

National Milk Producers Federation

National Milk Producers Federation • 2101 Wilson Blvd., Arlington, VA 22201 • 703-243-6111 FAX 703-841-9328

January 20, 2006

Docket ID No. EPA-HQ-OW-2005-0036
Environmental Protection Agency
Water Docket, Mail code: 4203M
1200 Pennsylvania Ave., NW
Washington, DC 20460

Re: Revised Compliance Dates
for National Pollutant Discharge
Elimination System Permit
Regulation and Effluent Limitation
Guidelines for Concentrated Animal
Feeding Operations

To whom it may concern,

The following comments are being submitted on behalf of the National Milk Producers Federation (NMPF) to the Environmental Protection Agency's (EPA's) proposed rule: Revised Compliance Dates for National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitation Guidelines for Concentrated Animal Feeding Operations (Docket ID No. EPA-HQ-OW-2005-0036). The National Milk Producers Federation, based in Arlington, VA, develops and carries out policies that advance the well-being of U.S. dairy producers and the cooperatives they collectively own. The members of NMPF's 33 cooperatives produce the majority of the U.S. milk supply, making NMPF the voice of nearly 50,000 dairy producers on Capitol Hill and with government agencies.

NMPF appreciates EPA's effort to accommodate dairy CAFOs by extending the compliance deadlines for obtaining a National Pollutant Discharge Elimination System (NPDES) permit and development of a Nutrient Management Plan (NMP). However, NMPF has serious concerns about the proposed deadline and requests EPA extend the proposed deadline beyond March 30, 2007 for the reasons stated below.

In the *Waterkeeper Alliance et al. v. EPA*, 399 F.3d 486 (2nd Cir. 2005) case, EPA was mandated to revise certain aspects of the 2003 CAFO rule. Because EPA has not finalized the revisions to the 2003 CAFO rule, dairy producers affected by these revisions cannot yet know how they will be impacted by the revisions. For example, producers do not know exactly what specific revisions are being made with regard to NMPs and the public review process. It is not practical for EPA to propose a compliance

Jerry Kozak, President/Chief Executive Officer

Charles Beckendorf, Chairman

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Agri-Mark, Inc.
Arkansas Dairy Cooperative Association
Associated Milk Producers, Inc.
California Dairies, Inc.
Cass-Clay Creamery, Inc.
Continental Dairy Products, Inc.
Cooperative Milk Producers Assn.
Dairy Farmers of America, Inc.
Dairymen's Marketing Cooperative, Inc.
Dairylea Cooperative Inc.
Ellsworth Cooperative Creamery
Farmers Cooperative Creamery
First District Association
Foremost Farms USA
Just Jersey Cooperative, Inc.
Land O'Lakes, Inc.
Lone Star Milk Producers, Inc.
Manitowoc Milk Producers Coop.
MD & VA Milk Producers Cooperative Association, Inc.
Michigan Milk Producers Assn.
Mid-West Dairymen's Company
Niagara Milk Cooperative, Inc.
Northwest Dairy Association
Prairie Farms Dairy, Inc.
St. Albans Cooperative Creamery, Inc.
Scioto County Co-op Milk Producers' Assn.
Select Milk Producers, Inc.
Southeast Milk, Inc.
Swiss Valley Farms, Co.
Tillamook County Creamery Assn.
United Dairymen of Arizona
Upstate Farms Cooperative Inc.
Zia Milk Producers

deadline prior to finalizing changes to the CAFO rule that are mandated by the *Waterkeeper Alliance et al. v. EPA*, 399 F.3d 486 (2nd Cir. 2005) case.

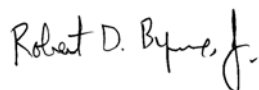
Some States have not updated their NPDES programs according to the 2003 CAFO rule and other States may need to amend their NPDES programs in response to the court mandated changes that EPA has yet to propose. Dairy producers will need adequate time to evaluate how updated State NPDES programs will apply to their individual operations. For example, New Mexico dairy producers do not have NPDES permits yet because their state program has not adopted the changes from the 2003 rule. The compliance deadline must be extended beyond March 30, 2007 so that States have the flexibility for permit authorities to adopt the changes to the CAFO rule and establish permit schedules. Only then will dairy producers be able to begin to determine how the new rule applies to their operations.

EPA has notified the animal agriculture community that the revised 2003 CAFO rule may be published in the upcoming months. With changes being made to the CAFO rule, NMPF expects that some dairy producers considered CAFOs under the 2003 CAFO rule will no longer be classified as such and will therefore not need to comply with the revised regulations. Additionally as revised regulations may alter NMP requirements, other dairy producers may need to alter their NMP. Because of these issues, dairy producers should be allowed adequate time to review the revised CAFO rule and subsequently determine if their operation will need to apply for an NPDES permit and develop an NMP. Simply extending the deadline for compliance to March 30, 2007 will not allow sufficient time for producers to meet new and differing requirements of the revised CAFO regulations.

In summary, NMPF fully supports EPA's decision to extend the proposed compliance deadline. However, we strongly urge EPA to extend the proposed deadline to a reasonable time after EPA has gone through the appropriate public comment period, review process, and finalization of changes to the CAFO rule as mandated by the Second Circuit Court's decision.

NMPF appreciates the opportunity to provide comments to this proposed rule. Please let us know if we can provide additional information or clarification of our comments.

Sincerely,



Robert D. Byrne, Ph.D.
Vice President, Scientific and Regulatory Affairs