

DRAFT

MINUTES

AGRICULTURAL ADVISORY BOARD MEETING

October 17, 2012

DEP Southcentral Regional Office

Susquehanna Room A

Harrisburg, PA

In Attendance – Members

Michael Firestine, Agri-business

Jennifer Harry, PennAg Industries

Kelly Heffner, Department of Environmental Protection

Duane Hobbs, Agriculture Chemicals Manufacturer

Greg Hostetter, USDA Farm Service Agency

Betsy Huber, Pennsylvania State Grange

Susan Marquart, USDA Natural Resources Conservation Service

Keith Masser, Vegetable Producer

Robert Maiden, Pennsylvania Association of Conservation Districts

William Neilson, Pennsylvania Farm Bureau

Darwin Nissley, Livestock Producer

In Attendance - Agencies, Advisors, and Guests

Karl Brown, State Conservation Commission

William Fink, Country View Farms

Kelly O’Neil, Chesapeake Bay Foundation

Erin Smith, Pa Department of Agriculture

Hanna Smith

Kim Snell Zarccone, Conservation PA

Sean Gimbel, Thomas Mainzer, Jeff Olsen, Glenn Rider, Kenn Pattison, Frank Schneider,

Susan Seighman, Diane Wilson, Steve Taglang - Department of Environmental Protection

The October 17, 2012, meeting of the Agricultural Advisory Board (AAB) was called to order by Chairperson Keith Masser at 10:06a.m.

Chairperson Masser announced that the following members had asked to be excused:

- Larry Breech, Pa Farmers Union
- Richard Hisson, Dairy Industry
- Roy Brubaker, Sustainable Agriculture

Chairperson Masser welcomed Darwin Nissley as the new Livestock Producer Representative, who was appointed by Governor Corbett on July 30, 2012.

Chairperson Masser announced the Waste Management General Permit for Manure Digesters was issued on August 17, 2012. This general permit allows for the addition of municipal food-related wastes (grease trap waste, pre and post-consumer food wastes) to manure digesters with the beneficial use of methane for generation of electricity, use of liquid waste as fertilizer on agricultural land and solids as animal bedding. Copies of the permit conditions were available on the table.

Chairperson Masser announced that the NPDES General Permit for Aquatic Animal Production Facilities (PAG-11) was issued on October 6, 2012. This General Permit is intended to provide coverage under the Clean Water Act to Concentrated Aquatic Animal Production (CAAP) facilities which are required to have NPDES permit coverage if the facilities discharge to surface waters. Other non-CAAP facilities may be eligible for coverage under the General Permit if required to obtain permit coverage under The Clean Streams Law for the discharge of pollutants to waters of this Commonwealth.

Members of the AAB introduced themselves, as did the various guests.

Approval of the minutes from the June 20, 2012 meeting was tabled due to a lack of a quorum.

Approval of the 2013 Agricultural Advisory Board meeting dates was tabled due to a lack of a quorum.

Delaware Conservation Reserve Enhancement Program (CREP) Proposal –

Diane Wilson, Bureau of Conservation and Restoration provided an update on the Delaware CREP proposal.

Ms. Wilson explained what CREP is, how it works, goals and benefits, DEPs role and the future of CREP in the Delaware River Basin.

Mr. Wilson explained that CREP is a partnership among state agencies, federal agencies, and other partners. In Pennsylvania, CREP partners approximately 15 different agencies and groups.

Chairperson Keith Masser inquired into what criteria is used to evaluate non agency partners and

Ms. Wilson mentioned that the partners must show an interest in the CREP program and that some partners provide dollars or in-kind services.

Mr. Wilson explained that CREP was an enhancement of the Conservation Reserve Program (CRP). CRP was established in the 1985 USDA Farm Bill and CREP followed in 1996. The first CREP agreement in Pennsylvania was signed in 1999, with the first practices being established in 2000. Ms. Wilson noted that roughly for every \$1 of state funding the federal government invested \$10.

Ms. Wilson explained that CREP enrolls Highly Erodible Land (HEL) and marginal pasture lands into conservation plantings and conservation Best Management Practices (BMPs).

Ms. Wilson also explained the Pennsylvania has the largest CREP program in the nation.

Ms. Wilson explained that the benefits of CREP include improved water quality, protection of topsoil from erosion, increase and enhance habitat for fish and wildlife and boosts to the economy. In regards to boosting the economy, CREP provides landowners with income on less productive highly erodible land, provide the landowner with cost-effective ways to address environmental problems, and infuses federal dollars in the local economy.

Ms. Wilson mentioned that currently there are 2 CREP agreements in Pennsylvania. Those two agreements cover the Chesapeake Bay drainage (219,000 acres) and Ohio and Lake Erie drainage (40,000 acres). Between the two agreements Pennsylvania has enrolled 205,921 acres into conservation planting or conservation BMPs such as riparian forest buffers.

Ms. Wilson discussed some challenges that are faced that include meeting the acres goals, technical assistance, maintenance of practices, and competition with high commodity prices and hydrofracking of natural gas. Chairperson Masser asked if Mr. Wilson believed that components of CREP are leading to higher commodity prices due to the fact that CREP leads to higher rental rates of farm land and because “good” crop land is taken out of production. Mr. Steven Taglang answered that what Chairperson Masser is seeing is more of a localized problem but acknowledged that CREP is a competitor but only on a small percentage of total available cropland. Mr. William Neilson inquired if there is sufficient oversight that only eligible acres get enrolled. Ms. Wilson and Mr. Greg Hostetter answered that there was some eligibility problems

when CREP first started but those issues are now being resolved as those acres come up for renewal.

Ms. Wilson explained the proposed Delaware CREP proposal will include seven counties and have a goal of 20,000 acres. The current partners include 16 agencies and organizations. The goal of the proposal will be to reduce agricultural sourced non-point nutrient and sediment loading, improve surface and ground water quality and to establish and restore wildlife habitat. Ms. Wilson mentioned that currently Pennsylvania is in the proposal stage and that an Environmental Assessment is currently being performed. Ms. Wilson mentioned that if the environmental assessment comes back OK, then Pennsylvania will start to negotiate an agreement with USDA and that she forecasts that the Delaware CREP proposal is one to two years away from being finalized. Mr. Darwin Nissley inquired if DEP anticipates getting all the acres allocated. Mr. Glenn Rider believes that all acres will be enrolled but attractiveness of the program and other factors beyond DEPs control can affect the number of acres enrolled. Mr. Karl Brown asked how the Pennsylvania proposal compares to the established CREP program in Delaware and New Jersey for the Delaware basin. Ms. Wilson answered that Pennsylvania proposal is in line with the other states. Ms. Hanna Smith asked what out of production meant because she can see the benefits of nut trees, etc. being utilized in riparian forest buffers. Ms. Wilson answered that out of production means that the ground is not cropped for a commodity. Mr. Nissley inquired into how noxious weeds are handled in CREP. Mr. Hostetter answered that noxious weed control is part of the CREP agreements with landowners and they are allowed to spray for noxious weed control. Mr. Hostetter also mentioned that there are spot checks performed and if problem are noted the landowners could be cited for being out of compliance with their CREP contracts. Ms. Jenifer Harry inquired if the Delaware CREP proposal was in conjunction with the Environmental Quality Boards (EQB) petition to upgrade the Delaware River Basin. Deputy Secretary Heffner noted that the two items are not connected but merely coincidental, but that any improvements to water quality is a positive

Mushroom Manual - Jeff Olsen, Bureau of Waste Management, provided an update on the Best Practices for Environmental Protection in the Mushroom Farm Community manual that was open for public comment.

Mr. Olsen explained that the purpose of the guidance document is to provide uniform instructions and operating procedures for the use and disposal of mushroom compost. Mr. Olsen mentioned that the manual is broken down into six Chapters that discuss the following:

- Introduction
- An Overview of Mushroom Farming
- Management of Raw Materials and Mushroom Substrates
- Growing the Mushroom – Spawning through Harvest
- Management of Wastes from Mushroom Growing Operations – Mushroom Compost and Wastewater
- Mushroom Farm Environmental Management Plans (MFEMP)

Mr. Olsen explained that the first Mushroom Environmental Manual was published in 1997 with minor revisions made in 2003. In 2010, the mushroom industry asked DEP to update the manual due to technology advancements.

Mr. Olsen explained that a workgroup was convened that included DEP staff, mushroom industry professionals, County Conservation District staff, and Pennsylvania Department of Agriculture (PDA) staff to revise the manual.

Mr. Olsen stated that new additions to the manual look at the procedures for disposal of spent mushroom substrate and MFEMP plans that are developed by county conservation districts. The MFEMP included BMPs for odor control, water runoff, dust control, and aesthetics.

Mr. Olsen noted that if a producer is in compliance with this guidance document, has an MFEMP, and does not pollute then no waste management permit to operate would be required. The guidance document additionally allows disposal of mushroom substrate offsite without a waste management permit and allows the use of Natural Resources Conservation Service (NRCS) BMP Standards and Specification rather than only DEP approved BMPs

Mr. Olsen noted that the updated guidance document removed the odor site index but included the odor control BMPs into the fold with the water quality BMPs. It was also noted that the manual includes a nutrient loading chart to be used for when the mushroom substrate is applied to agricultural land.

Mr. Olsen explained that the manual was published for public comment and that two comments were received. Those comments included the use of mushroom compost for Penn Dot Projects could be acceptable if it's use was authorized under the Penn Dot Operating permit, and a clarification of allowing composting materials to be stored for three years but the waste management regulations state that after one year the material is a waste product. More clarification will be added.

Mr. Olsen noted that the industry wanted the liability over the mushroom substrate to be removed from operations that follow the guidance document but that legally DEP could not do that.

Mr. Olsen stated that the guidance document will be published in the Pennsylvania Bulletin as final on October 27, 2012.

Mr. Neilson inquired if mushroom farms would need to submit their MFEMP plans to DEP or the county conservation districts or just keep them on the farm. Mr. Olsen stated that DEP does not require submittal but that the operations need to comply and it's a good idea to have a copy available at the farm.

Status Report – Chesapeake Bay Program (CBP) Phase I Watershed Implementation Plan (WIP) Implementation - Steve Taglang, Bureau of Conservation and Restoration provided an update on the CBP Phase I WIP Implementation.

Mr. Taglang reported that the Phase I WIP was broken into non-regulatory and regulatory efforts. The non-regulatory efforts include BMP tracking, BMP funding, and technical assistance; while the regulatory efforts include outreach activities, evaluation and modification of regulatory tools, and compliance.

Mr. Taglang reported for the non-regulatory efforts that DEP has provided \$751,000 in BMP implementation grants thru the Chesapeake Bay Implementation Grant (CBIG) and PennVest has provided \$6.9 million in BMP funding for non-point sources, in 2012. For technical assistance, DEP provided over \$3 million for 50+ staff persons for the county conservation districts under the CBIG grant. Additionally, DEP is working with the Capital Resource Conservation and Development (RC&D) Council on a tillage survey, PennAg Industries on phytase feeding, and other efforts in regards to BMP tracking.

Mr. Taglang reported for the regulatory efforts that DEP has had robust outreach activities with a mailing by the National Agriculture Statistics Service (NASS) of the "Am I in Compliance" brochure and over 5,180 farm visits by county conservation district personnel, DEP has also made changes to the Chapter 102 program, updated the manure management manual and continues to develop the PaOneStop program. Mr. Taglang reported that 47 conservation districts held 152 training sessions on the updated manure management manual and that over 3,242 persons attended and greater than 717 new plans can be attributed to these sessions. Mr. Taglang additionally noted that in September the model agricultural complaint response policy was approved by the State Conservation Commission.

Mr. Taglang reported that Chesapeake Bay Regulatory and Accountability Program (CBRAP) staff performed 368 agricultural inspections between July 1, 2011 and June 30, 2012. Those inspections resulted in 176 compliance actions and \$43,591 in fines assessed.

Mr. Neilson asked if more dollars will be available for continued manure management manual and erosion and sedimentation control trainings. Mr. Taglang answered that he hoped so, but no dollars have been put in place yet.

Ms. Harry asked if DEP is transitioning from education and training into inspections and enforcement. Mr. Taglang answered that he sees education, outreach, and training as never ending but that CBRAP staff will do inspections as per our grant agreement with EPA.

Ms. Kim Snell Zarcone asked how CBIG technicians are being transferred into the inspection role. Mr. Taglang answered that the CBIG technicians are county conservation district employees and will not be charged with doing inspections but that DEP CBRAP staff will be performing the inspections. Ms. Zarcone then asked in the CBRAP staff would be doing inspections on farms that CBGIG staff has already visited. Mr. Taglang answered that it could happen but it was not necessarily the plan. DEP has not specifically asked the conservation districts to tell us who to inspect but we are letting districts know where we plan to perform inspections thru our targeted watershed approach. Mr. Taglang also noted that DEP Central Office is developing Standard Operating Procedures (SOPs) for all the regions to follow.

Mr. Neilson inquired if the equine industry is be targeted with education and outreach efforts and Mr. Taglang answered yes.

Ms. Kelly O'Neil inquired if the conservation district visits include walking the farm to look things over or was it simply an information drop. Mr. Taglang answered that each county performed their visits differently due to their own specific procedures and time to perform the visits.

Ms. Smith asked about the estimated percentage of uncollected BMP data that is not cost shared and counted in the Chesapeake Bay Model. Mr. Taglang reported that Lancaster and Bradford County Conservation Districts did a study and depending on the individual BMP up to 85% implementation was not accounted for in the model.

Concentrated Animal Feeding Operation (CAFO) General Permit Renewal (PAG-12) –

Kenn Pattison, Bureau of Conservation and Restoration, provided an update on the status of the Renewal of the CAFO General Permit (PAG-12).

Mr. Pattison reported that the PAG-12 needed to be revised for the following reasons: The current permit expired and has been extended to March 31, 2013; EPA revised their regulations related to CAFOs in 2008; and provides the opportunity to provide clarification of existing state regulations. Mr. Pattison reported that the EPA provided DEP with over 50 comments on August 18, 2011 and

that DEP has had several internal and external meetings since then to develop the latest draft of the PAG-12. Additional DEP has updated the AAB three times and meet with the AAB CAFO workgroup twice.

Mr. Pattison advised that DEP submitted a revised PAG-12 to EPA on May 1, 2012 and they provide comments on June 14, 2012. A meeting between DEP and EPA took place on July 19, 2012 and overall EPA was generally pleased with DEPs progress but there are still two outstanding issues that include winter spreading of manure and Chesapeake Bay Total Maximum Daily Load (TMDL) requirements.

Mr. Pattison reported that a revised draft PAG-12 was submitted to EPA on August 22, 2012 which will start EPAs 90 days for review. Mr. Pattison noted changes that include: Animal types and numbers; clarification of who may or may not be covered by the permit; listing of applicable design storms; and clarification of major and minor permit modifications. Mr. Pattison noted that DEP did not make changes in winter spreading of manure or Chesapeake Bay TMDL BMPs.

Mr. Pattison reported that the revised PAG-12 will be published in the Pa Bulletin on October 27, 2012 for a 30 day public comment period and that a meeting has been schedule with EPA on October 23, 2012 to discuss outstanding issues. Mr. Pattison noted that the EPA public comment period will end on November 22, 2012 and the anticipated public comment period will end on November 26, 2012. At the end of these periods DEP will revise the PAG-12 on the EPA and public comments received and publish a final PAG-12 in the Pa Bulletin.

Mr. Nissley stated that farmers need flexibility with winter hauling of manure because storage cost can be prohibitive and compaction can be an issue with spring and fall manure hauling. As a producer he sees winter spreading as an important tool that can be utilized.

Mr. Neilson inquired about EPA withdrawing its CAFO reporting requirement but that same information is still being asked for in the revised PAG-12. Mr. Pattison noted that all the information that we request is required in the regulations except for the integrator information.

Chairperson Masser asked if any members of the AAB or public had any comments.

Ms. Harry mentioned that Ag Progress Days is being moved back a week, thus we could hold the August 2013 AAB meeting in Harrisburg if we stay with the 3rd Wednesday of the month schedule.

Deputy Secretary Heffner announced that the Environmental Quality Board (EQB) approved the Chapter 105 fee schedule and the package will now move to the Independent Regulatory Review Commission (IRRC). She thanked the AAB for assisting the Department in the review of this

package. Mr. Robert Maiden thanked DEP for including the County Conservation Districts in the Chapter 105 fee package.

There being no additional discussions, the meeting was adjourned at 12:10 p.m.