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Fact Sheet #2: Do I Need a NPDES Permit for My Livestock or Poultry Operation

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Fact Sheet #2: Do I Need a NPDES Permit for My Livestock or Poultry Operation?
By Rick Koelsch, University of Nebraska

Introduction
New U.S. Environmental Protection Agency (EPA) rules that took effect April 14, 2003 indicate that animal feeding operations (AFOs) can be defined as concentrated animal feeding operations (CAFOs) and required to obtain a National Pollutant Discharge Elimination System (NPDES) permit from the EPA or a designated state permitting authority. The likelihood of an AFO being classified as a CAFO will depend, in large part, on whether that operation is considered to be large, medium, or small.

Assessing Your Operation
Use the four-step decision process on page 2 to identify if your livestock or poultry operation needs an NPDES permit.

Step 1. Is my livestock or poultry operation an AFO? The NPDES permit is typically not required for grazing-based animal operations. Operations may be required to have a permit only if the animals are fed or housed in a confined area for more than 45 days in any 12-month period and crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

Step 2. Is my livestock or poultry operation a Large CAFO? AFOs are grouped into three sizes: Large, Medium, or Small (see Table 1). With very few exceptions, large AFOs are defined as CAFOs.

Step 3. Is my livestock or poultry operation a Medium CAFO? A medium AFO can be defined as a CAFO if animals are in direct contact with surface water running through the confinement area or it discharges into waters of the United States through a man-made ditch, flushing system, or other similar device, or the permitting authority determines the facility is a significant contributor of pollutants to waters of the United States and designates the facility as a CAFO.
Step 1. Is my livestock or poultry operation an AFO?

Does livestock or poultry operation house or feed animals in a confined area for more than 45 days in any 12-month period?

- **NO**

Does the animal confinement area sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season over any portion of the lot or facility?

- **YES**

**Not an AFO.** (No NPDES permit required)

- **NO**

**No, My Operation is an AFO.**

Step 2. Is my livestock or poultry operation a Large CAFO?

Complete Table 1 for your operation. Are there any checks in Column A?

- **NO**

NPDES permit is required. Producer must submit application.*

* Some large CAFOs may demonstrate no potential to discharge and not need an NPDES permit.

- **YES**

Step 3. Is my livestock or poultry operation a Medium CAFO?

Complete Table 1 for your operation. Are there any checks in Column B?

- **NO**

**No Duty to Apply**

- **YES**

1. Are animals in contact with waters of the U.S. running through the confinement area? OR

2. Is a man-made ditch or pipe carrying manure or wastewater from animal housing or feeding area to waters of the U.S.? OR

3. Has permitting authority designated operation as a CAFO?

- **NO to all**

**No Duty to Apply**

- **YES to any**

NPDES permit is required. Producer must submit application.

Step 4. Is my livestock or poultry operation a Small CAFO? (designated by EPA or permitting authority after inspection)

Complete Table 1 for your operation. Are there any checks in Column C?

- **NO**

**No Duty to Apply**

- **YES**

1. Are animals in contact with waters of the U.S. running through the confinement area? OR

2. Is a man-made ditch or pipe carrying manure or wastewater from animal housing or feeding area to waters of the U.S.?

- **NO to both**

**No Duty to Apply**

- **YES to either**

Regulatory Authority has determined that this operation is contributing significant pollutants to surface water?

- **NO**

NPDES permit is required. Producer must submit application.

- **YES**
Step 4. Is my livestock or poultry operation a Small CAFO? Small AFOs can be designated as a CAFO only if animals are in direct contact with surface water running through the confinement area OR it discharges into waters of the United States through a man-made ditch, flushing system, or other similar device AND the permitting authority designates the AFO as a CAFO due to its potential to contribute significant pollutants to waters of the United States. The designation of a medium or small AFO as a CAFO has historically been a very rare occurrence. Medium or small AFOs are designated a CAFO only following an on-site inspection.

Time Line for Compliance
The owner of a livestock or poultry operation defined as a CAFO has a “Duty to Apply” for an NPDES permit. The deadline for an NPDES permit application is as follows:

For additional information on the time line for compliance, see CAFO Fact Sheet #3: How Soon Must I Comply with NPDES CAFO Regulations?
**Definition of Terms**
AFO–Animal (livestock or poultry) Feeding Operation

CAFO–Concentrated Animal Feeding Operation

NPDES–National Pollutant Discharge Elimination System

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**Reviewers**
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