

**ENVIRONMENTAL ADVISORY COUNCIL**  
**Lansing, Michigan**  
**Thursday, August 18, 2005 1:00 – 4:00 p.m.**

Members in attendance: William Beckman, Mark Bertler, Steven Chester, Jim Frey, Ellen Kohler, Terry Link, Steve Luskow, Terry Miller, Paul Murray, Allen Reilly, Diane Rekowski, Pamela Smith, William Stough.

Guests in attendance: Linda Parker from Department of Civil Rights, Tom Stephens, Brendan Boyle from Department of Community Health, Pam Yager from Department of Labor and Economic Growth

DEQ Staff in attendance: Linda Albro Sparks, Cathie Cunningham-Ballard, Frank Ruswick, Jim Sygo, JoAnn Merrick, Bryce Feighner, Bob Sills.

OPENING

Frank opened the meeting by noting that six members indicated that they wouldn't be able to attend today's meeting and three members need to leave early today. He recognized that several other members were also not in attendance at today's meeting. Frank indicated that it is important that we have wide representation of interests for a full discussion of the Environmental Justice (EJ) topic, he suggested that we modify the agenda somewhat. We would discuss the EJ issue until the break, at which time several members would be leaving. After the break, we would open the discussion to whatever topics are on the minds of EAC members. He suggested that should include issues for future consideration by the EAC.

Frank expressed his appreciation for the time and energy members devote to the EAC. The DEQ recognizes that EAC membership requires a significant commitment, especially for the EJ topic that has involved a significant amount of outside reading. He thanked EAC members for their involvement.

DISCUSSION OF ENVIRONMENTAL JUSTICE FRAMEWORK

Frank invited participants to focus on the Environmental Justice Framework developed as the result of the discussion at the July 21 EAC meeting. He asked whether anyone noted any major issues in the Framework.

A member asked for clarification as to whether the Framework was meant to describe a policy that applies only to government. Frank reminded participants that the EAC is considering recommendations to Governor Jennifer Granholm on an EJ policy for her Administration. Thus, it is envisioned to apply only to the Michigan's executive branch of government.

A member commented that the Framework focuses on the effect of governmental action on citizens without regard to the impact on businesses. There needs to be some recognition that governmental policies that, for example, require people to be relocated, would affect a variety of private and public organizations beyond individual citizens.

Another member suggested that the Framework needs to acknowledge a long term perspective. Some pollutants will be having an effect on the environment, and therefore, public health, for generations. The Framework needs to indicate that we should not trade-off long term costs for short term benefits. Another member agreed and thought that the long term perspective could be addressed through the Framework's discussion of sustainable communities.

Since there were no more major issues raised by participants, Frank asked the group to consider the Framework on a section by section basis. He began with the first section describing the goals of an EJ Policy.

The ensuing discussion raised the following points:

The term "citizens" must clearly indicate that the policy applies to all citizens.

The goals should be labeled as fair treatment, meaningful involvement, and equal protection.

A goal should go beyond economic, social and environmental "improvement" to describe a desired result, not merely a direction of change.

The EAC then turned to a discussion of the proposed EJ principles:

The principle on sustainability can provide a context for describing a responsibility to future generations. By including a definition of sustainability, this principle should indicate that the Policy should foster economic vitality, social well-being, and environmental health.

The principles should be phrased more directly to describe what is expected to occur, rather than simply statements of intention.

The principles should reflect the importance of civil rights. Specifically, no communities or populations should suffer disproportionately high adverse effects due to programs or policies of state government.

The principles should provide for a healthy environment for citizens throughout the state, not just in limited locations.

We should recognize that the policy needs to speak to all sorts of governmental actions beyond what is traditionally considered to be "development". For example, the policy needs to apply to decisions related to cleaning up contamination.

During this discussion, a member asked for details on how these principles will be implemented. Frank indicated that the Framework calls for each department to develop a plan describing how they would implement the EJ Policy. Those decisions would be made in the context of developing the department-specific plan. Another member asked whether the EAC needed to ask for a legal review of its recommendations. Director Chester indicated that the Governor's Office would consider the legal implications of any proposed policy before it was issued.

The EAC then began discussing the specific actions called for in the Framework:

The interagency work group should be charged with assisting in the development of, and reviewing, department-specific plans. This would foster consistency among and integration of the plans. The interagency work group should also periodically review the progress of departments in implementing their plans and the executive branch generally in implementing the EJ Policy.

Performance goals and measures should, in the short term, focus on progress of departments in implementing their plans. No one is currently developing performance goals and measures for evaluating how EJ policies are directly affecting citizens. This may be an area for future inquiry.

The EAC discussed the advantages and disadvantages of using an existing interagency work group, such as that focused on economic development, to address the EJ issue versus the creation of a new work group on the EJ topic itself. The EAC also questioned who would have the responsibility to manage the data called for in the Framework.

The EAC discussed whether to establish a process by which citizens affected by governmental action could petition the inter-agency work group for review. New Jersey has adopted such a system. Some members described how the Michigan Environmental Sciences Board (MERB) performed a similar function in the 1970s and 80s. Members discussed the benefits and costs of such an approach. On the one hand, this could afford a type of appeal process that would be relatively informal and inexpensive, and therefore useful to citizens who do not have a sophisticated understanding of working with government. On other hand, it creates the potential for delay and uncertainty in decision-making, which can present significant costs for those seeking governmental approval for a proposed action. The EAC also discussed how public involvement in Michigan environmental policy has changed. For example, the public viewed the Toxic Substances Control Commission as facilitating citizen participation, while citizens held the opposite view of the DEQ under the prior Administration.

Frank noted that the petition proposal requires further discussion. He asked the EAC to consider the issues posed by this topic in preparation for such discussion at the September EAC meeting.

## OPEN DISCUSSION

Director Chester discussed several current topics:

Senator Birkholz hosted four public meeting throughout the state on the topic of water withdrawal legislation. Director Chester attended all four of these meetings. He anticipates that legislation will be considered this fall.

There will be a presentation on the groundwater mapping process developed by the DEQ, Michigan State University, and United States Geological Survey on Thursday, August 25<sup>th</sup> at 10:00 a.m. at the Michigan State Library. This is a very powerful tool for assessing aquifer potential for groundwater withdrawals.

The DEQ and Dow held the first town hall meeting in Bay City on August 17 to discuss our proposed on-going community involvement plan for the tri-cities dioxin issue. The meeting was not well attended. Two more town hall meetings will be held on August 24 and 25 in Midland and Saginaw Township respectively.

EPA has been directed to find \$80 million in past unexpended grant and contract funds as part of the effort to find budget savings. This could jeopardize some funding for the DEQ in federally funded programs such as water, hazardous waste, air, and superfund. We are working with the Region 5 EPA office to clarify and minimize any effect on the DEQ.

A member asked whether there was a role for the EAC in making a public statement supporting the DEQ's efforts to prevent EPA fund reductions. Director Chester indicated that since this is a federal issue, such a statement would likely have a minimal effect on Congress and the EPA. However, the EAC may be an effective voice on state issues because of the diversity of interests represented among EAC members. Frank suggested that a good example of that is a current legislative proposal to amend Part 201 to require site specific testing before a property would be considered contaminated. This legislation appears to misunderstand how the DEQ operates and a statement by the EAC in support of our technical and professional methods might be helpful. Director Chester also noted that currently available funding for the cleanup program will be expended by 2007. The EAC's support of a continued funding source for the cleanup program would likewise be helpful.

There was a general discussion about how the DEQ uses work groups and advisory committees in its various programs and how the DEQ communicates the results of those efforts.

A member expressed some uncertainty about the process by which the EAC is considering the EJ issue. Frank indicated that the EAC has been asked to develop recommendations to the Governor for a potential directive to her administration on EJ. It has been difficult to project how much time will be necessary to do this since it depends somewhat on how the EAC approaches the issue and what level of discussion will be necessary. At the outside, we will need to complete the topic by February when the term of half of the current EAC members ends. However, given the progress made to date, it appears that we will finish our work on the topic before then. With respect to reading material being provided to members, Frank promised to be clearer about which material really needed to be reviewed in preparation for an upcoming discussion and which material could be reviewed at the discretion of individual members.

Two members suggested that the EAC should consider the nature of DEQ policies affecting composting. This practice is emerging as a valuable and effective tool to properly manage a wide range of waste materials. Michigan is far behind other states in encouraging this activity. Frank agreed that this may be an interesting topic for the EAC. The DEQ has a dilemma with respect to encouraging composting: on the one hand we recognize its effectiveness as a waste management practice; on the other the levels of contaminants that can be found in the finished compost, depending on what type of waste is composted, can exceed current regulatory standards for what can be applied on the land.

A member discussed recent efforts by the Waste and Hazardous Materials Division to explore with an advisory group the need for amendments to the solid waste planning process. That effort highlighted the need to do long term strategic thinking about program and policy needs. This is made especially difficult by the loss of institutional members in the legislature because of term

limits and in the DEQ because of staff retirements. The member suggested that the EAC consider the overall strategic planning being done by the DEQ and what the role of the EAC might be in that process. This could be especially helpful when tied to questions about how to fund environmental programs.

A member suggested that the EAC build upon the greenhouse gas inventory being done by the University of Michigan and consider policies in support of greenhouse gas reductions and an overall energy policy.

A member supported use of the EAC to support legislative efforts. The member also highlighted the effect of burn barrels on the environment and asked the DEQ to consider whether some legislative effort would be appropriate on that issue.

A member asked how the role of the Office of Administrative Hearings may change since that function has now been centralized across all of state government. The member expressed concern about the expense and difficulty of using the contested case process by citizens and questioned whether centralization will make the problem even worse. Director Chester indicated that early aspects of implementation indicate that nothing will change in the short term. It is too early to tell what effect the reorganization will have in the long term.

#### CLOSING

Frank closed the meeting by once again thanking EAC members for their time and energy in helping the DEQ in meeting its responsibilities.

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