

**SMALL BUSINESS COMPLIANCE ADVISORY COMMITTEE  
MEETING MINUTES  
January 22, 2020**

Members Present: Walter Schroth, Jeremy Hancher, Ed Boito, Allen Landis, Rebecca Oyler

Others Present: Susan Foster, Nancy Herb, Samantha Harmon, Alexander Sload, Lucas Hershey, Sandra Schroth, Sean Nolan, Michael Anonia, Viren Trivedi, John Krueger, Jennie Demjanick, Hayley Book

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Call to Order

The Small Business Compliance Advisory Committee's (SBCAC or Committee) January 22, 2020 meeting began at 10:08 a.m. in the Rachel Carson State Office Building, 12th Floor Conference Room, Harrisburg.

Introductions

Members of the SBCAC and the audience introduced themselves.

**Administrative Items**

Approval of Minutes from Previous Meeting

The October 22, 2019, draft SBCAC meeting minutes were approved 4-0-1 (Yes-No-Abstain) as written.

RCSOB Evacuation Procedure

Lucas Hershey reviewed with the committee the building evacuation procedure in the case of an emergency or fire alarm.

**Informational Items**

Environmental Management Assistance Program (EMAP)

Jeremy Hancher, EMAP Program Manager, provided an update on EMAP activities. To start, he shared how EMAP is partnering with the Clarion Small Business Development Center (SBDC) to do three workshops in 2020, with the first workshop on March 4 in Franklin, PA. The workshops will provide information on environmental health and safety and include specialists from Occupational Safety and Health Administration, Department of Labor, Indiana University of Pennsylvania Occupational Safety and Health Administration, EMAP, and also our DEP Small Business Ombudsman, Ed Boito.

Mr. Hancher reported that in the fourth quarter of 2019, EMAP received 35 requests for technical assistance; 14 of them were received through the EMAP hotline and 7 were through the EMAP website or internet searches. Four of the requests were from small businesses referred by DEP staff, all were air quality-related. Seven of the requests

were referrals by PA SBDC business consultants. Of these, 7 of the requests were for permit-related assistance, 5 air-related and 2 were waste-related. An additional 5 requests came from SBDCs, 4 EMAP website & internet searches, 2 from EPA referrals, 1 from Pennsylvania Technical Assistance Program, 2 from other EMAP clients, and 2 from workshop attendees. EMAP environmental consultants conducted on-site assessments at 6 small businesses, and there were 8 new EMAP clients during the quarter. EMAP provided 57 small businesses with in-depth technical assistance. Major work output included: 1 Request for Determination (RFD) submittal; 4 Plan Approval applications; 12 State-Only Operating Permit applications; 2 General Permit applications; and three Allegheny County Health Department (ACHD) installation/operating permit applications.

During the fourth quarter of 2019, EMAP assisted small businesses with issues related to potential-to-emit and environmental reporting. EMAP assisted a small business owner by attending a pre-application meeting. EMAP also had an uptick in requests related to permitting for spray booths, which correlated well with page views on “surface coating” on the EMAP website per Google Analytics. Businesses contacted EMAP with questions regarding “green” cleaning products and how to properly register a consumer product according to EPA or state requirements. EMAP has created an industry sector webpage for the hemp industry and is ready to respond and assist businesses that contact them with questions. There are air quality, odor, and waste issues that are arising with the industry entering into the state.

John Krueger asked about the footprint of EMAP and where services are being requested. Mr. Hancher explained that services are provided relatively evenly across Pennsylvania, although there are pockets of lower activity in the north-central region and in areas west of Harrisburg.

#### Small Business Ombudsman Report

Mr. Boito distributed an update on the status of the 2019-2020 Small Business Advantage (SBAG) grants. So far, the program has received more than 190 applications, which is ahead of last year. Of these, 181 have been awarded or awaiting review, while 9 applications were deemed ineligible. Mr. Boito explained as a reminder that if a small business has outstanding environmental violations that have not been cleared, they cannot get a small business grant or any other grant from DEP.

Approximately \$854,000 has been awarded as of January 20, 2020. Mr. Boito noted that the majority (105) of the applications were for energy efficient lighting. Maple syrup manufacturers submitted four applications for reverse osmosis and two applications for evaporators. Mr. Boito explained that it is energy intensive to reduce 100 gallons of sap to one gallon of maple syrup, and this equipment can reduce the amount of energy consumed and reduce energy costs.

Mr. Boito pointed out that he anticipates air quality issues related to the medical marijuana industry as they are significant energy users due to their intensive usage of lighting.

## **Action Item**

### Draft Final-Form Rulemaking Annex A to Amend Air Quality Fees

John Krueger presented the draft final-form rulemaking to Amend Air Quality Fees. Viren Trivedi and Jennie Demjanick were also in attendance to answer questions regarding the rulemaking. The presentation highlighted the current funding deficit of the air quality program. To remedy the funding shortfall, the final-form rulemaking would update the fee schedule.

Mr. Schroth expressed concern regarding the impact of the fee increases on small businesses. He believes larger businesses will be more easily able to adapt to higher fees by reducing their emissions. Smaller businesses cannot adapt so easily and may incur a greater degree of negative impact from increased fees compared to larger businesses. Mr. Schroth expressed concern that future fee increases will continue to include more and more small businesses. Also, Mr. Schroth noted that DEP's air quality program is the victim of its own success in regard to funding because of its success in reducing air pollution.

Mr. Krueger explained that we are balancing a number of competing interests while trying to maintain funding for the program at its current level, which is the minimum required. An analysis has been performed to calculate the estimated future expenses of the program based on numbers from the DEP fiscal office.

Mr. Hancher noted that RFD applications can be very complex, and DEP does not charge a fee for these currently. Mr. Hancher has discussed the proposed RFD fee with clients, and many understand that there is a real cost to DEP to process these applications.

Mr. Schroth asked about the sources of funding for the air quality program. Mr. Krueger explained that the air quality program is funded by fees, the general fund, and federal grants. He said that there is no reason to believe that federal grants will increase, and they may, in fact, be reduced.

Ms. Oyler stated that the original intent of the Air Pollution Control Act was for Title V emissions fees to cover the clean air program. Ms. Herb explained Title V emission fees collected must be used to cover the costs of regulating Title V facilities. However, those funds cannot be used to cover the costs of regulating other non-Title V facilities, which is a substantial cost.

Ms. Oyler feels that the General Assembly needs to take a wholistic look at how the program is being funded. She doesn't believe the agency has the statutory authority to restructure its own fees. Mr. Krueger explained that the Department does not have the direct ability to get the legislature involved. Amending the fee schedules through the regulatory process is the only option available to the air quality program to prevent a future funding issue. Ms. Oyler restated her opinion that the General Assembly should get involved to fix the funding issues of the air quality program. She feels that

continually raising fees is not a long-term solution and it will deter industry from doing business in Pennsylvania. Ultimately, this will make Pennsylvania less competitive with surrounding states. Mr. Krueger emphasized that the DEP needs to move forward with the rule because we are running out of time, and there is no evidence of the legislature moving to remedy the problem.

Susan Foster pointed out that the overall proposed fees are not dissimilar to fees charged in surrounding states. For example, Mr. Krueger noted that Philadelphia, Allegheny County, Maryland, and Delaware already charge fees for asbestos, while DEP does not currently do so. He noted the difficulty of comparing states to one another because of different fee structures and funding sources.

Lucas Hershey reviewed the concurrence letter with the Committee. Mr. Schroth offered a motion to concur with DEP's recommendation to move the draft final-form rulemaking to the Environmental Quality Board (EQB) for consideration as a final-form rulemaking. Mr. Landis seconded the motion. The Committee approved the motion by a vote of 3-2-0.

#### Ambient Air Quality Update for 2019

Per the request of the Committee at the October 2019 SBCAC meeting, Sean Nolan presented an update on Pennsylvania's ambient air quality. Mr. Nolan's presentation provided an overview of air quality and meteorology trends in Pennsylvania, primarily focusing on the years 2018 and 2019, comparing meteorological differences in temperature and precipitation to levels of ozone, PM<sub>2.5</sub> and SO<sub>2</sub>.

Mr. Boito asked about the adverse effects of SO<sub>2</sub> beyond the creation of acid rain. Mr. Nolan replied that there are health effects from SO<sub>2</sub>, and the EPA reduced the National Ambient Air Quality Standards for SO<sub>2</sub> in 2010 to better protect human health and the environment.

Ms. Oyler asked if EPA requires a certain number of air quality monitors. Mr. Nolan replied that EPA sets requirements for the minimum number of monitors for each metropolitan area. Some areas have more monitors than the minimum requirement based on local needs.

Mr. Schroth asked why there was such a significant drop in PM<sub>2.5</sub> and ozone concentrations this past year. Mr. Nolan explained that meteorology and the reductions in NO<sub>x</sub> from the previous year both contribute to the lower pollutant concentrations.

#### CO<sub>2</sub> Budget Trading Regulation Overview

Hayley Book, Special Assistant to the Secretary of DEP, presented an overview of the CO<sub>2</sub> Budget Trading regulation that DEP is developing in order to participate in the Regional Greenhouse Gas Initiative (RGGI). This regulation is an effort directed by Governor Wolf's Executive Order of October 2019, titled "Commonwealth Leadership in Addressing Climate Change through Electric Sector Emissions Reductions," directing the Department to draft a regulation and bring it to the EQB, by July 31, 2020. This Executive Order strictly focuses on reducing CO<sub>2</sub> emissions from the electric generation

industry, which represents approximately 30% of Pennsylvania's greenhouse gas emissions.

Ms. Book explained that RGGI is a collaborative group of 10 states in the Northeast and Mid-Atlantic with an agreement to reduce greenhouse gas emissions using a regional trading program. In joining the initiative, Pennsylvania will have an emissions budget, and carbon allowances will be traded on a market. Proceeds from the sale of those allowances will flow back to the Commonwealth for reinvestment in projects such as energy efficiency, renewable energy, and other air quality benefits.

DEP expects to present a preliminary draft of the regulation to the Air Quality Technical Advisory Committee in February and to present the draft proposed regulation to the EQB by the end of July. DEP anticipates a final regulation by the end of 2021 to enable participation in the RGGI auction in 2022.

Mr. Schroth asked how the allowances work. Ms. Book explained that the power generating facilities will buy the allowances to cover the amount of carbon that they are emitting. The allowances will trade on an open market. Each ton of CO<sub>2</sub> emitted requires an allowance. The allowances will be pooled amongst all participating states, providing a larger market for trading.

Mr. Schroth noted that Pennsylvania is heavily forested and asked if there will be credit for carbon sequestration. Ms. Book responded that state regulations allow for offsets for sequestration such as tree planting.

Mr. Hancher asked how this regulation is related to the Transportation Climate Initiative (TCI). Ms. Book replied that TCI is a separate initiative that is strictly focused on the transportation sector. Pennsylvania has been participating in discussions regarding TCI but has not committed to participate in TCI.

Ms. Oyler asked which statute authorizes Pennsylvania to join RGGI. Ms. Book replied that it is the Air Pollution Control Act. Ms. Oyler then asked if the other RGGI states have similar regulations and whether they were adopted under executive or legislative authority. Ms. Book affirmed that some states have been directed by executive order and some by legislation to adopt regulations.

There were some concerns raised by members of the Committee regarding a possible increase in costs and impacts to the ultimate consumer due to RGGI. Ms. Book replied that there are many factors that influence the electricity market, though there will be a better understanding of any change in energy prices once modelling is completed showing the total economic impact of the program.

#### Adjournment

The SBCAC meeting was adjourned at 12:57 p.m.