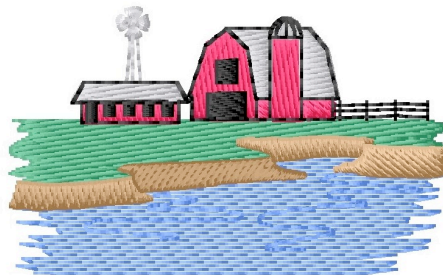


## **-- Permitting and Environmental Regulations --**

### **Indiana Confined Feeding Operations (CFO) And Concentrated Animal Feeding Operations (CAFO)**

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# Indiana Permitting and Regulations

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## I. Introduction

Animal agriculture and livestock farms (confined feeding operations) have been regulated in Indiana for nearly forty (40) years. Confined feeding operations include all livestock farms that house a specific number of animals. The Indiana Department of Environmental Management (IDEM) regulates confined feeding operations under the authority of the Confined Feeding Control Law, IC-13-18-10. The confined feeding regulation and rule implemented by the IDEM is 327 IAC 16 and was most recently adopted by the Water Pollution Control Board on November 14, 2001, and became effective on March 10, 2002.

Some confined feeding operations, due to their size, are defined as concentrated animal feeding operations (CAFOs) and are regulated under separate regulations and rules. A concentrated animal feeding operation requires either a general or individual National Pollutant Discharge Elimination System (NPDES) permit. The general NPDES permit regulation, 327 IAC 15-15 and the individual NPDES permit regulation 327 IAC 5-4-3 were most recently adopted on Jan. 14, 2004, and became effective on March 24, 2004. The CAFO NPDES permit regulations are based on the U.S. EPA Clean Water Act and federal CAFO regulations that originally went into effect in December, 2003.

IDEM's Office of Land Quality administers the regulatory program for both confined feeding operations and concentrated animal feeding operations. The IDEM regulatory program includes permitting, compliance monitoring and enforcement activities. It is important to recognize that all concentrated animal feeding operations are also confined feeding operations but not all confined feeding operations are concentrated animal feeding operations. This difference is important because the NPDES permit regulations contain more stringent operational requirements than the confined feeding operation regulation.

The Indiana regulatory program also requires approval from the IDEM prior to starting construction or expansion (construction authorization) of a confined feeding operation. Specific public notification and disclosure requirements also apply to anyone requesting a construction authorization.

## II. Animal Feeding Operations

Currently in Indiana, animal feeding operations are regulated under two approval or permitting programs depending on size. The Confined Feeding Operation (CFO) approval program is a state permitting/approval program implemented in 1971 that is not required by federal regulations. The Indiana Department of Environmental Management implements the CFO program under the authority of the Confined Feeding Law (IC 13-18-10). The National Pollutant Discharge Elimination System (NPDES) permit program regulates concentrated animal feeding operations (CAFO) under the requirements of the Clean Water Act (CWA). The Indiana Department of Environmental Management, under the authority of the U.S. Environmental Protection Agency (USEPA), administers the NPDES permit program.

***“What farms are regulated?”*** A regulated livestock farm is any farm that meets the definition of an animal feeding operation. For regulatory purposes, an “animal feeding operation” is defined as any facility where:

- Animals are confined and fed for at least forty-five (45) days (consecutive or non-consecutive) or more in any twelve (12) month period, and
- There is no ground cover or vegetation (crops, grass, forage, or post-harvest residue) maintained or sustained over at least 50% of the confinement area (lot or facility).

***“Which program applies?”*** A livestock farm is considered a confined feeding operation and requires a Confined Feeding Approval if it houses or confines at least:

- 300 cattle
- 300 cow/calf pairs
- 300 mature dairy cows
- 300 dairy heifers, dairy calves, veal calves
- 600 swine
- 600 sheep/lambs
- 30,000 fowl (layers, broilers, chickens, turkeys, ducks)
- 500 horses

A livestock farm is considered a CAFO and requires a National Pollutant Discharge Elimination System (NPDES) permit if it fits into one of the following categories. CAFOs are broken into three categories – large, medium and small. All large CAFOs require an NPDES operating permit and construction authorization prior to construction or expansion.

A large CAFO is defined as any confined feeding operation that houses or confines at least:

- 700 mature dairy cows
- 1,000 veal calves
- 1,000 cattle other than mature dairy cows or veal calves (heifers, steers, bulls, and cow/calf pairs)
- 2,500 swine weighing 55 pounds or more
- 10,000 swine weighing less than 55 pounds
- 500 horses
- 10,000 sheep or lambs
- 55,000 turkeys
- 30,000 laying hens or broilers with a liquid manure handling system
- 125,000 broilers with a solid manure handling system
- 82,000 laying hens with a solid manure handling system
- 30,000 ducks with a solid manure handling system
- 5,000 ducks with a liquid manure handling system

A medium CAFO is defined as any confined feeding operation that houses or confines at least:

- 200 - 699 mature dairy cows
- 300 - 999 veal calves
- 300 - 999 cattle other than mature dairy cows or veal calves (heifers, steers, bulls, and cow/calf pairs)
- 750 - 2,499 swine weighing 55 pounds or more
- 3,000 - 9,999 swine weighing less than 55 pounds
- 150 - 499 horses
- 3,000 – 9,999 sheep or lambs
- 16,500 – 54,999 turkeys
- 9,000 – 29,999 laying hens or broilers with a liquid manure handling system
- 37,500 – 124,999 broilers with a solid manure handling system
- 25,000 – 81,999 laying hens with a solid manure handling system
- 10,000 – 29,999 ducks with a solid manure handling system
- 1,500 – 4,999 ducks with a liquid manure handling system

And, where one of the following conditions is met:

- Pollutants are discharged into waters of the United States through a man-made ditch, flushing system, or other similar man-made device; or
- Pollutants are discharged directly into waters of the United States that originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

An animal feeding operation that meets the size definition of a medium CAFO is not required to get an NPDES permit unless one or both of the additional qualifying conditions are true. For example, a cattle feedlot with 700-head finishing cattle that has a Confined Feeding Approval is not required to obtain an NPDES permit unless there is a direct discharge to waters of the state through a man-made conveyance similar to the conditions applied to a large CAFO or waters of the state that pass through a facility come in direct contact with the animals or a direct discharge to these waters occurs. The discharge would be a planned or designed discharge to the waters of the state. Lot runoff or overflow from a runoff control impoundment that enters waters of the state or is not controlled so that it does not enter waters of the state would require an NPDES permit. For example, a 700-head feedlot that has runoff from the feedlot after a rainfall event that is not controlled and allowed to either be discharged into a ditch, stream, or river by a channel or other conveyance would be required to obtain an NPDES discharge permit. The objective is to contain and control runoff and other wastewaters from being released to waters of the state.

A small CAFO is not a CAFO by regulatory definition but can be designated as a CAFO if the confined feeding operation houses or confines animal numbers that are less than a medium CAFO and where one of the following conditions is met:

- Pollutants are discharged into waters of the United States through a man-made ditch, flushing system, or other similar man-made device; or
- Pollutants are discharged directly into waters of the United States that originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

A small CAFO may be required to obtain an NPDES permit if the animal feeding operation has a direct discharge to waters of the state through a man-made conveyance. In most cases, the Indiana Department of Environmental Management (IDEM) and the United States Environmental Protection Agency (USEPA) do not want to require an NPDES permit for a small CAFO. The preference is to provide compliance assistance or guidance to eliminate the reason for a direct discharge so that an NPDES permit is not required.

For the purpose of determining which animals to count to determine the production capacity and whether an NPDES permit is required – *“Two or more livestock facilities that are under common ownership are considered to be one facility if they adjoin each other or they use a common area or system for land applications of manure or process wastewater.”* A common area or system for land application includes the land application fields used for manure nutrient distribution and utilization. For example, if the same person or company owns two 600-head cattle feedlots and the manure and wastewater from these feedlots is spread on the same land base or crop acres, these two feedlots would be considered as one feedlot for determining the number of animals. The total animal capacity for determining the size of CAFO would be 1,200-head. This would qualify as a large CAFO. Under the current rule, both of these feedlots would be required to obtain an NPDES permit.

### III. Federal NPDES CAFO Rule -- USEPA

#### NPDES CAFO Rule:

The EPA's regulation of discharges from CAFOs dates back to the 1970s. During 2003, the EPA revised the Clean Water Act (CWA) permitting requirements and effluent limitations guidelines and standards for concentrated animal feeding operations. The new regulations were issued February 12, 2003. The 2003 CAFO rule expanded the number of animal feeding operations covered by the regulation and requirements to obtain NPDES permit coverage. The revised regulation also added requirements to include land application of manure by CAFOs. Since 2003, the EPA has revised the rule in response to the February 2005 decision by the Second Circuit Court of Appeals regarding legal challenges to the 2003 rule. The court directed the EPA to:

- Remove the requirements for all CAFOs to apply for an NPDES permit, and
- Add requirements for Nutrient Management Plans (NMP) to:
  - be submitted by the CAFO with a permit application,
  - be reviewed by permitting authorities,
  - allow meaningful public review, and
  - be incorporated into the terms of the permit

The EPA revised the rule and published a new rule in March 2008, with a compliance deadline of February 29, 2009. The final rule included two key changes revising the requirements to obtain an NPDES permit and to submit an NMP with the permit application. The 2003 rule required all CAFOs to obtain an NPDES permit. The 2008 revision changed the requirement from requiring all CAFOs obtain a permit to only those CAFOs that discharge or proposed to discharge to obtain a permit. In addition, the 2008 final rule required an NMP to be submitted with the application, the permitting authority to review the NMP and provide for meaningful public review and comment, and the terms of the NMP to be an enforceable component of the permit.

A legal challenge to the 2008 rule questioned whether the EPA had the authority to require an NPDES permit for CAFOs that have not or do not discharge. The 5<sup>th</sup> Circuit Court of Appeals recently ruled in a unanimous decision issued on March 15, 2011 that the U.S. Environmental Protection Agency (EPA) had exceeded its authority and that only CAFOs that actually discharge into waters of the U.S. are required to apply for an NPDES permit. The court vacated the EPA's requirement that CAFOs that propose to discharge obtain an NPDES permit. In accordance with the 5<sup>th</sup> Circuit Court decision, the EPA plans to revise the NPDES CAFO regulations.

***“What does all of this mean?”*** Regulatory requirements for CAFOs have changed significantly over the last nine (9) years. In 2003, the USEPA required all CAFOs to obtain an NPDES permit. Indiana followed suit and implemented a General NPDES permit program for animal feeding operations. Legal challenges to this permitting requirement by environmental groups and industry has required the EPA to revise the rule such that there is currently not a final rule in place. Since 2003, the regulatory requirements for CAFOs have changed from all CAFOs requiring an NPDES permit to CAFOs that discharge or propose to discharge to now only those CAFOs that actually discharge into waters of the U.S. being required to obtain NPDES permit coverage. The uncertainty and evolving changes have complicated the Indiana permitting program and its implementation.

#### Future Changes: NPDES CAFO Reporting Rule (Proposed)

On October 14, 2011, the Environmental Protection Agency (EPA) proposed a new NPDES CAFO Reporting Rule. The Clean Water Act established the National Pollutant Discharge Elimination System (NPDES) permit program to authorize and regulate the discharge of pollutants from point sources to

waters of the United States. The EPA points out that the CWA includes the term “CAFO” in the definition of “point source.” Specifically, a “point source” is defined as “any discernible, confined and discrete conveyance, including but not limited to any \* \* \* concentrated animal feeding operation \* \* \* from which pollutants are or may be discharged.” It is concluded by this reference to the definition of a “point source” that the EPA considers CAFOs as a point source and therefore has the authority to require specific reporting.

The purpose of this proposed rule is to collect facility-specific information that is intended to improve the EPA’s ability to more effectively implement and manage an NPDES program for CAFOs and achieve the water quality protection goals of the Clean Water Act. The EPA points out that, different from other regulated industries, the EPA does not have facility specific information for all CAFOs in the United States necessary to be able to carry out the programmatic functions of an NPDES program. The EPA proposes to collect facility specific information for all CAFOs whether the facility is permitted or unpermitted (has a valid NPDES permit). According to the EPA, a livestock farm is a CAFO if it meets the definition of a large or medium CAFO described above. The information proposed to be collected includes:

- CAFO contact information
  - Name and address of owner and operator
- Location of the CAFO’s production area
  - Address
  - Latitude and longitude
- NPDES permitting information
- Type and number of animals
- Number of acres available for land application
  - Land owned
  - Land rented or leased

The proposed rule was published in the Federal Register on Friday, October 21, 2011. The EPA solicited comments on the proposed rule up to December 20, 2011.

#### **IV. Indiana Regulations**

The Indiana Department of Environmental Management (IDEM) has the authority to regulate animal feeding operations under the Indiana Confined Feeding Control Law (IC13-18-10) and the USEPA NPDES permitting program. The Indiana Confined Feeding Control Law was passed in 1971 regulating all livestock farms that engage in the confined feeding of at least 300 cattle, 500 horses, 600 swine, 600 sheep, or 30,000 fowl. IDEM regulates these farms and smaller farms that have violated water pollution control rules or laws. Animal feeding operations in Indiana are regulated by IDEM regulation 327 IAC 16 Confined Feeding Operations (effective date March 10, 2002).

Animal feeding operations that meet the definition of a CAFO require either a General NPDES permit or an Individual NPDES permit. A General NPDES permit is a permit by rule and does not require a farm specific permit. IDEM regulation 327 IAC 15-15 NPDES General Permit Program: Concentrated Animal Feeding Operations establishes uniform criteria and standard conditions and requirements for all CAFOs authorized under the general NPDES permit rule. An Individual NPDES permit allows for specific permit conditions and additional protective measures to protect human health and the environment or for a farm to construct or operate in a manner different than the standard conditions in the general permit regulation.

IDEM administers the National Pollutant Discharge Elimination System (NPDES) permit program required by the U.S. EPA Clean Water Act (CWA). Part of that nationally administered program addresses activities that cause or can cause discharges of contaminants to waters of the state. In December 2003, the EPA released a final regulation for CAFOs. These farms are defined as point sources by the CWA and, when the U.S. EPA rule was finalized in 2003, required all large CAFOs to seek permit coverage. Based on the U.S. EPA regulation, IDEM developed a general permit regulation (327 IAC 15-15) for CAFOs that went into effect on Feb 26, 2004. The CAFO NPDES permit process and operational requirements are slightly different than for CFOs.

A “construction approval” is required for all new or existing animal-feeding operations (CFO or CAFO) that propose to construct or expand any manure, process wastewater, or waste control structure. No one may start construction of a confined feeding operation or expansion without the prior approval of IDEM.

#### Confined Feeding Approval

A Confined Feeding Approval application must be submitted by a confined feeding operation to IDEM for:

- A new confined feeding operation,
- Expansion of existing confined feeding operations,
- Expansion of an existing animal feeding operation that becomes a confined feeding operation, and
- Existing animal feeding operations that must seek approval due to water quality violations.

A complete application submission and process includes:

- A completed CFO approval application form
- Manure management plan describing procedures for soil testing and manure testing
- Farmstead plans including site location, property lines, roads, manure and process wastewater control structures, water wells, drainage patterns, surface water features within at least 500 feet (streams, ditches, and lakes), residences within at least 500 feet, and subsurface drainage tile inlets and outfalls
- Maps of confined feeding operation and land application areas (USDA soil map and USGS topographic map)
- Plans and specifications for the design and construction of the manure treatment and control structures
- Written notification of adjoining property owners, land owners and occupants located within one-half mile of the confined feeding operation construction
- Disclosure statement identifying all responsible parties affiliated with the confined feeding operation, any alleged violations including a description of alleged violations that occurred within the past five (5) years and a description of experience with operating a confined feeding operation
- Application fee

IDEM reviews the completed application for conformance and compliance with the requirements of the confined feeding rule (327 IAC 16). The requirements include, but may not be limited to, the following:

- Owner and operator
- Details of proposed animal capacity
- Site plans and maps of confined feeding operation and land application areas
- Manure and process wastewater storage and treatment structures shown meeting the minimum design and construction standards (327 IAC 16, IDEM CFO Guidance Manual, NRCS standards, etc.)
- Sufficient manure storage capacity provided (at least 180-days of storage for manure, wastewater, and/or runoff)
- A manure management plan detailing soil testing, manure testing and manure application areas

- Sufficient land application acres for application and utilization of manure and process wastewater are available (IDEM CFO Guidance Manual)
- Location of manure and process wastewater storage and treatment structures and lots meet the required setback distances from roads, wells, surface waters, and property lines

Approval or denial of a confined feeding approval application for a proposed confined feeding operation is determined after completing the review process. The IDEM is required to provide a decision within ninety (90) days of receiving a complete confined approval application.

Public participation in the review process is provided for by applicant and IDEM notification. The applicant is required to notify the County Commissioners, adjoining land owners, and owners and occupants of land within a ½-mile of a confined feeding operation within 10 days of submitting an application. IDEM notifies local officials when an application is received and accepts comments from the public anytime during the review process. A notice of the IDEM's decision is provided to the same group of individuals originally notified and anyone requesting to be notified. If someone disagrees with the IDEM's decision, a petition for review may be submitted within 18 days of the decision to the Indiana Office of Environmental Adjudication.

#### NPDES Permit Approval – Concentrated Animal Feeding Operations

##### ***General NPDES Permit Coverage***

An animal feeding operation defined as a CAFO must submit a Notice of Intent (Form 2B), supporting information, and application fee to the IDEM to obtain coverage under the General NPDES permit program for:

- A new concentrated animal feeding operation,
- Expansion of an existing concentrated animal feeding operation, and
- Expansion of an existing confined feeding operation (current Confined Feeding Approval) that becomes a concentrated animal feeding operation.

A complete application is reviewed by the IDEM for conformance and compliance with the requirements of the general NPDES permit regulation (327 IAC 15-15).

##### ***General NPDES Permit Coverage with Construction Approval***

An animal feeding operation defined as a CAFO that proposes construction or expansion of a manure, process wastewater, or waste control structure must obtain both a confined feeding approval and general NPDES permit coverage. Indiana does not currently have a separate construction approval application for CAFOs. The Confined Feeding Approval application serves as an NPDES Construction Approval Application or Construction Notice of Intent. All of the requirements described under the “Confined Feeding Approval” section and “General NPDES Permit Coverage” section must be submitted.

IDEM reviews the completed application for conformance and compliance with the requirements of the confined feeding rule (327 IAC 16), general NPDES regulation (327 IAC 15-15), and design and construction requirements of the confined feeding rule (327 IAC 16). The requirements of a complete application are outlined in the Confined Feeding Approval and General NPDES Permit Coverage sections above.

General NPDES permit coverage for farms not seeking construction approval is approved or granted upon receipt of a complete Notice of Intent (NOI). For an animal feeding operation requesting General NPDES permit coverage with construction, approval or denial is determined after the review process confirms that the proposed construction meets all applicable design and construction standards. The IDEM is required to provide a decision within ninety (90) days of receiving a complete application.



Similar to a confined feeding approval, the public can participate in the review process. Public participation when a farm is seeking general NPDES permit coverage without construction is limited to the eligibility for coverage under a General NPDES permit. Farms that are seeking General NPDES permit coverage and construction authorization are subject to the same notification requirements and public participation described in the Confined Feeding Approval section.

### ***Individual NPDES Permit***

An individual NPDES permit provides the opportunity to include site-specific approval conditions to:

- Require additional protective measures to protect human health and the environment, or
- Allow farms to construct or operate in a manner different than the standard conditions of a general NPDES permit regulation

The permit application requirements and review procedures for an individual NPDES permit are the same as a general NPDES permit. Public participation opportunities differ from the opportunities available for Confined Feeding Approvals and General NPDES permits. Public participation includes:

- Notification of the County Commissioners, adjoining land owners, and owners and occupants of land within a ½ mile of the animal feeding operation within 10 days of submitting an application
- IDEM notifies local officials when an application is received
- IDEM accepts comments from the public anytime during the review process
- IDEM prepares a draft permit and public notices the permit
- IDEM accepts public comment on the draft permit for 30 days
- Public comments are considered and IDEM determines if the individual NPDES permit should be issued, revised, or denied
- A public hearing may be held to allow for public input to the permit review and conditions
- IDEM provides notice to the applicant, all adjoining property owners/residents, all owners and occupants of land within ½ mile of the animal feeding operation, local officials and other interested parties of the decision
- A petition for review of the decision may be submitted to the Indiana Office of Environmental Adjudication within 18 days of the mailing date of the decision

## **V. Operational Standards**

### ***Performance Standards***

- The facility must be managed to avoid a discharge of manure, process wastewater, or contaminated storm water into waters of the state
- All manure, process wastewater, and waste management and treatment structures must be designed, constructed and maintained to minimize leakage, seepage, and prevent spills or discharges

### ***General Operational Conditions***

- Maintain an operating record which includes, but is not limited to:
  - All permits
  - Manure management plan
  - Farmstead plan
  - Manure and process wastewater plans
  - Self-inspection records
  - Land application records
  - Emergency spill response plan
  - All IDEM inspection reports

- Manure handling and storage
  - Best management practices designed to prevent spills or discharges to waters of the state
  - All manure and process wastewater structures must be maintained and operated to prevent spills or discharges to the waters of the state
- Land application of manure
  - Application rates based on crop nutrient demand, soil test results, manure analysis
  - Crop nitrogen requirements (plant available nitrogen)
  - Crop phosphorus requirements
  - No application on frozen or snow-covered ground without an approved winter time spreading plan or soil conservation practice plan
  - Monitoring of field drainage tile
  - Records documenting type of manure, application rate, crop, application site, acres, date of application

***Additional Individual NPDES Permit Requirements***

- Weekly inspections of manure and process wastewater storage structures
- Storm water pollution prevention plan for area surrounding the production facilities
- Annual storm water sampling and analysis
- Soil conservation practice plan for manure application sites controlled by the animal feeding operation
- Annual reporting requirements
- Nutrient Management Plan (NMP)

**VI. 2012 Indiana Regulations**

Indiana's current confined feeding regulation (327 IAC 16) was adopted by the Water Pollution Control Board on November 14, 2001, and became effective on March 10, 2002. The CAFO general permit regulation (327 IAC 15-15) and the individual permit regulation (327 IAC 5-4-3) were adopted on January 14, 2004, and went into effect on March 24, 2004. The CAFO regulations are based upon the U.S. EPA Clean Water Act NPDES regulations that went into effect in December 2003.

Currently, Indiana's three animal feeding regulations (CFO approval, general NPDES permit and individual NPDES permit) are being revised to incorporate the EPA's revisions to the CAFO rule published in the 2008 CAFO rule and revisions required by the 5<sup>th</sup> Circuit Court decision. The proposed rule changes will vacate both the confined feeding regulation (327 IAC 16) and general NPDES regulation (327 IAC 15-15). After final adoption and the effective date of the new rules there will no longer be a general NPDES CAFO permit program. All animal-feeding operations will be regulated under either the new Confined Feeding Operation rule (327 IAC 19) or the new Concentrated Animal Feeding Operations rule (327 IAC 15-16).

***New Confined Feeding Operation (CFO) Rule***

All animal-feeding operations that do not discharge to waters of the state will be regulated under the Confined Feeding Rule (327 IAC 19). The new confined feeding operation rule is an update to the existing IDEM Regulation 327 IAC 16 to incorporate provisions that are intended to allow the IDEM to effectively administer the regulatory program for animal feeding operations to protect human health and the environment. The key changes include:

- A phosphorus application rate land application standard
- Additional record keeping, self-inspection protocols, and operating record requirements

- Specific technical standards incorporated into the rule for design and construction specification, land application, and agronomic application rates
- Storm water pollution prevention certification
- Frozen and snow-covered ground land application restrictions
- Ground water monitoring requirements
- Mandatory public comment period
- Design standards for impoundment liners

### ***New Concentrated Animal Feeding Operation (CAFO) Rule***

Only animal feeding operations that actually discharge to waters of the state will be regulated under the Concentrated Animal Feeding Operation Rule (327 IAC 15-16). The new CAFO rule requires that the farm obtain an individual NPDES permit. This rule incorporates by reference federal NPDES concentrated animal feeding operation (CAFO) regulations; requires construction, operational, and land application standards for CAFOs; and describes how to be removed from the CAFO permitting program. This rule applies to all CAFOs defined as CAFOs under 40 CFR 122.23(c) that discharge to waters of the state, AFOs designated as CAFOs under 40 CFR 122.23(c) that discharge to waters of the state, and AFOs electing to be subject to this rule.

The new concentrated animal feeding operation regulation incorporates the requirements of the federal NPDES CAFO permit program. A key change to this rule is a new requirement for CAFOs to submit a Nutrient Management Plan (NMP) with the application for review by the permitting authority and to allow for meaningful review and comment by the public. The terms of the NMP are to be incorporated into the permit as enforceable conditions of the permit. Many of the provisions of the new confined feeding operation approval rule (327 IAC 19) are incorporated by reference into the new concentrated animal feeding operation rule (327 IAC 15-16).

## **VII. Conclusion**

Indiana has a unique animal feeding operation regulatory program that differs from many other states. The Indiana Confined Feeding Control Law (IC13-18-10) authorizes the Indiana Department of Environmental Management to regulate all animal feeding operations that house or confine animals with animal capacities lower than the federal CAFO thresholds. Whether an animal feeding operation discharges or does not discharge is not a criteria for determining if the regulation applies. All animal-feeding operations that exceed a minimum capacity threshold are regulated by the state program.

The Indiana Department of Environmental Management is authorized by USEPA to implement the federal NPDES permit program for CAFOs. Recent changes to the federal CAFO rule have required Indiana to revise its current rules and adopt rules that apply the NPDES permit program only to CAFOs that actually discharge to the waters of the United States. Currently, all CAFOs are required to obtain a NPDES permit based on the 2003 CAFO rule.

Indiana is completing an active rule-making process that will change both the confined feeding operation (CFO) regulations and concentrated animal feeding operation (CAFO) regulations based on the 2008 and most recent changes to the federal CAFO NPDES rule. A new CFO rule (327 IAC 19) and new CAFO rule (327 IAC 15-16) were presented to the Indiana Water Pollution Control Board for final adoption in November 2011. The revised rules for confined feeding operations in Indiana were approved by the Water Pollution Control Board for final adoption. The effective date for these new rules is scheduled for

July 1, 2012. Final approval by the Indiana Attorney General's office is still pending. Assuming that final approval is obtained these rule changes and new guidance will be prepared and implemented by the Indiana Department of Environmental Management by July 1, 2012.

The requirements of the current program described above have been incorporated into the new program. The general NPDES permit program for animal-feeding operations will no longer exist and all current general NPDES permits will have to be converted to an individual NPDES permit or a Confined Feeding Approval. Many of the current requirements included in the general NPDES permit program have been incorporated into a new Confined Feeding Approval program. It is recommended that unless an animal feeding operation has a direct discharge to waters of the state or United States that a Confined Feeding Approval be obtained. Those farms that have a man-made conveyance and either plan to or have designed into their manure and wastewater management system a direct discharge to waters of the state or United States will be required to obtain an individual NPDES permit.

The regulatory requirements and permitting programs for animal feeding operations is a dynamic process and requires constant attention. Staying current with many of these changes may be a challenge for many animal feeding operation owners and operators. Maintaining a network of professional advisors, service and product suppliers, and fellow producers can help to ease the challenge and burden associated with staying up-to-date about recent changes and enhance your productivity and profitability.