



DELAWARE DEPARTMENT OF
AGRICULTURE

2320 SOUTH DUPONT HIGHWAY
DOVER, DELAWARE 19901
AGRICULTURE.DELAWARE.GOV

TELEPHONE: (302) 698-4500
TOLL FREE: (800) 282-8685
FAX: (302) 697-6287

Delaware Nutrient Management

Meeting Minutes – May 1, 2018

The Delaware Nutrient Management Commission

In attendance:

Commission Members Present: Chairman William Vanderwende, Kenneth Blessing, Jim Elliott, Laura Hill, Wayne Hudson, Jon Nichols Jr., Bud O'Neill, Robert Palmer, Scott Webb

Ex-Officios Present: Chris Brosch, Jamie Mack, Jennifer Singh

Commission Members Absent: Mark Adkins, Brenna Goggin, Kenneth Horeis, Jessica Inhof, Larry Jester, Richard Sterling,

Ex-Officios Absent: Secretary Michael Scuse, Shawn Garvin

Others Present: Deputy Secretary Kenny Bounds, Bob Coleman, Clint Gill, Julia Moore, Brooke Walls, Sydney Riggi, Garry Killmon, Jason Pajula, Constance Pajula, Donald Gibson, Harry Spence, Jr., Judith Falkenhagen, Carol D. Atkinson, James B. Atkinson, Gerhard Maute, Eugene Maute, James C. Ehst, Erin Sasse, Daniel Keeler

This meeting was properly notified and posted as required by law.

Call to Order/Welcome:

Chairman Vanderwende called the meeting to order at 7:00 p.m., welcomed everyone in attendance, and reminded those seeking education credits to sign the sign-in sheet.

Approval of Minutes:

A motion was heard to approve the minutes of the Full Commission Meeting of February 6, 2018. The minutes were moved for approval by Commissioner Elliott and seconded by Commissioner O'Neil, resulting vote in a final unanimous of approval.

Discussion and Action Items:

Requested Approval of Standard Operating Procedures for Verification Evaluations (SOP) – Administrator Brosch

- Administrator Brosch: This is probably the 4th time the Commission is looking at the SOP. We deferred at our April meeting in order to give EPA a chance to comment in person on the procedures for our on-farm audits. For simplicity, the document in the packets has the 3 changes highlighted:



DELAWARE DEPARTMENT OF
AGRICULTURE

2320 SOUTH DUPONT HIGHWAY
DOVER, DELAWARE 19901
AGRICULTURE.DELAWARE.GOV

TELEPHONE: (302) 698-4500
TOLL FREE: (800) 282-8685
FAX: (302) 697-6287

- EPA were particularly paying attention to how we wanted to evaluate Nutrient Management Plans (NMP) or which records were kept at the farm gate scale. Precisely, if you had a receipt for those purchases that you made in a year but you didn't record what went into what field, then they were questioning how we could identify that the farmer had done precisely what was in the plan, because the plan is written in a field by field basis. But if you're buying Nitrogen (N) and growing corn and soybeans, and you tell us that the N went on the corn, we can do simple division and figure out what the per acre rate was and they seemed to think that this was an acceptable method.
- We explained to them that on the vast majority of these audits everything is at the field scale and that was the ideal scale for them in their understanding of how to perform these audits. So we have tweaked the language to better capture that. What I explained to EPA is the homogeneous circumstance for which we would be happy to do a farm gate check rather than a field level check. So the definition changed very slightly. They also asked us to include our final estimation of how many inspections we anticipated doing in any given year and that data was pulled right out of Appendix A in the very back of this report, so now it is closer to the front.
- Then on page 5 we just gave more detail on how to do field level checks. EPA noticed that in the draft it didn't explain how many fields we'd be looking at on the NMP and we thought 2 or 3 fields would do the trick in most cases and they were happy with that. They just wanted it in the document.
- Deputy Secretary Bounds: The staff deserves to be commended – they have done a fine job working with EPA cooperatively to find answers to their questions. It really is a testament to the staff so thank you for the good work.
- Chairman Vanderwende: What percentage of audits would you do in a year?
- Administrator Brosch: It says 17.7% on page 3. We explained to EPA that we can't do that with the one auditor we have working fulltime, and she is doing a really great job. We don't think we've ever been able to achieve the pace for audits that we've achieved this year in any other year where we've had one person dedicated to doing it. So, we'll just have to see where we land. And EPA understands this. There was a time that they'd be delivering the funds to pay for an auditor position, and we're doing our best to hold them to that, but there are so many moving pieces to getting more grant funds that we haven't been able to secure it yet.
- Commissioner Hill: What percentage could one person do?
- Administrator Brosch: We think, realistically, that 17-18% is a two-person job. If Brooke did half, 9%, that would be acceptable. But we might get to October and she's already done 10%. And that's a testament to her and the cooperation we are getting from the farming community. It is impressive that the farmers are returning calls like never before and willingly making the appointments. I think a lot of that also has to do with Julia making the phone calls to set up these appointments. She's telling them exactly what to expect. It's a fearful process and somehow they're just willing and ready to get it done. It's going really smoothly.



DELAWARE DEPARTMENT OF
AGRICULTURE

2320 SOUTH DUPONT HIGHWAY
DOVER, DELAWARE 19901
AGRICULTURE.DELAWARE.GOV

TELEPHONE: (302) 698-4500
TOLL FREE: (800) 282-8685
FAX: (302) 697-6287

- Deputy Secretary Bounds: We are still hopeful to get that other position too. We got the verbal commitment from EPA last summer and we've been working on it ever since. So stay tuned.
- Administrator Brosch: And they know that until that happens we'll do what we can and expect them to understand that we're probably only going to get about 9% done. When we get to our reporting period in November and nothing has changed, if that's the case, we're going to report whatever we found for that 9%. And we expect them to accept it.
- Chairman Vanderwende: We need a motion to approve the Standard Operating Procedures for Verification Evaluations.
 - So motioned by Commissioner Blessing, seconded by Commissioner Hill, and approved unanimously.

Review of Mass Balance of Nutrients on the Delmarva, prepared for the Land and Litter Challenge – Clint Gill

- Administrator Brosch: As a prelude, most of the folks around the table will probably remember Ernie Shay coming to speak to the Commission shortly after I joined the staff. His presentation was discussing the collaborative group called the Delmarva Land and Litter Challenge. So at the time Secretary Kee and I were happy to participate and the first thing we offered to do was an accounting of the nutrient sources and where those nutrients are going to go, as well as actually also trying to account for the crop needs out there. We've been working on this for 2 years and we decided since it's still not done and we're not sure when it's going to be complete, due to political wrangling, that we could at least give you an update.
- Clint Gill presented an informative slideshow, talking about the process and sharing some of the data. He noted that the actual numbers are in flux, but the data on the slides (based on the 2012 Census) is close to reality, and closed with the expectation that at some point there will be a full report issued. That will of course be brought to the Commission when available.
 - We have some data from the University of Delaware (UD) suggesting that over time of at least the last 30 years, the soil test P has been dropping in DE's average soils. To me this is confirming that. Of course this is just 2012 data, it's just a snapshot and doesn't really tell you a trend, but if you do this year after year you expect the same thing. And if you could skip back to the N story, we're pretty confident that in the final version of this report there will be a surplus of N. And that means one of 2 things: there's either more litter than we can use or more fertilizer than we can use.
 - If you choose to believe there is more litter than we can use and we decide to take it out of the Delmarva and put it somewhere else, then the P deficit is only going to get worse. So it's going to be mining that soil reserve quicker if we try to reduce that side. You'll also notice on one of Clint's slides that show the organic sources and the fertilizer sources side by side – the fertilizer source, the N, is twice as much. So when we think about trying to put these things in balance, that's what first jumps out.
 - If we don't want to remove the litter, because we don't want to mine the soil P too fast, the next easiest place to get balance on the N is probably the fertilizer. And since there's twice as much of it as litter N, that would be a worthwhile endeavor. It is also surprising that if you take the approach of trying to approximate how much N is going down with respect to NMP's across 1.5M acres and you wind up with 10% too much N,



DELAWARE DEPARTMENT OF
AGRICULTURE

2320 SOUTH DUPONT HIGHWAY
DOVER, DELAWARE 19901
AGRICULTURE.DELAWARE.GOV

TELEPHONE: (302) 698-4500
TOLL FREE: (800) 282-8685
FAX: (302) 697-6287

that is not high – though we don't know what the margin for error is, the data is telling us that we're not wasting a lot of money out there trying to feed the crops.

- Chairman Vanderwende: I think the answer to that is since the NM program has been in effect, farmers are a little more educated than what they used to be and are not putting on anything more than what they need.
- Commissioner Hill: Was the weather variable taken into account for 2012?
- Administrator Brosch: It was a drought year. The Ag Census told us what the yields were and we said those aren't real. So we did correct it for that issue. We looked at the 2 years prior to 2012 from other data sources and 2 years after and that's where we drew our yield goals from. Which is consistent with how an NMP would work - you throw out the dry years.
- Clint Gill: The hope is to be back soon to give a real answer.
- Chairman Vanderwende: Very good presentation, Clint.
- Deputy Secretary Bounds: Just to advise on the political wrangling, we've drawn a line in the sand as to continued commitment on the part of staff and will come to a conclusion soon. We're done debating this. It is a very good study done by a lot of good researchers and scientists so we're going to put this thing to bed one way or the other.

Administrators Report – Administrator Brosch and staff

- Complaints – Bob Coleman: In the last month we had 4 informal complaints:
 - One involved field stacking. The farmer was very cooperative and got the pile knocked down and tilled into the ground. So that's been taken care of.
 - The other 3 were for odor. All have been resolved, but as usual they will be left open for 60 days just to monitor them over time.
- Certifications – Administrator Brosch:
 - There were close to a half dozen new certificate holders from the latest round of certification sessions administered by the UD team.
 - Update on the May 1 expirations for Commercial Nutrient Handlers (CNH), Nutrient Generators (NG), and Private Nutrient Handlers (PNH):
 - We proceeded with the typical letter sending for those who had met their required credits and they either received a new card or an invoice if the CNH owed us the \$150 fee for their 3 year certificate renewal.
 - There were a number of NG's and PNH's that did not have sufficient credits for us to mail them a card. We did not send those people a letter yet that said they didn't have enough credits. That was a mutual decision between UD and our staff because the opportunity to earn credits in the month of May, at least, was a little bit lower than we'd hoped so it didn't make sense to deal with a bunch of phone calls from people trying to get credits if we didn't have nice menu of options for them to get caught up. We're going to re-evaluate that decision in the next couple of weeks because we don't want people to be out of compliance longer than they need to be. But that's something we will be taking care of in the near future.
 - Julia has been handling the phone calls coming to our office. There's a lot of miscommunication about these letters that go out too because if you have 6 credits or more and you get your card you go back to zero. The letter tells you that, but some people thought they had zero when they were actually good to go.



DELAWARE DEPARTMENT OF
AGRICULTURE

2320 SOUTH DUPONT HIGHWAY
DOVER, DELAWARE 19901
AGRICULTURE.DELAWARE.GOV

TELEPHONE: (302) 698-4500
TOLL FREE: (800) 282-8685
FAX: (302) 697-6287

- Audits, Inspections, Reporting – Administrator Brosch:
 - Brooke has completed 46 NM inspections and there might be a few CAFO's peppered in there from Aaron.
 - We have 31 CAFO's on a list to Notice soon and we're anticipating getting those out just as soon as we can build the newspaper advertisement and confirm all the paperwork is in order.
 - We are moving along on General Permit 1. We think we are actually pretty close to capturing all those folks.
 - We know there is a nice long list of poultry growers that also have land that will qualify for our General Permit II (GP2). EPA has agreed to the language so we are waiting for our DNREC partners to get that out on the street to the point where it can be approved through the administrative process and we can start taking applications for permit coverage. We don't have a date for that but we're hoping for soon.
 - Brooke has provided an update for Annual Reports, under 4 categories:
 - She has processed 243
 - She has another 698 to go through and put into the system
 - She has heard from 175 people who do not need to get reminders from us anymore
 - She has 721 that we have not heard back from
 - These numbers don't seem any different from last year. We can't say exactly why we haven't heard from them. But we have already sent the letters out just like we did last year. At some point we are going to start prioritizing for audits those folks that continuously do not report back. We want to hear from them. If they are done farming that's great, we just need to know. But for those that are still farming, they are legally obligated to send those reports so we want to next send them a forceful reminder.
- Meetings and Training – Administrator Brosch: Clint put together the list of meetings attended in the last 2 months as shown on the report.
- Financials – Administrator Brosch: Reports are located on the last page. We are not going to run out of money on any of our lines this year so that's good news. The mixed news is the Contractual Supplies and remainder of the Education and Certification lines need to be spent down in 2 months. We have a number of projects kind of juggling in the air right now and we are hoping we can nail it all down by the end of this month. And a lot of the big figures at the bottom are multi-year grants so we are not ahead or behind on them.
- Relocations – Administrator Brosch and Bob Coleman:
 - Administrator Brosch: Relocation numbers are off this year and we know it's because we lost a few months of applications because we were paying so little. We have since corrected it and it did pick up. But we are certainly not going to be able to hit that banner year of FY2016 in FY2018.
 - Bob Coleman: I recently received a gigantic stack and while we won't hit 76,754 we probably should get somewhere in the mid 40's by the time we are at the end of the application period. Additionally, the Commission should be aware in relation to the FY2018 planning numbers that for the last 3-4 years the plan writers have typically tended to bundle all their applications and claims up and send them in one big batch. They tend to backload those so they are still coming in. By the June Commission meeting we are probably going to have a lot more acres.



DELAWARE DEPARTMENT OF
AGRICULTURE

2320 SOUTH DUPONT HIGHWAY
DOVER, DELAWARE 19901
AGRICULTURE.DELAWARE.GOV

TELEPHONE: (302) 698-4500
TOLL FREE: (800) 282-8685
FAX: (302) 697-6287

- Administrator Brosch: This is still the busy season for getting those documents in, even though it is toward the end of our fiscal year. So it is not a scary thing to be only halfway to where we think we should be.
- Bob Coleman: There are at least 30 yet to pay, and more coming in.

Public Comment –

- One of the informal complainants stood up and shared his air quality concern. Legal counsel Jennifer Singh advised him to make his complaint formal if he is not satisfied with our informal resolution.

Next Meeting: The next regular Full Commission meeting will be June 5, 2018 at 8:30 a.m. There will be no July meeting.

Adjournment: Chairman Vanderwende adjourned the meeting at 7:55 p.m.

Approved,

B. Vanderwende, Chairman
Delaware Nutrient Management Commission
jlm