

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

CONCENTRATED ANIMAL FEEDING)
OPERATIONS (CAFOS): PROPOSED) R 2012-023
AMENDMENTS TO 35 ILL. ADM. CODE)
501, 502 AND 504)

COMMENTS OF THE LEAGUE OF WOMEN VOTERS OF ILLINOIS

The League of Women Voters of Illinois (LWVIL) has had a long-standing interest in large scale livestock facilities and their waste issues. In 1999 LWVIL adopted a position supporting strict state and county regulation of these facilities with respect to, among other things: siting criteria in sensitive areas; setback distances from surface water, potable groundwater wells, and residences; requirements for all types of manure handling facilities; and, submittal of facility management plans to the appropriate state agency as well as public access to those plans.

In 2011 the Jo Daviess County (JDC) League organized and facilitated a seminar that examined the economics, siting, and regulation of such facilities. The goal of their effort was to both better inform the public and to help restore the sense of community that had become so divided with the proposed siting of the Bos dairy in Nora. Since then, JDC League leaders have worked, and continue to work, with county and state stakeholders on a number of initiatives related to manure management and water resource planning.

Additionally, LWVIL supported the 2011 consensus legislation (negotiated by Illinois EPA, agricultural and environmental groups) requiring permit fees for CAFO NPDES applications.

Overall, LWVIL supports the Board's proposal which strengthens the Agency's initial proposal. However, we do have comments and questions which are derived from well established national and state League positions on waste & water issues and public participation.

●**COMMENT #1: Sec. 502.310 CAFOs Seeking Coverage Under General NPDES Permits**

Section 502.310(c) states that IEPA must notify the public of its proposal to grant a CAFO coverage under the general permit. The public notice must include the CAFOs nutrient management plan.

Question: Where will this notice be published, in what time frame, and will public comments be accepted?

●**COMMENT #2: CAFO Inventory**

LWVIL concurs with the Board that IEPA's proposed approach to compiling an inventory was inadequate. As stated in the February 4, 2013 Illinois Work Plan Agreement between IEPA and USEPA Region V, IEPA's approach was "...a *short-term strategy* (emphasis added) for evaluating facilities that are likely to be Large CAFOs ".

The Board's proposal to gathering information is an improvement over IEPA's proposal but, for the following reasons, is still insufficient for compiling a more complete and current inventory:

▪Section 501.505 Requirements for Certain CAFOs to Submit Information

(a)(1) This provision clearly applies to Large CAFOs not covered by a NPDES permit, but there is no obligation to update this information.

(a)(2) Medium CAFOs are exempt from submitting information *unless* (emphasis added) they propose to increase their animal population.

▪Section 502.325 Annual Report

applies only to NPDES permittees.

The Board's proposed approach to creating an inventory appears to be a hybrid of notification (a registration?) (Sec. 501.505) and annual reporting (Section 502.325). A more comprehensive strategy that captures the universe of potentially regulated facilities and is kept relatively current, is warranted.

Other Region V environmental protection agencies have registration or reporting requirements for small, medium, and large CAFOs irrespective of their need for a NPDES permit. As an example, the Indiana Department of Environmental Management's maintains a searchable database of Confined Feeding Operations (CFO) facilities. The CFO regulations require approval of animal feeding operations with 300 or more cattle, 600 or more swine or sheep, 30,000 or more poultry, or 500 horses in confinement is a confined feeding operation.

In addition, the Minnesota Pollution Control Agency(MPCA) requires registration every four years of feedlots (the definition of which approximates the Board's proposed definition of "production area") with 50 or more animal units, and maintains this information in a searchable database. By 2006, four years after the start of the program, owners of more than 25,000 feedlots and manure storage areas had registered with the MPCA.

This information helps MPCA prioritize operations with the greatest potential risk, which enables them to work with owners if a pollution hazard is present. MPCA notes in its Feedlot Registration overview (August 2009) that registration is important for Agency planners & the legislature in the budgeting for technical assistance to producers, as well as possible cost sharing and other financial assistance.

The new requirements being proposed by the Board are complex, and confusion will likely arise in determining when and whether LMFA or these new requirements apply. The need for producer education by University Extension agents will be great, and the case for increasing their budget can best be made if a comprehensive inventory is compiled.

Thus, LWVIL proposes that:

- Section 501.505(a)(1) include a requirement to update information supplied by unpermitted Large CAFOs every four years;

- Section 501.505 (a)(2) specify that CAFOs with the same or fewer animals as the number provided in 35 IAC 502.103 submit the information in subsection (c) within 90 days after the effective date of this Section; and, that information shall be updated every four years.

While the purpose of the R12-23 rulemaking is directly related to NPDES permitting and the work plan between IEPA and USEPA, there is another benefit to creating a more comprehensive inventory; that is, to enhance IEPA's ability to identify possible sources of nuisance odors and better respond to citizen complaints.

●COMMENT #3: **Section 501.404(c)(4)(B) Handling and Storage of Livestock Waste**
Section 502.610(l) Additional Measures for CAFO Production Areas
Section 502.630 Protocols to Land Apply Livestock Waste During Winter

We are concerned that there may be an inconsistency regarding the required storage design capacity specified in different sections of the proposed regulations, as well as with the LMFA.

Existing Section 501.404(c)(4)(B) specifies that new livestock waste-handling facilities managing liquid waste shall provide a minimum of **120 day** storage in a holding tank, lagoon, holding pond, or a combination thereof.

Proposed Section 502.610(l) specifies that waste storage structures at the CAFO production area be designed to contain a volume equal to or greater than the sum of waste, precipitation and runoff, and wash down liquid during a **180 day** period of operation at design capacity.

Proposed Section 502.630(a)(1)(C) states that the owner must take steps to provide **120 days** of available manure storage by December 1.

LMFA Section 13(a) specifies that concrete lagoons holding liquid waste need **150 days** of storage capacity. Yet **LMFA Section 25(b)(3)** states that single-stage lagoon capacity must be greater than **270 days**.

Though LWVIL is not a member of the regulated community it can anticipate that there will be much confusion about required storage capacity. In addition, to limit land application in the winter and to prevent overtopping or spills during 100 year or even 25-year 24-hour rain events, why not consistently require a minimum of 180-day, or 270-day storage capacity? Wouldn't this minimize confusion and facilitate compliance?

●COMMENT #4: **Section 502.640 Inspection of Land Application Equipment for Leaks**

Our comment here relates to the discussion in the Board's proposal (pp. 241-243) and is of a more general nature than just this section heading. Again, we are concerned about consistency and ease of compliance for the regulated community.

LWVIL concurs with the Environmental Groups perspective that both permitted and unpermitted Large CAFOs should follow the same requirements for equipment inspection. If inspection for equipment leaks is part of what is required for unpermitted CAFOs to claim the agricultural stormwater exemption, why not clearly state that in this section? And why not also clearly state in Section 502.510 (Nutrient Management Plan Requirements) that unpermitted CAFOs must meet those requirements in order to qualify for the agricultural stormwater exemption?

To facilitate compliance, the Board should place the requirements for unpermitted CAFOs in a single location. Otherwise, our concern is that for this group of facilities, it will be a game of Where's Waldo in trying to determine their obligations. Where compliance is made difficult, the environment may suffer.

The League of Women Voters of Illinois (LWVIL) appreciates the opportunity to comment on this rulemaking and supports the continued strengthening of permitting, operating, and environmental standards for CAFOs.

DATED: January 30, 2014

Respectfully submitted,

A handwritten signature in cursive script that reads "Mary Kubasak". The signature is written in black ink on a white background.

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