

# Case Study

## Ohio Negotiates Regulations Governing Environmental Impacts of Large Scale Farms\*



### The Problem

In December 2000, Ohio Governor Robert Taft signed SB 141, a controversial act designed to minimize the environmental impact of large-scale livestock and poultry farms by strengthening the state's authority to regulate the industry.

The statute mandated a transfer of authority over the Livestock Waste Permitting Program from the Ohio Environmental Protection Agency to the Ohio Department of Agriculture (ODA). To help ODA administer the statutes' new provisions, the bill created a 24-member Concentrated Animal Feeding Facility Advisory Committee. The group first met in June 2001, when ODA Director Fred Dailey requested a draft of recommendations on how to protect the environment and help Ohio's livestock and poultry industry grow responsibly. Because the provisions of the new bill were so controversial and had been subject to contentious debate between competing environmental and agriculture interests, Dailey encouraged the committee to use negotiated rulemaking to seek consensus on their recommendations.

### The Policymakers

The Ohio General Assembly provided the statutory mandate and guidelines for forming the committee. Dailey followed through by appointing committee members and providing the leadership and impetus for a consensus process.

### Other Players

Following the legislature's guidelines, Dailey selected a committee that represented the full range of community and government interests. The 24 members included representatives from local government, water utilities, environmental organizations, the public, four state agencies, universities, and the livestock and poultry industry.

### The Process

The negotiated rulemaking process was facilitated by Fred Bartenstein (Bartenstein Associates) and Maggie Lewis, Associate Director of the Ohio Commission on Dispute Resolution and Conflict Management. The committee began by establishing a set of ground rules that provided for facilitated meetings, interest-based negotiation, consensus decision making, and provisions for public input into the final recommendations.

The process included 16 meetings over seven months, followed by an exhaustive legal review, a mandatory public hearing, and a series of public information sessions. At its first meeting, the committee reached consensus on a mission statement and a list of rules grouped into three categories: 1) permitting compliance, 2) enforcement, and 3) public participation. The mission statement read, "(to) represent our constituencies by reviewing, discussing options, and seeking consensus to recommend suggested administrative rules to the director of the ODA on SB 141." Over the next seven months, the

continued on reverse

committee members addressed each proposed rule, making incremental changes and reaching consensus on their recommendations.

Unlike traditional notice and comment proceedings, the public actively contributed to the rulemaking process and to the committee's final report. Also, members met frequently with their constituents to inform them of the committee's progress and get feedback. This step was vital to the process because it helped ensure broad support for the final recommendations. By December, the committee had reached final consensus, finalized its report, and presented it to Dailey.

## Product

In June 2002, the 56 new regulations in six chapters of administrative procedure received final approval by the legislative Rule Review Agency. The rules set standards for all aspects of manure storage, handling and transportation; insect and rodent plans; and compliance and enforcement procedures for all large-scale livestock and poultry farms throughout Ohio.

"These new regulations create a strong, clear, predictable program using science-based, best-management practices to protect water and reduce nuisance problems," Dailey said. "The process was successful because it brought parties from all sides of the issue together at one table to draft one set of recommendations. They were asked to build consensus whenever possible - no easy task - but they were successful."

\*This case based on an article by Maggie Lewis, Associate Director of the Ohio Commission on Dispute Resolution and Conflict Management ([www.state.oh.us/cdr/](http://www.state.oh.us/cdr/)). For information, contact: [Maggie.Lewis@cdr.state.oh.us](mailto:Maggie.Lewis@cdr.state.oh.us).



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