CAFO Ruling

The USDA and the EPA work together to provide guidelines for livestock producers.

Story and photos by
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The Confined Animal Feeding Operation (CAFO) Final Rule was signed Dec. 15, 2002, revising and clarifying the Environmental Protection Agency's (EPA) regulatory requirements under the Clean Water Act for the first time in 25 years.

"Despite substantial improvements in the nation's water quality since the inception of the Clean Water Act, nearly 40 percent of the Nation's assessed waters show impairments from a wide range of sources," says the EPA in its National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitation Guidelines and Standards for CAFOs (hereafter called CAFO guidelines) submission to the *Federal Register*.

The update was a collaborative effort between the EPA and the U.S. Department of Agriculture (USDA) to help livestock producers meet their own and society's goals for environmental quality, said Agriculture Secretary Ann Veneman in a Dec. 16 USDA news release.

"The rules that were in place were developed 25 years ago, so it was an update," says Joel DeRouchey, a Kansas State University (K-State) Research and Extension livestock specialist in northeast Kansas.

Right: The states can decide which operations will and will not qualify beyond the federal regulations. States can have different stipulations, says Joel DeRouchey, a Kansas State University Research and Extension livestock specialist in northeast Kansas. "If the operation is small and has pollution potential, they could go ahead and define it as a CAFO."

Even though the rules have now been set, the deadline by which producers must obtain permits and have their operations up to code isn't until 2006. The four-year cushion was given to let states figure out how they will best address their roles in implementing the regulations.

DeRouchey says producers will not have to take action immediately to obtain permits and change their operations. There will be a delay in necessary action where states will need to interpret what the EPA means in the update and to digest their roles in regulating. "Then it is going to be up to the states to decide exactly how they are going to implement and carry things out," he adds.

"People need to understand that there are federal guidelines, but really, states have the ability to make requirements more stringent. The national guidelines are the baseline," DeRouchey says, adding that producers will need to become familiar with their state regulations. "What makes sense in Kansas probably doesn't make sense in New York or Massachusetts."

Who's a concern?

"Nationally, there are an estimated 1.3 million farms with livestock. About 238,000 of these farms are considered animal feeding operations (AFOs) — agriculture enterprises where animals are kept and

raised in confinement. AFOs annually produce more than 500 million tons of animal manure that, when improperly managed, can pose substantial risks to the environment and public health," the CAFO guidelines say. To be considered an AFO requires confinement of animals for at least 45 days in a 12-month period with no grass or other vegetation in the confinement area during the normal growing season.

There are 15,500 CAFOs that are expected to fall under these regulations. DeRouchey says that 11,000 of those are beyond the classification of a large CAFO, and 4,500 operations would be considered either a small- or medium-sized CAFO, but are still considered CAFOs. "About a third of those are actually under the threshold that are considered smaller but have a pollution potential," he says.

"EPA believes that these regulations will substantially benefit human health and the environment by assuring that an estimated 15,500 CAFOs effectively manage the 300 million tons of manure that they produce annually," the CAFO guidelines say.

A large CAFO, according to the USDA and EPA, is defined as an operation that meets the AFO definition and meets one of the following CAFO definitions:

- has at least 700 mature dairy cows
- has at least 1,000 beef cattle or heifers
- has at least 2,500 swine [each 55 pounds (lb.) or more]
- has at least 10,000 swine (each under 55 lb.)
- has at least 30,000 ducks (with other than liquid manure handling systems)
- has at least 5,000 ducks (with liquid manure handling systems)
- has at least 30,000 chickens (with liquid manure handling systems)
- has at least 125,000 chickens except laying hens (with other than liquid manure handling systems)
- has at least 82,000 laying hens (with other than liquid manure handling systems)
- has at least 1,000 veal calves
- has at least 500 horses
- has at least 10,000 sheep or lambs
- has at least 55,000 turkeys

An operation can fall under a medium CAFO, which is also regulated under the new ruling, if it has a man-made ditch or pipe that carries manure or wastewater from the operation to surface water or allows animals to come into contact with surface water running through the area where they are confined. In this situation, the number of beef cattle that will qualify an operation as a CAFO is 300 beef cattle or heifers.

Once an operation is defined as a CAFO, the new regulations require the owner to develop a nutrient management plan. DeRouchey says the plan will involve looking at how much manure is produced. It will also look at the manure's actual nutrient content by an analysis that tests levels of nitrogen, phosphorus, etc., to determine how the manure should be applied to the land.

The second major change coming from the federal guidelines will be the requirement of an annual report. Producers will have to keep track of how many head were at the facility during that year, the amount of manure generated, the amount of manure transported off the operation, how the manure was applied to the land and how many acres were covered, DeRouchey says. Producers will have to keep track of discharges, like runoff from a lagoon overspill.

"Most of the paperwork involved

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will be straightforward. This documentation should not impact an operation unless it has been over-applying manure to fields," he says. "In those cases, they would have to restrict the amount of manure they apply to those fields."

The permit program is called the National Pollutant Discharge Elimination System (NPDES), and most permits will be obtained from the state. The CAFO guidelines say, "The rule establishes a mandatory duty for all CAFOs to apply for an NPDES permit and to develop and implement a nutrient management plan."

"In addition, the rule moves efforts to protect the environment forward by: placing controls on land application of manure and wastewater, covering all major animal agriculture sectors, and increasing public access to information through CAFO annual reports," says the USDA release. "The rule also eliminates current permitting exemptions and expands coverage over types of animals in three important ways: the rule eliminates the exemption that excuses CAFOs from applying for permits if they only discharge during large storms; second, the rule eliminates the exemption for operations that raise chickens with dry manure handling systems; and third, the rule extends coverage to immature swine and immature dairy cows."

DeRouchey says that even though these regulations come from the EPA, producers will want to contact their state CAFO permitting authorities.

"The nutrient management plan, like the annual report, EPA doesn't want to see, but it will go to the state agencies like the KDHE (Kansas Department of Health and Environment) — or in Iowa the DNR (Department of Natural Resources) — and so the states will be developing those forms," DeRouchey says. While the EPA has made these rules, a lot of the burden for implementing and developing the nutrient management plans and for developing annual reports falls to the individual states.

The states can decide which operations will and will not qualify beyond the federal regulations. States can have different stipulations. If the operation is small and has pollution potential, the state can go ahead and define it as a CAFO, but in those cases, DeRouchey says, an operation doesn't automatically fall underneath that by these new rules. The new rules are not meant to run small producers out of business or to change the general way livestock are raised in this country.

Producers with cattle on pasture or who use grazing systems in pastures, crop residues or stalks will not fall under the regulations, DeRouchey says.

The states will also have the authority to leave flexibility in the regulations. "If you can prove you are using a good management practice to help prevent pollution potential, that will certainly be an advantage for you. But it is going to be up to the states to determine what type of leniency they might have if you are trying to do some of those things," DeRouchey says. "If you have a grass buffer strip or if you prove that you have a unique technology that is going to help your operation, then it might prevent you from going into the CAFO status or it might already help a CAFO with some of its permitting obstacles."

DeRouchey adds that it should be a group effort for livestock producers to help educate each other on options and practices that will improve the environment.

"I see the state regulatory agencies such as KDHE relying on state service groups such as NRCS (National Resources Conservation Service) and Extension, as well as state livestock organizations like KLA (Kansas Livestock Association), the KCA (Kansas Cattlemen's Association) and the Kansas Pork Association, to help educate their producers as well. It will be a team effort to help bring everybody up to speed," DeRouchey says.

Who will pay?

According to the USDA release, Congress increased funding for land and water conservation programs by $2.9 million in the 2002 Farm Bill. This money is supposed to help livestock producers meet the rule's requirements by bringing the total funding for these programs to $51 billion over the next decade.

"The Environmental Quality Incentives Program (EQIP) was authorized at $200 million in 2002 and will ultimately go up to $1.3 billion in 2007; 60% of those funds must go to livestock operations," the USDA release said.

DeRouchey says that even though livestock producers may have had difficulty receiving EQIP money in the past — that's expected to change.

"Previously, yes, it was a lot more difficult for livestock producers to get that money, but now more has been designated from that Farm Bill, and a lot more money has been put into that kitty for that purpose," he says. "A lot more money is designated for waste management systems. Over the next number of years the trend will certainly shift towards producers who will want to upgrade or do some things with their livestock facilities."

The EQIP money is dispensed on a county-by-county basis. The county board, whether that's NRCS or another agency, decides which projects in its county will be funded. However, if the county isn't allocated the money, livestock producers will have to seek funds other than the EQIP money.

"There are a lot more applicants than probably what there are dollars to go around," DeRouchey says. "It is going to increase. It is not going to be a total savior for everybody by any stretch, but it certainly is going to help a lot more as we move into the next couple of years."

Of the EQIP money that is expected to reach the hands of livestock producers, a lot of it is earmarked for waste management systems, such as constructing a lagoon or some diversion terraces for drainage coming off lots, or for moving facilities off a creek to a different location.

"The new regulations are certainly workable and reinforce good, sound management practices based on the size of operations," DeRouchey says. "The biggest thing is for producers to work with their livestock groups within their individual states and become informed about how this potentially affects them.

"Realistically this is not going to affect many from the purebred side unless they have a large feedlot themselves, but it is going to be affecting more of their customers or some of the feedlots that they work with to feed some of their cattle out. Their role is to work with them and to be informed as they get questions from potential customers or fellow cattlemen that they work with so that they are at least somewhat knowledgeable about how this affects people in their areas."

Editor's Note: *For a complete version of the rule submitted to the* Federal Register, *view* www.epa.gov/npdes/caforule *on the Web.*

Isn't it interesting?

CAFO (confined animal feeding operation) — How unfortunate that the Environmental Protection Agency (EPA) and the U.S. Department of Agriculture (USDA) came out with an acronym that puts calves at the forefront of people's minds while, in reality, beef cattle are far from having the greatest negative environmental impact.

The document that the EPA is submitting for publication in the *Federal Register* tells the story in its own words.

"By sector, USDA estimates that operations that confine poultry account for the majority of on-farm excess nitrogen and phosphorous. Poultry operations account for nearly one-half of the total recoverable nitrogen, but on-farm use is able to absorb less than 10 percent of that amount. ... Dairies and hog operations are the other dominant livestock types shown to contribute to excess on-farm nutrients, particularly phosphorus."

Joel DeRouchey, Kansas State University (K-State) Research and Extension livestock specialist in northeast Kansas, says that is not the whole story.

"The whole environmental thing falls back on everybody. Oftentimes we kind of point fingers and say it is the pork industry, or the poultry, or the cattle people doing the polluting, but we are all in this together," he points out. "All of the livestock organizations, regardless of species, need to be working together on this. When the lawsuits and the public scrutiny comes it isn't usually species-specific, but it is on everybody, and the more all of the livestock groups work together, the better off we will be."

While it is hard to think about what your own operation might have to go through to be in compliance with these rules, DeRouchey encourages producers to work with state livestock associations, Extension and other environmental groups. Remember, producers of all species of livestock are in it together to protect both the environment and the lifestyles that rural agriculture provides.

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