

**Topic:** When Does an Existing Operation Become a “New Source?”

**Our Concern:**

No definition exists for clarifying when an existing operation becomes a “new source.” This will lead to uncertainty on the part of producers who wish to expand or improve upon their existing operation.

Because the Final CAFO Rule published in February 2003 contains the provision of the design standard for new swine, poultry and veal operations (to which this revision applies), the zero-discharge standard appears to apply to any operations constructed since the publication of the 2003 CAFO Rule. We are concerned that these new sources are not capable of meeting this new standard and will find it cost-prohibitive to retrofit existing manure storage structures to achieve a zero-discharge standard.

**Recommendation:**

Clarity needs to be provided by the EPA regarding what constitutes a “new source” for swine, poultry and veal operations. For instance, if an existing swine operation is currently considered an AFO based on animal numbers, but wishes to double its capacity such that it qualifies as a CAFO based on animal numbers, does this become a “new source” and subsequently fall under the NSPS?

Likewise, if an existing swine CAFO that utilizes an open anaerobic lagoon expands its production by, for instance, five times and utilizes deep pit manure storage for the new facility but maintains the anaerobic lagoon for the original facilities, does this operation, as a whole, fall under the NSPS?

Clarity needs to be provided by the EPA regarding the requirement for facilities built since February 2003 to meet the zero discharge standard proposed in this revised rule.

Retrofitting existing swine, poultry or veal operations that utilize “open air” manure storage to contain all manure and process waste water under roof will be extremely costly as would converting a flush-type manure collection system to a deep-pit manure collection and storage system. We recommend that, if EPA maintains the proposed design standard for new source swine, poultry and veal facilities, they enforce this new standard on forward from the time when this rule revision is finalized rather than retroactively imposing it to structures built since the Final Rule was published in February 2003.