



Concentrated Animal Feeding Operations (CAFOs)

The following Nutrient Management Notes provides a summary of what is defined as a CAFO, what's required and how the state will manage CAFOs. Recent federal codified regulations and the Clean Water Act define a concentrated animal feeding operation. Delaware is regulating CAFOs cooperatively with the involvement of the Delaware Department of Agriculture, Delaware Nutrient Management Commission, the Department of Natural Resources and Environmental Control, Natural Resource Conservation Service and the University of Delaware. The State Nutrient Management Program will maintain the lead in issuing and administering CAFO permits.

How did we get here?

The new CAFO rules build upon and expand the original rules from the Clean Water Act (CWA), which define CAFOs as point sources and require the establishment of a National Pollution Discharge Elimination System (NPDES) for permitting these operations. One of the additions to the new rule that will have a major impact on Delaware is to define dry poultry litter operations over a certain size as a CAFO. In addition to the CAFO regulations and the CWA, Delaware also has the Nutrient Management Law and a Water Protection Act. The CAFO regulations must function in conjunction with these existing resources.



Farms, such as the above, will be affected by the CAFO rule if they house more than 125,000 birds.



CAFOs must budget the manure generation to the nutrient demand for crop production, and export the excess manure.

Who is involved?

The Department of Agriculture, via the State Nutrient Management Program will provide the administrative, technical and enforcement resources. The Department of Natural Resources and Environmental Control (DNREC) has delegated the CAFO responsibilities that exist in the State Water Protection Act. The Natural Resources Conservation Service (NRCS) provides technical and engineering services for CAFOs as it relates to manure management storage structures, mortality management structures and a multitude of best management practices. The University of Delaware provides the educational services for certification of all nutrient handlers and has made CAFO information a part of the curriculum. In addition, the Commission and University strategies have identified research priorities to better guide policy development with science for nutrient reduction. The poultry companies have been very proactive in tackling nutrient reductions as well as trying to educate their contract growers on future requirements for those that will likely be CAFOs. The Environmental Protection Agency (EPA) maintains regulatory and national responsibilities for CAFOs as point sources defined by the CWA.

Who is affected?

First an operator must determine if they qualify as an AFO.

“Animal Feeding Operation” or “AFO” means a lot or facility (other than an aquatic animal production facility) where the animals have been, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and the animal confinement areas do not sustain crops, vegetation, forage growth or post-harvest residues in the normal growing season. Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals in an operation, if the production areas adjoin each other or if the AFOs use a common area or system for the disposal of manure or processing wastes. (For example, facilities or production areas that are commonly managed, co-located and share manure storage

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systems are considered a single AFO. A poultry operation with many houses in a single location or address is deemed a single AFO).

An AFO is a CAFO if the number of animals equals or exceeds the following criteria:

- 1,000 beef cattle or heifers,
- 700 mature dairy cattle (whether milked or dry cows),
- 2,500 swine each weighing over 55 pounds,
- 10,000 swine weighing under 55 pounds,
- 500 horses,
- 10,000 sheep or lambs,
- 55,000 turkeys,
- 125,000 chickens except laying hens,
- 82,000 laying hens,
- 1,000 veal calves.

Should an operation not meet the above criteria, it may be designated as a CAFO and have to apply for an individual NPDES permit under certain circumstances. Cases where an individual NPDES permit may be required include but not limited to the following:

- There is noncompliance with the provisions of these regulations, the Nutrient Management Law (3 *Del. C.* §2200 et.al.), or the State Nutrient Management Program.
- There is evidence indicating that a person is a significant contributor of a pollutant to waters of the State.
- There is a request for coverage by an applicant who is not required to obtain coverage.

What is required of a CAFO under the General Permit?

Requirements for CAFOs are similar in most aspects to the State Nutrient Management Program, with a few additional items.

A notice of intent (NOI) form must be submitted to the Department of Agriculture. This NOI is a legal commitment to meet the general permit's requirements. Information included in this form is: contact information, as well as operational data regarding animal units, manure generation and manure budget for manure disposition. Information on this NOI is publicly available.

A nutrient management or animal waste management plan must be developed. In difference to the State Program a certified consultant must develop the animal waste management plan for a CAFO, where under state law a person certified as a nutrient generator or higher can develop an animal waste plan. The following information is also required in the plan: contact information, watershed, total acres under control of CAFO, certification statement, field maps or aerial photos, crop & nutrient information, soil sample reports and best management practices.

The CAFO operator or responsible party for the CAFO must be certified at the appropriate level as either a nutrient generator or a private nutrient handler. Site-specific requirements include having a manure balance budget with-in the plan, run off control with-in the production area, keeping animals away from surface waters and proper mortality management for both daily and catastrophic events.

Adequate storage of manure is necessary. Proper timing of clean outs will be necessary. NRCS designed structures are one example of storage structures for both manure and mortality management. Manure structures must be designed to withstand a 25-year rainfall event. Temporary storage as approved by the Commission is considered adequate.

Application setbacks for manure are part of the requirements of the Federal rules. The direct application of manure or processed wastewater to ditches or surface waters is prohibited. Application setbacks offer three alternatives; a 100-foot setback, a 35-foot vegetative buffer or alternative practices. Currently alternatives to the two setbacks in the Federal rules are being explored for Delaware and include the implementation of best management practices such as cover crops and manure incorporation.

Record keeping requirements are similar to the State Nutrient Management program with a few additions. Records must be kept for 6 years this includes the NMP/AWP. Site-specific requirements as well as records of implementation must be kept. Soil test results, quantity of nutrients applied, methods and dates of application, crops planted and yield records all must be kept. In addition information on transfers of manure must be kept, as well as a nutrient analysis of the manure. The nutrient analysis of the manure should also be provided to any one utilizing the manure.

An Annual Report must be submitted by March 1 of the following calendar year on a form, developed and supplied by the Nutrient Management Program. This form is the same as the annual report required by the Nutrient Management Law. The report contains such information as: animal units, manure generation, use and disposal as

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well as commercial fertilizer usage.

What are the requirements of a CAFO with a special or Individual Permit?

Individual permits may be required for operations under certain circumstances such as:

- Non-compliance with the state NM law
- The operation is a significant threat to the environment, such as:
 - Animals in surface water
 - Improper mortality management
 - Spills or discharges from the production area
- Operator requests for coverage

All applicable contents found in the General Permit are required of the Individual Permit, in addition to several other components. Conditions and compliance measures to mitigate or prevent pollutants from entering waters of the State are required. A time line for the implementation of these requirements and an expiration date not to exceed five years are additional measures in the Individual Permit.

For new CAFO facilities there are several construction requirements as well. The facility can not be in the 100 year flood plain. Manure storage and animal confinement must be at least 200 feet from a domestic well and 300 feet from a public well. For chicken, turkey, veal or swine CAFOs, the production area and manure storage area must be designed to withstand a 100 year 24 hour rainfall event. Dairy, beef and horse CAFOs must be designed to withstand a 25 year 24 hour rainfall event.



Equipment for spreading manure should be maintained and calibrated periodically.



Manure storage sties must stay clear of the 25 year and in some cases 100 year flood plain.

What is the Timeline and the Deadlines?

The program is expected to be in place by April 2005. From April 2005 until December 2006 the Notice of Intent and implementation will begin. Annual reports will be due on March 1st of every year. For existing CAFOs, the NOI should be submitted no later than 120 days from the effective date of the regulations. For new facilities, they must submit a NOI at least 120 days prior to beginning operation. This means if you have no chicken houses and you are planning to build enough to meet the CAFO threshold, you need to submit an NOI prior to operation (time of placing birds). For someone expanding their AFO to meet the CAFO limits they should file a NOI 90 days after becoming a CAFO or by February 13th 2006 which ever is later.

What additional information regarding CAFOs is important to know?

Emergency notification regarding any spills or discharges must be verbally reported to the Delaware Department of Agriculture within 24 hours. Within five days a written report must be submitted containing:

- A description of the discharge, cause and volume of discharge
- Period of discharge, dates, times & steps being taken to prevent recurrence
- If caused by a precipitation event(s) the amount of rainfall, as measured by a rain gauge at the site.
- Results of any further sampling and analysis of the discharge

CAFOs are subject to audits and inspection of both their NM plans as well as their production areas. Access and right to copy records required by the permit as well as to sample or monitor any discharges from the site. Forty eight hours advance notice will be given, except under special circumstances.

For any transfer of ownership, the proposed new owner or applicant must submit either an application for an individual permit or a NOI for the general permit. The Delaware Department of Agriculture must be notified 30 days prior to transfer, including the proposed date of transfer to avoid any lag in coverage.

For more information contact the Nutrient Management Program at 302-698-4500.

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How to get involved and voice your opinion:

Meet and talk to commission members

Attend commission meetings; contact the Delaware Nutrient Management Program for dates and locations.

Nutrient Management Program

(302) 698 – 4500

or

1-800-282-8685

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Program Administrator

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Delaware Nutrient Management Commission

Name	Appointment	Contact Info.	Representation	Title
William Vanderwende	Senate	(302) 349-4423	Sussex County Dairy Producer	Chairman, Commission
Mark Adkins	Governor	(302) 732-3007	Sussex County Swine Producer	
David Baker	Senate	(302) 378-3750	New Castle County Grain Industry	Chairman, Personnel Subcommittee; DNMC Vice Chairman
Robert Baldwin	Governor	(302) 739-4411	Director, Division of Soil & Water Conservation, DNREC	
Stephen Corazza	House of Representatives	(302) 653-3583	New Castle County Poultry Producer	Chairman, Government Interaction Subcommittee
James Elliott	Governor	(302) 539-3409	Sussex County Citizens	
Carlton Fifer	Senate	(302) 697-2141	Kent County Vegetable Industry	
Tony Keen	Senate	(302) 684-3196	Nutrient Consultant	Chairman, Technology Subcommittee
Connie Larimore	House of Representative	(302) 398-8304	Kent County Poultry Producer	Chairman, Budget Subcommittee
Ed Lewandowski	House of Representatives	(302) 645-7325	Environmental Advocacy Group	Chairman, Rules & Regulations Subcommittee
Bud O'Neill	Governor	(302) 363-1353	Golf Course/Lawn Care	
Brian Schilling	House of Representatives	(302) 934-7684	Commercial Applicator	Chairman, Industry Relations
Carl Solberg	Senate	(302) 492-1225	Environmental Advocacy Group	Chairman, Program & Education Subcommittee
Richard Sterling	Governor	(302) 653-7060	Commercial Nursery Industry	
Charles West II	House of Representatives	(302) 238-0137	Sussex County Poultry Producer	
Michael T. Scuse (Ex-Officio)		(302) 698-4500	Secretary, Department of Agriculture	
John Hughes (Ex-Officio)		(302) 739-4403	Secretary, Department of Natural Resources & Environmental Control	
Gerald Llewellyn (Ex-Officio)		(302) 744-4540	Department of Health and Social Services	
William Rohrer, Jr. (Ex-Officio)	DNMC	(302) 698-4500	Nutrient Management Program Administrator	

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Upcoming DNMC Meetings

October 12
November 9
December 14
DDA, Dover DE

Doc. # 65-01-25/04/09/02

Vol. V, No 1
Fall 2004