



**PennState Law**

Center for Agricultural  
and Shale Law

PENNSYLVANIA DEPARTMENT OF AGRICULTURE  AGRICULTURAL BUSINESS DEVELOPMENT CENTER

*Understanding Agricultural Law Webinar Series*

# ***Understanding Agricultural Law***

## **Webinar Series**

# ***Understanding the Basics of***

# **The Clean Water Act & Agriculture**

**June 28, 2024**





# ***Understanding Agricultural Law***

**A Legal Educational Series for General Practice Attorneys and Business  
Advisors Representing Agricultural and Rural Clients**

This webinar series is specifically tailored to create subject matter literacy and competence on fundamental issues of agricultural law for attorneys, advisors, and service providers to agricultural producers and agri-businesses.





# ***Understanding Agricultural Law Series:***

## **Past Topics:**

- Agricultural Labor Laws
- Leasing Farmland for Energy Development
- Local Land Use Regulation of Agriculture
- Statutory Protections for Ag Operations
- Agricultural Cooperatives
- Livestock Market Regulation
- Crop Insurance
- Federal & State Conservation Programs
- Licensing & Regulation of Direct Agricultural Product Sales
- Agricultural Finance
- PA's "Clean & Green" Tax Assessment Program
- Animal Confinement Laws
- Conservation Easements
- Landowner Immunity Statutes
- The Farm Credit System
- Milk Pricing
- Pesticides
- Seed Laws
- Fair Labor Standards Act (FLSA)
- Perishable Agricultural Commodities Act (PACA)
- Food Labeling
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- Buyer Default Protections for Producers
- PA's Agricultural Area Security Law

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# ***Understanding Agricultural Law Webinar Series***

## **Upcoming Topics:**

**July 26, 2024** *Understanding the Basics of Agritourism Laws*

**Aug. 23, 2024** *Understanding the Basics of the H-2A Temporary Agricultural Worker Program*

### **More upcoming programs from the Center for Agricultural and Shale Law:**

**July 16, 2024, *Quarterly Dairy Legal Webinar: U.S. State Milk Pricing & Supports, Part 2***

**Mark Your Calendar—Pennsylvania Agricultural Law Symposium: Thurs. Sept. 19, 2024**

Register at <https://aglaw.psu.edu/events/>



# *Understanding the Basics of* **The Clean Water Act & Agriculture**







# Agenda

- **Clean Water Act (CWA) history**
- **Core functioning** of CWA as applied to agriculture & food production operations specifically
  - NPDES Permitting & CAFO Permitting
  - Meat & Poultry Processing NPDES Permitting
  - Food Mfg. Industrial Stormwater NPDES Permitting

## What we won't cover (yet):

- State law clean quality regulatory schemes, including Pennsylvania
- WOTUS Rule litigation history details.
- Chesapeake Bay & obligations of Pennsylvania, etc.
- Specifics of CWA functions applicable generally (beyond the basic regulatory scheme). E.g., construction permits for > 1 acre earth disturbance
- Pesticide Application and NPDES Permits



# 1969: “Lake Erie is on fire!”





# Clean Water Act - History

- Federal Water Pollution Control Act Amendments of 1972, Pub. L. No. 92-500, 86 Stat. 816 (1972) (“FWPCA”).
- Colloquially and collectively called the Clean Water Act - complete rewrite of the Federal Water Pollution Control Act - [\*\*33 U.S.C. § 1251 et seq.\*\*](#)
- Officially given the alternative title of the **Clean Water Act** in 1977, see Pub. L. No. 95- 217, § 2, 91 Stat. 1566 (1977).
- Prior to its amendment in 1972, the FWPCA employed ambient water quality standards specifying the acceptable levels of pollution in a State’s interstate navigable waters.





# CWA's two objectives

1. Regulate *discharge* of *pollutants* into *waters of the United States*.
  - CWA uses “navigable waters” (and alternately “interstate waters” in places) but provided no definition of waters of the United States.
  - [33 U.S.C. 1362](#): “The term ‘navigable waters’ means the waters of the United States, including the territorial seas.”
  - Territorial seas is defined as 3 miles from “line of ordinary low water.”
2. Regulate “water quality standards of surface waters.”



## Other Definitions in CWA, 33 U.S.C. 1362

- The term "**pollutant**" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.
- The term "**discharge of a pollutant**" and the term "discharge of pollutants" each means (A) any addition of any pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.



# Wildly ambitious “national goals”

## Congressional declaration of goals and policy.

(1) It is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985;

(2) It is the national goal that . . . water quality which provides for the protection and propagation of fish, shellfish and wildlife and provides for recreational in and on the water be achieved by July 1, 1983.



- **Prior focus** - the aggregate level of pollution in the body of water as a whole, as opposed to the preventable causes.
- Enforcement of the standards required working backward from an over-polluted body of water to determine which point sources are responsible and to abate.
- **CWA – new approach in 2 ways:**
  - CWA directly regulates discharges from point sources by setting “*effluent limitations*” governing quantities, rates & concentrations of pollutants contained.
  - Created the **National Pollutant Discharge Elimination System (NPDES)** to enforce.





# NPDES Permits – types of controls

- *Technology-based effluent limitations* - standards formulated with reference to pollution control technology.
- *Water quality-based effluent limitations* - based on the amounts and kinds of pollutants in the water in which the point source discharges.
- *Narrative Conditions* – description of how particular activities are to be conducted to achieve compliance.



# NPDES Permit –underlying concepts

- If an NPDES permit holder complies with the conditions of its permit, that discharger will be “deemed to be in compliance” with the CWA.
- Only covers discharges into surface waters, not to groundwater, unless . . . “functional equivalent of a direct discharge” . . . *the new test announced by U.S. Supreme Court in County of Maui decision in 2020.*



# “Point Source” control

- CWA intended to deal with point source discharges only.
  - 33 U.S.C. §1362: The term "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.
- “Diffuse discharges” / *Non-point sources* are left to the states through state water quality standards and waste management regulations.



# State Administration of CWA

- Caveat: This presentation explains federal law established by the CWA, **not the contents of state laws** re: water quality or waste/nutrient controls.
- However, most states have adopted their own NPDES equivalents. If so, under the CWA, EPA “*shall*” transfer permit-issuing authority if 9 statutory criteria are met for a state NPDES–type system.
- As administered by states, an NPDES can include requirements or enforcement arising from state law above and beyond CWA.





## “Concurrent” Jurisdiction (of a sort)

- An individual state may issue NPDES permits for discharges into **navigable water within its jurisdiction** if state programs are approved by EPA. 33 U.S.C. § 1342(b).
- State program must be “**equal to or stricter than federal standards**” and otherwise comply with EPA regs.





## Exceptions / Exemptions

*Either not a pollutant, not a point source, or the activity is expressly exempt from NPDES permit requirement:*

- Silviculture pest control ≠ point source pollutant
- Silviculture activities laundry list ≠ point source pollutant
- Irrigation return flow (e.g. discharge from tile drainage systems) do NOT require a permit.



## Exceptions / Exemptions (cont.)

- **Agricultural stormwater discharge** ≠ point source pollutant
- In a wetlands: **Normal farming activities** that could produce a discharge do not require a permit if “prior established and continuing.”
  - EPA [webpage](#) on these “Section 404” (permit) exemptions.
  - Army Corp of Engineers [webpage](#) on same.
  - Examples: plowing, cultivating, minor drainage, and harvesting for the production of food, fiber, and forest products or upland soil and water conservation practices.





# What's all this about CAFO Permits?

- Wouldn't the mechanism of discharge (i.e. run-off) be within the agricultural stormwater discharge exception?
- But 33 U.S.C 1362 says: The term "**point source**" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, **concentrated animal feeding operation**, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include *agricultural stormwater discharges* and return flows from irrigated agriculture. [added by 1987 amendment]
- As a result, a labyrinthian, and generally unsatisfactory, regulatory scheme re: CAFOs has resulted.



# EPA resources on CWA CAFO Permitting

- [NPDES Home](#) and [NPDES Regulations](#)
- [Animal Feeding Operations](#)
- [Animal Feeding Operations – Compendium of State Permits and Programs](#)
- [Animal Feeding Operations – NPDES CAFO Permitting](#)
- [Compiled CAFO Final Rule \(2012\)](#) (reflecting text stricken via litigation)
- [Fact Sheet: Livestock and Poultry Operations Inspections](#) (*“What to expect . . .”*)
- [\*\*NPDES Permit Writers’ Manual for Concentrated Animal Feeding Operations.\*\*](#)





# The NPDES CAFO Regulatory Scheme

A facility must first meet the definition of an AFO before it can be considered a CAFO.

*Animal feeding operation* (AFO) means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

Animals have been, are or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period.

**AND**

Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

**40 CFR § 122.23(b)(1)**



## An AFO is a CAFO and requires an NPDES CAFO permit:

- if it **meets the regulatory definition** of a *Large* or *Medium* CAFO [40 CFR parts 122.23 (b)(4) or (6)] or
- has been designated as a CAFO [40 CFR part 122.23(c)] by the NPDES permitting authority or by EPA.
  - The CAFO regulations set the standards for the EPA or the NPDES permitting authority to designate any AFO as a CAFO if the AFO is a significant contributor of pollutants to “waters of the U.S.”



# Large and Medium CAFOs = NPDES Permit

- An AFO is a **Large CAFO** solely if it houses an animal number threshold by species for 45 days or more in a 12-month period.
- An AFO is a **Medium CAFO** if it meets both parts of a two-part definition.
  1. Number of animals housed by species for 45 days or more in a 12-month period, and
  2. Manner of discharge (e.g. stormwater run-off), either:
    - Into waters of the U.S. through a man-made ditch, flushing system, or other similar man-made device.
    - Directly into waters of the U.S. that originate outside the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals.

**Table 2-1. Large CAFOs**

<b>Number of animals</b>	<b>Type of animal</b>
700	Mature dairy cows, whether milked or dry
1,000	Veal calves
1,000	Cattle, other than mature dairy cows or veal calves (Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs.)
2,500	Swine, each weighing 55 pounds or more
10,000	Swine, each weighing less than 55 pounds
500	Horses
10,000	Sheep or lambs
55,000	Turkeys
30,000	Laying hens or broilers, if the AFO uses a liquid-manure handling system
125,000	Chickens (other than laying hens), if the AFO uses other than a liquid-manure handling system
82,000	Laying hens, if the AFO uses other than a liquid-manure handling system
30,000	Ducks, if the AFO uses other than a liquid-manure handling system
5,000	Ducks, if the AFO uses a liquid-manure handling system

Source: 40 CFR § 122.23(b)(4)



**Table 2-2. Medium CAFOs**

<b>Number of animals</b>	<b>Type of animal</b>
200–699	Mature dairy cows, whether milked or dry
300–999	Veal calves
300–999	Cattle, other than mature dairy cows or veal calves (Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs.)
750–2,499	Swine, each weighing 55 pounds or more
3,000–9,999	Swine, each 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, if the AFO uses a liquid-manure handling system
37,500–124,999	Chickens (other than laying hens), if the AFO uses other than a liquid-manure handling system
25,000–81,999	Laying hens, if the AFO uses other than a liquid-manure handling system
10,000–29,999	Ducks, if the AFO uses other than a liquid-manure handling system
1,500–4,999	Ducks, if the AFO uses a liquid-manure handling system

Source: 40 CFR § 122.23(b)(6)



# State-to-State Variability

Note that some authorized states have adopted regulatory definitions for CAFOs that are more inclusive and, therefore, broader in scope than EPA's regulations. Those facilities are subject to requirements under state law but not under federal law.

**NPDES CAFO Permitting Status Report:**  
**National Summary, Endyear 2023, completed 14 May 2024**  
*(as reported by EPA Regions)*

State	EPA Region	Total CAFOs <sup>1</sup>	CAFOs with NPDES permits <sup>2</sup>
Alabama	4	558	487
Alaska	10	0	0
Arizona	9	115	1
Arkansas	6	776	0
California	9	1,053	107
Colorado	8	219	112
Connecticut	1	6	2
Delaware	3	511	186
Florida	4	100	58
Georgia	4	828	53
Hawaii	9	1	0
Idaho	10	274	0
Illinois	5	498	12
Indian Country (R7)	7	9	9
Indian Country (R8)	8	5	2
Indiana	5	867	0
Iowa	7	4,025	157
Kansas	7	433	433
Kentucky	4	150	2
Louisiana	6	250	4
Maine	1	6	6
Maryland	3	495	453
Massachusetts	1	0	0
Michigan	5	300	286
Minnesota	5	1,566	1,009
Mississippi	4	433	54
Missouri	7	514	45
Montana	8	200	75
Nebraska	7	1,555	489
Nevada	9	17	8
New Hampshire	1	1	1
New Jersey	2	0	0
New Mexico	6	171	21
New York	2	463	0

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North Carolina	4	1,222	14
North Dakota	8	95	0
Ohio	5	296	22
Oklahoma	6	39	37
Oregon	10	130	355
Pennsylvania	3	468	468
Puerto Rico	2	0	0
Rhode Island	1	0	0
South Carolina	4	201	0
South Dakota	8	436	200
Tennessee	4	129	44
Texas	6	1,049	523
Utah	8	49	5
Vermont	1	37	0
Virgin Islands	2	0	0
Virginia	3	195	8
Washington	10	21	27
West Virginia	3	2	2
Wisconsin	5	362	348
Wyoming	8	49	49
<b>TOTALS</b>		<b>21,179</b>	<b>6,174</b>

<sup>1</sup> All AFOs with numbers of animals above the size thresholds set out for Large CAFOs are defined as CAFOs under the NPDES federal regulations.

<sup>2</sup> NPDES CAFO regulations require CAFOs that discharge to have NPDES permit coverage (40 CFR 122.23(d)(1)). As a consequence, the portion of CAFOs that need NPDES coverage can vary from State to State.



# Meat/Poultry Processing NPDES Permits

- Meat and poultry processing (MPP) facilities require NPDES permits for their point source discharges and have their own category of [MPP Effluent Limitations](#) adopted by [regulations](#) promulgated under the CWA, last revised in 2004.
- These effluent limitations include rendering facilities, feed and pet food mfg., and also applies to “**indirect dischargers**” – those sending their effluent to a publicly owned treatment works (POTW).
- [EPA 2024 Proposed Rule homepage](#) and docket at [Regulations.gov](#)
- [Clean Water Act Effluent Limitations Guidelines and Standards for the Meat and Poultry Products Point Source Category](#) (89 FR 4474). January 23, 2024.
- “ . . . review of nutrient discharges from 59 industrial categories found that the MPP point source category discharged some of the highest nitrogen and phosphorus levels of all industries.”



# NPDES Permits for Food Manufacturing

- Another category of NPDES permits are for “[Industrial Stormwater](#)” discharges from eleven types of industrial activity. [Food manufacturing](#) is included.

## INDUSTRIAL STORMWATER FACT SHEET SERIES

*Sector U: Food and Kindred  
Products Facilities*



U.S. EPA Office of Water  
EPA-833-F-06-036  
February 2021

- ◆ Meat Products (SIC 2011, 2013, and 2015)
- ◆ Dairy Products (SIC 2021, 2022, 2023, 2024, and 2026)
- ◆ Canned, Frozen, and Preserved Fruits, Vegetables, and Food Specialties (SIC 2032, 2033, 2034, 2035, 2037, and 2038)
- ◆ Grain Mill Products (SIC 2041, 2043, 2044, 2045, 2046, 2047, and 2048)
- ◆ Bakery Products (SIC 2051, 2052, and 2053)
- ◆ Sugar and Confectionery Products (SIC 2061, 2062, 2063, 2064, 2066, 2067, and 2068)
- ◆ Fats and Oils (SIC 2074, 2075, 2076, 2077, and 2079)
- ◆ Beverages (SIC 2082, 2083, 2084, 2085, 2086, and 2087)
- ◆ Miscellaneous Food Preparations and Kindred Products (SIC 2091, 2092, 2095, 2096, 2097, 2098, and 2099)
- ◆ Tobacco Products (SIC 2111, 2121, 2131, and 2141)





# Discharges into what waterways?

- Navigable – “*Waters of the United States*”
- Wow, that is easy – no possible issues there, right?
  - 😊 Long history of WOTUS litigation, but we now live in simpler times.
- U.S. Supreme Court’s 2006 Rapanos plurality decision modified by “seismic” Sackett decision on 5/25/23. Requires “**continuous surface connection.**” There are no more “jurisdictional wetlands” w/o that physical surface connection. EPA regulation already in process of promulgation subsequently modified to conform to Sackett on 9/8/23.





# Life is good, . . . maybe . . .

## Summary of revised WOTUS definition:

- Territorial seas, interstate waters, or water susceptible to use in interstate or foreign commerce; or
- tributaries thereto or wetlands adjacent, which:
  - are relatively permanent, standing or continuously flowing; and
  - have a continuous surface connection thereto.
- ✓ There is no such thing as so-called interstate / jurisdictional wetlands.
- ✓ Adjacent means a continuous surface connection.



## **EXTRA CREDIT - BONUS SLIDES**

# **Some Current Events – as of mid-2024**



# WOTUS Rule Legal Challenge

## Twenty-Four States File Motion Seeking Vacatur of 2023 WOTUS Rule

On February 26, 2024, twenty-four states filed, in the U.S. District Court for the District of North Dakota, a [motion for summary judgment](#) seeking vacatur of the “[Waters of the United States](#)” (WOTUS) [final rule](#), issued September 2023. *West Virginia v. EPA*, No. [3:23-cv-00032](#). The states argue that the final rule violates the Administrative Procedure Act and that the U.S. Environmental Protection Agency (EPA) did not act in compliance with the Supreme Court’s ruling in *Sackett v. United States*. Additionally, the State of West Virginia and the Cass County Farm Bureau filed a [memorandum in support](#) of the motion for summary judgment, outlining the States’ argument that the final rule violates the Clean Water Act, the Commerce Clause, the major questions doctrine, and is an improper delegation of legislative powers.

Parallel cases also filed in Kentucky USDC and Texas USDC. See our [WOTUS Issue Tracker](#) for all details.



# MPP Effluent Limitations Proposed Rule

## EPA Publishes Proposed Rule for Meat and Poultry Point Source Effluent Limitations

On January 23, 2024, the U.S. Environmental Protection Agency (EPA) published in the Federal Register a proposed rule ([89 FR 4474](#)) to amend [Meat and Poultry Products Effluent Guidelines and Standards](#). Initially [announced](#) by EPA on December 15, 2023, the [2024 Proposed Rule](#) offers three options, the first of which EPA claims as the agency's preferred option. According to the proposed rule, Option 1 "would include new phosphorus limits and revised nitrogen limits for large direct dischargers and new pretreatment standards on certain conventional pollutants for large indirect dischargers." EPA states that its "preferred option is estimated to cost \$232 million annually and reduce pollutant discharges by approximately 100 million pounds per year." Additionally, EPA published several documents on the proposed rule—a [fact sheet](#), a [technical development document](#), an [environmental assessment](#), a [benefit cost analysis](#), and a [regulatory impact analysis](#). EPA has conducted three public hearings on the proposed rule so far. The proposed rule was open for comments until March 25, 2024.



# CAFO Reform?

## **Environmental Groups Commence Ninth Circuit Court of Appeals Litigation over EPA's Denial of CAFO Permitting Reform Petition**

On September 8, 2023, a coalition of environmental organizations filed a [petition for review](#) in the U.S. Court of Appeals for the Ninth Circuit Court against the U.S. Environmental Protection Agency (EPA), seeking to compel the agency to more aggressively regulate Concentrated Animal Feeding Operations (CAFOs) under the Clean Water Act (CWA) and institute wholesale changes in NPDES CAFO permitting. The petition seeks federal court reversal of EPA's August 15, 2023, denial of [Food and Water Watch](#) and [Earthjustice's 2017](#) and [2020](#) petitions respectively. The Plaintiffs seek to compel revision of EPA CAFO regulation and the NPDES CAFO permitting system to include various changes.



## EPA's description of the CAFO Reforms sought is as follows:

- An evidentiary **presumption** that certain CAFOs discharge and are either subject to NPDES permitting or must rebut the presumption by demonstrating they do not discharge;
- A revision of EPA's interpretation of the agricultural stormwater exemption such that **no discharges resulting from CAFO activities are exempt as non-point source pollution**;
- A requirement that **integrators** who meet the CWA definition of owner or operator are **co-permitted** with contract producers;
- Revisions to certain definitions in the CAFO regulations;
- Revisions to certain requirements applicable to all CAFOs, including requiring **water quality monitoring** in CAFO National Pollutant Discharge Elimination System (NPDES) permits to ensure compliance with the CWA and permit terms; and
- revision of the CAFO **Effluent Limitations and Guidelines (ELGs)** to address additional CAFO pollutants of concern, prohibit practices known to harm water quality, and otherwise strengthen existing requirements.





The litigation will take anywhere from 1-3 years to resolve and the outcome at the Ninth Circuit (perceived as sympathetic to the plaintiffs) and any likely appeal to the U.S. Supreme Court (perceived as not sympathetic to the plaintiffs) is very uncertain. In the meantime, EPA's denial of the petition under appeal contains some significant public statements of its present intentions going forward.

### **EPA Announces Plan for Examining CAFO Regulation Reform**

- “EPA also shares your concern that CAFOs can be a significant source of pollutants into waters of the United States. The Agency recognizes that there may be opportunities to do more to address these pollutants.”
- “Federal and state agency staff, have experienced challenges effectively implementing and assuring compliance with the current CWA CAFO regulatory requirements.”
- “EPA is launching a **comprehensive evaluation of potential areas for improvement** of the CWA NPDES regulatory program requirements for CAFOs.”



- “This evaluation will include a **detailed study of the CAFO ELGs.**”
  - In the ELG detailed study, EPA will evaluate the extent to which CAFOs discharge into waters of the United States, and whether such discharges are concentrated in particular regions or states, or widespread nationally. It will also gather information about new technologies and practices for reducing discharges from the production areas and land application areas associated with CAFOs and consider whether these technologies may be technologically available and economically achievable for CAFOs.
- “EPA will convene an **Animal Agriculture and Water Quality (AAWQ) subcommittee** under the existing Farm, Ranch, and Rural Communities Federal Advisory Committee to hear from farmers, community groups, researchers, state agencies, and others about the most effective and efficient ways to reduce pollutants generated from CAFOs.”
- “With respect to land application practices, the subcommittee will consider, among other things, implementable practices and technologies that are effective in minimizing the runoff of manure and other pollutants, ways of supporting their use, and how best to address challenges in implementing nutrient management plans (NMPs).”



- As to production area practices, the subcommittee will evaluate practices and technologies for manure storage, including treat and discharge systems, digesters, and nutrient treatment technologies. It will consider how to ensure that manure from CAFOs is applied in areas where it is needed most and in accordance with appropriate nutrient management planning.”
- “Finally, the subcommittee will consider certain over-arching issues, including the best means for assessing and eliminating water quality impacts from CAFOs, including through facilitating compliance and incentive-based approaches. The subcommittee will also assess whether there are ways of improving manure management that could reduce disproportionate impacts of these pollutants on disadvantaged communities and communities of color.”
- “Together, **the ELG detailed study and AAWQ subcommittee will comprise a multi-pronged strategy** to evaluate data and input from stakeholders to best address the water quality problems from CAFO discharges.”
- “**After conducting the ELG detailed study and engaging with the AAWQ subcommittee**, and reviewing their conclusions and recommendations, **EPA will consider whether to revise its regulations.**”
- “Furthermore, even if particular requests in the petition, standing alone, seem obviously beneficial or relatively discrete, EPA thinks that a holistic evaluation of the best way to improve the CAFO regulations, either through implementation or regulatory revision efforts, would be more efficient and effective than considering and pursuing changes piecemeal.”