

Agricultural Chemical Cleanup Council
Meeting Minutes
Tuesday September 17, 2024

The ACCC meeting convened at 9:01 a.m. in Conference Room 212 at the Prairie Oak State Office Building on Tuesday September 17, 2024 and on Microsoft Teams video conference.

Council members present on Teams: Frank Masters, Arch Morton Jr., Joe Sikora, Jennifer Wickman, Kevin Solum and Tom Culp.

Department of Agriculture, Trade and Consumer Protection employees attending in person: Sally Ballweg and Alan Hopfensperger and attending on Microsoft Teams: Mark McColloch and Robby Personette.

Mark: The Agenda is included in the Agenda book as well as shared on screen. Are there any Agenda repair items? There were none.

ACM / ACCP Update and Discussion:

Robby Personette:

Carla Romano will be leaving DATCP, her last day is October 4th. Carla has accepted a Section Manager position at the DNR in their Groundwater Section. She has done great work with us and we don't want to lose her, but understand this great opportunity for her career progression and she will do very well at DNR. We will be down a Hydrogeologist that manages our surface water, private well monitoring, and Groundwater Research programs. Mark will be recruiting to fill that position right away.

The collection of the ACCP fee is back in place at 50% of the rate. The first agrichemical program license that is affected is the fertilizer and soil implant additive license. They will expire at the end of this month and we already have about one half of the licenses renewed with the higher rate. There has been a lot of confusion mostly because the fee has been in a holiday for about the last 8 years and the fertilizer companies now have new people processing the license renewals and don't understand why the fee's 'went up'. They haven't actually gone up, they have just now been reinstated, but only at 50% of the rate. We did anticipate these questions, and have done a lot of outreach to explain the process.

In our pesticide area, the EPA has cancelled a pesticide dimethyl tetrachloroterephthalate (DCPA or Dacthal) under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). This is the first time in almost 40 years EPA has taken this type of emergency. It has already been out of production for about one year, when the active ingredient in it was suspended by the EPA. We do not anticipate too much of the product around the state due to minimal sales data over the last 4-5 years. Minimal meaning less than 200 gallons.

We have our DATCP Board meeting on Thursday that will include our ATCP 29. We found a discrepancy between the preliminary hearing statement and the previously submitted preliminary hearing from July and re-announce it at the September 19th board meeting asking for a new preliminary hearing. We anticipate the Board will approve and schedule it around the end of September. Once we receive this information I will send out an update. Basically this is a scope statement to open up ATCP 29 and then a preliminary hearing will be held allowing people to provide testimony, comments, or statements related to the proposed rule changes outlined in the scope statement.

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Lastly, we will be finalizing the 2023 Surface Water Report within the next few weeks. We recently received our final review from our Public Information Officer, which is required before we release a report to the public.

Short updates today. Our summers are busy with traditional agriculture complaints.

Robby asked if any questions. There were none.

Mark McColloch:

Want to congratulate Frank Masters who is retiring this month. This will be Frank's last Council meeting. Frank will also be recognized at the DATCP Board meeting on Thursday September 19th. Frank has been on this Council since 2001 along with numerous other Councils, Committees, and Advisories here at DATCP and throughout Wisconsin.

We missed reading this at our meeting, but wanted to share some praises about Frank that we received from past employees:

From Lori Bowman (past Bureau Director and Hydrogeologist for DARM):

- *Frank was part of all ACCP related committees, including rule revision advisory committees.*
- *For RevEx, I know he was a wonderful member on the ACCP Fund related committee. There was a strong desire by industry (mainly farmer groups) to sunset the ACCP program. The biggest success of the RevEx project besides aligning the funding appropriately was to gain industry-wide support for the continuation of the ACCP. Frank and the other agribusiness members were instrumental in ensuring that the ACCP continued.*
- *Frank always provided real world perspective to issues and honestly provided us input on the positive and negative impacts that regulation (proposed or existing) had on agribusinesses.*
- *He advocated for agribusinesses and farmers alike, but also was a firm and effective advocate for the ACCP program.*
- *I always appreciated his no-nonsense attitude and could expect a fair and honest assessment on questions and issues.*

From Stan Senger (Past Section Manager and Hydrogeologist from DARM):

- *He has been such a huge help in so many ways over the years. Frank was a big help with our Environmental Partners (EP) program. Frank supported EP from the start. He helped design the program, our inspection checklist, timelines and (simple) rewards. As an EP Ambassador, he helped us gain access to agricultural chemical facilities by talking with other facility owners and managers upfront. His industry knowledge and connections really helped us create realistic BMPs for facilities to use, and his credibility with others helped us get new sites into the program.*
- *With RevEx, he knew firsthand the benefits of the ACCP program and was supportive of the program openly to others in the industry. Again, his knowledge of the industry and his*

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credibility with others help restructure the fees we collect that fund all of the Bureau's programs, and helped keep the ACCP operating (at a time when others sought to end it).

- *We are also in the process of recruiting for Frank's position on our Council. We have made a nomination to our Secretary and we are awaiting approval. Our intent is to complete the onboarding before our next meeting in December.*
- *Also reminder to everyone to please complete the 'Public Records' training and the 'Ethics for Public Officials' training. If you have any questions, please reach out to Sally and she will help you.*
- *Is everyone receiving their electronic agenda books? Just want to be sure everything is working as it should.*

That is all we have for updates. Mark asked if any questions. There were none.

Meeting Minutes Approval from June 13, 2024

Meeting Minutes from June 13, 2024 are included as Insert 01 in our Agenda Book. Mark asked if there were any comments or questions on the minutes from the previous Council meeting. Any items to discuss or any items to repair? There were none.

MOTION: Arch Morton, Jr. moved, seconded by Tom Culp to accept the minutes of the June 13, 2024 Council meeting. (Motion carried 6-0)

Post Meeting Memo and Post Meeting Table from June 13, 2024

The post meeting memo and post meeting table are included as Insert 02 in our Agenda Books. Mark noted the Department and Council were in agreement on all decisions made regarding reimbursement amounts from the June 13, 2024 meeting. Mark asked if any questions or comments. There were none.

Next Council Meeting

The next ACCC meeting was scheduled for Tuesday, December 10, 2024, starting at 9:00 a.m. Sally will send out the meeting invite. *(Note: Due to a DATCP scheduling conflict, the meeting was rescheduled for December 12th on October 2, 2024).*

Summary of ACCP Program Progress

- For the ACCP program, 29 reimbursement applications have been processed for CY 2024 compared to 22 applications for CY 2023.
- The total amount of eligible costs submitted for all applications for CY 2024 (through September) is \$1,695,882.19 and the total amount reimbursed for the year is \$1,238,886.19 (after this meeting).
- For this first meeting of FY 2025, 6 applications were processed. The total amount of *costs submitted* for all applications for this meeting is \$210,586.58.

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- Total eligible costs for this meeting are \$127,709.97. Including insurance reimbursement for a spill \$25,000 and double deduction amounts, \$31,645.53 was identified as ineligible for this meeting.
- The amount proposed for reimbursement for this meeting is \$127,709.97.
- One discharge site (*The DeLong site at Clinton*) reviewed for today's meeting previously exceed the \$400,000 cap. *Note: Of the 38 site that exceeded the \$400,000 cap, 26 have been closed.*
- No discharge sites reviewed for today's meeting will exceed the \$650,000 cap upon reimbursement. *So far, three sites have exceeded the \$650,000 cap, and we expect 3 to 5 move sites to hit the cap within the next year.*
- Two sites, the Kreuziger Spill at Juneau and the Legacy Seeds site at Scandinavia, presented at today's meeting have been closed. Both of these cases are first time applications.
- The remaining cases have had prior reimbursement applications. Excavations were completed and additional groundwater monitoring is planned at these site (which include the *United Cooperative site at Darlington*, the *United Cooperative site at Westfield*, the *Allied Cooperative site at West Salem*, and the *DeLong site at Clinton*).
- DATCP has responded to 14 spills so far in 2024, compared to 34 spills in 2023. A reimbursement application for one or more spill cases can be are expected for upcoming meetings.
- Overall, the number of active ACCP cases has declined (around 101). Since the last meeting, 11 cases were closed, two case were re-opened, and three new case was opened.

Mark asked if any questions or comments. There were none.

Review of Applications

In your agenda books you'll find our proposed reimbursement summary sheets for 6 applications included as Inserts 4 through 9.

There are 2 applications for which the department proposed some ineligible costs; costs for the remaining 4 applications were found to be all eligible.

Applications with non-eligible costs:

The first application with non-eligible cost is for the Kreuziger Spill at Juneau. The reimbursement summary sheet is included as Insert 4 in your agenda books. As shown, an application in the amount of \$35,610.80 was submitted and the department is

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recommending reimbursement in the amount of \$1,218.48. Costs totaling \$31,000 were identified as ineligible by the Department. As shown on the explanation sheet ineligible costs include a \$25,000 reimbursement from insurance, and \$6,000 for fill material that was obtained at no cost. Note: the Department is not recommending a double deduction for these ineligible costs in the amount of \$31,000.

Mark asked if there was any discussion.

Frank: Was there anything submitted by the RP for using their own equipment for cost reimbursement?

Mark: Yes, he did submit paperwork to back up costs for equipment use. He did the work himself and that is what the insurance company covered. So anything exceeding the \$25,000 from the insurance company, we were able use, including equipment charges, excavating, land spreading and backfilling the excavation. This was an on Farm spill.

Frank: Right.

Mark: The biggest costs that we reimbursed was the land spreading, plus he had a \$3,000 deductible and the 25% copay.

Frank: Ok

Mark asked if there was any further discussion. There was none.

Is there a motion to accept the Department's decision for non-reimbursement in the amount of \$31,000 as proposed by the department?

MOTION: Tom Culp moved, seconded by Joseph Sikora to accept the Department's recommendation for reimbursement. (Motion carried 6-0)

The second application with non-eligible cost is for the *Delong site at Clinton*. The reimbursement summary sheets is included as Insert 7 in your agenda books. As shown, an application in the amount of \$7,166.61 was submitted and the department is recommending reimbursement in the amount of \$ 4,941.91. Costs totaling \$654.53 were identified as ineligible by the Department. Costs totaling \$623.79 were identified as ineligible because a 75 percent request was made per ATCP 35.16 (8) (c) for costs that exceeded DATCP budget approval amounts for groundwater monitoring and laboratory services. Additionally, including the double deduction, costs totaling \$30.74 were identified as ineligible because mileage costs exceeded the maximum allowable state rate by \$15.37.

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Note: the Department is recommending a double deduction for these charges in the amount of \$15.37 for a total ineligible amount of \$30.74. There is no double deduction for the 75% request.

Mark asked if there was any discussion. There was none.

Is there a motion to accept the Department's decision for non-reimbursement in the amount of \$654.53 as proposed by the department?

MOTION: Frank Masters moved, seconded by Kevin Solum to accept the Department's recommendation for reimbursement. (Motion carried 6-0)

Review of Applications with ALL ELIGIBLE costs

ALL ELIGIBLE applications for the 4 remaining applications reviewed for today's meeting include the following:

- Insert 5 - \$26,933.00 in eligible costs for the Legacy Seeds site at Scandinavia with a proposed reimbursement amount of \$14,859.08;
- Insert 6 - \$42,212.39 in eligible costs for the United Cooperative site at Darlington with a proposed reimbursement amount of \$32,181.32;
- Insert 8 - \$9,371.96 in eligible costs for the Allied Cooperative site at West Salem with a proposed reimbursement amount of \$7,120.39;
- Insert 9 - \$89,291.82 in eligible costs for the United Cooperative site at Westfield with a proposed reimbursement amount of \$67,388.79.

Mark asked if there was any discussion. There were none.

In the past, we've taken a motion to approve as a group, all applications where the Department's decision is to reimburse all costs. Is there a motion to accept the Department's decision to reimburse all 6 of these applications as proposed by the department?

MOTION: Joe Sikora moved, seconded by Arch Morton, Jr. to accept the Department's recommendation for reimbursement. (Motion carried 6-0.)

That concludes our review of applications for this quarterly Council meeting. Are there any comments, questions, or other business that needs attention?

Hearing none, is there a motion to adjourn?

MOTION to adjourn: Frank Masters motioned (for one final time), seconded by Jennifer Wickman (Motion carried 6-0.)

Meeting adjourned at 9:27 a.m.