



State of Ohio Environmental Protection Agency

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Testimony of Chris Korleski

Director, Ohio EPA

before the

Senate Agriculture Committee

December 2, 2009

Mr. Chairman, Senator Wilson, and members of this committee, I am Chris Korleski, Director of the Ohio Environmental Protection Agency. Thank you for the opportunity to testify before you in support of Senate Bill 203.

Senate Bill 203 will finalize the transfer of oversight of Concentrated Animal Feeding Operations/Facilities (CAFO/CAFF) to the Ohio Department of Agriculture (ODA), a process which was first initiated by the Ohio General Assembly in 2000. Specifically, it will transfer the permitting authority for the National Pollutant Discharge Elimination System (NPDES) for CAFOs from Ohio EPA to ODA.

Last fall, U.S. EPA gave conditional approval to ODA for the NPDES transfer. The transfer was conditionally approved by U.S. EPA pending certain legislative and rule changes. It was our hope that these statutory changes would be accomplished before the end of last year. However, the needed legislation (SB 383) was not completed. We are now facing a similar deadline and quickly running out of time.

The state is under a very tight deadline to pass this legislation due to new federal CAFO rules promulgated by U.S. EPA. These new federal rules require states to make similar rule changes by December 2009. U.S. EPA has indicated that, because Ohio EPA currently retains the statutory authority to oversee the NPDES program for CAFOs, they expect Ohio EPA to implement the required rule changes. They also noted that they will not have a satisfactory basis to approve the transfer to ODA after December 2009. In my view, if the CAFO regulations are not incorporated into ODA's program, and if Ohio does not complete all the necessary steps to allow, once and for all, the full and final transfer of the NPDES program for CAFOs to ODA, then the regulatory confusion over this program will continue. As it stands now, Ohio EPA and ODA are sharing the regulatory responsibilities for CAFOs. This is not ideal. If this legislation is not passed

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quickly, Ohio EPA will be responsible for administering the NPDES program for CAFOs, while ODA will be responsible for administering the CAFO operating permit program. Such an approach is confusing to everyone, including CAFO operators and those parties potentially impacted by CAFOs. Further, if left with the regulatory responsibility for the CAFO NPDES program, Ohio EPA will need additional resources to continue to implement the federally required program rules. Ohio EPA will also need to devote staff resources to aggressively ensure compliance with all permit requirements, as well as monitoring and inspecting permitted facilities. Failure to transfer the NPDES authority does not mean it will lie fallow at Ohio EPA. We will continue to implement a robust program as required by US EPA.

Companion legislation passed the House yesterday with bipartisan support. It is also supported by the Ohio Farm Bureau. I ask that you support this legislation to ensure clarity on regulatory oversight for CAFOs.

Thank you again for the opportunity to testify on this important piece of legislation. I am happy to answer any questions you may have for me.