

Pennsylvania CAFO Stakeholders Meeting
August 28, 2003
Pennsylvania Department of Agriculture Building, Room 309

Introduction: The fifth Pennsylvania CAFO Stakeholders Workgroup meeting for updating the current program to meet the new requirements was convened at 9:05 a.m. After an introduction of participants and an open comment period, the summary of the July 10, 2003 meeting was accepted. Here is a description of the main items covered at this meeting.

Water Quality Management Permits: The language in §91.36(a)(3) was discussed at some length. Concern was expressed that the regulations do not adequately specify the parameters that are to be used to determine when a waiver applies. There was also concern that the proposed 1,000,000 gallon threshold capacity was too low and would capture many operations that would be unlikely to ever reach 1000 AEUs. It was pointed out that a storage to handle 1000 AEUs would need to be about 2,400,000 gallons, and that we may want to consider different threshold numbers depending on whether the storage is inside or outside.

Setbacks: The proposed language in the regulation (§92.5a.(e)(1)) mirrors that in the Federal rule. There was some discussion about the reasonableness of this requirement. The NRCS filter strip standard was alluded to as requiring a 50 foot buffer width. (Need to check this out.) It was pointed out that we should strive for consistency and simplicity. There was concern that the Manure Management Manual, the Act 6 requirements, the NRCS Technical Standard and the CAFO regulations might all have different and confusing requirements.

Operations with Discharges: Cedric noted the need for DEP to be able to issue a CAFO permit for an operation with a legal discharge. This would require modification of the CAFO definition to include operations with authorized discharges and to allow for CAFOs to be designated by the agency. The proposed designation language was considered to be too ambiguous. There was concern that we are not defining a discharge, which could lead to a lot of interpretation and inconsistencies among program staff. And there was a request made that a guidance document be prepared. It was pointed out that several group members believe that small farms with barnyards in proximity to streams are a major problem in PA. Several in the group felt that the proposed language in the regulations is less aggressive than what had been previously considered. It was emphasized that DEP's ability to address unauthorized discharges from agricultural operations is not limited by its authority but rather by its resources. Providing additional duplicate authority in the regulations will not generate additional resources.

CAFO Strategy Discussion – Water Quality Management Permits (con'd): As we began reviewing the preliminary draft strategy, we revisited the question of waivers. Several views were expressed:

- 1) It should be clear what information should be required from an applicant for a waiver.
- 2) There should be a limit on waivers, so that structures that are in operation over a certain period of time without leaking should be "grandfathered" into the permit program.

- 3) If there is an environmental concern with this size structure, they should all be permitted, regardless of DEP staffing limitations/workload concerns.
- 4) Permitting should not be a big concern, because all new storages must be designed and construction overseen by a PE.
- 5) The cost of applying for a waiver should be kept in mind. Farmers already incur significant costs concerning conservation.
- 6) Our threshold for requiring a permit should be geology/watershed location rather than size. It should tie more closely to environmental risk/hazard.
- 7) A question was raised about mixed animal operations and how the threshold value would apply where there is more than one storage on an operation.

Freeboard: The language in the proposed regulation seems to require 24" freeboard in all cases. This will be clarified in the next draft.

Land Application: There was a discussion about broker/hauler liability. There was also a comment about the PA Technical Guide 590 Standard and its acceptability.

Clean Streams Law: The intent is for this section to be expanded to identify priorities in which operations with illegal discharges will face enforcement action. Concern was expressed that there needs to be clear guidance to nutrient managements specialists, technical service providers, and others who talk directly to farmers.

Permit Deadlines: There was some concern expressed that there would be a "huge workload" of operations required to meet the 15 month deadline. There was concern raised about the timing of completion of nutrient management plans in relation to issuance of CAFO permits.

Application Requirements/Permit Conditions: Enforcement of the Nutrient Management regulations on non-CAO CAFOs was discussed. The conclusion was that DEP would do this.

CAFO Definition: It was suggested that we should emphasize our coverage of mixed animals, including intra-species, as well as inter-species.

Individual Permits: The suggestion was made that individual permits should be required for CAFOs in impaired watersheds. It was pointed out that such a condition would have to apply across the board for all NPDES permits through a regulation, and, to date, the regulations do not have this requirement.

General Permit: The suggestion was made that poultry operations should have the option to apply for an individual permit if they want.

Public Participation: There were comments that this section needs some revision/clarification to reflect current practice. Public hearings/meetings can be held in appropriate circumstances for individual permits.

Compliance & Enforcement: Cedric explained the proposal regarding FSA terminating subsidy payments. A question was raised as to whether it would be easier to fine the operator. Cedric and others indicated that collecting a fine isn't easy either, and that the farmer would pay more attention to the threat of the lost subsidy. It was pointed out that CAFOs that are below 1000 AEUs are inspected annually. The requirement about

emptying/inspecting liquid and semi-solid manure storages twice a year was questioned, in regards to facilities that are designed for longer than six month storage or that are designed to never be completely emptied.

Remaining sections: The section on Land Use needs to be rewritten in light of Act 67/68, and additional sections on Nutrient Trading, Alternative Technology, and Odors need to be developed.

Action Items: Based on feedback from this workgroup meeting, Central Office staff will revise the draft regulations and the draft CAFO strategy. The strategy will be expanded to address land use, nutrient trading, alternative technology, and odors. These documents will be made available to the workgroup prior to the next meeting.

Next Meeting: September 30 at 9:00 a.m.

Participants:

Charlie Abdalla, Professor, PSU, College of Ag. Science
Bill Achor, Environmental Coordinator, Wenger's Feed, Inc.
Dan Alters, Program Manager, DEP NC regional office
Amy Bradford, Penn Ag
Doug Brennan, DEP Reg. Counsel
Marty Ferry, Permits Chief, DEP SC regional office
Don Fiesta, Prof. Geol., DEP Central Office
Bill Fink, Team Ag, Inc.
Chris Frame, Hostetter Management Co.
Bob Gibson, Section Chief, DEP Central Office
Jennifer Grimes, Farmer's Pride, Inc.
Virginia Ishler, PSU, Dairy and Animal Science Dept.
Jan Jarrett, Penn Future
Tom Juengst, Program Specialist, DEP Central Office
Cedric Karper, Division Chief, DEP Central Office
Jerry Martin, PS Extension
Lori Mohr, DEP Policy Office
Tim Murphy, Conservation Engineer, USDA-NRCS
Kelly O'Neill, Ag. Policy Analyst, CBF
Marel Raub, Pa. Farm Bureau
William Rogers, AET Consulting, Inc.
Tom Schmick, DEP NC regional office
Kevin Seibert, Lancaster Co. Cons. Dist.
Brenda Shambaugh, PA State Grange
Jennifer Weld, USDA-ARS
James Wheeler, PSATS