

ROBERT E. WALLS
STATE REPRESENTATIVE
Thirty – Third District



HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
LEGISLATIVE HALL
DOVER, DELAWARE 19901

COMMITTEES
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Education
Energy
Health & Human Development
Natural Resources
Transportation, Land Use &
Infrastructure

Agriculture Committee
Meeting Minutes
April 28, 2010

Chairman Walls and Chairman Bunting called the meeting to order at 3:19pm. Members present included Representatives Q. Johnson, Outten, Atkins, Carey and Thornburg. For a list of guests, please see attached.

Chairman Walls and Chairman Bunting then recognized Ed Kee, Delaware's Secretary of Agriculture to discuss the recent Concentrated Animal Feeding Operations regulations. Secretary Kee explained that he would provide a brief overview of the regulations, explain what progress has been made and finally would explain how the process of passing these regulations would occur in the coming months. Secretary Kee then explained that new regulations proposed by the EPA in 2006 and 2008 will affect more farmers due to the broader impact of the regulations with regard to animal manure and poultry farming. Secretary Kee stated that the state is mandated to meet federal regulations and that the Delaware Department of Agriculture has been working with the EPA, state organizations and farmers to come up with a compromise to these regulations. Secretary Kee stated that an example of the types of changes to come include that these new regulations will require each individual farmer to obtain a permit instead of the broad statewide permits that currently exist. Secretary Kee also stated that the latest draft of the forthcoming regulations was put out in early April, but work is still being done to resolve differences between state and federal regulations.

Secretary Kee explained that since January of 2009, more than 16 meetings have occurred during which the EPA and Delaware Department of Agriculture have negotiated terms of future regulations. Secretary Kee explained that he is adamant about prevent detrimental environmental impact, while not adversely affecting agriculture. Secretary Kee cited examples such as nutrient management plans and relaxed rules about distances between ditches and manure spreading as some of the results of these negotiations.

Secretary Kee then explained that he appreciated the help and support of the agriculture community and that hopefully more compromises can be made in the coming months. Secretary Kee then explained that these regulations are now moving into the public process, which would consist of four public workshops and a public hearing, which will be completed by September. Secretary Kee commented that these hearings provide the public with an opportunity to offer comments or suggestions with regard to the new CAFO regulations. Secretary Kee also explained that the EPA has verbally agreed to many of these compromises, but has not signed off on them yet.

Chairman Walls and Chairman Bunting then opened the floor to questions and comments from Representatives, Senators and the public. Chairman Walls and Chairman Bunting then recognized Rep. Thornburg. Rep. Thornburg commented that she was proud of Delaware, but that the timeline is very difficult with the end of legislative session and some concerns still remain with regard to zero discharge. Secretary Kee explained that zero discharge still remains within the regulations and is still the goal of the EPA. Secretary Kee also explained

that penalties with regard to discharge depend upon the size of the farm. Rep. Thornburg commented on the possibility of loss of agriculture industry within Delaware due to closing of production facilities because of discharge violations. Secretary Kee explained that this could occur, but it is extremely unlikely and the major problems with regard to violations deal with the contamination of state waters. Rep. Thornburg and Secretary Kee also engaged in a discussion about the possibility of the Secretary of Agriculture having ultimate discretion in cases of zero discharge, but Secretary Kee explained that the Secretary would have to confirm with the commission before any action was taken. Rep. Thornburg expressed her concern with the future of the poultry industry and explained that she would like to help clarify how the violation process should work.

Rep. Q. Johnson then asked how livestock farmers would be affected by this legislation. Secretary Kee explained that some dairy and beef farms will be affected depending upon their size. Senator Ennis questioned if neighboring states were taking action similar to Delaware. Secretary Kee explained that Delaware's relationship with the EPA at this time is somewhat unprecedented and has allowed Delaware to negotiate rather than flat out accept EPA regulations. Senator Ennis also asked about the difference between the Nutrient Management Program and CAFO regulations. Secretary Kee explained that these regulations differ in regard to who is involved with the process and who is affected. Secretary Kee commented that CAFO regulations depend on size and provide an additional regulation with regard to clean water on top of the Nutrient Management regulations.

Rep. Thornburg asked if this draft will be presented at the public hearings and commented that any additional comments from the public should be submitted for the written record. Secretary Kee responded that the upcoming draft will be presented at the public hearings and that nothing has or will be voted upon until after the public hearings have occurred.

In closing, Chairman Bunting commented that he would like to thank the Nutrient Management Commission as well as Secretary Kee for his hard work on these regulations. Chairman Bunting also commented that he hoped that these regulations will continue to allow the industry to prosper in Delaware. Chairman Walls also expressed his thanks to the Nutrient Management Commission and Secretary Kee. Chairman Walls offered an open invitation for any members of the public wishing to further discuss these regulations and expressed his hope that the industry would continue to prosper in Delaware.

Chairman Walls and Senator Bunting adjourned the meeting at 4:00pm.

Respectfully Submitted,

Christopher Lang