

**Ohio Department of Agriculture
Concentrated Animal Feeding Facility Advisory Committee
Bromfield Building**

January 27, 2011

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

Members/Alternates Present

Andy Miedema, Ohio Dairy Producers Association
Cathy Alexander, Ohio EPA
Glen Feichtner, Ohio Cattleman's Association
Joe Logan, Ohio Environmental Council
Karen Chapman, Statewide Environmental Advocacy Organization
Kevin Elder, ODA LEPP
Kirk Hines, Ohio Department of Natural Resources
Maurice Eastridge, The Ohio State University
Michael Mull, DVM, Ohio Veterinary Medical Association
Pat Hord, Ohio Pork Producers
Rod Dunn, Water Management Association of Ohio
Russell Ludwig, Public Representative
Tony Anderson, County Commissioners Association of Ohio

Members Not Present

Brad Biggs, Ohio Department of Development
Bruce Macleod, Ohio Water Environment Association
Chuck Divelbiss, Public Representative
George Slater, Public Representative
Gerald Boynton, Public Representative
Jason Menchhofer, Ohio Environmental Health Association
Roger High, Ohio Sheep Improvement Association
Tim Weaver, Ohio Poultry Association

ODA LEPP Staff

Andy Ety, engineer
Bill Schwaderer, public information officer
Kelly Harvey, community relations liaison
Kristina Tonn, attorney
Marsha Perge, administrative assistant
Patrick Bailey, engineer

ODA Staff

Bill Hopper, legal
Fred Shimp, assistant director
Jim Zehringer, director
Mike Bailey, executive director, Ohio Livestock Care Standards Board

Guests

Dave White, Ohio Farm Bureau Federation

Ron Wyss, Hardin County Commissioner

Director Zehringer thanked the committee for their volunteer service in advising his office on the policies and rules governing large-scale livestock and poultry farms in the state. He noted that Ohio's permitted farms are the best run and a model for the entire country. Having once co-owned a permitted farm, the director said he knows what it is like to be inspected twice a year, and what it is like to be accountable for the farm's operations. The environmental record of the 177 permitted farms is a tribute to the outstanding work of the CAFF Advisory Committee and the LEPP staff, Zehringer said.

Chairman Jason Menchhofer was unable to attend the meeting, so Co-Chairman Kevin Elder conducted the meeting and called it to order. He asked if there were any additions to the agenda and none were made. He then asked if there were any additions or corrections to the Aug. 26, 2010, minutes. There were no changes or corrections to the meeting minutes. A motion to approve was made by Glen Feichter and seconded by Russell Ludwig.

Mike Bailey updated the committee on the Ohio Livestock Care Standards Board (OLCSB). Handouts detailing the actions of the board were passed to each committee member. The OLCSB has conducted 16 board meetings, seven listening sessions across the state, two tours of livestock facilities, and 49 sub-committee meetings. Rule packages 901:12-1 and 901:12-2 have been adopted by the board and filed with JCARR. Rule packages 901:12-3 and 901:12-4 are in the e-notification phase and are under public review at this time. Any public comments on these two packages of rules would be helpful and appreciated. Filing of the specific species will be done as one rule package. The director set March 1 as the deadline for the subcommittees to have their work completed. Nearly all of the committees have reported their findings to the board and appear on track to meet the deadline. The board hopes to have its work in its final stages by late spring.

Kristina Tonn discussed the LEPP rules under review. She stated that we have U.S. EPA approval on the rules that were being discussed and there were some small final changes made at U.S. EPA's request to other rules that LEPP had not intended to change. The following rules were discussed:

Rule 901:10-1-09: Permit Modification. Requests to make changes to NPDES permits must be submitted to the state for review and approval. U.S. EPA made comments regarding operational and major operational changes. Changes requested were made. Differentiation between what constitutes an NPDES permit and a state permit are in the appendix to this rule.

Appendix to Rule 901:10-1-09. Formerly there was no separation of the state and federal permits. Now there is an Appendix A and Appendix B. U.S. EPA wanted the separation and requested a clarification to the portion dealing with soil testing frequency.

Joe Logan asked about what review and level of accounting are in place for land application regarding phosphorus? Kevin explained that the review occurs during an inspection of the facility's records. Both Andy Ety and Kevin review the inspection report and, if necessary, make

recommendations and comments regarding what the facility can apply and how much. Kevin stated that federal rules do not provide for any review. This is another area where the state program is more stringent than the federal program. No additional comments were made by the committee to this rule. A motion to approve the rule was made by Russell Ludwig and Karen Chapman seconded the motion. All were in favor.

Rule 901:10-1-10: Prohibitions. This rule is being amended to reflect the changes made in statute and federal rules a couple of years ago. There were no other substantive changes made. Joe Logan inquired about what in the rule needed better clarification on what constitutes a discharge. Kevin explained there was clarification and explanation regarding that issue in another rule that addressed the Manure Management Plan. Pat Hord made the motion to approve the rule and Kirk Hines seconded the motion. All were in favor.

Rule 901:10-2-08: Contents of Manure Management Plan (Inspections, Maintenance and Monitoring). The area of the rule changed was regarding depth makers, sizing and the depth that is considered at a no discharge facility. There is a model that determines the chance of discharge as it affects facilities (new sources). This change was required by the *Waterkeeper* decision to U.S. EPA.

Joe Logan noted that it appears to do away with the 100-year storm and he was not comfortable with that elimination. Cathy Alexander explained what the Federal Court determined and that the model actually makes it more stringent than the 100-year storm event. Dr. Michael Mull had a question regarding liquid run-off. This rule addresses all liquid manure. Additional questions were addressed in an effort to clarify this rule. A request to add a comment to this rule was made and accepted. No additional questions or comments were made to the proposed changes. A motion to approve the rule was made: Tony Anderson so moved; second by Dr. Mull. All were in favor.

Rule 901:10-2-20: Annual Report. This rule change reflects the land application activity and notification requirements on the NPDES permits. There is some vagueness, Kristina said, but we do not have the guidance from U.S. EPA on what to insert at this time. Joe Logan stated that separating the land from the animal is not a good idea. He questioned if a link between the permit and the CLM would be the way to close the loophole. The federal rules make it an incentive to not apply on your own land and to use distribution and utilization for manure. There were no other questions or comments made to the proposed changes. Motion to approve the rule was made: Cathy Alexander so moved; second by Russell Ludwig. All were in favor.

Rule 901:10-3-01: Additional Requirements for a NPDES Permit Application. Subsection (G) was added. U.S. EPA specifically asked that the word “term” be added and that ODA-LEPP follow the CFR regarding what “term” means in the nine items that have been added to the rule. There were no questions or comments made to the proposed changes. Motion to approve the rule was made: Karen Chapman so moved; second by Pat Hord. All were in favor.

Rule 901:10-3-02: Effluent Limitations, Definitions and Applicability. This rule pertains to large CAFOs that do not have an NPDES permit. In Section (A), the following was added: “*Large concentrated animal feeding operations that lack a NPDES permit must maintain the records specified in Rule 901:10-2-16 of the Administrative Code either on site or at a nearby office, and*”

make the records readily available to the director upon request.” No questions or comments were made to the proposed addition. Motion to approve the rule was made: Glen Feichtner so moved; second by Dick Lorent. All were in favor.

Rule 901:10-3-06: Swine, Poultry and Veal Calves. This rule deals Best Management Practices of open surface manure storage or treatment facilities. U.S. EPA wanted the definition of what constitutes “*new*.” This rule allows the grandfathering in of existing facilities. There were no questions or comments made to the proposed changes. Motion to approve the rule was made: Pat Hord so moved; second by Joe Logan. All were in favor.

Chapter 4: General NPDES section. U.S. EPA believed that previous changes made the issues less clear, so the changes were removed. Kristina explained the definition of a general NPDES permit. No questions or comments made to the proposed changes. Motion to approve the rule was made: Kirk Hines so moved; second by Karen Chapman. All were in favor.

Rule 901:10-4-04: Criteria for Issuing and Renewing NPDES General Permit to Operate. Cross references were corrected. Changes made by LEPP that U.S. EPA did not like were removed. There were no questions or comments made to the proposed changes. Motion to approve the rule was made: Pat Hord so moved; second by Joe Logan. All were in favor.

Rule filing procedure was reviewed. After the e-comment period, the rules will be filed. There will be a hearing at ODA, as well as JCARR.

Assistant Director Fred Shimp was then introduced. He thanked the committee for participating and for their willingness to not just be a spectator. He noted that the NPDES permit program transfer was a priority.

Kevin updated the committee on the status of the NPDES transfer. LEPP has provided all the changes that U.S. EPA requested. Now the Attorney General statement submitted in 2007 will have to be updated and resubmitted to the U.S. EPA.

Kevin reviewed the total number of permits, the total number of permits completed in 2009, and those completed thus far in 2010. Working to complete the NPDES delegation change and the rule changes at the same time.

Changes to the CAFF Advisory Committee were reviewed by Bill Schwaderer. Notices have been sent out the various boards and some notifications and nominations have been received. The chairman seat needs to be filled as Jason will be unable to make all the meetings due to a change in his work schedule. Kevin accepted nominations for chairman. Tim Weaver was nominated. There was a motion to close the nomination. Kevin was nominated as co-chairman. Motion to accept: Cathy Alexander so moved; second by Tony Anderson. All were in favor.

Kevin reviewed old business. We lost an inspector (Chris Rodabaugh) to retirement. We are currently unable to fill the position, as State of Ohio has a hiring freeze. LEPP depends on GRF funding which we have been told will be reduced further. LEPP engineers will assist with inspections.

LEPP statistics and program updates were reviewed with the committee.

The next CAFF Advisory Committee meeting has been scheduled for: March 16, 2011.

Additional meetings have been set for: August 25, 2011; November 17, 2011; and January 19, 2012.

Motion to adjourn was made by Karen Chapman; seconded by Michael Mull. All in favor.

Meeting adjourned – 12:30 p.m.