CAFO Regulations
Affect Livestock Operations of All Sizes

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(Editors note: This is the first in a series of articles on CAFO regulations for small farm livestock operations. There are differences in CAFO regulations between the state of Oregon and Washington. However, there are also many similarities, i.e., both states are regulated by the federal Clean Water Act.)

Background - For the past 20 years, only large scale feedlots, dairies, and other large confinement livestock operations were affected by Confined Animal Feeding Operation (CAFO) regulations. However, the federal Clean Water Act of 1972 prohibits the discharge of animal waste into the waters of the United States, regardless of the size of the operation.

In the past, enforcement of the CAFO Clean Water Act regulations was delegated to the Department of Environmental Quality (DEQ) in the state of Oregon and the Department of Ecology (DOE) in the state of Washington. In recent years the US Environmental Protection Agency (EPA) has been conducting their own inspections of CAFO operations because they felt our state regulations were not meeting the requirements of the federal Clean Water Act. Some of these EPA inspections have resulted in significant civil penalties (fines) for livestock operators.

Changes in CAFO regulations - As a result of these EPA CAFO inspections, the Oregon Legislature passed HB2156 during the 2001 Legislative Session. HB2156 made two important changes in Oregon CAFO regulations. First, it changed Oregon law so that future state CAFO regulations will be made by administrative rule and they will be equivalent to federal regulation. Secondly, it delegated authority for the enforcement of CAFO regulations to the Oregon Department of Agriculture (ODA). These new Oregon CAFO regulations have been drafted and are currently under review. CAFO regulation education programs are scheduled throughout eastern Oregon this fall. Contact your local Extension office for the meeting nearest you. The official hearings on the new regulations will be held on November 7, 9:00 AM in Redmond (during the Oregon Cattlemen’s Association Annual Convention), November 13, 7:00 PM in Tillamook, and November 14, 1:00 PM in Salem. Written and/or oral comments can be submitted at any of these hearings or in writing directly to ODA (Oregon Department of Agriculture, Attn: Lynda Horst, 635 Capitol Street NE, Salem, OR 97301-2532) by November 15. A copy of the new proposed regulations can be obtained from ODA at the same address or at www.oda.state.or.us/nrd/cafo/caforules.html.
In addition to the new Oregon CAFO regulations, EPA is under federal court order to review (and revise) the federal CAFO regulations by December 15, 2002. It’s possible and likely that Oregon will need to revise its new regulations, once its know what is included or changed in the new federal CAFO regulations.

What is a violation of CAFO regulations? - Since both the state and federal CAFO regulations are under revision, a discussion of violations will need to be in general terms. The reader also needs to understand what constitutes a violation may change somewhat with the revision of the regulations. However, in general terms we know some actions that will result in a violation. First, when livestock are held in confinement, direct access to the waters of the state (creeks, rivers, lakes, irrigation ditches, etc) is a violation. Confinement is defined as a lot or facility where the following conditions are met: (a) 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 (b) crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portions of the lot or facility. Secondly, a discharge of animal waste from a confinement facility (see definition above) into the waters of the state (creeks, rivers, lakes, irrigation ditches, etc) is also a violation. After the new state and federal regulations are in place more specific examples of violations will be available.

What does this mean for small farm livestock operations? - Under most circumstances small farm livestock operations will not be required to obtain a CAFO permit. However, even though an operation may have few livestock, discharging any amount of animal waste (zero tolerance) into the waters of the state is a violation of state and federal CAFO regulations. CAFO regulators will not likely inspect small farms unless a third-party complaint has been filed on your operation. A small farm operation may have only a few livestock, for example few horses, but if 10-15 neighbors in the same watershed also have a few livestock, collectively you and your neighbors have at least the same potential to pollute the waters of the state as a large livestock operation. Although it will be the large livestock operations that will be required to obtain a CAFO permit and will be inspected for compliance on an annual basis, the new CAFO regulations will require small farm livestock operators to do their part to sustain and/or improve water quality.

(If you have specific questions regarding CAFO regulations for small farms, please send them to randy.mills@oregonstate.edu or to your local Extension Agent. We will answer your questions later in our series of articles on CAFO regulations.)