

US EPA and North Dakota Departments of Agriculture and Health

Agriculture Smart Sectors Meeting

Minot, ND

Monday, June 25 – 3:00 pm – 4:30 pm

Meeting Summary

Welcome and Introductions

Environmental Protection Agency (EPA) Senior Advisor to the Regional Administrator Patrick Davis welcomed attendees and invited the attendees to introduce themselves and offer their ideas for EPA reforms.

Stakeholder Input

Participants introduced themselves and provided the following comments organized by environmental statute:

Clean Water Act:

- Water issues such as salinity, drainage-tiling, wetlands, and 'tea cups' were discussed. It is hoped that these issues will be addressed in a WOTUS rewrite.
 - o Salinity – Farmers need less regulation in dealing with salinity.
 - o EPA needs to support farmers doing soil health activities.
 - o EPA and US Army Corps of Engineers need to cooperate in streamlining soil health activities.
 - o Ag is responsible for water on their land so they need to be able to talk freely with the EPA about solutions without fear of enforcement.
- No till challenge:
 - o Soil test show phosphorus (P) in the soil but plants grown in the soil are P deficient. This is due to the stratification of P in the top three inches of the soil and not being available to plant in the deeper root zone. This causes over application of P.
- Nutrients – We don't need more regulations, we need better farmer education. (ie: manure application is good for soil and water but farmers need to be educated about how to apply).
 - o North Dakota's nutrient strategy is to help farmers learn how to reduce nutrient loss in water without hurting crop profitability (NDDH)

- Some producers need nutrient management education while others are great stewards. We should celebrate the “good” producers are doing and make them examples for the rest of the industry.
- ND has water bodies of concern but they are not being cleaned. They contain sedimentation from nutrients deposited in the 1950’s and new water stirs up sediment. These water bodies need to be dredged. Challenge: Corps won’t let farmers deal with the issue without a 404 permit.

Clean Air Act:

- The Renewable Fuel Standard and its importance to the corn and ethanol industries in North Dakota was explained.
 - EPA is undermining RFS granting waivers to oil refineries.
 - The ethanol industry wants to sell E15 year-round.
 - Corn is good for rotation with wheat and soybeans to deal with weeds and corn needs the ethanol market.
 - “We need an explanation from EPA as to what constitutes a ‘hardship waiver’ for oil refineries.”
 - Separate RIN’s from the marketplace. EPA should set the price of RIN’s and RFS violation fines should be paid to the EPA. This would provide stability and predictability for the RIN market.
- Carbon dioxide should be reclassified as NOT a pollutant because it is a basic building block for human existence.

FIFRA:

- EPA needs to streamline the pesticide approval process to resurrect old” chemistries’. Label pesticide for when you anticipate loses Don’t wait for an agricultural loss to process FIFRA section 18.
- EPA needs to be proactive in allowing farmers the use of other chemicals if they are effective for the targeted weed or pest. Deal with weed resistance issues before they become an emergency – EPA needs better guidance.
- Simplify the chemical repackaging tracking process. EPA chemical repackaging guidance is hard to understand especially for small cooperatives. EPA’s FIFRA risk assessment information is outdated and not easily accessible to the public.
- Harmonize labels with Canada. Improve coordination between EPA and Canada when it comes to chemical approval. (ie: paraquat is the preferred dry down for canola production and however other countries do not allow a tolerance for this chemical. US and Canada seem stubborn about accepting each other’s label language.)
- Pollinators (bees and butterflies) were discussed. Agriculture is NOT 100% to blame for the loss of pollinators. Education v. regulation is necessary for agriculture and the environmental community to learn from each other. Minnesota and California take an aggressive stance on certain agriculture products making it difficult for the entire

industry to use those products. The Dakota skipper butterfly was identified as a concern in North Dakota

(<https://www.fws.gov/midwest/endangered/insects/dask/daskFactSheet.html>)

- Use social media to distribute educational information about the relationship between pollinators and agriculture.

Community Right to Know and RMP:

- o EPA needs to simplify RMP guidance, break out materials by industry regulated under RMP. (ie: Rules applicable to chemical manufacturing are not relevant to a farmer and the guidance document is long and complicated.)
- EPA should develop short outreach education materials or videos to explain RMP compliance.
- Question – Is the SPCC rule for farms final?

Miscellaneous/another Federal agency:

- EPA should adopt the “Keep it Simple” principle when it comes to labeling, regulations and reducing red tape.
- Perpetual easements for wildlife are a challenge for the ag community.
- Frustration was expressed over difficulty accessing information from the EPA. Suggestion for more EPA ag liaisons, possibly specialized by livestock and commodities.
- It is a burden to report similar information to both state and federal governments. Reduce the amount of reports required by the EPA.
 - o EPA and states need to agree on a simple consistent message for farmers to understand.
 - o There appears to be no regulatory consistency between states which creates compliance issues for businesses which cross state boundaries.
 - o “What is the recourse if I have a question about inconsistent application of regulations?” (ie: inconsistencies between government regulators – EPA/OSHA/state – EPA insists on regulating ‘shared anhydrous ammonia tanks’ as retail operations when they are NOT a retail operation. EPA regulations like this need to be tailored to this unique situation.
- DO NOT develop guidance for perceived problems.
- A unique ND challenge – 23 million acres planted but 300K irrigated. North Dakota is dependent on Mother Nature.

Next Steps

EPA staff will follow up on the various ideas suggested during the meeting and respond to individual concerns in a timely manner.