

AN ACT establishing a commission to investigate and analyze the environmental and health impacts relating to releases of perfluorinated chemicals in the air, soil, and groundwater in Merrimack, Bedford and Litchfield.

HB737, Chapter 335:1, RSA Chapter 126-A: 79-a, Laws of 2019

Meeting

MINUTES

Friday, December 6, 2019, 10 AM, Room 304 LOB

Attendees: Joseph Ayotte (USGS), Chris Bandazian (Town of Bedford), Rep. Ralph Boehm, Sen. Shannon Chandley, Amy Costello (UNH), Karen Craver (DHHS), Sen. Jeanne Dietsch, Assistant Commissioner Clark Freise (DES), Nancy Harrington (Town of Merrimack), Rep. Nancy Murphy, Rep. Jeanine Notter, Rep. Rosemarie Rung, Rep. Wendy Thomas, Rep. Gary Woods

The meeting was called to order at 10:03 am.

The draft minutes from the November meeting were reviewed and amended with a correction from the DES report, title correction for Rep. Woods, and title consistencies made.

Rep. Woods moved to accept the minutes as amended, seconded by Rep. Thomas. The motion passed by voice vote.

Ms. Costello summarized the health subcommittee notes from the Nov. 25 meeting.

Sen. Dietsch reviewed the subcommittee standard agenda.

Mr. Bandazian summarized the environmental subcommittee notes from the Nov. 25 meeting.

Mr. Freise commented on the status of Saint-Gobain:

- PFAS is released not just from the air stacks, but also from their storm water discharge to the Merrimack River and their wastewater discharge to the Merrimack Wastewater Treatment Plant. He anticipates that Sarita Croce, director of the Merrimack WWTP, will present at the January environmental subcommittee meeting about this.
- DES is extending the Saint-Gobain air permit comment period to the end of December 2019. He expressed hope that Saint-Gobain would present a remediation plan for PFAS discharge to waterways rather than have extended parameters included on their air permit.

Mr. Freise corrected a comment he made at the November commission meeting relating to blood testing. DHHS does have blood-testing capabilities provided by a grant, however, the capacity is exhausted under the grant demands. DHHS could accommodate emergency blood testing for a limited number of samples if needed.

Rep. Notter asked if blood samples from previous testing done performed in a California lab are retained. Ms. Costello said it is an issue that can be discussed at a health subcommittee meeting.

Mr. Freise updated the commission on ongoing litigation. 3M and the Plymouth water system are suing the state over the new drinking water standards. A recent court injunction upholds mandated testing but Plymouth is exempted. Three hundred and ninety-eight (398) tests of water systems have been completed to day with 20 of them (5%) exceeding state standards. Three represent school systems and one with among the highest contamination has taken immediate action by disconnecting from water system and providing bottled water.

The Drinking Water and Groundwater Trust Fund paid for testing of 500 random water samples throughout the state for a variety of substances (e.g., lead, arsenic, PFAS, 1, 4 dioxin, pesticides) and did not detect any random hot spots in the state. Mr. Freise mentioned that lab results are taking longer to receive than what has been experienced in the past.

Mr. Ayotte asked about the public availability of DES data and if there is a plan for analyzing the results. Mr. Freise said that all data is publicly available but a plan for analyzing the data has not been established.

Mr. Bandazian inquired about any post injunction filings and Mr. Freise indicated that he is not the appropriate person to comment, but referred to the Attorney General.

Ms. Craver joined the meeting and discussed coordination with other commissions/committees requiring DHHS input so their resources could be used more efficiently.

She reported that DHHS held a public meeting in Merrimack about PFAS and health. The presentations are on their website.

DHHS is finalizing a cancer incidence report that should be released by end of the year.

The health subcommittee is pursuing external presentations to the subcommittee, specifically from ATSDR. At the next meeting, scheduled for 1 PM on December 9th, DHHS staff will make 2 separate presentations. Dr. James Chithalen and Dr. Chris Bean will provide an overview of the NH Biomonitoring Program, a summary of the TRACE study, and will talk about PFAS blood testing capability and capacity within the NH Public Health Lab. Dr. Katie Bush, will provide an overview of the Environmental Public Health Tracking Program, including a presentation of Community Health Outlook reports for the southern NH communities impacted by PFAS exposure; and will also discuss the MVD exposure assessment methodology and findings. Anyone from the larger Commission who is interested in these topics is invited to attend.

Rep Notter asked Ms. Craver about retention of blood samples as first posed earlier in the meeting. Ms. Craver will check with their lab personnel about this.

Sen. Dietsch asked what additional actions to address on-going PFAS release are necessary.

Mr. Freise responded:

Air emissions are being addressed by the inclusion of DES approved technology in the final air permit. The roof at Saint Gobain is highly contaminated from air emissions and during storm events there is contamination to surface water from runoff. That is being addressed by inclusion of run-off in the air permit since the air permit is rooted in AGQS.

Monitoring wells in place capture PFAS contamination from spills within the facility and from surface soils, however remedial action is not currently mandated. A plume investigation needs to be finalized for that to occur.

Two brooks north and south of the Saint Gobain property drain into the Merrimack River. They tested positive for PFAS but the state does not regulate PFAS in those waters. However, future studies on fish will provide consumptive information that is subject to NH consumptive limits.

Ms. Harrington said that Saint Gobain is organizing a Community Advisory Council. She summarized the Town of Merrimack's expectations for Saint Gobain: replace the roof, gutters, install scrubber on the air stacks, begin pump and treat of groundwater on site, etc. in order for this to be a substantive endeavor.

Rep. Boehm departed the meeting to accompany a student tour.

Sen. Dietsch reviewed the action plan and those responsibilities that remain unassigned: 1) reviewing the progress made by state and federal agencies if appropriate and their progress, 2) assisting agreements between the state and Saint Gobain and proposing additional additions necessary to achieve the charge of the commission. Monthly updates from DES and DHHS should meet the first responsibility from the state's perspective. For the federal perspective, surface and soil sample limits are being developed with surface water standards to be submitted by Jan. 1, 2020. Federal government established a residual designation (RD) – the next step to regulate PFOA and PFOS - which will not be done for at least another year. No meaningful progress from federal government can be expected within that time. Ms. Craver said she is in contact about progress from ATSDR. Rep. Thomas shared an update from Sen. Shaheen's office about status of her office's progress on this issue.

As for the second unassigned responsibility, [RSA 126-A:79-a, 14] Mr. Freise will not be commenting on the Saint-Gobain Consent Decree due to ongoing litigation. On a local level, Rep. Thomas stated that Merrimack Village District has hired an attorney to review the state consent decree. She suggested that the commission may want to have them present at a future meeting. It is unclear how much information can be shared due to legal limitations.

Rep Murphy, the primary bill sponsor, explained that her intention in [RSA 126-A:79-a, 14] was for the Commission to be able to review any future agreements. There were questions raised as to the legality of a commission providing input into a judicial decision. Mr. Freise will pursue having the AG speak to the commission at the January meeting.

Rep. Thomas suggested that public comment be added as part of the agenda. Mr. Freise added that a blog system has been set up at DES and anyone is invited to send content to Jim Martin, the DES communications director.

Rep. Rung will draft a blurb for each town to use to communicate the commission's website and the type of information it provides.

The next commission meeting is scheduled for January 3 at 10 am. The agenda will be the same but with public comment item added.

The meeting adjourned at 11:14 am.

Respectfully submitted,

Rosemarie Rung, State Representative, Hillsborough 21