

## Water Quality Division: Wastewater Disposal Advisory Group (WDAG)

Meeting: #3

Date: August 25, 2020

Time: 10am-12pm

Location: Zoom

### Member Attendance:

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Mark Basic      | Basic Drilling Company                 |
| <input type="checkbox"/> Brian Bishop               | AZ Septic Pros                         |
| <input checked="" type="checkbox"/> Colin Bishop    | Anua                                   |
| <input checked="" type="checkbox"/> Suzanne Ehrlich | Yavapai County Development Services    |
| <input checked="" type="checkbox"/> Jake Garrett    | Gila County                            |
| <input checked="" type="checkbox"/> Thomas Hanson   | Maricopa County Environmental Services |
| <input checked="" type="checkbox"/> Maher Hazine    | REI Development Services, LLC          |
| <input checked="" type="checkbox"/> Kathryn Mills   | Mills Engineering, LLC                 |
| <input checked="" type="checkbox"/> David Monihan   | Coconino Co Community Development      |
| <input checked="" type="checkbox"/> Michael Stidham | EZ Treat, Inc.                         |
| <input checked="" type="checkbox"/> Edwin Swanson   | Arizona Onsite Engineering             |
| <input checked="" type="checkbox"/> Jennifer Thies  | Terracon                               |
| <input checked="" type="checkbox"/> Jenny Vitale    | Civil Engineer                         |
| <input checked="" type="checkbox"/> Joelle Wirth    | AZOWRA, President                      |

### ADEQ Staff and Consultants

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Trevor Baggio      | ADEQ, Water Quality Division Director                             |
| <input checked="" type="checkbox"/> Naveen Savarirayan | ADEQ, Groundwater Protection Value Stream Manager                 |
| <input checked="" type="checkbox"/> Karthik Kumarasamy | Engineer III, PhD.  |
| <input checked="" type="checkbox"/> Linneth Lopez      | Environmental Engineering Specialist III                          |
| <input checked="" type="checkbox"/> Raymond Morgan     | Trainer, Groundwater Protection, Groundwater Permits & Reuse Unit |
| <input checked="" type="checkbox"/> Luke Peterson      | Environmental Engineer Specialist 3, Groundwater Protection       |
| <input checked="" type="checkbox"/> Theresa Gunn       | GCI, Facilitator  |
| <input checked="" type="checkbox"/> Heidi Welborn      | Legal Support, subcontractor                                      |

**MEETING PURPOSE:** *To provide update on the rulemaking exemption memo and substantive policy updates. To finalize master list of issues and evaluation criteria.*

### ROLL CALL AND WELCOME

Theresa took roll of members present. Brian Bishop has joined the group but was not be able to join this meeting on short notice. He would be at the next meeting.

Trevor able to stay for as long as he could but wanted to make sure to thank the group for their time and commitment. He said that ADEQ went through a strategic planning session in July and this project, including the delegation agreement aspect, was identified as a strategic project so resources continue to

be able to be dedicated to it so that it is a cleaner, smoother, more environmentally protective program for all.

## **SUBSTANTIVE POLICES**

- Naveen gave an update on the status of substantive policies.
- He believes ADEQ has made good progress on the policies.
- Rounding policy is now with the legal team, they are waiting for Laura Flores to provide feedback.
- Karthik and Ray are working on the final details on the seepage pit test depth and should have something out within the next two weeks to county partners for comment.
- The policy for use of onsite systems for RV dumps will be two policies, with the odor portion addressed separately. However, both documents are on the same review track. They are working on this policy and will send documents and issues to Trevor for discussion.
- It is unclear if some of the issues will be addressed in an official substantive policy, or in some other manner of communication.
- The case issue that Jenny brought up should be resolved in a week or two.

## **RULEMAKING REQUEST UPDATE**

- Heidi provided a brief update on the status of the rulemaking request (exemption memo).
- Heidi has drafted a discussion draft and will discuss for further direction with Naveen, Theresa, and Trevor to ensure the first draft for review adequately reflects ADEQ's intent regarding rulemaking.
- Generally, however, what is proposed is a two phased approach (as discussed in the previous meeting) where quick technical fixes would be in the first phase, and also permission, for a broader stakeholder process, in which other rule issues would be discussed and solidified as necessary to meet statutory obligations to prevent and ameliorate nuisances and health and safety concerns, and to protect groundwater.
- Jenny disagrees with a two phased approach. She is concerned about who will decide, and how will it be decided, which issues move forward in the first phase and which issues must wait for the second phase. She is concerned that this will cause wasted time and will not allow for a sufficient revision of the rule.
- Members asked Trevor whether the group would be reviewing the exemption memo and he stated that this is a deliberative document between the agency and the Governor's office. Also, input from the group prior to drafting the memo would be best as the agency knows best how to communicate with the Governor's office, so that it would not be necessary for the group to review the memo.
- It was discussed that the subgroup that created the list of rules with issues for revision did not pull out what issues would be recommended to be addressed in first phase versus the second phase. It was also discussed that it would be difficult to decide which should be recommended for the first phase versus the second (which led to the following discussion).

## DISCUSSION OF DECISIONMAKING PROCESS

- Given the previous discussion, Theresa guided the group to discuss how the group would make decisions.
- Should it be by consensus?
- One recommendation was to have 90% participation and 75% of that percentage rules as a version of supermajority.
- Another recommended a simple 2/3 majority of members of the committee.
- **After discussion it was decided unanimously by those members present that 2/3 majority of members (which means it would take 10 votes to decide as there are 14 members).**
- It was also discussed as to what to do with minority positions.
- It was recommended that minority positions should be put into writing to analyze them.
- One person recommended that there should be an adjudication process to address minority positions to ensure they are fully discussed and that everyone feels heard.
- Some felt that an adjudication process sounds like it would be too drawn out.
- It was decided, by unanimous vote by those present, that **for minority opinions:**
  - 1) The person wishing to express and have a minority opinion discussed would do so in writing and distribute to the members,
  - 2) The group would set aside time and discuss the opinion, and
  - 3) There would be a final vote by the group based on the decided voting method set above (2/3 majority of all members).

## DISCUSSION OF MASTER LIST OF ISSUES AND PRIORITIZATION CRITERIA

- Colin Bishop took the group through the Master List of Issues draft (see the draft for more detail).
- There was clarification regarding the word choice “task” (which it was clarified is essentially an action area/category but there may be sub-working groups within each category, e.g. site investigation may have its own sub-working group)
- The proposal of pulling out 4.02-4.22 into a technical guidance document was discussed.
- Persons asked whether these tasks/issues would be requirements or guidance, or both. During resolution, the group would decide the appropriate format.
- Jenny asked Heidi whether it would be rulemaking to work on this separate document that could be later incorporated by reference. Heidi indicated that if it is intended to be a part of the rule, could be construed as rulemaking.
- Ed Swanson took the group (with input from Suzanne) through an example of a possible way of analyzing the prioritization criteria.
- Part of the prioritization example was showing the word count of the rule in question, which might give an idea of how substantive the rule writer thought the issue.
- Enforcement of the program was discussed at this time, and what the appropriate level of enforcement would be in a rule (It was also discussed here how the guidance document would need to be incorporated by reference and be a part of the rulemaking to be enforceable).
- Ed pointed the group to the session law that formed Arizona Department of Environmental Quality, specifically pointed to the 1986 session, Chapter 368, Section 153:

- “Sec. 153. Purpose and objective of department of environmental quality  
 The purpose and objective of the department of environmental quality is to consolidate and focus responsibility for environmental management and administration of water quality, air quality, solid waste and hazardous waste regulation with the goal of increasing effectiveness, efficiency and public acceptance of environmental regulation.”
- Ed stressed that what we are trying to protect is water quality
- Others asked what criteria county employees have time to review and permit and what they should be looking at, i.e. what are the critical factors for issuing a permit.
- It was discussed that it needed to be decided: “What should a program look like going forward?”
- It was discussed that developing a mission statement for the program moving forward would be a good idea. Also, take the issues in the list and use the priority criteria to answer that question and look at what tools should be used to get there (“tools” being a rule, substantive policy, or process of operation, as examples).
- Theresa proposed that to move this forward she would draft a worksheet, to be reviewed by the issue and prioritization subgroups for accurate representation of their work, and proposed the group work on this what the action items would be for the next time.
- At this time, group homework action items for the next meeting were listed and voted on by the group (see the table under “Action Items” below).

**OTHER DISCUSSION**

- Group members asked again whether they would be able review the exemption memo and expressed a desire to do so. Theresa said she would take that question and comment back to Trevor.
- Naveen also thanked the group for their involvement and passion around the issues.

**ACTION ITEMS (See email sent September 1, 2020 for more detail)**

Task	Person Responsible	Deadline	Status
Substantive Policies: Provide draft substantive policies to WDAG members when complete	Naveen		Ongoing
Rulemaking Support Letters: If you and/or your organization would like to write a letter in support of rulemaking, please send them to ADEQ. Prefer signed letters on letterhead. If mailing, send to Trevor Baggiore’s attention	All Members	9/15/2020	
Complete online evaluation	All Members	9/1/2020	Complete

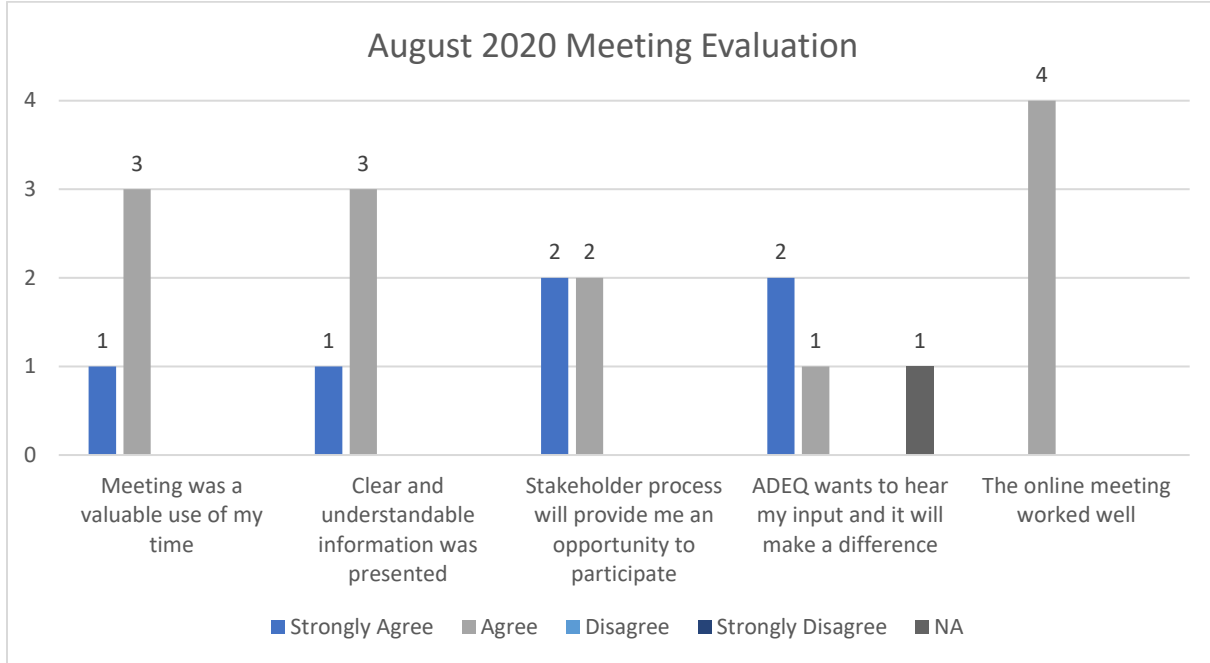
Task	Person Responsible	Deadline	Status
Prioritization Worksheet Creation and Distribution	Theresa	9/1/2020	Complete
Prioritization Worksheet Homework	All Members	9/9/2020	
Subgroup - "What type of program do we want?" - brainstorm optional program approaches to serve as a starting point for WDAG discussion	Colin lead (Colin, Jake, Maher, and Suzanne all to meet)	Prior to next meeting	Complete
Miro Board Issues List - send group exported list of issues/sticky notes from Miro board	Theresa	9/1/2020	Complete
Send Discussion Draft again	Theresa	9/1/2020	Complete
Questions for ADEQ - Theresa will carry forward following questions to ADEQ: a) Would ADEQ be supportive of pulling 4.02 to 4.22 into a technical guidance document? b) If yes, could WDAG begin drafting the technical document prior to Governor's approval to begin rulemaking. c) Can the WDAG members review the exemption memo before it is submitted to the Governor's office?	Theresa	Prior to Next Meeting	

**Next Meeting: Tuesday, September 22, 2020**

Agenda Topics:

- Update on policies and rulemaking exemption memo
- Results of the prioritization exercise
- Discussion of the Mission Statement (type of program we want)
- Discussion of the 5-Year Plan Discussion Draft and action planning for competition

**MEETING EVALUATION (4 Responses)**



**What was the best thing about today's meeting?**

- Keep within agenda and meeting time
- Conversations are kept on topic
- Progress in criteria to rate issues and general issue categories defined.
- Topics covered in depth

**What should be changed for future meetings?**

- Process where all people can give input and not have domination by a few
- I cannot think of anything.
- Ensure participants are recognized before jabbering
- Less jabbering can create a more participation-inviting atmosphere