

ENVIRONMENTAL ADVISORY COUNCIL
Lansing, Michigan
Thursday, March 16, 2006 1:00 – 4:00 p.m.

Members in attendance: Jon Allan, Mark Bertler, Steven Chester, Kurt Giberson, Mike Johnston, Ellen Kohler, Lisa Locke, Vincent Nathan, Rick Plewa, Del Rector, Diane Rekowski, Andy Such, Guy Williams, Tom Woiwode, Paul Zugger.

DEQ Staff in attendance: Linda Albro Sparks, Mike Bitondo, George Bruchmann, Amy Butler, Matt Campbell, Jeff Hukill, Jim Johnson, JoAnn Merrick, Skip Pruss, Frank Ruswick, Barb Schaibly, Philip Shrantz, Liane Shekter Smith, Jim Sygo.

OPENING

As this was the first meeting of the newly appointed members, Frank began the meeting with introductions. He also named new members who could not attend the meeting.

CURRENT ISSUES

Director Chester indicated that he would need to leave for a short time around 2:00 p.m. He asked if any members had questions or comments on current issues.

In response to a question on the fiscal year 2007 budget, Director Chester indicated that while the overall budget constriction will continue to make things difficult, we are not anticipating significant new reductions in the DEQ budget. Fiscal year 2008 will present a bigger challenge because of the need to address shortcomings in several fee programs, as well as the need to fund the cleanup program.

A member asked about the number of committees and work groups in the DEQ. Director Chester indicated that there are many such groups working on individual programs or issues.

For the benefit of new members, Frank outlined the functions of the EAC. He said that the whole purpose of the EAC is to encourage free and open discussion of issues affecting the environment and the DEQ. He described how meeting agendas and summaries are prepared and how members can comment on them. He described information that is available on the EAC page within the DEQ internet site. Frank offered to respond to any questions from members about how the DEQ or EAC operates.

PHOSPHORUS WORK GROUP DEVELOPMENT

Deputy Director Skip Pruss outlined an emerging project to review issues surrounding the effects and causes of phosphorus in the environment. Phosphorus has generally been considered a concern in causing eutrophication and premature aging of lakes. Yet some believe that systems such as Lake Erie would benefit from the introduction of additional phosphorus. The Michigan Environmental Council has received a grant from the Joyce Foundation to address the effects of phosphorus. The DEQ is creating a multi-interest work group to survey and identify phosphorus

issues and the status of regulatory and best management programs, and then make recommendations. The work group will be comprised of various governmental agencies, the regulated community, environmental groups and other interested parties. Skip invited EAC members to offer suggestions about who should participate and indicated that the DEQ has no preconceived notion of where this effort will lead.

In response to a question, Skip provided more detail on the effect of phosphorus on stimulating plant growth in lakes. He indicated that when the level of phosphorus in soil is increased beyond what plants can use the phosphorus leaches into groundwater and runs off to surface water. Skip noted that we have identified problem areas caused by phosphorus. There can be many causes for these problems including increases in development around lakes and impervious surfaces changing how stormwater runs off the land to water bodies. Skip indicated that Minnesota has also looked at addressing issues caused by phosphorus, and that it is a problem especially important in the upper Midwest.

Several members suggested individuals and organizations to be invited to participate in the effort. A member also suggested that the Michigan Environmental Sciences Board may be able to play an important role.

REVIEW OF LAND APPLICATION PROGRAMS

Frank introduced the EAC's new project: the review of programs administered by the DEQ that address what the DEQ refers to as land application. This entails the placement of various materials on the land, either as a means of waste disposal or for beneficial purposes. In either case, the materials come under DEQ jurisdiction because they start out as waste or derived from waste. The DEQ is responsible for making difficult choices weighing the potential for harm from land application against potential benefits. These choices are complicated by the wide variety of materials that can be land applied and the different regulatory provisions that are involved.

Frank indicated that the EAC is being asked to recommend to the Director changes to programs and policies governing the application of material to the land in order to protect public health and the environment in lights of costs and benefits to all parties and the need for consistency among programs. The primary focus of the inquiry should be industrial by-products and compost. This will be a difficult project that is anticipated to take approximately six months. Frank distributed a handout that further explains the project. See Attachment 1.

Frank outlined the presentations that will be offered at this and the April meetings to provide background information. Today, the EAC will hear from George Bruchmann and Duane Roskoskey from the Waste and Hazardous Materials Division on how solid waste laws apply. Then Phil Schrantz from the Remediation and Redevelopment Division will present on how Part 201 of the Natural Resources and Environmental Protection Act applies to land application decisions. At the April meeting, we will hear how various Water Bureau programs are involved. The purpose of these discussions is to determine what the EAC sees as issues and what type of additional information is necessary so that we can organize ensuring discussions in an effective way.

Frank responded to several questions from EAC members:

While the DEQ assumes that some changes to our land application programs will be necessary, we do not know whether that will be at the individual regulation or overarching program level.

Any materials that the DEQ provides to EAC members can be freely shared with others. This is public information and the members are free to seek input from members of their organizations or others they work with.

The EAC has a lot of flexibility in how it structures its recommendations. Recommendations can even include changes to statutes and rules.

The EAC works by seeking consensus recommendations. We have always avoided taking a vote on the EAC and don't anticipate the need to take one on this project.

The DEQ recognizes that there can be benefits to applying various types of material to the land. The charge recognizes the concept of beneficial reuse and how it needs to be considered in these decisions by speaking generally to the benefits and costs associated with land application.

George Bruchmann and Duane Roskoskey presented information on how solid waste laws address land application. See Attachment 2. Phil Schrantz presented information on application of Part 201 to land application. See Attachment 3. The following points were made during the discussion resulting from these presentations:

There is a distinction between leaving materials in place as a means of disposal and using land application for disposal or beneficial purposes. There was a discussion of how historic piles of cement kiln dust at Bay Harbor were addressed in this context.

A member requested a logic model to describe how various types of materials are regulated. It would also be helpful to include some sense of the amount of the various types of materials that is being generated and land applied.

It will be most effective and efficient if the EAC can build on the work done to date on the issue of land application by other work groups.

There is a distinction between a "site" and a "facility" under Part 201. While most substances are regulated under Part 201 because listed as posing a risk under other laws, the DEQ can determine something to be a "hazardous substance" under Part 201 based on its threat to human health and the environment.

Regulation of solid waste should prevent environmental harm from occurring. Therefore, the DEQ should be conservative in deciding when waste materials can be land applied.

The DEQ can develop conditions under which various types of waste materials can be land applied. However, there is no current capability to follow-up to ensure that these conditions are met. And there are very few circumstances in which testing is done to determine whether or not land application is actually affecting the environment.

The DEQ usually does not specifically monitor contaminated soils that are relocated under Part 201. Monitoring would occur at these sites only if it is being done as part of other response activity.

The lack of monitoring is an argument to employ the precautionary principle when making land application decisions.

There is a concern about running out of suitable places to land apply materials for beneficial purposes. There is uncertainty as to whether or not there is an increasing demand to land apply various waste materials.

It is possible to generate data on the fate and transport of contaminants in the environment after waste is land applied. However, this can be expensive and waste generators usually don't want to incur this expense.

The background concentrations of some substances (e.g., arsenic) can exceed the concentration found to present an unacceptable risk under Part 201. In that case, the cleanup level becomes the background concentration.

CLOSING

Frank indicated that, at the April meeting, the DEQ will present information on the standards used to regulate land application of wastewater treatment sludges under the federal Part 503 program as well as background information on several other land application programs administered by the Water Bureau.

Notes by Linda Albro-Sparks; summarized by Frank Ruswick.