

## **NPDES CAFO Reporting Rule (308 CAFO Rule)**

### **EPA Plans for Proposal of the NPDES CAFO Reporting Rule (308 CAFO Rule)**

In response to concerns raised both by industry and USDA, EPA has reduced the number of questions to five in its proposed section 308 rule for concentrated animal feeding operations (CAFOs), and the Agency is seeking comment on other alternatives to issuing this rule.

The rule's principal objectives are (1) to address water quality issues associated with discharges of manure pollutants from CAFOs, and (2) to allow EPA to more efficiently and effectively achieve the water quality protection goals and objectives of the CWA, with respect to the implementation and management of the National Pollutant Discharge Elimination System (NPDES) program for CAFOs.

In the settlement agreement with the environmental petitioners involved in litigation on the 2008 CAFO rule, EPA agreed to propose requiring information on 14 issues or provide an explanation in the preamble for any that are not proposed. EPA proposes to request information on only some of those 14 items because the Agency believes it can more effectively obtain site-specific answers for the remaining questions directly from states, from other federal agencies, from specific CAFOs or from other sources, when necessary. EPA will seek comment on its proposal not to collect the other items specified in the settlement agreement.

The information required of CAFOs in the proposed rule would be limited to the following:

- Contact information for owner/operator
- Location of production area (either lat/long or section/township/range/county)
- NPDES permit coverage
- Number and type of animals confined
- Acres for land application (for CAFOs that land-apply)

EPA will also seek comment on the following four alternative approaches to the proposal:

(1) Use of Existing Data Sources (which would not require rulemaking): EPA would use existing data in lieu of reporting under section 308 of the Act; e.g., USDA Ag Census, state data/mapping, satellite images/aerial photography, EPA's Assessment, TMDL Tracking and Implementation System (ATTAINS).

(2) Targeted Survey of CAFOs (which would require rulemaking): EPA would use 308 to collect information from CAFOs in watersheds where other information indicates likelihood of impacts from CAFO discharges; e.g., watersheds with high pollutant loads associated with CAFOs, soils with high nutrient levels, high density of CAFOs in counties with limited capacity of available land, CAFOs located in environmental justice communities.

(3) Alternative mechanisms for ensuring accountability (which would not require rulemaking): EPA would expand its network of compliance assistance and outreach tools and would invite industry to assist in identifying the most significant violations from a water quality perspective.

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(4) State Reporting (which would require rulemaking): EPA would require states to submit available information on CAFOs and only require CAFOs to report where states fail to provide the necessary information.

EPA has requested an extension of the dates to propose this rule and the date for final action, which are now October 14, 2011 and July 13, 2012 respectively.