

Agricultural BMP Committee
***FINAL* Meeting Minutes**
September 9, 2009; 10:30 a.m.
Arizona Department of Environmental Quality, Conference Room 3100B
1110 W. Washington St., Phoenix, AZ 85007
Call-in Number: (800) 746-4352, pin #1828417

Committee members present: Dan Thelander (Chair), Brett Cameron (designee for Don Butler), Colin Kaltenback, David McKay, Will Rousseau, and Nancy Wrona

Committee members absent: Wade Accomazzo, Alfred Lopez, Kevin Rogers, and Jim Walworth

Additional attendees: Bas Aja, Randy Sedlacek, Ken Hooker, Don Gabrielson, Steve Peplau, Scott DiBiase, Rusty Van Leuven, Emily Bonanni, Corky Martinkovic, Dena Konopka, Lisa Tomczak, Kris Graham Chavez, Sona Chilingaryan, Rick Lavis, Diane Arnst, and Dennis Dickerson.

Welcome

Chairman Thelander opened the meeting and welcomed everyone present. A quorum was present.

Discussion and Possible Action on Minutes from June 17, 2009, Committee Meeting

Chairman Thelander started the meeting with the review of the minutes from the June 17, 2009, Agricultural Best Management Practices Committee (hereafter Committee) meeting. The Committee briefly reviewed the minutes. Chairman Thelander asked if there were any changes or corrections to the minutes. Hearing no comments, Chairman Thelander asked for a motion to approve the minutes from the June 17, 2009, Committee meeting. Brett Cameron, Arizona Department of Agriculture (ADA), moved to accept the minutes from June 17, 2009; seconded by Nancy Wrona, Committee member. Chairman Thelander asked if there was any further discussion regarding the minutes. Hearing no additional comments, Chairman Thelander asked the Committee to approve the minutes; all approved.

Discussion and Possible Action Regarding Appointing Technical Workgroup

Chairman Thelander began the discussion by requesting a verbal listing of the Workgroup nominees. Mr. Cameron noted that the list provided to the Committee contained the members

from the 2007 Technical Workgroup in addition to the current nominees. Mr. Cameron asked if the intent was to combine the 2007 and 2009 Workgroups. Rick Lavis, Arizona Cotton Growers, said that the 2007 list was provided for comparison only. Mr. Cameron clarified that Rusty Van Leuven, Arizona Department of Agriculture, was not on the 2007 Workgroup, as incorrectly indicated on the 2007 list provided to the Committee. Lisa Tomczak, ADEQ, read the list of nominees. Mr. Lavis, requested that Cheryl Goar, Arizona Nursery Association, be added to the nominee list. Chairman Thelander asked if Mr. Cameron wanted to be on the Technical Workgroup. Mr. Cameron said he would like to be on the Workgroup. Chairman Thelander asked if there were any additional nominees. Will Rousseau, Committee member, asked for a clarification about what group the nominees will participate in. Chairman Thelander said that the new group of nominees will replace the Workgroup formed in 2007. Chairman Thelander asked if Robert Shuler will be representing the vegetable producers since there was no representative from that sector on the Workgroup. Mr. Rousseau stated that Mr. Shuler would represent the vegetable producers. Dena Konopka, Maricopa County Air Quality Department (MCAQD), asked to add Ken Hooker, MCAQD, to the Workgroup. Colin Kaltenback, Committee member, asked if there was a specific reason why there are two representatives on the list from the dairy industry and only one from the other commodities. There was no specific reason for two dairy representatives.

Chairman Thelander asked for a motion to accept the amended nominee list for the Technical Workgroup. Mr. Cameron moved to accept the nominee list; seconded by Mr. Rousseau. Mr. Cameron wanted to verify that during the meeting on June 17, 2009, the Committee agreed to have the new Technical Workgroup review the crop BMPs and asked if additional people would be required to review those BMPs. At this point Chairman Thelander thought it would be appropriate to discuss the charge of the Technical Workgroup. The Workgroup will develop BMPs for the agricultural sectors added by Senate Bill 1225. The Workgroup will divide into sub-groups for each sector – feedlots, dairies, swine, and poultry – to develop preliminary recommendations for their respective sectors. The overall Technical Workgroup will review all of the recommendations and then decide on the final recommendations to the Committee. Bas Aja, Cattleman’s Association, said that the Workgroup will probably work better if it is divided in that manner. Mr. Aja said that the Cattleman’s Association will present the results of their preliminary studies as well as cover the cost of bringing in Dr. Brent Auvermann, Texas A&M, to present the results of feedlot research to the Workgroup.

Nancy Wrona, Committee member, clarified the timeline for developing the rules regarding the new BMPs. Ms. Wrona stated that the new rule for the four sectors added by Senate Bill 1225 is due in mid-2010. She agreed that the existing BMPs should be reviewed, but the Workgroup should focus on the new sectors in order to meet the statutory deadline. Chairman Thelander asked about the specific deadline for the new rules. Ms. Wrona said that they are due June 30, 2010. Chairman Thelander asked about the length of the rulemaking process once the Committee approves the new rule. Ms. Wrona said that ADEQ, under the Committee’s supervision, can begin drafting the new rule, because there will be general background information to include in the rule. The drafting process, cannot be completed however until the new BMPs are finalized. The new rule will revise the State Implementation Plan, which will require a public comment period, public hearing, and time to respond to comments. Corky Martinkovic, ADEQ, said that five months is an average timeframe for completing the

rulemaking process. This includes the beginning of the proposed rule, getting the proposed rule to stakeholders, submitting the rule for public comment, publishing in the Administrative Register, and then the Governor's Regulatory Review Council (GRRC) has to complete its process. Ms. Martinkovic said that in order to meet the statutory deadline of June 30, 2010, the Committee should have the rule finalized by February.

Mr. Kaltenbach asked if there is a chairperson for the Technical Workgroup. Chairman Thelander said that Kevin Rogers and Earl Petznick Jr. have been asked to co-chair the Workgroup; he also asked if naming them as co-chairs will require formal action by the Committee. Ms. Wrona said that it will require formal action by the Committee.

Hearing no further discussion regarding approving the nominee list, Chairman Thelander asked for approval of the members for the Technical Workgroup; all approved.

Chairman Thelander asked for a motion to approve Mr. Rogers and Mr. Petznick Jr. as co-chairs for the Technical Workgroup. Ms. Wrona moved to appoint Mr. Rogers and Mr. Petznick Jr. as co-chairs for the Workgroup; seconded by Mr. Kaltenbach. Chairman Thelander asked if there was any further discussion regarding appointing Mr. Rogers and Mr. Petznick Jr. as co-chair. Hearing no further discussion, Chairman Thelander asked for approval of the co-chairs; all approved.

Discussion and Possible Action Regarding Release of BMP SIP Revision for Public Comment

Chairman Thelander asked about the status of the BMP SIP revision. Ms. Martinkovic informed the Committee that the BMP State Implementation Plan revision has been completed, internally reviewed at ADEQ, and reviewed by the Committee. ADEQ will submit the revision for public comment once it is formally released by the Committee. Chairman Thelander asked for a motion to formally release the BMP SIP revision for public comment. Mr. Kaltenbach moved to accept the proposed revision and release it for public comment; seconded by Mr. Cameron. Chairman Thelander asked for further discussion on the SIP revision. Mr. Cameron added that Rusty Van Leuven, ADA, prepared a summary of outreach activities regarding the changes to the BMP program that are contained within the revision. The summary provides a breakdown of the outreach that was conducted by ADA in conjunction with ADEQ. Hearing no further discussion regarding releasing the BMP SIP revision for public comment, Chairman Thelander asked for approval of releasing the revision; all approved.

Call to the Public

Chairman Thelander asked if there were any comments from the public. Ms. Konopka said that the MCAQD Director is inquiring about the timeline for approving the additional Committee members as required by Senate Bill 1225. Ms. Wrona said that the Committee could request nominations for the additional categories (feedlots, dairies, swine, and poultry). A nominating committee could be established and nominations sent to ADEQ, the list of nominees would be reviewed during the next full Committee meeting. Mr. Lavis said that the original process for

appointing the first Committee required sending nominations to the Governor's Office, since they are appointed by the Governor. The Governor cannot make the appointments until Senate Bill 1225 officially becomes law, which is 90 days after adjournment. Mr. Aja agreed with Mr. Lavis and said that the effective date is October 1, 2009. Chairman Thelander said that the process will require sending nominations into the Governor's office. Mr. Lavis said the Committee should not send in nominations, the nominations should be sent in by the affected agricultural sectors. Chairman Thelander agreed with the process described by Mr. Lavis. Ms. Wrona commented that the ADEQ Director will probably want to be informed of who is nominated. Recognizing that both ADEQ and ADA have members on the Committee, the Governor's Office may look to the Directors of each agency for advice on the appointments. Ms. Wrona asked if it would be acceptable that when the agricultural sectors make their nominations, they could provide copies to the Directors of ADEQ and ADA. Chairman Thelander, Mr. Aja, and Mr. Lavis agreed that would be an appropriate process. Noting that the official process can begin on October 1, 2009, Chairman Thelander said all of the agricultural sectors need to be notified so they can submit their nominations. Mr. Cameron said that all nominations will need to go through the Governor's Web site. He said the letters of support can be sent in by associations, but all potential nominees must be sent in through the Governor's Web site.

Ms. Martinkovic asked when the appointments for the existing Committee were due to expire. Ms. Tomczak said that appointments for the current members will expire at the end of 2010. Ms. Martinkovic asked if re-appointment for the entire Committee should be addressed at this time. Ms. Wrona said that the new appointments should be completed first and re-nominating current members should not be addressed at this time.

Mr. Aja said that it would be a good idea to set up a timeline for the Workgroup to present recommendations to the Committee. Since the Committee should have time to review the recommendations prior to finalizing the rule in February, the Workgroup should have a date to finalize the recommendations. Chairman Thelander noted that the Cattleman's Association has been working on a pilot study for new BMPs and asked when they would be able to complete their work. Mr. Aja said that they should have results by mid-December. Chairman Thelander said that a deadline of December 15, 2009, would be appropriate for the Workgroup to provide recommendations to the Committee. The question was asked if the Committee will be able to approve the new BMPs in one meeting. Chairman Thelander said the deadline could be pushed up to December 1, 2009, and Committee meetings held in December and January. Ms. Wrona said that it may be difficult to get a quorum in December and agreed that December 15 would be a better deadline. The Committee could meet in January and have another meeting in early February to finalize the new BMPs. Chairman Thelander agreed with Ms. Wrona and said having a Committee meeting in January and early February would work better. Ms. Wrona said that ADEQ will draft the timeline for the Committee.

Ms. Tomczak asked about the process for scheduling meetings for the Workgroup and the sub-groups. Mr. Aja suggested the Mr. Rogers and Mr. Petznick discuss scheduling the meetings with ADEQ. Chairman Thelander suggested scheduling the sub-group meetings at different times so any Workgroup member who is interested in going to the meeting will have the opportunity to attend. Ms. Wrona reminded the Committee that since the Workgroup and the smaller sub-groups are subject to open meeting law, all of the meetings will need to be noticed

and posted 24 hours in advance of the meeting as well as recorded through meeting minutes. Ms. Wrona suggested that more than one ADEQ staffer assist with scheduling and recording the meetings. Mr. Cameron said that Mr. Van Leuven could also assist in this process.

Action Items and Next Steps

- 1) ADEQ will develop a timeline for completion of technical analysis and rulemaking process.
- 2) ADEQ will send the summary of outreach activities for BMP Program (as prepared by ADA) to the Committee and stakeholders.

Adjournment

Chairman Thelander asked if there were any further items for discussion. Hearing no other discussion, Chairman Thelander adjourned the meeting at 11:35 a.m.