

Fact Sheet: Livestock and Poultry Operation Inspections

Under EPA's National Pollutant Discharge Elimination System Program



Photo by Eric Vance, U.S. EPA

The U.S. Environmental Protection Agency's water program inspects livestock and poultry operations to make sure the appropriate steps are being taken to protect rivers, lakes and streams from possible damage and to protect public health.

EPA has put together a series of answers to commonly asked questions to help livestock and poultry operation owners and operators understand what to expect from EPA National Pollutant Discharge Elimination System (NPDES) inspections. Knowing what to expect during and after an inspection can allow an owner or operator to be prepared for an inspection and can increase understanding of federal requirements. EPA encourages owners and operators to find and correct any deficiencies on their own. Deficiencies found during an inspection will require corrective action to come into compliance. If needed, EPA will work with you to establish a schedule to reach compliance.

Important Note

Maintaining proper biosecurity at livestock and poultry operations is a high priority for the EPA and inspectors will follow EPA's national biosecurity protocols. See question 5 below for more detail on how EPA approaches biosecurity during inspections. *Discuss any concerns you have about the effect of the visit on the health of your animals with the inspector.*

1. The state agency inspects my facility on a regular basis, why is EPA inspecting my operation?

The United States Congress gave EPA the authority and responsibility to implement Clean Water Act programs, including the NPDES program, when the law was passed in 1972. EPA has authorized most states to implement the NPDES program on EPA's behalf. Where states have been given this authority, they are the primary agency for permitting and inspections. However, EPA is obligated to ensure that authorized states implement the NPDES program as required, which includes conducting some joint and/or independent inspections. EPA directly implements the NPDES program in states not authorized

and on tribal lands. EPA may also inspect facilities that are considered nationally or regionally significant or when potential environmental or public health damage or risk is involved.

2. Will EPA contact me prior to showing up at my operation for an inspection?

EPA may provide advance notice to you that it intends to conduct an inspection at your livestock or poultry facility. EPA knows that at some facilities, an operator may not be on-site at all times and that it is important, if possible, to have the right people available during the inspection (for example, the manager of the operation, nutrient management advisor or integrator representative). Advance notification also lets you know the scope of the inspection and provides you with an opportunity to discuss biosecurity protocols or any concerns you may have. However, EPA reserves the right to conduct unannounced inspections. EPA understands that an inspection of your facility will require your time and participation and the EPA inspector will try to avoid disrupting your operation.

Upon arrival, the inspector will ask permission to conduct the inspection. If you deny the inspector entry to a facility, EPA has the option of obtaining a search warrant and returning to the facility to conduct the inspection. See information on EPA's authorities to the right.

3. How do I know the individual showing up for the inspection is a legitimate federal inspector?

Upon arrival at the facility an inspector will present EPA inspector credentials as evidence of his or her identity, and authority under federal law to conduct the inspection. If an inspector does not present these credentials you should ask to see them. EPA issues credentials to federal employees, contractors, employees of state and tribal governments, or others acting lawfully on EPA's behalf. If you have any doubt at all about the legitimacy of the inspection, please ask for the phone number of the inspector's supervisor so you can call and verify the information and confirm the visit is authorized.

The inspector is not allowed to let you hold or photocopy the credentials, but will usually provide you with the inspector's name and contact information in writing. If the inspector does not provide this, you should write down the inspector's name and contact information yourself. Occasionally, the credentialed inspector may be joined by one or more inspectors-in-training. Each inspector-in-training will present to you an EPA-issued identification with a photograph.

4. What is the purpose of a Clean Water Act NPDES inspection?

EPA conducts inspections of livestock and poultry operations for the following reasons: to gather information that will be used to determine whether a facility, operating without an NPDES permit, is discharging manure, litter or process wastewater into waters of the U.S. in violation of the Clean Water Act; to collect information to evaluate whether a permitted facility is complying with its NPDES

EPA's Legal Authorities

Section 308 of the Clean Water Act provides EPA with the authority to enter any premises in which an effluent source is located. This broad authority allows EPA to inspect operations where discharges from point sources such as concentrated animal feeding operations are suspected or located.

It also allows EPA to review and copy records and collect discharge samples or other information from effluent sources, as required.

Under United States Code, Title 18, section 1001, it is a crime to lie to, or conceal information from, a federal official.

permit; to collect information to help determine if an operation meets the definition of a concentrated animal feeding operation (CAFO) or should be designated as a CAFO; to respond to a citizen complaint; or to assist the state when requested.

The inspector can also provide compliance assistance by explaining the manure management requirements of the NPDES CAFO regulations including highlighting areas that, if unaddressed, could lead to violations in the future.

5. What biosecurity procedures does EPA use when it performs livestock and poultry operation inspections?

EPA inspectors will follow EPA's national biosecurity protocols as maintaining proper biosecurity at livestock and poultry operations is a high priority for the EPA. Let the inspector know about any biosecurity procedures you follow and any relevant information you have related to your animals. Inspectors are encouraged to adopt more stringent measures, as appropriate, into their procedures. The inspector can show you EPA's biosecurity protocol or you can access the protocol at: <http://www.epa.gov/agriculture/tbis.html>.

6. What happens during a Clean Water Act NPDES inspection?

Initial Interview - Inspections typically begin with an interview with key facility staff. During the interview, the inspector will discuss the purpose of the inspection, where the inspector plans to go on-site, the biosecurity procedures, and the schedule of inspection activities, including whether there will be a review of records and sample collection. The interview can be conducted later to accommodate your schedule, or the arrival of key facility staff. Good communication during the initial interview, and throughout the inspection can help the inspector understand your operation, and can help you better understand regulatory requirements.

Schedule of Inspection Activities - The inspector will evaluate your operation as it relates to EPA's regulations and requirements. You are encouraged to go with the inspector, take notes and ask questions. Depending on the size of your operation, the inspection may take a couple of hours, one day, or multiple days. The EPA inspector, with your input, will try to sequence activities to cause the least disruption to your operation during the inspection. Most livestock and poultry operation inspections are completed in less than a day.

Facility Visual Inspection - The facility visual inspection will cover both the production area and all or some of the land application areas. The inspector will ask questions about the areas being visited and take notes, photographs/video recordings and may take environmental samples. The inspector will gather information to determine if your facility is discharging pollutants to a water of the U.S. or

Biosecurity Procedures

EPA's biosecurity protocol requires that, among other procedures, the inspector should:

- Inform the operator where the inspector plans to go on-site and determine appropriate biosecurity procedures.
- Enter animal housing buildings only if necessary.
- Consider using the facility's biosecurity procedures if more stringent than the EPA's, as appropriate.

identify conditions that could cause discharges in the future. The inspector may view feed and bedding storage areas, stockpiles, mortality storage and disposal, as well as manure, litter and process wastewater storage, transportation, treatment and land application areas. The inspector may want to observe and assess the integrity, condition and maintenance of equipment, basins, tanks, lagoons and other structures. The inspector may also check oil storage areas that support the operation for compliance with the Spill Prevention, Control and Countermeasure regulations.

Sampling - The inspector may take samples of manure, litter, wastewater, soils or other materials. If the inspector takes samples, he or she will explain to you the reasons for taking the samples, what types of samples were taken and the types of analysis that will be conducted. EPA follows established national standard sampling and analysis protocols. If you would like to receive a copy of EPA's sampling and analysis protocols, discuss this with the inspector. Upon your request, the inspector may be able to split the samples and give half of them to you so you can have them analyzed at a laboratory of your choice (at your own expense) and compare results with EPA's. However, if the laboratory you choose uses different analysis protocols, or you store or handle the samples differently from EPA, your results may differ from EPA's.

Records Review - The inspection may include a review of records including animal inventories and manure generation and storage, treatment and land application records, if applicable. If you have an NPDES permit, the inspector will generally ask to see any specific records required under your NPDES permit including a Nutrient Management Plan.

Exit Interview - At the end of the inspection, the inspector will conduct an exit interview. This allows you and the inspector to clarify issues that were identified during the inspection. Any information provided to you by the inspector will be preliminary. The inspector does not make the determination of compliance or noncompliance at the time of the inspection. However, the inspector may highlight areas that, if unaddressed, could lead to violations in the future. The inspector is an excellent source of information if you have questions about the regulations. You should ask questions to clarify any issues that are unclear.

The inspector will leave his or her name and phone number and information on how to reach other key contacts. You are encouraged to contact these people if you have questions about the inspection or any follow-up activities.

7. What happens after the inspection?

EPA will review all of the information obtained during the inspection. Sometimes the inspector may contact you if he or she needs more information or clarification. Occasionally, the EPA inspector returns on a future date to collect samples or gather additional information. To ensure accuracy and consistency, the compliance determination will be made by an EPA case review officer in consultation with the inspector.

If EPA does not identify any violations, no follow-up will be needed. EPA may informally notify (e.g., by phone or by sending a letter) the owner or operator of minor issues that should be addressed to avoid future compliance issues.

If EPA has detected violations, EPA will consider a number of factors in determining an appropriate response: the type, magnitude, and frequency of violation; any threat to human health or the environment; the compliance history of the facility; and any good faith effort by the facility to remedy the violation.

For minor or less serious violations, EPA may send the owner or operator a notice of violation or warning letter that explains what the inspector observed at the operation and how it is not in compliance with certain requirements. The CAFO owner or operator should promptly correct any deficiencies.

For ongoing violations or violations that are more serious and/or require time to correct, EPA may issue an administrative compliance order that establishes a deadline by which compliance must be achieved. The order may or may not include a penalty. For serious violations or situations in which a facility repeatedly fails to correct problems and continues to have violations, EPA may pursue a civil judicial action in federal court to require corrective actions and set a timetable to achieve compliance.

In rare instances, a criminal investigation may be conducted if EPA suspects that an individual has knowingly or willfully violated federal law.

For More Information

To learn more about CAFO requirements and how they may apply to you, read the federal and state regulations or contact your state permitting authority or one of the EPA Regional Offices. Additional information on EPA's CAFO regulations can be found at: <http://water.epa.gov/polwaste/npdes/afo/>. Compliance assistance information is available on EPA's Agriculture Center's website at: <http://www.epa.gov/agriculture/anafowat.html>.