Animal Feeding Operations

The AFO Air Emissions Consent Agreement and Final Order
Presentation Topics

- Background information
- Federal Register Notice
- Components of the Agreement
  - Eligible participants
  - Applicable requirements
  - Covenant not to sue
  - Monitoring program
Background Information

- EPA & USDA asked National Academy of Science (NAS) to conduct the AFO air emissions study

- NAS study conclusions:
  - No reliable emission factors for AFO exist
  - Additional data needed to develop estimating methodologies
  - Current methods for estimating emissions not appropriate
  - Use process-based approach
Background Information (cont.)

- Consent agreement developed in response to:
  - Public concerns
  - NAS report
- Consent agreement developed by:
  - EPA
  - Industry representatives
- Proposed agreement coordinated with:
  - Agricultural industry representatives
  - State & local government officials
  - Environmental organizations
  - Citizen groups
Federal Register Notice

- Signed on Jan. 21, 2005
- Published on Jan. 31, 2005
  - 70 FR 4958
- “Initial” public comment period closed on March 2, 2005
- Re-opening comment period from April 1 through May 2, 2005
- Extending signup period to July 1, 2005
- Information available at:
  - www.epa.gov/fedrgstr
  - www.epa.gov/airlinks/airlinks1.html
Who can participate in this Agreement?

- Eligible participants
  - Contract growers
  - Integrators

- Targeted AFO sectors
  - Swine
  - Poultry
    - Layers
    - Broilers
    - Turkey
  - Dairy

- Initial 90-day signup period extended 60 days to July 1, 2005
This agreement will not:

- Affect EPA’s ability to respond to endangerment to public health, welfare or the environment
- Provide protection from criminal violations of environmental laws
- Affect compliance by AFOs with any requirement of the Clean Water Act
- Affect States’ or citizens’ ability to enforce compliance with State laws
Participating AFO required to:

- Pay a civil penalty (per farm)
- Contribute to nationwide emissions monitoring study
- Make farms available for monitoring
- Apply emissions estimating methodologies developed by EPA to identify applicable Clean Air Act (CAA); Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); and Emergency Planning and Community Right-To-Know Act (EPCRA) requirements
- Certify compliance with CAA permitting and CERCLA and EPCRA notification provisions
Civil Penalty

- Penalty is based on the number and size of farms
- Penalty ranges from $200 - $1000 per farm
- Penalty cap
  - $10,000 for 1-10 farms
  - $30,000 for 11-50 farms
  - $60,000 for 51-100 farms
  - $80,000 for 101-150 farms
  - $90,000 for 151-200 farms
  - $100,000 for more than 200 farms
- These funds go to the US Treasury and not to EPA and are not used to fund the monitoring study
Participating AFO will receive:

- A limited covenant not to sue for past violations of:
  - CAA permitting requirements in Title V, and Title I, and SIPs arising from emissions from animal confinement structures and agricultural livestock waste lagoons
  - CERCLA and EPCRA hazardous substance reporting requirements
Covenant Conditions and Limits

- Does not cover emissions from sources not participating in the agreement
- Allows EPA to prosecute cases that present endangerment to human health
- Applies only to past violations and terminates shortly after monitoring study is complete
- Covers only violations related to emissions from agricultural waste at emission units located at participating farms
Covenant Conditions and Limits (cont)

- Does not cover land application or other sources
- Does not affect permit requirements for new or modified sources
- Nullified if AFO fails to comply with State nuisance orders
- AFO subject to certain Federal or State enforcement actions may not be eligible
Additional Protections & Benefits

- AFO installing waste-to-energy emission control systems get additional time to apply for air permits
- Complements research into AFO air emissions to improve air quality
How to Signup

- Information available at:
  - [www.epa.gov/fedrgstr](http://www.epa.gov/fedrgstr)
  - [www.epa.gov/airlinks/airlinks1.html](http://www.epa.gov/airlinks/airlinks1.html)

- Sign and return
  - The Consent Agreement
  - Farm Information & Emission Unit Information Sheets
  - Mail to EPA
  - Signup period ends July 1, 2005
Required Information for Signup

- Name and address of signer
- Name of owner and operator of each facility covered by the Agreement
- Location of all covered facilities
- Type and number of animal housing structures
- Type of manure handling system and number of manure storage areas
- Capacity and surface area of all manure storage areas
- Description of any emission control technology or nontraditional manure treatment system
Monitoring Study

- Purpose: gather data for developing emission estimating methodologies
- Funding provided by participating AFO
- Monitor for:
  - Particulate matter
  - Hydrogen sulfide
  - Volatile organic compounds
  - Ammonia
- Monitoring anticipated to begin in early 2006 and continue for 2 years
- Data made available to the public
Monitoring Study

- Focuses on three AFO sectors
  - Swine
  - Poultry
  - Dairy
- Types of operations
- Regional representation of AFO
- Number of farms monitored depends on the number and type of participating AFO
Monitoring Funds

- Funds provided by participants
- Participant pays either
  - $2500 per farm, or
  - Pro rata share of the “Full Funding Level”
- Funds are paid into a non-profit entity
- Non-profit entity hires an independent monitoring contractor
Monitoring Plan

- Monitoring plan:
  - Identifies the Independent Monitoring Contractor (IMC) & qualifications
  - Includes a Quality Assurance plan
  - Identifies emissions to be monitored
  - Identifies farms to be monitored
- EPA has 30 days to approve plan
- IMC has 30 days to modify and resubmit a plan disapproved by EPA
# AFO Air Quality Agreement Timeline

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Independent Monitoring Contractor

- Develop & submit monitoring plan
- Submit quarterly reports
- Conduct periodic meetings
- Notify EPA of any problems
Future Outlook for AFO Strategy

- National Academy of Sciences developed recommendations to characterize all AFO processes
- Consent Agreement/Monitoring Study is just one piece of overall strategy
- Farming operations both small and large will benefit from representation in monitoring study so that their processes are included
- Air Office plans to issue strategy covering, but not limited to:
  - Regulations and/or guidance
  - Conservation practices (best management practices, technologies)
  - Emission estimating methodologies – short term
  - Process based emission model – long term
  - Outreach
Components of AFO Strategy

- Developing guidance and/or regulations is designed to minimize the impact of animal agriculture on air quality.
- Size of farms regulated could cover small to large, depending on whether the operation is in a nonattainment area.
- Collecting as much data as possible ensures guidance and/or regulations will reflect realities of various farming operations.
Timing of guidance/and or regulations

- Emission estimating methodologies will be published within 18 months after completion of the monitoring study.
- Actual guidance and/or regulations will be a 3-to-5 year process, but will be concurrently developed with the monitoring study under the consent agreement.
For More Information

- **Consent Agreement:**
  - Bruce Fergusson, Office of Enforcement and Compliance Assurance (OECA), 202/564-1261, fergusson.bruce@epa.gov

- **Monitoring Study:**
  - Sharon Nizich, Office of Air and Radiation (OAR), 919/541-2825, nizich.sharon@epa.gov

- **Air Issues:**
  - Robin Dunkins, OAR, 919/541-5335, dunkins.robin@epa.gov
  - Bill Schrock, OAR, 919/541-5032, schrock.bill@epa.gov
  - Sharon Nizich, OAR, 919/541-2825, nizich.sharon@epa.gov