

**Solid Waste Advisory Committee  
Meeting Minutes of March 27, 2017**

**The following members were present:**

Michele Nestor, Chair  
Eli Brill  
Gordon Burgoyne  
Randall York  
Tanya McCoy-Caretti  
Jim Close  
Joyce Hatala  
John Frederick  
James Sandoe  
Joseph Reinhart

**The following members were absent:**

Shannon Reiter  
Timothy O'Donnell  
Gary T. Roberts  
Ed Vogel  
John Vataavuk  
Gregg Pearson  
Gerald Zona  
Robert Watts, Vice-Chair

**The following guests and Department of Environmental Protection (DEP) staff members were present:**

Jim Lambert	Monroe County Solid Waste Authority
Jonathan Lutz	PA House of Representatives, Republican Research Department
Mary Webber	Pennsylvania Waste Industries Association (PWIA)
Mike Sherman	Range Resources
Bob Bylone	PA Recycling Markets Center
Beth Kern	Chesapeake Energy
Teresa McCurdy	TD Connections
Richard Fox	PA House Environmental Resources and Energy
Walt Harner	DEP Bureau of Waste Management (BWM)
Chris Noble	DEP BWM
Laura Henry	DEP BWM
Chris Solloway	DEP BWM
Timothy Gilbert	DEP BWM
Abbey Cadden	DEP Policy Office
Katie Hetherington Cunfer	DEP Office of External Affairs/Citizens Advisory Council (CAC)

## **Call to Order; Introduction of Members and Guests; Approval of Minutes of September 22, 2016; Old Business**

The March 27, 2017, meeting of the Solid Waste Advisory Committee (SWAC) was called to order at 10:01 a.m. by Michele Nestor, Chair. Ms. Nestor asked for introductions of committee members and guests.

Ms. Nestor called for a motion to approve the September 22, 2016, meeting minutes. Joseph Reinhart made a motion to approve the minutes with no changes; the motion was seconded by Jim Close. The motion carried unanimously.

## **Election of Officers**

The election of officers for 2017 - 2019 was held. There were no nominations from the floor. Joe Reinhart requested a motion to close nominations and re-elect Ms. Nestor and Mr. Watts as Chair and Vice Chair, respectively. Mr. Reinhart's motion was seconded by Eli Brill; nominations were closed, and Ms. Nestor and Mr. Watts were elected unanimously by a show of hands. Ms. Nestor and Mr. Watts will serve for a period of two years.

## **Bureau of Waste Management Update**

Walt Harner, Director, Bureau of Waste Management, gave an in-depth overview of some of the major initiatives, staffing challenges and other priority items that the Bureau is currently working on. Below are a few examples.

- Nulife Glass request for variance denial;
- Elcon, a proposed hazardous waste treatment facility;
- Hazardous Waste Generator Improvements Rule;
- Management of Fill Policy;
- Coal Combustion Residuals Rule (CCR);
- Covered Devices Recycling Act (CDRA);
- Act 101/reauthorization of the Recycling Fee;
- Technical Guidance Documents under review/revision.

At the request of SWAC, Mr. Harner provided a copy of his talking points, which includes more details relating to each topic. These talking points are attached to the meeting minutes.

## **Marcellus Shale Waste Management Update**

Ali Tarquino Morris, Chief, Division of Municipal and Residual Waste, along with Christopher Solloway from the Program Development and Support Section, gave a brief overview of DEP's updated Residual Waste Codes and impoundment permitting under Chapter 78a.

Mr. Solloway gave an update to some of the clarifications that have been made to the 800 series Residual Waste Codes that went into effect January 1, 2017. These codes deal with oil and gas well drilling. Mr. Solloway explained that clarification was necessary due to the feedback that was received from the Marcellus Shale Coalition (MSC) and DEP's Bureau of Oil and Gas Planning and Program Management regarding the definitions of "produced fluid" and

“fracturing fluid waste.” The changes were made to eliminate confusion and streamline the codes.

Waste codes 802 and 805 have been combined so that anything that’s injected into the well bore and comes back out would be labeled as waste code 802 “produced fluid.” Meanwhile, code 805 has been changed to “unused fracturing fluid waste.” This would cover any fluid that would have gone into the well bore that was ultimately rendered unusable for any reason, such as contamination, spillage, etc.

Waste codes 808 “servicing fluid” and 899 “other oil and gas waste” were also revised. The description of code 808 was clarified to denote that waste accumulated in the well-cellar cleanout does not include wastes that are created from the drilling operation. Waste code 899 was revised to denote that any rainwater collected in a containment area that is not mixed with residual waste does not meet the definition of residual waste.

Ali Tarquino Morris gave an overview of the way residual wastewater storage impoundments will be permitted under Chapter 78a pertaining to unconventional wells. Chapter 78a was published and made final in the *Pennsylvania Bulletin* on October 8, 2016.

The rulemaking eliminated the permitting mechanism for wastewater storage impoundments under the oil and gas regulations. All impoundments used for storing oil and gas wastewater must now be permitted under the residual waste regulations. New oil and gas impoundments constructed or operated after October 8, 2016, must obtain a residual waste permit prior to construction or operation of the facility. Existing facilities will choose to either obtain the permit or close.

Ms. Morris explained that DEP, in consideration of the quantity and characteristics of the waste as well as the size of the facility where these wastes would be housed, determined that additional application requirements would be necessary to help ensure safe construction and operation of the wastewater storage impoundments. Because of these considerations, DEP is generally following the permitting process of a Class 1 Residual Waste Disposal Impoundment.

Shortly after the publication of Chapter 78a, industry groups submitted a petition to Commonwealth Court for a preliminary injunction. The petition asked the court to enjoin the enforcement of certain portions of Chapter 78a, including sections pertaining to centralized impoundments. The court delayed the implementation of that portion of the rulemaking on November 8, 2016. This decision has rendered DEP unable to implement the permitting strategy that was outlined previously.

DEP is exploring options on the best way to proceed with permitting of new impoundments considering the pending litigation.

## **Overview of Commonwealth Travel Policies and Procedures**

Laura Henry, Chief, Program Development and Technical Support, provided SWAC members with information regarding travel/lodging arrangements and reimbursements associated with SWAC duties.

## **Review of Committee Bylaws**

Michele Nestor, Chair, discussed the purpose of the Solid Waste Advisory Committee. Ms. Nestor explained that the main purpose of SWAC is to advise DEP on priority items; its purpose is not to advise on legislative items.

Ms. Nestor also informed new members that by being a member of SWAC, they are automatically included on the Recycling Fund Advisory Committee (RFAC), and she provided an update on the status of the other standing committees and subcommittees within SWAC.

Ms. Nestor stressed the importance of member attendance. SWAC meets quarterly at minimum, or more depending on DEP's availability.

She encouraged discussions amongst members who come onto the committee from various outside waste industries, as it will benefit the suggestions that the committee can present to DEP.

## **Discussion of Committee Priorities**

Michele Nestor, Chair, opened the floor for discussions as to where the SWAC should be focusing its priorities.

Members suggested having more input regarding actions that are being proposed by DEP, such as policies and other items that are developing for technical guidance documents. The committee indicated that greater transparency would be appreciated so that proper time could be given to review and remark upon items before they are finalized by DEP.

Similarly, there was commentary that the committee would be interested in items and topics that fall outside of waste management, especially if there is any crossover of those items that could have a future impact on SWAC and its priorities.

Members indicated that they would appreciate any materials such as presentations, talking points, PowerPoint slides, etc., presented by DEP at the SWAC meetings being made available on the SWAC webpage after the meetings.

## **Public Comment; New Business**

Katie Hetherington-Cunfer, Acting Executive Director, Citizen's Advisory Council, gave an overview of a letter that the CAC is planning to send to the General Assembly. CAC was inquiring as to whether SWAC would be interested in co-signing a letter to be sent to the PA legislative body to encourage them to open Act 101 for renewal of the Recycling Fee. Also presented was the possibility of a Joint Committee meeting to discuss issues that the

committees may have. John Frederick made a motion for SWAC to sign a joint letter with CAC; the motion was seconded by Joyce Hatala.

Joyce Hatala moved to adjourn, seconded by Gordon Burgoyne. The motion carried, and the meeting adjourned at 12:00 p.m.