IOWA CAFO: Draft Factory Farm Clean Water Act Rule Needs Stronger Permit Requirements

Community-Environmental Coalition Says the Department of Natural Resources Proposal Falls Short of Ensuring Factory Farm Discharges will Result in Clean Water Act Permits

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Iowa Citizens for Community Improvement, the Iowa Sierra Club, and the Environmental Integrity Project have released a draft copy of new Clean Water Act permitting rules for factory farms, otherwise known as Concentrated Animal Feeding Operations (CAFOs), being considered by the Iowa Department of Natural Resources (DNR).

A 2007 petition by CCI, Sierra Club, and EIP to the Environmental Protection Agency led to a Work Plan Agreement and this rulemaking, but the groups say the proposed rule does not go far enough to ensure that every factory farm polluter will apply for and obtain a Clean Water Act permit, and will leave too much discretion to the DNR to determine which facilities need permits. The Clean Water Act permits, known as National Pollutant Discharge Elimination System (NPDES) permits, restrict pollution discharges from sources like industrial animal factories to protect water quality, yet DNR has never issued such a permit to a hog or poultry operation.


At a minimum, the coalition partners say, the DNR must amend the draft rules to reflect EPA’s position that “CAFOs that have discharged in the past will discharge in the future, and are therefore expected to obtain a permit, unless the conditions that led to the discharge are fully remedied.” As proposed, DNR does not address what a factory farm must do to meet this high standard, posing the risk that the agency will let facilities off the hook by giving them the benefit of the doubt that every illegal discharge is a one-time event. Instead, the groups assert, bare minimum compliance with federal law requires DNR to presume that a discharger will continue to pollute and needs a permit. This is particularly important when circumstances unrelated to operator error, such as steep slopes, outdated waste storage systems, or close proximity to waterways, make it unlikely an operator can prevent additional pollution.

Garry Klicker, a CCI member and independent family farmer from Bloomfield, said: “Factory farms that have polluted in the past will pollute in the future and they have a clear duty to apply for a Clean Water Act permit, but the DNR’s draft rule attempts to bypass this very simple standard by creating a loophole large enough to drive a manure spreader through. It’s time to stop pretending that the industry can just fix a broken pipe and get back to business as usual, because our water quality can’t afford that kind of kowtowing anymore.”

Tarah Heinzen, an attorney with the Environmental Integrity Project representing CCI, said: “The DNR has the authority and duty to require every factory farm discharger to apply for a Clean Water Act permit, but its proposal is ambiguous. Without a clearer standard for when a facility requires a permit, Iowa factory farms will continue business as usual, to the detriment of the state’s hundreds of impaired waterways.”

Wally Taylor, an attorney with the Iowa Sierra Club, said: "CAFOs are not farms; they are factories. They should be required to have NPDES permits just like any other industry that discharges pollutants into the water. The DNR rule must protect our waters from CAFOs that discharge pollutants."
In addition to clarifying that certain facilities require permits, the coalition will ask DNR to strengthen its standards for waste application so the agency’s permits adequately protect water quality.

The September 11 Work Plan requires the DNR’s Environmental Protection Commission to propose draft rules and open them up for public comment within 180 days. Coalition members have requested DNR open up a 60 day public comment period and hold in-person hearings in Ames, Bloomfield, Carroll, Des Moines, Iowa City, and Keosauqua to ensure adequate opportunity for input from the citizens most impacted by factory farm water pollution.

In a January 23 letter, EPA informed DNR that the draft rule meets minimum federal requirements and gave its preliminary approval. CCI, the Sierra Club, and EIP note, however, that the approval essentially sets a floor, not a ceiling, for the rules, and that the bare minimum simply cannot clean up Iowa’s polluted waters and hold factory farms accountable for the widespread pollution they cause.

ABOUT THE PETITIONERS

The Environmental Integrity Project (http://www.environmentalintegrity.org) is a nonpartisan, nonprofit organization established in March of 2002 by former EPA enforcement attorneys to advocate for effective enforcement of environmental laws. EIP has three goals: 1) to provide objective analyses of how the failure to enforce or implement environmental laws increases pollution and affects public health; 2) to hold federal and state agencies, as well as individual corporations, accountable for failing to enforce or comply with environmental laws; and 3) to help local communities obtain the protection of environmental laws.

Iowa Citizens for Community Improvement (http://www.iowacci.org) is a 39-year-old statewide non-profit grassroots organization. Iowa CCI has led the fight against factory farms in Iowa for the past 20 years and has pushed for better environmental and permitting laws for factory farms on the state and national level.

Sierra Club is the nation’s oldest grassroots environmental organization. Its 1.4 million members and supporters work together to protect our communities and the planet. Through litigation and administrative and legislative advocacy, the Sierra Club has worked for the past decade to improve controls over factory farm water and air pollution.

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