

ACT 38 ODOR MANAGEMENT PROGRAM

PROGRAM GUIDANCE AND TECHNICAL MANUAL
PROPOSED VERSION 4.0

COMMENTS RECEIVED AND UPDATED LANGUAGE

Agricultural Advisory Board Meeting
June 17, 2021



HISTORY – TECH MANUAL

- The current version (Version 3.0) of the Program Guidance and Technical Manual was released in October 2019.
- In August 2020, SCC staff held an open comment period for users of the Program Guidance and Technical Manual to submit comments and suggestions for revisions to the Tech Manual.
- SCC staff received a total of 13 comments / suggestions.
- SCC staff reviewed the comments / suggestions and deemed that 11 comments / suggestions had merit.
- The next slides will provide the major updated guidance for review (will not discuss typos, grammar use, etc.)



COMMENT 1

CHAPTER 1 TYPO AND ADDITION OF DEFINITION

- Comment –
 - *Rooved Heavy Use Area Protection – If a Heavy Use Area Protection (NRCS Code 561) with Roof Runoff Structure (NRCS Code 558) has been modified to allow for animal occupation, e.g. by adding sides, walls, stalls, curtains, etc.), it has become animal housing.*
- Merit – Comment has merit
- Revision –
 - *Roofed Heavy Use Area Protection – If a Heavy Use Area Protection (NRCS Code 561) with Roofs and Covers (NRCS Code 367) has been modified to allow for animal occupation, e.g. by adding sides, walls, stalls, curtains, etc.), it has become animal housing.*



COMMENT 2

EQUINE OPERATIONS

- Comment – Horse farms should be treated differently than swine, poultry, and bovine operations.
- Merit – This comment has No Merit, Equine get a 50% cut in OSI scores currently



COMMENT 3

PROGRAM IN GENERAL

- **Comment** – Its time to go public with the short comings of the Odor Management Program! I feel, like many, that we have all of these demands on our plates and some govt official asking for us to use a particular font or particular formatting that accidentally changes because your requiring us to use a 30-year word product is ludicrous. I will be frank with you, this program is so flawed. I beg you to put together a work group to FIX this cluster of plan layout! Every time I do a plan for YOUR program, I have to laugh out loud. Because the items and formatting you speak of is a joke. I should not have to worry about formatting changes in a document that literally sucks. If these formats are changing, by no fault of my own, it's because of the original platform is flawed. I still laugh that I have to leave in your red highlight notes. It's the most unprofessional document next to the NMP ACT 38 template that we are required to use. If anyone outside of the program, would see this document in final form, they would laugh with me. I think the Commission and PDA should reevaluate how lousy this current template is.
- **Merit** – This comment has no merit



COMMENT 4

NMP TRANSFER – NOTIFICATION BY CD

- **Comment – OMPs are required when new animal housing facilities and/or new manure storage facilities are created for agricultural operation that are CAOs or CAFOs. When an operation sells or transfers the farm, the new operators frequently transfer the NMP but often are not aware of the Odor Management planning requirements and may not notify the OM Program of the need to transfer the OMP. CD staff are requested to notify their SCC regional coordinator or OM Program staff when an NMP is Transferred to a new operator so the SCC can determine if there is an OMP for this farm site, and then notify the new operators if they have OM Planning requirements.**
- **Merit – Comment has merit**
- **Revision –**



COMMENT 5

CONTACT UPDATE

- **Comment** – Please be advised that the mailing address and phone number for Karl Dymond, Odor Management Program Coordinator, has change effective immediately. Also, add the program resource account e-mail address
- **Merit** – Comment has merit
- **Revision** – All mail to the Odor Management Program should be sent to:
State Conservation Commission
Odor Management Program
2301 N. Cameron Street
Harrisburg, Pa 17110-9408

All phone calls to the Odor Management Program should be directed to 1-215-287-4564

Karl Dymond' s e-mail address will remain the same; kdymond@pa.gov



COMMENT 6

RUN IN SHEDS

- **Comment** – Run in sheds that only provide shelter from weather, no feed or water provided, should not be considered animal housing.
- **Merit** – Comment has merit
- **Revision** –
 - **Run-in-Shed** –
 - If a Run-in-Shed (typically a small building with a roof and 3 walls) is provided only for sheltering the animals from the weather, where the animals are raised primarily on pasture and no feed or water is provided at the Run-in-Shed, then the Commission will consider this to be of a temporary nature vs. the permanent nature as described in the §83.801 definition of *used for occupation by livestock or poultry*.
 - **Example:** A Run-in-Shed is constructed to allow horses, which will be attached to a buggy, to stand in as a temporary means of protection from the weather. No feed and water systems are used. This example would not require an Odor Management Plan.



COMMENT 7

TRANSFERRED AEU'S

- **Comment – Non-Allowance of Transferred AEUs for Equine and Cattle Operations** due to typical population of the regulated barns over time (vs. immediate maximum population of other species) and due to typical backfilling of animals into non-regulated barns. Clarification on allowed Transferred AEUs is also needed.
- **Merit – Comment has merit**
- **Revision – Non-Allowance of Transferred AEUs –**
 - **No Transferred AEUs allowed with Horse and Cattle Operations –**
 - **Delayed Maximum Population –** Since Horse Operations and Cattle Operations tend to populate the regulated animal housing facilities over time, vs. most other animal operations which tend to populate immediately at the maximum capacity of the animal housing facility, Horse Operations and Cattle Operations are not allowed to claim any Transferred AEUs.
 - **Backfilling –** Program experience has shown that after constructing and populating a regulated barn, a majority of Cattle Operations tend to backfill new animals coming on-site into existing animal housing facilities..



COMMENT 7 REVISION CONTINUED

- Incorrect Evaluation Distance Area – Due to the Delayed Maximum Population and Backfilling found typically with cattle operations, plans were incorrectly developed for a smaller evaluation distance area.
- Example: An OMP for a new regulated barn at a cattle operation claims 175 existing cows (253.75 AEUs) are transferred with only 105 cows (136.5 AEUs) proposed, thus the OMP was developed with an 1800' evaluation distance area. However, the OMP compliance inspection shows a total livestock site increase of 252 AEUs (from the approved OMP baseline number of animals).
 - Implications – An amendment is required for the significant changes:
 - Significant Change of AEUs – In this scenario, 25% of the Transferred AEUs = 63.4 AEUs ($253.75 \times .25 = 63.4$); there was a total increase of 252 AEUs!
 - Significant Change of Evaluation Distance Area – The plan was developed for only 136.5 Proposed AEUs (1800' evaluation distance area), however it should have been developed for 136.5 AEUs + 253.75 AEUs (the Transferred amount) = 390.25 AEUs; a 2400' evaluation distance area is required



COMMENT 7 REVISION CONTINUED

- Total AEU's Covered by the OMP when 500 or More AEU's –
 - When there are 500 AEU's or more, which already has the maximum 3000' Evaluation Distance Area, there is no advantage of singling out Transferred AEU's from Proposed AEU's; no Transferred AEU's may be claimed.
- Transferred AEU's Already Claimed –
 - When Transferred AEU's were already claimed with a previous barn construction, they may not be used for any other barn construction, or likewise for any "leftover AEU's".
 - Example: Layer Barn 1 (4-Deck, 85,000-layer capacity) is torn down and replaced with the new Layer Barn 1 (9-Deck, 165,000-layer capacity). The 252 AEU's that were Transferred (from the existing Layer Barn 1 to the new Proposed Layer Barn 1) cannot be used in the future for any other barn construction.
 - Example: Existing Layer Barn 1 (123,717-layer capacity (368.81 AEU's)) is torn down and replaced with the new Organic Layer Barn 1 (43,860-layers (130.75 AEU's)). In this case 130.75 AEU's are Transferred, with a 1200' evaluation distance area; no other barn construction activities are proposed. The "leftover AEU's" (238.06 AEU's) cannot be used years down the road for future barn construction.



COMMENT 8

SITE NAME

- **Comment** – Need to use Site Names with the Plan Name to more properly distinguish the site from other sites of the operator or other operators with the same or similar names.
- **Merit** – Comment has merit
- **Revision** – Site Name – A Site Name distinguishes this Site from either 1) other Sites that the same operation uses, and 2) from other similar Operator Names. The Commission has been administering the OM Program since February 27, 2009 and Site Names are needed in the majority of the cases in order to distinguish one Operator Name from another exact name or very similar name.



COMMENT 9

SUPPLEMENTAL BMPS

- Comment – Correct the error with Documentation of Supplemental Odor BMPs
- Merit – Comment has merit
- Revision – Supplemental Level II Odor BMPs are typically included into the plan via an Update to the plan (in accordance with §83.781(e)), or if there is a significant change, via an Amendment to the plan.
 - Supplemental Level II Odor BMPs – If an operator chooses to include Supplemental Level II Odor BMPs into the plan, then the certified OM Specialist plan writer is required to provide the same documentation criteria details as those of Required Level II Odor BMPs. The operator however has the option to use the Level II Odor BMPs Quarterly Observation Logs, or not use them, since the Supplemental Level II Odor BMPs are not required.
 - Note that once Supplemental Level II Odor BMPs are included in a plan, that in accordance with §83.781(e), *Implementation of Supplemental Odor BMPs*, an operator can never be in violation for not documenting the implementation of them since the definition of Supplemental Odor BMPs is that they are not required.



COMMENT 10

PROPERTY BOUNDARIES

- Comment – Clarification needed on property line boundaries (land parcel vs Operational control)
- Merit – Comment has merit
- Revision – When the Operation's facility is on rented land; only the land that the operation is in control of (the rented land) can be counted. If the operation is in control of other contiguous land, then that land also may be counted.
 - Manure Storage Facility (MSF) Setback Note – If a MSF is proposed, the additional actual land parcel boundaries will also need to be shown, so as to identify the correct Distance to Nearest Property Line measurement which is needed to document compliance with the Nutrient Management Program MSF setback requirements.



COMMENT 11

ROOFED HEAVY USE AREA PROTECTION'S

- **Comment – Clarification if one is stacking manure in a roofed heavy use area protection (barnyard), if an OMP would be needed.**
- **Merit – Comment has merit**
- **Revision – If a Heavy Use Area Protection (NRCS Code 561) with Roofs and Covers (NRCS Code 367) has any section of it used for stacking manure, that section is considered a manure storage facility and will either need to meet the Nutrient Management Program Setback requirements or a properly executed Setback Waiver will be required, as well as an OMP.**



COMMENT 12

PLAN TRANSFERS - AMENDMENTS

- Comment – Clarification of if a plan amendment or plan update is needed for a plan transfer
- Merit – Comment has merit
- Revision – If the transfer of the approved plan results in operational changes, a plan amendment must be submitted for approval for the transfer process.
 - If the transfer of the OMP is after-the-fact, then an amendment is required to transfer the plan.
 - Example: An OMP is approved for Joe Farmer. A couple of years later, Joe Farmer sells the farm and animal operation to Good Farming LLC. The Commission was not notified of the transfer and finds out a year later when doing a compliance inspection. At this point, Good Farming LLC is in violation and is required to amend the OMP in order to transfer it into their name.
 - This Transfer process will follow the normal plan amendment submission and review process.



COMMENT 12

PLAN TRANSFERS - UPDATES

- Comment – Clarification of if a plan amendment or plan update is needed for a plan transfer
- Merit – Comment has merit
- Revision – If there are no operational changes, meaning the new operator will manage the site the same as the previous operator and implement the Odor BMPs the same way as the previous operator, then the plan Transfer can be done via a Plan Update provided that the transfer is not after-the-fact for the new operator. The plan transfer will then go through a plan review process to ensure that the transferred plan is consistent with program standards.
 - Example: OMP is in the dad's name since he is the land parcel owner, but his son has been the operator all along, and they decide to transfer the plan into the name of the son. This is acceptable since the true operator (the son) has been implementing the plan.



COMMENT 13

PLAN UPDATE / NEW PLAN WRITER

- **Comment – Clarification on what s required when a new planner updates an existing OMP**
- **Merit – Comment has merit**
- **Revision – New Plan Writer – When a different plan writer develops an Update than the plan writer who developed the approved OMP/ Amendment, the new plan writer will need to do one of the following:**
 - **New Site Visit – The new plan writer will document their certification number and Date of the Evaluation Distance Area Site Visit.**
 - **No New Site Visit – If the new plan writer is using the Date of the Evaluation Distance Area Site Visit from the approved OMP/ amendment, then on the Site Visit Conducted line, the new plan writer will enter the date identified in that approved OMP/ Amendment and “by #-OMC” (where the certification number is put in for the # placeholder).**
- **Operator Signature & Agreement – A new operator signature will be required when a new plan writer develops an Update, so that the OM Program staff know that the Operator is in agreement with the changes to the plan.**



MOVING FORWARD

- SCC Staff will revise the TM per comments received and discussion.
- Revised Manual will be presented to the NMAB and AAB in August 2021 and the SCC in August and September 2021.
- If revisions are approved, manual will become effective in October 2021, with training in November 2021



QUESTIONS ?

