

Ryan Riches

Links to cited information may be found within the text of the attached docx file.

My name is Ryan Randolph Riches. I am a second year Law student at the University of Washington School of Law and a legal intern with the Northwest Animal Rights Network ("NARN"). NARN is a Seattle based animal advocacy organization with more than 5,000 of its members in Washington. While both myself and NARN greatly appreciate the steps already taken to improve the Concentrated Animal Feed Operation ("CAFO") General Permit in Washington, further steps still need to be taken. NARN deeply cares about the environment and the negative impact that CAFOs have on human and animal life.

The newly proposed CAFO general permits are greatly improved from their original incarnation but there are still major extant issues that the new permits have not addressed. Furthermore, even the new CAFO permits have failed to live up to the objectives set out in Washington Department of Ecology's CAFO focus sheet.

Current Environmental Regulations on CAFOs are Severely Underenforced

Currently, in all of Washington State's 284 dairies that might be required to apply for a CAFO permit, only 15 total are permitted. The most egregious example of this underenforcement is one CAFO that has nearly 7,000 milking cows, does not have a CAFO permit, and has not received sufficient oversight from the Department of Ecology. Beyond dairy based CAFOs, some estimates put the number of CAFOs in Washington at nearly 1,200. 1% of CAFOs being covered by permit is an egregious dereliction of duty by the Department of Ecology. As the Department of Ecology has designated in their Concentrated Animal Feeding Operation: National Pollutant Discharge Elimination System and State Waste Discharge General Permit that an operation with more than 200 mature dairy cows is a CAFO and will require a CAFO permit, this is unacceptable. (6)

Underenforcement of CAFOs Directly Harms Humans and Wildlife in Washington

By allowing CAFOs to skirt enforcement of the current regulatory framework, the Department of Ecology and Department of Agriculture are failing in their duties to provide for a clean and healthy environment for the citizens and wildlife of Washington.

Clear examples of the harm that a lack of enforcement to these CAFOs causes is in the pollution of groundwater around these CAFO sites. By inundating the groundwaters surrounding these sites with various pollutants (including nitrogen, fecal coliform, and algal blooms), the CAFOs harm both the health and livelihoods of all those near them. For example, due to increased pollution from dairies, since 2010, the Lummi Nation has lost roughly \$850,000 per year due to shellfish farms being forced to close. Furthermore, algal blooms caused by the discharged pollutants from CAFOs depriving bodies of water of oxygen directly harms the entire food chain. Of special note is the effect this has on Chinook salmon. As the salmon are a large part of the southern resident orcas' diet, when salmon populations are decimated, this directly harms the orca as well.

Finally, these issues extend directly to human health and safety as well. Obviously drinking polluted water is not good for anyone's health. As these CAFOs are allowed to pollute without repercussions, in some areas upwards of 25% of the wells did not meet safe drinking water standards. (23) Some studies by the Department of Ecology have even found that nearly 60% of Washington residents may be at risk of health issues due to groundwater pollution.

Allowing these CAFOs to continue recklessly polluting as they are, with insufficient oversight from the Department of Ecology and the Department of Agriculture, is a direct risk to the health of Washingtonians, wildlife, and the environment.

What Needs to be Improved

While the improved CAFO permits are unequivocally a step in the right direction, there are clear flaws in the proposed framework that need to be addressed. Some of the biggest issues involve monitoring, inattention to climate change, increased public involvement and transparency, and expanding the types of CAFOs that are required to apply for a permit.

a. A Lack of Proper Monitoring has Led to a Lack of Enforcement

Currently, many CAFOs that either would require a permit and don't have one or that do have a permit but are in violation of the regulations are ignored by the Department of Ecology and the Department of Agriculture. Some CAFOs have been ignored for years, despite clear violations of CAFO regulations. This must be changed. As the CAFO permits only require reporting of violations if they are directly observed by the Department of Agriculture's inspectors and these inspectors are not being sent out at reasonable intervals, CAFOs are being allowed to harm the environment and the health of Washingtonians without repercussion. As such, both Departments should increase how often they inspect known CAFOs and the process should be made much more transparent to the public. This should apply doubly to CAFOs that are known to have flaunted the law. Furthermore, the process for the public to submit complaints of violations by CAFOs should be streamlined and made easier to submit. CAFOs have been and are currently harming the waters that we all rely on. It is time for the Department of Ecology to put the health of Washingtonians and our environment above agricultural profits.

b. CAFO Permits Should be Required for All CAFOs in Washington

Large dairies currently are under the supervision of the Department of Ecology but are only inspected by the Department of Agriculture. This division of labor has led to many CAFOs avoiding their responsibilities as the Department of Agriculture has been lax in its duties to police CAFOs. As stated above, some CAFOs have not seen a single inspection for years all while violating the regulations that the Department of Agriculture and Ecology are supposed to enforce. Beyond the large dairies that, by state and national law, must have CAFO permits, it is short sighted to not require CAFO permits for other types of farms. Not only dairies produce waste and there is no reason that other CAFOs that produce similar amounts of pollution should not also be required to apply for a permit and be monitored.

Similarly, according to the CAFO fact sheet provided by the Department of Ecology, only new operations are required to notify the public when applying for their CAFO permit. (36). The public must be given all the information necessary to make informed decisions about the potential environmental hazards that current and future CAFOs will create.

Finally, as part of the Department of Ecology's legal obligation under the State Environmental Policy Act, they must consider the effects of climate change when making rules like these CAFO permits. Climate change is likely to lead to even more stormwater runoff and algal blooms. The current draft policy does not address possible increases of both of these phenomena. Ecology should further investigate the potential effects increased stormwater runoff and algal blooms could have under their proposed CAFO permit plan. Currently, stormwater does not trigger a requirement to apply for CAFO coverage under the proposed draft and this too must be addressed.

Conclusion

While positive steps have been taken to strengthen the proposed CAFO permits in Washington, these changes have not yet gone far enough. Loopholes and a lack of enforcement must be closed and addressed in order to ensure a safe and healthy environment for all those who make Washington home.

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