



**Governor** John R. Kasich  
**Lieutenant Governor** Mary Taylor  
**Director** David T. Daniels

**Division of Livestock Environmental Permitting**  
**A.B. Graham Building**  
8995 East Main Street, Reynoldsburg, OH 43068  
Phone: 614-387-0470 • Fax: 614-728-6335  
www.agri.ohio.gov • lepp@agri.ohio.gov

**Responsiveness Summary to public comments on the  
Hillandale Farms Ohio, LLC draft Permit to Install and draft Permit to Operate  
May 10, 2013**

On April 9, 2013 the Ohio Department of Agriculture issued a public notice of Hillandale Farms Ohio, LLC draft Permit to Install and draft Permit to Operate. This public notice opened the public comment period on the draft permits and informed the public that any person may submit written comments and/or request a public meeting on the draft permits. The comment period ended at 5:00 p.m. on May 9, 2013. Two individuals submitted comments. No requests for a public meeting were received.

The Director's final decision on the draft permits must be made in accordance with the laws regulating and facts contained in the permits. According to rule 901:10-6-04 of the Ohio Administrative Code, persons, including applicants, who believe any condition of a draft permit is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public meeting). Ohio Revised Code Section 903.09 states that the Director is to hear comments pertinent to the draft permits. The Ohio Department of Agriculture considers pertinent comments to be comments relating to the draft permits and the way in which the draft permits comply with the ODA rules. Public comments also need to relate to issues under the regulatory control of the Director of Agriculture. The Ohio General Assembly has not given the Director of Agriculture unlimited control. The permits cover environmental issues pertaining to water pollution control such as siting, geological explorations, facility design, construction, water quality and quantity, manure management, containment of stormwater runoff, insect and rodent control, mortality, and emergency response.

Comments about large-scale farming in Ohio, about other farms in Ohio, or other permits will not be considered as comments that pertain to these draft permits. Comments about roads, taxes, property values, and air quality are not under the regulatory control of the Director of Agriculture and will not be considered as comments that pertain to these draft permits.

Two individuals submitted comments and questions to DLEP regarding the draft permit issued to Hillandale Farms Ohio, LLC: Kay Byroads, whose address is 8066 Road 8, Montpelier, OH 43543 and Vickie Askins, whose address is 6335 Solether Road, Cygnet, OH 43413.

Similar comments are grouped and summarized.

**Comments and Questions submitted by Vickie Askins**

**Comment Subject matter: 4 Rs of Nutrient Stewardship and Distribution & Utilization**



1. Please explain how the Distribution & Utilization method of manure management conforms to the 4 Rs of Nutrient Management.
2. Please explain how this owner/operator could know the crop requirements of the fields receiving manure since the Manure Management Plan (MMP) does not contain soil testing data for all the fields that will receive this manure.
3. Please explain how this owner/operator could know when the crop demand would be high if there is no cropping schedule in this MMP for all the fields receiving this manure.
4. Please explain how this owner/operator could know the right place to put all these nutrients if he has no idea where the “crop farmers” will apply this manure.
5. Please explain why there is **no** field-specific assessment that addresses the form, source, location, amount, timing, and method of application of nutrients on each field, as required by the Clean Water Act.

**Response:**

The liquid manure will be under the control of Hillandale Farms and detailed information about the application and nutrient budget of this liquid manure is included in the Manure Management Plan (MMP). However, all solid manure will be distributed to others and not under the control of Hillandale Farms. Hillandale is required to provide a copy of the manure analysis, the land application requirements and have the recipient sign an acknowledgement of receipt, as well as record the name, dates of manure removal and quantity of manure distributed. The recipient acquiring the solid manure from a MCAFF or CAFF is responsible for obtaining soil tests for the land on which the manure will be applied and for knowing what nutrients are needed on each field. There is no requirement for field specific information in the Federal Clean Water Act or ODA rules for manure that is utilized by crop farmers under distribution and utilization.

All manure is to be applied either in accordance to the requirements set forth for Certified Livestock Managers under DLEP’s authority or those requirements set forth in the Pollution Abatement law administered by the Ohio Department of Natural Resources, Division of Soil and Water Resources (ODNR-DSWR), whichever regulation would be applicable to the recipient. Best Management Practices that consider the 4R’s are provided in each set of these regulations.

**Comment Subject matter: Use of Certified Livestock Manager(s)**

6. Since this MCAFF is applying for ODA permits, please explain why this owner is NOT required to use ODA-trained Certified Livestock Managers or ODA-trained manure brokers to apply the massive amounts of manure generated annually?
9. Please explain the ODA’s oversight authority over the “crop farmers” who will apply the 63,300 tons of solid manure generated annually by this MCAFF.



**Response:**

Distribution and Utilization does not require that a facility use only a Certified Livestock Manager. Livestock Manager certification is required if an individual purchases, sells, or land applies more than 25 million gallon of liquid manure or 4,500 ton of dry manure annually. Certification is not required for individuals who do not meet these requirements. ODA-DLEP oversees applications performed by a CLM. In addition, ODA inspects CLM's similarly to the inspections of the permitted livestock facilities.

**Comment Subject Matter: Regulating Authority**

7. Please explain what oversight the ODA would have over this MCAFF and the massive amount of manure it generates if/when the Director approves this permit.
8. The D&U method of manure management has been dubbed the “manure loophole” because it allows CAFO owners to dispose of manure with little sunshine on what happens after the hand off. Please explain how the ODA would monitor the manure disposal by this MCAFF.
13. Please explain which agency(ies) would have oversight over this MCAFF and what enforcement authority this agency(ies) would have under Ohio's laws.
14. Since the ODA has stated in the past it has no oversight over D&U - but the local SWCD has no enforcement authority over MCAFFs, please explain how local residents can report violations and/or discharges in order to make sure this owner does not provide additional manure to a “crop farmer” who violates Best Management Practices.

**Response:**

ODA-DLEP has regulatory authority for any manure as long as it is under the control of the permitted facility or a Certified Livestock Manager, whether in storage or being land applied. All manure that is land applied in Ohio has to comply with state law, but it depends on who is responsible for the manure when it is land applied (see response to Comment 6. and 7. above) to determine which laws apply to its application. ODA has regulatory authority over the MCAFF and requirements would fall under ORC 903 and OAC 901. Once manure is distributed by the MCAFF, either ODA or ODNR/DSWR has regulatory authority, depending on whether control of the manure falls under a CLM.

**Comment Subject Matter: Miscellaneous**

12. Do these “crop farmers” have to incorporate this manure? If so, does this have to be done within 24 hours?

**Response:** No.



17. Since this MCAFF has elected to use the Distribution & Utilization method of manure management, please explain if this operator or any employee can spread or have any control over the solid manure after it leaves the property.

**Response:** If the facility operator or an employee of the facility applies manure as part of the facility's operation, then the facility must include that land in the land application plans and keep the same records that they will be doing with the liquid egg washing wastewaters.

### **Comments and Questions submitted by Kay Byroads**

"For example, what is going to be done as far as disposal of the thousands of carcasses".

**Response:** The facility will be utilizing rendering for all mortality

"I know the high content of acid/ammonia in chicken manure, so how is this going to be disposed of as far as spreading on adjacent fields".

**Response:** Please see response to questions 1 through 5 above.

### **Comments That Received No Response**

ODA does not have complete control over all aspects of livestock permitting in Ohio. The legislature has not given the Director of Agriculture unlimited power. The areas that the ODA has been given authority over are very limited and are covered under the PTI and PTO. ODA has not been given any statutory authority to regulate many of the areas of concern to communities such as infrastructure, air quality and quality of life but that does not mean the ODA does not recognize that these and many other areas are concerns to communities. Determining the areas that should be regulated for agriculture is a decision of the legislature and not of the ODA.

The inquiries that follow are either not regulated by the Ohio Department of Agriculture or are not specific to the draft permits:

10. Please explain how these "crop farmers" would be trained to handle the massive amounts of chicken litter manure generated each year.
11. Please explain how the ODA will monitor whether these "crop farmers" also apply commercial fertilizers to these manure fields.
15. Please explain why the ODA would give this MCAFF owner a free pass for the land application of the massive amounts of waste it generates while, at the same time, the State of Ohio is threatening row crop farmers with mandatory restrictions on commercial fertilizer application.



16. This MCAFF is proposed to be located in the Upper Maumee River watershed. Please explain why the ODA would allow another industrial animal facility to be located in an area that already has other confinement facilities - in light of the extremely serious issues with nutrient loadings in the Maumee River and Lake Erie.

**Revision from Draft Permit to Final Permit**

