

ENFORCEMENT RESPONSE GUIDE
Animal Feeding Operation Requirements
 July 1, 2012

VIOLATION	CIRCUMSTANCES	RESPONSES	RESPONSIBLE PERSON	TIME CONTROL GOAL *
** Violations Applying To All Regulated Animal Feeding Operations** **<u>(Including AFO, Permitted CAFO, Unpermitted CAFOs, and HCSFOs)</u>**				
Failure To Prepare or Maintain Required Records and/or Documents	Periodic failure to prepare, maintain records, and/or incomplete/inadequate records.	Send Compliance Advisory specifying requirement to prepare, maintain, and/or improve records.	Ag Program staff Field Inspector	30 Days
	Systematic failure to prepare or maintain required records <u>and</u> high potential of environmental impact(s) as a result of violation, and/or documented significant environmental impact(s).	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<i>Enforcement Referral:</i> Ag Program staff Field Inspector <i>Action Development:</i> Enforcement Officer Ag Program staff	90 Days
Failure to Adequately Respond to Division Compliance Advisory	Inadequate or failure to respond to initial Compliance Advisory.	Send certified Compliance Advisory identifying inadequate or failure to respond and specify time frame to address non-compliance issue.	Ag Program staff Field Inspector	30 Days
	Inadequate response to <u>second</u> Compliance Advisory.	Send certified Compliance Advisory identifying inadequate response and specify time frame to address non-compliance issue.	Ag Program staff Field Inspector	30 Days
	Failure to respond to second Compliance Advisory.	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<i>Enforcement Referral:</i> Ag Program staff Field Inspector <i>Action Development:</i> Enforcement Officer Ag Program staff	90 Days

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Other Administrative Violations	Single or few miscellaneous violations, low/moderate potential for environmental impact(s) as a result of violation, <u>and</u> no documented significant environmental impact(s).	Send Compliance Advisory specifying time frame to address non-compliance issue.	Ag Program staff Field Inspector	30 days
	Chronic miscellaneous violations, high potential for environmental impact(s) as a result of violation, <u>and/or</u> documented significant environmental impact(s).	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<i>Enforcement Referral:</i> Ag Program staff Field Inspector <i>Action Development:</i> Enforcement Officer Ag Program staff	90 Days
Documented Pattern of Systematic Violations of HCSFO/CAFO/AFO Regulations and/or Permit Requirements	Poor or repeated compliance history for Colorado operation(s).	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<i>Enforcement Referral:</i> Ag Program staff Field Inspector <i>Action Development:</i> Enforcement Officer Ag Program staff	90 Days
Unauthorized Discharge of Pollutants to State Waters <i>(For permitted CAFOs –waters of the state must also be waters of the U.S. For Medium AFOs- follow designation process first to determine appropriate enforcement response)</i>	Documented discharge of pollutants, low/moderate potential for environmental impacts as a result of violations, <u>and</u> no documented significant environmental impacts.	Send Compliance Advisory specifying time frame to submit complete permit application or discontinue discharge.	Ag Program staff Field Inspector	30 Days
	Documented discharge of pollutants, high potential for environmental impacts as a result of violations, <u>and/or</u> documented significant environmental impacts.	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<i>Enforcement Referral:</i> Ag Program staff Field Inspector <i>Action Development:</i> Enforcement Officer Ag Program staff	90 Days

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<p>Unauthorized Discharge of Pollutants to Waters of the U.S.</p> <p><i>(For Small AFO's- follow designation process first to determine appropriate enforcement response)</i></p>	<p>Documented discharge of pollutants to waters of the U.S.</p>	<p>Issue an administrative enforcement action or initiate process for judicial enforcement action.</p> <p>Specify time frame to apply for a permit. <i>*note, Medium AFO's that discharge to waters of the U.S. are immediately defined as a Medium CAFO and must apply for a permit. Such facilities are not afforded the designation process.</i></p>	<p><i>Enforcement Referral:</i> Ag Program staff Field Inspector</p> <p><i>Action Development:</i> Enforcement Officer Ag Program staff</p>	<p>90 Days</p>
	<p>Low/moderate potential for environmental impact(s) as a result of violation, <u>and</u> no documented significant environmental impact(s).</p>	<p>Send Compliance Advisory specifying action to abate and/or prevent future events.</p>	<p>Ag Program staff Field Inspector</p>	<p>30 days</p>
<p>Failure to Report Spills or Pollutant Discharges</p>	<p>Chronic spills, high potential for environmental impact(s) as a result of violation, <u>and/or</u> documented significant environmental impact(s).</p>	<p>Issue an administrative enforcement action or initiate process for judicial enforcement action.</p>	<p><i>Enforcement Referral:</i> Ag Program staff Field Inspector</p> <p><i>Action Development:</i> Enforcement Officer Ag Program staff</p>	<p>90 Days</p>

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** Violations Applying Specifically To <u>AFO and Unpermitted CAFO</u> Facilities**				
Failure to Install, Maintain or Properly Select Best Management Practices	Most BMPs at site implemented, maintained, and/or properly selected, low/moderate potential for environmental impact(s) as a result of violation, <u>and</u> no documented significant environmental impact(s).	Send Compliance Advisory specifying time frame to implement, maintain, or properly select BMPs.	Ag Program staff Field Inspector	30 days
	Several or most BMPs at site not implemented, maintained, and/or properly selected, low/moderate potential for environmental impact(s) as a result of violation, <u>and</u> no documented significant environmental impact(s).	Send Compliance Advisory specifying time frame to implement, maintain, or properly select BMPs.	Ag Program staff Field Inspector	30 days
	Systematic failure to implement, maintain, or properly select BMPs, high potential for environmental impact(s) as a result of violation, <u>and/or</u> documented significant environmental impact(s) from site.	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<u>Enforcement Referral:</u> Ag Program staff Field Inspector <u>Action Development:</u> Enforcement Officer Ag Program staff	90 Days

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** Violations Applying Specifically To <u>Unpermitted CAFO</u> Facilities **				
Exceedance of the Agronomic Rate of Application as Determined By Facility Management Plan (FMP)	Single or periodic exceedance, low/moderate potential for environmental impact(s) as a result of violation, <u>and</u> no documented significant environmental impact(s).	Send Compliance Advisory specifying requirement and time frame to discontinue over-application of nutrients and comply with Plan.	Ag Program staff Field Inspector	30 Days
	Systematic exceedances, high potential of environmental impact(s) as a result of violation, <u>and/or</u> documented significant environmental impact(s).	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<i>Enforcement Referral:</i> Ag Program staff Field Inspector <i>Action Development:</i> Enforcement Officer Ag Program staff	90 Days
Failure to Properly Design, Install, or Maintain Impoundments and/or Conveyance Structures	Deficiencies in design, installation, or maintenance, low/moderate potential for environmental impact(s) as a result of violation, <u>and</u> no documented significant environmental impact(s).	Send Compliance Advisory specifying time frame to correct deficiencies.	Ag Program staff Field Inspector	30 days
	Failure to install, properly design, and/or maintain impoundments and/or conveyance structures, high potential for environmental impact(s) as a result of violation, <u>and/or</u> documented significant environmental impact(s).	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<i>Enforcement Referral:</i> Ag Program staff Field Inspector <i>Action Development:</i> Enforcement Officer Ag Program staff	90 Days

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VIOLATION	CIRCUMSTANCES	RESPONSES	RESPONSIBLE PERSON	TIME CONTROL GOAL *
Failure to Implement an Approved Plan or Submit a Revised Plan for Division Approval <i>(FMP, Standard Operating Procedures (SOPs)...etc.)</i>	Plan deficiencies, low/moderate potential for environmental impact(s) as a result of violation, <u>and</u> no documented significant environmental impact(s).	Send Compliance Advisory specifying time frame to submit revised Plan or implement provisions of existing Plan.	Ag Program staff Field Inspector	30 Days
	Failure to submit a revised Plan, low/ moderate potential for environmental impact(s) as a result of violation, <u>and</u> no documented significant environmental impact(s).	Send Compliance Advisory specifying time frame to submit revised Plan or implement provisions of existing Plan.	Ag Program staff Field Inspector	30 Days
	Failure to submit a Plan or major Plan deficiencies along with chronic failures to implement Plan(s) in field, high potential for environmental impact(s) as a result of violation, <u>and/or</u> documented significant environmental impact(s) from site.	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<i>Enforcement Referral:</i> Ag Program staff Field Inspector <i>Action Development:</i> Enforcement Officer Ag Program staff	90 Days
Failure to Properly Close an Impoundment	Closure completed, but failure to report to Division, past due, <u>and/or</u> minor deficiencies in closure process.	Send Compliance Advisory identifying reporting failure and/or closure deficiencies specifying time frame to address non-compliance issue.	Ag Program staff Field Inspector	30 Days
	Failure to close impoundment, high potential for environmental impact(s) as a result of violation, <u>and/or</u> documented significant environmental impact(s).	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<i>Enforcement Referral:</i> Ag Program staff Field Inspector <i>Action Development:</i> Enforcement Officer Ag Program staff	90 Days

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** Violations Applying Specifically To <u>Permitted CAFO</u> Facilities **				
Exceedance of the Agronomic Rate of Application as Determined by Nutrient Management Plan (NMP)	Single or periodic, low/moderate potential for environmental impact(s) as a result of violation, <u>and</u> no documented significant environmental impact(s).	Send Compliance Advisory specifying requirement and time frame to discontinue over-application of nutrients and comply with Plan.	Ag Program staff Field Inspector	30 Days
	Systematic exceedances, and/or high potential of environmental impact(s) as a result of violation, <u>and/or</u> documented significant environmental impact(s).	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<i>Enforcement Referral:</i> Ag Program staff Field Inspector <i>Action Development:</i> Enforcement Officer Ag Program staff	90 Days
Failure to Implement an Approved Plan or Submit a Revised Plan for Division Approval <i>(Nutrient Management Plan (NMP)...etc.)</i>	Plan deficiencies, low/moderate potential for environmental impact(s) as a result of violation, <u>and</u> no documented significant environmental impact(s).	Send Compliance Advisory specifying time frame to submit revised Plan or implement provisions of existing Plan.	Ag Program staff Field Inspector	30 Days
	Failure to submit a revised Plan, low/moderate potential for environmental impact(s) as a result of violation, <u>and</u> no documented significant environmental impact(s).	Send Compliance Advisory specifying time frame to submit revised Plan or implement provisions of existing Plan.	Ag Program staff Field Inspector	30 Days
	Failure to submit a Plan or major Plan deficiencies along with chronic failures to implement Plan(s) in field, high potential for environmental impact(s) as a result of violation, <u>and/or</u> documented significant environmental impact(s) from site.	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<i>Enforcement Referral:</i> Ag Program staff Field Inspector <i>Action Development:</i> Enforcement Officer Ag Program staff	90 Days

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Failure to Submit Required Report(s)	Failure to submit Annual CAFO Report.	Send Compliance Advisory specifying time frame to submit Report.	<u>Ag Program Staff</u>	30 Days
Failure to Properly Design, Install, or Maintain Impoundments and/or Conveyance Structures	Deficiencies in design, installation, or maintenance, low/moderate potential for environmental impact(s) as a result of violation, <u>and</u> no documented significant environmental impact(s).	Send Compliance Advisory specifying time frame to correct deficiencies.	Ag Program staff Field Inspector	30 days
	Failure to properly design, install, and/or maintain impoundments and/or conveyance structures, high potential for environmental impact(s) as a result of violation, <u>and/or</u> documented significant environmental impact(s).	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<u>Enforcement Referral:</u> Ag Program staff Field Inspector <u>Action Development:</u> Enforcement Officer Ag Program staff	90 Days
Failure to Properly Close an Impoundment	Closure completed, but failure to report to Division, past due, <u>and/or</u> minor deficiencies in closure process.	Send Compliance Advisory identifying reporting failure and/or closure deficiencies specifying time frame to address non-compliance issue.	Ag Program staff Field Inspector	30 Days
	Failure to close impoundment, high potential for environmental impact(s) as a result of violation, <u>and/or</u> documented significant environmental impact(s).	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<u>Enforcement Referral:</u> Ag Program staff Field Inspector <u>Action Development:</u> Enforcement Officer Ag Program staff	90 Days

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** Violations Applying To <u>HCSFO</u> Facilities Only **				
Failure to Submit Required Report(s)	Failure to submit Semi-Annual, Annual, or Quarterly Monitoring Report, or other required report.	Send Compliance Advisory specifying time frame to submit Report.	<u>Ag Program Staff</u>	30 Days
Exceedance of the Agronomic Rate of Application as Determined by Swine Waste Management Plan (SWMP)	Single, periodic or systemic exceedance, regardless of potential for environmental impact(s) or documented significant environmental impact(s).	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<i>Enforcement Referral:</i> Ag Program staff Field Inspector <i>Action Development:</i> Enforcement Officer Ag Program staff	90 Days
Failure to Implement an Approved Plan or Submit a Revised Plan for Division Approval <i>(Swine Waste Management Plan, Monitoring Plan, Operations Plan, Financial Assurance Plan)...etc.)</i>	Plan deficiencies, low/moderate potential for environmental impact(s) as a result of violation, <u>and</u> no documented significant environmental impact(s).	Send Compliance Advisory specifying time frame to submit revised Plan or implement provisions of existing Plan.	Ag Program staff Field Inspector	30 Days
	Failure to submit a revised Plan, low/moderate potential for environmental impact(s) as a result of violation, <u>and</u> no documented significant environmental impact(s).	Send Compliance Advisory specifying time frame to submit revised Plan or implement provisions of existing Plan.	Ag Program staff Field Inspector	30 Days
	Failure to submit a Plan and/or Plan with major deficiencies along with chronic failures to implement Plan(s) in field, high potential for environmental impact(s) as a result of violation, <u>and/or</u> documented significant environmental impact(s) from site.	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<i>Enforcement Referral:</i> Ag Program staff Field Inspector <i>Action Development:</i> Enforcement Officer Ag Program staff	90 Days

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Operating Without A Permit	Failure to amend permit to include additional facilities, increasing number of permitted swine, changing animal waste treatment, storage or disposal practices from those permitted, changing the nature and volume of animal waste generated at the HCSFO, or disposing of animal waste at any location other than those identified in the permit.	Send Compliance Advisory specifying time frame to submit a complete permit amendment request.	Ag Program staff Field Inspector	30 Days
	Failure to obtain a permit authorizing HCSFO operations.	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<i>Enforcement Referral:</i> Ag Program staff Field Inspector <i>Action Development:</i> Enforcement Officer Ag Program staff	90 Days
Failure to Properly Close and/or Remediate Facility	Closure completed, but failure to report to Division, past due, <u>and/or</u> minor deficiencies in closure process, <u>and/or</u> low/moderate potential for environmental impact(s) as a result of violation, <u>and</u> no documented significant environmental impact(s).	Send Compliance Advisory identifying reporting failure and/or closure deficiencies specifying time frame to address non-compliance issue.	Ag Program staff Field Inspector	30 Days
	Overall failure to close or remediate facility, high potential for environmental impact(s) as a result of violation, <u>and/or</u> documented significant environmental impact(s).	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<i>Enforcement Referral:</i> Ag Program staff Field Inspector <i>Action Development:</i> Enforcement Officer Ag Program staff	90 Days
Failure to Report Spills or Pollutant Discharges	Low/moderate potential for environmental impact(s) as a result of violation, <u>and</u> no documented significant environmental impact(s).	Send Compliance Advisory specifying action to abate and/or prevent future events.	Ag Program staff Field Inspector	30 days

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	Chronic spills, high potential for environmental impact(s) as a result of violation, <u>and/or</u> documented significant environmental impact(s).	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<u>Enforcement Referral:</u> Ag Program staff Field Inspector <u>Action Development:</u> Enforcement Officer Ag Program staff	90 Days
Failure to Properly Design, Install, or Maintain Impoundments and/or Conveyance Structures	Deficiencies in design, installation, or maintenance, low/moderate potential for environmental impact(s) as a result of violation, <u>and</u> no documented significant environmental impact(s).	Send Compliance Advisory specifying time frame to correct deficiencies.	Ag Program staff Field Inspector	30 days
	Failure to properly design, install, and/or maintain impoundments and/or conveyance structures, high potential for environmental impact(s) as a result of violation, <u>and/or</u> documented significant environmental impact(s).	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<u>Enforcement Referral:</u> Ag Program staff Field Inspector <u>Action Development:</u> Enforcement Officer Ag Program staff	90 Days
Failure to Submit Intervention Protocol	Initial or periodic failure, low/moderate potential for environmental impact(s) as a result of violation, <u>and</u> no documented significant environmental impact(s).	Send Compliance Advisory specifying requirement to submit an intervention protocol and associated time frame.	Ag Program staff Field Inspector	30 Days

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	Chronic failures, high potential for environmental impact(s) as a result of violation, <u>and/or</u> documented significant environmental impact(s).	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<u>Enforcement Referral:</u> Ag Program staff Field Inspector <u>Action Development:</u> Enforcement Officer Ag Program staff	90 Days
Failure to Implement Approved Intervention Protocol	Minor deficiencies, low/moderate potential for environmental impact(s) as a result of violation, <u>and</u> no documented significant environmental impact(s).	Send Compliance Advisory specifying time frame to implement approved protocol.	Ag Program staff Field Inspector	30 Days
	Major deficiencies, high potential for environmental impact(s) as a result of violation, <u>and/or</u> documented significant environmental impact(s).	Issue an administrative enforcement action or initiate process for judicial enforcement action.	<u>Enforcement Referral:</u> Ag Program staff Field Inspector <u>Action Development:</u> Enforcement Officer Ag Program staff	90 Days
<i>Note: In the case of the identification of multiple violations in which one or more warrants a formal enforcement response, generally all identified violations, regardless of significance, should be included in the developed enforcement action.</i>				

* Number of calendar days from the date of the inspection; the date of receipt of supporting information (sample results, etc.); or, from the response date identified in the Compliance Advisory; or date of enforcement referral, as appropriate.

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GLOSSARY OF ACRONYMS

AFO	Animal Feeding Operation
Ag Program	Environmental Agriculture Program
BMP	Best Management Practice
CAFO	Concentrated Animal Feeding Operation
CDPHE	Colorado Department of Public Health and Environment
EO	Enforcement Officer
FAP	Financial Assurance Plan
Field Inspector	Inspector representing CDPHE (e.g. Ag Program staff, local health department staff, Water Quality Control Division staff, Enforcement staff, etc.)
FMP	Facility Management Plan
HCSFO	Housed Commercial Swine Feeding Operation
QMR	Quarterly Monitoring Report
MP	Monitoring Plan
NMP	Nutrient Management Plan
SOP	Standard Operating Procedure
SWMP	Swine Waste Management Plan