



August 17, 2022

Re: The draft "Concentrated Animal Feeding Operation General Permit, in both the National and state requirements for waste discharge in the State of Washington.

Dear Dr. Chelsea Morris:

The Northwest Chicken Council (NWCC) welcomes animal welfare, sustainability, and transparency in the poultry industry. With that being said, the NWCC, and the poultry growers it represents, have some concerns with the draft proposals as they now stand.

The new proposals would harm the already struggling agricultural sector of the Washington economy. As of 2018, the USDA states that agriculture contributes over \$10 billion to the State's economy. Washington cannot afford to place legislative burdens on an industry that is still facing logistical and personnel shortages related to the COVID pandemic.

Our concerns are as follows:

- **Existing operations grandfathered in?**
 - What happens with existing farmers who have been in agriculture for years prior to the new legislative proposals?
 - We would ask for an exemption for poultry operations that already have been operating in the state of Washington with a "grandfather clause", avoiding undue financial burdens that could make poultry growing financially unsustainable.

- **Expanding existing operations requires CAFO?**
 - If a farmer is going to expand their agricultural operations, will new permitting be required on existing lands? What about on new properties not adjacent to existing operations?
 - If the size of the expansion does not meet the threshold in the proposal, we ask that language states that no permit is required and an application is not required.



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- **Public hearings for existing operations or expansions?**
 - There is a potential for bad-faith actors to use new permitting requirements to further a political agenda. We welcome public input, education and genuine dialogue.
 - If a poultry grower has already gone through the public hearing process and met all of the CAFO and environmental requirements for their initial build and investment, we ask that the public hearings be waived for expansions of existing poultry and agricultural operations.

 - **Does the Manure Pollution Prevention Plan (MPPP) apply to dry-litter operations?**
 - How does the MPPP change with the new CAFO permitting? To what extent does this affect existing operations? As dry litter operations have “no potential to discharge,” they should not require a permit.
 - If all manure is exported offsite and there is no liquid/solid waste discharged to land or water, do these CAFOs need to apply for coverage?

 - **Changes in existing farms for MPPP storage facilities?**
 - If the new requirements do not have a grandfather clause, do existing poultry operations have to invest in buildings to store litter?
 - Building a dry litter storage barn can cost the farmer from \$500,000 to 800,000. This is a sizable investment for growers that are already struggling with labor and fuel costs. The concern of the NWCC is that this will either force growers out of agriculture or increase prices of poultry at the marketplace, pricing poultry out from lower and middle income families as a source of lean and healthy protein, both of which will be a detriment to the Washington economy.

 - **Size and scope of animal mortality controls?**
 - How specific are the mortality controls on agricultural sites concerning feathers, droppings, and etc.? While moving out litter for application, is the farmer going to be held in violation of CAFO



permitting if litter or other biomaterial is found on the ground during or after removal?

- We ask for clarity surrounding the requirements of animal morality controls, with the possibility of industry input around the removal and movement of poultry mortality and litter.

The proposed rule changes will drive up costs and impose unnecessary regulatory burdens on industry and agricultural workers, which in turn will drive up food costs for people already struggling in uncertain economic times.

In addition to the concerns about the new proposals, the NWCC has additional concerns about the formation process of the new regulations.

Is the Small Business Economic Impact Analysis (SBEIA) dated April 2022 still valid? It does not appear the Economic Analysis takes into account the historically high inflation the nation is facing. The SBEIA appears to underestimate the impacts on small poultry operations, which have relatively low margins due to their size, but still will have significant costs associated with compliance.

The analysis is flawed in the assumption that all CAFOs are already compliant with the EPA's CAFO rule and State Law Chapter 90.64 RCW as baseline. The problem is that most smaller CAFO businesses are unaware of these regulations due to lack of permitting oversight. The state is now fulfilling that permitting oversight and incorporating federal standards, making them more stringent, but only looking at the costs associated with the more stringent portions of compliance.

For completeness, the analysis should look at full compliance with the proposed general permit, regardless of the assumed baseline. It does not appear that the analysis takes into account the labor impacts for compliance monitoring.

The NWCC has additional questions around the proposal:

- Which source of information should be used to determine meteorological data?
- How many years should be analyzed to determine precipitation data?



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- Why is the Annual Report date on December 31 when the reporting period is January 1 through December 31?
 - On the NOI form, what does UBI stand for?

The NWCC asks that a working group of industry stakeholders and associated Washington State department representatives be formed to address the challenges and shortcomings in the CAFO proposals as it now stands.

The NWCC recognizes the importance of good legislation concerning sustainability and environmental protections as it pertains to economics and agriculture. Our concern is that the proposed legislation as it stands is ambiguous and has the potential to cause legislative gridlock at the expense of the agricultural industry. As agriculture across the Pacific Northwest is facing economic and logistical hardships, these new regulations will lead to a decrease in legal certainty and will negatively impact the agricultural sector.

Thank you for your consideration.

Sincerely,

Timothy Christopher
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