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Concentrated Animal Feeding Operations/Clean Water Act: U.S. Environmental Protection Agency Response to Environmental Organizations' Petition

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The United States Environmental Protection Agency (“EPA”) responded on August 15th to an October 27, 2022, petition submitted by 50 environmental and citizen organizations (“Petitioners”) addressing large concentrated animal feeding operations (“CAFOs”) using wet manure management systems.

EPA characterizes the petition as requesting that the agency adopt a presumption that large CAFOs using wet manure management systems actually discharge pollutants under the Clean Water Act, therefore requiring an application for a Clean Water Act permit.

EPA’s August 15th response to the petitioners constitutes a denial. However, EPA states that it is instead committing to:

... pursuing a multi-pronged strategy to evaluate the most effective means of improving EPA’s CAFO program.

Further, EPA notes that it is also responding to a separate petition from Food & Water Watch and other groups that had been submitted in 2017 asking that the Clean Water Act regulations for CAFOs be revised. The agency further states that it is committed to:

... launching a comprehensive evaluation of potential areas for improvement of the CWA regulatory program requirements for CAFOs, including conducting a detailed study of the CAFO effluent limitations guidelines (ELGs) and convening an Animal Agriculture and Water Quality (AAWQ) subcommittee under the existing Farm, Ranch, and Rural Communities Federal Advisory Committee.

Data and input from stakeholders will be used to address any identified water quality problems caused by CAFO discharges. This current work is described by EPA as a first step to addressing the issues raised in the Petitioners’ October 2022 petition (including determining whether to establish the requested presumption).

The components of EPA’s August 15th response include:

- Background: your October 2022 Petition
- EPA’s Response to the Petition and Supporting Rationale
- The Presumption the Petition Proposes is Similar to Approaches that have been Vacated

- EPA is Instead Initiating a Comprehensive Review of the Clean Water Act CAFO Program to Determine How Best to Address Discharges from CAFOs

A copy of the EPA response to the petition can be downloaded [here](#).