



Members:
Sen. David Ford, Chair
Sen. Johnny Nugent
Sen. Katie Wolf
Sen. Richard Young
Rep. Robert Bischoff
Rep. John Frenz
Rep. William Friend
Rep. Richard Mangus

LSA Staff:
Al Gossard, Fiscal Analyst for the Committee
Carrie Cloud, Attorney for the Committee

Authority: IC 2-5-21

AGRICULTURAL MATTERS EVALUATION COMMITTEE

**Legislative Services Agency
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MEETING MINUTES

Meeting Date: July 28, 1998
Meeting Time: 10:00 A.M.
Meeting Place: Joel Houk's Farm, 4885 N. 600 W
Meeting City: Craigville, Indiana
Meeting Number: 6

Members Present: Sen. David Ford; Chair; Rep. John Frenz; Rep. William Friend; Rep. Richard Mangus.

Members Absent: Rep. Robert Bischoff; Sen. Johnny Nugent; Sen. Katie Wolf; Sen. Richard Young.

Sen. David Ford, Chair of the Agricultural Matters Evaluation Committee, called the meeting to order at 10:10 a.m. He introduced Joel Houk and thanked him for allowing the committee to hold this meeting on his farm. Sen. Ford then acknowledged the presence of Sen. Robert Jackman.

Confined Feeding Operations - IDEM

Laura Steadham, Chief of the Indiana Department of Environmental Management's (IDEM) Solid Waste Facilities Branch, provided the following materials¹: (1) the most recent draft rule for confined feeding operations (CFO); (2) a memo regarding the August 6 Confined Feeding Operation Rule meeting; (3) notes from the June 24 Confined Feeding Technical Workgroup meeting; and (4) a list of items to be included in the guidance document. Ms. Steadham announced that IDEM is delaying the implementation of the rule in order to obtain additional public comments.

Ms. Steadham briefly described the following major changes that were made to the draft CFO rule:

- provides more explicit performance standards for all CFOs.
- provides more definitions.
- provides a transition section for existing structures to become compliant.
- provides explicit application requirements for new structures.
- addresses modifications to approvals.

¹These documents are on file in the Legislative Information Center (LIC), Room 230, Statehouse, Indianapolis, Indiana. The telephone number of the LIC is (317) 232-9856, and the mailing address is 200 W. Washington St., Suite 301, Indianapolis, IN 46204-2789.

- incorporates manure management plan requirements.
- incorporates notice requirements.
- provides required acreage for manure application.
- provides location restrictions for new construction.
- requires storage capacity of at least 180 days.
- requires additional protection if construction is in a sensitive area.
- provides construction guidelines.
- provides operational requirements.
- provides for closure of manure storage structures.

In response to questions from Sen. Ford, Ms. Steadham noted that the new draft rule will make it less difficult for individuals to comply with the application process. She added that the approval process currently takes a net of approximately 60 days and that she expects it to be faster once the rule is implemented.

Aaron Lauster, with IDEM's Solid Waste Compliance Branch, made the following comments. IDEM started performing routine inspections of CFOs in January 1998. IDEM has 13 inspectors. To date, 331 inspections have been completed. Of the sites inspected, 70 percent did not have any violations or problems, 17 percent had minor violations, 8.5 percent had potentially environmentally threatening violations, and 2.5 percent had enforcement actions taken against them. There are approximately 3,800 permitted CFOs. IDEM discovered 43 CFOs that had closed or were never built. During the first round of inspections, IDEM inspected CFOs with the largest lagoons, although some inspections were initiated by complaints or emergency response. In response to questions from Rep. Mangus, Mr. Lauster noted that a majority of the enforcement actions against CFOs related to manure entering a stream. He added that an average inspection takes approximately one hour. He also noted that he foresees a check-off list for inspections once the rule is adopted. In response to a question from Rep. Friend, Mr. Lauster indicated that of the 32 CFOs that were cited for violations, three were for manure entering streams through tile inlets.

Testimony

Rick Winkler, with Countrymark Co-op, questioned whether the standards are the same for commercial fertilizer application near stand pipes as for manure.

Terry Fleck, with the Indiana Pork Producers Association, testified that his association has identified the following concerns: (1) transferability of operations; (2) location setbacks; (3) manure application setbacks; (4) operational standards, such as record keeping and response plans; and (5) applicability. He added that 99 percent of the pork industry in Indiana has not had any problems.

Rep. Frenz commented that the gradient of land needs to be addressed in the setback portion of the rule.

Grant Smith, with the Citizens Action Coalition, gave the following testimony. There are concerns in other states regarding health problems allegedly connected to CFOs. Kentucky, Missouri, and North Carolina have put moratoriums on large CFOs. Not all CFOs present the same level of threat. The committee should look at the difference between commercial operations and farms. The Coalition supports state franchise co-ops. The monopolization of the market is a greater concern than regulation. In response to a question from Rep. Frenz regarding how to differentiate between commercial operations and farms, Mr. Smith stated that other states have used the number of animal units. Mr. Smith suggested exploring policy issues to boost farm income, decrease overhead, and lessen environmental impact.

Larry Wilson, Director of IDEM's Office of Planning and Assessment, made the following remarks. The

problems with CFOs in eastern states occur mostly because there is not enough land for manure application. The filing of a manure management plan could serve as a brake on expansion if the CFO does not have enough acreage to apply the manure. The largest CFO in the state has approximately 18,000 animal units. There are no requirements for setbacks for residences.

Larry Brockway, with the Indiana Campaign for Family Farms, gave the following testimony. There is a CFO with 3,500 head near his home. The operator leases approximately 155 acres to apply six million gallons of manure. The land is located in a floodplain. There are six wells that are about 30 feet deep. The wells have not been tested yet to see if they are polluted. Rep. Mangus stated that he thinks this is definitely a commercial operation.

Roger Keenan, with the Adams County Farm Bureau, testified that some counties do not have good planning boards. Rep. Frenz noted that 16 counties do not have zoning boards.

Rae Schnapp, with the Hoosier Environmental Council (HEC), gave the following testimony. Much of the expansion of CFOs is due to the anticipation of overseas markets. HEC received a 28,000 signature petition for a moratorium on CFOs. She suggested that IDEM provide information on the range of sizes of permitted CFOs in Indiana to help determine the dividing line between commercial operations and farms. She noted that a possible dividing line could be hired labor.

Lynn Selking, an Adams County farmer, asked if any tests have ever been run on contaminated streams to determine what source pollutes the ground more. Rep. Friend responded that some tests are being done, but results are not yet available.

Jerry Reinhard, a pork producer, noted that the rules are reactive, but should be proactive. He added that incentives, such as money for research and property tax breaks, are needed.

Larry Boys, a farmer and Indiana Farm Bureau district director, noted that specific rules do not allow for fast-changing technology. He suggested using performance-based standards regardless of the size of the CFO.

Susan McCloud, IDEM's Natural Resources Conservation Service Liaison, noted that \$11 million has been given in nonpoint source pollution grants. She added that there need to be ways to provide more assistance, such as engineering, management, conservation, and financial aid, to CFOs.

Julia Wickard, with the Office of the Commissioner of Agriculture, noted that the rules still have a long way to go, but they are getting there.

Sen. Jackman commented that government has to keep in mind that economics drives all agriculture, not just hog production. He added that he does not feel government should add to the economic burden of production.

Richard Spath, a pork producer, suggested that regulations focus on the management of smaller CFOs.

Other Business

Terry Strueh, with Purdue University, noted that he would be happy to provide any information on the Cooperative Extension Service. Nancy Smith, with the Indiana Extension Homemakers, noted that the primary focus of the group is education for women and families.

Sen. Ford adjourned the meeting at 11:30 a.m.