

There are new developments in environmental regulations

Steps have been taken to beef up the federal Clean Water Act. There could be big implications for many dairy operations, especially those in sensitive watersheds.

by Carissa Itle

ASK anyone to name the most pressing issues facing the future of dairy farming, and "environmental concerns" is bound to appear on their list. Dairy farmers must become increasingly aware of environmental regulations that can impact their way of doing business.

Before discussing the impact of regulation, it is necessary to learn how to talk the talk.

Almost every dairy farm is considered an **animal feeding operation (AFO)**. Even those that graze their cows must confine them to milk.

An AFO is a **concentrated animal feeding operation (CAFO)** if:

- The facility has more than 1,000 animal units (700 dairy cows).
- The facility has between 300 and 1,000 animal units (200 to 700 cows), and certain discharge situations are occurring.
- Regardless of size, any AFO may be designated a CAFO if an on-site inspection determines it to be a significant contributor of pollution.

Should you be concerned about the difference? CAFOs are identified as point sources of pollution under the Clean Water Act. As such, they are required to obtain National Pollutant Discharge Elimination System (NPDES) permits. AFOs also are considered to be nonpoint sources but are addressed through various voluntary programs.

In recent years, there have been several national initiatives. The Clinton Administration's Clean Water Action Plan, released in February 1998, outlines over 100 key action items to continue the successes of the Clean Water Act. Action Item 82 is the Unified National Strategy for Animal Feeding Operations which was released in March 1999 by USDA and EPA. The strategy aims to minimize water quality and public health impacts from AFOs.

The AFO strategy sets a national performance expectation for all AFOs to develop and implement comprehensive nutrient management plans (CNMPs) by 2009. Most would be developed and implemented voluntarily. USDA released its technical guidance for CNMP development in December 2000. USDA is expected to release model CNMPs this winter.

A CNMP is a site-specific grouping of practices and activities to help ensure that AFOs can achieve both agricultural production goals and natural resource concerns. The elements addressed in a CNMP may include manure and wastewater handling and storage, land application, nutrient plans, and record keeping.

New CAFO rules released . . .

EPA released its proposed CAFO rule in December and will release its final rule next December. The CAFO rule combines changes to both the NPDES permit regulations that apply to CAFOs and the corresponding effluent limitation guidelines. The proposed rule is open for public comment through July 30.

President Bush issued an order for his Administration to review last-minute legislation approved by President Clinton. Because of the timing of the CAFO rule release, some news reports have mistakenly grouped it into this category. Since the CAFO rule is a proposed rule issued in accordance to a judicial schedule, Bush's delay order does not apply. However, the new Administration may impact the form that the final rule takes.

Here is a summary of some significant changes

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ADDRESS YOUR OWN CONCERNS about storing and applying nutrients produced on your farm. Having a plan developed for your farm will lessen the impact of impending regulations whenever they appear and whatever form they take.

to current regulations in the proposed CAFO rule.

First, there are changes to the CAFO definition.

- Options are presented for changes to the CAFO size thresholds which may affect operations with as few as 200 cows.
- The definition of operator is expanded to include a party who exercises substantial operational control of a CAFO, such as corporate pork and poultry integrators.
- The current regulations commonly are interpreted to mean that a CAFO with 700 or more cows (1,000+ animal units) that does not have the potential to discharge (except for a 25-year, 24-hour storm event) is not required to have a NPDES permit. The proposed rule would require all CAFOs to receive NPDES permits.

There are new permit elements for CAFOs.

- The production area must be designed to contain process waters and runoff from a 25-year, 24-hour storm and operated in accordance with specific practices.
- No discharge is permitted to U.S. waters, including to groundwater, that may be hydrologically connected to surface waters.
- Record keeping requirements will be added.
- CAFOs must develop and implement a permit nutrient plan (PNP), a subset of a CNMP.
- Various elements of the permit and PNP would be available to the public.

Land application provisions have been changed.

- Manure and wastewater must be land applied at accepted rates for nitrogen and phosphorus.
- 100-foot setbacks are necessary between manure application areas and surface waters.
- Possible restrictions would be placed on land application under certain conditions such as frozen or saturated soil, certain slopes, and so on.
- A CAFO permit will contain provisions regarding transfer of manure to other persons, including record keeping and possibly certification requirements.

EPA's total maximum daily load (TMDL) process was established by the Clean Water Act to protect water quality on a watershed basis. States must list their impaired waters and determine the maximum daily load of pollutants that those waters can receive and still meet Clean Water Act water quality standards. An action plan then is estab-

lished to reduce pollutants to this mandated level.

Dairy CAFOs that find themselves located in impaired watersheds could have to take additional measures to minimize their impact on water quality. Dairy AFOs in those watersheds may be designated as CAFOs and have to meet similar requirements.

The final TMDL rule, which clarifies and strengthens the authorities of EPA and states, was published last July. A Congressional rider prohibits EPA from implementing this rule until October. It is uncertain if the new Administration will review this rule before it becomes effective. Many states already are moving forward to develop and implement TMDLs in the absence of federal guidance.

State regulations must be at least as stringent as federal standards. Dairy industries in several states have organized and taken the lead to address their environmental challenges. Under the Idaho Dairy Pollution Prevention Initiative, all producers must pass environmental inspections and implement nutrient plans. The environmental stewardship component of the California Dairy Quality Assurance Program educates producers to write environmental stewardship plans to become certified by a third party.

On a national level, National Milk Producers Federation provides input to agencies and to Congress concerning national environmental regulations. In addition, producers discussed environmental issues through the Dairy Producer Conclave process and developed resulting action items to encourage environmental stewardship.


What you can do . . .

Environmental awareness is not limited to a state or national level. There are steps that individual producers can take as well:

- Manage odors and encourage good neighbor relations. Many producers' environmental problems start by complaints from their neighbors.
- Become aware of the existing regulations. Stepped-up enforcement of existing regulations is likely, even though the rules may soon be changing.
- Address your nutrient concerns before it becomes a requirement.
- Implement voluntary practices to minimize runoff from your facilities and fields.
- Take advantage of any cost share and technical assistance available.
- Become involved in local conservation groups. Many encourage stakeholder participation.
- If you have more than 700 milking age cows and are currently claiming the "zero discharge" exemption, think about obtaining a permit. No matter how the rules change in other ways, this exemption is likely to close.

Regardless of what final form some of these pending regulations may take, they are not going to go away. In fact, we may want to be careful what we wish for. In the absence of any regulation, advocacy groups may more frequently resort to lawsuits instead.

Most producers are willing to comply with common sense regulations that are economically achievable. We have all heard that industry must become part of the solution in addressing the environmental impacts of animal agriculture. Our actions at the local, state, and national levels can show that the dairy industry is responding to that challenge.

For more background, visit the NMPF website at www.nmpf.org. Click on "Government and Industry Issues" and then "Environment." 



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