Plain Talk

By Elwood Kirkpatrick
President

EPA asks farmers to fund study in order to levy fines against the industry

In a strange turn of events, the Environmental Protection Agency has announced an air quality agreement between the agency and farmers to fund research that will ultimately be used to draft regulations against the industry. The agreement packs a hefty "fee" for the farm operator and offers little protection under any new guidelines.

The agreement stems from regulations enacted under the Clean Air Act and the Comprehensive Environmental Response Compensation and Liability Act (CERCLA). While EPA has been enforcing the air quality emissions regulations under the Clean Air Act, they have determined new data is required to determine whether operations are in violation, the nature and extent of any violations and the best practices to control industry-wide emissions. The EPA has turned to the animal agriculture industries to fund this research.

The agreement, printed in the Federal Register in late January, asks Animal Feeding Operators (AFOs) to pay a civil penalty of between $200 and $100,000 based on size and number of farms in their operation and to contribute to a fund that will cover the cost of the two-year emissions monitoring program. In return, the operators will not be sued for past violations, provided they comply with specific conditions. Once the new 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. Qualifying AFOs have 90 days to participate in the agreement.

When EPA converts the air study data to compliance policies, all farms with emissions above the newly-established thresholds that did not get legal protections of the consent agreement will be vulnerable to EPA, state and citizens lawsuits for PAST emissions.

The pork and egg industries have entered into this agreement, using their check-off dollars to help fund the studies. The dairy industry, including National Milk Producers Federation, has not entered into the agreement, partly because dairy industry check-off funds cannot be used for this type of research. The dairy industry has also been reluctant to enter the agreement because it seems unjust to ask the industry to admit to past violations before the violations have even been established. We also believe it is wrong to ask the industry to fund the research that EPA needs to establish rules and regulations against the industry. It appears this is the first time an industry has been forced to fund the research studies needed to develop emissions guidelines.

Although NMPF and other industry organizations have not participated in the agreement, individual producers have the opportunity to enter into the agreement on their own. A complete copy of the agreement can be obtained from the U.S. Environmental Protection Agency.

While we, as an industry, may not agree with the EPA's agreement, the issue of air quality emissions is a growing concern for the industry. As EPA continues this study and drafts the regulations we will be forced to comply with them. We do strongly agree that better science is needed to formulate the emissions standards for animal agriculture. There has been some research done indicating that the emissions from dairy farms are generated from the animal through burping more so than from animal waste. It will be extremely important that clear and concise regulations be developed based on sound scientific review.

NMPF has formed a task force committee to study this issue. Ken Nobis, MMPA vice-president, is serving on this committee and will help to keep us informed of this important issue. If you have specific questions or concerns please contact me at the Novi office.

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