

CITIZENS ADVISORY COUNCIL

to the Department of Environmental Protection

Five-Year Report: Summary of CAC Air Activities July 2007 – June 2012



Adopted: xxxxxxxx, 2012

John Walliser
Chair

Marjorie Hughes
Executive Director



Five-Year Report: Summary of CAC Air Activities (July 2007 – June 2012)

Introduction

Since its creation in 1971, the Citizens Advisory Council (CAC or Council) has actively studied and reported on environmental issues and programs in the Commonwealth. CAC is the only legislatively mandated advisory committee with an overall charge to review all environmental legislation, regulations and policies affecting the Department of Environmental Protection (DEP or department). Council was given additional responsibility with the 1992 amendments to Act 95, Pennsylvania's Air Pollution Control Act (APCA), which directs DEP to consult with Council when considering state plans and regulations to implement the federal Clean Air Act (CAA). As a result, Council formed a standing Air Committee¹ to address air issues and policies.

Act 95 also requires DEP to conduct and submit to the General Assembly an evaluation of the effectiveness of the programs adopted to implement the federal CAA. This evaluation was to begin five years after the effective date of July 9, 1992, and continue every five years thereafter, and include a summary of the activities undertaken by the Citizens Advisory Council. This report covers Council's activities between July 2007 and June 2012.

Air Committee Priorities

The Air Committee's Priorities, originally developed in 2005, have been retained in succeeding years:

1. Air permits and permitting procedures
 - a. Support and encourage permitting procedures that are economically and administratively efficient yet remain protective of the environment.
 - b. Look for opportunities to achieve measurable improvement in environmental quality as well as advancing economic and administrative efficiency.

¹ **Air Committee members during 2007-2012 reporting period:** DeEtta Antoun (2007); Gail M. Conner, Esquire (2007-present); Walter Heine, P.E. (2007-present); Brian Hill (2007); Lack Lebeau, MD (2007); Nancy Perkins, Esq. (2011-2012); David Strong (2010); Bruce Tetkoskie (2007-2008); Margaret Urban (2007); John Walliser (2009-present; current chair).

2. Emission reductions

- a. Look for opportunities to further minimize air emissions, especially where health and environmental impacts can be measure and/or are strongly correlated.
- b. Promote awareness of the connection between air pollution and public health with focus on the general public and government decision-makers.
- c. Identify and encourage private sector innovations in minimizing emissions.
- d. Identify and address the significant impacts of individuals and permittees on air quality (e.g., open burning, inspection/maintenance, etc.) through education, public awareness, etc.

3. Influence of/relationship with EPA

- a. Monitor the effectiveness of the relationship between DEP and EPA with regard to air programs and issues.

4. Energy impacts on air quality

Air Quality Program Evaluation (2002-2007)

Section 4.3 of Pennsylvania's Air Pollution Control Act (Act No. 992-95), requires the department to conduct and submit to the General Assembly an evaluation of the effectiveness of the programs adopted to implement the federal Clean Air Act. The evaluation is also required to include a summary of Council's air activities

On October 31, 2007 Council submitted to DEP its own *Five-Year Report: Summary of CAC Air Activities July 200- - June 2007*. **The department's 5-year report was also due in 2007.**

Bureau of Air Quality staff provided Council a status update on the report at the April 2008 Meeting. In February 2009, the Air Committee received a presentation on the department's draft 5-year Report. Council was informed that due to timing issues BAQ was only able to integrate some of CAC's comments into the report. **The department addressed the lateness of its 5-year report (due in 2007) and assured Council that subsequent reports would be completed in a more timely fashion.** Council sent a letter to AQTAC expressing Council's desire to benefit from and be informed by correspondence from AQTAC on important air issues and reports.

On April 21, 2009, Council submitted comments (see attached) to DEP on the draft report, "*An Evaluation of the Pennsylvania Air Quality Program: 2002-2007*" that was presented to Council's Air Committee at its February 17, 2009 meeting.

In its comments, the committee commended the department for its many successful efforts in improving the Commonwealth's air quality. For example, of the six National Ambient Air Quality Standards (NAAQS) established by EPA, four have been attained for almost the entire Commonwealth. The department is making progress toward Clean Air Act compliance for two other pollutants of concern – ozone and PM 2.5 – through initiatives such as the Clean Vehicles Program, Consumer Products Rule, etc. However, the report does not indicate that the Air Quality Program has made any progress on, or

given attention to, addressing other air pollution issues such as synergistic effects, environmental justice, pollution prevention or cross media concerns.

The committee acknowledged the high number of staff retirements from the Bureau of Air Quality during the reporting period, and the subsequent effect this has had on the workload of the remaining staff. While the department's report fulfills DEP's requirement to conduct "an evaluation of the effectiveness of the programs adopted to implement the Clean Air act," the committee feels the department again did not take full advantage of this opportunity to truly assess current efforts and identify future needs and objectives.

Regarding the Mercury Rule, the committee particularly commended the department's efforts in preparing the *Final Decision Document for Reducing Mercury Emissions from Coal-fired Electric Generating Units*. Council's Environmental Quality Board representatives found the decision document very helpful in deliberating the significant issues related to this contentious regulation, and recommended that the department consider the use of decision documents in future efforts.

While the draft 5-year report fulfills the basic mandate, it did not take advantage of the opportunity to self-assess, address other air issues that impact the citizens of the Commonwealth, and provide recommendations for improvement. Taking it one step further, the department could use this report to assist with developing its own strategic workplan for future initiatives. What lies ahead could prove to be even more challenging than current issues. For example, emerging issues include:

- Northern tier counties will have increased truck traffic from Marcellus Shale activities. This could result in public concerns about diesel pollution.
- In 2006, DEP partnered with DOH and other organizations to develop a statewide health tracking system. This initiative was part of a national effort lead by the Centers for Disease control to track potential links between environmental hazards and public health. Their efforts culminated in the launch of Pennsylvania's Environmental Public Health Tracking Network in March 2009. Information provided by the tracking network may potentially influence environmental policy and regulatory action.
- Develop a comprehensive Air Pollution Plan inclusive of federal Clean Air Act programs and requirements; state statutes, regulations and initiatives; and other air pollution issues such as synergistic effects, mediation of environmental justice areas, pollution prevention, and cross-media concerns.

The department should at least refer to these and other emerging issues since they might be factors in the next 5-year evaluation. The committee also made several specific comments and suggestions, detailed in the attachment.

Program/Regulatory Revisions

Section 7.6 of "The Air Pollution Control Act," (Act No. 1992-95) provides that "The Department shall consult with the Citizens Advisory Council...as appropriate, in consideration of State implementation plans and regulations developed by the Department and needed for the implementation of the Clean Air Act."

Clean Air Interstate Rule (CAIR) – DEP attended Council’s January meeting to discuss CAIR, which provides for NO_x and SO₂ trading programs. The Air Committee met in October 2007 to review and discuss the final CAIR rule prior to its presentation to the EQB. On November 15, 2007 Council sent a letter supporting the department proceeding with the rulemaking to the EQB. The letter also raised some questions regarding emissions trading and environmental justice.

Anti-Idling - Members of the Clean Air Board (CAB) of Central Pennsylvania attended Council’s January 2007 meeting to discuss their anti-idling petition, which had been accepted at the morning’s EQB meeting. The petition called for statewide regulations restricting the idling of diesel-powered vehicles. The CAB members discussed the health effects of diesel exhaust and air pollution from mobile sources. On March 21, 2007 BAQ presented a response to the anti-idling petition and on July 17, 2007 BAQ presented their draft anti-idling proposed rulemaking. On July 26, 2007 Council sent a letter to DEP in support of proceeding with the anti-idling rulemaking. Council forwarded letters supporting this package to both EQB and the Bureau of Air Quality in February 2008 and June 2008 respectively. *NOTE: SB 295, signed by Governor Rendell October 2008, replaced DEP’s anti-idling regulations.* **COULD BREAK THIS INTO A BULLETED TIMELINE**

Permit Streamlining - Deputy Secretary for Field Operations, Mike Sherman, discussed permit streamlining at Council’s January 2007 meeting. He assured Council that permit streamlining would not compromise enforcement efforts or affect the public participation process. However, it should lessen processing time due to everyone being on the same page. On September 18, 2007 Council approved a letter to BAQ supporting the movement of this package to EQB.

Cement/Glass Regulations – In August, 2007 the Air Committee held a conference call regarding the draft cement kiln and glass regulations. On September 18, Council sent a letter to DEP in support of proceeding with both sets of the regulations to EQB. Council identified issues regarding the economic impact to the affected industries, the project environmental gain and the status of similar rulemakings in the Ozone Transport Region. The letter recommends that these be addressed in the rulemaking and that DEP seek comment on allowing system-wide averaging as a means of compliance.

Consumer Products - At the March 2008 meeting, the Bureau of Air Quality presented the final Consumer Products Rulemaking. In April 2008, Council forwarded a letter supporting the department moving forward with the rulemaking, scheduled to go to EQB in June 2008. This rulemaking was published as final in October 2008.

Adhesives, Sealants & Primers - Bureau of Air Quality staff attended Council’s April 2008 meeting to review the concepts to be included in the Adhesives, Sealants and Primers proposed rulemaking which will limit emissions of volatile organic compounds from these products. In May 2008, Council sent a letter supporting the department moving forward with this package.

Cement Kilns – In October 2008 Bureau of Air Quality staff held a conference call with the Air Committee to discuss the effect that the vacatur of the Clean Air Interstate Rule will have on the rulemaking. At the November 2008 meeting Council voted unanimously to forward a letter to the department in support of the cement kiln final form rulemaking.

Toxics, ozone and fees—In February 2009, the Air Committee convened to receive presentations from the Bureau of Air Quality on toxics near schools, ozone redesignations, and a fees rulemaking. Council voted to send a letter supporting the proposed rulemakings.

Draft Outdoor Wood-Fired Boilers --Staff provided an overview of this draft regulation, which addresses stack size, setback, and seasonal requirements. Gail Conner reported that AQTAC had extensive discussion on the draft regulation. She said that the vetted issues seem to have been addressed in the updated draft presented to CAC. This regulation is expected to go to EQB in September 2009. Council forwarded a letter supporting the BAQ moving forward to EQB with this draft regulation. This proposed rulemaking was approved by EQB at the September meeting and subsequently published for comment on October 17, 2009.

Draft New Source Review – PM2.5 --Staff reviewed the NSR-PM2.5 draft regulation. Regulated new source review pollutants include NO_x or VOC's, SO₂, a pollutant for which EPA has promulgated a National Ambient Air Quality Standard, and pollutants that are a constituent or precursor pollutant. This regulation is expected to go to EQB in October 2009. Council sent the BAQ letter supporting their moving of this draft regulation to EQB. The proposed rulemaking was considered by the EQB in November 2009. This proposed draft rulemaking was approved by EQB at the November 2009 meeting.

Control Techniques Guidelines --Staff also reviewed the following draft regulations: Large Appliance and Metal Furniture, Paper Film and Foil, and Flat Wood Paneling. These packages were expected to go to EQB in September 2009. These draft regulations aim to reduce VOC content, increase controls, and add housekeeping requirements. Council voted to send a letter supporting the BAQ moving forward with these draft regulations to the EQB².

From late 2009 and into 2012, the Air committee held a number of meetings and conference calls to consider rulemaking packages being developed by the Bureau of Air Quality. On the committee's recommendation, Council approved the following:

- Concurrence letter: final Adhesives, Sealants and Primers rulemaking, and Glass Melting Furnaces rulemaking (1/19/2010)
- Concurrence letter: proposed Sulfur Limits in Fuel Oil rulemaking (3/16/2010)
- Letter to Joyce Epps regarding the need to be sure that the Outdoor Woodburner regulations are protective of public health (4/20/2010)
- Comment letter regarding final Outdoor Woodburner rulemaking (6/15/2010)
- Concurrence letter: final control technique guidelines for Flatwood, Panelling rulemaking, and final Paper Film and Foil rulemaking (7/28/2010)

²The proposed Large Appliance and Metal Furniture Rulemaking went to EQB for consideration in November 2009.

The proposed Paper Film and Foil Rulemaking was approved by EQB in September 2009 and the draft was published for comment in the *Pennsylvania Bulletin* on November 9, 2009. The comment period will be 60-days.

The Flat Wood Paneling proposed rulemaking was approved by EQB in September 2009. It was published in the *Pennsylvania Bulletin* on October 17, 2009. The comment period for this proposed rulemaking was set at 60 days.

- Concurrence letter: final New Source Review for Fine Particulates rulemaking, and Final Fees for Title V rulemaking (10/21/2010)
- Committee concurrence letter: proposed High Electric Demand Days rulemaking (12/7/2010). The committee's recommendation will be discussed at the January 2011 meeting.
- Concurrence letter: flexible package, lithographic and letterpress printing. This proposed rulemaking is based on a control technique guideline issued by the U.S. Environmental Protection Agency to provide states with recommendations on how to control volatile organic compounds from a specific type of product or source category in ozone nonattainment areas and the Ozone Transport Region. (2/16/2011).
- Concurrence letter: final-omitted rulemakings repealing the employer trip reduction regulation, the portable fuel container regulation, and the alternative sulfur dioxide emission standard for St. Joe Resources in Beaver County. (11/15/2011)
- Concurrence letter: proposed changes to Chapters 121 and 139, clarifying sampling and testing methods related to condensable particulate matter and filterable particulate matter. (2/22/2012)

Air Quality Issues

On February 16, 2010, the Office of Energy and Technical Deployment provided an update on the Climate Change Action Plan of 2009, which includes specific recommendations for mitigation of greenhouse gases to lower the CO₂ that is emitted.

At the June 2010 meeting, the Bureau of Air Quality gave presentations on air quality issues applicable to Marcellus Shale gas extraction activities, and on the Marcellus Shale air sampling project, a sampling protocol for emissions such as VOC, CO and NO_x.

- Krishnan Ramamurthy gave a presentation on air quality issues applicable to Marcellus Shale gas extraction activities. He noted that emissions are created as a result of drilling, construction activities, truck and equipment fumes, off gas flaring, and radionuclides from wastewater treatment. He reviewed relevant aspects of the air quality program, including various permits and exemption lists.
- Nick Lazor gave a presentation on the Marcellus Shale air sampling project, which is a sampling protocol for VOC, CO, and NO_x. The Mobile Analytical Unit has been deployed for this initiative. They are currently sampling in the southwest, and will move into north central and northeast before the end of the year. Once complete, DEP will decide if follow-up monitoring should be conducted and maybe even expanded, and decide if long term monitors should be installed at key locations.
- Regarding the cumulative impact of mobile and stationary sources associated with Marcellus activities, DEP responded that the total emissions are factored in to attainment demonstrations.

Approved by Council: xxxxxx, 2012