

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, September 4, 2020, 10 AM, Virtual Meeting

Attendees: Joseph Ayotte (USGS), Chris Bandazian (Town of Bedford), Rep. Ralph Boehm, Sen. Shannon Chandley, Kathleen Bush (NHDHHS), Sen. Jeanne Dietsch, Nicole Fordey (Litchfield resident), Nancy Harrington (Town of Merrimack), Mindi Messmer (environmental advocate), Rep. Nancy Murphy, Rep. Jeanine Notter, Emma Paradis (Bedford resident), Rep. Rosemarie Rung, Rep. Wendy Thomas, Michael Wimsatt (NHDES), Rep. Gary Woods (NH Medical Society)

Guests: Dr. Christine Bean (NHDHHS), Ava Hawkes (NH Senate staff), Alan Raff (NH Senate staff, attended to provide technical support)

The meeting was called to order at 10:00 am.

Sen. Dietsch read the Right to Know notice.

Rep. Rung (clerk) called the roll for attendance. Commission members stated their location and if anyone was in their presence.

Mr. Wimsatt corrected a sentence in the July minutes to read, "Mr. Marts said the testing of groundwater at Gilbert Crossing is consistent with expected levels." He also noted a misspelling. Rep. Rung moved that the minutes be approved with these two corrections. Sen. Dietsch seconded the motion and it passed with a roll call vote.

Mr. Wimsatt provided the following updates:

1. With the passage of HB1264 into law (setting Maximum Contaminant Levels for four PFAS), the NH Attorney General filed motions for expedited hearings on the 3M lawsuit. As a result, the Merrimack County judge has ruled to vacate the preliminary injunction against the enforcement of the MCLs. Also, Plymouth Water District's filing for non-suit, i.e., to leave as a plaintiff in the lawsuit, was granted. The case still pends with the remaining plaintiffs being: 3M, RMI, and a farmer.
2. NHDES' decision regarding Saint-Gobain's (SGPP) variance request is expected on September 10. Anyone participating in the public comment will receive an email notification of the decision with general public notification being made on Friday, September 11.
3. The public hearing on the Town of Merrimack's appeal to the Air Resource Council regarding SGPP air permit is scheduled for December 14.
4. The comment letter on the SGPP site investigation was discussed with the Department, SGPP, and their consultant on August 20. SGPP and their consultants are currently discussing a response in the form of a supplement site investigation.

5. SGPP's final water line project is stated for this fall in Litchfield with an expected completion date of November 23. The request for bids for the service connections is expected next week with overall project completion by the end of 2020.
6. On the heels of HB1264 going into law, additional resident sampling in Bedford, Litchfield, and Merrimack is planned and awaiting resident access agreements. In response to a question from Ms. Messmer, these additional number of tests is substantial and in excess of 100 homes. The are ones covered in the area outlined in the consent decree. Rep. Thomas asked about bottled water being provided to these homes. Mr. Wimsatt said that if the new homes tested exceed the new MCLs, they would be provided bottled water per the consent decree and will need to plan for a permanent source of water. A follow up question regarding a plan for SGPP hooking private wells to public water relies on securing access agreements. There is a lag between getting these agreements in place, testing and then designing and implementing new water lines.
7. TCI operated in Amherst in the early 2000's before moving to Manchester. DES wants information regarding their current emissions to understand what would have been expected in their Amherst operations. The state finally received information regarding stack emissions from the Manchester facility.
8. Additional sampling and site investigation is needed in Amherst but that has been lagging. Rep. Rung asked about the lag due to TCI and what recourse is available to the Department. Mr. Wimsatt replied that generally if a request is not honored, an administrative order can be issued, then an injunctive relief from the courts can be pursued.

Sen. Dietsch asked when DES expects SGPP to respond to the site investigation. Mr. Wimsatt estimated sometime in the fall. Sen. Dietsch also asked about the seriousness of continuing leaks and emissions. He stated that the site contamination in soil and groundwater, which currently exist, will remain for many years. The focus of DES is on characterization of existing contamination and especially understanding air emissions, as the latter is the primary source of additional contamination. This underscores the importance of the Reactive Thermal Oxidizer, which will destroy PFAS contribution to future contamination.

Rep. Thomas asked about contamination of flora and fauna. Mr. Wimsatt said their focus is on soil and groundwater, but that does not preclude looking at flora and fauna in the future.

Rep. Rung asked what the recourse of the state is if the variance request is denied and SGPP misses the February deadline for compliance. Mr. Wimsatt said the options discussed earlier would apply as well.

Dr. Katie Bush provided an update on behalf of NHHHS:

1. NH DES and DHHS were awarded the ATSDR APPLETREE Grant, which has two components: 1.) Conducting site-investigations at hazardous waste sites and other locations to eliminate human exposure with community education and outreach; and 2.) Supporting the Choose Safe Places for Early Care and Education Program focused on the safe siting of childcare facilities. At this point DHHS is focused on hiring key positions and compiling data on potential environmental hazards and childcare locations.
2. On the monthly meeting with ATSDR on the APPLETREE Grant, an update on the both the PEASE and Southern NH projects was provided. Recruiting will start again in September for the PEASE Project and the health consultations in Southern NH are underway by the health risk assessors at ATSDR who hope to have results to share soon.

3. NH DES and DHHS were awarded a collaborative grant from CDC's National Center for Environmental Health focused on building environmental health capacity and leveraging well water quality data to drive action and policy. DHHS will integrate data from DES and the Public Health Laboratory to identify targeted areas for outreach and education.
4. BiomonitoringNH continues to work on finalizing the TrACE Participant Summary Report, which was delayed due to COVID-19 response activities within the Public Health Lab. The Biomonitoring Team plans to complete the reports and send them to participants within the next few months. DHHS can work with the multiple environmental health commissions to coordinate a presentation.
5. The amendment for Dartmouth Cancer Registry Contract is underway to include funding from the NH Drinking Water and Groundwater Trust Fund to enhance the State's work related to environmental and childhood-related cancers. This funding will cover a literature review for environmentally-related childhood cancers, analysis of radiological monitoring data, convening of experts in childhood cancer, re-analysis of childhood cancer data in NH and nationally, and information gathering from families of children affected by cancer to better understand their unmet needs to inform the health department in future program planning.
 - Specific to the radiological monitoring project, DHHS is working with Dartmouth to develop both a Story Map in ArcGIS that can be used for outreach and education as well as a new interactive web-dashboard that will make this data accessible to the public.

Dr. Christine Bean, the director of the Public Health Lab, addressed the request sent in March from the Health Subcommittee in regards to storing PFAS blood samples that were collected as part of the MVD Community Exposure Assessment.

The DPHS Response Letter was sent back to the Commission Chair yesterday and was just circulated to the Commission this morning. DHHS apologizes that there was not more time to review prior to the meeting.

Dr. Bean stated that in 2016 a total of 270 participants were in the MVD community exposure assessment. The consent letter to participants stated that DHHS will keep samples only until the PFAS testing program is completed, then samples would be destroyed. Samples have remained in storage, however, to retain samples longer for another purpose, new consent would be required. Re-consent would need to establish a new purpose and determine what additional tests would be conducted. Considerations include the time frame needed for extended storage and how extended storage would impact the quality of the samples.

Rep. Woods asked about rate of sample degradation. Dr. Bean responded that the impact is dependent on type of test requested.

Rep. Boehm asked if there is any more data that can be extracted from these samples. Dr. Bean stated that it depended on what additional tests were requested. Ms. Messmer said that the reason to retain the samples was the future may create additional opportunities, including technological advancements. Ms. Messmer stated that the health subcommittee has been hindered due to COVID restrictions, but will meet to formally submit a recommendation to full commission regarding extended storage.

Rep. Woods asked what tests have been done on these samples to date. Dr. Bush said she will bring that information to next health subcommittee meeting.

Rep. Murphy asked what the plan is for retention of samples from the trACE bio-monitoring study. Dr. Bean responded that in that study's consent letter, it was stated that samples will be retained for future use. She will share the consent letter used for that study.

Ms. Messmer asked what level of effort is required to re-consent the participants from the MVD study. Dr. Bean estimated a cost of \$2,000. The largest resource needed is staff to manage three rounds of letters that would likely be needed for participant response, as well as, the purchase of a new storage freezer.

General discussion continued as Rep. Rung raised concerns about the restrictions on meeting remotely. Mr. Raff said these can be supported by NH Senate Administrative Services.

Mr. Raff also mentioned that COVID-related executive orders did not allow commission reporting dates to be delayed. The goal is to have a report submitted by November 1.

Sen. Dietsch opened discussion about goals for the commission to include in its report. From general discussion, she suggested the following: end ongoing PFAS emissions from SGPP and get affected residents off bottled water. Ms. Messmer added the continued analysis and full assessment of health studies, insuring that comparisons of incident rates include not only local and state, but also national rates.

Rep. Thomas recommended that testing of flora, produce, meat and eggs from contaminated areas be included. Sen. Dietsch suggested that the recommendation may require legislation, but the report could recommend future legislation. Sen. Dietsch asked if the commission discussed needed legislation for additional recommendations for groundwater. Mr. Wimsatt said NHDES now already has full authority and enforcement for groundwater and drinking water standards.

Regarding Rep. Thomas' recommendation on food testing, Mr. Wimsatt said that is not within the purview of NHDES. This would need the involvement of the NH Department of Agriculture.

Ms. Messmer asked about DES authority to regulate private wells. She expressed concern that only 4 substances are currently regulated while the industry is introducing many more PFAS beyond those regulated.

In response, Mr. Wimsatt said they feel they have authority to require testing of wells. He agrees that more PFAS exist, but they can be added to regulation.

Rep. Rung recommends a goal to require education of health care providers regarding PFAS health impacts. Additionally, since NH is a leader in PFAS regulation, we should ensure broad communication of our report to national and global audiences.

Rep. Rung also mentioned that if we need more time to issue our report, we could request an executive order from the governor. Mr. Raff said other commissions are addressing this by noting the impact of delay in their reports.

Sen. Dietsch summarized the discussion of report goals:

1. Sample retention
2. Limiting on-going emissions
3. Assessing comparative health impact rates
4. Possible food regulations

5. Educating health providers

Moving forward, the policy subcommittee will discuss these topics and any others from the health and environmental sub-committees and make recommendations.

Rep. Thomas also added a recommendation to set PFAS standards for soil and biosolids.

Mr. Wimsatt said that NHDES is approaching an agreement with USGS for a likely 2-year study to do a state wide soil sampling and laboratory analysis to develop scientific parameters around soils and understand more about PFAS leaching. This study will likely commence in winter with a report from USGS in early 2022. He is doubtful legislation would be helpful until the study is complete.

Mr. Bandazian added that PFAS testing is now recommended by NHDES for new wells. The statewide data should be compiled so we understand existence of PFAS. If participation is low in this testing, requiring it may be considered. Mr. Bandazian also thinks a study over time to assess migration of PFAS for representative areas would be important.

Discussion ensued about the scheduling of subcommittee meetings. The next full Commission meeting is scheduled for October 30 at 10 am to discuss the draft report. The Communications subcommittee will meet on Oct. 2 at 10 am to prepare the draft report.

Ms. Harrington moved to adjourn, seconded by Rep. Thomas. The motion passed. The meeting was adjourned at approximately 12:00 pm.

###