

ENVIRONMENTAL REVIEW ADVISORY COUNCIL
March 8, 2022

Members Present:

Randy Hanson, Waste Management Industry representative
Dan Wogsland, Corp Agriculture
Tom DeSutter, Agronomy & Soil Sciences
Ed Murphy, State Geologist – statute
Craig Bleth, Minnkota Power Cooperative
Scott Peterson, Director, State Game and Fish
Terry O’Clair- Rep of the Environmental Sciences
Andrea Travnicek, Director of Water Resources

Staff Members Present:

Shawn Heinle, Municipal Facilities
Jim Semerad, Air Quality
Jim Quarnstrom, Chemistry
Cindy Auen, Chemistry
Duane Sandvick, Office of the Director (PTRCF)
Chuck Hyatt, Waste Management
David Bruschwein, Municipal Facilities
Beth Jacobson, Office of the Director
Jennifer Skjod, Public Information Officer
Shannon Fisher, Municipal Facilities
Dave Glatt, Director, NDDEQ

WELCOME

The meeting was called to order by Terry O’Clair and then turned over to David Glatt. Glatt highlighted changes and innovation going on in ND and how the Department of Environmental Quality fits into that. Glatt then turned the meeting back to O’Clair.

APPROVAL OF MINUTES

Members verified they had received the minutes from the Sept. 7, 2021, meeting.

MOTION BY SCOTT PETERSON TO APPROVE THE MINUTES FROM THE SEPT. 7, 2021, MEETING. SECOND BY CRAIG BLETH. MOTION CARRIED.

OLD BUSINESS

Mini Superfund Update – Dave Glatt

- Money for the state to address abandoned and underutilized properties or emergency situations that are contaminated and make them useful again.
- Internal review should be done within the next 30 days and then will be going out for public comment.

Above Ground Storage Tanks Rules Update – Duane Sandvick

- NDDEQ is drafting rules for above ground storage tanks.
- Above ground tanks hasn't had really any rules for 30+ years, so the NDDEQ is setting them up to reduce the liabilities to all stakeholders for accidental petroleum releases. We are close to a final draft.
- Implementation as early as Oct. 2022 or Spring 2023.
- All above ground over 55 gallons are to be registered with the fund.
- Exemptions: Portable tank and 55-gallon drums, heating oil and fuel tanks for residences are also exempt. Farmers are exempt if they are under 1320 gallons unless they are insured under the Petroleum Tank Fund. They can exempt themselves out, but if they register, then all above ground tank rules apply.

Covid Wastewater Testing – David Bruschein

- Partnered with Department of Health and NDSU for the testing.
- We look at the entire community and asymptomatic cases and provide this information to the DoH and other departments for their use.
- Depending on the delta variant we seem to get a little bit of notice prior to the clinic numbers increases and can set strategies based on this information.
- We can see what dominant variant is coming through by testing the wastewater and this helps to provide stats when the testing is down or when people are testing at home.

TENORM Permitting Update – Chuck Hyatt

- Secure Energy was first permitted in 2013 and have applied to accept TENORM waste.
- This would be the first permitted landfill if this gets approved.
- Public comment period has ended, and comments will be reviewed. We received another request for TENORM also from Williston.

Regional Haze Update - David Stroh

- Received comments from the Federal Land Manager consultation period and we have been responding to those
- Going into public comment period in early April and after that there will be a public comment period. The NDDEQ will respond accordingly and then submit the plan to EPA for action.
- Shared five graphs showing the improvement in air quality, visibility, reduced emissions from 2000 in 10-year increments.

NEW BUSINESS

Lead-based Paint Revisions (David Stradinger)

- Purpose of amendments is to comply with federal law.
- June 21, 2019, EPA finalized rule regarding dust lead hazard standards and was effective March 8, 2021.
- Feb. 8, 2022, the NDDEQ sent a letter to legislative council to amend the rules and started publication to meet the requirements for hearing on March 22, 2022. This is simply to maintain compliance with the federal laws.

New Rules for PTRCF – Duane Sandvick

- In 2019, HB 1024 moved the PTRCF to the NDDEQ.
- Proposing NDDEQ implement tank rules and registration fees Oct. 1, 2022. NDDEQ won't collect on the new fee structure until Aug. 1, 2023.

Supreme Court Update: West Virginia et al v US EPA – Maggie Olson, Attorney

- Dispute started in 2015 when EPA regulated GHG emissions from power plants.
- 2016 Supreme Court issued a stay, and the Clean Power Plan Rule never went into effect.
- 2019 the ACE rule was also controversial.
- 2021 vacated both rules and sent it back to the EPA for more proceedings.
- Supreme court agreed to review this ruling.
- Arguments focused around three things: Whether the court has jurisdiction to resolve the dispute when EPA hasn't adopted a new rule, does it violate the major questions doctrine, the scope of EPA's authority under the Clean Air Act. We expect a decision by end of June.

Environmental Justice/Title VI – Maggie Olson, Attorney

Ensures fair treatment of all people in implementing and enforcing environmental laws

Since January 2021 NDDEQ has been working on a plan. July 2021- draft framework was distributed for comment, EPA sent requirements to follow. The focus is to make sure we meet all those requirements. Dave Glatt shared that every grant is putting an emphasis to address environmental justice and having a seat at the table to communicate to all people in communicating environmental issues.

NDDEQ Challenges – Dave Glatt

Discussed state and federal agency relationship. We want to find good solutions and have a seat at the table. It's a challenge to plan for long term when every four years things may change. We want our environment in ND to be one of the best. Follow science and the law. There is a workforce challenge to recruit, retain and compensate employees in a tight labor market with changing workforce expectations.

Upcoming Budget – Beth Jacobsen

Thinking about optional packages. New accounting software has been purchased, and training will be in April.

EPA/Federal Bipartisan Infrastructure Bill – Shannon Fisher

Three pots of funding: for any SRF project, address emerging contaminants, lead service line replacement. Funding is from 2022-2026 and is available until expended.

DIVISION UPDATES: NEW OR EVOLVING ISSUES

Jim Semerad, Air Quality

Beth Jacobson, Accounting

Jim Quarnstrom, Chemistry

David Bruschwein, Municipal Facilities

Chuck Hyatt, Waste Management

Marty Haroldson updated for Karl Rockeman, Water Quality

BOARD MEMBER COMMENTS

Ed Murphy- Infrastructure bill question – Does it include replacement of asbestos water lines: the bill does not specifically call these out and they are not mandated to be removed, but they are eligible for removal in the DW or SRF program.

PUBLIC COMMENTS

Tom DeSutter, Agronomy & Soil Sciences said if they can help any way, they are willing. Dave Glatt shared that we have been asked to draft a white paper on a low carbon future and what that means in agriculture and municipal.

NEXT MEETING – DATE/TIME

The next meeting was tentatively set for September 21, 2022, at 2PM.

ADJOURNMENT

The meeting was adjourned at 4:25 PM

Submitted,

L. David Glatt, P.E.
Executive Secretary