

EPA Animal Feeding Operations Consent Agreement and Final Order “Air Compliance Agreement”

Issue

The U.S. Environmental Protection Agency on January 31, 2005 proposed and introduced into the Federal Register the Animal Feeding Operations Air Quality Compliance Agreement. The agreement was negotiated with a limited number of large agricultural interests that are not representative of the size or environment of most Western farmers and ranchers. It may penalize the owners of Animal Feeding Operations who have voluntarily stepped forward to comply with water quality regulations.

Problem

EPA should not require the agricultural industry to pay the costs associated with monitoring to derive emission factors. Additionally, there are no standards for ammonia or hydrogen sulfate emissions. There is no clear evidence in Utah to make a case that Animal Feeding Operations are a source of air pollution. This program could hamper water quality or manure management efforts already underway in Utah as a result of EPA's previous CAFO water quality regulations.

It should also be noted that EPA did not fully consider a Presidential Executive Order, *Cooperative Conservation Executive Order*, on August 26, 2004 that reads: “*The purpose of this order is to ensure that the ...Environmental Protection Agency... implements laws relating to the environment and natural resources in a manner that promotes cooperative conservation, and with an emphasis on appropriate inclusion of local participation in Federal decision-making...*”

How this is affecting your constituents

The Animal Feeding Operations Consent Agreement and Final Order has come about almost 4 years after we began our proactive approach to address water quality concerns. Facilities that were not in compliance with water quality rules in 2001 are now in compliance because of a concerted effort to inventory all feeding operations, provide assistance to land owners to develop nutrient management plans, and ultimately construct Best Management Practices that stopped pollution from entering the water.

Many of the Best Management Practices that were constructed in the past few years (lagoons or similar structures that are used for storage and/or treatment of animal livestock waste) are now the point of controversy in the Air Quality Consent Agreement. Millions of dollars from EPA and USDA have been spent to construct these facilities. The landowners have provided the necessary cost-share.

The Consent Agreement is now asking these same land owners who have invested considerable resources to protect water quality, to pay a “civil penalty” ranging from \$200 to \$100,000 based on the size of the AFO to participate in the Air Compliance

Agreement. Also, they are being asked to pay an additional \$2,500 to be part of a nationwide emission monitoring study. To further aggravate the situation is the fact that the very same measures that were installed to protect water quality now put AFO owners into a possible violation of air quality rules.

What can you do about this issue?

Support an exemption for Utah agricultural producers from the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Emergency Planning and Community Right-to-know Act (EPCRA) laws, as they were not written to regulate the agriculture industry.

If an exemption is not possible, then support Utah's position to provide flexibility for State Implementation. Allow Utah to conduct a pilot, as an alternative to the Air Quality Compliance Agreement, which would create and implement a Strategy for Air Quality Emissions from Animal Feeding Operations similar to our successful strategy to protect water quality.

Congress should provide dollars for research.

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