

**MINUTES  
CITIZENS ADVISORY COUNCIL MEETING  
March 17, 2015**

**CITIZENS ADVISORY COUNCIL (CAC) MEMBERS PRESENT:**

Cynthia Carrow, Allegheny County  
Walter Heine, Cumberland County  
David Hess, Dauphin County  
Burt Waite, Crawford County  
Terry Dayton, Greene County  
William Fink, Bedford County  
Mark Caskey, Washington County  
Joi Spraggins, Philadelphia County  
Seth Mendelsohn, Dauphin County  
Donald Welsh, Chester County  
John Hines, Lebanon County

**CITIZENS ADVISORY COUNCIL STAFF PRESENT:**

Michele Tate, Executive Director

**CALL TO ORDER:**

Chairman Terry Dayton called the meeting to order at 10:03 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

**APPROVAL OF FEBRUARY 17, 2015, MEETING MINUTES:**

John Hines noted that his county of residence was incorrectly listed in the minutes and should be Lebanon County, instead of Dauphin County. Michele Tate noted that the mistake would be corrected in the minutes.

With no additional corrections or additions recommended by Council, Chairman Dayton asked for a motion to approve the February 17, 2015, Council meeting minutes.

**Burt Waite moved to approve the February 17, 2015, meeting minutes, with the correction requested by John Hines. Bill Fink seconded the motion, which was unanimously approved by Council.**

**CHAIRMAN DAYTON'S REPORT TO COUNCIL:**

Chairman Dayton updated Council on recent appointments made by the Department of Environmental Protection (DEP or Department) to the Oil and Gas Technical Advisory Board (TAB) and the Conventional Oil and Gas Advisory Committee (COGAC). He stated that Bryan J. McConnell, P.G. was appointed to TAB. Mr. McConnell was one of three individuals recommended by the CAC to represent the public's interest on the Board. Chairman Dayton also announced that Burt Waite was appointed to COGAC and that Burt was one of three individuals recommended by the CAC to serve on COGAC. Chairman Dayton noted that both committees would be meeting in March to discuss the draft final Chapter 78 and 78a regulations concerning environmental protection measures for surface activities at gas well sites.

In other business, Chairman Dayton announced that the CAC has scheduled an additional public hearing to receive testimony on the most recent Act 54 Report. He noted that the hearing would

be held on March 27, 2015, from 1:00 p.m. – 3:00 p.m. at DEP’s California District Mining Office in Coal Center, PA. He also noted that the CAC has extended the public comment period on the report to April 14, 2015. A press release announcing the details of the hearing in Coal Center and the extension of the public comment period was issued by the CAC on February 26, 2015.

**DEP REPORT TO COUNCIL:**

Acting Secretary Quigley provided brief remarks to Council where he updated the CAC on three key matters, including the Department’s Chapter 78 proposed regulations, the Department’s ongoing efforts to implement Act 162, and the Department’s proposed FY 2015-2016 budget.

Concerning the Department’s proposed regulations for surface activities at conventional and unconventional well sites, Acting Secretary Quigley informed Council that the Department has reviewed the comments submitted on the proposed rulemaking and has developed changes to the proposal based on those comments. He stated that the draft final rulemaking will be reviewed by the Department’s Oil and Gas Technical Advisory Board on March 20, 2015, and the Department’s newly created advisory committee, the Conventional Oil and Gas Advisory Committee, on March 26, 2015. He also announced that the Department has decided to seek additional public comment on the draft final rulemaking by advertising the regulations for comment through an Advanced Notice of Final Rulemaking (ANFR), which will be published in the April 4, 2015, edition of the PA Bulletin. He explained that the ANFR allows the Department to seek additional input on the changes to the proposed rulemaking in advance of submitting the final rulemaking to the Environmental Quality Board for action.

Acting Secretary Quigley also updated Council on DEP’s ongoing efforts to implement Act 162, which was signed by Governor Corbett in 2014 to instill flexibility in the state’s Chapter 102 erosion and sedimentation control regulations by providing that applicants seeking an NPDES permit for earth disturbance activities in EV and HQ watersheds have a choice of installing a riparian buffer or utilizing other best management practices, design standards and alternatives that are collectively equivalent to a riparian buffer in effectiveness. He noted the Department issued interim final technical guidance, #310-2135-001: Implementation Plan for Act 162 of 2014, in January 2015 for public comment and nine commentators submitted comments to DEP on the guidance, which the Department is currently reviewing. He further noted the Department will be announcing the availability of two additional technical guidance documents on Act 162, including guidance associated with Riparian Buffer Equivalency and Riparian Buffer Offsetting in the March 21, 2015, edition of the PA Bulletin for a 60-day public comment period. He stated that webinars were conducted to allow DEP to answer questions from the public on the two guidance documents and that those webinars were well attended. He also noted that additional information about the guidance documents, included questions and answers that were addressed during the webinars, will be available on the Department’s website.

Lastly, Acting Secretary Quigley provided a brief overview of Governor Wolf’s proposed FY 2015-2016 Commonwealth Budget, including DEP’s proposed budget which includes a 5% increase in General Fund appropriations. In his remarks, Acting Secretary Quigley acknowledged the Commonwealth’s looming structural deficit and how Governor Wolf’s budget proposal addresses that deficit without sacrificing resources to support public education and job creation in the state. He also emphasized Governor Wolf’s commitment to ensure state government works efficiently through the GO TIME Initiative and how that initiative has already achieved efficiencies that have resulted in approximately \$150 million in cost savings to the Commonwealth.

At the conclusion of Acting Secretary Quigley's report, Council members inquired about several topics, including DEP's rationale for creating a separate advisory committee for conventional gas operations, the scope of changes that will be proposed to the Chapter 78 draft final regulations through the ANFR, and program areas DEP anticipates it will increase complement if Governor Wolf's budget for FY 2015-2016 is enacted as proposed. Acting Secretary Quigley emphasized that the additional funding proposed for DEP demonstrates Governor Wolf's significant commitment to provide the Department with the resources it needs and noted that the funding will be invested where the resources are needed most, including the hiring of additional inspectors in the Department's Oil and Gas Program and other staff in DEP's air and water quality programs that support regulatory activities associated with the Oil and Gas Program.

**PUBLIC COMMENT:**

***Tom Schuster, Sierra Club:*** Tom Schuster, Senior Campaign Representative for the Sierra Club, provided comments to Council in which he elaborated on several outstanding concerns his organization has with DEP's proposed rulemaking entitled "Additional RACT Requirements for Major Sources of NOx and VOCs". He noted three primary problems with the regulatory proposal. First, he noted the proposal fails to set emission limits commensurate with what is and has been achieved by plants equipped with selective catalytic reduction (SCR) technology, including plants in Pennsylvania that are operating with this technology. He also stated that the proposal fails to consider cost efficacy thresholds with the range EPA identified, and the proposal fails to use an averaging period adequately protective of the short-term ozone standard. Mr. Schuster informed Council that he shared his concerns about the rulemaking with Acting Secretary Quigley and staff in DEP's Bureau of Air Quality and that they are currently reviewing the analysis and data provided by the Sierra Club. In light of the organization's concerns, he requested that the CAC postpone action on the draft final rulemaking and that Council recommend to DEP that it corrects the deficiencies in the regulatory proposal to ensure it is approved by EPA. Mr. Schuster provided Council with a petition signed by approximately 1745 individuals who shared the Sierra Club's concerns on the rulemaking. The petition urges Governor Wolf to correct the deficiencies in the rulemaking to ensure coal power plants in Pennsylvania are doing all they can to protect the health of families throughout the Commonwealth. At the conclusion of Mr. Schuster's remarks, Council inquired if the Sierra Club provided its comments and concerns to the EQB during the public comment period for the rulemaking. Mr. Schuster acknowledged that the Sierra Club had submitted their comments on the proposal to the EQB during the formal comment period for the rulemaking and had also shared its concerns with DEP during a recent meeting of the Air Quality Technical Advisory Committee (AQTAC).

***Cece Viti:*** CeCe Viti, a resident of Mechanicsburg, PA, expressed her concerns to Council on DEP's proposed rulemaking that establishes RACT Requirements for Major Sources of NOx and VOCs. She noted her concerns over existing regulatory loopholes that allow coal-fired plants to operate without certain technology or air cleaning equipment and how those loopholes jeopardize the health of citizens. She further noted that the American Lung Association in its 2014 State of the Air Report rated the Harrisburg's regional air quality with an "F" for failure. She urged Council to postpone action on the proposed rulemaking until certain deficiencies are corrected, including shortening the 30-day averaging period that is provided in the proposed rulemaking.

***Don Robertson:*** Don Robertson, with the Pennsylvania Division of the Izaak Walton League of America, provided comments to Council in which he noted his full support of the concerns expressed by the Sierra Club regarding DEP's proposed rulemaking entitled "RACT

Requirements for Major Sources of NOx and VOCs”. In addition to the consequences to public health from poor air quality, Mr. Robertson emphasized the impact poor air quality can have on our natural resources and wildlife and urged Council to consider the comments provided by the Sierra Club on the proposed rulemaking.

***Mary Hills Hoffman:*** Mary Hills Hoffman, a resident of Harrisburg, PA, provided comments to Council in which elaborated on the connection between poor air quality and ulcerative colitis and Crohn’s Disease. She noted statistics of the poor air quality in Pennsylvania and urged coal companies to install scrubbers to reduce the amount of pollutants emitted into the air.

**PROPOSED DEP FY 2015-2016 BUDGET:**

Hayley Book, Deputy Director of DEP’s Policy Office, provided a detailed overview of DEP’s proposed FY 2015-2016 Budget. She first explained to Council the various funding sources that comprise the Department’s overall budget, which includes a total spending authorization request of approximately \$698 million. The funding sources include General Fund monies, which represents 21% of the overall budget, Federal Funds, which covers 28%, and Other Funds and Augmentations, which represent 45% and 6% of the budget, respectively. She noted that the total increase in General Fund dollars proposed in Governor’s Wolf’s budget represents a more than 5% increase to DEP over the current budget, or approximately \$7.8 million in additional funding.

In other matters pertaining to the budget, Ms. Book discussed Governor Wolf’s proposed Marcellus Shale severance tax proposal, which includes a 5% severance tax on natural gas extraction in the Commonwealth. She noted that the proposal retains payments to local communities, where an estimated \$225 million would be preserved for communities impacted by natural gas extraction activities. She further noted that \$10 million of funding generated by the severance tax would be allocated to DEP to support additional inspection and enforcement staff. Of the \$10 million allocated to DEP, \$5 million would be appropriated to the Oil and Gas Well Plugging Account to support the hiring of 25 additional staff in DEP’s Oil and Gas Program. The additional \$5 million in revenue would be directed to the Environmental Protection Operations Account to also support staff augmentations, where an additional 25 individuals would be hired in other Departmental programs that provide support services to the oil and gas industry.

Ms. Book also discussed the resources proposed under the Governor’s budget to advance economic growth in Pennsylvania, including investments in the energy sector. She identified that the Governor’s budget proposal includes \$225 million to fund a comprehensive Commonwealth energy initiative, of which \$50 million will be allocated to re-launch the PA Sunshine Solar Program. Of the remaining funds under the proposal, an additional \$50 million will be allocated for grants to support energy efficiency improvements at small businesses, local governments, schools and nonprofits. She further noted that \$30 million is also proposed for a combined heat and power competitive grant program; \$30 million to the Pennsylvania Energy Development Authority for clean energy market development; \$20 million for clean energy and energy efficiency projects in the agriculture sector; \$20 million for a wind energy generation program; and \$25 million in funding to the “Last Mile” fund to support natural gas pipeline infrastructure development throughout the state, in particular in areas where such development would be uneconomical.

Following Ms. Book’s presentation, Council inquired about a number of issues associated with DEP’s proposed budget, including if the Department is contemplating how it will rectify the resources needed to maintain existing programs while at the same time dedicating additional

resources to implement new initiatives, such as Governor Wolf's proposed energy initiative. Council emphasized the negative effects previous budget cuts have had on DEP's programs and operations, including the Water Management Program, which has been particularly impacted by funding cuts. It was noted that while all state agencies in the Commonwealth have decreased complement due to budget cuts, DEP was impacted the most and has lost nearly 17% of its complement over the past 5-7 years in comparison to other state agencies that lost approximately 6% of their complement. Council emphasized the need for DEP to be diligent in ensuring that both central office and regional office personnel are augmented in order to rebuild the Department's programs, including maintaining focus through the GO TIME initiative on ways to maximize efficiencies and reduce program costs. However, Council also cautioned DEP to be cognizant and plan for potential future economic downturns of the oil and gas industry, which would impact the level of revenue generated through any severance tax, as well as potentially lessen the demand for DEP resources to provide regulatory oversight over the oil and gas industry.

In other topics associated with the proposed budget, Council discussed the Marcellus Shale Severance Tax Proposal and whether funding to support local impacted communities would be retained under the Governor's proposal. Council also questioned Governor Wolf's justification for adding additional complement to DEP's Oil and Gas Program when data is showing that drilling activity in Pennsylvania is down, especially in the conventional gas industry where well drilling activity has declined 80% over the past three years. Council also asked for additional details in the proposed budget relating to a new \$500 million revenue bond that would be financed through the PA Infrastructure Investment Authority for drinking water and waterwater system improvements. Specifically, Council inquired if any funds through the bond issuance would be specifically earmarked for nonpoint sources such as farm conservation projects, given the importance of Pennsylvania meeting its Chesapeake Bay TMDL obligations.

#### **SUSQUEHANNA RIVER QUALITY MONITORING AND ASSESSMENT UPDATE:**

Josh Lookenbill with DEP's Bureau of Point and Non-Point Source Management provided a presentation to Council detailing the Department's continuing efforts to monitor and assess the water quality of the lower Susquehanna River. The study was initiated in 2012 to determine why lesions were appearing on smallmouth bass in the Susquehanna River and why their populations were declining.

Mr. Lookenbill explained the extensive water quality sampling the Department has conducted over the past three years to assess the Susquehanna River and reviewed with Council the monitoring locations that are being used in the study. In addition to identifying a comprehensive list of pollutants in the river, Mr. Lookenbill noted that DEP is also sampling for pesticides, hormones, PCBs, and other contaminants. He noted that the Department plans to conduct additional water sampling in May and August of this year, but also acknowledged that due to the techniques used by the U.S. Geologic Survey, which is partnering with DEP to analyze the water samples, results of the samples collected will not be known for some time. He did note that to date preliminary sampling results have not led the Department to conclusively rule out any factors causing the effects on the smallmouth bass population in the Susquehanna River. In his concluding remarks, Mr. Lookenbill stated that the goal of the Department's study is to identify the cause of the smallmouth bass issues in the Susquehanna River by late 2015 in order that DEP can use that information in its 2016 Integrated Water Quality Report, which is a report required by the Federal Clean Water Act to assess the waters of the Commonwealth, including the Susquehanna River. In order to meet that goal, Mr. Lookenbill stated that DEP plans to have at least one year's worth of complete sample results on which to base its analysis and determination.

After the conclusion of Mr. Lookenbill's presentation, Council discussed when the first problems were reported with the smallmouth bass population in the Susquehanna River. Mr. Lookenbill confirmed that initial problems were detected in 2005, where elevated numbers of smallmouth bass with lesions were observed as well as a large number of dead and dying fish. He noted that those initial observations has led to the more comprehensive study of the river, where the identification of certain pathological problems are thought to have resulted in an overall decrease in the population of the smallmouth bass in the Susquehanna River. Council also discussed the next steps associated with the review of the river, including if developing monitoring methodologies will be used to enhance existing efforts. Council also inquired if the data collected through the study of the Susquehanna River is used by other DEP programs to focus compliance assistance efforts of the Department, including point source management and the application of best management practices.

### **CAC COMMITTEE REPORTS:**

**Policy and Regulatory Oversight Committee:** In Tim Weston's absence, Dave Hess reported to Council on the Committee's review of two draft final regulations, which the committee was briefed on by staff from DEP's Bureau of Air Quality on February 20, 2015. He noted that the regulations included a draft final rulemaking to implement reasonably available control technology (RACT) requirements and RACT emission limitations to reduce VOC emissions from fiberglass boat manufacturing materials including open molding resin, gel coat and cleaning materials. He noted that the Committee reviewed the draft final rulemaking, did not present any issues or concerns, and is recommending Council concur with its recommendation that the rulemaking proceed to the Environmental Quality Board (EQB) for final action.

**Bill Fink moved to concur with the CAC's Policy and Regulatory Oversight Committee's recommendation that the draft final rulemaking establishing RACT requirements and emission limitation to reduce VOC emissions from fiberglass boat manufacturing materials be forwarded to the EQB for final action. Seth Mendelsohn seconded the motion, which was unanimously approved by Council.**

Mr. Hess also elaborated that DEP staff briefed the Policy and Regulatory Oversight Committee on a draft final rulemaking that establishes additional RACT Requirements for Major Sources of NOx and VOCs in existence on or before July 20, 2012, including combustion units, boilers, process heaters, turbines, engines, municipal solid waste landfills and municipal waste combustors. He noted, however, that Council and DEP are reviewing comments on the rulemaking which were recently submitted by the Sierra Club. Mr. Hess explained that the comments were initially submitted by the Sierra Club to the EQB during the formal public comment period for the proposal, but that the Sierra Club has outstanding issues and concerns associated with their comments which were not addressed by DEP in the draft final rulemaking. In light of DEP's review of the Sierra Club's comments, Mr. Hess noted it would not be appropriate for Council to take action on the draft final rulemaking at this time and recommended that Council table action on the draft final rulemaking.

**Donald Welsh moved to table consideration of the draft final rulemaking that establishes RACT Requirements for Major Sources of NOx and VOCs. John Walliser seconded the motion, which was unanimously approved by Council.**

**Legislative Committee:** Cynthia Carrow provided Council with an update on a number of outreach strategies the committee is preparing in order to better coordinate and communicate with the General Assembly. She noted that the committee has scheduled meetings with the majority and minority leadership of the Senate Environmental Resources and Energy Committees to discuss important CAC priorities and how the CAC may work cooperatively with the committees on common goals. She stated that Michele Tate is developing talking points for the meetings, which she would share with the committee in advance of the meetings. Ms. Carrow also noted that similar meetings will also be scheduled with the leadership of the House Environmental Resources and Energy Committees.

**NEW BUSINESS/OPEN DISCUSSION:**

Under new business, Joi Spraggins briefed Council on a workforce development project she is spearheading in coordination with several local universities and businesses in the Philadelphia area to encourage and facilitate educational opportunities in the environmental sciences, with the overall goal of encouraging more minority hiring by both state and federal environmental agencies. Ms. Spraggins noted that she would share further details about the project to ensure Council input.

**ADJOURN:**

With no further business, Chairman Dayton requested a motion to adjourn the meeting. Burt Waite moved to adjourn the meeting. The March 17, 2015, meeting of the CAC was adjourned at 12:00 p.m.