

Corporate Environmental Behavior and the Effectiveness of Government Interventions

**SECOND DAY
INTRODUCTORY REMARKS BY**

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Introductory Remarks by Jim Gulliford
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at the
Corporate Environmental Behavior and the
Effectiveness of Government Interventions
Washington, D.C.

April 27, 2004

Good morning. Thank you, Matt, for the kind introduction. It's indeed a pleasure to be here with you today. I hope that when I've finished, you will take with you – a message of change – change in the way we look at new environmental regulation or rule roll-out.

I want to cover a couple of topics -

- First, I would like to talk a little about Administrator Mike Leavitt's vision of collaboration and a "Better Way";

- And then, I'll go over how Region 7 managed the roll-out of the proposed and final CAFO rule. This is important as we identify opportunities to change our behaviors toward the environment.

When Administrator Mike Leavitt was confirmed, the message he brought was one of collaboration . . . meeting in the middle. This message talks of a “Better Way” by:

- facilitating collaboration;
- harnessing technology; and
- creating market incentives.

We need to assure compliance in order to enforce the law. Let me explain what that means. In his 500 Day Plan, Administrator Leavitt makes the point that we need to make compliance our enforcement objective. In other words, we will use the intent of the

law to support our outreach and inspections to achieve compliance with rules and regulations.

When it came to new regulations and rules in the past, there wasn't much collaboration. Regulations were rolled out, with little or no outreach, training, or communication, and the regulated community was required to comply with the regulation. I know we can do a better job. It's just going to take some effort to change the process or behavior.

We're here to talk about ways to change environmental behaviors. The biggest environmental improvement comes from behavior change, not from command and control enforcement. We don't really have all the command and control tools to enforce in the ag sector, for example non-point source pollution.

Now, let's talk about the process Region 7 used in rolling out the proposed and final CAFO rules.

When the CAFO rule was introduced, the Secretary of Agriculture and former EPA Administrator Christie Todd Whitman made a joint announcement. I believe it is critical to build meaningful relationships among EPA, federal, state and local agencies, and other partners to realize environmental gains.

The rule covers some 11,000 large animal feeding operations nationally, 4,300 of which are in Region 7. The rule, as it stands today, will cut the annual nutrient runoff from CAFOs by about 61 million pounds. We expect it will also cut sediment loads by 1.1 billion pounds. That's quite an environmental benefit.

I'm very proud of the way the roll-out was handled in my

Region. Since agriculture is the largest industry in Region 7, the new CAFO rule affected an incredibly large part of our regulated community. We knew that if we handled the roll-out the way new regulations had been managed in the past, we were going to have a huge problem. So, we decided to be proactive.

Early on, we put together a strategy that involved outreach, holding workshops, training events, and meetings with the ag community. We heard what was said – worked through the problems – and developed a stronger partnership with the ag community.

In the summer of 2002, we listened to the ag community about their concerns. Early in December, we met with industry associations informally on a state-by-state basis, just before the rule came out.

On December 19, 2002, right after the rule was signed, we met with regulated producer associations, USDA, and the state environmental agencies. The revised rule for Concentrated Animal Feeding Operations became effective on April 14, 2003.

We held the meeting in Kansas City, Kansas, and introduced our partners to the details of the Rule. At the meeting, 150 individual state attendees met to determine how to work together to get the word out and to help the regulated community best understand the new regulation.

We knew we needed their networks to help us get the message out, and they knew that having our expertise regarding the Rule would help with clarifying the Rule for their organization members.

We were involved in these outreach activities in order to

remove ambiguity about who is covered, and ensure the effective management of manure at the largest CAFOs. We also reminded everyone that as we transitioned to the new rule, we still had an existing rule that we would continue to enforce!

We held approximately 40 outreach meetings throughout Region 7 states.

As EPA, state regulatory agencies, and CAFO operators began the transition into implementing this revised Rule, there was a great deal of outreach and support from EPA and our partners, including USDA, and many farm service organizations. Let me give you a couple of specifics.

In Missouri, we participated in roughly ten meetings related to the revised CAFO regulations. The first was held in early January

2003, to build consensus on an agenda designed to educate producers on the requirements of the CAFO regulations.

Participants included representatives from the Missouri Departments of Agriculture and Natural Resources, producer groups, NRCS, the University of Missouri, and the Missouri Farm Bureau. Outreach meetings were held in six locations across the state. Over 500 producers attended the meetings.

In Nebraska, Region 7 participated in six outreach meetings designed to educate producers on the requirements of the CAFO regulations. Participants included representatives from the Nebraska Department of Environmental Quality (NDEQ), NRCS, the University of Nebraska at Lincoln, and several stakeholder groups.

Similar to Missouri, these outreach meetings were at locations

across the state and reached more than 500 producers. You get the pattern.

We also joined the state in a meeting with the Sierra Club to provide an overview of the revised CAFO regulations and Nebraska's plans for permit program revisions.

We sponsored and participated in CAFO Regulations Implementation Workshop in Nebraska City, Nebraska. The focus of this event was to:

- Share current scientific knowledge and resources relevant to implementation of the CAFO regulations;
- to facilitate regional discussions for implementation of CAFO regulations and consistency between state regulatory agencies; and

- to promote communication and possible collaborative activities among technical resource community and regulatory agencies – discussing opportunities for innovation and new technologies for compliance.

Let me switch gears for a minute to discuss Alternative Technologies. When the proposed regulations, which were based on the use of total containment and subsequent land application, appeared to be inflexible regarding the type of technology that could be used, Region 7 opened the lines of communication regarding alternative technologies.

The Rule gives limited opportunity for the use of alternative technology. If it can be shown that another type of system can achieve equivalent results, then the permitting authority may use this alternative system as the basis for writing the NPDES permit. This

is not a relaxing of the standard but, on a site-by-site basis, using an alternative system that will achieve the same or better environmental results.

In September 2003, a meeting was held in Des Moines to discuss how alternative technologies could meet the new CAFO Rule requirements. Several groups are working with Iowa State University and other land grant university experts to demonstrate and monitor proposed alternative technologies, and develop models that would support the use of those technologies to satisfy the requirements.

One example of alternative technologies is the application of anaerobic digester systems – These systems:

- cover lagoons
- recover methane for producer energy needs or sale to local

energy grids.

The benefits to the environment include reduced greenhouse gases, odor reduction, possible hydrogen sulfide reduction, and reduced opportunities for the release of pathogens to surface and ground water. (Hosted St. Louis meeting – technical experts ~ ISO.

As you can see, the Region was very involved in rolling out the revised CAFO rule. We took the responsibility to make sure that the regulated community knew what was in the CAFO rule, and what was going to be required to be in compliance with the Rule.

John Silberman talked yesterday about the keys to making the Agency's "Audit Policy" successful – the obligation of leadership, proactive outreach, communication, and availability.

We didn't stop at the signing of the rule. We continue to hold training opportunities, workshops, and meetings as needed. In fact, next month we will be meeting with the state of Iowa regarding their re-written regulations. We need to do more of this kind of collaborative work.

However, all this does not change EPA and the states' responsibilities as enforcers. We know that a key element of compliance is good enforcement. We haven't missed an opportunity to remind operators that we are continuing to enforce our current rule, and we will enforce the new rule as well.

Timely and appropriate enforcement actions result in compliance, not only at a specific facility where the action is taken, but they also act as a deterrent to others in the regulated community. The regulated community wants to stay in compliance

with the Rule, thereby avoiding an enforcement action against them.

By its nature, the livestock and poultry industry operates on a pretty narrow margin. Compliance, and avoiding penalties, is an important objective for producers.

All of our efforts resulted in less confusion about the revised CAFO Rule. We also saw better implementation of the Rule. And as a whole, the environment will benefit from the realization of cleaner water. As Administrator Leavitt says – compliance is where we find environmental benefits.

We are taking important steps in Kansas City, but we at EPA know we cannot address these issues effectively on our own. Developing new and enhanced partnerships is becoming increasingly important.

In retrospect, Region 7 gained the benefit of many partnerships being built through this effort. We were able to leverage our outreach resources more efficiently. And, the producers received timely and accurate information regarding the proposed and final CAFO rule requirements.

We intend to take advantage of this as we work on additional ag initiatives – offroad diesel ext; then others.

I hope as I close that you have a better sense of Region 7's priority of developing a better approach to regulation roll-out, fostering mutually beneficial working relationships with the ag sector, and of our sincere desire to produce significant environmental improvements.

Thanks for sharing a portion of your agenda with me–

continued success for the rest of the day.