

FACT SHEET

EPD Watershed Protection Branch

Comparison of State and Federal Permit Options for Animal Feeding Operations

Concentrated Animal Feeding Operations (CAFO) or Animal Feeding Operations (AFO)

Purpose

The purpose of this document is to provide information to potential permittees regarding their permitting options for animal feeding operations. The permittee should choose the option that best fits their needs for the operation of their facility.

Before 2011, animal feeding operations above a certain size threshold were designated as CAFOs. As CAFOs, they were required to have a National Pollutant Discharge Elimination System (NPDES) wastewater discharge permit, regardless of whether wastewater was discharged to surface waters of the State. This has changed due to the 2011 judicial decision in the National Pork Producers Council et al. v. U.S. EPA case, and corresponding changes in State rules in 2012. Now, an NPDES permit for feeding operations is required only if there is a discharge of wastewater to surface water. That means that feeding operations that do not discharge have the option of applying for a State issued Land Application System (LAS)-AFO permit (issued solely under State authority), rather than an NPDES permit (issued by the State as authorized under Federal authority).

On April 1, 2014, EPD issued two new General LAS-AFO permits (GAG920000 and GAG940000). These permits will replace LAS-AFO General Permit GAU700000 after the operations currently covered under GAU700000 have had an adequate opportunity to obtain coverage under an appropriate permit. The new LAS-AFO permits were issued before making a decision regarding the development of a new General NPDES –CAFO permit because EPD believed many potential permittees would be interested in coverage under them. EPD may develop a new General NPDES-CAFO permit if there is sufficient interest for such a permit.

Potential permittees may decide that an individual NPDES or LAS permit is better suited for their operation than coverage under a general permit. Also, EPD may determine that an individual permit is required for an operation based on several factors, including the size of the discharge, size of the operation, and/or location with respect to waters of the State.

Comparison of State and Federal Permit Options

<u>FEDERAL</u>	<u>STATE</u>
NPDES - CAFO Permit	LAS - AFO Permit
<p>Allows for the discharge of wastewater from a treatment pond to waters of the U.S. due to weather related discharges, most likely under extreme weather events, and only if the permittee is in compliance with their nutrient management plan (NMP) and permit.</p>	<p>Does not address the discharge of wastewater from a treatment pond to waters of the U.S.</p>
<p>The State of Georgia is authorized by the United States Environmental Protection Agency (USEPA) to implement the NPDES Program. The USEPA has oversight powers, legal jurisdiction, and regulatory authority to issue and enforce NPDES permits.</p>	<p>The State of Georgia has the legal jurisdiction and regulatory authority for State issued LAS permits. USEPA has no oversight or regulatory authority over State issued LAS permits.</p>
<p>The Storm Water Agricultural Runoff Exemption (40 CFR 122) is applicable. This exemption says that an NPDES permit is not required for run-off from agricultural activities provided the permittee is in compliance with their NMP.</p>	<p>The Storm Water Agricultural Runoff Exemption (40 CFR 122 and GA Rule 391-3-6-.21(3)(c)) is applicable. This exemption says that an NPDES permit is not required for run-off from agricultural activities provided the permittee is in compliance with their NMP.</p>
<p>A public comment period is required for the NMP. The public may review and comment on the NMP and EPD will address those comments prior to issuing an NPDES permit.</p>	<p>There is no requirement for a public comment period for the NMP.</p>
<p>All compliance related reports, corrective action plans, and permit applications are subject to USEPA oversight and comment.</p>	<p>The State of Georgia is not required to submit permits, compliance related reports, corrective action plans, Notices of Intent or Notices of Termination to USEPA.</p>