



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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To: Virginia Pollution Abatement Animal Feeding Operation (AFO) Permit Holders

From: Ellen Gilinsky, Water Division Director

Handwritten signature of Ellen Gilinsky in cursive.

Subject: Information regarding VPA/ VPDES Permit Coverage

Date: January 21, 2009

Copies: Wilmer Stoneman, Virginia Farm Bureau Federation (VFBB); Tony Banks, VFBB; Katie Frazier, Virginia Agribusiness Council, Hobe Bauhan, Virginia Poultry Federation; Larry Seamans, MD& VA Milk Producers Cooperative Assoc.; Billy Wooding, Virginia Pork Industry Assoc.; John Parker, Virginia Pork Industry Board; William McKinnon, Virginia Cattlemen's Association; Dale Gardner, Virginia State Dairymen's Association; Betsy Bowles; Neil Zahradka; Regional Offices

The Department of Environmental Quality (DEQ) is informing you of recent changes to the Environmental Protection Agency (EPA) rules for Concentrated Animal Feeding Operations (CAFOs). These changes to permitting requirements may affect how your operation is permitted in Virginia. This EPA rulemaking was in response to the Waterkeeper decision on CAFO permitting issued by the Second Circuit Court of Appeals in February 2005. The revised EPA CAFO Rule became effective on December 22, 2008.

What this means for the AFOs and CAFOs in Virginia is that those operations which have a duty to apply according to the revised federal rule must initiate registration for coverage under the Virginia Pollutant Discharge Elimination System (VPDES) Permit **by February 27, 2009.**

We are contacting you because based on the animal numbers you submitted to DEQ when you applied for coverage under the state Virginia Pollution Abatement (VPA) permit, your operation may now be defined as a Large CAFO under the EPA definition.

The duty to apply for the VPDES permit depends upon the size of your operation and its discharge characteristics. All facilities that meet the EPA definition of Large CAFOs that **discharge or propose to discharge** now have a duty to apply for coverage under a VPDES permit.

An EPA defined Large CAFO is an animal feeding operation that confines or stables at least the number of animals described in the following table:

<i>Large CAFO</i>	
<i>Animal Type:</i>	<i>Number of Animals:</i>
<i>Mature Dairy Cattle</i>	<i>700 or more</i>
<i>Cattle or cow/calf pairs</i>	<i>1,000 or more</i>
<i>Veal calves</i>	<i>1,000 or more</i>
<i>Swine (weighing over 55 pounds)</i>	<i>2,500 or more</i>
<i>Swine (weighing less than 55 pounds)</i>	<i>10,000 or more</i>
<i>Turkeys</i>	<i>55,000 or more</i>
<i>Laying hens or broilers (liquid manure handling systems)</i>	<i>30,000 or more</i>
<i>Chickens other than laying hens (other than a liquid manure handling systems)</i>	<i>125,000 or more</i>
<i>Laying hens (other than a liquid manure handling systems)</i>	<i>82,000 or more</i>
<i>Horses</i>	<i>500 or more</i>
<i>Sheep or Lambs</i>	<i>10,000 or more</i>
<i>Ducks (other than a liquid manure handling systems)</i>	<i>30,000 or more</i>
<i>Ducks (liquid manure handling systems)</i>	<i>5,000 or more</i>

A CAFO **proposes to discharge** if it is designed, constructed, operated, or maintained such that a discharge will occur. EPA interprets that any operation that has open, uncovered storage that is designed to discharge in any storm event “proposes to discharge”.

Based on these changes to the federal rule, which we will be incorporating into our state regulations, the following options exist for your operation:

1. **Large CAFOs** that discharge or propose to discharge from the production area or the land application area have the duty to apply for coverage under the VPDES Permit. DEQ will terminate your existing coverage under the VPA permit upon the operation being covered under the VPDES permit.
2. **Large CAFOs** that do not discharge nor propose to discharge will remain covered under the VPA Permit. In addition, the operator may submit voluntary no discharge certification documentation to DEQ which protects the operation from penalties regarding duty to apply for the VPDES in case of a future discharge. Information concerning this voluntary certification will be posted on the DEQ website at <http://www.deq.virginia.gov/vpa/agriculture.html>.
3. An operation that does not meet the definition of Large CAFO and does not discharge will remain covered under the VPA Permit.

Attached you will find a VPDES CAFO Registration Statement (permit application) and instructions. Please contact the regional office if you need assistance in the completion of the Registration Statement or if you are unable to complete the Registration Statement by February 27, 2009. By completing and returning this form you are initiating the permit process, you will be contacted at a later date by your regional office regarding the permit.

Ms. Betsy Bowles, our Animal Feeding Operations Program Coordinator is available to answer your questions at (804) 698-4059 or bkbowles@deq.virginia.gov. We thank you for your patience and cooperation as we move toward complying with this new federal rule.