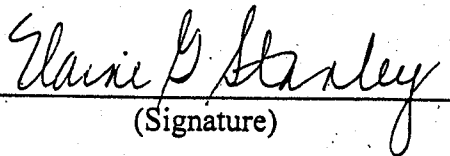
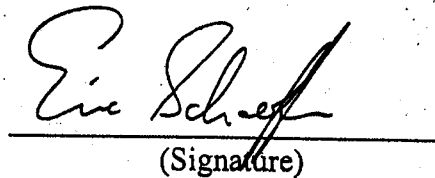


COMPLIANCE ASSURANCE IMPLEMENTATION PLAN
FOR
CONCENTRATED ANIMAL FEEDING OPERATIONS


(Signature)

Elaine G. Stanley, Director
Office of Compliance


(Signature)

Eric V. Schaeffer, Director
Office of Regulatory Enforcement

Office of Enforcement and
Compliance Assurance
U.S. Environmental Protection Agency

MAR 5 1998

(Date)

COMPLIANCE ASSURANCE IMPLEMENTATION PLAN
FOR CONCENTRATED ANIMAL FEEDING OPERATIONS

Table of Contents

SUMMARY 1

BACKGROUND 2

 Regulated Industry 2

 Environmental Impact 3

 Regulatory Requirements 3

PLAN AND IMPLEMENTATION 4

 Compliance Assistance 5

 Inspections 5

 Inspection Support 7

 Implementation -- State Specific Strategies 7

 Enforcement 8

OTHER EPA ACTIVITIES 10

 Office of Water 10

 Office of Policy, Planning, and Evaluation 10

 EPA Region VI Siting Guidance 10

 EPA Region III Poultry Initiative 11

COOPERATING AGENCIES AND ORGANIZATIONS 11

 U.S. Department of Agriculture (USDA) 11

 State Conservation Agencies and Soil and Water Conservation Districts 11

ALLOCATION OF RESPONSIBILITIES 12

 Office of Enforcement and Compliance Assurance 12

 Office Compliance 12

 Office of Regulatory Enforcement 13

 Regions 13

 States with NPDES Authorization 14

COMPLIANCE ASSURANCE IMPLEMENTATION PLAN FOR CONCENTRATED ANIMAL FEEDING OPERATIONS

SUMMARY

This Plan addresses compliance/enforcement efforts to ensure compliance by point sources called concentrated animal feeding operations (CAFOs). It is the first product and milestone in EPA's forthcoming "Strategy for Addressing Environmental and Public Health Impacts from Animal Feeding Operations".

Among five general categories of pollution sources (Municipal Point Source; Urban Runoff/Storm Sewers; Agriculture; Industrial Point Sources; and Natural Sources), nationally, agriculture (crops and animal husbandry) is ranked as the number one cause of impaired rivers, streams, and lakes, and the number three cause of impaired estuaries (*Animal Agriculture, Information on Waste Management and Water Quality Issues, U.S. General Accounting Office Report, June 1995*). Many diseases potentially can be contracted from drinking water or eating shellfish contaminated by animal wastes, or by direct contact with such wastes. Over the years since EPA issued regulations in 1976 under the Clean Water Act to address CAFOs, the livestock industry has changed. Nationally, the number of smaller livestock operations has decreased while the number of animal feeding operations (AFOs) raising large numbers of animals has increased. In addition, the concentration of animals within geographic areas has increased. Recent incidents in a number of States, including Missouri and North Carolina, involving releases of more than 30 million gallons of animal waste to surface water, have highlighted the environmental impact of CAFOs.

The Office of Enforcement and Compliance Assurance (OECA) is making implementation of the existing CAFO regulations a priority. This is a key component of the Agency's overall effort to reduce public health and environmental impacts from AFOs. A strong compliance/enforcement program will foster compliance and serve to prevent the major spills and reduce pollution from livestock production. This CAFO Compliance Assurance Implementation Plan provides for:

- An active risk-based compliance monitoring program to assure CAFO compliance with the existing National Pollutant Discharge Elimination System (NPDES) requirements. An enhanced Federal/State field presence (i.e., inspections and compliance assistance activities) will foster compliance, as will enforcement actions when violations are found. (See Neutral Administrative Inspection Scheme criteria under "Inspections".)
- Coordination with States and other Federal Agencies.

- Coordination with stakeholders to identify and provide compliance assistance information.
- Increased compliance assistance to CAFOs to provide better information, including efforts by the EPA's Agriculture Compliance Assistance Center to this segment of the agriculture sector.
- Development of State specific compliance and enforcement strategies¹ which takes into account existing State programs and State and Federal priorities using risk-based targeting. These strategies will serve to create a more consistent national program providing a "level playing field".
- Feedback from inspections which can be used for improvements in targeting compliance assistance, inspections, and permitting activities and, in those cases where the facility is not a designated CAFO but should be, assessing the need to designate an AFO as a CAFO.

In addition, the Plan highlights EPA activities that support CAFO compliance efforts.

BACKGROUND

REGULATED INDUSTRY

According to a 1995 General Accounting Office report (based on the 1992 Census of Agriculture data), there are 450,000 farms with confined (not pasture) feedlots out of 640,000 farms with livestock. These feedlots primarily include beef, hog, chicken, dairy, and turkey facilities. Approximately 6,600 confined livestock facilities have more than 1,000 animal units and would generally meet the NPDES definition of CAFO. ("Animal Units" are defined in Appendix B to 40 CFR Part 122.) These operations represent approximately 35% of the total livestock population and are generally concentrated on small land areas. An estimated 32,000 facilities have between 301-1,000 animal units; some of these facilities may be CAFOs if they meet the requirements discussed below (see Regulatory Requirements). Currently, less than 25% of CAFOs have NPDES permits listed in EPA's permit compliance system (PCS). In addition, a number of CAFOs are also permitted under "non-NPDES" State authority. Animal feeding operations are present in every State and in most rural counties. In every major livestock market category, the trend over the last ten years has been an increase in the number and market share of

¹ State specific compliance and enforcement strategies are to be developed by the NPDES authorized Agency. Where the EPA Regional office retains NPDES authority, it would develop the State specific strategy.

larger confined AFOs and a decrease in the number of smaller feedlots.² Currently the Agency has authorized 43 States³ to issue NPDES permits. In the "non-authorized" States, Territories, and Tribal lands, EPA issues the NPDES permits.

ENVIRONMENTAL IMPACT

According to EPA's 1994 National Water Quality Inventory, agriculture (including feedlots) is the leading source of water quality impairment in rivers and lakes. Nationally, agriculture affects 60% of impaired river miles and 50% of impaired lake acres. In estuaries, agriculture affects 34% of impaired acres, the third-largest source behind urban runoff and municipal point sources (actual percentages may vary by State). The 1993 Report of the EPA/State Feedlot Workgroup estimated that animal feedlots cause or contribute to 7% of impaired lake acres and 13% of impaired river and stream miles. The Office of Water's Feedlot Workgroup Report concluded that feedlots impair more river miles than combined sewer overflows, storm sewers, or industrial sources.

Livestock operations can cause environmental degradation of surface and ground waters unless their manure is collected, stored, and utilized/disposed of in an environmentally sound manner. Animal manure typically contains nutrients (i.e., nitrogen and phosphorus), pathogens, salts, and heavy metals (e.g., copper). However, animal manure properly spread and used on agricultural lands has many beneficial uses and can provide environmental benefits.

REGULATORY REQUIREMENTS

The 1972 Amendments to the Federal Water Pollution Control Act (also known as the Clean Water Act), prohibit the discharge of pollutants from a point source into waters of the United States except in compliance with conditions of an NPDES permit. Section 502 of the Act expressly includes "concentrated animal feeding operation" within the definition of a point source. Two related sets of regulations address feedlot discharges.⁴ They are:

- o NPDES program regulations (see 40 CFR section 122.23 and Part 122 Appendix B). These regulations define "animal feeding operation" or AFO and specify which

² Animal Waste Management and Water Quality Issues, GAO, June 1995, Section 2.

³ 43 States have NPDES authorization. However, one of the 43 States is not authorized to issue CAFO NPDES permits.

⁴ See "Guide Manual on NPDES Regulations for Concentrated Animal Feeding Operations" December, 1995 for a more detailed discussion of regulations applicable to CAFOs.

operations are "concentrated" animal feeding operations, or CAFOs. A feedlot is an AFO if it: stables or confines and feeds or maintains animals for a total of 45 days or more in any 12-month period, and does not sustain crops, vegetation, forage growth, or post harvest residues during the normal growing season over any portion of the lot or facility. The factors that determine whether an AFO is a CAFO vary depending on the number of animals confined in the feedlot. In general, the largest AFOs (>1,000 animal units) are defined as a CAFO based on animal units alone. An AFO in the middle tier (301-1,000 animal units) may be a CAFO if: a) it directly discharges pollutants into waters that originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the confined animals or b) pollutants are discharged through a man-made conveyance. An AFO with less than 301 animal units is not a CAFO unless the permitting authority designates it as a CAFO on a case-by-case basis based on a determination that the AFO is a significant contributor of pollution to waters of the United States. The regulations also provide that no AFO is a CAFO under these definitions if it discharges only in the event of a 25-year, 24-hour storm event.

- Feedlot Effluent Limitation Guidelines (see 40 CFR part 412). National Effluent Limitation Guidelines are technology-based effluent limitations that establish a minimum standard of performance for certain categories and classes of point sources. These standards are imposed on facilities through NPDES permits. The effluent limitation guideline for feedlots appear at 40 CFR part 412. These guidelines establish a standard of "zero discharge" to the waters of the U.S. for feedlots to which the guidelines apply. In addition, the Feedlot Guidelines allow for the discharge of an overflow from a facility that is properly constructed and maintained to contain all the process wastewater plus the rainfall from a 25-year, 24-hour storm event. For facilities not covered by the Feedlot Effluent Guidelines, requirements are developed on a case-by-case basis using the permit writer's Best Professional Judgment (BPJ) (see 40 CFR § 125.3(c)). After determining the appropriate technology based standard, the permit writer determines whether the resulting discharge has a reasonable potential to cause or contribute to an exceedence of State water quality standards. In the event that there is a reasonable potential, the permit writer develops additional water quality-based effluent limitations for incorporation in the NPDES permit as necessary to assure compliance with water quality standards.

PLAN AND IMPLEMENTATION

The purpose of this Plan is to protect and enhance water quality by ensuring compliance with the Clean Water Act and its implementing requirements. The Plan's major elements are: 1) strong State and Regional compliance/enforcement partnerships; 2) effective State specific compliance/enforcement strategies; 3) productive, coordinated compliance assistance activities; 4) strong compliance monitoring programs; 5) effective enforcement; 6) better data/information on CAFOs for targeting compliance assistance and inspections; and 7) plans for developing a

feedback mechanism to EPA, States, and other Federal Agencies.

States and Regions should strive for an effective integrated compliance assistance and enforcement program. This integrated approach will be most effective in protecting the environment. Similarly, States and Regions should include compliance incentives in CAFO compliance/enforcement programs. (See: *Incentives for Self-Policing: Discovery, Disclosure, Correction, and Prevention of Violations (Audit Policy)*, December 22, 1995; and *Policy on Compliance Incentives for Small Business (Small Business Policy)*, May 10, 1996.)

COMPLIANCE ASSISTANCE

Compliance assistance represents a tool to obtain compliance. The Agency will work with USDA, States (including the Agency/Department responsible for CAFO compliance and State Departments of Agriculture); national, State, and local trade and producer associations and organizations; soil and water conservation districts; community and environmental groups, on ways to best facilitate CAFO operator understanding of the requirements and to foster compliance. EPA's Agriculture Compliance Assistance Center, located within the Office of Compliance (OC), will develop "plain language" fact sheets and compliance assistance materials using existing Agency documents for distribution to those groups which provide information to livestock producers. Development of compliance assistance materials by the Compliance Assistance Center will be coordinated between EPA Headquarters and Regional Offices, State CAFO programs, United States Department of Agriculture (USDA), livestock producers, and environmental and community groups.

INSPECTIONS

The long-term goal of this Plan is to inspect within three years all CAFOs which: 1) are the subject of citizen or government tips and complaints (as appropriate); 2) are located in priority watersheds; 3) are located in watersheds with high AFO or CAFO density; 4) are located near surface waters; or 5) have the potential for large amounts of animal waste to reach surface water. Regions/States should inspect all other CAFOs within five years. Region/States are to prioritize inspections using the criteria in the Neutral Administrative Inspection Scheme (detailed below). Inspections should be conducted at both 1) permitted facilities to determine compliance with the permit; and 2) at unpermitted facilities to determine if there is a discharge occurring (including a follow-up inspection during wet weather if a discharge is likely to occur). Inspections should be targeted based on the following criteria and appropriate follow-up to tips and complaints. Inspections which uncover non-compliance must be expeditiously resolved to ensure that non-complying facilities are quickly brought back into compliance.

Neutral Administrative Inspection Scheme

- location in a priority watershed⁵;
- number of animal units;
- history of compliance - violation history;
- information from previous inspection, e.g., inspection indicates that discharge may occur during a rainfall, although there is no discharge at the time of the inspection and there is no permit. (Inspections indicating this would be the basis for targeting an inspection immediately during or following wet weather.);
- age of facility (older facilities as well as newly operational; initial inspections should be conducted during the first year of operation);
- potential amount of pollution loading;
- type of livestock (some balance in inspections should be achieved);
- permit status;
- type of confinement (open lot/barn/stall);
- geography (both from risk standpoint and efficient use of inspection resources - proximity of facilities meeting targeting criteria);
- storage (type and capacity);
- change in operational status (ownership, expansion, etc.);
- identity of receiving waters; and
- environmental justice⁶.

EPA recognizes that many water quality problems can result from the cumulative effects of small AFOs. The CAFO regulation requires an on-site inspection prior to formal designation as a CAFO for facilities equal to or smaller than three hundred (300) animal units (as well as medium sized facilities which do not meet the direct discharge or means of conveyance requirements). In targeting inspections for AFOs for designation as CAFOs, the NPDES authorized agency should consider operations which: 1) have been the subject of citizen or government tips and complaints; 2) are located in priority watersheds; 3) are located in watersheds with high AFO or CAFO density; 4) are located near surface waters; and 5) have the potential for large amounts of animal waste to reach surface water. As indicated in the forthcoming draft AFO Strategy, EPA intends to prepare guidance to Regions and States to facilitate designating AFOs as CAFOs.

⁵ State can use existing sources of information such as: Section 303 (d) lists of waters not meeting standards after application of technology based control; Section 319(a) lists of non-point source impaired priority watersheds; Section 305 (b) water quality assessments, Environmental Quality Incentive Program (EQIP) priority areas; and/or other priority rankings in the State.

⁶ Environmental Justice refers to the effort to ensure that no population segment, based on race or low income is burdened with disproportionately high levels of pollution.

INSPECTION SUPPORT

To support inspections, the OC will develop a CAFO module to be added to the existing NPDES Inspection Guidance Manual. The OC will also conduct training for inspectors (program managers/personnel in Regions/States, depending on interest). In addition, OC plans to develop compliance assistance packages for feedlot operators.

EPA's OC will also explore ways to provide feedback from inspectors to program personnel/permit writers, etc. OC will establish a workgroup to recommend how and what feedback will best improve the inspection program. Another area of OC support includes the development of targeting information.

EPA will study different options for developing and maintaining a CAFO inventory. It will consider the existing PCS System and its adaptability to an inventory management system as well as coordination of PCS with State inventory systems. At this time, States which use other tracking methods or systems to maintain such an inventory, should ensure coordination with PCS. One of the State's and/or Region's first activities should be to update existing PCS information relating to NPDES permitted facilities by ensuring that the information PCS contains is complete and accurate. In addition, beginning in FY 1998, Regions and States should track inspections at both permitted and non-permitted facilities.

IMPLEMENTATION -- STATE SPECIFIC COMPLIANCE AND ENFORCEMENT STRATEGIES

Regions should work closely with States in the development and implementation of State-specific CAFO compliance and enforcement strategies ensuring involvement by stakeholders (to the extent possible). In those States where the Region implements the NPDES CAFO program, it should develop the strategy.

There is a wide range of existing State and Regional CAFO programs. These differences result from historical and programmatic factors and include variations in State livestock industries as well as environmental factors. In addition, many States have authorities to address CAFO environmental problems that are broader in scope than the Federal Clean Water Act program. As a consequence, EPA anticipates that strategies will vary based upon these differences. At a minimum State and Regional strategies should address:

- priority watersheds;
- targeting (using the criteria in the Neutral Administrative Inspection Scheme);
- enforcement authority;
- use of compliance assistance including sources of funding (such as EQIP, Section 319, and State funding programs) and technical assistance;
- compliance monitoring;

- compliance incentives;
- enforcement;
- handling of tips/complaints (including how they will be logged in and tracked);
- coordination with other Federal, State and local agencies;
- inspection schedules and the timing of inspections; and
- the role of local governments (if delegated to this level).

Final compliance and enforcement strategies should be completed and submitted to the EPA Regional Offices by October 1, 1998. To meet this date and allow adequate time to make and address comments, a preliminary draft State plan should be submitted and agreed upon by May 1, 1998. This preliminary plan should address, at a minimum, inspection commitments for 1998, the targeting scheme, and a schedule. In order to ensure the April and October dates are met, Regions should initiate discussions with States on the development of State strategies by February 1998. States and Regions should continue their field activities (compliance assistance, inspections, enforcement) during strategy development.

ENFORCEMENT

Enforcement provides incentives for operations to comply. The actual enforcement response serves as a deterrent to the specific facility, and to the regulated community as a whole, since it indicates that the Agency expects all facilities to be in compliance. Enforcement encourages a level playing field among the States. EPA's *Enforcement Management System (EMS) for the NPDES Program (1989)* provides the basic process to collect, evaluate, and translate CAFO compliance information into timely and appropriate enforcement action.

The OECA's Office of Regulatory Enforcement (ORE) plans:

- to develop and implement a Strategic Enforcement Initiative;
- to develop a Model Administrative Order; and
- to develop an Inspector's "Elements of Proof" to support enforcement.

In FY 1998, ORE will coordinate the development and implementation of a Strategic Enforcement Initiative. The development of a Strategic Enforcement Initiative involves a cooperative effort between Headquarters and Regions to develop Federal administrative and judicial cases. These cases would be taken against those CAFOs which: 1) violate NPDES permit conditions, 2) are discharging without a permit, 3) cause a significant harm to the environment, or 4) are recalcitrant in achieving timely compliance. Further, any facility that presents an imminent and substantial endangerment to human health or welfare is subject to the emergency provisions of the CWA. These provisions allow EPA to seek an injunction requiring a facility to remedy the imminent harm. Moreover, the Agency would evaluate the potential for applying the emergency provisions in other environmental statutes on a case-by-case basis (e.g.

§ 1431 of the Safe Drinking Water Act⁷ (SDWA)).

The goals of the Strategic Enforcement Initiative are to achieve compliance, to obtain publicity in the mainstream and trade press, and to signal to animal feedlot producers the Agency's resolve to address compliance issues. As part of the relief sought in any action brought under this Initiative, the Agency would seek enforceable control measures such as appropriate BMPs to ensure that animal wastes do not enter waters of the United States or contaminate sources of drinking water. Enforcement cases under the Initiative could be simultaneously filed or, as an alternative, actions taken over a specified period of time could be simultaneously publicized.

In addition to the Initiative, in FY 98 the ORE will develop a Model Administrative Order and add a module on "Elements of Proof for the existing Inspector's Guidance Manual. The model order will facilitate Regional and State enforcement after a finding that a CAFO is discharging without a permit or is violating its existing NPDES permit. The "Elements of Proof" portion of the Manual will include a discussion of what information and documentation is necessary to support a Federal CAFO enforcement action. "Elements" include documenting the number, kind, and timing of animal units present on a site; whether the facility meets the regulatory definition of CAFO; whether a discharge exists (using pictures, video, drawings, references, etc.); the lack of retention structures; and the location of the facility to the nearest water body.

States and Regions should consider the use of Supplemental Environmental Projects (SEPs) in settlements with CAFOs and related industries (meat packing, slaughter houses, food processing) as an active part of their strategies where appropriate. The use of SEPs may be effective where industries are highly integrated (poultry, swine). In addition, States and Regions are encouraged to provide compliance incentives in their programs. Two recent EPA policies may assist States in adopting similar approaches. The first, the Audit Policy, encourages regulated facilities to voluntarily discover, disclose, and correct violations of environmental requirements. The Policy states the Agency's intention not to seek most or all of the gravity-based penalties for certain types of violations which are voluntarily disclosed and corrected, if certain other conditions are met. Under the second, the Small Business Policy, EPA will refrain from initiating an enforcement action seeking civil penalties, or will mitigate civil penalties, whenever a small business makes a good faith effort to comply with environmental requirements. Good faith is indicated by the facility agreeing to receive compliance assistance or by promptly disclosing the findings of a voluntarily conducted environmental audit subject to certain conditions.

⁷ § 1431 of the SDWA allows EPA to address imminent and substantial endangerment to the health of persons from a contaminant that is present or is likely to enter a public water supply or an underground source of drinking water.

OTHER EPA ACTIVITIES

This Compliance Assurance Implementation Plan for Concentrated Animal Feeding Operations is one part of an effort by EPA to address environmental issues caused by animal wastes. EPA is developing an overall "AFO Strategy" designed to protect aquatic ecosystems, drinking water sources, and air quality; minimize odors; and promote environmentally sound and beneficial uses of animal wastes. The Agency's "AFO Strategy" addresses two themes: 1) improving existing program implementation and 2) pursuing opportunities to maximize environmental and human health benefits by reducing impacts from AFOs through a mix of voluntary tools and enhanced regulatory controls. This Compliance Assurance Implementation Plan for CAFOs is incorporated by reference into the Agency's "AFO Strategy" and implementation of the CAFO Plan is a component of the Agency's "AFO Strategy" implementation. In addition, EPA and the United States Department of Agriculture (USDA) will coordinate implementation of Vice President Gore's Clean Water Action Plan expected to be released on February 16, 1998.

OFFICE OF WATER

EPA's Office of Water (OW) is undertaking efforts to more fully implement the existing NPDES Program by focusing resources toward point sources in those watersheds where environmental impacts on human health and ecological resources are the greatest, and working with States and Regions to improve the permitting of CAFOs and other priority facilities. OW is also moving forward to revise the existing NPDES regulations and Feedlot Effluent Limitation Guidelines. A description of these and other efforts is contained in EPA's forthcoming draft "AFO Strategy".

OFFICE OF POLICY, PLANNING, AND EVALUATION (OPPE)

OPPE will expand efforts with fertilizer and livestock industries to develop incentives for marketing excess manure. In October 1996, EPA, the Tennessee Valley Authority, the Fertilizer Institute and the Potash and Phosphate Institute sponsored a conference to explore various options. Further discussions with these groups have led to an effort to develop pilot projects in several regions of the U.S. so that nutrients are utilized efficiently, no matter what their source.

EPA REGION VI SITING GUIDANCE

Addressing the proper location of concentrated livestock facilities can be a difficult issue. Land use conflicts abound and ground water vulnerability may not be adequately considered by local and State regulatory officials. There is limited Federal authority to address environmental impacts of siting decisions (with exceptions such as the authority to designate Sole Source Aquifers under the Safe Drinking Water Act and authority under the National Environmental

Policy Act (NEPA) to review impacts of major Federal activities). EPA Regions can offer guidance and assistance to States and localities in their efforts to deal with problems associated with improper siting. Siting problems can include serious conflicts and complaints involving the proximity of feeding operations to residences, groundwater contamination, and insufficient land areas suitable for land application of livestock waste. To help minimize the adverse effects, EPA Region 6 has developed a screening tool (*Cumulative Risk Index Analysis (CRIA)*) under the National Environmental Policy Act (NEPA). The tool seeks to optimize the siting of CAFOs by evaluating the environmental vulnerabilities of the watershed. Copies of the CRIA will be made available through EPA's Agriculture Compliance Assistance Center to interested persons.

EPA REGION III POULTRY INITIATIVE

EPA has designated Region III (Philadelphia) as the national lead for many key poultry related AFO activities under the forthcoming "AFO Strategy". In this capacity, Region III will participate in any national poultry stakeholder dialogue. The goal of a poultry stakeholder dialogue would be to utilize the innovation of the industry and all stakeholders to more effectively identify opportunities and solutions to reduce nutrient loadings.

COOPERATING AGENCIES AND ORGANIZATIONS

U.S. DEPARTMENT OF AGRICULTURE (USDA)

While not involved in implementing EPA regulatory programs for livestock feeding operations, USDA plays an important role in providing technical resources and information on agriculture waste management. Technical assistance is given to facility operators based on Natural Resources Conservation Service (NRCS) standards for design and construction of manure management systems. The NRCS also provides assistance in developing nutrient management plans. Financial assistance for some livestock feeding operations (generally those facilities with less than 1,000 AU's) may be available through the EQIP program. Information developed by USDA may be an important part of evaluating program success. EPA Regions and States should coordinate with USDA as appropriate.

STATE CONSERVATION AGENCIES AND SOIL AND WATER CONSERVATION DISTRICTS (SWCD)

Responsibilities of State conservation agencies and Soil and Water Conservation Districts vary from State to State. They may administer regulatory, as well as voluntary, incentive-based programs. Many States have their own cost share programs that are implemented through State personnel located in the field or through local Soil and Water Conservation District (SWCD) personnel. These programs can be used, particularly with smaller producers, to address agricultural waste management problems through installation of Best Management Practices

(BMPs). This will complement EPA's CAFO Compliance Assurance Implementation Plan in that many of the producers assisted through State cost share programs will be in compliance and thus not subject to compliance enforcement actions. In addition, many of the States have databases for targeting their efforts that can be utilized by EPA for compliance assistance. State conservation agencies provide operational reviews to assist and ensure proper operation of animal waste management systems, as well as provide education and outreach programs to producers through Land Grant Universities and others. The SWCDs, in most cases, have field personnel that work directly with producers to address environmental concerns. In many cases, SWCD personnel work alongside State conservation agency personnel, who may be located in the same office, to carry out State, and in some cases, local cost share programs. In addition, the SWCD governing boards and their personnel provide education and outreach programs to producers and the communities where they reside, fostering better communication and understanding between agricultural and non-agricultural residents.

ALLOCATION OF RESPONSIBILITIES

This section addresses the intended roles of OECA, EPA Regions, and States in carrying out this Implementation Plan. A more complete description of AFO/CAFO related efforts is provided in EPA's forthcoming "AFO Strategy". The Office of Enforcement and Compliance Assurance (OECA), in addition to issuing national compliance/enforcement strategies and enforcement response policies, provides compliance assistance materials to those entities that currently provide information to the regulated community. Regions and States administering the NPDES program have primary responsibility for targeting, inspections, compliance assistance, enforcement, and permitting.

OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE

OFFICE OF COMPLIANCE

- Co-sponsor National CAFO Meeting (Kansas City, Missouri, May 1997).
- Issue Memorandum of Agreement Guidance for FY 98 and 99 making CAFO compliance a priority (June 1997).
- Develop and issue a final Compliance Assurance Implementation Plan for CAFOs (February 1998).
- Develop compliance assistance materials through the Agriculture Compliance Assistance Center as needed (ongoing).
- Develop CAFO Inspection Guidance module (Draft May, 1998).

- Develop CAFO inspector training materials (May, 1998).
- CAFO inspector training (FY 98).
- Develop CAFO inventory options (FY 98)
- Monitor Regional/State implementation (ongoing).
- Develop targeting information (Ongoing beginning in FY 98).
- Establish Workgroup on feedback from inspections (FY 98).

OFFICE OF REGULATORY ENFORCEMENT

- Develop and coordinate a CAFO Strategic Enforcement Initiative (FY 98).
- Develop a Model Administrative Order (FY 98).
- Develop a module "Elements of Proof" for the existing NPDES Inspection Guidance Manual (FY 98).

REGIONS

- Coordinate with States and stakeholders within the Region (ongoing).
- Ensure that PCS is up-to-date and accurate covering all permitted CAFOs. (FY 98).
- Effective State CAFO programs should include an appropriate level of permit issuance, compliance assistance, and enforcement actions. EPA Regions should be prepared to take appropriate enforcement actions when the State NPDES authority does not take adequate actions consistent with their compliance/enforcement strategies (ongoing).
- In States where EPA Regions directly administer the NPDES program, the Region should implement an appropriate compliance and enforcement program consistent with this Plan.
- Initiate discussions with States concerning State Compliance/Enforcement Strategies (March 1998). Assist States in development of Compliance/Enforcement Strategies. Provide comments on proposed State strategies within four weeks of submittal. Assist States in implementing their Compliance/Enforcement Strategies (ongoing).
- Provide input to the Agriculture Compliance Assistance Center by identifying compliance materials needed and available existing materials (ongoing).

- Recognize and encourage all effective State activities including those under State programs that may be broader in scope than the NPDES program. These activities may cover issues such as operator certification and training, construction permits and design standards, review of plans and specifications, construction management, protection of ground water, and operational requirements for manure management systems (ongoing).

STATES WITH NPDES AUTHORIZATION

- Implement an appropriate compliance and enforcement program based on State specific compliance and enforcement strategies which address the criteria in this Plan (ongoing).
- Develop a State Compliance/Enforcement Strategy which addresses targeting (using the criteria in the NAIS), enforcement authority, compliance assistance (including sources of funding and technical assistance), compliance monitoring, and handling of tips/complaints (Preliminary Strategy, May 1, 1998; Final Strategy, October 1, 1998).
- Inspect facilities to determine if violations have occurred and take enforcement action as appropriate (ongoing).
- Develop an inventory of all CAFOs and input the data into the PCS or ensure coordination with PCS (FY 98/99).
- Designate AFOs as CAFOs as appropriate (ongoing).
- Utilize to the extent possible EQIP, Section 319, and other funding sources to prevent violations (ongoing).
- Track compliance inspections at both permitted and non-permitted facilities (ongoing).

Note:

This document represents EPA's compliance and enforcement implementation plan for addressing environmental and public health impacts associated with CAFOs. It is not a substitute for EPA's existing regulations and does not impose any binding requirements on EPA, States, or the regulated community. EPA's strategies and plans for addressing CAFOs may evolve and change as its understanding of the issues increases through further work and receipt of additional information.