

April 20, 2005 Meeting

MINUTES

AGRICULTURAL ADVISORY BOARD

**Rachel Carson State office Building
Room 105, First Floor Conference Room
Harrisburg, PA**

April 20, 2005

Chairperson Carl Shaffer, Vegetable Producer, called the meeting to order.

Attendance

Members

Carl Shaffer, Vegetable Producer
Larry Breech, PA Farmers Union
Walt Peechatka, PennAg Industries Association
Doug Beegle, Penn State University
David McElhaney, Livestock Producer
Andrea Sharretts, PA Farm Bureau
Michael Firestine, Agri-business
Jay Howes, House, Agriculture and Rural Affairs Committee (Rep. Hershey)
Brenda Shambaugh, PA State Grange
Patricia Sueck, PA Association of Conservation Districts
Thomas B Williams, Dairy Producer
Neil McAuliffe, Senate, Agriculture and Rural Affairs Committee (Sen. O’Pake)
Gary Smith, USDA, Natural Resources Conservation Service
Cathy Curran Myers, PA Department of Environmental Protection

Agencies, Advisors, and Guests

Chad Forcey, PA Landscape and Nursery Association
Kim Snell-Zarcone, Penn Future
Emily Wade, Wenger’s Feed Mill
Louis R. Sallie, PA Farm Bureau
Curtis Kratz
Mike Pechart, PA Department of Agriculture
Brant Bickel, PA Department of Agriculture
Bill Adams, PA Department of Agriculture
Karl Brown, State Conservation Commission
Stuart Gansell, DEP-Bureau of Watershed Management
Wick Havens, DEP – Bureau of Air Quality
Terry Black, DEP – Bureau of Air Quality
Doug Brennan, DEP
Don Fiesta, DEP
Cedric Karper, DEP
Bob Gibson, DEP
Steve Taglang, DEP-Bureau of Watershed Management
Dave Reed, DEP-Bureau of Watershed Management
Cedric Karper, DEP-Bureau of Watershed Management

Action on the Minutes of the February 16, 2005 Meeting

Larry Breech asked that the minutes be amended to reflect that he stepped out of the February 16, 2005 meeting during the last two items of the agenda. With this change, the minutes were approved.

Update on the ACRE Initiative

Michael Pechart, Executive Assistant to the Secretary, Pennsylvania Department of Agriculture, updated the Board on the status of the acre initiative. Mr. Pechart stated that the objective of ACRE is to balance the business interests of agriculture with the concerns of citizens and local elected officials. Mr. Pechart briefly described the components of ACRE and provided a fact sheet on the issue. He also noted the ACRE initiative's current status in the legislature and that legislation should be introduced shortly. Mr. Pechart also discussed a series of myths that were not true about ACRE, including that ACRE removes local control of biosolids, that ACRE exempts agriculture from regulation and that ACRE is part of a hidden state agenda to bolster corporate agriculture. Mr. Pechart indicated that opponents of ACRE had raised each of these as issues.

Larry Breech, Pennsylvania Farmers Union representative, asked about the costs of staff for these two new boards created by ACRE and the length of the term for Board members. Mr. Pechart indicated there may be a few new staff positions, but that he did not have the cost estimates. Mr. Pechart did not recall if there were term limits. Patricia Sueck, PA Association of Conservation Districts representative, asked if there were any "grandfathering" of local ordinances in the ACRE proposal. Mr. Pechart indicated that there were not.

First Industries Fund

Brant Bickel, Department of Agriculture, Bureau of Market Development, discussed the *First Industries Fund*. This is \$150 million in bond funds made available for agriculture and tourism. Mr. Bickel pointed out that the First Industries Fund provides \$100 million for agriculture in addition to Small Business First (SBF) and Machinery and Equipment Loan Fund (MELF) programs in the Department of Community and Economic Development (DCED). The maximum amount of funds for a given project varies, because of the established criteria of the existing DCED program, but range from \$100,000 to \$5 million. The Commonwealth Financing Authority approves these grants/loans.

First Industries Fund creates a new Planning Grant program within these funds which could be used by agricultural producers for predevelopment activities and feasibility studies. The maximum planning grant for any one project is \$250,000.

Mr. Bickel noted PDA's *PA Grows* effort, which assists farmers in finding state and federal opportunities. PA Grows will help by finding the right program, filling out the proper paperwork and tapping into the available state and federal assistance. More information is available by calling 888-PAgrows or by visiting PAgrows.com.

Agricultural Air Quality Issues

Wick Havens and Terry Black, DEP Bureau of Air Quality, and Karl Brown, State Conservation Commission, discussed several air quality issues associated with agriculture. Mr. Havens and Mr. Black indicated that air quality monitoring showed an elevated level of nitrogen/ammonia in central Pennsylvania, which could be related to agriculture. There were also higher level of fine particulates in areas outside of the center city Philadelphia and Pittsburgh areas.

The *EPA Air Quality Compliance Agreement and Final Order for Animal Feeding Operations* was discussed. The Air Quality Compliance Agreement is a voluntary agreement between EPA and animal feeding operations. This consent agreement release producers from liability for possible past violations of federal air laws. The voluntary sign-up process was discussed, with the deadline extension until July 1, 2005. EPA will engage in a two-year study to generate compliance data for animal feeding operations across the nation. EPA will use this data to produce “Look Up” charts for all producers to use to determine if the laws apply to their farms – even those who didn’t sign the consent agreement. Only those animal feeding operations that sign the consent agreement are protected for past violations. There are no Pennsylvania farms in this EPA study.

Karl Brown discussed the Agricultural Air Quality Task Force and the upcoming “*Odors and Regulated Air Emissions in Pennsylvania Agriculture*” seminar on June 9-10, 2005. Mr. Brown indicated that the purpose of the new Air Quality Task Force was (a) to create an on-going forum for the discussion of ag air quality issues; (b) provide the opportunity to share information and knowledge on ag air quality issues; (c) examine data and review specific causes of ag air emission, and suggest measures to assess and reduce these air quality impacts; and (d) coordinate and focus public and private resources on cost-effective solutions to solve problems related to agricultural odors and air quality. Secretary Wolff chairs this task force, which includes 25 individuals, representing DEP, State Conservation Commission, Governor’s Center for Local Government Services, Penn State, Delaware Valley College, PA Association of Township Supervisors, PA Farm Bureau, PA Farmers Union, PA State Grange and others. The June 9-10 seminar in Carlisle, sponsored by Penn State, PA Department of Agriculture and State Conservation Commission’s Agricultural Ombudsman Program, will provide participants with an understanding PA’s *Odor Management in Agriculture and Food Processing* manual and current information on air regulations, sources and control practices.

Carl Shaffer, Board Chairperson, expressed concern about EPA’s *Air Quality Compliance Agreement and Final Order for Animal Feeding Operations*, comparing this effort to asking farmers to pay for a speeding ticket without telling them what the speed limit is. Mr. Shaffer asked if row crops address any air pollutants. Mr. Black indicated that plants do take up nitrogen that is deposited and that trees/vegetation do help with odors. Mr. Shaffer also asked if the science is available for agricultural air quality issues to distinguish what is in the air and where it came from, noting the historical concerns about mid-west power plants and how this information was used to establish limits on Pennsylvania emissions. Mr. Havens indicated that yes, we can model transport of Nitrogen, but not Ammonia, and the there is a lot of work to do in the science of ag air quality.

Walt Peechatka, PennAg Industries representative, expressed the concern that EPA’s two-year study does not include any Pennsylvania farms. Indicating that Pennsylvania’s mixed animal

farming practices may not be represented in any data EPA generates and may not be valid for PA farms. Mr. Black agreed and indicated that he would like to see more monitoring conducted; monitoring that is more relevant to Pennsylvania.

Dave McElhaney, Livestock Producer, expressed that sound science is important. He particularly noted that, in Western PA, a lot of the air contaminants might come from Ohio, not PA agriculture. Mr. Havens agreed, but also pointed out that the localized “hotspot” in Lancaster County is outside of any major urban area. Mike Firestone, Agri-business representative echoed the concern about accuracy of data and pointed out that there are big differences between smokestack testing and a beef fabricating plant.

Tom Williams, Dairy Producer, discussed the Lancaster County air quality seminar and how all the discussion focused on air quality, not odor. He also noted that the \$2,500 penalty isn't accurate, it's more like \$2,700 and it can go up from there. Mr. Black noted the \$2,700 is more accurate, but also noted that EPA's penalty was included at the suggestion of the agricultural industry. Mr. Brown noted that this is voluntary and can be viewed as a risk management tool.

Update on the Water Quality Regulations

Cedric Karper, DEP Bureau of Watershed Management, provided a quick update on the status of the water quality regulations addressing concentrated animal feeding operations and the changes that were made since the last time the Agricultural Advisory Board Committee. The schedule for these regulations include: EQB Presentation (June 21); IRRC/Legislative Committee Review (July 1); Attorney General Review (September 15); PA Bulletin publication (December). EPA deadlines provide a sense of urgency to complete this process.

Mr. Karper and DEP Deputy Secretary Cathy Myers noted the recent 2nd Circuit Court of Appeals decision. This decision vacates several provisions of the federal CAFO regulations. DEP reviewed this decision and, as Pennsylvania's CAFO program is built on the Pennsylvania Clean Streams Law, will not impact Pennsylvania's regulations. DEP will continue to move ahead with these regulations.

Mr. Karper discussed changes to the regulations, these included:

- 100-year storm event protection for new/expanding manure storage for swine, poultry and veal CAFOs consistent with federal requirements;
- Consolidated statement that discharge of pollutants is illegal, and a reference to federal medium and small CAFOs
- Language on permits and enhanced standards/practices for manure storage pulled from revisions and will be addressed under existing authority, with detailed guidance in the Manure Management Manual update;
- Minimum 100' setback or 35' buffer for manure applications on CAOs and CAFO/CAO manure import sites;
- Modifying the CAFO definition – CAOs greater than 300 AEUs, all operations greater than 1000 AEUs and all Federal large CAFOs;
- Manure application setback measured from top of bank and federal examples of conduits to surface water provided;
- Permit implementation schedule for poultry and other newly regulated CAFOs;
- 14-day limit on field stacking of CAFO manure at CAFOs. (Mr. Karper noted that this applies to poultry litter. DEP discussed this item with poultry industry representatives who state that this will not adversely impact their industry in Pennsylvania.)

Mr. Shaffer asked about the 35 and 100-foot setbacks and what happens to these if ACRE does not pass? Mr. Karper indicated that these setbacks are good environmental practices and they will be included in DEP regulations, regardless of the legislative status of ACRE. Mr. Shaffer indicated that it is a matter of perspective whether these setbacks are a good thing or not. Deputy Secretary Myers indicated that work on including setbacks and buffers in the regulations occurred prior to the development of ACRE. DEP currently has the legal authority to include setbacks and buffers in regulations, these regulatory requirements are a minimum and do not affect other more stringent requirements. Mr. Peechatka indicated that ACRE assumes significant additional responsibilities for agriculture, but that relief from burdensome township ordinances is all that agriculture is gaining.

Jay Howes, representing Rep. Hershey, House Agriculture and Rural Affairs Committee, asked if EPA had changed any of their requirements or time frames because of the 2nd Circuit Court of Appeals decision. Deputy Secretary Myers indicated that DEP was given a deadline by the law and by EPA. There has been no guidance given by EPA to delay and DEP plans to move ahead. Mr. Howes asked for clarification as to what revisions to these regulations are driven by federal requirements and which are not. Mr. Karper indicated that a side-by-side presentation of this had been prepared early in the process and is included in the preamble/final order of the regulations. Mr. Peechatka indicated that it might be useful to distribute this to the Board.

Mr. Shaffer asked whether the “top of bank” language in the Chapter 92 regulation for CAFOs is the same or different from that found in the ACRE proposal. Mr. Karper indicated that this is different, with the CAFO regulations using the same requirements found in the federal CAFO program and in the Clean Stream Law. DEP must use that approach to retain approval of the NPDES program by EPA.

Mr. Shaffer indicated that his only objection to the new items found in regulations is the item regarding minimum 100’ setback or 35’ buffer for CAOs and CAFO/CAO manure import sites because they are not contingent upon passage of ACRE. Brenda Shambaugh, representing PA State Grange, made a motion that the Agriculture Advisory Board would only support this item in the event of ACRE passage. Ms. Sueck seconded this motion. The Board voted in favor of this motion, with only Mr. Breech in opposition.

Mr. Shaffer asked about composting CAFO manure on a CAFO. Mr. Karper noted that, with proper a pad and undertaking proper procedures, no cover is necessary. Mr. Breech noted that this not good for composted manure and that a cover should be required.

Comments/ Issues/Concerns of the Board

Deputy Secretary Myers noted the February 23, 2005 letter each Board member received from Kim Snell-Zarcone of Penn Future. Deputy Myers apologized for the confusion that was caused by DEP not having the up-to-date Bylaws on the DEP website and indicated that the correct Bylaws were placed on the website.

Public Comment Period

There were no public comments

Adjournment

There being no further business the meeting was adjourned at about 12:30 p.m.

The next meeting is scheduled for June 15, 2005.