

CLIENT ALERT

Indiana Issues First CAFO General Permit Under Revised Federal CAFO Rules

Jun.04.2003

Acting in response to a court order issued in September 2002 to bring its CAFO permitting program into compliance with the Clean Water Act, the Indiana Department of Environmental Management (IDEM) has issued the first new general permit for CAFOs since EPA's revised CAFO regulations became effective earlier this year. The general permit was published on June 1, 2003, but was issued as an "emergency rule" effective May 14, 2003.

The permit requirements generally track the new federal rules, but require action by CAFOs on a faster timetable. In particular, by *August 12* (90 days after the May 14 effective date), *all existing Indiana CAFOs must submit* either: (1) a "notice of intent" (NOI) seeking coverage under the general permit (or an individual permit application); (2) a certification that the operation was not required to apply for a permit under the prior rules because it "has not discharged, does not discharge and will not discharge except in the event of a [25-year, 24-hour storm]"; or a request for a determination that the CAFO has "no potential to discharge." The rules require that IDEM consider public comments submitted on any CAFO's eligibility for general permit coverage, but do not specifically require public notice or public hearings on all NOIs. As required under the federal rules, however, IDEM will issue public notice before granting any "no potential to discharge" determination. CAFOs that submit the "certification" described above will have until April 13, 2006, to apply for permit coverage (unless they have a discharge in the meantime).

To review a copy of the general permit and related rule revisions, [click here](#).

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.