SMALL BUSINESS COMPLIANCE ADVISORY COMMITTEE
MEETING MINUTES
February 17, 2016

Members Present: Dale Kaplan (Chairman), Paul Burroughs, Suzanne Stoltenberg, Walter Schroth, Michael McManus, Laura Edinger (for Hayley Book)

Members Absent: Nancy Crickman, Jay Niskey, Bill Dunagan, Tom Danzi

Others Present: Jeremy Hancher, Susan Hoyle, Bill McNamara, John Krueger, Sean Nolan, Nancy Herb, Susan Foster, Michele Devaney, Samantha Harmon, Charles Boritz

Call to Order
The Small Business Compliance Advisory Committee’s (SBCAC or Committee) February 17, 2016, meeting was called to order by the Chair, Dale Kaplan, at 10:00 a.m. in the Rachel Carson State Office Building, 12th Floor Conference Room, Harrisburg, PA.

Introductions
Members of the SBCAC and the audience introduced themselves. Susan Foster and Dale Kaplan welcomed Walter Schroth to the Committee. Susan Foster introduced Nancy Herb who is taking on the coordination responsibilities for the Committee.

Administrative Items

Approval of Minutes from Previous Meeting
The July 22, 2015, draft SBCAC meeting minutes were approved unanimously as written.

Informational Items

Small Business Ombudsman Report
Michele Devaney introduced herself as the Director of the DEP Grants Center. The DEP Grants Center has been handling the Small Business Advantage Grant program during Acting Small Business Ombudsman Bill Dunagan’s extended leave of absence. She reported that the Small Business Advantage Grant opened on July 27, 2015, and is currently closed for the 2015/16 year. During this grant round, DEP received 181 applications: 23 applications were found ineligible, 1 award was declined, and 149 grants will be fully executed. Eight additional applications are on a wait list in the event any additional money becomes available through returned money or grant terminations. These businesses will know prior to April 15 whether any additional funds are available and if they will receive any grant money. Maximum grants were awarded at $9,500 with the average grant amount of $6,700.
During the Ombudsman’s absence, DEP received two applications for loans from the Pollution Prevention Assistance Account. One application was deemed ineligible, and one application was deemed eligible under DEP standards and forwarded to DCED for evaluation.

Walter Schroth requested a description of the grant program. Ms. Devaney explained that the Small Business Advantage Grant program awards up to half of the cost of eligible projects to a maximum of $9,500. Applicants must be small businesses, which is defined for the purpose of the program as having fewer than 100 employees. Projects that reduce air pollution, improve energy efficiency, or prevent pollution are eligible for consideration.

Jeremy Hancher asked what types of projects were most common in the most recent round of grants. Ms. Devaney responded that there were a number of LED lighting projects and also some engine replacement projects in this round of grants.

**Environmental Management Assistance Program**

Jeremy Hancher, Consultant and Acting Director for the Environmental Management Assistance Program (EMAP) of the Pennsylvania Small Business Development Centers (SBDC), reported that in the fourth quarter of 2015, EMAP received 31 requests for technical assistance, 23 of which were received through the EMAP hotline. Nine of the requests were for permit-related assistance, eight for air and one for waste. Seven of the requests were from small businesses referred to EMAP by DEP. EMAP assisted 67 small businesses with in-depth technical assistance; eight were new clients to EMAP. EMAP environmental consultants conducted on-site assessments at 11 small businesses. Air Quality assistance included: 20 Request for Determination forms; six Plan Approvals, seven State-Only Operating Permits; and two General Permit authorizations. EMAP consultants also provided assistance with preparing Preparedness, Prevention and Contingency (PPC) plans.

Mr. Hancher also informed the Committee that Lee Ann Briggs re-joined the EMAP team on November 30, 2015, and is based at the University of Pittsburgh’s SBDC. Ms. Briggs will serve southwestern Pennsylvania. The new position is funded by the Allegheny County Health Department (ACHD). EMAP has been assisting DEP’s Water Program with providing information about requirements for the Revised Total Coliform Rule which go into effect on April 1, 2016. Small businesses which have a public drinking water system must complete and submit a coliform sampling plan. EMAP developed information to help small businesses with surface coating operations comply with regulatory requirements. The information is available on the EMAP website.

Walter Schroth noted that Pennsylvania has some of the finest Northern hardwoods for finished lumber for cabinetry, paneling, flooring, etc. Pennsylvania’s forest and wood products group make a large contribution to the economy. Different sectors of the industry face different environmental challenges. Mr. Hancher agreed, saying that EMAP would like to focus more resources on the wood-working industry because of the many state and federal requirements that apply to the industry.
Suzanne Stoltenberg commented that Amish businesses face unique challenges trying to comply with environmental requirements. Mr. Hancher agreed, mentioning challenges with communication in particular. He mentioned EPA’s requirements for electronic reporting and indicated that the National Small Business Environmental Assistance Program has commented to EPA on the need for a waiver for electronic reporting for certain businesses.

**ACTION ITEM – Draft Proposed Repeal of Gasoline Volatility Requirements**

Prior to discussion of the agenda item, Dale Kaplan requested a motion to extend voting rights to Jeremy Hancher in Nancy Crickman’s absence. Walter Schroth offered the motion to grant Mr. Hancher voting rights for this meeting and the next meeting, if necessary. Laura Edinger seconded the motion. The motion was unanimously approved by the Committee.

Samantha Harmon, Air Quality Program Specialist, Bureau of Air Quality, reviewed the PowerPoint presentation on the draft proposed rulemaking to repeal gasoline volatility requirements in the Pittsburgh-Beaver Valley area. The gasoline volatility requirements were initially adopted to achieve additional reductions of volatile organic compounds (VOC) that were needed to meet the 1-hour ozone standard in the Pittsburgh-Beaver Valley Area. Due to subsequent federal requirements for motor vehicles and fuels, the regulation now provides minimal emission reductions. The PA legislature passed Act 50 of 2014 (Act 50) that requires DEP to repeal the requirements and remove them from the State Implementation Plan (SIP).

Dale Kaplan asked what Reid Vapor Pressure (RVP) is. Ms. Harmon explained that it is a measure of the volatility of the fuel and is affected by the components of the fuel. Mr. Kaplan asked if DEP has to submit SIP revisions annually. Ms. Harmon explained that various EPA actions trigger the obligation for DEP to submit a SIP revision including new or revised National Ambient Air Quality Standards (NAAQS). Susan Foster added that almost all DEP regulations are adopted to allow us to meet the NAAQS and are usually submitted to EPA for approval as SIP revisions. When EPA approves a SIP revision, EPA is agreeing that the plan or regulation will allow us to meet or continue to meet the NAAQS.

Walter Schroth indicated his understanding that after EPA issues a requirement, the states have an option to adopt a regulation containing those requirements or more stringent ones. If states do not do that, EPA has enforcement responsibility. Susan Foster said, for the air program, states can ask for delegation of EPA regulations or write their own regulations. However, EPA regulations remain federally enforceable. John Krueger added that DEP often prefers to customize requirements to Pennsylvania’s situation because we understand our state and the businesses here better.

Suzanne Stoltenberg asked whether the repeal of the low RVP requirements will have impacts on small business. Ms. Harmon said if fuel distributors pass savings on
through the supply chain, fuel prices at the pump could be slightly lower. After the low RVP requirements are repealed, consumers in the Pittsburgh-Beaver Valley Area will be able to purchase the standard fuel distributed and sold in the rest of the state.

Mr. Schroth asked when the repeal of the requirements would go into effect. Ms. Harmon responded that the earliest the repeal would be final would be for the summer of 2018. After the repeal is final, there will be a window of time during which the requirements will remain federally enforceable until EPA approves removal of the requirements from the SIP.

Michael McManus asked for confirmation that after approximately 2030, the low RVP requirements will have nearly no emission benefits. Ms. Harmon confirmed that is the case.

Paul Burroughs asked whether there was objective evidence justifying Act 50. Ms. Harmon explained that these are the steps DEP is taking to comply with Act 50.

Suzanne Stoltenberg expressed her support for the proposed repeal and noted that the repeal has been mandated by the PA legislature.

Dale Kaplan asked for a motion to concur with the Department’s recommendation to present the draft proposed rulemaking to the Environmental Quality Board for consideration. Walter Schroth offered the motion, and Suzanne Stoltenberg seconded it. The Committee approved the motion by a vote of 7-0-0.

Proposed Total Coliform Rulemaking Update –
Bill McNamara, Environmental Group Manager, Bureau of Safe Drinking Water, provided an update on the proposed total coliform rulemaking. The proposed rulemaking was presented to SBCAC last summer. In the drinking water program, Pennsylvania is a primacy state and therefore must promulgate its own regulations. Many small businesses have their own water systems and must comply with the requirements. Prior requirements were to test quarterly for total coliform, which is an indicator of a pathway for contamination in the water system. Under the new rule, monthly testing will be required. EPA’s rule is effective April 2016 and will be in effect until Pennsylvania’s rules are final in the fall of 2016.

The DEP Drinking Water Program recently sent letters to non-community water systems to inform them of the monthly monitoring and other changes going into effect on April 1. Seasonal systems have a new requirement for a seasonal start-up plan. By April 1, all systems must submit a new sample siting plan. DEP developed a template sample siting plan and a YouTube tutorial. In addition, DEP regional staff conducted training for the new requirements and sample siting plan. Requests for additional training in response to the letters are anticipated.

Another new element of the regulations is the requirement for Level 1 and Level 2 assessments. If coliform is found, a Level 1 assessment must be conducted. If E. coli
is found, or if there are multiple Level 1 assessments needed in the same 12-month period, the system must undergo a Level 2 assessment. Level 2 assessments are more detailed and must be conducted by a certified operator.

Mr. Kaplan asked about the cost of coliform testing. Mr. McNamara said testing ranges from $10 to $30 per sample, and E. coli testing is more expensive.

Suzanne Stoltenberg said she did some outreach based on SIC codes. Based on feedback she received, the testing required by the new rule is not that much more expensive because of the decreased follow-up testing that is required. She expressed concern about businesses that do not realize they are regulated and asked how DEP knows the list the letters were sent to was complete. She asked what comments were received on the proposed regulation. Mr. McNamara indicated many of the comments were from larger systems and were related to sampling requirements. Ms. Stoltenberg asked what the DEP’s policy will be on enforcement and fines. Mr. McNamara responded that DEP is not planning to issue fines for seasonal systems this year because the requirements are new; however, there would be penalties in the second year that a system is in noncompliance.

Paul Burroughs asked if there are requirements for notice to consumers if a Level 1 or Level 2 assessment is required. Mr. McNamara responded that there are notification requirements. Notice of required Level 1 assessments is included in the annual consumer confidence report. If an operator fails to conduct a Level 1 assessment, they have to provide notice within 30 days of the missed assessment.

Mr. Kaplan asked if DEP reached out to the PA Restaurant Association. Mr. McNamara indicated DEP’s regional offices worked with the PA Department of Health to reach restaurants.

Jeremy Hancher noted the increasing number of wineries and brewpubs and the turnover in restaurant ownership. He offered EMAP’s help to spread the word about the new requirements.

Walter Schroth expressed support for not issuing fines for first-time violations. This gives people time to correct the situation and come into compliance. He asked for clarification that the requirements apply to drinking water only and asked if they would apply to farms. Mr. McNamara confirmed that the requirements apply only to drinking water. Farms or industrial activities would be covered only if they have more than 25 employees and use the source for drinking water.

Suzanne Stoltenberg offered to post the link to the YouTube video on the National Federation of Independent Businesses website. Mr. McNamara will share the link. [The link to the YouTube video is: https://www.youtube.com/watch?v=mf8GrfnaKxl]
Reasonably Available Control Technology (RACT) II Update
Laura Edinger offered an update on the RACT II rulemaking, which was adopted as final at the November 17, 2015, EQB meeting. The RACT II rulemaking will be going to the Independent Regulatory Review Commission (IRRC) for consideration on March 10, 2016. There is an opportunity for public comment at IRRC meetings.

Clean Power Plan
Charles Boritz, Air Quality Engineering Specialist, provided an update on EPA’s Clean Power Plan (CPP) using a PowerPoint presentation. EPA’s CPP sets goals for reducing carbon emissions from existing fossil fuel-fired power plants. Under EPA’s Clean Power Plan, state plans are due September 2016, and compliance obligations begin in 2022. DEP conducted 14 listening sessions across the state in 2015 and is committed to developing a Pennsylvania-centric plan.

Walter Schroth asked how the plan will “focus on low-income and environmentally burdened communities.” Mr. Boritz responded that the rule includes a clean energy incentive program that will provide matching credits for energy efficiency projects in low-income and environmentally burdened areas. This is an effort to reach communities where cost is a barrier to making needed energy efficiency improvements. The program would encourage utilities to reach out to low-income communities to do energy efficiency projects to generate credits that could be sold on the market. Mr. Schroth asked how economic development with an accompanying increase in electric demand would impact such a community that is trying to reduce electricity consumption. Mr. Boritz explained that even if electricity use in a community increases, verifiable energy efficiency measures in place are still eligible to earn credits. Mr. Schroth asked whether there is credit available for CO2 sequestration through forest growth. Mr. Boritz indicated he does not think the EPA plan provides for forest growth and management as an eligible resource to earn credit. He also did not think that particular comment was raised during the DEP listening sessions, but there will be additional opportunities for public comment.

Dale Kaplan commented that EPA’s goal seems to be to eliminate coal-fired electric generation. Walter Schroth noted he has heard that only two Pennsylvania coal EGUs will be able to survive the CPP. Suzanne Stoltenberg asked if the technology needed to comply with the rule exists and at what cost. Mr. Boritz responded that DEP’s analysis indicates it is possible for all of the Pennsylvania power plants to survive. The rule provides for the possibility of trading with sources in other states. John Krueger added that the electric demand is not increasing as it was in the past due to energy efficiency, etc. There is also an increased availability of natural gas at low prices.

Walter Schroth noted that western Pennsylvania has always been manufacturing-based. Many plants are currently at about 70% capacity due to economic conditions. He expressed concerns related to reliability if the economy improves and these plants increase to 90-95% capacity. Mr. Boritz acknowledged that reliability is an important issue and has been addressed in the rule. Unless new natural gas combined cycle (NGCC) units are included under the cap, those units will exist outside the CPP and
provide additional generation. Walter Schroth expressed concern about being able to bring new NGCC online fast enough to meet demand and maintain grid reliability. He referred to the polar vortex of 2013 when the PJM grid came within 0.5% of running out of power to meet demand. As a small business, reliability impacts a company’s ability to meet customer demand. Curtailment likely will be for industrial not residential customers. Mr. Boritz responded that the National Electricity Reliability Council (NERC) and the Federal Electricity Reliability Council (FERC) conducted extensive analyses of reliability. FERC does not believe that the CPP will impact reliability. NERC thinks there is a potential for impact. The polar vortex issue was due to a combination of factors, and PJM has made changes to the capacity market to improve reliability. John Krueger added that the bottom line is that we want to craft a Pennsylvania plan so that we can optimize it for our generation mix. If we don’t, EPA will implement a Federal Implementation Plan.

Walter Schroth commented that this is ultimately going to wind up in the U.S. Supreme Court. There is a two-year delay built into EPA’s CPP, and he understands many electricity producers want Pennsylvania to request the extension. Mr. Boritz agreed that the CPP has provisions to extend the deadline for plan submission but not for the 2022 compliance date. We can earn credit for energy efficiency measures put in place between submission of the final plan and the CPP’s compliance date of 2022. If we delay plan submission, we reduce the time window for earning credit for energy efficiency projects. Mr. Schroth asked if DEP still plans to submit a Pennsylvania plan by September 6, 2016. Mr. Boritz responded that DEP’s position is to continue planning and engaging with stakeholders on the CPP pending a final decision of this issue by the Supreme Court and continue to closely monitor the ongoing legal process. DEP is going to continue to work through all of the issues that need to be resolved so that when we can submit a plan, we will be ready to do so.

Suzanne Stoltenberg asked with which stakeholders DEP is working. Mr. Boritz replied that previously, DEP held 14 listening sessions throughout the state and received hundreds of comments from a diverse mix of stakeholders. These comments are available on DEP’s website. DEP will send the Committee a link to the comments DEP sent to EPA on the CPP.

Dale Kaplan commented that the demolition of the coal industry in Pennsylvania is a big deal. Walter Schroth agreed, saying that about 70% of his production goes to coal mines. His company buys from local saw mills that hire 8-10 employees. They have contract loggers and truckers with 6-8 employees each. The impacts go far deeper than the miners and mining companies. There are about 3,000 miners, but 40,000 employees are dependent upon the industry.

Dale Kaplan requested another update on the CPP at a future SBCAC meeting.

Ozone NAAQS Update
Sean Nolan, Environmental Group Manager, Bureau of Air Quality, provided an overview of the 2015 ozone monitoring season. His PowerPoint presentation included
an analysis of the transport of smoke from large wildfires in western Canada during the summer of 2015. Satellite imagery visualized the movement of the smoke plume into Pennsylvania, which coincided with elevated ozone concentrations across the state. Mr. Nolan also provided an overview of EPA's October 2015 revision of the ozone NAAQS, which lowered the standard from 0.075 parts per million (ppm) to 0.070 ppm.

Walter Schroth asked why the Northeast Philadelphia monitors have higher values. Mr. Nolan explained that ozone is formed from VOC and NOx emissions in the presence of sunlight, so the I-95 corridor and heavy Philadelphia traffic are likely important contributors. Peak ozone concentrations are typically seen to the north and east of metropolitan areas due to prevailing winds.

Walter Schroth asked whether the fires were in the Northwest U.S. or in Canada. Mr. Nolan responded that based on the location of the jet stream, which was well offshore, the fires were located in western Canada. Mr. Schroth asked if Pennsylvania is responsible for emissions in a smoke plume that comes in from another state or country. Mr. Nolan replied that EPA's Exceptional Events Rule does allow for the exclusion of violations due to certain natural events, but the burden of proof is very high. Susan Foster added that DEP has regulations that address the transport of air pollution and is a member of the Ozone Transport Region (OTR). Recognizing that air pollution does not stay within a state's borders, states in the OTR work together to develop measures to reduce emissions of VOC and NOx. Mr. Schroth commented that forest policy and management contributes to the type of forest fire and its impacts. When fire is suppressed where it is part of the normal ecology, fires are larger, hotter, and more intense.

Other Business/Discussion
Dale Kaplan asked if there is a status update on the 84-pound rule for dry-cleaning. Susan Foster said that EPA wrote a letter in response to a request for applicability determination from a Tennessee company. EPA indicated that the old style of cleaners were similar to residential washers and dryers. The new systems are all one machine. EPA has decided the new systems are not subject to the Subpart JJJ, New Source Performance Standards (NSPS) for Petroleum Dry Cleaners. As a result, there is essentially no need for GP-6 going forward. Jeremy Hancher asked if that change will affect Allegheny County and Philadelphia sources. Response: That depends on whether Allegheny County or Philadelphia is relying on the NSPS or adopted their own regulations. DEP will ensure that Allegheny County and Philadelphia Air Management Services are aware of the determination.

Adjournment
The SBCAC meeting was adjourned at 1:02 p.m.