

# **EPA AFO Consent Agreement**

# Dates to Remember

- **January 31, 2005**
  - posted in the Federal Register
- **May 2, 2005**
  - Public comment period ends (extended from original deadline of March 2, 2005)
- **July 1, 2005**
  - Producer sign-up period ends (extended from original deadline of May 1)

# What is the Consent Agreement?

- **Covenant not to sue for past violations to Clean Air Act, CERCLA and EPCRA requirements**
  - Includes emissions that occur during a monitoring study
- **Extended to farms that apply for and receive an executed agreement**
- **Offered to the egg, broiler, turkey, dairy and swine industries**

# What Air Regulations?

- **Clean Air Act – permitting and emission threshold requirements**  
**Likely applies to only the very large operations**
  - **>250 tons per year of PM, VOC, H<sub>2</sub>S, NO<sub>x</sub> emitted in attainment areas**
  - **>100 tons per year of PM, VOC, H<sub>2</sub>S, NO<sub>x</sub> emitted in moderate non-attainment areas constructed after 7/1/79**

# What Air Regulations?

- **Clean Air Act – permitting and emission threshold requirements**  
**Likely applies to only the very large operations**
  - **> 70 tons per year of a PM in “serious” non-attainment areas**
  - **>50, 25 or 10 tons per year of VOC in emitted in “serious”, “severe” and “extreme” non-attainment areas respectively**

# What Air Regulations?

## CERCLA and EPCRA Reporting

Reporting requirement for emitting  
>100 lbs per day of either  $\text{NH}_3$  or  $\text{H}_2\text{S}$

# **If I sign up what am I agreeing to?**

- Offering your site as a monitoring site and provide all of the requested information**
- Agree to not dispute the protocol or its findings**
- Agree to comply with all regulations (state, federal, local) including implementation of mitigation strategies**
- Pay a civil penalty, without admission of guilt**
- Contribute up to \$2500 to the monitoring study**

# How much is the penalty?

## Per farm penalty schedule

<b>&lt; CAFO*</b>	<b>\$200</b>
<b>2 or more sites that are &lt;CAFO <u>or</u> CAFO – 10x CAFO*</b>	<b>\$500 per site</b>
<b>10x CAFO*</b>	<b>\$1000 per site</b>

\* CAFO = 2,500 swine over 55 lbs; 10,000 swine less than 55 lbs; 82,000 laying hens; 125,000 broilers; 55,000 turkeys; 700 mature dairy cows; 1,000 dairy heifers

# What if I have more than one 10x CAFO?

<b>Number of farms</b>	<b>Maximum penalty</b>
<b>1-10 farms</b>	<b>\$10,000</b>
<b>11- 50 farms</b>	<b>\$30,000</b>
<b>51 – 100 farms</b>	<b>\$60,000</b>
<b>101 – 150 farms</b>	<b>\$80,000</b>
<b>151 – 200 farms</b>	<b>\$90,000</b>
<b>&gt;200 farms</b>	<b>\$100,000</b>

# **I am a contract grower. How do I participate?**

- **Complete the necessary paperwork and obligations as an individual farm, or**
- **Have your farm listed in the paperwork completed by the integrator if the integrator is participating**

# **If I complete the paperwork am I automatically protected?**

- **No, EPA may choose to not sign any, some or all contracts if insufficient participation occurs**
  - **Insufficient funds**
  - **Insufficient sites**
  - **May be a single species that is not covered, for example**

# The agreement does not cover:

- **Operations that withdraw or fail to complete all of the requirements**
- **Farms that are not signed up even if similar operations are monitored and your commodity group contributes funds (pork, eggs)**
- **Criminal penalties**

# Monitoring study

- **2yr study to evaluate emissions of NH<sub>3</sub>, H<sub>2</sub>S, PM & VOC**
- **Develop tools to estimate emissions that are specie-specific**
  - **Tailored to housing and manure storage type**

# Monitoring study

- **16 sites planned that represent ‘typical’ housing and manure storage conditions within a geographic area**
- **5 swine, 4 laying hen, 3 meat birds, 4 dairy**
  - **Swine: 2 finisher (Midwest and Southeast), 3 sow sites (Midwest, Southeast, West)**
  - **Meat bird: 1 turkey (Midwest), 2 broiler (West Coast and South)**
  - **Dairy: northeast, South, Midwest, West**
  - **Laying hen: East, South, Midwest, West**

# What happens after the monitoring study?

- **EPA establishes Emissions-Estimating Methodologies,**
  - **within 180 days of study end**
- **Those covered under the agreement have 60 days to certify that they are in compliance with CAA, CERCLA and EPCRA**
- **Those not in compliance have 120 days to become in compliance**

# After the Study

- **All producers need to determine if they are in or out of compliance based on the emissions estimate tools available, regardless of whether or not they participated in the agreement**

# Your Next Step

- **Consult legal counsel to help determine your best response to the agreement**
- **Send EPA the completed forms**
- **If you receive an executed contract, the penalty and monitoring fund fee are due within 30 days**

# For More Information

- <http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/05-1536.htm>
- <http://www.epa.gov>
- ISU's Animal Agriculture and Air Quality Web Page
  - <http://www.extension.iastate.edu/airquality/>