

**Responsiveness Summary to public comments on the
Veitch Farms draft Permit to Operate**

August 24, 2009

On May 30, 2009, the Ohio Department of Agriculture issued a public notice of Veitch Farm's draft Permit to Operate. This public notice opened the public comment period on the draft permit and informed the public that a public meeting would be held on July 1, 2009 to accept comments. The comment period ended at 5:00 p.m. on July 9, 2009.

The Director's final decision on this draft permit must be made in accordance with the laws regulating and facts contained in the permit. According to Ohio Administrative Code 901:10-6-04, information presented during the public comment period shall be limited to the criteria and information that are applicable to the permit application that is the subject of the 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 Permit to Operate is an environmental permit covering issues pertaining to water pollution control such as manure management, 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 this draft permit. 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 this draft permit.

Similar comments are grouped and summarized.

No.	Date Received	Name	Organization, if any	City, State
1	7/1/2009	Stan Robinett		Greenville, OH
2	7/1/2009	Ralph Reinhart		Fostoria, OH
3	7/1/2009	Rita Robinett	Wayne Lakes Council	Greenville, OH
4	7/1/2009	Teri Reinhart	Sierra Club	Fostoria, OH
5	7/1/2009	Gary Lee Young	Mayor Wayne Lakes	Greenville, OH
6	7/1/2009	Joan Falknor		Greenville, OH
7	7/2/2009	Vickie Askins		Cygnets, OH

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1. Well Contamination

Who will be liable if local residents' wells are contaminated?

Response:

If a well in the proximity of Veitch Farms is found to be contaminated, an investigation would take place to determine the source. If the investigation demonstrated that Veitch Farms was the source of contamination, that the facility failed to comply with the laws and rules governing operation of a CAFF, and that an alternative water supply was necessary; then like anyone who causes damage to others, Veitch Farms could be held liable.

2. Monitoring Water Supply

Will ODA monitor the water supply on a regular basis to ensure it remains safe to drink and is not being polluted by huge amount of raw sewage from this farm?

Response:

The ODA requires the results of a recent well water test be submitted as part of this permit. Veitch Farms' well water sample results showed no detectible nitrates or fecal coliform. Additionally, ODA requires that a well water sample be drawn at least once a year and tested in a laboratory. These results must be kept in the facility's operating record and will be checked by an ODA inspector.

3. Phosphorus Removal and Application Rates

Eight of the soil tests completely exceed the "HIGH" standard of 100 ppm P. Please explain the note on page 18 which allows this "farm" to continue to apply even MORE phosphorous to these already "HIGH" fields. Why would the ODA allow this farm to include the facility site fields in this MMP for more manure? Why would ODA allow fields with such excessive P levels to be included for manure application? Why are the facility site fields included in this MMP if they already exceed 60 lb/A of phosphorous?

Please explain why the Director did not deny this permit since it contains invalid fields for manure application. (soil tests exceed the "high" standard of 100 ppm P)

Please explain why ODA would assume that the phosphorous levels will decrease to acceptable levels if this farm continues to apply more manure to the fields.

Why would ODA allow this farm to include the facility site fields knowing they would NOT be available for the five-year duration of this permit? (#11)

What will happen to this farm when they have to wait 15 to 20 years (due to high P soil tests) to apply more manure to local fields?

Response:

Veitch Farms will be using a two stage manure pond system, which involves settling of manure solids in Pond 1 and pumping of the less nutrient-dense liquid that results after settling into Pond 2. The manure solids from Pond 1, which will have higher phosphate levels, are not authorized to be land applied on the fields in question, but will instead be distributed off the farm to local farmers. Only the lower-phosphate liquid from Pond 2 will be land applied on the fields in question, to irrigate growing corn and alfalfa crops. The planned crop rotation of alfalfa and corn is expected to use more phosphate in its growth than the amount of phosphate to be applied to the fields in the low nutrient liquid.

As a result, the phosphorus soil test levels in these fields are expected to decrease, rather than increase, over the five-year duration of the permit.

Pursuant to Rule 901:10-2-14(E) of the Ohio Administrative Code, a facility must determine an application rate for phosphate using either the Phosphorus Index Risk Assessment Procedure in Appendix E, Table 1, of that rule, or the Phosphorus Soil Test Risk Assessment Procedure in Appendix E, Table 2 of that rule. The 71 acres at the facility site were assessed as “high” under the Phosphorus Index Risk Assessment procedure in rule 901:10-2-14, Appendix E, Table 1. As a result, as provided in that appendix, the application rate for phosphorus on these fields is limited to the annual crop removal rate. The note on page 18 of the facility’s Manure Management Plan was included because Veitch Farms is being required to confirm, through soil testing, that the application of the proposed low phosphate liquid manure from pond 2 is meeting this requirement. The phosphorus soil test levels are expected to decrease because, as noted above, the planned crop rotation of alfalfa and corn will use more phosphate in its growth than the amount of phosphate to be applied. The proposed phosphate requirement for the alfalfa and corn crop is 4,918# over the five year cycle of the permit. The proposed application rate of phosphate on these particular fields is 3,186#. Simple math shows a 1,732# deficit which should reduce the phosphorus content of the soil by 2.5 ppm per year. As stated in the note on page 18 of the Manure Management Plan, if soil testing fails to demonstrate that soil phosphorus levels are decreasing, the acreage will be prohibited for being utilized for manure application until soil test levels or the Phosphorus Index Risk Assessment would allow application, and Veitch Farms will be required to find new ground for manure application.

4. Applying Manure at Agronomic Rates

OAC 901:10-2-14 (E)(1) states “The application rate for phosphate applications shall be based on the following: (a) Estimated plant uptake by crops at the recommended agronomic rates.”

Are the manure nutrient applications in this Permit limited to “crop removal or crop needs”?

Response:

This quotation is from an older version of OAC 901:10-2-14. The rule was amended in January 2009 as required by the USEPA and no longer contains the quoted language. However, as noted in the response to question 3, the application rate for phosphate at the 71 acres at the facility site is limited under appendix E, table 1 of this rule to the annual crop removal rate, and the facility is being required to demonstrate through soil testing that the phosphorus soil test levels are decreasing. Assuming that the above question is about the application of phosphate, this manure management plan is based on an average application rate of less than 45 lb/A phosphate. The results will be verified as stated in #3 above and on page 18 of the MMP in the permit.

5. Most Restrictive Nutrient

Does this farm only limit the most restrictive nutrient and ignore the other nutrient levels?

Response:

No. All of the application rate criteria are evaluated to determine what the most limiting factor for the field is at the time of application. See OAC 901:10-2-14. Based on this evaluation, the permitted application rate is determined, and that application rate is used for that period of application. Generally, the most limiting factors are the nutrients evaluated and, for liquid manure, the Available Water Capacity (AWC) of the soils in the field. The AWC is often the most limiting factor for a single time liquid manure application because the water holding capacity of the soil will be achieved for a single application before the allowable nutrients are applied. For further analysis of the Available Water Capacity chart, refer to Appendix B of rule 901:10-2-14. In addition, depending on the time of year, additional nitrogen limitations not associated with crop needs are evaluated, as provided in ODA rule 901:10-2-14(D). Additional criteria also heavily restrict application on frozen or snow-covered ground, as provided in ODA rule 901:10-2-14(G).

6. Manure Application on Legumes

Why would the ODA recommend manure application on legumes?

Response:

The ODA does not affirmatively “recommend” such application to legumes, but it does allow the application under ODA-LEPP rules. The application of manure on alfalfa and soybean fields is also allowable by USDA-NRCS and University publications. While nitrogen is not necessary for the growth of alfalfa or soybeans, if it is applied the crops do not produce their own through rhizobial production. There is no environmental impact to water quality by replacing this nitrogen through manure application.

7. Gallons of Manure

How was the 1,046,084 gallons of manure generated annually by this farm calculated?

Response:

Since Veitch Farms was not required to keep records as a non-permitted facility they do not have a good record of actual manure produced in the past. Rainfall collected by the ponds was taken from average Ohio county records, wash water for the cleaning of the barns was estimated and actual manure production from 12,000 nursery pigs was derived from book values and some farm records. The manure production and wash water was calculated to be 804,101 gallons per year and the collected rainwater was estimated to be 241,983 gallons per year.

8. Growing Pigs and Number of Batches

How many days/weeks/months does it normally take to grow a piglet to 55 lbs? How many batches are grown per year?

Response:

It takes about 8 weeks for a pig to reach 55#. Veitch Farms receive their pigs at about 12 pounds and raises them for 6 weeks to the 55 # weight before moving them to finishing barns. They raise about 6 batches per year.

9. 6,899.2 lbs. P205 Generated Each Year

How was this number determined?

Response:

The manure test was taken from an undiluted sample from the pit below the nursery and produced a result of 8.58 pounds of P₂O₅ produced per 1,000 gallons. Then based on the estimated 804,101 gallons of manure produced (8.58 x 804), the calculation of 6,899# of P₂O₅ was made.

10. Landowner Permission

Did ODA validate landowner permission to apply manure to their fields?

Response:

Veitch Farms is an existing facility and since 2005, has had agreements with local farmers to take its manure as a replacement for commercial fertilizer. These Distribution and Utilization agreements do change periodically and must be recorded in the facility's operating record. Currently manure is being trucked out by tanker to fields in the area by farmers wanting the nutrients. As noted in this question, permission/agreements are needed and Veitch Farms could greatly reduce tanker traffic and odor if it could gain permission to cross adjacent property and dragline property in closer proximity to the facility.

If there is a dispute between the landowner and the crop farmer, it is up to the two parties to work it out. If the crop farmer does not have permission to apply manure to the fields or chooses not to apply to those fields for any reason (whether to resolve a dispute or otherwise), the fields would have to be removed from the manure management plan. There has been some dispute between Veitch Farms and a land owner about crossing his land with a drag hose for application to a nearby farm field that Veitch Farms has an agreement to apply the manure to without transporting the manure on the local roads. Two to three applications with a drag hose would apply a year's worth of Veitch Farms manure. Without this access many tanker loads are needed to transport the manure to farm fields. An attempt to decrease road traffic is part of the reason that Veitch Farms is requesting the use of the 71 adjacent acres. In any event, the land application rate restrictions in rule 901:10-2-14 of the Ohio Administrative Code must be met. If additional land is required for any reason during the life of the permit to operate (whether it is through the loss of access to acres, updated soil test information, or any other reason), the facility will be responsible for adding additional acres to the manure management plan in order to maintain compliance with rule 901:10-2-14 at all times.

11. OAC 901:10-2-02 Siting Criteria

Have the siting criteria in reference to aquifers, streams, cold water habitats, sole aquifers, etc. been met?

Response:

This is an existing facility that is not expanding therefore there was no application for a Permit to Install which is where the siting criteria requirements are found.

12. Shelby SWCD

Why did the ODA LEPP staff confer with Shelby SWCD (pg. 3) when this farm is in Darke County?

Response:

The page to which the commenter refers in the compliance report incorrectly refers to Shelby County SWCD in one location as the result of an editing error. This inadvertent mistake has been corrected as part of the final permit. ODA LEPP did not confer with Shelby County SWCD on this permit application. Instead, Darke County SWCD was contacted, as the rest of the references in the compliance report make clear.

13. Odor

That's a lot of hogs and you got a lot of smell, it's gonna be rough going outside some day because of the funk.

Response:

The capacity for animals at these facilities is not changing. The odors should not be worse from what has been there for many years and because of some of the changes in management should be improved. Odor minimization is required by ODA rules in the Manure Management Plan of the draft Permit to Operate, Veitch Farms has identified specific best management practices listed in Ohio Administrative Code Rule 901:10-2-12 to minimize odor, including removal, transfer, and application of manure when wind direction is less likely to affect neighboring residences and injecting and incorporating manure when at all possible (i.e.: not on a growing crop, etc.).

Odor is something that will be evaluated during routine inspections and complaint investigations. Inspectors would determine if the permit was being followed and if the odor was occurring as a result of the producer not following best management practices. If the permits are not followed, the farm could be subject to an enforcement action by ODA.

14. ODA Special Condition

Please explain how the ODA LEPP office can create new rules which do not comply with the Ohio Administrative Code. (condition must be met as provided by the ODA LEPP office)

Response:

It is unclear precisely what this comment is referring to. If it is referring to the note on page 18 of the manure management plan (as seems to be possible based on the rest of the commenter's questions), that note is not inconsistent with the rules in the Ohio Administrative Code. As noted in the response to question 3 above, the facility is required under rule 901:10-2-14, Appendix E, Table 1, to limit the application rate for phosphorus to the annual crop removal rate. The note on page 18 is imposing a verification requirement on the applicant to ensure that soil phosphorus levels are in fact being lowered (i.e. that the crop rotation is using more of the nutrient than the amount being applied).

15. Compliance History

Why didn't the ODA require a Compliance History of Cooper Farms?

Response:

Cooper Farms has not been identified as either an owner or an operator of the facility. As provided in section 903.05 of the Ohio Revised Code, the persons who must provide compliance information are the owner or operator of the proposed concentrated animal feeding facility.

The following comment categories were not responded to because they are either on subjects that are not under the regulatory control of the Director of Agriculture or are comments that are not applicable to the draft permit that is the subject of the public meeting.

Strength of ODA Rules

Testing Manure for Pathogens

Public Hearing Procedure

ODA Guarantees

Hormone Use

Antibiotic Use

Septic System Permit

Local Infrastructure

ODA Financially Benefitting From CAFOs

Carbon Dioxide Sequestration

Revisions from Draft to Final Permit

- Addition of General Conditions For Permit pages
- Change from Shelby to Darke County on page 3 of compliance report