

EPA Is Requesting Comments from Farmers on CAFO Regulations.

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The news on the environmental regulation front has been mostly good over the last few years. The Federal Confined Animal Feeding Operation (CAFO) rules were finalized after 9 years of lawsuits. Thanks to the effort of the Oklahoma Pork Council, the legislature lifted many of the onerous setback and monitoring requirements for Licensed Managed Feeding Operations (LMFOs). The United States Environmental Protection Agency (EPA) Region 6 came out with a general CAFO permit for Oklahoma that mirrors state regulations. The EPA dropped reporting requirements for non-permitted farms. And finally, in December 2012, the Oklahoma Department of Agriculture, Food and Forestry received delegation from EPA Region 6 to administer the National Pollutant Discharge Elimination System (NPDES) CAFO program.

So, imagine my surprise right before New Years, when I received an email from Washington DC with the heading, "Review of the 2003 CAFO Rule pursuant to Section 610 of the Regulatory Flexibility Act". My first reaction was, "Oh no! EPA is starting the process of rewriting the CAFO rules all over again."

Relax. That isn't happening. Turns out Congress passed a law back in 1980 (The Regulatory Flexibility Act) that requires all federal agencies to review the impact of regulations on "a substantial number of small entities." In agriculture that translates to "a lot of farms."

This year, EPA is reviewing the CAFO Permit Regulations and Effluent Limitation Guidelines, along with regulations covering heavy duty engine emission standards, diesel fuel sulfur control requirements, and hazardous emissions standards for reinforced plastics composites production.

EPA is asking for your input. They want your comments on the following: 1) the continuing need for the rule, 2) the nature of complaints or comments received concerning the rule, 3) the complexity of the rule, 4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal, State, or local government rules, and 5) the degree to which technology, economic conditions, or other factors have changed in areas affected by the rule.

To make comments on-line go to www.regulations.gov. Type the docket ID (EPA-HQ-OW-2012-0813) into the search box. This is where it gets a little confusing. You will see a line that says “comments are closed for NPDES Permit Regulation” Ignore this. They were closed, but have since been reopened until March 1, 2012. Click on the title that says “Section 610 Reviews”, and you will get to a comment box. If this is too much, send comments the old fashioned way by mail to:

Environmental Protection Agency
EPA Docket Center
Mail Code 28221T
1200 Pennsylvania Ave, NW
Washington, DC 20460

Or, attach comments to an email to rfa-sbrefa@epa.gov. If you mail or email your comments, be sure to refer to the Docket ID No. EPA-HQ-OW-2012-0813.

Comments must be received before March 1, 2013. If you have questions about EPA’s review, email Hema Subramanian at sumbramanian.hema@epa.gov, or call her at (202) 564-5041.

I should warn you, your comments will appear on the website for all to see. They will appear there eventually even if you mail them. There is an alternate method for making comments if you believe you are submitting proprietary information. Ask Ms Subramanian about how to comment if you are afraid you may be giving away too much information.

I will also warn you about some of the comments you may see on the site. There is a lot of the usual anti-factory farm stuff. The people leaving these comments are wasting their time. EPA wants to

hear from the small businesses regulated. Folks complaining about what they perceive as lack of regulation should be filing complaints with their state environmental regulatory agency.

What can we expect from this review? After hearing lawsuits from both sides of the issue for the last 9 years, it is unlikely that EPA will decide it no longer needs the rule. Your comments on the complexity and conflicts with the rule may have some impact. You never know, your comments might reduce the amount of paper work you have to fill out, file, or send.