

UPDATED INFORMATIVE DIGEST

ADOPTION OF A REGULATION ESTABLISHING A DEFINITION FOR “LARGE CONFINED ANIMAL FACILITY”

Sections Affected: Adoption of title 17, California Code of Regulations (CCR), sections 86500 and 86501.

Background:

State law (SB 700, Florez, Statutes of 2003, Chapter 479) required the Air Resources Board (Board or ARB) to develop a definition of “large” confined animal facilities (large CAFs) by July 1, 2005. In developing this definition, ARB was to review relevant scientific information, including air quality impacts, how confined animal facilities may affect the attainment and maintenance of ambient air quality standards, and livestock emission factors.

The large CAF definition will be used by the local air pollution control and air quality management districts (local air districts) in the development of rules to mitigate emissions from large CAFs. Local air districts designated as nonattainment for the federal one-hour ozone national ambient air quality standard as of January 1, 2004, must adopt rules that include, among other things, a requirement that large CAFs develop and implement a mitigation plan. Areas designated as attainment for the federal ozone standard are also required to develop a large CAF rule unless the local air district makes a determination that any large CAFs in the region will not contribute to a violation of any State or federal air quality standard. Emission mitigation plans for large CAFs must require reasonably available control technology in moderate and serious ozone nonattainment areas, and best available retrofit control technology in severe and extreme nonattainment areas.

Description of the Regulatory Action:

The Board’s Action. At the conclusion of a public hearing of the California Air Resources Board (ARB or Board) on June 23, 2005, the Board adopted Resolution 05-35 which approved adoption of Sections 86500 and 86501, Title 17, Division 1, Chapter 1, of the California Code of Regulations (CCR), to define large confined animal facilities for California. At the hearing, the Board directed staff to make an adjustment, if appropriate, to the large confined animal facility (large CAF) definition for beef feedlots to more accurately reflect the size distribution of cattle at beef feedlots consistent with methods used to establish the other large CAF definitions. The Board also directed staff to make any modified text available for a supplemental comment period, and then to take appropriate final action adopting the regulations.

Fifteen-Day Changes. In accordance with section 11346.8 of the Government Code, the Resolution directed the Executive Officer to incorporate the modification into the regulatory text, and to make the modified text available for a supplemental comment period of at least 15 days. Text of the modifications to the originally proposed regulation was made available for a supplemental 15-day comment period by issuance of a "Notice of Public Availability of Modified Text." This 15-day notice and a copy of the Resolution 05-35 were released on September 7, 2005.

Only one modification to the regulatory text was proposed. The proposed change pertains to the number of beef cattle qualifying a confined animal facility as "large" and is based on new beef feedlot manure output data. For ozone nonattainment areas in California, the revised large CAF definition for beef feedlots is proposed to be 3,500 head, versus the 2,500 head in the original proposal. For other regions of the State, the large CAF definition for beef feedlots is proposed to be 7,000 head, versus 5,000 head in the original proposal. Specific details regarding the change and the rationale for the modifications are provided in the 15-day notice.

Rationale for Definitions and Summary of Requirements. ARB staff developed a large confined animal facility (large CAF) definition after an evaluation of the scientific information on emissions and air quality impacts of livestock facilities. Staff also evaluated the needed air quality improvements in ozone nonattainment areas and potential impacts to the livestock industry. The definition is based on the combined, aggregate air quality impacts of the livestock industry in California, with an emphasis on the San Joaquin Valley. There is a special focus on the San Joaquin Valley, due to the severity of its ozone problem and the concentration of animals, especially dairy cows, in this region.

It was important that the large CAF definition included most of the livestock air emissions in the San Joaquin Valley because substantial new emission reductions are needed in this region to meet federal air quality standards. Each category of emission sources in the San Joaquin Valley must be considered in the process of identifying feasible and cost-effective measures needed for attainment of the health-based standards. ARB's definition triggers that process for CAFs through development of local air district rules that will require emission mitigation plans for facilities defined as large CAFs.

One goal in developing the large CAF definition was to include most of the livestock animals in the definition, while affecting the fewest possible number of facilities. Data on the size of California facilities (number of animals) were evaluated to look for natural breakpoints in facility size distribution. ARB staff also considered the feasibility of establishing a definition based on individual facility emissions. The concept of a definition based on individual facility emissions was rejected as impractical and uncertain, because of the developing state of livestock emissions estimation research. The ARB large CAF definition

instead uses the number of animals per facility as a surrogate for facility emissions. This aggregate approach was used for each livestock category based on information specific to that category.

The large CAF definition excludes most of the facilities that are clearly small. The definition provides clarity and certainty for the livestock industry and local air districts, and creates a productive environment for identifying the most cost effective and technically feasible emission reduction strategies.

In order to allow verification of the number of animals at a facility, beginning January 1, 2006, the owner or operator of a large confined animal facility would be required to keep records that specify the numbers of animals maintained daily and such other information as may be required by local air district rules. Such records would have to be maintained at a central place of business for a period of not less than three years and made available upon request to the Executive Officer or Air Pollution Control Officer or their representative.

The details of the definition and the associated rationale are provided in the Initial Statement of Reasons prepared by staff. The full document is available here: <http://www.arb.ca.gov/regact/lcaf05/lcaf05.htm> .

Comparable Federal Regulations:

Currently, there are no federal statutes regulating airborne emissions from livestock facilities. However, there are federal regulations related to liquid discharges from livestock facilities. These regulations were considered in the development of the large confined animal facility definition for California. The citation for the federal discharge rules is the National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitation Guidelines and Standards for Concentrated Animal Feeding Operations, Part II, United States Environmental Protection Agency, 40 CFR Parts 9, 122, 123, and 412.