

AGRICULTURAL CHEMICALS SUBCOMMITTEE MEETING RECORD

TIME AND DATE:

10:30 AM, July 14, 2010

LOCATION:

TCEQ, Park 35, Building F, Room 2210, Austin, Texas

PURPOSE OF MEETING:

The FY10 Fourth Quarter Meeting of the Agricultural Chemicals Subcommittee of the Texas Groundwater Protection Committee

ATTENDEES:

AGENCIES

Texas AgriLife Extension Service [TAES]
Texas AgriLife Research [TAR]
Texas Commission on Environmental Quality [TCEQ]
Texas Department of Agriculture [TDA]
Texas State Soil and Water Conservation Board [TSSWCB]
Texas Water Development Board [TWDB]

REPRESENTATIVES

Joseph L. Peters	Chair, Member, TCEQ, Austin
Richard Eyster	Member, TDA, Austin
Janie Hopkins	Member, TWDB, Austin
Kevin Wagner	Member, TAR, College Station
Donna Long	Member, TSSWCB, Temple
Bruce Lesikar	Member, TAES, College Station

AGENCY STAFF

Alan Cherepon	TCEQ, Austin
Cary Betz	TCEQ, Austin
Kelly Hooligan	TCEQ, Austin
James Moore	TCEQ, Austin
David Villarreal	TDA, Austin
Leslie Smith	TDA, Austin
Lynne Fahlquist	USGS, Austin

INTERESTED PARTIES

Ed Baker

Syngenta, Mineola

MEETING SUMMARY:

I. Opening Remarks

The Chairman of the Agricultural Chemicals Subcommittee, Dr. Joseph Peters (TCEQ), called the meeting to order. Subcommittee member David Van Dresar (TAGD) was not in attendance. Dr. Peters welcomed everyone to the meeting and had the Subcommittee members introduce themselves. Dr. Peters altered the agenda order to place the National Pollutant Discharge Elimination System (NPDES) presentation (Item V) first, to allow the TCEQ staff from the NPDES Team to participate and leave immediately afterwards and get back to their work. The Subcommittee members agreed to this change.

II. Discussion Items

The 6/24/10 EPA Webcast on NPDES Permit for Pesticides

Mr. Cherepon provided an EPA Power Point presentation from an EPA Webcast that took place on 6/17/10. Opening remarks included an announcement that this was from an EPA presentation, and that each state that has decided to draft their own permit, which includes Texas, will likely develop a version significantly different from EPA's. Mr. Cherepon also said there were two TCEQ staff members present who had been working on Texas' permit who would be adding some additional insight concerning Texas program at the end of his presentation.

The presentation was comprised of 50 slides created by EPA staff Allison Wiedeman and Jack Faulk. An outline and some background on the Federal Court rule that requires the permitting of pesticide applications near bodies of water were briefly presented, since most present were already aware of the history of the need for these permits. Noted was the Clean Water Act (CWA) statutory framework that requires the permitting of point sources that discharge pollutants into U.S. waters, and which the court has decided will in some circumstances now include pesticide applications in or near surface waters. The deadline for having this permitting process in place is April 9, 2011. Since Texas is authorized to issue its own NPDES program as the Texas Pollutant Discharge Elimination System, it is presently working on developing its own general permit for pesticide applications in or near surface waters. The major applications that are covered under the pesticide permit include:

- Mosquito and other flying insect control
- Aquatic weeds and algae control
- Aquatic nuisance animal control
- Forest canopy pest control

The general permit will need to contain several items, including:

- Scope of work
- Description of what will be required in Notices of Intent (NOI) (A NOI gives specific information on a planned upcoming application.)
- Effluent limits that are technology and water quality based
- Site monitoring (visual)
- A pesticide discharge management plan to minimize pesticide use and maximize protection of the water body
- Corrective action, when needed
- Recordkeeping and annual reporting

The EPA stressed that normal agricultural applications to crops as irrigation return flow were not covered under the permit. Several issues that have been clarified include:

- The definition of “near” as being along the banks or adjacent to surface waters of the U.S.
- Ag activities that may require a permit may include applications alongside ditches/canals that flow into U.S. waters; applications onto impaired water bodies, or applications onto Tier 3 waterbodies.
- Definitions of who is an operator, who has to file an NOI, and annual treatment area thresholds
- Technology and water quality based effluent limits
- Required monitoring will be by visual inspection with no required sampling, unless obvious adverse effects occur.
- Specific requirements for reporting and recordkeeping
- Definitions for what is a Point Source, a discharge, and what are waters of the U.S.

Numerous questions yet to be answered were presented by stakeholders, too numerous to provide in this summary, but can be viewed in the presentation website URL at the end of these minutes. A schedule of milestones was provided, including:

- December issuance of the final EPA permit
- The period from January through April of 2011 designated as an outreach and education period prior to the permits having to be required
- April 9, 2011 as the date when permits will be required in all states, whether EPA or state permits

At the end of the slide show, Kelly Hooligan (TCEQ) provided additional comment and answers.

- TCEQ’s program team could use help in identifying large and small users, the types of pesticides applied, how much are applied, when are they applied, etc. If Texas is to differ from the national program, they need good reasons to do so.
- There is still a need to determine who will be required to submit the NOI. Anyone with input regarding this should send info to TCEQ.
- Intermittent streams could potentially be included as U.S. water.
- Their team is using existing TPDES permits as a starting point for developing the pesticide permit.
- There will be a public comment period in Texas, and any input from stakeholder agencies, including information that might be useful in developing the permit in Texas, would be appreciated. If a preliminary input period is desired before the public comment period, let the permitting team know ahead of time.

- All though unlikely, the number of permits required for the application of pesticides could potentially double or triple the present permit rates of nearly 70,000. It still needs to be determined which situations will require permitting.
- The permitting team will likely develop an electronic permitting process with incentives for applicators to apply electronically.

III. Task Force Reports

Site Selection Task Force: Janie Hopkins (TWDB), the Task Force Chair, summarized the TWDB groundwater sampling schedule for 2010. The TWDB has sampled about 430 wells. Additionally, the TWDB in cooperation with Texas Parks and Wildlife Department is sampling two springs in Salado and in Comal County. Analysis includes isotopes for aquifer model application. The TWDB will also be collecting a few more samples in August and September from the Gulf Coast aquifer as part of the Central Texas Dam project. (Alan Cherepon (TCEQ) summarized TCEQ's pesticide monitoring activities later in the meeting.)

Education Task Force: Dr. Bruce Lesikar (TAES), the Task Force Chair, reported that the Texas AgriLife Extension Services is continuing with their planning process and that the NPDES material was very timely in this regard. He also mentioned that Dr. Dana Porter was planning agricultural agent training in the Panhandle in August.

PMP Task Force: Mr. Cherepon (TCEQ) said that he, with input from TDA, plans on completing assessments on the remaining 22 pesticides from EPA's initial list of 57, and entering these into the **Pesticides Of INterest System (POINTS)** database by the end of the calendar year. Most of the remaining pesticides had no affordable or readily available laboratory analyses available, and any data that exists on these would either be found in the IPD or from more recent USGS monitoring.

The other task forces were inactive and had nothing to report.

IV. Presentation (None scheduled for this meeting)

V. Business Items

Recommendations made to Legislature Report Subcommittee

Copies of the proposed recommendations to be included in the upcoming *Legislative Report (Activities and Recommendations of the Texas Groundwater Protection Committee, Report to the 82nd Legislature)* were provided to the subcommittee members to review and approve for carrying them forward to the full committee meeting in the afternoon.

Dr. Peters summarized the four recommendations and asked the subcommittee members to review the two new recommendations and decide if they should go forward to the TGPC. The two new recommendations are as follow.

- Support for the updating of the TEX*A*Syst program
- An educational program for the NPDES pesticide permitting program

That the NPDES education be included under the groundwater quality through education recommendation was suggested by Mr. Kevin Wagner (TAR) at the last meeting of the TGPC. However, in the afternoon meeting of the full TGPC, since the NPDES pesticide permitting program falls under surface water, it was decided that mention of it should be dropped from the recommendations for groundwater.

It has been recommended by TAR that TEX*A*Syst be revised, updated, include additional educational programs, and possibly have its name changed. Additionally, it was recommended that it should include assistance to and inclusion of the Texas Well Owners Network.

The two other recommendations – the establishment of an abandoned well plugging fund and continued efforts in improving groundwater quality through education – were already included in the previous *Legislative Report*, and it is anticipated that they will be approved by the full committee to be continued as recommendations in the upcoming *Legislative Report*.

VI. Information Exchange-Status Updates

Preliminary summary of pesticide monitoring in 2010

Mr. Cherepon provided a brief summary of FIFRA sampling activities for the season including a handout for the meeting. The pesticide monitoring by TCEQ in 2010 included two trips:

- Panhandle trip of 5/24-29/10
 - Thirteen wells were sampled in the cotton growing areas around Lubbock.
 - Nine PWS wells were sampled in on-going monitoring of wells with previous atrazine detects.
 - Plainview wells number 16 and 17, which were to be sampled, were not operational, so the cemetery well across the street was sampled as an alternative.
 - Immunoassay analyses for atrazine, 2,4-D, and acetochlor were conducted. Only atrazine was detected in low concentrations.
 - Eight samples were sent to LCRA ELS for analyses using four pesticide methods and one method for arsenic. There was only one detection of atrazine below the quantitation limit.
- Dallas/Ft. Worth urban pesticide monitoring trip of 6/14-18/10
 - Ten wells and 1 spring were sampled and are awaiting immunoassay analysis pending the arrival of new kits.
 - Eight samples were sent to LCRA ELS for analysis by four pesticide methods (results pending).

A full report will be provided at the next quarterly meeting.

Recent EPA-related meetings (Region 6 Pesticide, SFIREG, SAP)

Dr. David Villarreal (TDA), the Region 6 states representative for the SFIREG water quality workgroup, provided a summary of three relevant items from his last and final meeting as a member of this group.

- He led a discussion on listing inert/inactive ingredients for pesticides. Issues discussed included
 - Full or partial disclosure of inert/inactive ingredients
 - Whether specific or general terms are used to protect manufacturer confidentiality
 - Should be available on either pesticide labels or the EPA Website
 - EPA will likely decide on this soon
- Determining the affects of endocrine disruptors in the environment, especially of chemicals that could affect humans or other animals.
 - Includes personal care products, pesticides, and pharmaceuticals
 - EPA will likely address these systematically in prioritized lists
 - 1st list of most dangerous
 - 2nd list of high use/most toxic pesticides (SFIREG list of 57)
- Continuation of **Pesticides Of INTERest System (POINTS)?**
 - Those states with pesticides of concern want the program to continue.
 - Those states without issues, or minimal ones, like Texas (which has only a minor issue with atrazine) want the program to end, instead of spending staff time working on minor issues.
 - What will EPA do with the data now that most states are finishing up the assessment of the initial 57 pesticides?

VII. Announcements

Ms. Donna Long announced that TCEQ's NonPoint Source (NPS) team has their annual Request for Program Successes due at the end of summer, and anyone interested in 319 program funding can contact the NPS team at TCEQ.

Ms. Hopkins announced TWDB will offer a shortened version of their Groundwater 101 class on 11/10/10, probably from 9:00 AM till 4:00 PM in Austin.

Mr. Cherepon announced that the fall EPA Region 6 pesticide meeting will be in middle or late October in Dallas, but he did not have the date.

VIII. Public Comment

No public comments were made.

IX. Adjournment

With no further announcements or public comment, the meeting was adjourned.

Recorded and transcribed by Alan Cherepon.

In their afternoon meeting, the decision was made by the Texas Groundwater Protection Committee that its FY10 fourth quarter meeting would take place on 10/20/10 at 1:00 P.M., in TCEQ Building F, Conference Room 2210. The Agricultural Chemicals Subcommittee meeting will take place on the same date and in the same room at 10:30 A.M.

Attachments

Recommendations made to Legislature Report Subcommittee by the ACS

Preliminary Summary of TCEQ Pesticide Monitoring of Groundwater in 2010

Reference

Clean Water Act (CWA)-Permitting of Discharges from Pesticide Applications, Allison Wiedman and Jack Faulk, USEPA Webcast Power Point presentation, June 17, 2010, can be found on the TCEQ website at the following web address.

http://event.on24.com/clients/default/presentation/default.html?titlecolor=000000&eventid=222751&sessionid=1&username=&partnerref=&format=wmaudio&key=D8F8D2E2A7F12AD9C871665A959C3FF9&text_language_id=en&playerwidth=1000&playerheight=650&eventuserid=37965595&contenttype=A&mediametricsessionid=33968502&mediametricid=577757&usercd=37965595&mode=launch