



Concentrated Animal Feeding Operations Permits on Public Notice - Dairy Cattle

May 2018

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States Covered: CA, CO, IA, IN, KS, MN, NE, NY, OR, SD, TX, UT, VT, WI

Coverage Update: California, Indiana and New York have been added to the report.
Historical

Permits on Public Notice: 4 New, 11 Modified or Reissued

Total Change in Animal Units: 33,497

Total Change in Milking Cows: 23,064

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Report Update

The National Program on Dairy Markets and Policy is starting a new monthly bulletin **Concentrated Animal Feeding Operations Permits on Public Notice - Dairy Cattle**. The purpose of this bulletin is to provide a new leading indicator for future growth of milk supply in the United States. This is the third issue of the report. The previous two issues can be found at www.dairymarkets.org.

In this issue, we expanded our coverage to include California, Indiana and New York. With this addition, our regular coverage encompasses 14 of the top 23 milk producing states. The data for Pennsylvania for May 2018 is not reported in this issue. We are in the process of contacting state authorities to get clarifications on meaning of several public notices issued in May. We expect to be able to include May 2018 CAFO permits for Pennsylvania at a later time. For the only new CAFO permit listed for Colorado during May 2018, state authorities have informed us that this is “a new permit at a new facility”. However, further research reveals that the legal entity for this farm was formed in 2016, and substantial building efforts were ongoing during summer of 2017. It is not clear whether milk is already being delivered to dairy plants from this dairy farm. For the only new permit in Minnesota we suspect this farm is already operational despite the fact that their CAFO permit is indeed a new permit. In future releases we will add additional columns to differentiate between new CAFO permits for existing dairy farms and new CAFO permits for dairy farms that have yet to be built. Whenever possible, we will revise previously issued reports with new information.

The new CAFO permit in South Dakota is for a new dairy farm site that has not yet been built. Earlier this year, Agropur Inc. has announced the expansion of their cheese plant in Lake Norden, SD, with intention to increase daily milk intake capacity by 6.3 million lbs. We are currently assembling information on dairy farm expansions and CAFO permits for 2014-2018 for South Dakota. While we do not yet have precise information, our preliminary assessment is that South Dakota dairy herd will expand by 20,000 – 30,000 mature dairy cows in 2019.

Current data collection is complemented by ongoing efforts to collect long history of Concentrated Animal Feeding Operations (CAFO) permits on public notice for states which have substantially expanded their dairy herds in the past decade. During the month of May we collected monthly data for CAFO permits on public notice for Kansas for years 2002-2009. That data is available in the Understanding Dairy Markets (UDM) database, but is not reproduced in this printed report. Very preliminary analysis suggests that CAFO permits have forecasting power for dairy herd changes in the forthcoming year, though the relationship is very likely subject to additional lags in years where dairy profit margins are substantially below average. Formal economic analysis of this relationship is planned for the next few months.

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	Reissues and Modifications					New Permits				Total		
	Permits	Animal Units			Head	Permits	Animal Units	Head		Permits	Animal Units	Head
	Permits on Public Notice	Current	Modified	Change	Milking Cows (Change)	Permits on Public Notice	Total Animal Units (New)	Milking Cows (New)	Total Dairy Cattle (New)	Permits on Public Notice	Animal Units, Total Change	Milking Cows, Total Change
Arizona												
California	0	0	0	0	0	0	0	0	0	0	0	0
Colorado	1	0	0	0	0	1	10,010	7,000	8,000	1	10,010	7,000
Florida												
Idaho												
Illinois												
Indiana	1	1,218	1,218	0	0	0	0	0	0	1	0	0
Iowa	0	0	0	0	0	0	0	0	0	0	0	0
Kansas	3	35,071	35,071	0	0	1	7,160	4,900	5,200	4	7,160	4,900
Michigan												
Minnesota	1	220	250	30	0	1	1,586	933	1,213	2	1,616	933
Nebraska	0	0	0	0	0	0	0	0	0	0	0	0
New Mexico												
New York	0	0	0	0	0	0	0	0	0	0	0	0
Ohio												
Oregon	0	0	0	0	0	0	0	0	0	0	0	0
Pennsylvania												
South Dakota	0	0	0	0	0	1	13,300	9,500	9,500	1	13,300	9,500
Texas	0	0	0	0	0	0	0	0	0	0	0	0
Utah	0	0	0	0	0	0	0	0	0	0	0	0
Vermont												
Virginia												
Washington												
Wisconsin	5	18,826	20,237	1,411	731	0	0	0	0	5	1,411	731
Totals	11	55,335	56,776	1,441	731	4	32,056	22,333	23,913	14	33,497	23,064

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Background

In 1972, amendments to the earlier Water Pollution Control Act were passed, leading to what is commonly known today as the Clean Water Act. This act provided guidelines for the regulation of pollutants in surface waters and allowed the Environmental Protection Agency to implement programs to restrict the release of pollutants. Among the sources of pollutants identified in the bill are Animal Feed Operations.

An Animal Feed Operation (AFO) is defined as an agricultural operation that meets two conditions. The operation must confine animals for at least 45 days during any 12-month period and there must not be crops, forage, or other vegetation growing in the confinement area. A further subcategory of operations are Concentrated Animal Feed Operations (CAFOs), which are divided into three categories. All Animal Farm Operations can potentially be designated as a CAFO depending on the design of the operation. CAFOs are designated as either small, medium, or large CAFOs. A Large CAFO is an AFO that has over 1,000 Animal Units. Mature dairy cattle weighing over 1,000 pounds are 1.4 AUs each, while dairy cattle under 1,000 pounds are each 1.0 AU. A Medium CAFO is an AFO that has between 300 and 999 Animal Units and either has a man-made ditch or pipe that carries manure or process wastewater to surface water or animals come into contact with surface water in their confinement space. A Small CAFO is an AFO that has less than 300 Animal Units, is a significant contributor of pollutants to surface waters, and has either a man-made ditch or pipe that carries manure or process wastewater to surface water or animals come into contact with surface water in their confinement space.

Due to their large potential for pollution of water, CAFOs are designated as point sources of pollution. Any person who intends to operate a point source of pollution, including both agricultural and other, must apply for a permit through the National Pollutant Discharge Elimination System. NPDES permits can be issued by either the state or federal government. Some states, such as Idaho and New Mexico, currently leave permitting to the federal government, while many states with large farming industries operate their own permitting service. CAFOs that discharge water are required to have NPDES permits, so not all CAFOs will have permits.

There are two ways in which permits are issued to CAFOs: individual permits and general permits. An individual permit is one that is specifically designed for a single facility. For this process, an application is submitted to the permitting authority, which is in turn tasked with making a determination regarding if the permit should be issued or if additional information needs to be collected. If the information is satisfactory, the authority prepares a permit based on the information provided in the application which is made available to the public along with a draft permit and fact sheet. After at least 30 days of public comment, public comment is taken into account and an individual permit is issued for up to a five year span. The length of time between the application and the public comment period varies by state and workload. The permitting authority can use individual permits for a portion or all of the CAFOs within the state. A state may use entirely individual permits if there is a small amount

of CAFOs within the area, but otherwise most authorities use a mixture of permit types where only the more complex or unique operations are given individual permits.

The other type of permit is a general permit, which can be used to cover a group of operations that have similar characteristics within a specified region. CAFOs within the same area often show similar qualities, which allows for one permit to cover multiple CAFOs. General permits are drafted by the permitting authority with information on the scope, facilities, and conditions. After the draft is prepared, it must be made available to the general public. After the public notice there is a 30 day minimum period where public comments are taken, possibly through a public hearing. Once the permit has been prepared, operators can submit a Notice of Intent (NOI) that contains much of the same information as an application for an individual permit. Upon reception of the NOI, the permitting authority will again return to the public by making information on the CAFOs seeking coverage available for public review. Once public opinion has been collected, the operation may be covered for the remaining span of the general permit.

After draft permits are prepared for CAFO permits, federal regulation requires that a public notice be issued announcing a comment period. This period, which exists for both general and individual permits, must last at least 30 days to provide interested parties a chance to comment on the permit before issuance.

References

- [1] State of Minnesota, Pollution Control Agency. *Permits for large feedlots: Frequently asked questions*. 2015.
- [2] United States Department of Agriculture. *Unified National Strategy for Animal Feeding Operations*. Government Printing Office, 2002.
- [3] United States, Environmental Protection Agency. *Concentrated Animal Feeding Operations: Clean Water Act Requirements*. Office of Water Resource Center, 2002.
- [4] United States, Environmental Protection Agency. *NPDES CAFO Permitting Status Report -- National Summary, Endyear 2016*. Office of Wastewater Management, 2016.
- [5] United States, Environmental Protection Agency. *NPDES Permit Writers' Manual for Concentrated Animal Feeding Operations*. Office of Wastewater Management, 2012.
- [6] United States, Environmental Protection Agency. *Producers' Compliance Guide for CAFOs*. Office of Wastewater Management, 2003.
- [7] United States, Environmental Protection Agency. *State Compendium: Programs and Regulatory Activities Related to Animal Feeding Operations*. Office of Wastewater Management, 2002.