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"Connecting Cows, Cooperatives, Capitol Hill, and Consumers"

Summary of National Air Emissions Study Process

May 2010

During the past few years, in an effort to find a solution to the threat producers are facing from a growing number of lawsuits and regulatory actions concerning air emissions from livestock operations, NMPF has been participating in an Agricultural Air Coalition in Washington, D.C., which also consists of representatives from the egg, pork, and poultry industries.

The lawsuits, and threats of lawsuits, against livestock operations are usually a result of citizen complaints demanding regulatory action, and often invoke provisions of one or more of the following laws: the Comprehensive Environmental Response Compensation and Liability Act (CERCLA); the Emergency Planning and Community Right-to-Know Act (EPCRA); and the Clean Air Act (CAA). These laws are traditionally used for regulating industrial operations, not agricultural operations. However, these provisions have recently been applied to emissions from animal feeding operation barns, lagoons, and retention ponds.

In late 2001, the Administrator of the Environmental Protection Agency indicated that adequate scientific data did not exist to develop effective air emission regulations for livestock operations. The National Academies of Science concurred with that assessment in 2002. Nevertheless, courts have continued to rule that livestock operations are subject to the provisions of the legislation listed above.

To reduce producers' legal vulnerability until detailed air emission data could be collected, the Agricultural Air Research Coalition negotiated a Consent Agreement (or "Safe Harbor" agreement) with EPA in 2006. While the Consent Agreement preserves state and local authorities' ability to enforce local odor or nuisance laws, it protects producers who signed the agreement from lawsuits and regulatory action for past violations to the federal laws mentioned above. Such protection continues through the scientific data collection period and until specific air emission thresholds are developed by the EPA, which is expected to be in late 2011.

In exchange for this protection, affected industry groups agreed to provide the necessary funding to collect the data EPA needs to develop effective regulations.

NMPF participated in the negotiation of the agreement and the development of the dairy protocol for the air emissions study. Because of the $6 million total cost of the data collection process, a one-time waiver in the laws restricting checkoff money from being used for environmental issues was successfully obtained. Thus, funding for this project was allocated from the budget of the National Dairy Board.

Dairy producers became eligible to participate in the Consent Agreement by paying a small penalty fee based on herd size. For dairies, the maximum fee was in the range of $2,000 to $3,000; 572 dairy farmers signed up for the safe harbor agreement, and of those, five were chosen to participate in the air monitoring study.

The five dairy sites have been monitored since 2007 using state of the art scientific equipment, a process which has reached its completion. Once all of the data is tabulated, it will help EPA develop a method for estimating emissions from different types and sizes of feeding operations. Once these methods have been established, operators will be required to apply for all applicable air permits, install all needed controls, implement all required practices, and otherwise come into full compliance.

Timeline

- December 2009
  - Completion of data collection
  - Add-on research continues at many sites
- December 2009 – June 2010
  - Data analysis by Perdue University and Principle Investigators
- July 2010
  - Data transferred to EPA
  - Data available for process-based model validation
- July 2010 – October 2011
  - EPA analyzes data
  - Process-Based model validation
- November-December 2011
  - EPA publishes “look up charts”