

**Memorandum of Understanding
Between
the Utah Department of Environmental Quality
and
the U.S. Environmental Protection Agency
Utah Animal Feeding Operation Air Quality Strategy**

A. PURPOSE

The purpose of this Memorandum of Understanding is to establish a collaborative working relationship between the Utah Department of Environmental Quality (UDEQ) and the U.S. Environmental Protection Agency (EPA) to develop and implement the Utah Animal Feeding Operation Air Quality Strategy (AFO/AQS). The purpose of the AFO/AQS is to gather animal feeding operation (AFO) emission information and implement programs that achieve multiple environmental benefits.

B. GOAL

Meet the requirements of state and federal environmental regulations while maintaining a strong agricultural industry in the State of Utah. Specifically to assist Utah's producers in maintaining compliance with the Clean Air Act (CAA), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Emergency Planning and Community Right-to-know Act (EPCRA).

C. STATEMENT OF MUTUAL INTERESTS AND BENEFITS

FOR EPA

- The AFO/AQS will develop additional information useful and relevant in EPA's evaluation and creation of an animal agriculture air emissions program. Specifically, the AFO/AQS will provide:
 - Data from dry, arid regions
 - Data from very rural communities
 - Data of best management practices to reduce emissions
 - Information on cooperative solutions
- It will provide a balanced approach between water and air pollution problems.
- It will provide alternative approaches for other states or areas to achieve emission reductions with the incorporation of best management practices (BMPs).
- It will provide information to help in the development of Best Available Control Technology (BACT).

FOR UTAH CITIZENS AND AGRICULTURE COMMUNITY

- Continues to build on the cooperative relationships and cooperative approach established in the water quality program.

- Reduces the stress on the agriculture community of a new demand on limited resources and new processes to comply with.
- Places a higher focus on local input and local solutions.
- Allows an evaluation on a cost/benefit basis of BMPs for reducing air emissions.
- Helps maintain a viable agriculture industry in Utah.

D. THE PARTIES AGREE AS FOLLOWS:

1. DEVELOPMENT OF AN AIR QUALITY STRATEGY (AOS)

OBJECTIVES

EPA and UDEQ will work collaboratively and as expeditiously as practicable to achieve the objectives of this MOU within the timeframes specified. These timeframes are driven primarily by the timeframes in EPA's Agreement and monitoring study since part of the purpose of the AFO/AQS is to supplement the EPA's emissions monitoring study and achieve environmental benefits from proven BMPs. To achieve each of these objectives, collaboration with additional stakeholders will be necessary. UDEQ commits to include necessary stakeholders in this process.

Specific objectives:

- Quantify air emissions from Utah's confined animal feeding operations, including emissions of ammonia, volatile organic compounds, nitrogen oxides, carbon monoxide, hydrogen sulfide, particulate matter, both PM10 and PM2.5, and hazardous air pollutants. Data collection should be consistent with EPA's Consent Agreement and Final Order, Appendix B, titled National Air Emissions Monitoring Study Protocol.
- Identify appropriate best management practices (BMPs) for different types of operations.
- Identify what BMPs should be considered as candidates for BACT.
- Identify which existing BMPs have air quality benefits and any potential negative impacts on other media.
- Identify operations that may be subject to CAA permitting and CERCLA/EPCRA requirements based on EPA's issued policy and guidance.
- Develop multi-media implementation plan that:
 - Starts with a voluntary, incentive based approach
 - Meets CAA regulatory requirements
 - Builds on the success of the Water Quality Program
 - Maximizes air, water, and waste benefits

The information Utah is collecting will be provided to EPA to supplement the emissions monitoring study and development of methodologies for estimating emissions. EPA will review the emission monitoring plan and work with Utah to ensure that it is consistent with the national emission monitoring plan. UDEQ and EPA commit to working cooperatively to address concerns as the project is developed and implemented. In

addition to EPA review, EPA will also provide technical assistance and answer questions throughout the process.

IMPLEMENTATION

	Description	Timeline
Phase I	Collaboration between EPA and UDEQ to develop final strategy outlining objectives, process, and timeframe. Revise plan as needed.	Current
	UDEQ will seek and identify funding for testing, BMP identification, and BMP implementation	Ongoing
	EPA will support DEQ in identifying federal funding sources and provide support in developing funding requests	Ongoing
Phase II	<p>UDEQ will:</p> <ul style="list-style-type: none"> • Develop an emission testing plan: <ul style="list-style-type: none"> - Use EPA's Consent Agreement and Final Order, Appendix B, titled <i>National Air Emissions Monitoring Study Protocol</i>, as the initial protocol for the Utah monitoring study and track changes in to the national study to ensure that the monitored results for the targeted pollutants are consistent and comparable with the results of the national study. - Ensure that the Utah emission testing plan is consistent with the national monitoring protocol. - Identify testing sites that cover range of geographic and other factors, including a range of BMPs that are in place for water and waste management, and BMPs anticipated to reduce air emissions. - Write test protocols which include a QA plan and statistical methods. - Augment testing methods for emissions not included in national study. - Ensure that the plan coincides with EPA's timelines under the Consent Agreement and Final Order for the two-year monitoring study. 	May – Fall 2005
	<p>EPA will:</p> <ul style="list-style-type: none"> • Review emission testing plan, including quality assurance plan, to determine whether it is consistent with EPA's national monitoring study goals. • EPA and UDEQ will work to resolve issues identified. • EPA will approve the final plan if it determines it is consistent with the national protocol and quality assurance plan. 	Fall 2005

Phase III	UDEQ will: <ul style="list-style-type: none"> • Initiate and conduct emission testing within approximately the same time as EPA's monitoring study. • Submit quarterly reports to EPA with data from the Utah study within the timeframe and format agreed upon with EPA. 	
	UDEQ, with assistance from EPA, will: <ul style="list-style-type: none"> • Provide information about emission factors for emissions not included in the national program. • Provide information to EPA to identify emission factors by species, physical parameters, BMPs, and other considerations, consistent with the national program. • Generate study results about what BMPs should be considered as candidates for BACT and applicability by type of species and site. • Analyze and report effects of air quality BMPs on water and waste and vice versa. 	During monitoring study
	UDEQ will: Complete testing and report results to EPA's Headquarters.	Consistent with the national monitoring study
	EPA will: <ul style="list-style-type: none"> • Assist other EPA offices in determining appropriate emission estimating methodologies for emissions monitored in national study and assist in issuing guidance. 	Within 18 months of completion of national monitoring study
Phase 4	UDEQ will: <ul style="list-style-type: none"> • Implement CAA as applicable at Utah sites based on EPA's national guidance on emission estimation methodologies and tools. 	Within six months after EPA issues guidance
	UDEQ, with assistance from EPA, will: <ul style="list-style-type: none"> • Assist producers in completing CERCLA or EPCRA reporting if required at Utah sites. • Assess the need to install BMPs as best available control measures and quantify resources needed for implementation. • Encourage producers to install or implement appropriate, cost effective BMPs to reduce emissions 	
	UDEQ and EPA will: <ul style="list-style-type: none"> • Track status of program progress 	Ongoing

2. ENFORCEMENT

- a. The parties recognize that UDEQ has primary responsibility for implementation of the permitting requirements under the Clean Air Act (Prevention of Significant Deterioration/Non-attainment New Source Review program) as authorized by EPA, and that EPA retains its authorities and responsibilities under the Clean Air Act;
- b. The parties recognize that EPA has primary responsibility for implementing the reporting requirements of CERCLA and EPCRA and that EPCRA contains requirements to make reports directly to the Utah State Emergency Response Commission (SERC) and Local Emergency Planning Committees (LEPCs).
- c. The parties do not, by this document, warrant or aver in any manner that participation in the Utah AFO/AQS will result in compliance with the provisions of applicable state or federal laws, regulations, or permit conditions. Any person participating in the Utah AFO/AQS is solely responsible for compliance with the Clean Air Act, CERCLA, EPCRA, any permit, and any other applicable federal law or regulation.
- d. EPA agrees that it will not target participants for inspection as a consequence of their participation in the Utah AFO/AQS.

3. PERIOD

This MOU shall be effective when signed by all parties and shall remain in effect for a period of three years from that date, subject to renewal if needed and by mutual agreement for additional periods not to exceed three years each. Termination by or withdrawal of any party to this MOU does not automatically void the MOU between the remaining parties. A terminating party may provide 30-day written notice to the other parties.

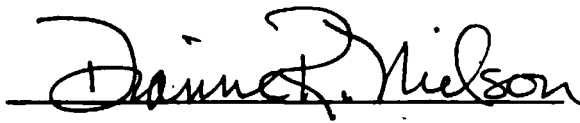
4. MODIFICATION PROVISION

This MOU may be modified by mutual consent of the officials listed below.

5. AUTHORITY AND LIMITATIONS

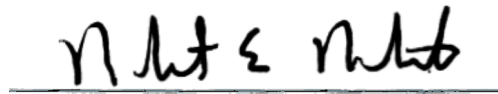
- A. Each of the signatories will conduct activities under this MOU within the scope of and to the extent authorized by their existing statutory authorities.
- B. This MOU is a MOU among the signatories, including components of the signatories' organizations, and does not create or confer any right or benefit on any other person or party, private or public. Nothing in this MOU is intended to restrict the authority of any signatory to act as provided by law or regulation.
- C. All commitments arising from this MOU are subject to each signatory's budget priorities and the availability and limitations on the use of appropriated funds for such purposes. Nothing in this MOU obligates any of the signatories to expend appropriations or to enter into any contract, assistance agreement, or interagency agreement or arrangement, or to incur other financial obligations.
- D. Nothing in this MOU impairs or otherwise affects the authority of the heads of the signatory organizations over the organizations.

6. APPROVAL



A handwritten signature in cursive script that reads "Dianne R. Nielson". The signature is written in black ink and is positioned above a horizontal line.

**Dianne R. Nielson, Ph.D.
Executive Director
Utah Department of Environmental Quality**



A handwritten signature in cursive script that reads "Robert E. Roberts". The signature is written in black ink and is positioned above a horizontal line.

**Robert E. Roberts
Regional Administrator
Environmental Protection Agency**