Defending Agriculture
Legal, environmental hot button issues that impact U.S. farmers.

CAFOs Under Fire

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Five months ago EPA Administrator Lisa Jackson ordered the agency's Office of Enforcement and Compliance Assurance (OECA) to start revising EPA's water enforcement program. The Enforcement Office came out with an action plan last month entitled, aptly enough, "Clean Water Act Enforcement Action Plan."

The plan takes aim squarely at farmers and concentrated animal feeding operations (CAFOs). This means EPA wants to increase its enforcement against producers through civil and criminal court actions!

EPA claims it will pursue existing rules limiting pollution discharges from CAFOs as its first short term action. EPA will look at any CAFO which is close to what it calls "imperiled waters." EPA claims that CAFOs are becoming larger and more densely located "…placing more stress on waters in proximity to these locations."

EPA believes CAFOs result in "a large pollution load to the environment and have been cited as an environmental justice concern in some areas." Obviously the folks at EPA have not heard about those of us who use manure as fertilizer.

EPA indicates that many entities (environmental groups) have commented to it that there is a need for EPA "…to move now to reduce pollution and address violations by these operations."

States vs. federal EPA roles The second major action to be taken by EPA is very important because it will be revisiting the division of work between the states and the federal EPA. Third, the agency will "…press aggressively for immediate electronic reporting."

Those of you who operate CAFOs might want to take a look at this plan. It talks about hundreds of thousands of sources of industrial and municipal storm water runoff, mining wastes and sewage spills, and, of course, agricultural runoff. EPA claims only 16% of the nation's river and stream miles have been monitored, and this is based on state reporting in 2004. The Agency further claims 39% of the nation's lakes and reservoir acres have been monitored, as well as 29% of bay and estuarine square miles.

EPA's report says, with regard to this limited monitoring, that there is significant contamination to drinking water sources. Guess what they claim causes the contamination to surface waters? CAFOs! EPA goes on to claim this is very significant because 66% of the U.S. gets its drinking water from surface water sources (which EPA says is contaminated in part by CAFOs.)

EPA spends pages talking about procedural improvements and how it wants to revamp its Clean Water Act Permit Program. There is even a section on targeting enforcement on the most important water pollution problems. The agency claims there may be over one million facilities that it needs to review and determine whether there are inadequate permits.

It does point out, for example, that there are 19,000 concentrated animal feeding operations, 89,000 industrial storm water sources, and over 200,000 construction storm water sites. You will not find a short term action section for storm water sources or construction sites in EPA's Enforcement Action Plan.

EPA goes on to set forth very specific actions that it wishes to take, such as the critical target of having EPA and state senior management annually include water quality standards, permitting, and enforcement discussed in planning sessions. Progress must be reviewed periodically throughout the year. And, finally among important goals, EPA is going to improve accountability and transparency.

When you get to the end of the document, there is one target…CAFOs!

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