAFOs

Revised Clean Water Act Regulations for Concentrated Animal Feeding Operations (CAFOs)

Office of Water
Office of Wastewater Management
U.S. Environmental Protection Agency

NOTICE

Small Entity Compliance Guides are prepared pursuant to section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104-121. The statements in this document are intended solely as guidance to aid EPA, the States, and the public in applying the associated regulations. In any civil or administrative action against a small business, small government or small non-profit organization for a violation of the regulations, the court or administrative agency may consider the contents of this Small Entity Compliance Guide when determining what type of fine or penalty, if any, is reasonable and appropriate.

This document is not a substitute for applicable legal requirements, nor is it a regulation itself. Thus, it does not impose legally binding requirements on any party, including EPA, States, or the regulated community. In particular, the use of the term "should" in this document is not intended to be legally binding. This guide may not apply in a particular situation based upon the circumstances, and EPA retains the discretion to adopt approaches on a case-by-case basis that differ from this guide where appropriate. Any decisions regarding a particular facility will be made based on the statute and regulations. Therefore, interested parties are free to raise questions and objections about the substance of this guide and the appropriateness of its application to a particular situation. EPA will, and States should, consider whether the recommendations or interpretations in this guide are appropriate in that situation. EPA may decide to revise this guide without public notice to reflect changes in EPA's approach to implementing the regulations or to clarify and update text. To determine whether EPA has revised this guide, contact EPA's Small Business Ombudsman Office or EPA's Office of Water.

In some places throughout the guide, EPA suggests alternative approaches that might make compliance easier and maybe even reduce costs. Because many of the decisions you must make to comply will depend on the specific conditions at your operation, you might need additional information. EPA encourages you to contact your permitting authority, local conservation district, NRCS office, Cooperative Extension Service, and/or other qualified professionals for advice.

Small Business Ombudsman

Karen V. Brown
1200 Pennsylvania Avenue, NW (1808T)
Washington, DC 20460
Hotline: 800-368-5888
Phone: 202-566-2816
Fax: 202-566-2848

Office of Water

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (4101M)
Washington, DC 20460
e-mail: OW-GENERAL@epa.gov

Contents

- 1. Introduction 1**
 - Who should use this guide? 1
 - Who is in charge of the CAFO permitting program where I live—EPA or the state? 1
 - What does this guide cover? 1
 - How should I use this guide? 1
 - How can I get a copy of the federal regulations? 2

- 2. What are the CAFO regulations? 3**
 - What is the NPDES Program? 3
 - What are the Effluent Limitations Guidelines for CAFOs? 4
 - Why are these regulations important? 5
 - Do other laws regulate CAFOs? 5

- 3. Do these regulations affect me? 7**
 - What animal feeding operations do the regulations cover? 7
 - What is an AFO? 7
 - What is a CAFO? 8
 - Which AFOs are defined as CAFOs? 8
 - Large CAFOs 8
 - Medium CAFOs 8
 - Which AFOs may be designated as CAFOs? 9
 - Medium CAFOs 9
 - Small CAFOs 9
 - What are the CAFO thresholds for specific animal sectors? 10
 - Cattle (other than mature dairy cows) 10
 - Mature dairy cows 11
 - Swine (55 pounds or more) 11
 - Swine (less than 55 pounds) 12
 - Horses 12
 - Sheep or lambs 13

Turkeys	13
Chickens (operations with a liquid manure handling system)	14
Laying hens (operations with other than a liquid manure handling system)	14
Chickens other than laying hens (operations with other than a liquid manure handling system).....	15
Ducks (operations with a liquid manure handling system)	16
Ducks (operations with other than a liquid manure handling system).....	17
Are any other kinds of operations considered to be CAFOs?.....	17
Are there any CAFOs that do not need a permit?	17
How can I get a “no potential to discharge” determination?	18
What happens after I get a “no potential to discharge” determination?.....	18
How can I avoid being covered by these regulations?.....	18
What parts of my CAFO are regulated?	19
4. How do I apply for a permit?.....	21
What is an NPDES general permit?	21
What is an NPDES individual permit?	21
What information do I have to include in my NOI or permit application?	21
When do I have to get an NPDES permit?	22
Existing CAFOs.....	22
Newly defined CAFOs	23
New dischargers	23
New sources	24
Designated CAFOs.....	24
When will my NPDES permit expire?.....	24
How long should I keep my NPDES permit?	25
5. What requirements will my NPDES permit contain?	27
What effluent limitations will be included in my NPDES permit?	27
Effluent limitations for Medium and Small CAFOs	27
Effluent limitations for Large CAFOs	28
Production area requirements for existing CAFOs	28
Is a discharge from the production area ever allowed?	28
Production area requirements for new sources	29
Additional production area requirements for Large beef cattle, dairy cattle, veal calves, swine, turkey, and chicken CAFOs	31
Land application area requirements	32

What are special conditions?..... 33

What special conditions will be included in my NPDES CAFO permit? 33

 First special condition for all CAFOs: Develop and implement a nutrient management plan 33

 What minimum elements must my nutrient management plan address? 34

 Are there any other requirements for a nutrient management plan? 35

 When do I have to do a nutrient management plan? 35

 If I already have a nutrient management plan, do I have to do a new one?..... 35

 How often should I update my nutrient management plan? 36

 Who can write my nutrient management plan? 36

 Second special condition for all CAFOs: Duty to maintain permit coverage 36

 Additional special condition for Large CAFOs: Transfer of manure, litter, and process wastewater to other persons 36

 What other special conditions might be in my NPDES permit?..... 37

What are the standard conditions of all NPDES permits? 37

What records do I have to keep?..... 37

 What are the record-keeping requirements for all CAFOs? 37

 What are the additional record-keeping requirements for Large CAFOs? 37

 What are the additional record-keeping requirements for Large beef, dairy, veal calf, swine, and poultry CAFOs? 38

What do I have to report to the permitting authority?..... 38

 What do I have to include in my annual report?..... 38

 What else do I have to report? 39

6. What is the compliance assurance process? 41

 Where can I get help? 41

 How do I minimize harm if I think I’m out of compliance? 42

 How will EPA know my operation is complying with environmental requirements?..... 42

 What will an inspector look at? 43

 If I find a violation, how can I work with EPA to correct it? 43

 If EPA finds a violation, how might it respond? 44

Glossary 45

Appendix: CAFO Permitting Authorities and Contact Information

Introduction

On February 12, 2003, the United States Environmental Protection Agency (EPA) published revisions to its Clean Water Act regulations for concentrated animal feeding operations (CAFOs). EPA has produced this document to help owners and operators of CAFOs understand and comply with the revised regulations.

This document is EPA's official compliance guide for small entities, and it meets the requirements of the Small Business Regulatory Enforcement Fairness Act of 1996. EPA is continually improving its rules, policies, compliance programs, and outreach efforts, so some of the information in this guide might have changed since it was published. You can find out whether EPA has updated or supplemented this guide by checking EPA's Web site at <http://www.epa.gov/npdes/cafo/producersguide>.

Although this guide fulfills the requirement to publish a guidance for small entities (as defined by the Small Business Administration), the guide applies to all sizes of CAFOs.

Who should use this guide?

You should use this guide if you own or operate a CAFO. It will help you understand the February 2003 revised CAFO regulations. An owner or operator of an animal feeding operation (AFO) can also use the guide to determine whether the operation is a CAFO. See chapter 3 of this guide ("Do these regulations affect me?") for more information about which operations are covered.

Who is in charge of the CAFO permitting program where I live—EPA or the state?

EPA may approve states to run their own regulatory and permitting programs for CAFOs. If EPA has approved your state, the state is the permitting authority and will issue a permit for your CAFO. EPA has approved most states to run the CAFO program. Alaska, Idaho, Massachusetts, New Hampshire, New Mexico, and Oklahoma are states

that EPA has not approved to run the permitting program for CAFOs. In those states, Tribal lands, and in all territories except the Virgin Islands, EPA is the permitting authority and will issue permits for CAFOs.

You can find contact information for your permitting authority in the appendix to this guide or on the Internet at <http://www.epa.gov/npdes/afo/statecontacts>. Also see "Do other laws regulate CAFOs?" on page 5 of this guide. It describes how your state, county, or town might have additional legal requirements that apply to you and that go beyond the requirements described in this guide.

What does this guide cover?

The rest of this guide describes EPA's regulations for CAFOs. These regulations govern whether your operation is a CAFO, whether you need a permit for your operation, how to apply for a permit, and what the permit will require. State permitting authorities use EPA's regulations as a starting point but often add their own requirements in National Pollutant Discharge Elimination System (NPDES) permits. You should always check with your permitting authority to see what the requirements are in your state and to find out exactly what you have to do. The appendix to this guide contains information on how to contact your permitting authority.

How should I use this guide?

You can use this guide to figure out whether your AFO is covered and what you might have to do. Read chapter 2 of the guide ("What are the CAFO regulations?") for basic information on the NPDES permitting program and Effluent Limitations Guidelines (ELGs) for CAFOs.

Always check with your permitting authority to find out exactly what your requirements will be. Your state might have more requirements or more specific requirements than the EPA CAFO regulations.

Then read chapter 3 (“Do these regulations affect me?”) to see whether your operation is covered under the revised regulations. If your operation is regulated, you should read chapters 4 (“How do I apply for a permit?”) and 5 (“What requirements will my NPDES permit contain?”) to learn how to comply. Chapter 6 (“What is the compliance assurance process?”) provides information on the assistance available to help you comply with the regulations and what might happen if you don’t comply.

Throughout this guide, you’ll find boxes that contain important notes, examples, and definitions of italicized terms in the text. At the end of the guide, you’ll find a glossary that defines some of the terms used in the guide.

Some chapters have references to the Federal Register (FR) notice of the final regulations. You can use these references to find the language in the final regulations or the preamble to the final regulations that corresponds with these portions of the guide. (See “How can I get a copy of the federal regulations?” on this page.) The references show section numbers for the corresponding language in the preamble and regulations. The numbers in brackets are the page numbers where the sections can be found in volume 68 of the Federal Register, where the regulations are published. For example, “Preamble: Section I.A [68 FR 7179]” means that you should look for section I.A of the preamble, which can be found on page 7179 of volume 68 of the Federal Register.

If you have trouble understanding any of the information in this guide, ask your permitting authority for help.

In this guide EPA has tried to explain the regulatory language in clear, simple terms. Some of the explanations in this guide are general in nature and might not contain all the details that are in the regulations. Contact your permitting authority for more information on the specific regulations that apply to you. You can find contact information for your permitting authority in the appendix to this guide or on the Internet at <http://www.epa.gov/npdes/afo/statecontacts>.

How can I get a copy of the federal regulations?

The federal regulations described in this guide are the NPDES Permit Regulation and Effluent Limitations Guidelines and Standards for Concentrated

Animal Feeding Operations (40 CFR Parts 122 and 412) [68 FR 7176]. (See Chapter 2, “What are the CAFO regulations?” beginning on page 3 of this guide for an explanation of the NPDES and ELG regulations.) You can view or download the text

of the regulations as they appear in the *Federal Register* on EPA’s Web site at <http://www.epa.gov/npdes/caforule>. You can also request a copy of the regulations from EPA’s National Service Center for Environmental Publications.

Your state might have other regulations that apply to you. Contact your permitting authority to find out how to get a copy of your state’s CAFO regulations.

Order the federal CAFO regulations from EPA’s National Service Center for Environmental Publications

by phone: 1-800-490-9198

by fax: (513) 489-8695

by e-mail: ncepimal@one.net

*by mail: U.S. EPA/NSCEP
P.O. Box 42419
Cincinnati, Ohio
45242-0419*

Ask for document 821-03-001.


“CFR” is an abbreviation for the Code of Federal Regulations, in which federal laws are published. Title 40 of the CFR contains laws concerning protection of the environment. You can access the CFR on the Internet at <http://www.gpoaccess.gov/cfr/index.html>.

What Are the CAFO Regulations?

This guide covers the requirements in the February 2003 revised federal regulations for concentrated animal feeding operations (CAFOs). The regulations are

- The National Pollutant Discharge Elimination System (NPDES) Permit Regulation for CAFOs (40 CFR Part 122).
- The Effluent Limitations Guidelines and Standards (ELGs) for CAFOs (40 CFR Part 412).

EPA issues, enforces, and occasionally updates its regulations. Both of the regulations above have requirements for CAFOs, so EPA revised them at the same time to make sure that their requirements are consistent.

 Preamble: Section I.A [68 FR 7179]

What is the NPDES Program?

The NPDES Program was created under the federal Clean Water Act to protect and improve water quality by regulating point source dischargers. Point source dischargers are operations that *discharge pollutants from discrete conveyances* directly into *waters of the United States*. Point source dischargers are regulated by NPDES permits. An NPDES permit

- Identifies wastewater discharges to surface waters from the point source facility.
- Sets requirements designed to protect water quality (such as discharge limits, management practices, and record-keeping requirements)

GLOSSARY

A *discharge*, in general, is the flow of treated or untreated wastewater from a facility to surface water.

GLOSSARY

The term *pollutant* includes a wide variety of materials that might contaminate waters of the U.S. Pollutants from CAFOs might include nutrients, suspended solids, oxygen-demanding substances, or pathogens.

that the discharger must meet.

- Allows an operation to discharge pollutants as long as the operation meets the requirements in the permit.

If a facility discharges pollutants without having a permit, or has a permit but does not meet the requirements, it is violating the Clean Water Act. Its owner or operator could be subject to enforcement.

GLOSSARY

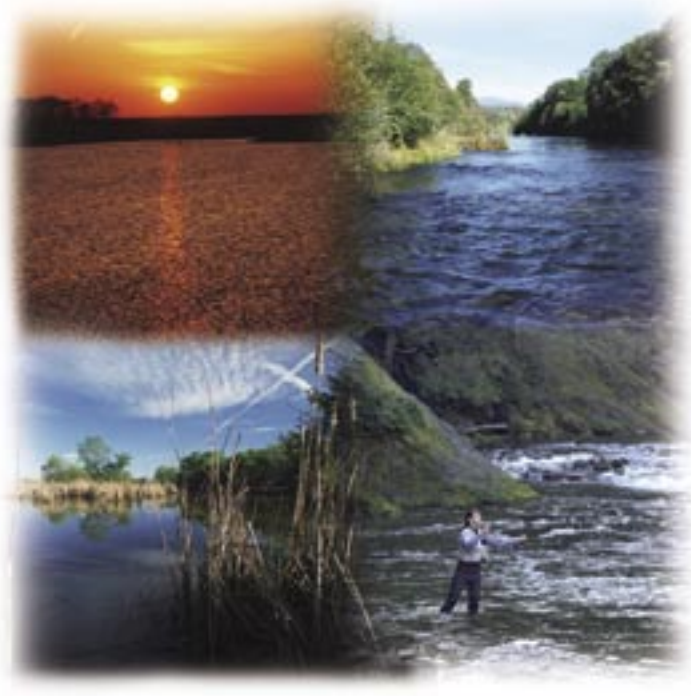
A *discrete conveyance*, in general, is any single, identifiable way for pollutants to be carried or transferred to waters, such as a pipe, ditch, or channel.



A pipe or ditch that carries wastewater to a stream is a discrete conveyance.

GLOSSARY

Where this guide says *surface waters*, it means “waters of the United States.”



Many different types of surface waters are considered waters of the United States.

Under the Clean Water Act, CAFOs are defined as point source dischargers. The revised NPDES CAFO regulation requires all CAFOs to apply for a permit. So if you own or operate a CAFO, you must apply for and comply with the conditions in an NPDES permit. If the owner and operator are different people, only one of them needs to apply for a permit. The NPDES regulation describes which operations qualify as CAFOs and sets the basic requirements that will be included in all CAFOs' permits.

Every CAFO has a duty to apply for a permit. Owners or operators of CAFOs that do not discharge must still contact their permitting authority and provide certain information to avoid permitting requirements. (See "Are there any CAFOs that do not need a permit?" on page 17 of this guide.)

Different kinds of CAFOs have different deadlines for when their operators must apply for NPDES permits. See "When do I have to get an NPDES permit?" on page 22 of this guide for more detail on permit application deadlines.

What is a permitting authority? The agency responsible for issuing NPDES permits in a state is called the permitting authority. (See "Who is in charge of the CAFO permitting program where I live—EPA or the state?" on page 1 of this guide.)

GLOSSARY

The term *waters of the United States* is defined at 40 CFR 122.2. Where this guide says "surface waters," it means "waters of the United States," which include, but are not limited to

- ✓ Waters used for interstate or foreign commerce (for example, the Mississippi River or the Gulf of Mexico).
- ✓ All interstate waters, including wetlands (any river, stream, lake, or other water body that crosses state borders).
- ✓ Waters used for recreation by interstate or foreign travelers (for example, a lake in one state that attracts fishermen from neighboring states).
- ✓ Waters from which fish or shellfish are taken to be sold in other states or countries.
- ✓ Waters used for industrial purposes by industries involved in interstate commerce.
- ✓ Tributaries and impoundments or dams of any waters described above.
- ✓ Territorial seas.
- ✓ Wetlands adjacent to any waters described above.

"Waters of the United States" **does not** include

- ✗ Ponds or lagoons designed and constructed specifically for waste treatment systems.
- ✗ Wetlands that were converted to cropland before December 23, 1985.

These are only examples of the kinds of waters that are considered waters of the United States. See the complete regulatory definition in the glossary in this guide to see what other kinds of waters may also be considered waters of the United States.

What are the Effluent Limitations Guidelines for CAFOs?

For CAFOs and certain other industries, EPA has preset some of the minimum requirements that go into each permit in regulations called "effluent limitations guidelines" (ELGs). When the permitting authority issues a permit for your CAFO, it does not set your permit requirements on its own. Instead, it places the requirements of the ELGs directly into your permit. These requirements may consist of both limits on the amount of a pollutant that can be discharged (numerical limits called "discharge limits") and other ELG requirements (management practices and record-keeping requirements). Your state permitting authority may also set additional requirements that are needed to protect water quality or other requirements that apply under state or local law.


The ELGs for CAFOs include both discharge limits and certain management practice requirements. Note, however, that for most animal types, the ELGs for CAFOs apply only to Large CAFOs.¹ Permitting authorities will set effluent limitations for Medium and Small CAFOs on a case-by-case basis depending on the specific situation at the CAFO and based on the best professional judgment (BPJ) of the permitting authority. In many cases, those requirements may be similar to the requirements for Large CAFOs.

Why are these regulations important?

EPA has revised these regulations to reflect changes in the animal production industry since the original regulations were passed in the 1970s. Out of 257,000 AFOs in the United States today, about 15,500 are CAFOs. These operations generate manure, litter, and *process wastewater* that can contain pollutants like nitrogen, phosphorus, metals, and bacteria. If CAFO operators don't manage these materials properly, they could release pollutants into the environment through spills, overflows, or runoff. These releases, in turn, might pollute surface waters and threaten the health of people and animals. On the other hand, when operators manage manure,

litter, and process wastewater properly, they help to prevent water pollution and its negative impacts. The CAFO regulations were revised to reflect current practices in the industry and to set basic standards for CAFO operators to properly manage the manure, litter, and process wastewater generated at their operations.

The revised regulations focus on the CAFOs that pose the greatest risk to water quality. By regulating mainly Large CAFOs and some smaller CAFOs that pose a high risk to water quality, EPA is regulating close to 60 percent of all manure generated by operations that confine animals.

 *Preamble: Sections I.B and C [68 FR 7179 and 7180]*

Do other laws regulate CAFOs?

Although this guide explains what you have to do to comply with the federal CAFO regulations, your state, county, or town might have more requirements or more specific requirements designed to address particular circumstances. Your permitting authority can set additional requirements in your permit if it finds them necessary. State regulations must include the federal requirements, but they can also be broader, stricter, or more specific. To learn about the regulations in your state, contact your permitting authority. (The appendix to this guide contains a list of permitting authorities.)

Your NPDES permit might include other federal requirements that apply to point source dischargers (for example, requirements under the Endangered Species Act, the National Historic Preservation Act, and the Total Maximum Daily Load (TMDL) program). CAFOs might also be subject to other federal requirements under, for example, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) or the Spill Prevention, Containment, and Countermeasure (SPCC) regulations. Work with your permitting authority to make sure you are complying with all requirements that apply to your operation.

 *Preamble: Sections IX and X [68 FR 7250 and 7252]*

GLOSSARY

Process wastewater is water used directly or indirectly in the operation of an AFO for any or all of the following:

- Spillage or overflow from animal or poultry watering systems.
- Washing, cleaning, or flushing pens, barns, manure pits, or other facilities.
- Direct contact swimming, washing, or spray cooling of animals.
- Dust control.

Process wastewater also includes any water that comes into contact with any raw materials, products, or by-products including manure, litter, feed, milk, eggs, and bedding.

¹ For Duck CAFOs, the ELGs apply to all operations with 5,000 or more ducks, whether they are Large, Medium, or Small CAFOs. (See "Effluent limitations for Large CAFOs" on page 28 of this guide.)

Do These Regulations Affect Me?

These regulations apply to owners and operators of animal feeding operations (AFOs) that are CAFOs because they meet certain conditions. If your animal operation meets those conditions, it is regulated and you must apply for an NPDES permit. The following sections describe the animal operations that are regulated to help you to figure out whether your operation is covered.

What animal feeding operations do the regulations cover?

All concentrated animal feeding operations, or CAFOs, are covered by these regulations. A CAFO is a specific kind of AFO. The regulations describe which AFOs are considered CAFOs. To be regulated as a CAFO, your operation must first meet the regulatory definition of an AFO.

GLOSSARY

40 CFR 122.23 (b)(1) defines *animal feeding operation (AFO)* as a lot or facility (other than an aquatic animal production facility) where the following conditions are met: (1) animals (other than aquatic 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** (2) crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

Your animal operation is affected by these regulations if it meets the regulatory definition of an AFO **and**

- It meets the regulatory definition of a CAFO **or**
- It has been designated as a CAFO by the state or EPA.

What is an AFO?

An AFO is an animal feeding operation that meets both of these conditions:

1. The animals are confined for at least 45 days during any 12-month period.

The 45 days of confinement do not have to be 45 days in a row, and the 12-month period can be any consecutive 12 months.

2. Crops, forage growth, and other vegetation are not grown in the area where the animals are confined.

This does not mean that any vegetation at all in a confinement area would keep an operation from being defined as an AFO. For example, a confinement area like a pen or feedlot that has only “incidental vegetation” (as defined by your permitting authority) would still be an AFO as long as the animals are confined for at least 45 days in any 12-month period.



USDA NRCS

Hog confinement facility.



USDA NRCS

Confined cattle feeding operation.

Pasture and rangeland operations are not AFOs because the animals are not confined or concentrated in an area where manure builds up. However, a pasture or grazing-based operation might also have additional areas such as feedlots, barns, or pens that meet the conditions described above to be defined as an AFO.

Winter feedlots can still be AFOs even if the feedlot area is used to grow crops or forage when animals are not confined there. In the case of winter feedlots, the “no vegetation” condition applies to the time when the animals are confined there.

The AFO definition is not limited to the animal types discussed in the regulations. An operation that confines any type of animal and meets both of the conditions in the definition is an AFO. In addition to confinement areas at animal production facilities, confinement areas at auction houses, sale barns, livestock marketing areas, horse show arenas, and stable areas of racetracks can be considered AFOs if they meet both of the conditions in the definition.

▣ Regulation: 40 CFR 122.23(b)(1) [68 FR 7265]

Preamble: IV.A.1 [68 FR 7188]

If you confine an animal for any portion of a day, you should count the animal as being confined for that day. For example, a facility maintains a herd of beef cattle on pasture. This facility also includes a hospital area where cattle are confined for medication. Cattle are confined in the hospital area 5 days each month for medication. The cattle are confined for a total of 2 hours each time they are medicated. These cattle are counted as being confined for 60 days each year (5 days/month × 12 months) even though they are not confined for a full day.

What is a CAFO?

For a facility to be a CAFO, it must first meet the regulatory definition of an AFO (see “What is an AFO?” on page 7 of this guide). A CAFO is an AFO that has certain characteristics. There are two ways for an AFO to be considered a CAFO:

- An AFO may be **defined** as a CAFO **or**
- An AFO may be **designated** a CAFO.

▣ Regulation: 40 CFR 122.23(b)(2), (4), (6), and (9) [68 FR 7265 and 7266]

Preamble: IV.A.2 [68 FR 7189]

Which AFOs are defined as CAFOs?

An AFO can be defined as a CAFO if it has a certain number of animals and it meets the other criteria contained in the regulations. The regulations set thresholds for size categories based on the number of animals confined at the operation for a total of 45 days or more in any 12-month period. Tables provided later in this chapter show the thresholds for Large, Medium, and Small CAFOs for different kinds of animals.

Large CAFOs

An operation is defined as a Large CAFO if it

- Meets the regulatory definition of an AFO **and**
- Meets the Large CAFO threshold for that animal type.

Medium CAFOs

An operation is defined as a Medium CAFO if it

- Meets the regulatory definition of an AFO;
- Meets the Medium CAFO thresholds for that animal type; **and**
- Meets at least **one** of the following two criteria (called “discharge criteria”):
 - A man-made ditch, pipe, or similar device carries manure or process wastewater from the operation to surface water **or**
 - The animals come into contact with surface water that runs through the area where they’re confined.



EPA OECA



Ohio Environmental Protection Agency



USDA NRCS

The discharge criteria apply to only the parts of the operation where you confine animals, store manure or raw materials, and contain waste. For example, if you dig a ditch or install a pipe that drains water from your confinement area into a stream or lake, your operation would meet the first discharge criterion. Open tile drains in the areas where animals are confined, wastes are collected and stored, or raw materials are kept also meet the first criterion if the tile drains carry pollutants from these areas to surface water. Your operation meets the second discharge criterion if a stream runs through the confinement area and the animals have direct access to the stream.

If you own two or more AFOs that

- Are next to each other **or**
- Use a common waste disposal area or system,

you should count all the animals at all the operations together to determine whether your operations fall within the thresholds for the CAFO size categories. If both of your operations use a common waste disposal area or system, they are counted as one even if they're not next to each other. (Two operations under common ownership are considered to have a common waste disposal system if the manure, litter, or process wastewater from the two operations is mixed before disposal or land application or if the manure, litter, or process wastewater from the two operations is applied to the same land application area. Common waste disposal systems also include any other type of system where the wastes from two operations are commingled for handling or disposal.)

Also, if an operation is entirely located on one site but ownership of the operation is split between two or more people, you should still count all the animals at that operation to know if it falls within the thresholds for the CAFO size categories.

Which AFOs may be designated as CAFOs?

The second way for an AFO to be a CAFO is to be designated as a CAFO. If an AFO doesn't meet the definition of a Large or Medium CAFO but the permitting authority finds it to be a significant contributor of pollutants to surface waters, the permitting authority may designate that operation as a CAFO. To designate an AFO as a CAFO, the permitting authority must inspect the AFO and must find that the operation is a significant contributor of pollutants to surface waters.

Medium CAFOs

AFOs that fall within the size thresholds for Medium CAFOs but don't meet either of the two discharge criteria may be designated as CAFOs by the permitting authority.

An AFO might not meet the definition of a CAFO if

- *It doesn't confine enough animals.*
- *It doesn't meet the discharge criteria (for Medium CAFOs).*
- *It confines a type of animal not included in the Large and Medium CAFO definitions.*

Small CAFOs

AFOs that don't confine enough animals to meet the Medium CAFO size threshold may be CAFOs only by designation. The permitting authority may designate a small AFO as a Small CAFO only if the AFO is a significant contributor of pollutants to surface waters **and** it meets at least one of two discharge criteria:

- A man-made ditch, pipe, or similar device carries manure or process wastewater from the operation to surface water **or**
- The animals come into contact with surface water that runs through the area where they're confined.

EPA and the United States Department of Agriculture (USDA) promote efforts by states to use approaches other than NPDES permitting to help medium and small AFOs to avoid having conditions that would result in those facilities' being defined or designated as CAFOs. For example, the voluntary development and implementation



USDA NRCS

Runoff from this livestock yard could enter a nearby stream and degrade the water quality. Such conditions might be the basis for designating an AFO as a Small CAFO.

of a Comprehensive Nutrient Management Plan (CNMP) prepared in accordance with the CNMP Technical Guidance issued by USDA's Natural Resources Conservation Service (NRCS) should, in most instances, meet the minimum standard requirements of an NPDES permit.

Regulation: 40 CFR 122.23(c) [68 FR 7266]
Preamble: Sections IV.A.7 and 8 [68 FR 7198 and 7199]

What are the CAFO thresholds for specific animal sectors?

EPA has set thresholds for operations that confine different kinds of animals. The thresholds are used with discharge criteria to determine which AFOs are defined as Large or Medium CAFOs and which should be designated as Medium or Small CAFOs. Tables 1 through 12 show these thresholds.

The thresholds in the regulations are for the actual number of animals confined not the number of animals that could be confined. For example, if you raise cattle at a feedlot and you have the capacity to raise as many as 1,500 head at one time, but you never have more than 1,100 head at any one time, your operation confines 1,100 head. If you have 3 chicken houses, confine 25,000 chickens in each house, and produce 6 flocks of chickens each year, your operation still confines only 75,000 chickens at one time, even though you might produce half a million chickens each year.

If you confine more than one kind of animal at your operation, you should count each kind of animal separately. If you confine enough of any one kind of animal to meet the threshold for that animal sector (and your operation meets any other qualifying conditions), your operation is covered by the CAFO regulations. In this case, your permit will apply to the manure, litter, and process wastewater generated from all the animals confined at your operation, not just the sector that meets the size threshold. For example, if an AFO confines 800 beef cattle, 1,000 sows, and 150,000 broilers, the AFO is a Large CAFO because it meets the Large CAFO threshold for chicken operations. In this case, the permit applies to all manure, litter, and process wastewater produced by the confined broilers, sows, and beef cattle. The permit, however, would not apply to any animals pastured at this operation.

Regulation: 40 CFR 122.23(b)(4), (6), and (9) [68 FR 7265 and 7266]
Preamble: IV.A.3 [68 FR 7190]

Cattle (other than mature dairy cows)



Table 1. Cattle (other than mature dairy cows): size category thresholds

An AFO that has . . .	is a . . .	by . . .
at least 1,000 cattle, dairy heifers, cow/calf pairs, or veal calves	Large CAFO	regulatory definition
from 300 to 999 cattle, dairy heifers, cow/calf pairs, or veal calves and meets one of the medium category discharge criteria	Medium CAFO	
from 300 to 999 cattle, dairy heifers, cow/calf pairs, or veal calves and has been designated by the permitting authority	Medium CAFO	designation
fewer than 300 cattle, dairy heifers, cow/calf pairs, or veal calves and has been designated by the permitting authority	Small CAFO	

The thresholds in Table 1 apply to operations that confine any kind of cattle other than mature dairy cows, including heifers, steers, bulls, and cow/calf pairs. For example, these thresholds apply to beef cattle operations such as feedlots and backgrounding yards, veal calf operations, and contract dairy heifer operations. Except for cow/calf pairs, each animal is counted as one animal, regardless of its age or weight. In the case of cow/calf pairs, the pair is counted as one animal until the calf is weaned. After the calf is weaned, the cow and calf count as individual animals.

Example: An 850-head beef feedlot that also confines an additional 100 cow/calf pairs where the calves have not been weaned has 950 cattle other than mature dairy cows. This is not a Large CAFO. However, an 850-head beef feedlot that also confines an additional 100 cows and 100 weaned calves has 1,050 animals. This is a Large CAFO.

Mature dairy cows



USDA NRCS

Swine (55 pounds or more)



USDA NRCS

Table 2. Mature dairy cows: size category thresholds

An AFO that has ...	is a ...	by ...
at least 700 mature dairy cows	Large CAFO	regulatory definition
from 200 to 699 mature dairy cows and meets one of the medium category discharge criteria	Medium CAFO	
from 200 to 699 mature dairy cows and has been designated by the permitting authority	Medium CAFO	designation
fewer than 200 mature dairy cows and has been designated by the permitting authority	Small CAFO	

The thresholds in Table 2 apply to operations that confine mature dairy cows. Mature dairy cows include both milked and “dry” cows. Thresholds for AFOs that house any other kind of cattle, including heifers and veal calves, are shown in Table 1 (“Cattle (other than mature dairy cows): size category thresholds”).

Table 3. Swine (55 pounds or more): size category thresholds

An AFO that has ...	is a ...	by ...
at least 2,500 swine weighing 55 pounds or more	Large CAFO	regulatory definition
from 750 to 2,499 swine weighing 55 pounds or more and meets one of the medium category discharge criteria	Medium CAFO	
from 750 to 2,499 swine weighing 55 pounds or more and has been designated by the permitting authority	Medium CAFO	designation
fewer than 750 swine weighing 55 pounds or more and has been designated by the permitting authority	Small CAFO	

The thresholds in Table 3 apply to operations that confine swine that weigh at least 55 pounds. These operations include farrow-finish operations, wean-finish operations, farrowing operations, breeding operations, grow-finish operations, and other specialized AFOs that confine mature swine. AFOs that house immature swine (less than 55 pounds) might also be subject to the thresholds shown in Table 4 (“Swine (less than 55 pounds): size category thresholds”).

Swine (less than 55 pounds)



USDA

Table 4. Swine (less than 55 pounds): size category thresholds

An AFO that has ...	is a ...	by ...
at least 10,000 swine weighing less than 55 pounds	Large CAFO	regulatory definition
from 3,000 to 9,999 swine weighing less than 55 pounds and meets one of the medium category discharge criteria	Medium CAFO	
from 3,000 to 9,999 swine weighing less than 55 pounds and has been designated by the permitting authority	Medium CAFO	designation
fewer than 3,000 swine weighing less than 55 pounds and has been designated by the permitting authority	Small CAFO	

The thresholds in Table 4 apply to operations that confine swine that weigh less than 55 pounds. These thresholds typically apply to swine nurseries, but they may also apply to other facilities that confine swine of all sizes but primarily confine large numbers of immature swine. For example, an operation with 1,000 sows, 50 boars, and 14,000 newborn pigs is a Large CAFO.

Remember that AFOs that house “mature” swine (55 pounds or more) are already subject to the thresholds in the sector “Swine (55 pounds or more)” (Table 3). So a swine operation could be defined as a CAFO because of the number of swine weighing 55 pounds or more, the number of swine weighing less than 55 pounds, or both.

What if I confine some swine that weigh more than 55 pounds and some that weigh less than 55 pounds? Assuming that your operation is already an AFO, the next step is to count the number of each type of animal on your operation. Does your operation confine more than 2,500 swine each weighing 55 pounds or more? Does your operation confine more than 10,000 swine each weighing less than 55 pounds? If the answer to either or both questions is yes, your AFO is defined as a Large CAFO.

Horses



USDA

Table 5. Horses: size category thresholds

An AFO that has ...	is a ...	by ...
at least 500 horses	Large CAFO	regulatory definition
from 150 to 499 horses and meets one of the medium category discharge criteria	Medium CAFO	
from 150 to 499 horses and has been designated by the permitting authority	Medium CAFO	designation
fewer than 150 horses and has been designated by the permitting authority	Small CAFO	

The thresholds in Table 5 apply to operations that confine horses. The confinement area does not include areas like pastures. Most horse operations confine their animals only for short-term stabling or visits to stalls for shoeing, veterinary care, or similar activities. The horses might not be confined for enough days for the operation to meet the criteria for being an AFO. Data from the USDA National Animal Health Monitoring System suggest that practically all Large horse CAFOs (those with more than 500 horses in confinement) are racetracks.

Sheep or lambs



USDA

Turkeys



USDA

Table 6. Sheep or lambs: size category thresholds

An AFO that has ...	is a ...	by ...
at least 10,000 sheep or lambs	Large CAFO	regulatory definition
from 3,000 to 9,999 sheep or lambs and meets one of the medium category discharge criteria	Medium CAFO	
from 3,000 to 9,999 sheep or lambs and has been designated by the permitting authority	Medium CAFO	designation
fewer than 3,000 sheep or lambs and has been designated by the permitting authority	Small CAFO	

The thresholds in Table 6 apply to operations that confine sheep and/or lambs. You should count all confined sheep and lambs to determine whether your operation meets these thresholds. Confinement areas do not include grazing pastures. Operations with grazing areas might confine animals only for shearing, veterinary care, and lambing and before sale or processing. The animals might not be confined for enough days for the operation to be considered an AFO. Animals must be confined for 45 days or more in a 12-month period for an operation to be considered an AFO.

Table 7. Turkeys: size category thresholds

An AFO that has ...	is a ...	by ...
at least 55,000 turkeys	Large CAFO	regulatory definition
from 16,500 to 54,999 turkeys and meets one of the medium category discharge criteria	Medium CAFO	
from 16,500 to 54,999 turkeys and has been designated by the permitting authority	Medium CAFO	designation
fewer than 16,500 turkeys and has been designated by the permitting authority	Small CAFO	

The thresholds in Table 7 apply to operations that confine turkeys. Most turkey operations today confine their birds in confinement houses, but turkeys are also raised on lots. You should count all birds, including poults and breeders, to determine whether your operation meets the thresholds.

Chickens (operations with a liquid manure handling system)



USDA

Laying hens (operations with other than a liquid manure handling system)



USDA

Table 8. Chickens (operations with a liquid manure handling system): size category thresholds

An AFO that has ...	is a ...	by ...
at least 30,000 chickens and uses a liquid manure handling system	Large CAFO	regulatory definition
from 9,000 to 29,999 chickens, uses a liquid manure handling system, and meets one of the medium category discharge criteria	Medium CAFO	
from 9,000 to 29,999 chickens, uses a liquid manure handling system, and has been designated by the permitting authority	Medium CAFO	designation
fewer than 9,000 chickens, uses a liquid manure handling system, and has been designated by the permitting authority	Small CAFO	

The thresholds in Table 8 apply to operations that confine laying hens or broiler chickens **and** use a liquid manure handling system (like caged housing where manure is flushed to a lagoon). Liquid manure handling systems are relatively common among layer operations and are rarely used in other chicken operations. Operations that do not use liquid manure handling systems are subject to thresholds for the sector “Laying hens (operations with other than a liquid manure handling system)” (Table 9) or “Chickens other than laying hens (operations with other than a liquid manure handling system)” (Table 10). For pullets see “Chickens other than laying hens (operations with other than a liquid manure handling system)” (Table 10).

Table 9. Laying hens (operations with other than a liquid manure handling system): size category thresholds

An AFO that has ...	is a ...	by ...
at least 82,000 laying hens and does not use a liquid manure handling system	Large CAFO	regulatory definition
from 25,000 to 81,999 laying hens, does not use a liquid manure handling system, and meets one of the medium category discharge criteria	Medium CAFO	
from 25,000 to 81,999 laying hens, does not use a liquid manure handling system, and has been designated by the permitting authority	Medium CAFO	designation
fewer than 25,000 laying hens, does not use a liquid manure handling system, and has been designated by the permitting authority	Small CAFO	

The thresholds in Table 9 apply to layer operations that do not use a liquid manure handling system. These operations include scrape-out and belt manure handling systems, high-rise cage housing, and litter-based housing. A chicken operation that uses a liquid manure handling system is subject to thresholds for the sector “Chickens (operations with a liquid manure handling system)” (Table 8). Non-layer operations, including broiler operations, that do not use a liquid manure handling system are subject to thresholds in the sector “Chickens other than laying hens (operations with other than a liquid manure handling system)” (Table 10).

Chickens other than laying hens (operations with other than a liquid manure handling system)



USDA

Table 10. Chickens other than laying hens (operations with other than a liquid manure handling system): size category thresholds

An AFO that has . . .	is a . . .	by . . .
at least 125,000 chickens other than laying hens and does not use a liquid manure handling system	Large CAFO	regulatory definition
from 37,500 to 124,999 chickens other than laying hens, does not use a liquid manure handling system, and meets one of the medium category discharge criteria	Medium CAFO	
from 37,500 to 124,999 chickens other than laying hens, does not use a liquid manure handling system, and has been designated by the permitting authority	Medium CAFO	designation
fewer than 37,500 chickens other than laying hens, does not use a liquid manure handling system, and has been designated by the permitting authority	Small CAFO	

The thresholds in Table 10 apply to operations that confine broilers, roasters, pullets, or breeders **and** do not use a liquid manure handling system. These chicken operations typically use enclosed housing and dry litter systems. A chicken operation that uses a liquid manure handling system is subject to thresholds for the sector “Chickens (operations with a liquid manure handling system)” (Table 8). A layer operation that does not use a liquid manure handling system is subject to thresholds for the sector “Laying hens (operations with other than a liquid manure handling system)” (Table 9).

Example:

- A chicken operation produces 6 flocks of 100,000 broilers each year. The operation does not use a liquid manure handling system. Because the operation confines 100,000 broilers at a time, the operation is a Medium CAFO if it meets one of the two discharge criteria. (See “Which AFOs are defined as CAFOs?” on page 8 of this guide.)
- Another chicken operation has 60,000 laying hens and an additional 60,000 pullets and does not use a liquid manure handling system. This operation is also a Medium CAFO if it meets one of the discharge criteria.
- A third operation also has 60,000 laying hens and an additional 60,000 pullets. This operation uses a lagoon for manure storage, and thus it has a liquid manure handling system. This operation is a Large CAFO.

Chicken operations with uncovered litter stockpiles are treated as having liquid manure handling systems and are subject to the Large CAFO threshold of 30,000 chickens for operations with a liquid manure handling system. By covering such stockpiles, a chicken operation becomes eligible for the higher thresholds for operations with other than a liquid manure handling system. See the definitions of “liquid manure handling system” and “other than a liquid manure handling system” on page 16 of this guide.

Ducks (operations with a liquid manure handling system)

Table 11. Ducks (operations with a liquid manure handling system): size category thresholds

An AFO that has ...	is a ...	by ...
at least 5,000 ducks and uses a liquid manure handling system	Large CAFO	regulatory definition
from 1,500 to 4,999 ducks, uses a liquid manure handling system, and meets one of the medium category discharge criteria	Medium CAFO	
from 1,500 to 4,999 ducks, uses a liquid manure handling system, and has been designated by the permitting authority	Medium CAFO	designation
fewer than 1,500 ducks, uses a liquid manure handling system, and has been designated by the permitting authority	Small CAFO	

The thresholds in Table 11 apply to duck operations that use a liquid manure handling system. These include operations with “wet” lots, lots with storage ponds, lots with swimming areas, and operations that flush manure from confinement buildings to lagoons. You should count all birds to determine whether your operation meets the thresholds. A duck operation that does not use a liquid manure handling system is subject to thresholds for the sector “Ducks (operations with other than a liquid manure handling system)” (Table 12).

GLOSSARY
<p>What is a “liquid manure handling system”?</p> <p>The term <i>manure handling system</i> refers to the manure collection and storage practices used at a chicken or duck operation. Examples of a liquid manure handling system include</p> <ul style="list-style-type: none"> • An operation where ducks are raised outside with swimming areas or ponds, • An operation with a stream running through an open lot, or • An operation with confinement buildings where water is used to flush the manure to a lagoon, pond, or some other liquid storage structure. <p>In the CAFO regulations, the terms <i>wet lots</i>, <i>wet systems</i>, and <i>liquid manure handling systems</i> refer to the same set of management practices and are used interchangeably.</p> <p>AFOs with liquid manure handling systems are Large CAFOs if they have 30,000 laying hens or broilers or 5,000 ducks.</p>

Ducks (operations with other than a liquid manure handling system)

Table 12. Ducks (operations with other than a liquid manure handling system): size category thresholds

An AFO that has ...	is a ...	by ...
at least 30,000 ducks and does not use a liquid manure handling system	Large CAFO	regulatory definition
from 10,000 to 29,999 ducks, does not use a liquid manure handling system, and meets one of the medium category discharge criteria	Medium CAFO	
from 10,000 to 29,999 ducks, does not use a liquid manure handling system, and has been designated by the permitting authority	Medium CAFO	designation
fewer than 10,000 ducks, does not use a liquid manure handling system, and has been designated by the permitting authority	Small CAFO	

The thresholds in Table 12 apply to any duck operation that does not use a liquid manure handling system. You should count all birds to determine whether your operation meets the thresholds. A duck operation that uses a liquid

GLOSSARY
<p>What does “other than a liquid manure handling system” mean?</p> <p>The term <i>manure handling system</i> refers to the manure collection and storage practices used at a chicken or duck operation. Operations using the following practices are considered to have <i>other than a liquid manure handling system</i>:</p> <ul style="list-style-type: none"> • Confinement buildings with a mesh or slatted floor over a concrete pit where the manure is scraped, or • Dry bedding on a solid floor where the manure and bedding are not combined with water for flushing to a storage structure. <p>When chicken or duck operations use such practices and do not use any liquid manure handling systems, such as flushing to lagoons or storage ponds, these operations are considered to have <i>other than liquid manure handling systems</i>. They might also be called <i>dry manure systems</i> or <i>dry operations</i>.</p> <p>AFOs with other than liquid manure handling systems are Large CAFOs if they have 30,000 or more ducks, 82,000 or more laying hens, or 125,000 or more chickens other than laying hens.</p>

manure handling system is subject to thresholds for the sector “Ducks (operations with a liquid manure handling system)” (Table 11).

Are any other kinds of operations considered to be CAFOs?

An AFO with a kind of animal not identified in the regulations might be a CAFO. Animals not identified in the regulations include, for example, ostriches, llamas, or bison. The only way for such an AFO to be a CAFO is for the permitting authority to designate it as a CAFO. (See “Which AFOs may be designated as CAFOs?” on page 9 of this guide to find out how an operation can be designated as a CAFO.)

Are there any CAFOs that do not need a permit?

Large CAFOs that do not have the potential to discharge don’t need NPDES permits. Your Large CAFO doesn’t need an NPDES permit if (1) you provide evidence to your permitting authority that there is no potential for your operation to discharge manure, litter, or process wastewater to surface waters; (2) your permitting authority agrees; and (3) your permitting authority gives you notice that your CAFO has “no potential to discharge” manure, litter, or process wastewater. “No potential to discharge” means that the CAFO must not discharge manure, litter, or process

Medium and Small CAFOs cannot qualify for a “no potential to discharge” determination because those operations must have a discharge to be defined or designated as CAFOs in the first place.


wastewater from either the production areas or any land application areas to surface waters, even by accident or because of human error.

A Large CAFO can qualify for a “no potential to discharge” determination if

- The owner or operator can show that there is no possibility for any CAFO manure, litter, or wastewater to be added to surface waters under any circumstances or conditions.
- The operation has not had a discharge for at least the past 5 years.

The “no potential to discharge” status is intended to provide relief where there truly is no potential for a CAFO’s manure or wastewater to reach surface waters under any circumstances or conditions. For example, the operator of a CAFO that meets the following conditions might be able to demonstrate to the permitting authority that the CAFO has no potential to discharge:

- Located in an arid or semiarid environment.
- Stores all its manure or litter in a permanent, covered containment structure that precludes wind dispersal and prevents precipitation from contacting the manure or litter.
- Has sufficient containment to hold all process wastewater and contaminated storm water.
- Does not land apply CAFO manure or litter because, for example, the CAFO sends all its manure or litter to a regulated, off-site fertilizer plant or composting facility.

 Regulation: 40 CFR 122.23(f) [68 FR 7267]
Preamble: IV.B.2 [68 FR 7201]

How can I get a “no potential to discharge” determination?

If you believe your facility has no potential to discharge, you must still contact your permitting authority to find out whether you need to apply for a permit.

You may request a “no potential to discharge” determination from your permitting authority. You must make your request on or before your permit application deadline. “When do I have to get an NPDES permit?” on page 22 of this guide describes the permit application deadlines. You must show in your request that there is no possibility that your CAFO will discharge pollutants. Contact your permitting authority to find out exactly what information it needs. Your permitting authority might ask for more information and inspect your facility before it makes a decision on your request.

In most cases, land application of CAFO manure and process wastewater would be enough to indicate that a CAFO does have a potential to discharge. “No potential to discharge” might be demonstrated in limited circumstances, such as where the CAFO is so far from waters of the United States that any runoff from the land application areas could never reach them.

Your permitting authority has 90 days to decide whether to grant your request for a “no potential to discharge” determination. Your permitting authority will review your information and any other available information that helps it make a decision about whether your operation could discharge.

If your permitting authority agrees that your operation has no potential to discharge, it will issue a public notice before making a final decision. In the public notice, the permitting authority will describe the activity at your facility, the basis for granting your operation a “no potential to discharge” determination, and the procedures for reaching a final decision. During the public notice period, interested citizens will have a chance to submit comments to the permitting authority about your “no potential to discharge” request. At the end of the public notice period, your permitting authority will tell you whether it intends to issue a “no potential to discharge” determination for your CAFO.

The permitting authority will not grant your CAFO a “no potential to discharge” determination if

- An accident or human error could lead to a discharge or
- Your CAFO has had a discharge within the past 5 years.

If the permitting authority denies your request for a “no potential to discharge” determination, you must apply for an NPDES permit within 30 days after you receive notice of the denial.

What happens after I get a “no potential to discharge” determination?

If you receive a “no potential to discharge” determination for your CAFO, you must make sure that your operation does not discharge. If your operation does discharge, even with a “no potential to discharge” determination, you will be in violation of the Clean Water Act. If you’re planning to make changes at your CAFO that could lead to a discharge, you should contact your permitting authority to get an NPDES permit before you make those changes.

Your permitting authority may reverse the “no potential to discharge” determination if conditions at your facility change, new information is discovered, or the permitting authority has another reason to believe that your operation could discharge. If the permitting authority reverses the “no potential to discharge” determination, you must apply for a permit.

How can I avoid being covered by these regulations?

Large CAFO:

If you own or operate a Large CAFO, the only way to avoid the CAFO requirements is to request and be granted a “no potential to discharge” determination.

Medium AFO:

If you own or operate a medium-sized AFO, you can avoid having your operation defined or designated as a CAFO by

- Eliminating any condition that meets the discharge criteria (see “Which AFOs are defined as CAFOs?”, under the heading “Medium CAFOs” on page 8, and “Which AFOs may be designated as CAFOs?” on page 9 of this guide) **and**

- Reducing or eliminating your operation's discharges of pollutants to surface waters to minimize the chance that the permitting authority will find that your operation is a "significant contributor of pollutants to waters of the United States."

Small AFO:

If you own or operate a small-sized AFO, you can avoid having your operation designated as a CAFO by

- Eliminating any condition that meets the discharge criteria (see "Which AFOs may be designated as CAFOs?", under the heading "Small CAFOs" on page 9 of this guide.) **or**
- Reducing or eliminating your operation's discharges of pollutants to surface waters to minimize the chance that the permitting authority will find that your operation is a "significant contributor of pollutants to waters of the United States."

It is EPA's policy to promote state efforts to use non-NPDES programs to help medium and small AFOs protect water quality. EPA encourages you to take part in voluntary programs that promote sustainable agriculture and reduce environmental harm from AFOs. These programs can help owners or operators of medium- and small-sized AFOs reduce risks to water quality and avoid NPDES permitting requirements. For example, if you voluntarily develop and implement a CNMP using USDA's guidance, your CNMP might help you avoid the conditions that would cause your AFO to be regulated under the CAFO regulations. Funding is available for CNMP development through USDA's Environmental Quality Incentives Program (EQIP).

What parts of my CAFO are regulated?

The CAFO regulations apply to both the production areas and land application areas at your CAFO.

The production areas include all areas where you confine animals, store manure and raw materials, and contain wastes.

- Examples of areas where you might confine animals are open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, exercise yards, medication pens, walkers, animal walkways, and stables.



USDA NRCS

A confinement area for turkeys. The confinement area is considered part of the production area.

- Examples of areas where you might store manure are lagoons, runoff ponds, storage sheds, stockpiles, manure pits, liquid impoundments, static piles, and composting piles.
- Examples of areas where you might store raw materials are feed silos, silage bunkers, and storage areas for bedding materials.
- Examples of areas where you might contain wastes are lagoons, holding ponds, and evaporation ponds that you use to control runoff of rainwater from your animal confinement and manure storage areas.



USDA NRCS

Liquid manure being pumped onto a field.

An egg-washing or -processing facility is part


of the production area. Any area where you store, handle, treat, or dispose of dead animals is also part of the production area.

A land application area that is covered by the CAFO regulations is any land under your control where you apply or might apply manure, litter, or process wastewater. Land is under your control if you own, rent, or lease it, regardless of whether it is adjacent to the production area or at a different site.

▀ Regulation: 40 CFR 122.23(e) [68 FR 7267]
Preamble: IV.A.5 [68 FR 7196]

How Do I Apply for a Permit?

You must get the forms you need to apply for an NPDES permit from your permitting authority. Under the federal NPDES regulations, there are two kinds of permits—general permits and individual permits. Each permitting authority adopts its own rules about what types of permits operations need, so you should contact your permitting authority.

 Preamble: IV.B.4 and 5 [68 FR 7195 and 7196]

What is an NPDES general permit?

An NPDES general permit has one set of requirements for a group of facilities. For example, all CAFOs or all poultry CAFOs in a particular area, such as an entire state or a watershed within the state, might be covered under one general permit. The permitting authority sets the permit conditions, issues a draft permit, and requests comments from the public. The permitting authority makes changes to the draft permit based on the public comments and then issues the final permit. The general permit specifies what kinds of operations can be covered. Owners and operators of eligible operations may then apply for coverage under the permit.

Operators of CAFOs that are eligible for coverage under a general permit may notify the permitting authority that they want to be covered by submitting a Notice of Intent (NOI). If an NPDES general permit

is available in your state and your operation meets the eligibility requirements, you must fill out an NOI and submit it to your permitting authority to apply for coverage under the general permit. The general permit will tell you how to apply for coverage and when your coverage will become effective.

What is an NPDES individual permit?

An NPDES individual permit contains requirements designed specifically for one CAFO. You must apply for an NPDES individual permit if

- A general NPDES permit is not available,
- Your CAFO isn't eligible to be covered under the general NPDES permit,
- You want an individual NPDES permit, or
- Your permitting authority requires you to apply for an individual permit.

To apply for an individual permit, you must fill out either NPDES Forms 1 and 2B or similar forms required by your state. (Contact your permitting authority for the proper forms.) You must complete the forms and submit them to your permitting authority. When your permitting authority receives your permit application, it will use the information you've submitted to draft a permit for your operation. Your permitting authority will base your permit requirements on the unique conditions at your operation. After a public comment period on the draft permit, your permitting authority will modify the draft, if necessary, and then issue your final NPDES individual permit.

What information do I have to include in my NOI or permit application?

When you apply for a general or individual NPDES permit, you must give the following information to your permitting authority:

- The name of the CAFO's owner or operator.
- Your CAFO's location and mailing address.



USDA NRCS

- The latitude and longitude of the entrance to your CAFO's production area.
- A topographic map of the area where your CAFO is located, with the location of the production area specifically marked.
- The number of each kind of animal in confinement.
- The kinds of structures you use to contain or store manure, litter, and process wastewater and the total amount that each structure can store.
- The total number of acres under the control of your CAFO that are available for land application of manure, litter, and process wastewater.
- An estimate of the amount (tons or gallons) of manure, litter, and process wastewater your operation generates each year.
- An estimate of the amount (tons or gallons) of manure, litter, and process wastewater you transfer to other persons each year.

Check EPA's Web site at <http://cfpub.epa.gov/npdes/stormwater/latlong.cfm> to find out how to determine the latitude and longitude and where to get a topographic map for your location.

If you apply for a permit after December 31, 2006, your application must also contain a statement certifying that you have developed and will implement a nutrient management plan. You must have a current nutrient management plan for as long as your operation is covered by an NPDES permit.

The items listed above are the minimum that you must submit. Your permitting authority may require you to submit additional information.

▣ Regulation: 40 CFR 122.21 and 122.28 [68 FR 7265 and 7268]
Preamble: IV.B.6 [68 FR 7206]

When do I have to get an NPDES permit?

Your permit application deadline depends on whether your operation is an existing CAFO, a newly defined CAFO, a new discharger, or a new source or has been designated as a CAFO by the permitting authority. Each of these categories has a different deadline for applying for an NPDES permit. Read the descriptions below to determine when you have to apply for an NPDES permit.

You are responsible for applying for NPDES permit coverage for your CAFO. The federal regulations do not require your permitting authority to notify you that you must apply. For an individual permit, the permitting authority issues a permit after it receives a permit application from the facility seeking coverage. For a general permit, the permitting authority issues the general permit, and then operators submit NOIs to be covered under the permit. In both instances, the permitting authority is required to provide public notification that a permit has been drafted. In addition, although permitting authorities are not required to do so, many are likely to conduct outreach to communicate who must obtain a permit and how to do so. Ultimately, however, the responsibility to seek permit coverage lies with the CAFO. Your failure to seek coverage by the permitting deadlines described below could result in liability under the Clean Water Act and you may have to pay penalties.

▣ Regulation: 40 CFR 122.23(g) [68 FR 7267]
Preamble: IV.B.3 [68 FR 7203]

Existing CAFOs

Existing CAFOs are operations that were defined as CAFOs under the 1976 NPDES CAFO regulations. If you operate an existing CAFO, you should already have an NPDES permit. You will have to reapply for a new permit 180 days before your existing permit expires, unless your permit indicates otherwise. Existing operations that appropriately claimed the 25-year, 24-hour storm permit exemption under the 1976 regulations would have until no later than February 13, 2006 to apply for a permit. See Table 13 to figure out whether your operation was previously regulated. If your CAFO was covered under the 1976 NPDES CAFO regulations but you don't have an NPDES permit, you must apply for an NPDES permit immediately.



Minnesota Sea Grant

Table 13. Size category thresholds for existing CAFOs

Sector	Existing CAFOs (covered under the 1976 NPDES CAFO regulations)	
	Large	Medium ^a
Slaughter and feeder cattle	1,000 or more	300–999
Mature dairy cows	700 or more	200–699
Swine (55 pounds or more)	2,500 or more	750–2,499
Horses	500	150–499
Sheep or lambs	10,000 or more	3,000–9,999
Turkeys	55,000 or more	16,500–54,999
Laying hens or broilers (continuous overflow watering)	100,000 or more	30,000–99,999
Laying hens or broilers (liquid manure handling system)	30,000 or more	9,000–29,999
Ducks	5,000 or more	1,500–4,999

^aThe criteria for operations to be defined as Medium CAFOs were the same in the old regulation as in the revised NPDES regulation. (See “Which AFOs are defined as CAFOs?” on page 8 of this guide.)

Newly defined CAFOs

Newly defined CAFOs are operations that are defined as CAFOs as of April 14, 2003 (the effective date of the revised regulations), but were not defined as CAFOs under the old NPDES regulation. Your operation might be a newly defined CAFO if it is a dry waste chicken operation, a stand-alone dairy heifer operation, or a swine nursery that existed before April 14, 2003. Your operation might also be a newly defined CAFO if you were entitled to the 25-year, 24-hour storm permitting exemption under the old regulation. That exemption has been eliminated. Table 14 shows which operations are newly defined CAFOs. If you own or operate a newly defined CAFO, you should contact your permitting authority to find out when to apply for an NPDES permit. Each permitting authority may set its own deadline for when you must apply, but the deadline must be no later than February 13, 2006.



USDA NRCS

Table 14. Size category thresholds for newly defined CAFOs

Sector	Newly defined	
	Large	Medium
Swine (less than 55 pounds)	10,000 or more	3,000–9,999
Laying hens—operations that do not have liquid manure handling systems	82,000 or more	25,000–81,999
Chickens other than laying hens—operations that do not have liquid manure handling systems	125,000 or more	37,500–124,999
Dairy heifers	1,000	300–999

New dischargers

New dischargers are operations that met the CAFO definition after the revised regulations went into effect (after April 14, 2003) but are not new sources. Your operation might be a new discharger, for example, if it is a newly constructed Medium CAFO because Medium and Small CAFOs in most animal sectors are never defined as new sources. (See “New sources” on page 24 of this guide.) It

might also be a new discharger if it is an existing AFO and you increase the number of animals, or otherwise change the operation, so that it meets the CAFO definition. (See “What is a CAFO?” on page 8 of this guide.) There are three different permit application deadlines for new dischargers:

1. If you build a new operation that is not subject to the ELGs (for example, it meets the definition of a Medium CAFO, or it confines animals other than the types covered by the ELGs), you must apply for an NPDES permit at least 180 days before you begin to operate your new CAFO.
2. If you increase the number of animals or make other changes at your operation so that it meets the definition of a CAFO, and the CAFO is not in a newly defined sector (see Table 14), you have 90 days after you make the change to your operation to apply for an NPDES permit.
3. If you increase the number of animals or make other changes at your operation so that it meets the definition of a CAFO, but the changes you make would not have made your operation a CAFO under the old regulations, you have until April 13, 2006, or 90 days after you make the changes at your operation, whichever is later, to apply for an NPDES permit. For example, your operation would fit this description if you're increasing the number of animals so that it will become a CAFO and the CAFO is in a newly defined sector (see Table 14).

New sources

A Large CAFO is a new source if construction began after April 14, 2003, on a site where no other source is located. An operation may also be a new source if it expands its operations. Specifically, it would be a new source if the process or production equipment is totally replaced, or if it adds new processes that are substantially independent of an existing source at the same site.

In most cases, only Large CAFOs may be new sources. The term *new source* is used only in connection with facilities that are subject to New Source Performance Standards (NSPS), and in most cases only Large CAFOs are subject to the CAFO NSPS (see 40 CFR Part 412).² For most animal sectors, a newly constructed operation that is either a Medium or Small CAFO is a new discharger rather than a new source.

Example of new sources:

- A brand new Large swine CAFO that is constructed where no CAFO previously existed.
- A 500-head dairy AFO that expands to add 3,000 mature dairy cattle and includes new construction that will replace the existing milking and manure handling equipment.
- An existing 75,000-bird turkey CAFO that expands to add a 7,000-bird, wet lot duck CAFO with a separate waste handling system. In this case, the permit would continue to apply to the turkey facilities and would add new source requirements for the duck lot.

If you own or operate a new source CAFO, you must apply for a permit at least 180 days before you begin to operate the CAFO.

 *Regulations: 40 CFR 122.2 and 122.29(b)*

Designated CAFOs

Designated CAFOs are small and medium AFOs that the permitting authority has designated as CAFOs. (See “Which AFOs may be designated as CAFOs?” on page 9 of this guide.) If your permitting authority has notified you that it has designated your operation as a CAFO, you must apply for a permit within 90 days after receiving the notice.

When will my NPDES permit expire?

Individual NPDES permits are usually written for 5-year terms and are reissued every 5 years. You should check the expiration date of your permit.

General NPDES permits also are usually written for 5-year terms. Because a general NPDES permit is created for multiple permittees, however, it could have been issued several years before you submitted your NOI. If this is the case, the general NPDES permit might expire less than 5 years after you submit your NOI.

To reapply for a permit when it is due to expire, you must submit a new application form (for an individual permit) or a new NOI (to be covered under a general permit) 180 days before your permit's expiration date. If you have met this deadline and your permitting authority fails to reissue your NPDES permit before the expiration date, your current NPDES permit will remain in effect until the permitting authority acts on your new application.

Some permitting authorities might have other deadlines or procedures for reissuing CAFO NPDES

² For duck CAFOs, operations with 5,000 or more birds are subject to NSPS if they meet the new source definition. This threshold corresponds to Large duck CAFOs with liquid manure handling systems and Large, Medium, and some Small duck CAFOs with other than liquid manure handling systems.


permits. For example, some general permits are automatically continued without submitting a new NOI. Check the reapplication procedures specified in your permit, and contact your permitting authority to find out exactly what you must do to get a new permit when your current permit is due to expire.

How long should I keep my NPDES permit?

You must have an NPDES permit in effect for your operation as long as it is an operating CAFO. There are a few situations in which you can discontinue your NPDES permit coverage:

- You close your operation.
- You permanently change your operation so that it no longer meets the definition of a CAFO.
- You change your operation so that it cannot and will not discharge. In this case, you'll need a "no potential to discharge" determination from your permitting authority before you discontinue your NPDES permit coverage. (See "How can I get a 'no potential to discharge' determination?" on page 18 of this guide.)

Under all circumstances, you must have an NPDES permit in effect until you properly dispose of all manure, litter, and process wastewater that was generated at the CAFO so that your operation no longer has a potential to discharge to waters of the United States. If your operation still has a potential to discharge when your permit is due to expire, you must reapply for a permit. Once you have properly disposed of the manure, litter, and process wastewater so that there is no longer a potential to discharge, you may ask your permitting authority to terminate your permit. Contact your permitting authority to find out more about how to terminate your permit. (You can find contact information for your permitting authority in the appendix to this guide.)


 Regulation: 40 CFR 122.23(h) [68 FR 7268]
Preamble: IV.C.6 [68 FR 7229]

What Requirements Will My NPDES Permit Contain?

Your NPDES permit will say what you have to do to comply. Certain minimum requirements must be in every NPDES CAFO permit, and this guide describes those minimum requirements. Your permitting authority may include more than the minimum requirements in your NPDES permit. You should read your permit carefully to find out exactly what you have to do at your CAFO.

Your NPDES permit will have four main sets of requirements:

1. Effluent limitations.
2. Special conditions.
3. Standard conditions.
4. Monitoring, record-keeping, and reporting requirements.

 *Preamble: IV.C [68 FR 7207]*
Regulations: 40 CFR 122.42 and 412 [68 FR 7268 and 7269]

Remember to read your permit and check with your permitting authority to find out exactly what your permit requires. This guide describes the minimum requirements established by the federal CAFO regulations. Your permit might require you to do more than the minimum requirements described here, for example, to meet your state's water quality standards or to comply with CAFO requirements specific to your state. See the appendix to find out how to contact your permitting authority.

What effluent limitations will be included in my NPDES permit?

Your permit will contain technology-based effluent limitations (based on the amount of pollutant reduction that can be achieved by applying pollution control technologies or practices), water quality-based effluent limitations (based on the condition of the receiving water body), or both. It

might also contain additional best management practices (BMPs), as needed.

A water quality-based effluent limitation is designed to protect the quality of the receiving water by ensuring that state or tribal water quality standards are met. In cases where a technology-based permit limit does not protect water quality, the permit must include appropriate water quality-based standards. For example, a technology-based standard for a CAFO might allow overflows from storage lagoons under certain circumstances. In some cases, the overflows might have to be restricted or further controlled to ensure that water quality standards in the receiving water are met. This is most likely to happen where the receiving water is impaired or likely to be impaired by CAFO discharges.

Effluent limitations for Medium and Small CAFOs


The ELGs don't apply to medium- and small-sized AFOs that are defined or designated as CAFOs. Instead, effluent limitations for production areas and land application areas at Medium and Small CAFOs are based on the best professional judgment (BPJ) of the permitting authority. The effluent limitations are determined case by case, and BPJ is sometimes based on the effluent limitations for Large CAFOs. Medium and Small CAFOs must also develop a nutrient management plan, but the management practices and application rates in the nutrient management plan are specified by limitations based on BPJ.

 *Preamble: IV.C.3 [68 FR 7226]*

BPJ-based effluent limits are also included in permits for CAFOs that confine a kind of animal not identified in the regulations (such as emus or bison).

Effluent limitations for Large CAFOs

For most animal sectors, the federal ELGs apply only to Large CAFOs.³ The ELGs address two main areas of Large CAFOs—the production areas and the land application areas. The following sections describe the requirements that must be included in permits for CAFOs that are subject to the ELGs. If you own or operate a Large CAFO, you must comply with the requirements in your permit, which will include at least the following effluent limitations for your production areas and land application areas. Your permitting authority may include additional effluent limitations in your permit.

 Regulation: 40 CFR Part 412, Subparts C and D [68 FR 7271 and 7273]

Preamble: IV.C.2 [68 FR 7207]

Production area requirements for existing CAFOs

The production area is the part of your farm that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. (See “What parts of my CAFO are regulated?” on page 19 of this guide.) All of these are considered together to define the production area at your operation.

No discharges of manure, litter, or wastewater from the production area of your CAFO may enter waters of the United States. You must also comply with the record-keeping requirements described in “What records do I have to keep?” on page 37 of this guide. These records and measures will help you show that you’re complying with the effluent limitations in your NPDES permit.

What is the difference between storage and containment? Storage refers to the structures used to hold manure, litter, or process wastewater to reduce the need for frequent hauling and land application, to allow land application at a time when soil and climatic conditions are suitable, and to allow nutrient application at or near the crop’s growing season. Containment refers to the structures and areas used to control runoff of precipitation from confinement areas and manure storage areas.

Is a discharge from the production area ever allowed?

The requirements do allow a discharge caused by rainfall events, but only if you meet certain conditions. Dry-weather discharges are never allowed. Discharges from the production areas of Large horse, sheep, beef, dairy, swine, turkey, and chicken CAFOs are allowed if the operation meets all of the following conditions:

- The production area must be designed, built, operated, and maintained to handle all of the manure, litter, and process wastewater, including the runoff and direct precipitation (rain) from all normal rainfall events up to a 25-year, 24-hour rainfall event. To meet this requirement, the design volume of your storage structures should reflect the following:⁴
 - ✓ The maximum length of time you expect to go before emptying the structures (the storage period).
 - ✓ All waste accumulated during the storage period.
 - ✓ Normal precipitation and evaporation during the storage period.
 - ✓ Normal runoff during the storage period.
 - ✓ The direct precipitation from a 25-year, 24-hour rainfall event.
 - ✓ The runoff from the 25-year, 24-hour rainfall event.
 - ✓ Residual solids after liquid has been removed.

GLOSSARY

A 25-year, 24-hour rainfall event is the largest precipitation event that is likely to occur over 24 hours once every 25 years. Similarly, a 10-year, 24-hour or 100-year, 24-hour rainfall event is the largest precipitation event that is likely to occur over 24 hours once every 10 years or once every 100 years. The National Weather Service defines these rainfall events for different areas of the United States. Some states also publish statistical rainfall probability information. Contact your local weather service or the local NRCS office to get the rainfall values for your area.

³ For CAFOs in the sector “Ducks (operations with other than a liquid manure handling system),” the ELGs apply to Large, Medium, and some Small CAFOs. The CAFO ELGs apply to all duck operations with 5,000 or more ducks that use dry or wet manure handling systems. For duck operations with fewer than 5,000 ducks, regardless of the manure handling system used, there are no applicable ELGs. Instead, BMPs would apply on a case-by-case basis.

⁴ You must keep records to document that you have adequate storage volume and that your storage structures are properly operated and maintained. (See “What records do I have to keep?,” beginning on page 37 of this guide.)



USDA NRCS

Roofed and concrete wall solid manure stacking facility with a settling basin and filter strip.

- ✓ Necessary freeboard to maintain storage integrity. For treatment lagoons, the design volume should also reflect a minimum treatment volume and any additional storage you might need to meet management goals or other regulatory requirements.
- The discharge may consist of only overflows caused by the rainfall event. Dry-weather discharges are not allowed.
- For beef, dairy, swine, turkey, and chicken CAFOs, you must comply with the record-keeping requirements described in “What are the record-keeping requirements for all CAFOs?” and “What are the additional record-keeping requirements for all Large CAFOs?” on page 37, and “What are the additional record-keeping requirements for Large beef, dairy, veal calf, swine, and poultry CAFOs?” on page 38 of this guide. These records and measures will help you show that you’re complying with the ELGs. If you’re not keeping the required records, no discharges are allowed.

Discharges caused by poor management are never allowed, even if it’s raining. Your production area must be properly designed, constructed, operated, and maintained and you must keep the required documents and records. Proper design and operation includes designing lagoons for the rainy season, draining lagoons before the rainy season begins, and not applying manure to saturated soils or during rain events. Proper operation

and maintenance also include activities such as dewatering when appropriate and in accordance with a nutrient management plan. Occasionally a series of rainfall events that are far above normal rainfall might occur so close together that they prevent dewatering. Under such conditions, even though your storage structures have been properly designed, constructed, and managed, a series of smaller storms could in rare events cause a permissible overflow. However, with proper planning and maintenance, you should usually be able to avoid these situations.

▣ Regulation: 40 CFR 412.13, 412.31(a), and 412.43(a)
[68 FR 7270, 7271, and 7273]

Preamble: IV.C.2.c and d [68 FR 7214 and 7217]

Discharges from duck CAFOs with 5,000 or more ducks (regardless of the type of liquid manure handling system⁵) must meet the following discharge limits:

- Biochemical oxygen demand (BOD₅): You may not discharge more than 3.66 pounds (1.66 kilograms) per day per 1,000 ducks and your maximum monthly average discharge may not exceed 2.0 pounds (0.91 kilograms) per day per 1,000 ducks.
- Fecal coliform bacteria: Your discharge may not exceed 400 most probable number (MPN) per 100 milliliters at any time.

▣ Regulation: 40 CFR 412.22(a) [68 FR 7271]

Production area requirements for new sources

Some new CAFOs designed and built after April 14, 2003, are subject to more stringent ELG requirements for the production area. (No additional requirements apply to the land application areas for new source CAFOs.) (See “New Sources” on page 24 of this guide for more information on which operations are considered new source CAFOs.)

New Source Performance Standards for horse and sheep CAFOs

The production area requirements for new CAFOs with horses and sheep are the same as those for existing CAFOs.

▣ Regulation: 40 CFR 412.15 [68 FR 7271]

⁵ For duck CAFOs, the ELGs apply to all operations with 5,000 or more ducks that use dry or wet manure handling systems (Large duck CAFOs with a liquid manure handling system and Large, Medium, and some Small duck CAFOs with other than a liquid manure handling system).

New Source Performance Standards for duck CAFOs

No discharges of process wastewater pollutants from the production areas of new source duck CAFOs with 5,000 or more ducks may enter waters of the United States. The requirements do provide for a discharge during a rainfall event, but only if you meet certain conditions. If you don't meet these conditions, you may not discharge under any circumstance. Discharges from the production areas of new source duck CAFOs are allowed if the operation meets all the following conditions:

- The production area must be designed, built, operated, and maintained to handle all of the process wastewater, plus the runoff and direct precipitation (rain) from a 25-year, 24-hour rainfall event.
- The discharge may consist of only overflows caused by the rainfall event. Dry-weather discharges are not allowed. Discharges caused by poor management are never allowed, even if it's raining.

■ Regulation: 40 CFR 412.25 [68 FR 7271]



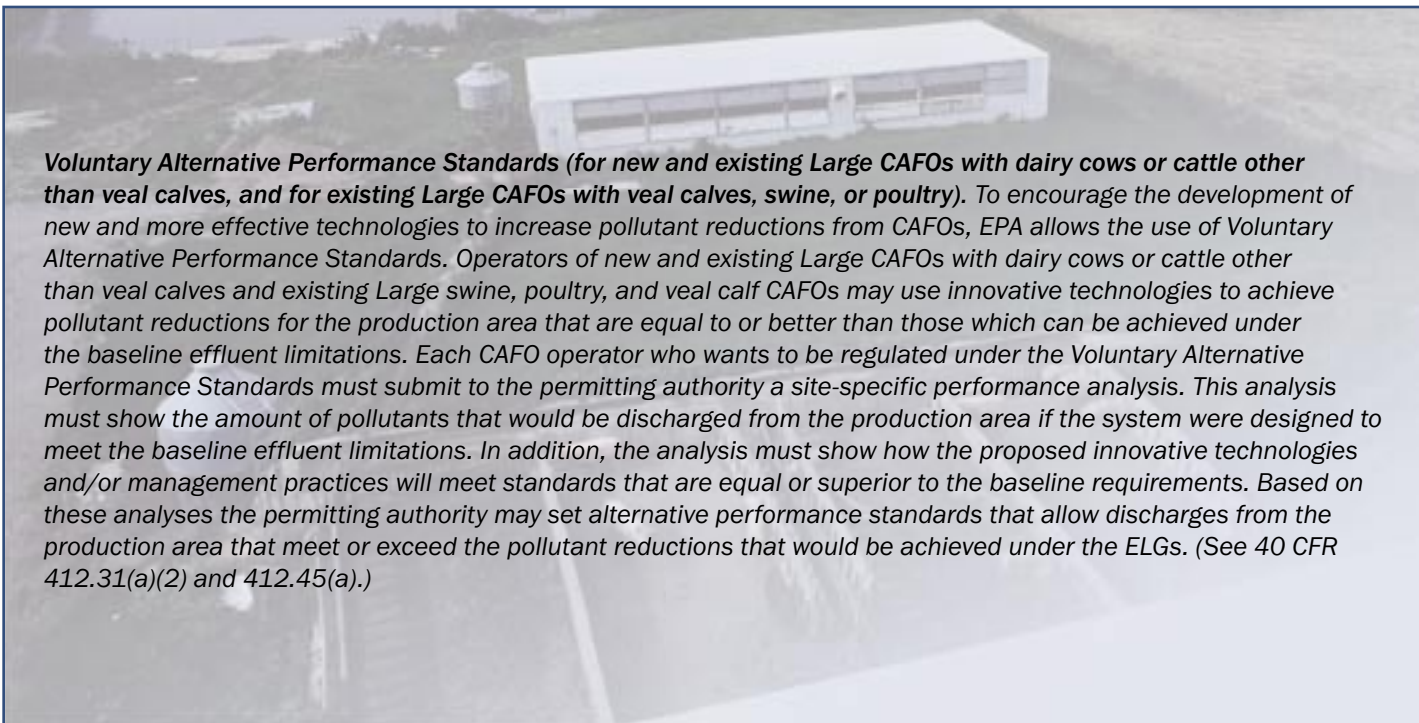
USDA NRCS

A flush tank and lagoon system keeps the feeding area clean for these dairy cattle. The lagoon also stores nutrients for future application to pastures.

New Source Performance Standards for beef and dairy cattle CAFOs

The production area requirements for new CAFOs with dairy and/or beef cattle other than veal calves are the same as those for existing CAFOs.

■ Regulation: 40 CFR 412.35 [68 FR 7272]



USDA NRCS

Voluntary Alternative Performance Standards (for new and existing Large CAFOs with dairy cows or cattle other than veal calves, and for existing Large CAFOs with veal calves, swine, or poultry). To encourage the development of new and more effective technologies to increase pollutant reductions from CAFOs, EPA allows the use of Voluntary Alternative Performance Standards. Operators of new and existing Large CAFOs with dairy cows or cattle other than veal calves and existing Large swine, poultry, and veal calf CAFOs may use innovative technologies to achieve pollutant reductions for the production area that are equal to or better than those which can be achieved under the baseline effluent limitations. Each CAFO operator who wants to be regulated under the Voluntary Alternative Performance Standards must submit to the permitting authority a site-specific performance analysis. This analysis must show the amount of pollutants that would be discharged from the production area if the system were designed to meet the baseline effluent limitations. In addition, the analysis must show how the proposed innovative technologies and/or management practices will meet standards that are equal or superior to the baseline requirements. Based on these analyses the permitting authority may set alternative performance standards that allow discharges from the production area that meet or exceed the pollutant reductions that would be achieved under the ELGs. (See 40 CFR 412.31(a)(2) and 412.45(a).)

New Source Performance Standards for swine, turkey, chicken, and veal calf CAFOs

No discharges of manure, litter, or wastewater from the production areas of new source swine, turkey, chicken, and veal calf CAFOs may enter waters of the United States. The requirements do provide for a discharge in the largest of rainfall events, but only if you meet certain conditions. If you don't meet the conditions, you may not discharge under any circumstance. Discharges from the production areas of new source swine, turkey, chicken, and veal calf CAFOs are allowed if the operation meets all the following conditions:

- The production area must be designed, built, operated, and maintained to handle all the manure, litter, and process wastewater, including the runoff and direct precipitation (rain) from a 100-year, 24-hour rainfall event.
- The discharge may consist of only overflows caused by rainfall events. Dry-weather discharges are not allowed.
- You must also comply with the record-keeping requirements described in “What are the record-keeping requirements for all CAFOs?” and “What are the additional record-keeping requirements for all Large CAFOs?” on page 37, and “What are the additional record-keeping requirements for Large beef, dairy, veal calf, swine, and poultry CAFOs?” on page 38 of this guide. These records

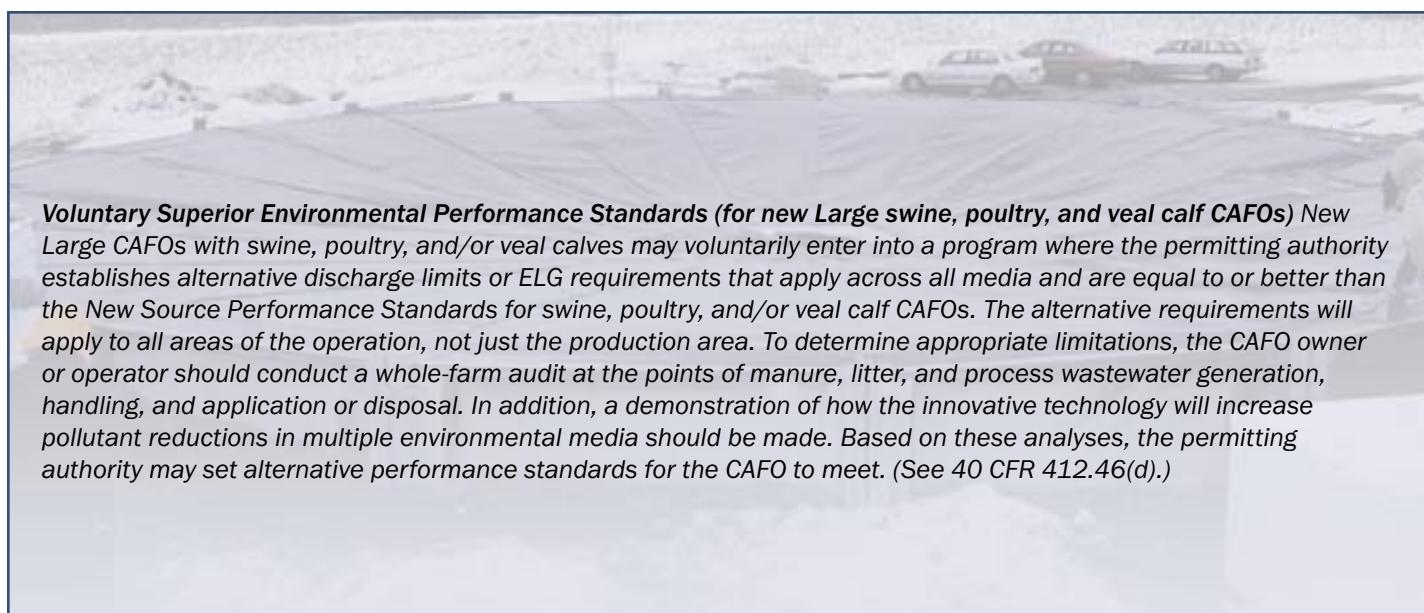
and measures will help you show that you're complying with the ELGs. Discharges caused by poor management are never allowed, even if it's raining.

 Regulation: 40 CFR 412.46 [68 FR 7273]

Additional production area requirements for Large beef cattle, dairy cattle, veal calf, swine, turkey, and chicken CAFOs

New and existing Large CAFOs (except duck, sheep, and horse CAFOs) must meet the following additional measures:

- Inspect at least once a week all storm water diversion devices, runoff diversion structures, animal waste storage structures, and devices channeling contaminated storm water to the wastewater and manure storage and containment structure.
- Inspect daily all water lines, including drinking water or cooling water lines.
- Install depth markers in all open liquid storage structures, such as lagoons, ponds, and open tanks, to measure the liquid level needed to properly handle the design volume, rainfall from large storms, and any extra storage needed.
- Correct any problems found as a result of the daily and weekly inspections as soon as possible.



Voluntary Superior Environmental Performance Standards (for new Large swine, poultry, and veal calf CAFOs) New Large CAFOs with swine, poultry, and/or veal calves may voluntarily enter into a program where the permitting authority establishes alternative discharge limits or ELG requirements that apply across all media and are equal to or better than the New Source Performance Standards for swine, poultry, and/or veal calf CAFOs. The alternative requirements will apply to all areas of the operation, not just the production area. To determine appropriate limitations, the CAFO owner or operator should conduct a whole-farm audit at the points of manure, litter, and process wastewater generation, handling, and application or disposal. In addition, a demonstration of how the innovative technology will increase pollutant reductions in multiple environmental media should be made. Based on these analyses, the permitting authority may set alternative performance standards for the CAFO to meet. (See 40 CFR 412.46(d).)




USDA NRCS

Improper disposal of dead chickens poses a water quality concern.

- Properly dispose of dead animals and livestock to prevent disposal in the wastewater treatment system and to prevent discharges of pollutants to surface water.

You should include these measures in your CAFO's nutrient management plan. (See "First special condition for all CAFOs: Develop and implement a nutrient management plan" on page 33 of this guide.)

 Regulation: 40 CFR 412.37 and 412.47 [68 FR 7272 and 7274]

Land application area requirements

The land application area is any land that is under the control of the AFO owner or operator, whether it is owned, rented, or leased, and to which manure or process wastewater from the production area is (or might be) applied. For example, if you applied litter to field "A" last year and do not intend to apply litter again until next year, that field is still part of your land application area for purposes of your nutrient management plan. The land application requirements are the same for existing and new sources.

Even though the ELGs do not set land application area requirements for horse, sheep, or duck CAFOs, NPDES permits for these operations will require land application BMPs as part of the nutrient management plan. (See "First special condition for all CAFOs: Develop and implement a nutrient management plan" on page 33 of this guide.)

The federal ELGs require that owners or operators of all Large beef cattle, dairy cattle, veal calf, swine, turkey, and chicken CAFOs properly apply manure, litter, or wastewater to land application areas under their control. The CAFO operator must do this by using BMPs developed in accordance with a nutrient management plan. Your nutrient management plan must be designed to achieve realistic production goals, while minimizing nitrogen and phosphorus movement to surface waters. (See "First special condition for all CAFOs: Develop and implement a nutrient management plan" on page 33 of this guide.)



USDA NRCS

Liquid manure from a hog feeding operation is being land applied.

Owners or operators of Large beef cattle, dairy cattle, veal calf, swine, turkey, and chicken CAFOs must also perform the following BMPs and any other BMPs required by their permits (as specified in the ELGs):

- Land apply manure, litter, and process wastewater in accordance with a nutrient management plan that specifies application rates for each field. Your permitting authority will establish technical standards that you must use to determine your land application rates.



For some CAFOs, wastewater samples must be collected at least once a year.

- At least once a year, collect representative samples of manure, litter, and other wastewater and analyze them for nutrient content, including nitrogen and phosphorus.
- At least once every 5 years, collect representative soil samples from all fields where manure, litter, and process wastewater are applied and analyze them for phosphorus content.
- Maintain a setback area within 100 feet of any down-gradient surface waters, open tile intake structures, sinkholes, agricultural well heads, or other conduits to surface waters where manure, litter, and other wastewaters are not applied. As a compliance alternative, the CAFO may elect to establish a 35-foot vegetated buffer where manure, litter, and other wastewater are not applied. The CAFO owner or operator may demonstrate to the permitting authority that a setback or vegetated buffer is unnecessary because of site-specific conditions or practices.
- Periodically conduct leak inspections of equipment used for land application of manure, litter, or wastewater.

If a CAFO has a permit and is in full compliance with the permit, which includes properly developing and implementing the nutrient management plan, a precipitation-related runoff from the land application area is an allowable discharge. On the other hand, if a CAFO does not have a permit or does not have a nutrient management plan, or the CAFO operator does not follow the nutrient management plan when applying manure, litter, and process wastewater, a discharge resulting from land application at that CAFO would be a violation of the Clean Water Act.

▣ Regulation: 40 CFR 122.23(e), 412.31(b), and 412.43(b)
[68 FR 7267, 7272, and 7273]
Preamble: IV.C.2.b [68 FR 7209]

What are special conditions?

Some NPDES permits contain special conditions that supplement the effluent limitations because they address unique conditions at an operation. Typical special conditions include BMPs, monitoring activities, and stream surveys.

What special conditions will be included in my NPDES CAFO permit?

The CAFO regulations establish two special conditions that must be included in all NPDES CAFO permits and one additional condition for only Large CAFOs. Your permitting authority may include other special conditions in your NPDES permit as well. Remember to read your permit to find out what you have to do, and contact your permitting authority if there is anything in your NPDES permit that you don't understand.

▣ Preamble: IV.C.6 [68 FR 7229]

First special condition for all CAFOs: Develop and implement a nutrient management plan

If you own or operate a CAFO of any size, your NPDES permit will require you to develop and implement a nutrient management plan. The goal of a nutrient management plan is to minimize your CAFO's impact on water quality. Your nutrient management plan must describe the practices and procedures that will be implemented at your operation to meet all of the production area and land application area requirements that apply to your operation. If you own or operate a Large CAFO (or a duck CAFO with more than 5,000 birds), your nutrient management plan must describe how you'll achieve the discharge limits and specific management practices described in "Effluent limitations for Large CAFOs" on page 28 of this guide.

▣ Regulation: 40 CFR 122.42(e)(1) [68 FR 7268]
Preamble: IV.C.4 [68 FR 7226]

What minimum elements must my nutrient management plan address?

At the least, your nutrient management plan must describe how you plan to manage nutrients and waste for each element shown in Table 15 that applies to your operation.

Table 15. Minimum Standards for Nutrient Management Plans

<p>Adequate Storage Capacity</p> <p>Your nutrient management plan must include specific practices to ensure adequate storage capacity to protect water quality, including provisions to ensure proper operation and maintenance of your storage facilities. Your plan should demonstrate that you are</p> <ul style="list-style-type: none"> ✓ Maintaining enough storage capacity in all of your liquid manure, wastewater, or storm water storage structures to ensure that you are complying with all of your permit requirements. ✓ Storing dry manure in production buildings or storage facilities, or otherwise storing it in such a way as to prevent polluted runoff. ✓ Providing adequate storage capacity to ensure compliance with your state's technical standards for nutrient management. ✓ Ensuring proper operation and maintenance of all manure, wastewater, and storm water storage facilities. <p>Storage includes structures like waste ponds, lagoons, tanks (above and below ground), stockpiles, and other structures.</p>
<p>Proper Management of Dead Animals</p> <p>Your nutrient management plan must describe how you handle and dispose of dead animals in a manner that protects water quality. Common practices include composting, incineration, rendering, and landfill disposal. EPA recommends that you do not bury dead animals in pits because they might contaminate groundwater. You must not put dead animals in any liquid manure, storm water, or process wastewater storage or treatment system unless the system is designed to handle dead animals.</p>
<p>Clean Water Management</p> <p>Keeping clean storm water away from production areas can reduce the amount of wastewater storage needed. Your plan must describe how you design and implement management practices to divert clean water from the production area, where appropriate. Clean water includes rain falling on the roofs of facilities, runoff from adjacent land, and rainwater from other sources. If you don't prevent clean water from coming into contact with manure or process wastewater, you must collect it in accordance with your permit requirements.</p>
<p>Preventing Your Animals from Contacting Waters of the United States</p> <p>Your plan must describe how you make sure that animals and manure in the production area don't come into direct contact with waters of the United States. Animals in the production area must not be allowed to stand in waters of the United States.</p>
<p>Proper Chemical Handling</p> <p>Your plan must show how you handle chemicals and other contaminants. Unused and waste chemicals and other contaminants must not be allowed to enter waste lagoons or other structures for storing manure, litter, or process wastewater, or any storm water storage or treatment system, unless the system is designed to treat the chemicals and other contaminants. Examples of such chemicals are pesticides, hazardous and toxic chemicals, and petroleum products and by-products.</p>
<p>Implementing Conservation Practices to Control Nutrient Loss</p> <p>Your plan must describe how you develop and implement BMPs to control the runoff of pollutants from your production and land application areas to waters of the United States. These practices may include residue management, conservation crop rotation, grassed waterways, strip cropping, vegetated buffers, riparian buffers, setbacks, terracing, diversions, and other practices that are appropriate for the conditions at your operation.</p>
<p>Testing Manure, Litter, Process Wastewater, and Soil</p> <p>Your plan must describe the specific methods you use to test the nutrient content of manure, litter, and process wastewater. If you apply manure from your CAFO to the land, your plan must also describe the methods you use to test the soil. Your NPDES permit will tell you how often to test manure, litter, process wastewater, and soil.</p>
<p>Methods for the Land Application of Manure, Litter, and Process Wastewater</p> <p>If you apply manure, litter, or process wastewater from your CAFO to land areas, your plan must describe the site-specific procedures and practices you will use to ensure appropriate agricultural use of the nutrients in these materials. These procedures should address the rates, timing, and method of land application. Your plan should describe the site-specific conditions that control the amount of nutrients you apply to your land. Site-specific conditions include the results of your nutrient analyses, past nutrient applications, and the soil types in your application fields, as well as terrain, weather conditions, and any other conditions specific to your operation.</p>
<p>Keeping Records</p> <p>You must keep records that document your nutrient management practices. Your nutrient management plan should describe the kinds of records you will keep to show how you are carrying out and managing the minimum standards described above. (See "What records do I have to keep?" on page 37 of this guide.)</p>

Are there any other requirements for a nutrient management plan?

Your nutrient management plan has to describe the practices at your operation that achieve the discharge limits and specific management practices in your NPDES permit. If the minimum elements described above don't address all of the discharge limits and specific management practices in your permit, you'll have to include the missing elements in your plan.



Alabama Department of Environmental Management

Covered, temporary poultry litter storage.

The ELG requirements for Large CAFOs require you to implement specific BMPs for the production and land application areas. They also put some conditions on the land application of manure, litter, and process wastewater. Therefore, if you have a Large CAFO, your nutrient management plan must describe how you'll implement, operate, and maintain these BMPs and how you'll meet the land application requirements.

If you operate a Small or Medium CAFO, your NPDES permit will contain any additional requirements for your nutrient management plan. If you do have additional requirements for your nutrient management plan, they will be based on the discharge limits and specific management practices your permitting authority sets in your permit.

When do I have to do a nutrient management plan?

Because nutrient management plans are important tools for helping CAFO operators achieve realistic production goals while minimizing nutrient discharges to surface waters, EPA encourages you to develop and implement your nutrient management plan as soon as you can. The federal NPDES regulation sets the deadlines shown in Table 16 for CAFOs to develop and implement nutrient management plans, but your permitting authority might have earlier deadlines. Be sure to check with your permitting authority to find out what your specific deadlines are.

If I already have a nutrient management plan, do I have to do a new one?

Not necessarily. If the nutrient management plan you've already done meets the requirements in your NPDES permit, you don't have to develop a new one. If your existing plan meets some but not all of the minimum requirements, you may add the missing elements to your existing plan. Any nutrient management plan that includes all the required elements satisfies this NPDES permit condition.

Some CAFO operators might choose to use USDA's CNMP Technical Guidance to develop and

Table 16. Deadlines for developing and implementing nutrient management plans

If you apply for a permit before December 31, 2006:	
If your CAFO is not a new source ^a and your NPDES permit is issued before December 31, 2006	Your deadline will be set by your permitting authority. The deadline will be no later than December 31, 2006.
If your CAFO is not a new source ^a and your NPDES permit is issued after December 31, 2006	Your deadline is the date that you obtain coverage under an NPDES permit.
If your CAFO is a new source ^a	Your deadline is the date that you obtain coverage under an NPDES permit.
If you apply for a permit after December 31, 2006:	
All CAFOs	Your deadline is the date that you obtain coverage under an NPDES permit. You must certify in your NOI or permit application that you already have a nutrient management plan and will implement the plan when your facility begins to operate.

^a For the definition of *new source*, see "New sources" on page 24 of this guide and the Glossary. The ELGs require new sources to meet the nutrient management plan requirement immediately, no matter when their permits were issued.

implement a CNMP. A CNMP that follows USDA's or your state's guidance and is developed according to your state's technical standards probably meets the NPDES permit requirement for a nutrient management plan as well.

You can find USDA's CNMP Technical Guidance on the Internet at http://policy.nrcs.usda.gov/scripts/lpsis.dll/H/H_180_600_E_5.htm. Contact your permitting authority, state agricultural agency, conservation district, or Extension Service to find information on your state's technical standards for nutrient management.

How often should I update my nutrient management plan?

You must update your nutrient management plan at least once every 5 years when you reapply for your NPDES permit, but you might need to update your plan more often. Your nutrient management plan should always reflect the current situation at your operation. So, if something changes at your operation that is addressed by your nutrient management plan, you should update your plan to reflect the change. For example, you should update your plan if you increase the number of confined animals or if you change the types of crops you grow or where you apply manure.

Who can write my nutrient management plan?

The federal NPDES regulation doesn't require you to use a certified planner for your nutrient management plan, but EPA does encourage you to work with experts, who can help make sure that your nutrient management plan meets all regulatory requirements and promotes sustainable agriculture. You can work with USDA's NRCS and Cooperative Extension, your state agriculture department, and your permitting authority to find certified specialists to assist with your nutrient management plan. A well-designed nutrient management plan will help you achieve goals and avoid compliance concerns.

 Preamble: IV.C.5 [68 FR 7228]

Second special condition for all CAFOs: Duty to maintain permit coverage

Every CAFO operator must maintain coverage under an NPDES permit until the CAFO is properly closed. In general, an operation is considered

properly closed based on showing that there is no remaining potential for a discharge of the manure, litter, or process wastewater that was generated while the operation was a CAFO. This condition applies to CAFOs that are closing down and to CAFOs that are downsizing or making other changes so that they will no longer meet the CAFO definition. If you're closing or downsizing your CAFO and your NPDES permit expires before the facility is properly closed or while the facility might still discharge CAFO-generated manure or wastewater, you must reapply for an NPDES permit. Talk to your permitting authority to find out how to comply with this special condition.

 Regulation: 40 CFR 122.23(h) [68 FR 7268]
Preamble: IV.C.6 [68 FR 7229]


Additional special condition for Large CAFOs: Transfer of manure, litter, and process wastewater to other persons

If you own or operate a Large CAFO, your NPDES permit will have a special condition for transfers of manure, litter, or process wastewater to other persons.

If you own or operate a Large CAFO and you transfer manure, litter, or process wastewater to other persons, you must

- Give nutrient content information to the recipient. If you give away or sell manure, litter, or process wastewater from your Large CAFO, before the transfer you must give the results of your most recent representative nutrient analysis to the person who takes it away.
- Keep records of your transfers. (See "What records do I have to keep?" on page 37 of this guide.)

These requirements apply no matter how much manure you sell or give away or who takes it.


 Regulation: 40 CFR 122.42(e)(3) [68 FR 7268]
Preamble: IV.D [68 FR 7230]

What other special conditions might be in my NPDES permit?

Your permitting authority may include special conditions in addition to those described in this guide. Your permitting authority might include special conditions that


- Restrict the application of manure, litter, and process wastewater on frozen, snow-covered, or saturated ground.
- Control discharges to groundwater that is directly connected to surface water.
- Require specific application methods, such as injection of liquid manure.

Always read your NPDES permit to find out exactly what you have to do, and contact your permitting authority if you don't understand something in your permit.

 *Preamble: IV.C.6 [68 FR 7229]*

What are the standard conditions of all NPDES permits?

All NPDES permits contain standard conditions, which include definitions, testing procedures, requirements for keeping records and notifying the permitting authority, penalties for noncompliance, and your responsibilities as an NPDES permit-holder. These responsibilities include complying with your permit, meeting deadlines for reapplying when your permit is due to expire, and letting the permitting authority inspect your operation. The standard conditions also require you to notify your permitting authority if certain things happen at your operation. (See “What do I have to report to the permitting authority?” on page 38 of this guide.) Carefully read the standard conditions section of your NPDES permit, and contact your permitting authority if you have any questions.

 *Regulation: 40 CFR 122.41 [64 FR 68847] (12/8/1999)*
Preamble: IV.C.7 [68 FR 7229]

What records do I have to keep?

Your NPDES permit will require you to keep certain records to show that you're complying with the terms of the permit. You must keep all the records on-site at your operation for 5 years, and you must provide them to the permitting authority upon request.




EPA OWM

Records must be kept on-site at the CAFO for at least 5 years after they were created.

What are the record-keeping requirements for all CAFOs?

If you own or operate a CAFO of any size, you have to keep at least the following records, as appropriate:

- A copy of your nutrient management plan.
- The results of your manure, litter, and process wastewater sampling and analysis.
- The results of your soil sampling and analysis.
- Records that show how you're implementing your nutrient management plan.

 *Regulation: 40 CFR 122.42(e)(2) [68 FR 7268]*
Preamble: IV.D [68 FR 7230]

EPA recommends that you keep a copy of your permit on-site.

What are the additional record-keeping requirements for all Large CAFOs (including horse, sheep, and duck CAFOs)?

If you own or operate a Large CAFO, you must keep at least the following records of transfers of manure, litter, and process wastewater to other persons:⁶

- The amount of manure, litter, and process wastewater you transferred to other persons (estimated in tons or gallons).
- The date of each transfer.
- The name and address of the recipient(s) of each transfer.

⁶ Remember that in addition to keeping records of manure, litter, and process wastewater transferred to other persons, owners or operators of Large CAFOs must also provide the recipient with information about the nutrient content of the manure, litter, and process wastewater transferred. (See “Additional special condition for Large CAFOs: Transfer of manure, litter, and process wastewater to other persons” on page 36 of this guide.)


What are the additional record-keeping requirements for Large beef, dairy, veal calf, swine, and poultry CAFOs?

If you're the owner or operator of a Large beef, dairy, veal calf, swine, or poultry CAFO, you must also keep records that show that you're complying with the ELG requirements for your production and land application areas, as follows:

- For production areas:
 - ✓ Records of inspections. You must inspect water lines, including drinking water or cooling water lines, once per day, and you must also document these inspections. EPA recommends that CAFOs should be required to document these inspections once per week and also on any day on which they discover a problem. Your permitting authority, however, will make the final decision on how often you must document these inspections.
 - ✓ Weekly records of the depth marker reading for manure and process wastewater in any open liquid storage structures.
 - ✓ Records of anything you do to correct problems that you find. If it takes you longer than 30 days to correct a problem after you find it, you must also keep records of why you could not correct the problem right away.
 - ✓ Records of how you handle and dispose of dead animals.
 - ✓ Records of the design of your manure and litter storage structures. You must include records of
 - Volume for solids accumulation
 - Approximate number of days' worth of storage capacity.
 - Design treatment volume
 - Total design volume.
 Your permitting authority may also require you to keep records of the data and information that you used to calculate the total design volume for your storage structures.
 - ✓ Records of overflows from your production areas, including the date and time and an estimate of the volume.
- For land application areas:
 - ✓ Your expected crop yields.
 - ✓ The date(s) you applied manure, litter, or process wastewater to each field.

- ✓ What the weather was like from 24 hours before through 24 hours after each time you land applied manure, litter, or process wastewater.
- ✓ How you sampled and analyzed manure, litter, process wastewater, and soil.
- ✓ The results of the manure, litter, process wastewater, and soil analyses.
- ✓ How you calculated your manure, litter, and process wastewater application rates.
- ✓ The calculations you used to decide how much nitrogen and phosphorus to apply to each field.
- ✓ Calculations that show the total amount of nitrogen and phosphorus you actually applied to each field.
- ✓ How you applied manure, litter, and process wastewater to your land.
- ✓ The dates on which you inspected your application equipment.

These are the minimum record-keeping requirements of the federal CAFO regulations. Your permitting authority may require any CAFO (including horse, sheep, and duck CAFOs) to keep additional records based on state regulations or BPJ permit conditions.

 Regulation: 40 CFR 412.37 and 412.47 [68 FR 7272 and 7274]

Preamble: Sections IV.C.2, IV.C.6, and IV.D [68 FR 7207, 7229, and 7230]

What do I have to report to the permitting authority?

Your permit will require you to submit certain reports to your permitting authority, including an annual report and special reports of discharges, changes to your operation, and other information. Read your permit carefully, and contact your permitting authority to find out exactly what you must report.

What do I have to include in my annual report?

Once a year operators of all permitted CAFOs have to send a report to the permitting authority. Your NPDES permit will tell you when the annual report is due and what it must contain. Your annual report must include at least

- The number of animals of each type confined at your operation.

- An estimate of the total amount of manure, litter, and process wastewater that your CAFO generated in the past 12 months.
- An estimate of the total amount of manure, litter, and process wastewater that you transferred to other persons in the past 12 months.
- The total number of land application acres covered by your nutrient management plan.
- The total number of acres that you used for land application of manure, litter, and process wastewater in the past 12 months.
- The dates and times and your estimate of the volumes of all discharges from your production areas in the past 12 months.
- A statement of whether a certified nutrient management planner developed or approved your nutrient management plan. You don't have to use a certified nutrient management planner to develop or approve your plan, but EPA recommends that you do.

▣ *Regulation: 40 CFR 122.42(e)(4) [68 FR 7268]*
Preamble: IV.D [68 FR 7230]

What else do I have to report?

The standard conditions that apply to all NPDES permits (see “What are the standard conditions of all NPDES permits?” on page 37 of this guide) also include the following reporting requirements:

- **Duty to provide information.** You must provide any information your permitting authority needs to find out if you are complying with your NPDES permit or to make changes to your permit.
- **Signatory and certification requirements.** Any applications, reports, or information you submit must be signed and certified. The certification must state that all the information you submit is true and complete to the best of your knowledge. There might be penalties if you knowingly submit false information.
- **Planned changes.** If you plan to make any changes to your CAFO that will affect your ability to comply with your NPDES permit, you have to notify your permitting authority as soon as possible.
- **Anticipated noncompliance.** You must notify your permitting authority if you know that something is going to happen at your facility that would cause you to be out of compliance with

your NPDES permit. Failing to do so could result in penalties.

- **Twenty-four-hour reporting.** If you have a discharge (or other noncompliance event) at your CAFO that could endanger human health or the environment, you must report it verbally within 24 hours. Within 5 days, you must submit a written statement describing the discharge or noncompliance. Your description must include what caused the discharge, when it started, how long it lasted, what you did to stop the discharge, and how you'll prevent the problem in the future.
- **Other noncompliance.** You must report all instances of noncompliance that you do not otherwise report. Each report must contain the information described above for twenty-four hour reporting.
- **Other information.** If you find out that you failed to submit any important facts in your application, or that you submitted incorrect information in your application or other reports, you must submit the correct information right away.

▣ *Regulation: 40 CFR 122.41 (h), (k), and (l)(1), (2), (6), (7), and (8)*



USDA NRCS

Terraces, conservation tillage, and conservation buffers save soil and improve water quality.

What Is the Compliance Assurance Process?

EPA's goal in revising the CAFO regulations is to restore and protect water quality. EPA wants to help CAFO owners and operators comply with the regulations to minimize the environmental risks from their operations. EPA (or a state permitting authority) is also responsible for enforcing the regulations and may issue an order to comply. Such an order might or might not impose penalties on operators who don't comply. Read on to find out where you can get help to comply, and what to do and expect if you find that you're out of compliance with the CAFO regulations.

Where can I get help?

For help in understanding the regulations, permitting process, and permit requirements, it's best to contact your NPDES permitting authority. Even if you don't have an NPDES permit, the permitting authority for CAFOs in your state can explain what the regulations are all about and whether you need an NPDES permit. You can find contact information for your permitting authority in the appendix or on EPA's Web site at <http://www.epa.gov/npdes/afo/statecontacts>.

EPA can also help you understand the regulations and permitting process. You can find information about the regulations (including animal sector-specific brochures, frequently asked questions, and the text of the regulations) on EPA's Web site at <http://www.epa.gov/npdes/caforule>.

In addition, EPA plans to publish more information to help you use different technologies and management practices at your CAFO to comply with the regulations.

EPA's National Agriculture Compliance Assistance Center, or Ag Center, is a good starting point to find help. The Ag Center has information on many topics, including BMPs, education and training, laws, and research.

EPA's National Agricultural Compliance Assistance Center

Telephone: 1-888-663-2155

E-mail: agcenter@epa.gov

Web site: <http://www.epa.gov/agriculture>

Mailing address: 901 North 5th Street, Kansas City, KS 66101

USDA has voluntary financial and technical assistance programs that can help CAFO owners and operators comply with the regulations. AFO operators might be able to use these programs to avoid or eliminate conditions that could qualify their operations as CAFOs (such as discharging pollutants through a man-made ditch or pipe, having animals in direct contact with a stream running through the production area, or being a significant contributor of pollutants to waters of the United States).

The Environmental Quality Incentives Program (EQIP) can provide up to 75 percent cost-share for storage structures and management practices. Cost-share for limited-resources producers can be even higher (up to 90 percent). EQIP assists producers in complying with federal, state and local environmental laws. If a producer has been accused of violating a law or regulation but is in the position of voluntarily applying a conservation practice to comply with the law or regulation, the producer may be eligible for EQIP financial assistance. However, EQIP financial assistance is not available for conservation practices required as a result of a judicial action or regulatory enforcement order.

The Conservation Reserve Program (CRP) provides annual rental payments for land devoted to special conservation practices such as riparian buffers and filter strips under the continuous signup provisions. This acreage may be enrolled at any time and is not subject to competitive bidding. The contract duration is 10 to 15 years. CRP could help Large CAFOs comply with the vegetated buffer

requirement, in lieu of the 100-foot setback. All CAFOs are eligible for these programs.

More funds are available to AFOs from EPA and the Small Business Administration. You might also be able to get funds or technical assistance from your state or local government. You can find a description of these and other programs in EPA's draft *Financial Assistance Summaries for AFOs*.

EPA's draft *Financial Assistance Summaries for AFOs* is available on the Internet: http://www.epa.gov/npdes/pubs/financial_assistance_summaries.pdf.

You can also contact your local NRCS office, Farm Services Agency (FSA), or Cooperative Extension Service for more information on the financial and technical assistance available for AFOs and CAFOs.

USDA Contact Information on the Internet

NRCS: <http://www.nrcs.usda.gov/about/organization/regions.html>

FSA: <http://www.fsa.usda.gov/edso/Default.htm>

Extension: <http://www.reeusda.gov/1700/statepartners/usa.htm>

How do I minimize harm if I think I'm out of compliance?

If you think you're not complying because of a discharge of waste to a water body, your first step is to stop the discharge. For example, if a pipe is broken, close the valve to stop flow to that pipe. Then use a temporary barrier like a temporary dirt dam to keep the discharge out of the water body. If the discharge could endanger human health or the environment, you must report it to the permitting authority verbally within 24 hours and in writing within 5 days.

You should clean up waste spills as soon as possible to help keep waste from flowing into a water body when storm water runs off. Collect the spilled waste with a suitable tool. You may apply the waste to agricultural land if it will not violate the land application restrictions in your NPDES permit. Otherwise, you may put the waste in a lagoon or other storage area.

If you're not complying because you applied too much manure, litter, or process wastewater to a field or applied in an area not allowed by your

permit, you must stop the land application at once. If you can, you should clean up any excess as described above. You may continue land application only when it will not violate the land application restrictions in your NPDES permit. You should also check your land application equipment and procedures to see if changing them can prevent future application problems.

If you're at risk of not complying because your lagoon is getting too full to maintain the extra storage needed for a large storm, you might consider applying waste from the lagoon to agricultural land if you can do so without violating the land application restrictions in your NPDES permit and nutrient management plan. If you have new land application areas, be sure to follow the required nutrient management procedures (such as soil testing) and land application restrictions (such as buffers and setback requirements). If there are no land application areas on your land, you might be able to find other suitable places for land application by negotiating with neighboring farms. You should also make temporary changes that reduce the amount of liquid flowing into the lagoon. For example, if animal buildings are scheduled for clean-out, postpone the clean-out until lagoon levels are lower or reduce the amount of water you use for clean-out.

How will EPA know my operation is complying with environmental requirements?

EPA and the state permitting authorities use several approaches to monitor compliance with environmental regulations.

Inspections. EPA and the state permitting authorities may periodically inspect facilities subject to these regulations. They might inspect your operation because it was the subject of a citizen complaint or tip, because it was randomly selected, or because it was targeted for inspection based on your state's targeting method. EPA and the state permitting authorities conduct two main types of inspections at AFOs:

1. Inspections that help to decide whether a facility is a CAFO and should have a permit.
2. Inspections to determine whether a permitted CAFO is in compliance with its NPDES permit.

Permits, records, and reports. Your permitting authority will monitor the information you submit,

including your annual report. Your permitting authority might also request a copy of your nutrient management plan.

Self-audit and self-disclosure. You're responsible for ensuring that your CAFO is always in compliance with the conditions in your NPDES permit. EPA encourages you to take advantage of its Audit Policy or Small Business Policy if you find that you're not complying. These policies are discussed in more detail in "If I find a violation, how can I work with EPA to correct it?" on this page.

What will an inspector look at?

If you own or operate a CAFO, it must be covered by an NPDES permit unless you have received a "no potential to discharge" determination (as described in "Are there any CAFOs that do not need a permit?" on page 17 of this guide). Your permitting authority might inspect your CAFO to make sure you're complying with the requirements in your permit. The inspector will make sure there has been no unauthorized discharge of manure, litter, or process wastewater to surface waters. The Clean Water Act doesn't allow such discharges except when they're authorized by a permit. For example, runoff from feedlots and spillover from lagoons, except in certain special circumstances, are violations. The inspector will examine your manure management system(s) and any areas where manure, litter, or process wastewater is land applied. The inspector will ask for your nutrient management plan and might check your operation to make sure you're following the plan. The inspector will check for the following:

- Is any manure, litter, or process wastewater being discharged to surface water, or is there any sign of a recent discharge?
- How are manure, litter, and process wastewater handled? Is a discharge likely because of the way manure, litter, or process wastewater is being collected, stored, or land applied?
- Do you have a nutrient management plan? Are you following the nutrient management plan? Is your nutrient management plan up-to-date? Does your plan
 - ✓ Ensure adequate storage of manure, litter, and process wastewater and proper operation and maintenance of storage facilities?
 - ✓ Address dead animal handling?

- ✓ Address keeping clean water and wastewater separate?
- ✓ Address keeping animals out of surface waters?
- ✓ Ensure that chemicals and pesticides are handled properly (for example, not disposed of in the lagoon)?
- ✓ Implement site-specific conservation practices such as vegetated buffers?
- ✓ Address when and how to test manure, wastewater, and soil?
- ✓ Ensure proper land application practices for manure and process wastewater?
- ✓ Specify what records you should keep?
- Are you keeping the required records?

If I find a violation, how can I work with EPA to correct it?

EPA gives incentives to promote environmental compliance. EPA or your state permitting authority can waive or reduce your penalty if you participate in compliance incentives programs or voluntarily report and correct violations as soon as possible. EPA has two policies that could apply to CAFOs regulated by the NPDES regulation and ELGs for CAFOs. (These policies do not apply if your permitting authority has already started an enforcement action.)

Audit Policy. "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations" (60 FR 66706) is known as the Audit Policy. EPA created this policy to encourage operations of all sizes to voluntarily find and promptly report and correct violations of environmental regulations.

Small Business Policy. EPA developed its "Policy on Compliance Incentives for Small Businesses" to help small businesses (with 100 or fewer employees) comply with environmental regulations. The Policy creates benefits for businesses that make a good faith effort to comply with environmental regulations before a government agency discovers a violation or otherwise takes an enforcement action. The Policy offers incentives (like penalty waivers or penalty reductions) for businesses that take part in on-site compliance assistance programs or conduct environmental audits to find, report, and correct violations. The Policy is being changed to broaden when and how a small business may use it.

EPA Policies on the Internet**Audit Policy:**

<http://www.epa.gov/compliance/resources/policies/incentives/auditing/finalpolstate.pdf>

Small Business Policy:

<http://www.epa.gov/compliance/resources/policies/incentives/smallbusiness/index.html>

Clean Water Act Settlement Penalty Policy:

<http://www.epa.gov/compliance/resources/policies/civil/cwa/cwapol.pdf>

If EPA finds a violation, how might it respond?

To get the best compliance, EPA uses a balanced program of compliance assistance, compliance incentives, and traditional enforcement.

EPA knows that small business owners want to do the right thing by complying with complicated new laws or rules but might not have the knowledge, resources, or skills to do so.

Compliance assistance and technical advice help small business owners to understand and meet their environmental obligations. “Where can I get help?” on page 41 of this guide has more information on compliance assistance.

Compliance incentives like EPA’s Small Business Policy encourage people to voluntarily find, report, and correct violations before the government finds the violations. “If I find a violation, how can I work with EPA to correct it?” on page 43 of this guide has more information on compliance incentives.

EPA uses different methods to know whether businesses are complying. These include inspecting facilities, reviewing records and reports, and responding to citizen complaints. If EPA or a state agency learns a person may be violating the law, EPA or the state will review the facility’s compliance history before deciding what steps to take.

EPA’s **enforcement program** protects all of us by targeting facilities that don’t comply with the Clean Water Act. The Clean Water Act allows EPA to bring civil or criminal actions against business owners who violate their permits or do not obtain permits as required. EPA and the states

have specific procedures for reviewing annual reports and inspection reports to decide what type of enforcement is appropriate. Typical types of enforcement actions include the following (listed in order of severity):

- A telephone call
- A Notice of Violation
- An Administrative Order
- An Administrative Order with penalty
- A civil lawsuit
- Criminal prosecution

The penalty in a given case will depend on many things, including

- The number, length, and severity of the violations
- The economic benefit obtained by the violator
- The violator’s ability to pay

EPA has a Clean Water Act settlement Penalty Policy to deter noncompliance, ensure violators do not obtain an economic advantage over their competitors, and encourage national consistency in civil penalty calculations. Any company that EPA sues may dispute the allegations.

EPA knows that the greatest possible environmental protection is achieved by encouraging businesses to find, report, and correct violations. That’s why EPA issued self-disclosure and small business policies to eliminate or reduce penalties for small and large businesses that cooperate to address compliance problems. In addition, EPA provides compliance assistance centers that serve over a million small businesses. For more information on these and other EPA programs for small businesses, contact EPA’s Small Business Ombudsman.

EPA’s Small Business Ombudsman Hotline:

1-800-368-5888

Glossary

AFO—*animal feeding operation*
BMP—*best management practice*
BPJ—*best professional judgment*
CAFO—*concentrated animal feeding operation*
CNMP—*comprehensive nutrient management plan*
CRP—*Conservation Reserve Program*
ELG—*effluent limitations guideline*
EPA—*[United States] Environmental Protection Agency*
EPA OECA—*EPA’s Office of Enforcement and Compliance Assurance*
EPA OWM—*EPA’s Office of Wastewater Management*
EQIP—*Environmental Quality Incentives Program*
FIFRA—*Federal Insecticide, Fungicide, and Rodenticide Act*
FSA—*[USDA’s] Farm Service Agency*
NOI—*Notice of Intent*
NPDES—*National Pollutant Discharge Elimination System*
NRCS—*[USDA’s] Natural Resources Conservation Service*
NSPS—*New Source Performance Standards*
SBREFA—*Small Business Regulatory Enforcement Fairness Act*
SPCC—*Spill Prevention, Containment, and Countermeasure*
USDA—*United States Department of Agriculture*

This glossary contains definitions of some of the terms used in the *Producers’ Compliance Guide for CAFOs*. Many terms are also defined throughout the guide. The NPDES regulations include definitions of additional terms at 40 CFR Parts 122.2, 122.23(b), 412.2, 412.4(b), and 412.21.

10-year, 24-hour storm; 25-year, 24-hour storm; 100-year, 24-hour storm

The CAFO regulation defines these terms as a mean precipitation event with a probable recurrence interval or once in 10 years, or 25 years, or 100 years, respectively, as defined by the National Weather Service in Technical Paper No. 40, “Rainfall Frequency Atlas of the United States,” May 1961, or equivalent regional or state rainfall probability information developed from this source [40 CFR 412.2(i)].

agricultural storm water discharge

According to the CAFO regulation, where manure, litter or process wastewater has been applied in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater, as specified in 40 CFR 122.42(e)(1)(vi)–(ix), a precipitation-related discharge of manure, litter or process wastewater from land areas under the control of a CAFO is an *agricultural storm water discharge*. [40 CFR 122.23(e)]

animal feeding operation (AFO)

The CAFO regulation defines *AFO* as a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

- a. Animals (other than aquatic 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
- b. Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. [40 CFR 122.23(b)(1)]

best management practice (BMP)

The NPDES regulations define *BMPs* as schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. [40 CFR 122.2]

concentrated animal feeding operation (CAFO)

The CAFO regulation defines *CAFO* as an AFO that is defined as a Large CAFO or as a Medium CAFO in the regulations, or that is designated as a CAFO by the permitting authority. Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes. [40 CFR 122.23(b)(2)]

discharge criteria

When used in this guide, *discharge criteria* refers to conditions established in the CAFO regulations to describe the circumstances under which a medium-sized AFO is defined as a CAFO or a small-sized AFO may be designated as a CAFO. These conditions are the following:

1. Pollutants are discharged into waters of the United States through a man-made ditch, flushing system, or other similar man-made device.
2. Pollutants are discharged directly into waters of the United States which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation. [40 CFR 122.23(b)(6)(ii)]

effluent limitations

The NPDES regulations define *effluent limitations* as follows: Any restriction imposed by the Director on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into waters of the United States, the contiguous zone, or the ocean. [40 CFR 122.2]

effluent limitations guideline (ELG)

An *ELG* is a technical EPA document that sets effluent limits for a given industry and its pollutants. [<http://www.epa.gov/OCEPaterms/>]

land application area

The CAFO regulation defines *land application area* as land under the control of an AFO owner or operator, whether it is owned, rented, or leased, to which manure, litter, or process wastewater from the production area is or may be applied. [40 CFR 122.23(b)(3)]

National Pollutant Discharge Elimination System (NPDES)

The *NPDES* program is a program under the Clean Water Act that prohibits the discharge of pollutants into waters of the United States unless a special permit is issued by EPA; a state; or, where delegated, a tribal government on an Indian reservation. [<http://www.epa.gov/OCEPAterms/>]

Notice of Intent (NOI)

An *NOI* is a notification submitted to a permitting authority to indicate that a discharger intends to be covered under a general permit and will comply with the permit conditions. For CAFOs, a *notice of intent* to be covered under a general permit must include the information specified in 40 CFR 122.21(i)(1) and any other information specified by the permitting authority in the general permit.

NPDES permit

An *NPDES permit* is an authorization, license, or equivalent control document issued by EPA or an approved state agency to implement the requirements of the NPDES regulations; for example, a permit to operate a CAFO.

permitting authority

A *permitting authority* is a state agency (or other governmental entity such as a tribal government) that has received authority from EPA to administer the NPDES program. For states that have not received authority from EPA to administer the NPDES program, the EPA Regional Administrator is the permitting authority. (See the Appendix to this guide for a list of NPDES permitting authorities.)

process wastewater

The CAFO regulation defines *process wastewater* as water directly or indirectly used in the operation of the AFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with any raw materials, products, or by-products including manure, litter, feed, milk, eggs or bedding. [40 CFR 122.23(b)(7)]

production area

The CAFO regulation defines *production area* as the part of an AFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions which separate uncontaminated storm water. Also included in the definition of *production area* is any egg washing or egg processing facility, and any area used in the storage, handling, treatment, or disposal of mortalities. [40 CFR 122.23(b)(8)]

surface water

Where this guide says *surface water*, it means “waters of the United States.” (See the definition of “waters of the United States” on page 48 of this guide.)

waters of the United States

The Code of Federal Regulations defines *waters of the United States* as follows:

- a. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- b. All interstate waters including interstate wetlands;
- c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 1. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 2. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 3. Which are used or could be used for industrial purposes by industries in interstate commerce;
- d. All impoundments of waters otherwise defined as waters of the United States under this definition;
- e. Tributaries of waters identified in paragraphs (a) through (d) of this definition;
- f. The territorial sea; and
- g. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. [At 45 FR 48620, July 21, 1980, the Environmental Protection Agency suspended until further notice in § 122.2, the last sentence, beginning "This exclusion applies . . ." in the definition of "Waters of the United States."] Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA. [40 CFR 122.2]

[Note: EPA and the U.S. Army Corps of Engineers issued an Advance Notice of Proposed Rulemaking on the regulatory definition of waters of the United States on January 15, 2003 [68 FR 1991]. Information on the proposed rulemaking and any changes in the definition of waters of the United States is available on the Internet at <http://www.epa.gov/owow/wetlands/swanccnav.html>.]

Appendix

CAFO Permitting Authorities and Contact Information

To find contact information for your permitting authority, look up your state in the alphabetical list. For each state, you will find the following information:

Your State

<i>Permitting Authority:</i>	The state agency or EPA regional office responsible for running the CAFO program and issuing NPDES permits to CAFOs in your state.
<i>Web site:</i>	The URL or Web address where you can find your permitting authority's home page or CAFO Program page on the Internet.
<i>Contact:</i>	The state agency or EPA regional employee you can contact for additional information on the requirements for CAFOs in your state.
<i>Address:</i>	The mailing address for your permitting authority's contact person. Note: This is the mailing address to use for corresponding with the contact person. Do not send permit applications or other forms to this address unless specifically instructed to do so.
<i>Phone:</i>	The telephone number for your permitting authority's contact person or the contact person's office.
<i>Fax:</i>	The fax number for your permitting authority's contact person or the contact person's office.
<i>E-mail:</i>	The e-mail address for your permitting authority's contact person.

EPA has approved most states to run their own regulatory and permitting programs for CAFOs. Alaska, Idaho, Massachusetts, New Hampshire, New Mexico, and Oklahoma are states that EPA has not approved to run the permitting program for CAFOs. In these states, EPA is the permitting authority and will issue NPDES permits for CAFOs.

The permitting authority information and contacts in this list are current as of August 2003. An updated list is maintained on EPA's Web site at <http://www.epa.gov/npdes/afo/statecontacts>.

Alabama

Permitting Authority: Alabama Department of Environmental Management
Web site: <http://www.adem.state.al.us>
Contact: Richard Hulcher
Address: P.O. Box 301463
 1400 Coliseum Boulevard
 Montgomery, AL 36130-1463
Phone: (334) 394-4326
Fax: not available
E-mail: rfh@adem.state.al.us

Alaska

Permitting Authority: U.S. Environmental Protection Agency, Region 10
Web site: <http://yosemite.epa.gov/R10/WATER.NSF>
Contact: Bob Robichaud
Address: 1200 6th Avenue
 Seattle, WA 98101-1128
Phone: (206) 553-1448
Fax: (206) 553-0165
E-mail: robichaud.robert@epa.gov

Arizona

Permitting Authority: Arizona Department of Environmental Quality, Office of Water Quality
Web site: <http://www.adeq.state.az.us>
Contact: Kenneth Johnson
Address: 1110 West Washington Street
 (MC 5000)
 Phoenix, AZ 85007
Phone: (602) 771-4469
Fax: not available
E-mail: Johnson.Kenneth@ev.state.az.us

Arkansas

Permitting Authority: Arkansas Department of Environmental Quality
Web site: <http://www.adeq.state.ar.us>
Contact: Mo Shafii
Address: 8001 National Drive
 P.O. Box 8913
 Little Rock, AR 72219-8913
Phone: (501) 682-0616
Fax: not available
E-mail: not available

California

Permitting Authority: California State Water Resources Control Board, Division of Water Quality
Web site: <http://www.swrcb.ca.gov/>
Contact: John Menke
Address: 1001 I Street
 15th Floor
 Sacramento, CA 95814
Phone: (916) 341-5587
Fax: not available
E-mail: menkj@swrcb.ca.gov

Colorado

Permitting Authority: Colorado Department of Public Health & Environment, Water Quality Control Division
Web site: <http://www.cdphe.state.co.us/wq/wqhom.asp>
Contact: Ron Jepson
Address: 4300 Cherry Creek Drive, S
 Denver, CO 80246-1530
Phone: (303) 692-3520
Fax: (303) 782-0390
E-mail: ron.jepson@state.co.us

Connecticut

Permitting Authority: Connecticut Department of Environmental Protection, Bureau of Water Management, Permitting, Enforcement & Remediation Division
Web site: <http://dep.state.ct.us/wtr/prgactiv.htm>
Contact: Michael Harder
Address: 79 Elm Street
 Hartford, CT 06106-5127
Phone: (806) 424-3701
Fax: not available
E-mail: harder.michael@po.state.ct.us

Delaware

Permitting Authority: Delaware Department of Natural Resources & Environmental Control, Division of Water Resources
Web site: <http://www.dnrec.state.de.us/dnrec2000/WaterResources.asp>
Contact: Kevin Donnelly
Address: 89 Kings Highway
 P.O. Box 1401
 Dover, DE 19901
Phone: (302) 739-4860
Fax: not available
E-mail: kdonnelly@state.de.us

Florida

Permitting Authority: Florida Department of Environmental Protection
Web site: <http://www.dep.state.fl.us/>
Contact: Vince Seibold
Address: 2600 Blair Stone Road
 Mail Stop: 3540
 Tallahassee, FL 32399-2400
Phone: (850) 245-8590
Fax: not available
E-mail: vince.seibold@dep.state.fl.us

Georgia

Permitting Authority: Georgia Department of Natural Resources, Environmental Protection Division
Web site: <http://www.state.ga.us/dnr/environ/>
Contact: Tom Hopkins
Address: 4220 International Parkway, Suite 101
 Atlanta Tradeport
 Atlanta, GA 30354
Phone: (404) 362-4916
Fax: not available
E-mail: tom_hopkins@mail.dnr.state.ga.us

Hawaii

Permitting Authority: Hawaii Department of Health, Environmental Management Division
Web site: <http://www.hawaii.gov/health/index.html>
Contact: Denis Lau, P.E.
Address: 919 Ala Moana Blvd.
 Room 301
 Honolulu, HI 96814
Phone: (808) 586-4309
Fax: (808) 586-4352
E-mail: dlau@eha.health.state.hi.us

Idaho

Permitting Authority: U.S. Environmental Protection Agency, Region 10
Web site: <http://yosemite.epa.gov/R10/WATER.NSF>
Contact: Bob Robichaud
Address: 1200 6th Avenue
 Seattle, WA 98101-1128
Phone: (206) 553-1448
Fax: (206) 553-0165
E-mail: Robichaud.robert@epa.gov

Illinois

Permitting Authority: Illinois Environmental Protection Agency, Bureau of Water
Web site: <http://www.epa.state.il.us/water/>
Contact: Bruce Yurdin
Address: 1021 North Grand Avenue, E
 P.O. Box 19276
 Springfield, IL 62794-9276
Phone: (217) 782-3362
Fax: (217) 785-1225
E-mail: bruce.yurdin@epa.state.il.us

Indiana

Permitting Authority: Indiana Department of Environmental Management, Office of Water Quality
Web site: <http://www.in.gov/idem/water/>
Contact: Steven Roush
Address: 100 North Senate Avenue
 P.O. Box 6015
 Indianapolis, IN 46206-6015
Phone: (317) 232-8706
Fax: (317) 232-8637
E-mail: sroush@dem.state.in.us

Iowa

Permitting Authority: Iowa Department of Natural Resources
Web site: <http://www.iowadnr.com/>
Contact: Reza Khosravi
Address: 900 East Grand Avenue
 Henry A. Wallace State Office Bldg.
 Des Moines, IA 50319-0034
Phone: (515) 242-6128
Fax: (515) 281-8895
E-mail: reza.khosravi@dnr.state.ia.us

Kansas

Permitting Authority: Kansas Department of Health & Environment, Bureau of Water, Livestock Waste Management
Web site: <http://www.kdhe.state.ks.us/environment/>
Contact: John Harsch
Address: 1000 Southwest Jackson Street
 Topeka, KS 66612-1367
Phone: (785) 296-0075
Fax: (785) 296-5509
E-mail: jharsch@kdhe.state.ks.us

Kentucky

Permitting Authority: Kentucky Department for Environmental Protection, Division of Water
Web site: <http://www.water.ky.gov/>
Contact: Bruce Scott
Address: Frankfort Office Park
 14 Reilly Road
 Frankfort, KY 40601-1189
Phone: (502) 564-3410
Fax: not available
E-mail: bruce.scott@mail.state.ky.us

Louisiana

Permitting Authority: Louisiana Department of Environmental Quality
Web site: <http://www.deq.state.la.us/>
Contact: Tom Killeen
Address: P.O. Box 82135
 Baton Rouge, LA 70884-2215
Phone: (225) 765-0100
Fax: not available
E-mail: tom_k@deq.state.la.us

Maine

Permitting Authority: Maine Department of Environmental Protection, Bureau of Land and Water Quality, Division of Water Resources
Web site: <http://www.state.me.us/dep/blwq/index.htm>
Contact: Greg Wood
Address: State House Station 17
 Augusta, ME 04333
Phone: (207) 287-7693
Fax: not available
E-mail: gregg.wood@state.me.us

Maryland

Permitting Authority: Maryland Department of the Environment
Web site: <http://www.mde.state.md.us/>
Contact: Robert Summers
Address: 1800 Washington Blvd.
 Baltimore, MD 21230
Phone: (410) 631-3567
Fax: not available
E-mail: bsummers@mde.state.md.us

Massachusetts

Permitting Authority: U.S. Environmental Protection Agency, Region 1
Web site: <http://www.epa.gov/region1/npdes/mass.html>
Contact: Brian Pitt
Address: One Congress Street, Suite 1100
 Boston, MA 02114-2023
Phone: (617) 918-1875
Fax: not available
E-mail: pitt.brian@epa.gov

Michigan

Permitting Authority: Michigan Department of Environmental Quality, Water Division
Web site: <http://www.michigan.gov/deq>
Contact: Ronda Wuycheck
Address: P.O. Box 30273
 Lansing, MI 48909-7773
Phone: (517) 241-7832
Fax: (517) 373-2040
E-mail: wuychecr@michigan.gov

Minnesota

Permitting Authority: Minnesota Pollution Control Agency, Regional Environmental Management Division
Web site: <http://www.pca.state.mn.us/about/rem.html>
Contact: Wayne Anderson
Address: 520 Lafayette Road, N
 St. Paul, MN 55155-4194
Phone: (651) 296-7323
Fax: (651) 297-2343
E-mail: wayne.p.anderson@pca.state.mn.us

Mississippi

Permitting Authority: Mississippi Department of Environmental Quality
Web site: <http://www.deq.state.ms.us/newweb/homepages.nsf>
Contact: Bryan Collins
Address: P.O. Box 10385
 Jackson, MS 39289-0385
Phone: (601) 961-5239
Fax: not available
E-mail: bryan_collins@deq.state.ms.us

Missouri

Permitting Authority: Missouri Department of Natural Resources, Permits Section, Water Pollution Control Program

Web site: <http://www.dnr.state.mo.us/wpscd/wpcp/homewpcp.htm>

Contact: Tony Dohmen

Address: 205 Jefferson Street
P.O. Box 176
Jefferson City, MO 65102-0176

Phone: (573) 751-1398

Fax: (573) 751-9396

E-mail: nrdohmt@mail.dnr.state.mo.us

Nebraska

Permitting Authority: Nebraska Department of Environmental Quality, Water Quality Division, Agriculture Section

Web site: <http://www.deq.state.ne.us/>

Contact: Dennis Heitmann

Address: 1200 N Street, Suite 400
P.O. Box 98922
Lincoln, NE 68509

Phone: (402) 471-4288

Fax: (402) 471-2909

E-mail: dennis.heitmann@ndeq.state.ne.us

New Hampshire

Permitting Authority: U.S. Environmental Protection Agency, Region 1

Web site: <http://www.epa.gov/region1/npdes/newhampshire.html>

Contact: Brian Pitt

Address: One Congress Street, Suite 1100
Boston, MA 02114-2023

Phone: (617) 918-1875

Fax: not available

E-mail: pitt.brian@epa.gov

New Mexico

Permitting Authority: U.S. Environmental Protection Agency, Region 6

Web site: <http://www.epa.gov/region6/>

Contact: Kenneth Huffman

Address: 1445 Ross Avenue
Dallas, TX 75202-2733

Phone: (214) 665-7504

Fax: (214) 665-2191

E-mail: huffman.kenneth@epa.gov

Montana

Permitting Authority: Montana Department of Environmental Quality, Permitting and Compliance Division, Water Protection Bureau

Web site: <http://www.deq.state.mt.us/pcd/wpb/index.asp>

Contact: Kari Smith

Address: P.O. Box 200901
Helena, MT 59620-0901

Phone: (406) 444-1454

Fax: not available

E-mail: karsmith@state.mt.us

Nevada

Permitting Authority: Nevada Division of Environmental Protection, Bureau of Water Pollution Control

Web site: <http://ndep.nv.gov/bwpc/bwpc01.htm>

Contact: Bruce Holmgren

Address: 333 West Nye Lane
Suite 138
Carson City, NV 89706-0851

Phone: (775) 687-9423

Fax: not available

E-mail: bholmgre@ndep.state.nv.us

New Jersey

Permitting Authority: New Jersey Department of Environmental Protection, Bureau of Nonpoint Pollution Control

Web site: <http://www.state.nj.us/dep/dwq/nonpoint.htm>

Contact: Bruce Friedman

Address: 401 East State Street
P.O. Box 29
Trenton, NJ 08625-0029

Phone: (609) 633-7021

Fax: (609) 984-2147

E-mail: bfriedman@dep.state.nj.us

New York

Permitting Authority: New York Department of Environmental Conservation, Division of Water

Web site: <http://www.dec.state.ny.us/website/dow/>

Contact: Joseph DiMura

Address: 625 Broadway
4th Floor
Albany, NY 12233-3505

Phone: (518) 402-8117

Fax: (518) 402-9029

E-mail: jxdimura@gw.dec.state.ny.us

North Carolina

Permitting Authority: North Carolina Department of Environment, Health & Natural Resources, Division of Water Quality, Non-Discharge Branch
Web site: <http://www.enr.state.nc.us/>
Contact: Dennis Ramsey
Address: 1617 Mail Service Center
 Raleigh, NC 27699-1617
Phone: (919) 733-5083 x528
Fax: not available
E-mail: dennis.ramsey@ncmail.net

Ohio

Permitting Authority: Ohio Environmental Protection Agency, Division of Surface Water
Web site: <http://web.epa.state.oh.us/dsw/>
Contact: Cathy Alexander
Address: 122 South Front Street
 P.O. Box 1049
 Columbus, OH 43216-1049
Phone: (614) 644-2021
Fax: (614) 644-2745
E-mail: cathy_alexander@epa.state.oh.us

Oregon

Permitting Authority: Oregon Department of Agriculture, Natural Resources Division
Web site: <http://www.oda.state.or.us/nrd/index.html>
Contact: Debbie Gorham
Address: 635 Capitol Street, NE
 Salem, OR 97310
Phone: (503) 986-4700
Fax: not available
E-mail: dgorham@oda.state.or.us

Puerto Rico

Permitting Authority: U.S. Environmental Protection Agency, Region 2
Web site: <http://www.epa.gov/Region2/water/wpb/npdes.htm>
Contact: Andrea Coats
Address: 290 Broadway
 New York, NY 10007-1866
Phone: (212) 637-3850
Fax: (212) 637-3772
E-mail: coats.andrea@epa.gov

North Dakota

Permitting Authority: North Dakota Health Department, Division of Water Quality, Environmental Health Section
Web site: <http://www.health.state.nd.us/wq/>
Contact: Gary Bracht
Address: 1200 Missouri Avenue
 P.O. Box 5520
 Bismarck, ND 58502-5520
Phone: (701) 328-5227
Fax: (701) 328-5200
E-mail: gbracht@state.nd.us

Oklahoma

Permitting Authority: U.S. Environmental Protection Agency, Region 6
Web site: <http://www.epa.gov/region6/>
Contact: Kenneth Huffman
Address: 1445 Ross Avenue
 Dallas, TX 75202-2733
Phone: (214) 665-7504
Fax: (214) 665-2191
E-mail: huffman.kenneth@epa.gov

Pennsylvania

Permitting Authority: Pennsylvania Department of Environmental Protection, Bureau of Watershed Management
Web site: http://www.dep.state.pa.us/dep/deputate/watermgt/wqp/wqp_wm/cafo_home.htm
Contact: Cedric Karper
Address: 400 Market Street
 P.O. Box 8465, Rachel Carson State Office Bldg.,
 11th floor
 Harrisburg, PA 17105-8465
Phone: (717) 783-7577
Fax: not available
E-mail: ckarper@state.pa.us

Rhode Island

Permitting Authority: Rhode Island Department of Environmental Management, Office of Water Resources
Web site: <http://www.state.ri.us/dem/programs/benviron/water/index.htm>
Contact: Eric Beck
Address: 235 Promenade Street
 Providence, RI 02908
Phone: (401) 222-4700
Fax: not available
E-mail: Ebeck@dem.state.ri.us

South Carolina

Permitting Authority: South Carolina Department of Health & Environmental Control
Web site: <http://www.scdhec.net/>
Contact: Marion Sadler
Address: 2600 Bull Street
 Columbia, SC 29201-1706
Phone: (803) 898-4167
Fax: (803) 898-4095
E-mail: sadlermf@dhec.sc.gov

Tennessee

Permitting Authority: Tennessee Department of Environment & Conservation, Division of Water Pollution Control
Web site: <http://www.state.tn.us/environment/wpc/>
Contact: Saya Ann Qualls
Address: 401 Church Street
 6th Floor, L&C Annex
 Nashville, TN 37243-1534
Phone: (615) 532-0652
Fax: (615) 532-0686
E-mail: saya.qualls@state.tn.us

U.S. Virgin Islands

Permitting Authority: U.S. Environmental Protection Agency, Region 2
Web site: <http://www.epa.gov/Region2/water/wpb/npdes.htm>
Contact: Andrea Coats
Address: 290 Broadway
 New York, NY 10007-1866
Phone: (212) 637-3850
Fax: (212) 637-3772
E-mail: coats.andrea@epa.gov

Vermont

Permitting Authority: Vermont Agency of Natural Resources, Wastewater Management Division
Web site: <http://www.anr.state.vt.us/dec/ww/wwmd.cfm>
Contact: Brian Kooiker
Address: 103 South Main Street
 Sewing Bldg.
 Waterbury, VT 05671-0405
Phone: (802) 241-2596
Fax: (802) 241-2596
E-mail: brian.kooiker@anrmail.state.vt.us

South Dakota

Permitting Authority: South Dakota Department of Environment & Natural Resources, Point Source Program
Web site: <http://www.state.sd.us/denr/denr.html>
Contact: Kent Woodmansey
Address: 523 East Capitol Avenue
 Joe Foss Building
 Pierre, SD 57501-3181
Phone: (605) 773-3151
Fax: not available
E-mail: kent.woodmansey@state.sd.us

Texas

Permitting Authority: Texas Commission on Environmental Quality
Web site: http://www.tceq.state.tx.us/AC/nav/permits/water_qual.html
Contact: Darrell Williams
Address: 1700 North Congress Avenue
 P.O. Box 13087
 Austin, TX 78711-3087
Phone: (512) 239-4480
Fax: not available
E-mail: not available

Utah

Permitting Authority: Utah Department of Environmental Quality, Division of Water Quality
Web site: <http://waterquality.utah.gov/>
Contact: Peter Gessel
Address: 288 North 1460 West
 P.O. Box 144870
 Salt Lake City, UT 84114-4870
Phone: (801) 538-9251
Fax: not available
E-mail: pgessel@utah.gov

Virginia

Permitting Authority: Virginia Department of Environmental Quality
Web site: <http://www.deq.state.va.us/>
Contact: Martin Ferguson
Address: 629 East Main Street.
 P.O. Box 10009
 Richmond, VA 23240-0009
Phone: (804) 698-4039
Fax: not available
E-mail: mgferguson@deq.state.va.us

Washington

Permitting Authority: Washington Department of Ecology
Web site: <http://www.ecy.wa.gov/ecyhome.html>
Contact: Nora Mena
Address: P.O. Box 47600
Olympia, WA 98504-7775
Phone: (360) 407-6413
Fax: not available
E-mail: njew461@ecy.wa.gov

West Virginia

Permitting Authority: West Virginia Department of Environmental Protection, Division of Water Resources
Web site: <http://www.dep.state.wv.us/>
Contact: William Brannon
Address: 1201 Greenbrier Street
Charleston, WV 25311
Phone: (304) 558-2107
Fax: not available
E-mail: bbrannon@mail.dep.state.wv.us

Wisconsin

Permitting Authority: Wisconsin Department of Natural Resources, Bureau of Wastewater Management
Web site: <http://www.dnr.state.wi.us/>
Contact: Russ Rasmussen
Address: P.O. Box 7921
Madison, WI 53707-7921
Phone: (608) 267-7651
Fax: (608) 267-2800
E-mail: rasmur@dnr.state.wi.us

Wyoming

Permitting Authority: Wyoming Department of Environmental Quality, Water Quality Division
Web site: <http://deq.state.wy.us/wqd/>
Contact: Todd Parfitt
Address: 122 West 25th Street
Herschler Bldg, 4th Floor West
Cheyenne, WY 82009
Phone: (307) 777-7781
Fax: not available
E-mail: tparfi@state.wy.us

How useful was this guide?

Date: _____

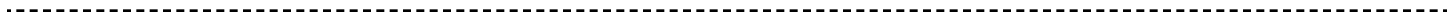
Title of Rule: National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitations Guidelines and Standards for Concentrated Animal Feeding Operations

Your Name (optional): _____

Please let us know if you found this guide useful by answering the following questions. Your feedback is important to us. Thank you!

- 1. The guide helped me understand what I must do to comply with the rule. Yes No
- 2. The language in the guide is easy to understand. Yes No
- 3. If you have suggestions to improve the guide, please write them below:

Please fold on dashed line, tape closed, affix postage, and return by mail. Thank you.



U.S. EPA
REGULATORY MANAGEMENT DIVISION
1200 PENNSYLVANIA AVE., NW
AR 1806A
WASHINGTON, DC 20460

Place
Stamp
Here





**Additional copies of this document, (EPA 821-R-03-010)
can be obtained from:**

**U.S. EPA National Service Center for Environmental Publications
P.O. Box 42419
Cincinnati, OH 45242
Telephone: 800-490-9198
Fax: 513-489-8695**

**This document can be downloaded from:
<http://www.epa.gov/npdes/cafo/producersguide>**

**EPA 821-R-03-010
November 2003**



Recycled/Recyclable

Printed with vegetable-based ink on paper that contains a minimum of 50% post-consumer fiber content processed chlorine-free.