

**2003 INNOVATIONS AWARDS PROGRAM
Application Form**

1. Program Name

Utah Strategy to Address Water Pollution from Animal Feeding Operations

2. Administering Agency

Utah Department of Environmental Quality, Division of Water Quality

3. Contact Person (Name & Title)

Don A. Ostler, Director

4. Address

Utah Department of Environmental Quality
Division of Water Quality
P.O. Box 144870
Salt Lake City, UT 84114-4870

5. Telephone Number

(801) 538-6146

6. FAX Number

(801) 538-6016

7. E-mail Address

dostler@utah.gov

8. Please provide a two-sentence description of the program.

This program is a partnership between the Utah Department of Environmental Quality and the state's agricultural community, including livestock producer groups, agricultural advocacy organizations, and state and federal agricultural assistance agencies. Voluntary, incentive-based programs address water quality problems emerging from animal feeding operations (AFOs).

9. How long has this program been operational (month and year)?

The program has been operational since June 1999.

10. Why was the program created? (What problem[s] or issue[s] was it designed to address?)

Animal feeding operations, including facilities such as dairies that confine and feed livestock and poultry, have been identified as creating serious pollution problems around the country. Many states have reported manure spills that have killed millions of fish, polluted surface and ground water with nutrients and bacteria, and endangered human health. In response to the problem of pollution from AFOs, the EPA and USDA issued the "Unified National Strategy for Animal Feeding Operations" in

March 1999. The document suggests measures to decrease pollution from AFOs. However, the main focus of the document is to make allowance for the issuance of federal water quality permits to concentrated animal feeding operations (CAFOs), those with the equivalent of 1,000 or more beef cattle or smaller operations with water pollution problems.

The Utah Department of Environmental Quality, Division of Water Quality (DWQ) anticipated the release of the Unified National Strategy. Rather than taking a command-and-control approach to the situation, DWQ formed the Utah CAFO Committee to develop a state strategy to deal with the pollution problem. This unique committee brought representatives from all of the agricultural advocacy and assistance organizations to the same table with regulatory officials with the common goal of improving water quality while retaining the viability of Utah's agricultural industry. The Utah Strategy to Address Water Pollution from Animal Feeding Operations ("Utah Strategy") is the result of efforts to address the pollution problems at animal feeding operations in a cooperative manner.

11. Describe the specific activities and operations of the program in chronological order.

The Utah CAFO Committee began meeting in 1998 and published the Utah Strategy in June 1999. The Utah CAFO Committee decided that the water pollution potential of every animal feeding operation in the state needed to be assessed. Rather than have DWQ do the assessments, which would have taken years and led to confrontational situations with the farmers, the committee decided to partner with the state and share the resources of the group to conduct the assessments. By taking responsibility for the water quality problems caused by agriculture, the committee has been able to move quickly to identify problems at animal feeding operations. The first assessments were conducted in November of 2000 and are continuing at a rapid pace, with over 2,500 operations assessed to date.

The Utah Strategy also created a new classification for animal feeding operations. "Potential CAFOs" are animal feeding operations that, while feeding less than the equivalent of 1,000 beef cattle, have water pollution problems. Strict interpretation of federal regulations would dictate that these operations receive CAFO water quality permits; However, the committee chose not to issue permits to this group initially, since it would have added hundreds of permits to be administered by DWQ and would disqualify the operations from several grant and low-interest loan programs. Instead, potential CAFOs are allowed up to a five-year window to correct their pollution problems and avoid the necessity of obtaining a permit. Approximately 240 potential CAFOs have been identified to date, and several operations have already been removed from the category due to their rapid correction of water quality problems.

According to the guidelines of the Utah Strategy, CAFOs discovered during the assessment process with more than 1,000 animals have been required to apply for a federal water quality permit administered in Utah by DWQ. The General Permit for

CAFOs became effective on October 1, 2000. Out of the 47 facilities initially identified as CAFOs by the assessment process, 45 of them (96%) cooperated with DWQ and applied for permit coverage prior to October 1, 2001. The remaining two facilities submitted their applications by the end of November 2001. Several more CAFOs have been identified or constructed since the initial permitting phase, and all have been quick to apply for coverage under the General Permit. The willingness of CAFO owners to comply with regulations is a sign of the quality of the program, as well as of the relationship between DWQ and the agricultural community.

12. Why is the program a new and creative approach or method?

The Utah Strategy features several unique approaches to addressing pollution from animal feeding operations. By creating a “potential CAFO” category for smaller operations with water pollution problems, the Utah Strategy allows these operations to voluntarily correct their water pollution problems within 5 years with minimal regulatory oversight. This allows the potential CAFOs to utilize technical assistance from DWQ’s agricultural partners and to access funding sources not available to permitted operations.

The Utah Strategy will also result in cleaner water than would be achieved under EPA guidelines. Federal regulations focus on operations with the equivalent of 300 or more beef cattle, while Utah is working on operations of all sizes. Thus, greater water quality improvements are expected from the program by pooling the resources of the partnership, requiring minimal regulatory oversight and intervention.

The strategy also overcomes the traditional mistrust of regulatory officials by establishing an open line of communication between the regulatory and agricultural communities. The resulting cultivation of trust is evident in a fully endorsed strategy that gives power to conservation district members and producer group representatives to conduct assessments. This reduces the burden on the regulatory agency by allowing the agricultural partners a significant role in a joint effort to reduce water pollution from animal feeding operations. The partners have control of the assessment process and the tracking of potential CAFOs to assure that problems are being corrected. In addition, their involvement prevents the need for DWQ to take the role of agricultural expert, instead relying on the knowledge and technical abilities of the agricultural partners.

13. What were the program’s start-up costs? (Provide detail about specific purchases for this program, staffing needs and other financial expenditures, as well as existing materials, technology and staff already in place.)

An existing DWQ staff member was assigned oversight of the Utah Strategy, using 10% of his time at a cost of approximately \$5,440. In the early stages of the program, DWQ and its partners hired several new individuals. One individual was hired by DWQ to administer the CAFO permitting program at a cost of approximately \$45,000. In addition, the Utah Farm Bureau Federation and Utah Association of Conservation Districts spent \$142,000 and \$170,000, respectively, to each hire one

new staff member and partially fund other staff to initiate the assessment program and work with AFO owners.

14. What are the program's annual operational costs?

DWQ spends approximately \$72,000 per year on staff to oversee the Utah Strategy and to administer the CAFO permitting program. In addition, the Utah Farm Bureau Federation and Utah Association of Conservation Districts continue to spend approximately \$142,000 and \$170,000 per year, respectively.

15. How is the program funded?

The program is funded through a combination of federal and state monies. The sources include 60% cost-share funds from the Clean Water Act Section 319 program; water quality block grants given to DWQ by EPA; state general funds; cost-share funds from the Environmental Quality Incentives Program (EQIP); and other funds provided by local conservation districts. Water quality problems at potential CAFOs are corrected using a variety of funding sources, including EQIP, Clean Water Act Section 319, Agricultural Resource Development Loans (a state agricultural loan program), and matching funds provided by individual producers.

16. Did this program require the passage of legislation, executive order or regulations? If YES, please indicate the citation number.

No.

17. What equipment, technology and software are used to operate and administer this program?

Only basic equipment and software have been used to operate the Utah Strategy, including the utilization of desktop PCs and standard software such as Microsoft Word, PowerPoint, and Excel.

18. To the best of your knowledge, did this program originate in your state? If YES, please indicate the innovator's name, present address and telephone number.

The Utah CAFO Committee developed this program in its entirety. While it is difficult to single out one individual as the innovator, the person who initiated this program is Don Ostler, who is also the contact for this Innovations application.

19. Are you aware of similar programs in other states? If YES, which ones and how does this program differ?

We are not aware of any similar programs in other states.

20. Has the program been fully implemented? If NO, what actions remain to be taken?

While a great deal of progress has been made over the last two years, there are still tasks to be undertaken. The statewide inventory of animal feeding operations still needs to be completed. The target date for completion is the end of April 2003, and it is anticipated that practically all of the inventories should be completed by that date.

While the inventory is nearly complete, the work to correct water quality problems at potential CAFOs has merely begun and will continue until the last of the potential CAFOs has been remedied, which will be in 2008 at the latest. However, once the inventory is complete, the focus of the agricultural partners can be shifted to correcting problems, which should move the work along rapidly.

For larger operations (CAFOs), permits have been issued to all of the facilities. Several still need to develop Comprehensive Nutrient Management Plans as part of their permit requirements. The last of the plans should be complete by October 2004.

21. Briefly evaluate (pro and con) the program's effectiveness in addressing the defined problem[s] or issue[s]. Provide tangible examples.

The best indicator of the effectiveness of the Utah Strategy is the number of animal feeding operations that have voluntarily participated in on-site assessments. To date, over 2,500 animal feeding operations have been assessed, with approximately 240 of those identified as potential CAFOs with a need to correct unacceptable conditions. Only 14 owners have refused to have their operations assessed, and those operations are being moved through a graduated referral system.

Another indication of the program's effectiveness are invitations from the regional and national EPA offices to present Utah's strategy to other states and to high-level EPA administrators. The presentations have led to inquiries from other states about the strategy, including a two-day visit by representatives from Arizona.

While the Utah Strategy has been very effective in allowing operations to voluntarily correct problems at their operations, it has proven to be occasionally deficient in its ability to respond to citizen complaints to the satisfaction of the complainants. Recently, a complaint was received about an operation that was discharging dairy waste into an area slough. When DWQ determined that the operation was a potential CAFO, and an on-site visit indicated that progress was being made by the operation to correct the problem, the complainant was informed that the Utah Strategy allowed the operation to continue to work to correct problems without any punitive actions by DWQ. This failed to satisfy the complainant, who wanted the dairy shut down immediately. While other states would possibly comply with such a request, DWQ feels that maintaining the integrity of Utah's agricultural industry is also important, and is allowing the dairy farmer to fix his water quality issues within the 5-year window. However, while DWQ is committed to allow earnest correction of problems at potential CAFOs, it still maintains the right and authority to initiate enforcement actions when necessary, thus preserving regulatory integrity.

22. How has the program grown and/or changed since its inception?

Experience with the Utah Strategy has demonstrated a need for focused attention on assistance for potential CAFOs. As a result, DWQ's agricultural partners have recently applied for and received funding to assemble a "Potential CAFO Team" which will travel the state, targeting operations that need encouragement and assistance to correct their problems.

The Utah CAFO Committee also continues to meet quarterly to discuss current program needs, including implementation of the new federal CAFO rule and ensuring that technical assistance is available to animal feeding operations.

23. What limitations or obstacles might other states expect to encounter if they attempt to adopt this program?

The Division of Water Quality believes that Utah's program is extremely flexible and can be replicated by any state. The Environmental Protection Agency has also promoted the program for use in other states. There is nothing about the structure of the program that is specific to the state, though the details of the program in other states will depend on the decisions made by their respective committees.

Several difficulties may hinder the adoption of the program in other states. If regulatory programs are already in place for animal feeding operations, it could be difficult to enact a program that allows producers to correct their water pollution problems voluntarily without deregulating the operations. An adversarial relationship between the regulatory agency and key agricultural organizations could also prevent the development and implementation of a similar program in another state. The development of trust between the groups is key, and it could be extremely difficult to overcome past grudges and prejudices to enact a cooperative strategy.

The time frame required to enact such a strategy also provides an obstacle for other states that may want to use Utah's model to address water pollution from animal feeding operations. EPA is pressuring many states to begin permitting CAFOs immediately, which may not give the states enough time to build trust with agricultural organizations and work out the many details involved in developing a cooperative strategy.

Add space as appropriate to this form. When complete, return to:

CSG Innovations Awards 2003

The Council of State Governments
2760 Research Park Drive, P.O. Box 11910
Lexington, KY 40578-1910
innovations@csg.org

DEADLINE: All original applications must be postmarked or e-mailed by April 11, 2003, to be considered for an Innovations Award for 2003.