

Concentrated Animal Feeding Facility Advisory Committee
August 27, 2009
Ohio Department of Agriculture
ODA's Bromfield Building

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

Members/Alternates Present

- Andy Miedema – Ohio Dairy Farmers Federation
- Carl Link, Ohio Pork Producers
- Cathy Alexander, Ohio EPA
- Collin Coy, Water Management Association of Ohio
- Gerald Boynton, Public Representative
- George Slater, Public Representative
- Glen Feichtner, Ohio Cattlemen's Association
- Jason Menchhofer, Ohio Environmental Health Association
- Joe Logan, Statewide Environmental Advocacy
- John Rausch, The Ohio State University (alternate)
- Karen Chapman, Representative of Statewide Environmental Advocacy Organization
- Kevin Elder, ODA LEPP
- Michael Mull, DVM, Ohio Veterinary Medical Association
- Rob Hamilton, ODNR (alternate)
- Ron Wyss, County Commissioners Association of Ohio (alternate)
- Tim Weaver, Ohio Poultry Association - Tour Only
- Tom Hertzfeld, Ohio Poultry Association
- Tom Price, Public Representative

Members Not Present

Chuck Divelbliss, Public Representative
Doug Alderman, Ohio Water Environment Association
Rebecca Gray, Ohio Department of Development
Roger High, Ohio Sheep Improvement Association

ODA LEPP staff

Andy Ety, engineer
Bill Schwaderer, public information officer
Gary Zwolinski, engineer
Kelly Harvey, community relation coordinator

ODA staff

Bill Hopper, chief legal counsel

Others

Kirk Hines, Ohio Department of Natural Resources (alternate)

Collin Coy called the meeting to order. He asked if there were any additions or corrections to the May 28, 2009, minutes. There were no changes. Joe Logan made the motion to accept the minutes and they were accepted by the committee.

When reviewing the new business items, Kevin stated that currently there is no deadline on applications that are just sitting, due to non-response from the facilities on comments sent out. The lack of movement is completely on the part of the facility. LEPPs only option is to publish a possible denial. It has been the state's policy not to refund fees. Bill Hopper stated that there are additional costs to the department when a permit goes back active, as it has to be reviewed a second time. Kevin requested some thoughts or comments from the committee.

The suggestion was made that a two-year time limit be placed on applications that are received and not completed by the applicant. Due to the cost of public notice for a denial, Kevin would like to not have to go that route. Cathy Alexander suggested that we look at our rules and see where we can add the deadline date. Perhaps a cost could be imposed to "hold" the application if the facility does not move or notify LEPP of the action they wish to take. Is it reasonable that both sides be held to the same time limit? Set a time limit in rule? The committee will address this issue again during the November meeting to determine if a statute change is needed.

Kevin passed out the Proposed Revision to 903.16 and 903.17 which address enforcement actions. He explained that statute required NOD and allowing time to come back into compliance. The only option we have is to refer the complaint to the Attorney General's office. LEPP is unable to issue a penalty for these actions or refer to the AG and get them through in a short time frame. These are minor in comparison. What we send to the AG takes years to get through their system. Revision of LEPP statute that says, if you cannot fix the problem after you have been warned, LEPP will have the ability to assess a civil penalty. Many facilities do not heed the warnings and do not take them seriously. There is frustration when you have a bad actor and it takes so long to get the AG to act. We have ranges in the rules for civil penalties based on the severity of the action of the facility. Bill Hopper explained the Chapter 119 process, if used. Collin requested a show of hands in support of the change to the statute: 13 in favor, two abstained.

Kevin asked the CAFF committee to review the draft of the rule fee. He noted that to institute the inspection fee needed to keep the program running, the statute has to be changed because the word "application" was in the statute. LEPP only has the authority to accept an "application fee" for a Permit to Install and an "application" fee for a Permit to Operate. It is unknown why this word was inserted in the statute, but it must be removed. The fees as being reviewed are going to be filed.

LEPP removed the boxes for easier rule filing and will only use the detailed wording of the fees. Information on the Review Compliance Certificate was deleted, since they are no longer being issued. Kevin reviewed the amounts of the fees as proposed and approved by the committee.

Collin asked if the committee members had any further questions concerning the proposed fee increases. He explained that the committee will not always agree and that the members have the ability to submit comments to the Director.

Kevin stated that most of the renewals are in and that these fees will not affect those producers for as much as five years. If the inspection fee is approved, it will affect all producers.

Kevin provided an update on the proposed NPDES transfer and reviewed the legislation that did not pass last December. The same piece of legislation will be introduced by Senator Gibbs in the next two weeks to complete what the U.S. EPA requires to authorize the transfer. It will then work its way through the legislative process. SB 635 is the version being reviewed by the 127th General Assembly. The legislation will be back in session on Sept. 1, 2009. There will be a telephone conference by Ohio EPA, U.S. EPA and ODA to make sure all is on track.

The state budget has been approved. ODA had 436 employees last year and 42 took early retirement. Those people will not be replaced. The entire state is in the same position. LEPP is down five employees from its origination and will not be filling any vacant positions.

Kevin reviewed the program stats. An open house and public meeting is scheduled for Stardust Dairy, LLC in Madison County on Sept. 8 and for Pitstick Pork Farm in Greene County on Sept. 10 regarding permit applications for expanding their facilities. There have been 47 PTIs, 41 RCCs and 135 PTOs issued since the LEPP program started in 2002. Twenty-eight permit applications are currently in the review process with nine in the draft permit phase. To-date, the program has conducted 2,080 inspections and there have been 206 complaints registered.

Kevin reviewed the AGO cases.

Kevin discussed this afternoon's tour of the Ohio Fresh Eggs facilities in Croton. Many facilities offered to host the tour but the car pooling and money considerations were the major factor in choosing this facility. A second factor was the massive improvements that have been made to the OFE facility from what it was to what it now is. Ohio Fresh Eggs has come a very long way and it will benefit the committee to see the changes.

The next CAFF Advisory Committee meeting is scheduled for Nov. 18, 2009.

Meeting adjourned – 11:15 a.m.