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W083-No Potential to Discharge Determination

The University of Tennessee Agricultural Extension Service

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Livestock Waste Management and Conservation

No Potential to Discharge Determination (Class I & II – Large and Medium CAFOs)

Tennessee CAFO Factsheet #4

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AFO that does not land apply manure, litter or process wastewater may request that it be determined to have no potential to discharge. If approved, the CAFO would not have to be permitted. In Tennessee, the only type of operation that could potentially meet the “No Potential to Discharge” requirements would be poultry operations that have covered litter storage and remove all litter from their operation. Any CAFO that land applies litter, manure or wastewater cannot meet the requirements. Dairy and swine operations typically do not remove all waste and wastewater from their operation because of the enormous expense of hauling liquid waste. Additionally, their waste-storage areas are typically lagoon-type structures that are not covered.

Requesting a “No Potential to Discharge” Determination

In requesting a determination of “No Potential to Discharge,” the CAFO owner or operator must submit the following information to TDEC to support the request:

1. The name of the owner and/or operator;
2. The facility location and mailing addresses;
3. Latitude and longitude of the entrance to production area;
4. A topographic map showing the specific location of the production area;
5. The number and type of animals;
6. Whether the facility is open confinement or housed under roof;

7. Data showing that the type of containment and storage (anaerobic lagoon, roofed storage shed, storage ponds, under-floor pits, aboveground storage tanks, belowground storage tanks, concrete pad, impervious soil pad, other) is adequate to contain the manure considering climate, crop active growing periods, fertilizer timing recommendations (from University of Tennessee Extension) and the condition of the soil with regard to its being traveled over by people, vehicles or machinery;
8. The total capacity for manure, litter and process wastewater storage (tons or gallons);
9. The total number of acres under the applicant's control that are available for land application of manure, litter or process wastewater, if any, and *certification that the land won't be used for disposal of manure, litter or process wastewater*;
10. Estimated amounts of manure, litter and process wastewater generated per year (tons or gallons);
11. Estimated amounts of manure, litter and process wastewater transferred to other persons per year (tons or gallons);
12. For operations that transfer 100 tons or more of manure, litter and process wastewater per year to a third party for disposal,

documentation that the following has been done:

- a. The most recent manure nutrient analysis was provided to the third party,
- b. The third party has signed the Agreement for the Removal of Litter, Manure and/or Process Wastewater from a CAFO form (Appendix A),
- c. The date, recipient's name and address, and approximate amount of manure removed has been recorded; and

13. Any other information requested by the director of the TDEC.

Upon receipt of a request for a determination of "No Potential to Discharge," the department will issue a "Notice of No Potential to Discharge" in accordance with the public notice procedures of 1200-4-5-.06. The applicant could be required to post a sign on his or her property for 30 days and a public hearing may be held if requested.

Determining "No Potential to Discharge" Operations

In making a determination of "No Potential to Discharge," the director of the TDEC will consider the following factors:

1. The potential for discharge from both the production area and any available land application areas;
2. Any prior discharges by the CAFO. *(In no case may the CAFO be determined to have "No Potential to Discharge" if it has had a discharge within the five years prior to the date of the request);*
3. Information provided by the CAFO to support the request;
4. Relevant information received during the public notice period; and
5. Recommendation by Tennessee Department of Agriculture.

The director must notify any CAFO seeking a "No Potential to Discharge"

determination of the final ruling within 90 days of receiving the request.

If circumstances materially change at a CAFO that has been determined to have "No Potential to Discharge," such that the CAFO has a potential for discharge, the CAFO must immediately notify the director, and seek coverage under an NPDES permit within 30 days after the change in circumstances.

Deadlines for Application Submission

<u>Situation</u>	<u>No Potential to Discharge Application Due</u>
Existing Class I or II CAFO and requesting a No Potential to Discharge	Immediately
Existing operation, newly defined as a CAFO (as of April 13, 2004) and requesting a No Potential to Discharge	February 13, 2006
CAFOs constructed after April 14, 2003 and requesting a No Potential to Discharge	Within 90 days of becoming a CAFO
Existing operation in which changes to the operation or stream quality (increase in size to CAFO status or watershed becomes impaired for nutrients or pathogens) after April 14, 2003 results in the operation moving into the CAFO status and requesting a No Potential to Discharge	Within 90 days of becoming a CAFO

Submit No Potential to Discharge Determination requests to:

CAFO No Potential to Discharge Determination
 Tennessee Department of Environment and Conservation
 Division of Water Pollution Control
 6th Floor L and C Annex, 401 Church Street
 Nashville, TN 37243-1534