

Concentrated Animal Feeding Facility Advisory Committee
February 11, 2010
Ohio Department of Agriculture
ODA's Bromfield Building

****Approved by CAFF Advisory Committee****

Members/Alternates Present

Doug Alderman, Ohio Water Environment Association
Cathy Alexander, Ohio EPA
Tony Anderson, County Commissioners Association of Ohio
Karen Chapman, Statewide Environmental Advocacy Organization
Collin Coy, Water Management Association of Ohio
Chuck Divelbliss, Public Representative
Trent Dougherty, Statewide Environmental Advocacy Association
Kevin Elder, ODA LEPP
Glen Feichtner, Ohio Cattlemen's Association
David Hanselman, ODNR
Tom Hertzfeld, Ohio Poultry Association
Carl Link, Ohio Pork Producers
Jason Menchhofer, Ohio Environmental Health Association

Members Not Present

Gerald Boynton, Public Representative
Dr. Maurice Eastridge, The Ohio State University
Rebecca Gray, Ohio Department of Development
Roger High, Ohio Sheep Improvement Association
Andy Miedema, Ohio Dairy Producers Association
Dr. Michael Mull, Ohio Veterinary Medical Association
Tom Price, Public Representative
George Slater, Public Representative

ODA LEPP Staff

Andy Ety, Livestock Environmental Engineer.
Kristina Erlewine, Legal
Kelly Harvey, Community Relations Liaison
Gary Zwolinski, Livestock Environmental Engineer

ODA Administrative Staff

Robert Boggs, Director
Michael Bailey, Bioproducts and Renewable Energy Program

Audience

Eric Dresbach, Midwest Professional Nutrient Applicator Association
Rod Dunn, Water Management Association of Ohio (new CAFF Advisory Committee alternate)
Dick Lorenz, Water Management Association of Ohio (new CAFF Advisory Committee member)
Keith Stimpert, Farm Bureau Federation

Collin Coy called the meeting to order and asked if there were any additions or corrections to the August 27, 2009, minutes. There were no changes. Carl Link made the motion to accept the minutes. The motion was seconded and minutes were approved.

Collin and Tom Price, who are both leaving the CAFF Advisory Committee, were recognized by Director Boggs for their dedication and service. Collin has represented the Water Management Association of Ohio on the committee since its inception in 2001 and has served as chairman since 2004. He is retiring from his position as Watershed Superintendent for the Akron City Water Supply. Tom has participated as a public representative on the Advisory Committee since 2003 and is leaving to focus on other commitments. Their dedication, wisdom and service are greatly appreciated and they will be missed.

Mike Bailey reported on House Bill 414, which creates the Ohio Livestock Care Standards Board and establishes the terms of office for the 13 members. Testimony on the House Bill is next week. The Governor will make appointments to the Livestock Board after the legislation is passed. The framework for the legislation will be established by the board, the members of whom will serve a three-year term. The Chapter 119 process will be used to approve the standards and develop rules that are recommended by the board. The board will be complaint driven and not require premises registration, but rules will apply to all farm species, including horses.

Glen Feichtner noted that complaints received by the Ohio Livestock Care Standards Board should require the name, address and phone number of the farm/individual of the complainant. Glen asked if a member of the CAFF Advisory Committee could serve on the Livestock Board as an ex-officio member. Trent Dougherty stated that, in his opinion, it is not prudent for the lines of the two committees to be blurred. Issues reviewed by the CAFF Advisory Committee should stay with the committee, especially water quality issues. Kevin will look into coordination and keeping the CAFF Committee informed of the new Livestock Care Board's progress and informing the advisory committee of any potential conflicting rules.

Kevin updated the committee on the Phosphorous Task Force consisting of 25 members from various groups, including state universities (Heidelberg, OSU, Toledo, Case Western Reserve) and government agencies (Ohio EPA, ODNR, ODA, USGS, USRPA, USDA, Soil and Water Conservation Districts, NE Ohio Regional Sewer Districts, and Ohio Lake Erie office). The task force is currently finalizing its report.

In the mid 90's Lake Erie was doing well, after the problems of the 60's and 70's. The targeted goals of phosphorus reduction of 11,000 metric tons had been met, but by the late 90's algal blooms returned and by 2003 these algal blooms were causing increasing concerns. Dissolved phosphorus was never monitored, only total phosphorus. Algae blooms are now occurring on the western shore and the cause is not completely understood. The problematic question is, to reduce the dissolved phosphorus, how do you measure the contributors? The task force report will address issues regarding Lake Erie and all potential sources, such as waste water treatment plants, septic systems, lawn care and chemicals and agriculture. Agriculture is the largest land use in and around the lake area. For instance, nutrient use in agriculture is 41,400 tons of phosphorus per year of which 27% is from manure, 7% of the nutrients found are from bio-solids and 66% is from chemical fertilizers. The task force recommendations for research and practices to be implemented are for the counties contributing to Lake Erie. The task force is putting together grant applications to apply for Lake Erie project funding. Much of the research needed and recommended practices would also apply to the nutrient reduction efforts being proposed for the Ohio and Mississippi Rivers and Gulf hypoxia.

Kevin discussed the committee terms that will begin on March 14, 2010. A list of the by-laws was provided. The membership to the committee is statutorily set. The committee works to build a consensus on issues. A change to the bylaws requires a two-thirds vote.

Kevin requested nominations for chairman and vice-chairman. Carl Link nominated Jason Menchhofer to fill the position of chairman and Chuck Divilbliss nominated Kevin to remain the vice-chairman. The motion to vote for the approval of Jason and Kevin was made by Glen Feichtner, which was seconded and approved.

Kevin updated the committee regarding letters that were mailed to farm owners and operators whose applications were incomplete; asking them to complete or withdraw their application. Gina Dairy requested their application be kept active, as they had changed consultants and would be moving forward. Vander Burg Dairy also requested their application remain active. Ohio Feedlot withdrew their application, as that facility is being sold. The Orleton Farm property was sold and Midwest Farms, LLC, the new owners, were informed they would need to submit a new application if they intend to proceed. The requested copies of the old application were supplied in an earlier public records request.

The question of should the requirement to keep an application active be a rule or does the committee want to establish a policy and keep it as a policy was presented to the committee. Various discussions occurred regarding what would cause an application to become "stalled." Jason Menchhofer said there should be a policy regarding the manner in which applications would be handled once a set amount of time had lapsed. The policy may be made into a rule at the next rule making session. The motion to establish the policy was seconded and approved.

Kevin reviewed the total number of permits, the total number completed in 2009, and those completed thus far in 2010.

Kristine Erlewine updated the committee on legal issues. ERAC affirmed the issuance of the Meerland Dairy permit in Greene County. This case has been pending since 2006. The 2,100 cow dairy has not been built and the permit expires on May 31, 2010. The main issue in the case was the aquifer siting criteria. The township zoning ordinance had previously overturned by the court.

There are two permits - Dekker Jersey Dairy in Wood County and Peter Dairy in Henry County - still at ERAC. Peters Dairy goes to trial in April. The issues in the Peters case involve the local notification, as well as the Manure Management Plan. Other issues in the case have been dismissed.

Enforcement issues:

- MVH Custom Work and Van Ham Dairy were found guilty of an unclassified misdemeanor for pollution of waters of the State. MVH Custom Work contracts with the dairy for its land application needs. Over the course of three days in the summer of 2008, MH Custom Work pumped storm water from a storm water collection pond at Van Ham Dairy into a nearby field. Approximately 15,000 to 20,000 gallons of pooled storm water ran off the farm field, entered a roadside and farm drainage ditch, which are considered waters of the State.
- Chesterfield Dairy is among 12 farms in bankruptcy or receivership. Three of the farms are not permitted facilities, however, nine are permitted. An additional six dairies are not starting or expanding due to the lack of funds or other financial means. A concern of LEPP regarding the

facilities in this situation was that the ponds were emptied before winter, regardless if they had the funds to comply. All of the farms and their banks or receivers have been cooperating and properly applying manure to maintain adequate storage.

- A five-day trial was held in Darke County for Stateline Agri, a swine facility that is in violation of their permit and had discharge issues. At question is did Stateline control the manure application and is the farm responsible for the discharge that occurred, or was it a D&U situation and the farm is not responsible? Currently the matter is in post-hearing status. A decision by the judge is expected after the final briefs are filed in March. The decision may have broader implication for permitted farms.
- Comp Dairy has been referred to the Attorney General. The facility has been operating without a permit and had over 700 dairy cattle. They lowered their numbers below 700 and are completing an application for a PTI/PTO.

The total number of complaints is decreasing. Of the complaints LEPP received, only 45% are substantiated.

The NPDES transfer was completed in the House and Senate in December. The U.S. EPA said they did not need any additional information and are writing the responsiveness summary from the public hearing. It is moving up the chain of command at EPA. Two items that need to be accomplished are the Attorney General's statement and the crosswalk with EPA and state rules.

The LEPP fee increases were unable to get through the state legislature. LEPP is hoping to collect penalties from Stateline and Ohio Fresh Egg, as they will be the only additions to the rotary fund.

ODA had 436 employees last year and 43 took early retirement. The department is at an employee level of approximately 380 from a high of 800. The fees for the Division of Weights and Measures were not approved and they now have only two employees. LEPP budget is down and it, too, has fewer employees. ODA offered another early retirement buyout this year and five employees thus far have accepted the offer.

Certified Livestock Manager training is being combined with the Conservation Tillage Conference, which will be held at Ohio Northern University in Ada on Feb. 25-26, 2010.

The CAFF Advisory Committee meeting dates for the remainder of the year are:

June 10, 2010

August 26, 2010

November 18, 2010

Meeting adjourned at 11:45 a.m.