

ENVIRONMENTAL ADVISORY COUNCIL
Lansing, Michigan
Thursday, September 21, 2006 1:00 – 4:00 p.m.

Members in attendance: Jon Allan, Steve Chester, Chuck Hersey, Mike Johnston, Ellen Kohler, Ray Van Driessche for Philip Korson, Lisa Locke, Rick Plewa, Del Rector, David Rinard, Bill Stough, Andy Such, Paul Zugger.

Guests in attendance: J.D. Lindeberg, Scott Piggott, Brad Venman.

Department of Agriculture staff in attendance: Jim Johnson, Gordon Wenk.

DEQ Staff in attendance: Linda Albro Sparks, George Bruchmann, Robert Delaney, Mary Ann Heindof, Jim Johnson, Duane Roskoskey, Frank Ruswick, Jerrod Sanders, Liane Shekter Smith, Steve Sliver, Jim Sygo, Joy Taylor Morgan.

OPENING

Frank opened the meeting welcoming everyone and asked all attendees to introduce themselves.

CURRENT ISSUES

Director Chester reminded EAC members of a Circuit Court ruling in the Kennicott Mining case. The Court ruled that a DEQ decision on whether a mining application was administratively complete could be appealed through the contested case process. The DEQ was very concerned with this ruling because of its potential for causing significant delays in the DEQ's decision-making processes. Director Chester indicated that the Michigan Court of Appeals had recently summarily reversed the ruling. This would help maintain effective decision-making in the DEQ. A member agreed that this is important for the Michigan's business community. The petitioners have 42 days to file an appeal if they chose to do so.

Director Chester indicated that several participants in the DEQ Leadership Academy were attending today's EAC meeting. One of the "action learning projects" a group of Academy participants is doing is determining how the DEQ can be more effective in working with legislators. Their recent meeting with a legislator who has been a strong critic of the DEQ was very positive. It went an hour longer than scheduled and resulted in positive suggestions for improvement. Director Chester is optimistic that this project will help the DEQ in working with the legislature.

In response to a member's question, Director Chester indicated that the Environmental Justice Policy developed by the EAC was under review in the Governor's office.

PRESENTATION – MANAGING FOR SOIL HEALTH

Frank introduced Dr. George Bird, Associate Chairperson of the Department of Entomology at Michigan State University. Dr. Bird gave a presentation on viewing soil as a dynamic habitat and what it means to provide for a healthy soil. Dr. Bird contrasted what he referred to as the dominant “mechanistic” world view with the alternative “ecological” world view. The mechanistic perspective is based on linear relationships and assumes the whole represents the sum of its parts. The ecological perspective is cyclic in nature and based on the interrelationships between system components. See Attachment 1.

The ensuing discussion recognized that most regulatory programs, including that being considered by the EAC in the context of land application of waste materials, are based on the mechanistic perspective. EAC members and Dr. Bird discussed the implications of pursuing an ecological perspective, most notably that an ecological perspective would view soil as a community of living things. Creating a benefit for this community, therefore, would entail more attention to site specific circumstances. However, it may be possible to generalize somewhat based on current growing conditions at a site (e.g., woodlot, organic farm, conventional farm).

The EAC recognized that material applied to benefit the soil may also include harmful materials and discussed how this might be considered. A member pointed out that the typical regulatory approach is to focus on the potential for creating risk and harm; an alternative would be to focus on how to maximize the benefit. Such an approach would be the need to balance long term assimilation of potential harmful materials with decreasing risks over time. A member questioned whether our scientific models are sophisticated enough for such an approach. Dr. Bird indicated that this is a developing field of science.

A member pointed out that a program that focused on improvement of soil functioning would be an advantage to Michigan from a long term economic perspective. Dr. Bird recognized that moving from the current mechanistic perspective embodied in our regulatory programs to an ecological perspective is likely to involve a long-term transition. He encouraged the EAC to consider how it could foster that transition in developing recommendations for the DEQ’s land application programs. Frank indicated that he anticipated that the EAC would return to that question later in its process for developing recommendations.

DEVELOPMENT OF LAND APPLICATION RECOMMENDATIONS

Frank asked the EAC to return to the structured discussion of specific waste application scenarios begun at the August 17th meeting. He reminded the EAC that the purpose of this discussion is to reach some level of agreement on principles underlying an approach towards land application of waste-derived materials. In order to have such a discussion we will need to limit variables by describing assumptions involved in each scenario. Thus, the scenarios will tend to over simplify what happens in the real world. Later discussions will determine how real world complications may alter the principles. Members should therefore consider any agreements reached at this stage as very preliminary and subject to further discussion.

Based on these scenarios, EAC members discussed:

- To what extent the DEQ should define “beneficial use” and consider the extent of the benefit in making regulatory determinations.

- How engineering controls can reduce risk and the various ways of addressing use of engineering controls to reduce risk over the long term.
- Whether systems to control risk should vary depending upon whether we seek to prevent a threat to public health or the inability to use a resource (e.g., groundwater) because of negative aesthetic impacts.
- The effect of both regulatory approaches and economic incentives in protecting against risk.
- The DEQ's role in protecting potential future property owners on which land application occurred.
- The similarity and differences between dispersed application of material at the site of generation and at a location away from the site of generation.

CLOSING

Frank indicated that he would again attempt to encapsulate the EAC's discussion into a set of draft principles. (See Attachment 2.) At the October meeting, the EAC will begin reviewing these draft principles in the context of real world considerations.

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