State Conservation Commission
Act 38 OM Program Updates

2019 Pennsylvania Inter-Agency Nutrient Management Annual Conference

Karl Dymond
Odor Management Program Coordinator
### Act 38 OM Program Update

#### Program Numbers (Program Start (2/27/09) – To October 1, 2019):

<table>
<thead>
<tr>
<th>Year</th>
<th>Central</th>
<th>NE/NC</th>
<th>SE/SC</th>
<th>West</th>
<th>Totals</th>
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<td>135</td>
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</table>

Grand Total: 683
Act 38 OM Program Update

- **Program Numbers** (Program Start (2/27/09) – To October 1, 2019):

    - Denied (9)
    - Rescinded (69)
    - Withdrawn (12)
Planning and Review Issues
OMP Site Definition

- **Site Maps** — Must properly define what the Site covers; all property-line boundaries must be shown.

- **Re-Defining Site** — Operator changes definition of Site — E.G., Approved OMP has multiple contiguous land parcels defined as 1 Site, then divides parcels into multiple Sites — This will most likely require an Amendment.
Planning and Review Issues

Plan & Site Name

- **Plan Name** – Person’s Name or Business Entity Name

- **Site Name** – When Operator has multiple Sites, Plan Name must also include a Site Name to properly identify it differently from other sites or other operators with the same name

- **Format** – Plan Name – Site Name, e.g. Our Family Farm, LLC – Home Farm
Planning and Review Issues

3-Year Timeframes

- **Construction Activity** – Regulation: §83.771(d): must start construction of proposed regulated facility within 3 years of Plan Approval Date; otherwise an Amendment (new evaluation) is required before that proposed facility can be built.

- **Barn Empty** – Policy: if an existing barn is empty for 3 or more years, it & the associated animals are considered Proposed.
Barn Replacement — Regulation: §83.701 definition construction activity & Policy: Acts of God cause barn destruction, must rebuild within 3 years (similar size & capacity), else Proposed Facility
Planning and Review Issues
Odor BMPs

- Manure Loading Areas/ Push-Out Pads —
  - Must meet (634) Waste Transfer Standard (else will be a MSF)
  - Must be included in the Level I Odor BMP Principle #6 for Managing Manure
Site Livestock History –
- Amendments – Can include AEUs from previously approved barns provided that they’ve been on-site for more than 1 year (PA Right to Farm concept)
- After-the-Fact Scenario – Cannot include AEUs from the associated After-the-Fact barns (Proposed AEUs)
Transfered AEU -

- On-Site animals only (Off-Site = Proposed)
- Documentation Required, where transferred from

E.G., Layer Operation – Existing High-Rise Barn had 100K layers; Replacement Barn (caged-layer; belted manure handling) has 300K. OMP approved for 100 Transferred (layer) AEU and 200 Proposed (layer) AEU.
Planning and Review Issues

AEUs

- **Transferred AEUs** –
  - Back-Filling into existing barns Negates previously approved Transferred AEUs – potentially causing an Amendment
  - E.G., Cattle Operations – OMP approved for 100 Transferred AEUs (out of an existing barn) and 100 Proposed AEUs into the proposed barn. An inspection identified 100 new cattle AEUs were back-filled into the existing barn. Now Amendment required (100 Additional Proposed AEUs).
Planning and Review Issues
Amendments

- **Threshold Triggers** – Construction Activity (barns & MSFs); Significant Changes

- **Distance to Nearest Property Line** –
  - **Barns** – Measurements required for closest Proposed & Currently Regulated facilities
  - **MSFs** – Measurements required for all Proposed & Currently Regulated facilities
Planning and Review Issues

Amendments

- **Geographic Centers** –
  - Single – Facilities \( \leq 1200' \) apart AND OSI based on most restrictive applicable Animal Type & Manure Handling System
  - Multiple – Facilities \( \geq 1200' \) apart and/or Multi-Species (Optional)

- **MSF & AEUs** – Total Covered AEUs = AEUs from all regulated barns (Previously Approved AEUs) + any Proposed AEUs (including after-the-fact, pastured new animals, etc.)
Planning and Review Issues

Updates

- Minor Changes / Corrections
- Supplemental Odor BMPs (§83.781(e))
- Transfers – (§83.812) Provided that No Significant Changes/ Operational Changes; else an Amendment is required to transfer OMP to new operator(s)
Planning and Review Issues
Rescinding OMPs

- **Written Request** – Written Request to Rescind OMP by Operator, or Plan Writer on behalf of Operator

- **Written Verification** –
  - Non-CAO Status – NMP Withdrawal Letter from CCD
  - Non-CAFO Status – NPDES Permit Rescinded Letter from DEP
QUESTIONS