Current and Proposed Concentrated Animal Feeding Operation Regulations

Shawn Hawkins
Animal Feeding Operation

1. Stables, confines, and feeds or maintains animals for 45 days in any 12 month period

2. Does not sustain crops, vegetation, or post harvest residue in the normal growing facility over any portion of the facility
### CAFOs are Defined by Animal No.

<table>
<thead>
<tr>
<th>Animal Type</th>
<th>Large</th>
<th>Medium</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chickens (dry waste*)</td>
<td>125,000+ (non-layers)</td>
<td>37,500-124,999 (non-layers)</td>
</tr>
<tr>
<td></td>
<td>82,000+ (layers)</td>
<td>25,000-81,999 (layers)</td>
</tr>
<tr>
<td>Dairy Cows</td>
<td>700+</td>
<td>200-699</td>
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</tbody>
</table>

**Federal Rule:** requires permit only if farm discharges and generally only applies to Large CAFOs

**Versus**

**TN Rule:** requires all large and most medium CAFOs to have permit even if they don’t discharge
Fed & TN Criteria for Medium CAFOs

1. Pollutants are discharged through a discrete conveyance to waters of state.
TN Criteria for Medium CAFOs

Under the current TN rule, uncovered litter is part of the “production area” after two weeks-discharge from stockpiled litter.
2. Pollutants are discharged to waters of state in contact with confined animals
TN Criteria for Medium CAFOs

3. AFO is located on a waterbody impaired for nutrients or pathogens

4. AFO began on/after May 1, 1999

5. AFO expanded on/after July 21, 2004
CAFO Permitting Flow Chart

What size is your CAFO?

Large
Will your CAFO discharge?

Yes
Individual NPDES Permit

No
State Operating Permit SOPC00000

Medium
Will the CAFO discharge?

Yes
State Operating Permit SOPCD00000

No
State Operating Permit SOPC00000
Re’qd with Permit Application

1. Notice of Intent

2. Nutrient Management Plan

3. Closure Plan (usually rolled into the NMP)

4. Topographic Map
Complaints from CAFO Permittees

- NMPs are costly, difficult to understand, assistance from providers difficult to get, quickly become obsolete
- Some of the record keeping requirements are onerous
- Permit review time is excessive
Stakeholders Met to Revise

- TDEC, TPA, TDPA, TDA, UT Extension
- Agreed in principle to “right size” the TN CAFO rule, ease permitting and NMP requirements:
  - All medium sized CAFOs
  - Dry litter poultry farms
- In the end, nothing changed
- Lobbying ensued to change the regulations
NEW LEGISLATION

State of Tennessee
PUBLIC CHAPTER NO. 293

HOUSE BILL NO. 1017

By Representatives Hawk, Doze, Eldridge, Gant, Lambeth, Mark White, Byrd, Sherrell
Substituted for: Senate Bill No. 899

By Senator Bell:

AN ACT to amend Tennessee Code Annotated, Title 69, Chapter 3, Part 1, relative to
the Water Quality Control Act of 1977:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 69-3-103(5), is amended by deleting
the following language:

however, the department may, by permit requirements or by regulations adopted by the
board in accordance with the Uniform Administrative Procedures Act, compiled in title 4,
chapter 5, adopt a more stringent definition of “concentrated animal feeding operation”;

SECTION 2. Tennessee Code Annotated, Section 69-3-108(b)(7), is amended by
deleting the subdivision and substituting the following:

(7) The actual discharge of a pollutant from a concentrated animal feeding
operation; provided, however, only those operations that are required under the federal
Clean Water Act, (33 U.S.C. § 1251 et seq.) to have a permit for concentrated animal
feeding operations may be issued a national pollutant discharge elimination system
(NPDES) permit;

SECTION 3. This act shall take effect March 1, 2018, the public welfare requiring it.
(6) Concentrated animal feeding operation means such term as it is defined by the environmental protection agency; however, the department may, by permit requirements or by regulations adopted by the board in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, adopt a more stringent definition of concentrated animal feeding operation.
(7) The construction, installation or operation of a concentrated animal feeding operation; provided, however, that only those operations that are required under the federal Clean Water Act, compiled in 33 U.S.C. § 1251 et seq., to have a permit for concentrated animal feeding operations may be issued an NPDES permit.

↓ ↓ ↓ Replaced with ↓ ↓ ↓

(7) The actual discharge of a pollutant from a concentrated animal feeding operation; provided, however, only those operations that are required under the federal Clean Water Act, (33 U.S.C. § 1251 et seq.,) to have a permit for concentrated animal feeding operations may be issued a national pollutant discharge elimination system (NPDES) permit;
Effective Date – Future Changes

- The effective date is: March 1, 2018
  - allow time TDEC and stakeholders to compromise *(not happening???)*
    - It appears that dry litter poultry operations will no longer require a permit
- May be an amendment to leave SOPC in place as a “voluntary” permit?
- SOPCD may be put back for liquid systems?
UT Extension: Pending Guidance

- Pending adoption of the final rule, UT Extension will be publishing simplified BMPs, land application worksheets, and simple records for poultry producers
  - Limit your impact to surface water quality and protect you from 3rd party lawsuits
  - There is nothing to fear in operating without a permit if you follow UT’s future guidance
For Now

• If your permit is expired, **file a NOI**
• Do your part, **be a good neighbor:**
  – secure mortalities
  – be mindful of odor when you land apply
  – don’t stockpile litter uncovered
  – No uncovered litter trucks over public roads
cNMP/New House Construction

- A cNMP is only required by NRCS when a resource concern is identified.
- **IF** you need a cNMP for cost share, wait for NRCS cost share funds **AND** make sure you shop your TSP for best advice/price.
- New FSA guaranteed loans will likely **NOT** require a cNMP.
- For new house construction, **GCP/SWPPP still required** if > 1 acre is disturbed.
QUESTIONS?

- Call UT Extension: 865-207-7156
- Call and speak to Dale Barnett, TPA