

FACT SHEET

CONCENTRATED ANIMAL FEEDING OPERATION (CAFO) NJPDES GENERAL DISCHARGE PERMIT RENEWAL Permit No. NJ0138631

INTRODUCTION

This permit authorizes new and existing discharges from concentrated animal feeding operations (CAFOs) and designated animal feeding operations (AFOs) required to obtain a permit pursuant to N.J.A.C. 7:14A-2.13. This permit is also available to any AFO who voluntarily submits a Request for Authorization (RFA).

Some CAFOs and AFOs have been identified as a source of significant pollution to the surface and ground waters of the State as a result of inadequate animal management practices. The Concentrated Animal Feeding Operations (CAFOs) NJPDES General Discharge Permit No. NJ0138631 (the permit) controls the discharge of process wastewater, process-generated wastewater, and stormwater from areas of animal confinement, feeding, and maintenance. The permit requires the preparation and implementation of a Comprehensive Waste Management Plan (CWMP) designed to manage all wastes originating from a CAFO. The CWMP includes a Comprehensive Nutrient Management Plan prepared in accordance with NRCS's Comprehensive Nutrient Management Planning Technical Guidance (Appendix 1 of the permit) in addition to other waste management measures specifically required by the permit.

The permit requires that CAFOs comply with the federal effluent limitation guideline, which allows no discharge to the waters of the state from a CAFO, except when chronic or catastrophic storm events cause an overflow from a facility designed, constructed, and operated to hold process wastewater, process generated wastewater plus stormwater runoff from a 25-year, 24-hour storm event. The CWMP must include measures for complying with the effluent limitation and a schedule for implementing those measures. Many CAFOs may choose to construct a waste retention structure to comply with the effluent limitation though allows for other measures (storage tank) to be implemented as part of the CWMP as long as compliance with the effluent limitation is attained. The permit contains specific design standards for the construction of a lined waste retention structure to prevent the discharge of nutrients and other pollutants to ground water.

The Comprehensive Waste Management Plan is a grouping of conservation practices and management activities which, when implemented, will help ensure that production and environmental goals are achieved. Specifically, the CWMP includes best management practices for manure and wastewater handling and storage, land application practices, nutrient management, feed management and establishes record keeping requirements. The CWMP must be prepared by the permittee in accordance with United States Department of Agriculture, Natural Resources Conservation Service (NRCS) Comprehensive Nutrient Management Planning Technical Guidance (attached to the permit as Appendix 1) and submitted to the appropriate Soil Conservation District (SCD) for review. The Department will approve or deny the CWMP based on SCD recommendations.

BACKGROUND

Since 1972, Section 502(14) of the Clean Water Act (CWA) has defined concentrated animal feeding operations as point sources subject to the prohibition against discharging pollutants to waters of the United States without a NJPDES permit. In 1976, USEPA promulgated National Pollutant Discharge Elimination System (NPDES) regulations to define the term “concentrated animal feeding operations”. In 1987, the CWA was amended to include section 402(p), which regulates discharges composed entirely of stormwater, including stormwater discharges from CAFOs. Federal NPDES regulations, at 40 CFR 122.23(a), specifically state that concentrated animal feeding operations, and other animal feeding operations designated as concentrated feeding operations, are subject to the NPDES permitting program. In addition, the State of New Jersey Administrative Code (N.J.A.C. 7:14A-2.13) requires CAFOs and other designated AFOs to obtain a NJPDES permit for their discharges.

As part of the Clean Water Action Plan, the U.S. Department of Agriculture (USDA) and the U.S. Environmental Protection Agency (USEPA) have proposed a Unified National Strategy for AFOs. This effort is in response to recent environmental concerns, such as Pfiesteria, that have been linked to CAFOs and AFOs. Inspections by the New Jersey Department of Environmental Protection’s (Department) Water Compliance and Enforcement (WCE) Element has confirmed that, in some cases, significant pollutants are entering surface and ground waters, as a result of inadequate animal management practices. The USEPA has requested that the Department (and most other states) prepare a statewide strategy that outlines how AFOs and CAFOs will be managed and/or regulated.

This effort is being closely coordinated between the Division of Water Quality (DWQ), WCE and the Division of Watershed Management (DWM) within the Department. The Department is also coordinating its efforts with the New Jersey Department of Agriculture (NJDA) in recognition of the latter’s statutory role and its partnership with state and federal conservation agencies. The proposed strategy is consistent with the Department Strategic Planning goal of Clean and Plentiful Water, as well as the point and nonpoint source pollution elimination objectives of both the Department’s Strategic Plan and the Performance Partnership Agreement with USEPA Region 2. This draft permit is to implement this strategy and is intended to meet the directives of the Strategic Plan and the Performance Partnership Agreement.

TYPE OF FACILITY OR REGULATED ACTIVITY

This permit authorizes new and existing discharges from concentrated animal feeding operations and designated animal feeding operations required to obtain a permit pursuant to N.J.A.C. 7:14A-2.13. This permit is also available to any AFO who voluntarily submits a Request for Authorization (RFA). Facilities with discharges already authorized under another general or individual NJPDES-DSW (including an expired permit) are not eligible for authorization under this permit except through a revoke and reissue permit action by the Department.

This permit applies to all areas of the State of New Jersey. However, new discharges to surface waters classified as Category One (C1) waters, Pinelands Waters (PL), or FW1 designated in the tables in N.J.A.C. 7:9B-1.15, are not eligible for authorization under this general permit. New facilities which discharge to ground water in areas classified under N.J.A.C. 7:9-6 as

Class 1-A and Class 1-PL, or which discharge to ground water that contributes to surface waters classified as C1 or FW1, are also not eligible for authorization under this general permit.

BASIS FOR PERMIT CONDITIONS

The permit requires that CAFOs or AFOs that seek authorization meet applicable federal technology-based effluent limitations and implement a CWMP that contains measures to comply with the effluent limitation. These measures may include the construction of a waste retention structure with adequate volume capacity to hold process-generated wastewater and runoff up to a 25-year, 24-hour storm event. This requirement is imposed pursuant to the effluent limitation guidelines at 40 CFR Part 412 for feedlots with over 1,000 animal units. Federal regulations require that all NPDES permits for animal feeding operations with over 1,000 animal units must contain an equivalent or more stringent effluent limitation. The effluent limitation prohibits the discharge to surface water, except discharges that result from storm events greater than a 25-year, 24-hour storm. Technology-based effluent limitation guidelines are not established for animal feeding operations with fewer than 1,000 animal units, instead effluent limitation guidelines are based on best professional judgement (BPJ). The Department, however will be applying the technology-based effluent limitation guidelines to all CAFOs and AFOs that seek authorization under the general permit to establish consistency and to simplify the calculation of animal units present at a CAFO/AFO. The Department has found it difficult to accurately determine the number of animal units at a CAFO/AFO due to the constantly varying number and types of animals that may be present at an animal feedlot at any given time.

To protect New Jersey's ground water, design standards are included in the permit for the construction of a waste retention structure. The design standards require that the waste retention structure be lined, or be a storage tank. This ensures compliance with the Department's Ground Water Quality Standards (N.J.A.C. 7:9-6) by eliminating potential discharges from the waste retention structure to the ground waters of the state. The design standards also insure the integrity of both the structure and the liner. An Operations and Maintenance Manual requires regular inspections of the liner, integrity testing of the liner, and the development of an emergency plan.

The Comprehensive Waste Management Plan (CWMP) is to be developed in accordance with NRCS' "Comprehensive Nutrient Management Planning Technical Guide". It is a mandatory permit requirement, which when implemented will minimize the potential impact of animal feedlot activities. A CWMP is a grouping of conservation practices and management activities, which incorporate methods to utilize animal manure and organic by-products as a beneficial resource while reducing threats to water quality and public health from animal feedlot operations. It requires appropriate crop selection, soil testing, and sets application rates for land application of waste for optimum nutrient uptake. When properly implemented, CWMP will prevent excessive nutrients reaching the ground waters of the state, thus protecting ground water and surface water quality. The CWMP shall at minimum address the following:

- Manure and wastewater handling and storage
- Land treatment practices
- Nutrient management
- Record keeping

- Feed Management
- Other utilization activities
- Soil erosion

The CWMP is to be prepared by the permittee, reviewed by the appropriate SCD and approved by the Department. The permit requires that CWMP be prepared and implemented upon the submittal of a Request For Authorization (RFA) to the Department.

The CWMP must ensure that there shall be no discharges from the CAFOs that is not the result of a catastrophic or chronic rain event. A catastrophic rain event is a rain event in excess of a 25-year, 24-hour storm. A chronic rain event is a series of wet weather conditions that preclude dewatering of properly maintained waste retention structures.

CAFOs and designated AFOs are currently regulated pursuant to section 402(p) of the Federal Water Pollution Control Act if they discharge to surface water. The BMPs required as part of a Comprehensive Waste Management Plan are authorized by the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*) and the Water Pollution Control Act, N.J.S.A. 58:10A-1 *et seq.* These statutes are implemented by the National Pollutant Discharge Elimination System (NPDES, 40 CFR Part 122) and the New Jersey Pollutant Discharge Elimination System (NJPDES, N.J.A.C. 7:14A) permit programs.

The CWMP will require the implementation of various Best Management Practices (BMPs). The Department is authorized under the federal regulations (40 CFR 122.44) and under NJPDES rules (N.J.A.C. 7:14A-6.2(b) to impose BMPs to control or abate the discharge of pollutants in lieu of numeric effluent limitations. BMPs will be required when the Department finds them necessary to achieve effluent limitations and standards, or to carry out the purposes and intent of the State and Federal Acts.

PROCEDURES FOR REACHING FINAL DECISIONS ON THE DRAFT PERMIT

Included in the public notice are requirements for the submission of comments by a specified date, procedures for requesting a hearing, and other procedures for participation in the final agency decision, as set forth in *N.J.A.C. 7:14A-15, 16, and 17*. The comment period will begin on the date the public notice is published in DEP Bulletin and will end thirty (30) days after publication.

DEPARTMENT CONTACT

Additional information concerning the draft permit may be obtained between the hours of 8:00 A.M. and 4:00 P.M., Monday through Friday from: Daniel Kuti, Bureau of Nonpoint Pollution Control at (609) 633-7021 or (609) 292-0407.