UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

OCT 0 3 2008

REPLY TO THE ATTENTION OF:

R-19J

Robert J. Boggs, Director
Ohio Department of Agriculture
8995 East Main Street
Reynoldsburg, Ohio 43068-3399

Dear Mr. Boggs:

This is in response to your September 4, 2008, letter regarding Ohio's request to have the Ohio Department of Agriculture (ODA) administer the Ohio National Pollutant Discharge Elimination System (NPDES) program for concentrated animal feeding operations (CAFO) and storm water associated with construction activities at animal feeding operations (AFO). We are pleased to inform you that the U.S. Environmental Protection Agency considers Ohio's application to be approvable, contingent upon enactment and adoption of the changes needed to address EPA's issues, as documented in your September 4 letter, and corrections provided in your September 22 letters. The September 4 letter included the statutory and rule changes that ODA has agreed to pursue to address the issues EPA identified in its April and November 2007 letters regarding Ohio's request. In letters dated September 22, 2008, ODA provided correct versions of certain proposed statutory and rule provisions that were not included with the September 4 letter. Upon enactment and adoption, we believe those changes will address the identified issues. Also included in your letter were additional proposed statutory and rule changes that are outside the scope of those agreed to between ODA and EPA staff. We believe those changes will not adversely affect ODA's authority to administer the NPDES program.

We will proceed to provide notice to the public of our proposal to approve the revision to Ohio's NPDES program. We expect the enclosed notice to be published in the Federal Register shortly. The public comment period will run until December 16, 2008, and will include a public hearing, to be held on November 18 in Columbus. EPA staff will be available to answer questions from the public immediately prior to the hearing. We are pleased that members of your staff have agreed to participate in that opportunity to address questions from the public regarding ODA's proposed program.

The notice will direct the public to the changes that ODA has agreed to make, and will indicate that final approval is contingent on Ohio's enactment and adoption of the changes needed to address EPA's issues. Further, while EPA has carefully reviewed Ohio's application in an effort to identify all relevant issues, EPA will also carefully consider the public's comments before making a final decision, and as a result, EPA may

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conclude that ODA needs to further revise its program. As a result of these steps, EPA may need to seek further public comment prior to final approval of the State's request.

EPA expects the adopted statutory and rule provisions to be identical to those submitted with the September 2008 letters referenced above. Please provide the statutory and rule provisions to EPA Region 5 once they have been adopted. The State will also need to provide an Attorney General's Statement that has been updated to reflect the adopted provisions. Upon review of the adopted provisions, EPA will request a revised program description and a revised Memorandum of Agreement, should they be necessary.

We appreciate your staff's continued cooperation as we seek input from the public on our proposal to approve the State's request, and look forward to working with you as we move forward regarding this important element of Ohio's NPDES program.

Sincerely,

Lynn Buhl
Regional Administrator

Enclosure

cc: Chris Korleski, Director, Ohio EPA