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# WA CAFO Permit Fact Sheet

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Contact: Friends of Toppenish Creek at 509-874-2798

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## CAFO Fact Sheet 16: Implementation of Washington's 2023 NPDES CAFO Permits: Monitoring Wells

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On December 7, 2023, the WA State Dept. of Ecology (Ecology) issued two new National Pollutant Discharge Elimination System (NPDES) general permits for Concentrated Animal Feeding Operations (CAFOs) in our state. A “combined permit” covers facilities that discharge to both ground and surface waters. A “state only permit” covers facilities that only discharge to groundwater.<sup>1</sup>

The permits took effect on January 6, 2023, and are in place until January 5, 2028. A coalition of environmental groups appealed the permits on January 6, 2023.<sup>2</sup> The WA State Pollution Control Hearings Board plans to hear the appeal this August.

These latest CAFO NPDES permits were written partially in response to a June 2021 ruling by the WA State Court of Appeals that found errors in the previous permits, issued in 2017.<sup>3</sup> Among other points, the Court of Appeals found that:

*(2) the permit conditions do not protect all covered activities from violating water quality standards,*

*(3) monitoring beyond the soil sampling and visual inspections required by the permits is necessary to ensure compliance.*

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<sup>1</sup> WA Ecology. Concentrated Animal Feeding Operation General Permit.

<https://ecology.wa.gov/regulations-permits/permits-certifications/concentrated-animal-feeding-operation>

<sup>2</sup> FOTC. Notice of Appeal.

[http://www.friendsoftoppenishcreek.org/cabinet/data/CAFO%20Appeal%205%202022%20CAFO%20Permits%20Notice%20of%20Appeal%20\[162023%20sig\].pdf](http://www.friendsoftoppenishcreek.org/cabinet/data/CAFO%20Appeal%205%202022%20CAFO%20Permits%20Notice%20of%20Appeal%20[162023%20sig].pdf)

<sup>3</sup> FOTC. WA Court of Appeals Published Opinion.

<http://www.friendsoftoppenishcreek.org/cabinet/data/CC%20CAFO%20Permit%20Court%20of%20Appeals%20Published%20Opinion%20June%2029%202021.pdf>

A major Ecology remedy was to require installation of groundwater monitoring wells on permitted dairies located in areas of the state classified as “nitrate priority areas” by Ecology.<sup>4,5</sup>

Section S5. D.1.a of the 2023 “combined permit”<sup>4</sup> requires permitted CAFOs to:

- a. Develop a work plan for installing a groundwater quality monitoring network within 6 months of receiving permit coverage.
- b. Install the groundwater monitoring network within 90 days after approval of the work plan by Ecology.
- c. Conduct Routine Monitoring after the groundwater monitoring network is in place.

Section S5. D of the 2023 “state only permit”<sup>6</sup> requires permitted CAFOs to develop and implement a groundwater monitoring plan that is approved by Ecology. Deadlines for the “state only permit” are much more relaxed.

How has the plan worked out after the newest permit has been in place for a year? According to Ecology’s Permitting and Reporting Information System (PARIS)<sup>7</sup> there have been up to 116 permitted CAFOs in our state in recent years. The total number of dairies in our state is over 250. Currently, according to PARIS, there are currently only 21 permitted CAFOs.

#### CAFO NPDES Permits 2023: WA Ecology Permitting & Reporting Information System

County	# CAFOs Ever Permitted	# Permitted in 2023	# Warning Letters Sent Aug 31, 2023	Comments
Whatcom	30 a) 25 Combined b) 5 State Only	3 a) 2 Combined b) 1 State Only	0	1 Combined permit CAFO only has 200 heifers
Skagit	4	0	0	
Snohomish	5	0	0	
King	9	1	0	Permitted CAFO next to Snoqualmie River
Thurston	7	0	0	

<sup>4</sup> WA Ecology. WA Concentrated Animal Feeding Operation General Permit. [file:///C:/Users/Jean%20Mendoza/Downloads/CAFO%20GP%20New%20Combined%20Permit\\_2022%20\(13\).pdf](file:///C:/Users/Jean%20Mendoza/Downloads/CAFO%20GP%20New%20Combined%20Permit_2022%20(13).pdf) See map in Appendix C, page 74/74.

<sup>5</sup> WA Ecology. Nitrate Prioritization Project. <https://apps.ecology.wa.gov/publications/documents/1610011.pdf>

<sup>6</sup> WA Ecology. Concentrated Animal Feeding Operation. State Waste Discharge General Permit. <https://ecology.wa.gov/getattachment/453aff0c-051e-4129-982e-ea59660c2db3/01182017StatePermit.pdf>

<sup>7</sup> WA Ecology. Permitting and Reporting Information System. <https://apps.ecology.wa.gov/paris/PermitLookup.aspx>

Pierce	3	0	0	
Lewis	9	0	0	
Island	1	1	1	
Clallam	1	0	0	
Jefferson	1	0	0	
Grays Harbor	3	0	0	
Pacific	1	0	0	
Clark	1	0	0	
Wahkiakum	1	0	0	
Grant	6 a) 4 Beef Feedlots b) 1 Dairy c) 1 Egg Farm	5 a) 4 Beef Feedlots b) 1 Egg Farm	4	3 of 4 permitted beef feedlots are asking to opt out of permits.
Franklin	3	0	0	
Benton	1	1	1	
Spokane	2	0	0	
Yakima	29	11	10	3 of 11 permitted dairies no longer milk cows. 1 dairy submitted a GW monitoring plan on time.
Walla Walla	1	1	0	Individual Permit for a Beef Feedlot
Total	116	21	16	

According to permit requirements up to 21 CAFOs should have submitted groundwater monitoring plans six months after issuance of the 2023 NPDES permits for CAFOs. In fact, only one large dairy CAFO from Yakima County submitted a plan in July 2023.

Ecology sent warning letters to 16 CAFOs on August 31, 2023, informing the facilities of the need to submit monitoring plans. Perhaps the covered facilities in Whatcom and King Counties do not lie in “Nitrate Priority Areas” and consequently are not required to monitor groundwater.

1. There is no documented response to the warning letter from the dairy in Island County.

2. One beef feedlot in Grant County submitted a groundwater monitoring plan. Three beef feedlots in Grant County agreed to prepare plans and also asked to terminate permit coverage. All three submitted the statement below:

*Agri Beef has requested termination of permit coverage on the basis that the Facility does not discharge to groundwater. Ecology denied the petition to terminate permit coverage, stipulating that Agri Beef must demonstrate that there is no discharge to groundwater. While the appeal process is ongoing, Agri Beef has agreed to develop a Work Plan (presented herein) for the groundwater monitoring program, as stipulated under Section S5.D.a of the Permit. The findings from the groundwater monitoring program and associated*

*Hydrogeologic Study may be used to guide future permitting discussions at the Facility.*

3. A permitted dairy in Benton County submitted a plan on November 1, 2023.

4. One dairy in Yakima County submitted a plan in July 2023. Four dairies submitted plans in October 2023, and six submitted plans in November 2023.

There is no documentation in PARIS regarding Ecology acceptance or rejection of the plans, and no documentation indicating if or when monitoring wells will be drilled. Dairies have three months to install wells after receiving Ecology approval of monitoring plans. Presumably monitoring could begin as early as May 2024, but this is not guaranteed. If timelines had been enforced monitoring would be in place today.

\* \* \* \* \*

Additional Information: In 2021 Friends of Toppenish Creek, Center for Food Safety, and Food & Water Watch petitioned the Environmental Protection Agency to revisit the Yakima Valley under the Safe Drinking Water Act, because domestic wells in the area continue to show high levels of nitrate contamination.<sup>8</sup> The EPA response to date has been to initiate and continue conversations with the Lower Yakima Valley Groundwater Management Area Implementation Team regarding efforts to clean up the LYV aquifers. Those communications are available on the EPA Region X website.<sup>9</sup>

In a May 9, 2023 response letter Ecology stated:

*Ecology's CAFO Permit Program remains focused on source control of manure pollution from confined animal feeding operations in the LYV-GWMA.*

*Here is an update on the status of that program as it relates to the LYV-GWMA.*

*• The priority focus of Ecology's CAFO Program in 2023 is coordinating with the Department of Agriculture's Dairy Nutrient Management Program to utilize new funding provided by the legislature for effective technical assistance and compliance assurance activities for permitted CAFOs, and unpermitted CAFOs with a reasonable potential to discharge polluting matter to waters of the state, including groundwater. Ecology will continue to prioritize outreach, technical assistance, and compliance assurance activities to medium and large CAFOs in the LYV with a discharge to waters of the state.*

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<sup>8</sup> FOTC. Petition to the EPA under the Safe Drinking Water Act.  
<http://www.friendsoftoppenishcreek.org/cabinet/data/CFS%202021.10.26%20Petition%20for%20Emergency%20Action%20under%20Section%201431%20of%20the%20SDWA.pdf>

<sup>9</sup> U.S. Environmental Protection Agency. Yakima Citizen Petition and Related Correspondence.  
[https://gaftp.epa.gov/region10/sites/yakima/Citizen\\_Petition\\_and\\_Correspondence/](https://gaftp.epa.gov/region10/sites/yakima/Citizen_Petition_and_Correspondence/)

- *Currently 23 CAFOs are covered under Ecology’s CAFO General Permits.<sup>10</sup> Twelve of these permitted CAFOs are in the LYV-GWMA. <sup>10</sup>
  - o *Four additional applications for coverage from facilities in the LYV-GWMA are in process. Ecology has received a partial Notice of Intent (application) for the State-Only CAFO Permit from [REDACTED], the last of the three LYV cluster dairies under EPA Consent Decree.*
  - o *We received applications from [REDACTED] (3 facilities), [REDACTED] (2 facilities), and [REDACTED]. Ecology is awaiting their draft Manure Pollution Prevention Plans (MPPPs) and will provide technical assistance on the draft MPPPs, so that we can issue CAFO permit coverage as soon as possible.**
- *Groundwater monitoring requirements under the reissued permits begins this summer. Permitted CAFOs in the LYV are required to submit their groundwater monitoring work plan for review by Ecology hydrogeologists within six months of receiving permit coverage. Groundwater monitoring wells must be constructed within 90 days of Ecology approval.*

FOTC finds draft applications for two “State Only” NPDES permits for CAFOs in the PARIS system. There is no PARIS documentation of application from the other four facilities listed above.<sup>11</sup> There is no documentation of response from Ecology.

As noted, installation of groundwater monitoring wells on permitted dairies is behind schedule. Groundwater monitoring on permitted dairies did not begin in the summer, save for the one facility that submitted a plan in July.

We hope this information is enlightening and explains why environmental groups continue to pressure Ecology to protect the environment more aggressively from CAFO harms.

Thank you for reading.

*Friends of Toppenish Creek*

You have received this Fact Sheet because you are on a list of potentially interested parties. If you do not want to receive further information, please contact Jean Mendoza at [jeanmendoza@icloud.com](mailto:jeanmendoza@icloud.com)

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<sup>10</sup> FOTC notes that this number is different from our count that was based on the PARIS website.

<sup>11</sup> WA Ecology. Permitting and Reporting Information System. <https://apps.ecology.wa.gov/paris/PermitSearch.aspx>