

**Agricultural Best Management Practices (BMP) Committee  
Meeting Minutes  
Friday, April 25, 2014; 10:00 a.m.  
Arizona Department of Environmental Quality, Conference Room 3175  
1110 W. Washington St., Phoenix, Arizona 85007  
Call-in Number: 1-877-820-7831, participant code 274431#**

**Committee members present:** Eric Massey, Kevin Rogers, Dan Thelander (Chair), Tom Thompson.

**Committee members absent:** Wade Accomazzo, Glen Curtis, and Mike Terrill.

**Additional attendees:** Rob Wilson, Lou Snow, Mike Sundblom, Marquerite Tan, Kevin Ryan, Mike Billotte, Robert Shuler, Jeanette Fish, Mike Smith, Cathy Arthur, Lindy Bauer, Ryan Templeton, Michael Burton, Paco Alerton, Brett Cameron, Lisa Tomczak, Bonnie Kennedy, Rick Lavis, Diane Arnst, Bas Aja, Danielle Hazeltine, Jim Walworth (phone), Patricia Tatum (phone), Bill Wiley (phone) and Scott DeBias (phone).

**Welcome**

Chairman Thelander opened the meeting, welcomed everyone, and stated before getting started that he would like to officially thank Mark Ferry for setting up the room and baking the cookies and brownies. Chairman Thelander then asked Committee members and additional attendees to identify themselves. The first item to discuss was approval of the meeting minutes. Lisa Tomczak, Arizona Department of Environmental Quality (ADEQ) stated that the minutes needed to be approved, which the Committee could do at the end of the meeting. Chairman Thelander said that was fine.

**Discussion of the Proposed Crop Rule**

Chairman Thelander asked Rick Lavis, Arizona Cotton Growers Association (ACGA), to provide an update on the status of rule revision discussions. Mr. Lavis expressed appreciation to Chairman Thelander and Kevin Rogers, Committee Co-Chair, for their effort as well as to Eric Massey (Committee Member), Lisa Tomczak and Danielle Hazeltine of ADEQ. Mr. Lavis introduced Anna Kennedy, Arizona Farm Bureau, and thanked her and Bas Aja, Arizona Cattle Growers Association (ACGA), for taking on this task. Mr. Lavis then discussed how the Maricopa and Pinal County nonattainment areas differ and operate under the same kind of BMP program. Mr. Lavis referred to a letter dated April 14, 2012, from Colleen McKaughan, Environmental Protection Agency (EPA), to Chairman Thelander expressing concerns of the specificity of enforceability. EPA argued the BMP program was not enforceable and would likely not be approvable without revisions. EPA suggested that the Committee review the Imperial Rule as an example. On June 27, 2013, the Committee requested ADEQ to evaluate the Imperial County Rule versus the Maricopa rule. There are some differences including the number of BMP categories and the number of BMPs required to be implemented. On September 26, 2013, the Committee suggested to have a meeting with ADEQ and EPA and thought about having a meeting with the Governor to express their frustration due to EPA's lack of clarity over the rules.

Mr. Lavis said that EPA sent a letter to Mr. Massey indicating they had concerns regarding the September 17, 2013, draft emissions inventory for the Pinal PM10 nonattainment area that showed significant

emissions reductions were needed from agricultural activities to obtain the PM<sub>10</sub> standard. EPA said that agricultural sources account for over 32 percent, 34 percent for wind-blown dust and 17 percent on non-paved roads emissions depending on monitor locations and wind conditions. Mr. Lavis stated this letter changed the direction of the Committee and the Program.

In a memorandum dated November 7, 2013, to Mr. Lavis, ADEQ stated that a meeting needed to be set up to restructure the BMP Rule to accommodate the need for additional BMPs. On December 3, 2013, the Committee met to discuss revisions and adopted some revisions to the rule. During the second half of the meeting, Ms. Hazeltine presented information regarding BMP Program for Pinal County. Mr. Lavis said this information created the structure that the Committee is faced with today. During that same meeting, ADEQ said that tillage and harvest should be separated into two separate categories and farmers could pick one BMP from each category. Non-cropland could separate out commercial farm roads and farmers could pick one BMP from each category. Cropland could also be divided into a low and high efficiency category and farmers could pick one from each. Chairman Thelander asked if anyone had any questions.

Mr. Massey asked to make a comment saying that with this program, the intentions were to accomplish three goals: 1.) to demonstrate attainment, 2.) add specificity and enforceability that EPA is looking for, and 3.) add test methods and believes that from our perspective we have accomplished this. Mr. Massey also wanted to acknowledge everyone and all the work and long meetings that have gone into this program. Chairman Thelander thanked Mr. Massey and asked if anyone else had questions or comments including those on the phone. Hearing none, Chairman Thelander verified that this was the final draft and that the Committee should proceed to talk with Robert about the animal side. Ms. Tomczak stated she will email everyone the latest version of the draft so everyone has it. Chairman Thelander then asked Mr. Aja to come to the podium and speak about the animal side.

#### **Discussion on the Proposed Animal Production Rule**

Mr. Aja wanted to point out a discrepancy in the current draft on page 30, letter E, which is the provision that on high wind days that the feedlots will put water in pens “the day before and the day of.” Letter D states that the dairy will do it “the day of” and in another part of the rule crops also water “the day of.” Mr. Aja suggested make the whole rule consistent for everybody and strike “the day before and” from the draft. Ms. Hazeltine also said on section 33, (I)(7) the same language would be removed. Chairman Thelander asked if there were any more comments on the animal portions of the rule.

A question was asked about page 30, item D, what the difference was between 14 VDT with two axels and a 14 VDT with three axels. Mr. Massey stated that originally there was differentiation between the two. Ms. Hazeltine added that the language got confused and could be changed. It was asked that if a pick-up drives 14 times, then a water truck should be out there watering? Ms. Hazeltine said it could be seven trips with two-axels or seven trips with three-axels. It was suggested to change the language to two or more axels. Mr. Massey called on Ryan Templeton, ADEQ, to verify the concept of having a total of 14 total trips or a total of 28 total trips. Mr. Templeton stated that originally they were looking at the two concepts separately. The worry was harvest activities, so if they are combined, it would be safe to go with 28 total trips, but he would need a little time to verify if that is the case. Mr. Massey expressed to Chairman Thelander that if they cut out the 14 VDT from the three-axels, then the amount of trips would be limited. It was suggested by Mr. Massey and Ms. Hazeltine that a total of 25 total trips with anything with two-axels or more be replaced by the 14 total trips. Chairman Thelander suggested to put “and” instead of “or” between the two VDT’s.

Mr. Massey asked Mr. Templeton if he felt comfortable with the 25 trips or if there would be too much ambiguity. Mr. Templeton stated that he felt they would be reducing the amount of emissions they are controlling, but was not sure if it would cause a problem with the overall attainment modeling. It was asked if combining to one would reduce the control. Mr. Templeton stated that there may be roadways where only two-axel vehicles are driving and if they do 14 trips, then it will not be controlled if they do

the combination. Mr. Aja stated that the way the rule reads now, after 14 trips with a pick-up truck, water needs to be put down. When you go to 28, then water does not need to be put down until the 28<sup>th</sup> trip. Ms. Hazeltine stated that it is a wording issue. Chairman Thelander asked if the Committee went with the 25 total trips today, then what happens down the road. Mr. Massey answered that the risk is they might not be able to reach attainment. Ms. Hazeltine said the point they were trying to get across is when you reach the 14 VDT limit with either a two-axel or three-axel vehicle, then something would need to be done. Kevin Rogers, Co- Chair, asked if 13 VDT's would be beneficial.

Mr. Massey stated that Mr. Rogers's concern was that if they could do 13 daily trips with two-axels and 13 daily trips with three-axels before the control was triggered, then that would be preferred to just saying 14 total trips. Ms. Hazeltine stated that she did not think that is what was meant by the rule and it was not meant to be combined based on the amount of dust kicked up in the emissions inventory. Mr. Templeton stated that the axels were distinguished from San Joaquin language and when he did the inventory he used information that would control for harvest days. It was asked if the two-axel vehicles could be allowed more than the three-axel vehicles since they generate less dust. Mr. Massey stated that two-axel vehicles are not necessarily inherently less polluting and it was originally kicked around by the technical committee that two-axel vehicles be limited to 10 VDT while three-axel vehicles were limited to 15 VDT. Mr. Massey continued to say that there are two components for dust generation on a dust road: 1.) vehicle weight and 2.) vehicle speed, so it is possible that a two-axel vehicle could generate more dust. It was then commented that there is a 15 mph speed limit. Ms. Hazeltine stated that we need stabilization on high risk days and the 15 mph speed limit alone does not give that, which is what they are trying to get at with the watering. Chairman Thelander asked if the animal guys had any suggestions for this issue. Mr. Aja stated that if there are roads near a monitor and if there are no controls, the problem will not be fixed. Chairman Thelander stated that the Committee should have a motion at the end of the meeting to approve this thing, but should have a consensus now on approving and wording for the draft. Mr. Templeton went to check the Technical Support Document (TSD) to verify the wording. Upon his return, Ms. Hazeltine stated that the TSD for the Pinal PM<sub>10</sub> State Implementation Plan (SIP) stated that a trip is a one way trip in one direction and the definition of the vehicle daily trips could be expanded to say vehicle daily one way trips. Ms. Hazeltine asked the Committee when they gave 14 as the trip number if they were thinking round trips or one way trips. Chairman Thelander answered round trips and there was no way seven would get it.

An audience member stated that the way it was written it was not very clear, while understanding that it was 14 trips, but asked if that was on an absolute daily basis or an occasional basis? Chairman Thelander answered that first of all, it is the high risk days and the average over the last three years were about 24-25 on the average high risk days in Pinal County and this draft refers to only high risk days when those roads are being driven. Mr. Massey asked Mr. Templeton how much the model would be affected if the 14 daily trips were doubled and if reductions could be found in others places. Mr. Templeton stated that there was a possibility in the modeling that they could better define which roadways were the high traffic roadways, but that would obviously give less emissions reductions if they were to double it. Mr. Templeton then said we do have to put those numbers in there to appease certain groups, but overall the idea was to try to key in on those high traffic roads during harvest activity and if we go with a higher number and it comes back, we can look at the original model and try to key in on exactly where those roadways are on certain days, but the idea of the rule is to key in on those high traffic roadways and not necessarily restrict or control all roadways. Mr. Rogers stated that seven trips is awful short and asked if it would model better at 10 total trips and if they could live with that. Mr. Templeton stated that instead of looking at modeling over average roadways they would have to define those high traffic roadways during those harvest activities and going with a higher number is not impossible, but a matter of more accurately representing what is going on out there and if they need to bump the number up that is understandable and they will try to make reasonable changes to the model that everyone can live with including EPA that makes sense for what is going on in the real world. Mr. Massey asked Mr. Templeton if he would be able to work with a 20 VDT's as Mr. Rogers had suggested given that is a one way trip to making it 10 total round trips. Mr. Templeton said he thought he could. Ms. Hazeltine asked if that would be changed for animal operations

as well. Mr. Rogers answered yes. Chairman Thelander asked if there were any other comments on the animal portion of the rule and hearing none moved to discuss the Irrigation District Rule.

#### **Discussion on the Proposed Irrigation District Rule**

Chairman Thelander commented that Nick Simonetta, KRB Consulting, Inc. was not there and asked if anyone knew where he was as he was supposed to discuss the Proposed Irrigation District Rule with the Committee. Ms. Tomczak stated that she had called his cell and left a message. An audience member stated Mr. Simonetta had called her and unfortunately had a meeting in Tucson and none of his associates were able to make the meeting today and that it was her understanding that Mr. Simonetta was going to call Ms. Hazeltine that morning, but apparently that did not happen. She also stated that it was her understanding that they were happy with the irrigation component of the draft with the understanding there might be some changes to the BMP like the wind barrier that would cross over into their area. Ms. Hazeltine stated that if there were any changes to the definitions, such as the wind barrier definition, that they would want to conform to those changes was her understanding as well. Chairman Thelander stated that Mr. Simonetta has been apart of their group, coming to some of the meetings, and wanted to verify he was receiving the emails and hopes he is on top of that. Chairman Thelander also stated that there have not been many changes to the irrigation rule. The audience member stated that if the Committee made any changes with the draft Mr. Simonetta would be ok with it. Chairman Thelander asked if there were any other comments or questions and hearing none moved to numbers four and five on the agenda.

#### **Summary of Action Items and Next Steps**

Ms. Hazeltine stated that they also needed to iron out the definition of VDT. Mr. Massey suggested the definition be changed to more clearly describe it as a one way trip in a one way direction and asked if that worked for Ms. Hazeltine. Ms. Hazeltine agreed that it did. Chairman Thelander asked Ms. Hazeltine if she had made definition changes to the draft. Ms. Hazeltine stated that on page six under surface roughening, the Committee removed the word bedding and on number 58, the Committee removed weeding from tillage operation. Ms. Hazeltine changed the language to all three animal operation rules for the draft on page 25 due to concern from the Committee under subsection J at the bottom over keeping records for three years and if that included the general permit record form. It was questioned from an audience member on page 13 over watering on a high risk day on non-cropland part D for watering “on the day before” and “the day of” and asked if watering should be done on a high risk day? Ms. Hazeltine stated she was under the impression that watering on the day before on non-cropland was not as big of an issue. Mr. Rogers suggested making it match the cropland to match commercial farm roads. Ms. Hazeltine asked if it would make sense to have a VDT then. Chairman Thelander asked what the definition of non-cropland was and said that he thought it should have a VDT as well. Ms. Hazeltine suggested that they take all the language from commercial farm roads and move that to cropland, subsection 4(D) and change watering to watering on a high risk day.

Mr. Massey suggested going back to the handbook to provide clarity that the farmer’s need for language that is confusing. Mr. Rogers stated that Pinal is such a different animal than what they are used to with the roads and that it has been harder to get to the BMP’s to the model to get to a chance for success and that is why the folks in Pinal County have to do more stringent things than those in Maricopa County. Chairman Thelander stated that they were ready to take a motion and to approve the draft as it was handed out and as a group walk through the little changes that they made. Mr. Massey moved to approve the April 25, 2014 10:20 a.m. draft rules with the following changes: Rule 610.03(D)(3)(b) on page 13, make the high risk portion of the rule conform to the language in rule 610.03 (D)(4)(b) with respect to the vehicle daily trips and watering on a high risk day. The second change, rule 610.03(D)(4)(b) and rule 611.03(D) on pages 13 and 30 respectively, to strike the language “or 14 VDT from three or more axel vehicles” and change 14 VDT to 20 VDT. The third change, rule 611.03(E) and (I)(7) on pages 30 and 33 respectively, remove the phrase “the day before and” and change to “on the day that” to make it more uniform throughout the rule. The fourth change, change the definition of vehicle daily trip to more

clearly describe it as one vehicle, one way, one direction trip. Chairman Thelander questioned change three and Ms. Hazeltine stated the motion should be to make all the rule language consistent throughout all of the rules to say “on the day that is forecast” and remove the language “on the day before and during.”

Chairman Thelander asked if they were truly going to have farmers comply by the forecast that was done the day before or will it be for actual events? He stated that the question of the day is what happens if the forecast is wrong? Would farmers still need to comply with those sections? Mr. Massey answered that the answer is yes and stated that what we would be triggering is on the day before the forecast comes out and says tomorrow is a high risk day, we would expect to see those emission reductions strategies in place. If the conditions did not in fact manifest, it would still be considered a high risk day because we did not know the conditions were not going to manifest. The forecast the day before the high risk day sets control measures that are implemented before the high risk day. Chairman Thelander asked if the forecast is accurate enough. Mr. Massey stated that if we have done our job well, then a high risk day violation did not occur because of the control program. Mr. Massey also stated that we are confident that we have a high degree of certainty that we can accurately predict what is happening in terms of meteorological conditions, only having issues with timing. It was asked if the high risk day were short coming, would they still need to comply. Mr. Massey answered it is difficult to forecast a high risk day on the same day. Also, stagnation can cause a high risk day due to dust not settling that would cause ADEQ to put out a high risk day. Chairman Thelander asked everyone including their advisors if they thought everything had been captured in the motion. Mr. Rogers second the motion. The motion was approved at 10:20 a.m. and Chairman Thelander asked if there was any further discussion. Hearing none, Chairman Thelander moved to Committee action items.

Chairman Thelander stated the action items:

- Direction if it is ok to proceed to ruling
- Department of Agriculture to begin working with ADEQ to revise the Guidebook.

### **Adjournment**

Chairman Thelander asked if there were any additional comments or questions. It was questioned as to what was the time frame for the rulemaking process and enforcement. Mr. Massey stated that from a rulemaking perspective, the House Bill of 2010 approved the Committee for exempt rulemaking authority to pursue changes to this program. Next, the rule changes would get finished and would be provided to the Secretary of State in terms of notice exempt rulemaking taking approximately 90 days with additional education. In terms of enforceability, the rule sets up applicability after January 1, 2015, so enforcement would be after that. Mr. Lavis wanted to add that they are currently on a suspension from the 2012 rule and it was argued by the EPA and the Committee for not knowing what to do and EPA will have to weigh in again. Mr. Lavis continued to say that if they allow us the freedom to move ahead that is one thing, but if the EPA wants to come back to us with the rules then he suggests we just wait until they take their action before we start an educational program. Mr. Massey stated that EPA does have review authority and before we can submit something to EPA we do have to have a final rule in place. Mr. Massey continued to say that it is his own recommendation that the longer we wait to employ this rule in Pinal County the less likely we will be able to demonstrate attainment with the standard by the deadline of 2018. This could possibly cause more exceedances and having to change the rules. Chairman Thelander asked Mr. Massey within a month of two would he have a feeling where EPA is at. Mr. Massey stated that as best a feeling as he could have and thinks within the next couple of months they can have some initial feedback from EPA, but nothing is ever certain until the signature on the Federal Register approving the plan is dry, which is still some time in the future. Mr. Massey also stated that he thinks we have addressed the major concerns that EPA has brought up and he is not certain if there will be red flag issues, but if there is he will certainly bring it back to this Committee. One other request of the two chairs

was to get support from technical committees for the technical items to work on the guidance. Mr. Rogers moved to approve the minutes. Moving the minutes was seconded. Minutes were approved and passed from the December 2 meeting.

Chairman Thelander asked for any final comments. Hearing none, the meeting adjourned at 12:07 p.m.