

Ohio Transfer Request/Concentrated Animal Feeding Operations: U.S. Environmental Protection Agency Office of Inspector General Report Addressing Region 5



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The United States Environmental Protection Agency (“EPA”) Office of Inspector General (“OIG”) issued a May 15th report titled:

EPA Region 5 Needs to Act on Transfer Request and Petition Regarding Ohio’s Concentrated Animal Feeding Operation Permit Program (“Report”)

See *Report* No. 19-N-0154.

OIG states that it had received a hotline complaint about the status of the State of Ohio’s request to the Region 5 Office of EPA asking for approval to transfer the Concentrated Animal Feeding Operation (“CAFO”) portion of its Clean Water Act National Pollution Discharge Elimination System (“NPDES”) permit program from the Ohio Environmental Protection Agency (“Ohio EPA”) to the Ohio Department Of Agriculture.

Ohio EPA is currently the delegated Ohio agency for the Clean Water Act NPDES permitting program. Such delegation includes CAFOs.

The complaint is stated to have requested that OIG determine the status of an associated Citizen petition requesting that the EPA withdraw approval of Ohio’s NPDES program with respect to CAFOs.

As a result, OIG identified the following questions for review:

1. Has EPA Region 5 given approval for Ohio’s NPDES CAFO permit program transfer to the Ohio Department Of Agriculture?
2. What actions has EPA Region 5 taken in response to a November 2011 Citizen petition regarding Ohio’s CAFO program?

OIG notes that the relevant regulations found at 40 CFR §123.62 specify the process for transferring all or a portion of an NPDES program from one state to another. Nevertheless, those regulations do not provide timelines for EPA review and approval (or disapproval) of such request.

OIG determined that EPA Region 5:

. . .Begin an informal investigation of the allegations raised in the Citizen petition to commence withdrawal proceedings.

However, OIG noted that Region 5 had still not made a determination about the Petition more than eight years after the 2011 submission. The fact that the relevant regulations imposed no timeline for action was noted.

OIG recommended that EPA Region 5 issue decisions regarding:

1. Ohio's request to transfer its NPDES program with respect to CAFOs from the Ohio EPA to the Ohio Department of Agriculture and
2. the citizen petition to withdraw Ohio's NPDES CAFO program and related permitting authority.

EPA Region 5 agreed with the OIG recommendations, and the recommendations are resolved with corrective actions pending. Region 5 officials already have begun to take corrective actions to address the recommendations and plan to complete them by March 31, 2020.

A copy of the *Report* can be downloaded [here](#).