

**MINUTES
CITIZENS ADVISORY COUNCIL MEETING
FEBRUARY 18, 2020**

CITIZENS ADVISORY COUNCIL (CAC) MEMBERS PRESENT:

Cynthia Carrow, Allegheny County	John St. Clair, Indiana County
Mark Caskey, Washington County	Jerome Shabazz, Philadelphia County
Terry Dayton, Greene County	Jim Welty, Cumberland County
Duane Mowery, Cumberland County	Tim Weston, Cumberland County
James Schmid, Delaware County	

CITIZENS ADVISORY COUNCIL (CAC) MEMBERS PRESENT VIA PHONE:

John Walliser, Allegheny County

CALL TO ORDER:

Chairman Jerome Shabazz called the meeting to order at 10:00 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA, with a quorum.

DEP REPORT:

Secretary McDonnell provided a brief update on the following:

Agency Complement

The Department recently began one-on-one, one-on-two, or one-on-three staff interactions in Central Office. A lot of questions surrounded recruitment and retention issues, training opportunities, and the loss of institutional knowledge as staff retire. An interesting part of the recent budget cuts has been the hollowing out effect on the agency's complement. In one particular office, there is an individual who is the only person who has been with the Department between five and 20 years. Everyone else has either less than five or more than 20 years of service. The Department is working to ensure that executive staff understands the make-up of their offices.

Governor's Budget Update

There was a \$2.5M increase in General Fund line items. The additional funding allows the Department's total complement to increase by 25 positions; \$1M and 10 positions for the Chesapeake Bay initiative and \$1.5M and 15 positions to increase resources for air quality support.

The special fund transfers that took place last year were undone. Special fund line item restorations included funding back to the General Fund totaling \$25.434M that was previously appropriated from the Environmental Stewardship and Recycling Funds. The Governor's budget for special funds equals DEP's budget request except for Environmental Stewardship and Hazardous Sites Cleanup. The Environmental Stewardship Fund, Watershed Protection and Restoration line item, was increased by \$1.955M from the FY2019 estimated amount and the Hazardous Sites Cleanup Fund received an increase of \$28M from FY2019, including a proposed \$1 per ton increase in the tipping fee on municipal waste landfill deposits.

Transportation and Climate Initiative (TCI) Hearing Update

On January 29, the Secretary presented at a joint hearing of the Senate Environmental Resources and Energy Committee and the Senate Transportation Committee on the TCI, along with Acting Secretary Redding. The TCI is a collaborative effort of 12 Northeastern and Mid-Atlantic states and the District of Columbia to develop a regional cap-and-invest program to reduce greenhouse gas emissions from the transportation sector. This is similar to RGGI except applied within the gasoline and diesel space and fits within the broad parameters of the Governor's executive order on climate. A memorandum of agreement amongst the states is out as a draft for comment by the states, and it is anticipated that a decision will be made on whether to proceed to next steps sometime in the spring.

Triennial Rulemaking Next Steps

The federal Clean Water Act requires the states to review water quality standards on a three-year basis. EQB adopted the final rulemaking on November 19. IRRC approved it on January 31. On February 4, the House Environmental Committee passed a resolution disapproving the final triennial rulemaking. Chairman Metcalf based his disapproval of the resolution on his belief that the Department did not comply with the law in advancing the regulation. This means that the House and Senate now each have 30 calendar or 10 legislative days, whichever is longer, to adopt the disapproval resolution and move it forward in the legislative process. If it goes through both Houses, passes, and then is signed by the Governor, the Department would be barred from implementing the regulation.

Driving PA Forward Grants

The 2019 PA State Clean Diesel Grant Program opened on January 31, and will close on March 6. There is \$2.6M available this grant round. This is a competitive grant program that can be used for a wide variety of diesel emission reduction projects.

The Marine and Rail Freight Movers Grant Program for calendar years 2019 through 2021 opened for applications on January 31 and will close on June 5. There is \$10M available this grant round. This is a competitive grant program that will fund the repower or replacement of diesel-powered, pre-Tier 4 switcher locomotives that operate 1,000 hours or more per year or the repower or upgrade of unregulated Tier 1 or Tier 2 diesel-powered engines for tugboats or ferries.

APPROVAL OF MEETING MINUTES:

Chairman Shabazz solicited additions or corrections to the November 19, 2019 and January 21, 2020 Minutes. Hearing none, the Chairman requested a motion to approve the Minutes.

James Schmid moved to approve the meeting Minutes of November 19 2019 and January 21, 2020. Mark Caskey seconded the motion, which was unanimously approved.

PUBLIC COMMENT:

Melissa Troutman, a policy analyst with Earthworks, spoke to draw attention to the consequences oil and gas waste have on the environment and to the public. Ms. Troutman said that Earthworks' analysis of academic studies, media reports, and DEP's data reveals a

fundamental flaw in policy. Earthworks believes the peril and legacy of pollution created by oil and gas waste can be prevented by simply regulating the industry under the hazardous waste rules versus residual waste rules. Management of oil and gas waste under residual waste allows for the disposal of radioactive waste at facilities ill equipped to handle it and allows for the transport of toxic materials in trucks that have no placards or manifests describing the content being hauled. Despite oil and gas waste qualifying as hazardous by national standards - toxicity, reactivity, corrosivity, and ignitability - the oil and gas industry is exempt from hazardous waste laws thanks to a massive loophole granted in the 1980s after successful lobbying by trade organizations. Earthworks implores Pennsylvania to create and deploy policies to ensure the proper management of oil and gas wastes.

PRESENTATION:

State Water Plan

Mark Matlock, Chief, State Water Plan Section, stated that the State Water Plan update process has begun. The first round of the regional committee has been completed. The Department is in the process of obtaining names and forming a state-wide committee. The second round is coming up in April.

James Horton, Senior Civil Engineer, reviewed the history of water planning, including the passage of water laws in the 1920s and 1930s, northeastern droughts in the 1960s, and the 1990s and early 2000 droughts. Act 220 was passed as Pennsylvania was exiting a drought in 2002. The Act requires continual updates every five years, including water use reporting, identification of critical water planning areas, and voluntary water conservation programming. Mr. Horton discussed the roles and responsibilities of the 2003-2009 plan update, including the output of a State Water Plan Principles document, a marketing “touchstone document,” a water atlas, and web-based water use registration and reporting. From 2009 to the present, DEP staff have been working on water management plans for oil and gas operations, a Water Use Data System (WUDS) and Greenport, and Water Use Data and Research (WUDR) programs. The Department is using Power BI, a business analytics solution allowing visualization and sharing of insights across organizations. Data sharing with the Susquehanna River Basin Commission and the Delaware River Basin Commission is a project the Department is working on.

Objectives of the present Water Plan include a reviewed and updated State Water Plan, approved and adopted Critical Area Resource Plans (CARPs) in the Potomac and Ohio planning areas, enhanced web-based applications and tools, and focus on the water resources strategies outlined in the 2018 Pennsylvania Climate Action Plan. Secondary objectives include a long-term work and funding model and legislative, regulatory, policy, or programmatic changes.

CAC COMMITTEE REPORTS:

Legislative Committee

Cynthia Carrow offered that the Legislative Committee held a conference call on January 30. The committee discussed the Hazardous Waste Cleanup Fund and the fact that it is out of funds. The Governor’s proposed budget, through the tipping fee, will help to replenish what is needed. Senator Yaw’s fertilizer bill, Senate Bill 915, appears to be noncontroversial. The Administration is opposed to Senator Scarnati’s proposed bill, Senate Bill No. 790. Jim Welty offered that the Department and the conventional oil and gas industry are negotiating to try to

find common ground. Additional discussions included RGGI and the Governor's Executive Order, as well as Senator Yaw's bill, Senate Bill 575, regarding the nutrient credit program. DEP is opposed to that bill as well.

Aggregate Advisory Board

Tim Weston offered that the most significant item is that efforts are being made to revise Chapter 77. The AAB has been through a couple of discussions and will probably be meeting later this year.

Mining Reclamation Advisory Board

John St. Clair reported that the Department has been making changes to their permitting in the coal sector and discussed some revised bond rate guidelines.

PRESENTATIONS:

Draft RGGI Regulations

Hayley Book, Senior Advisor to the Secretary on energy and climate, as well as Jennie Demjanick from DEP's Regulatory Counsel, discussed the proposed CO2 budget trading program that is being developed for Pennsylvania. Governor Wolf kicked off 2019 by signing an Executive Order establishing the first ever greenhouse gas reduction goals for Pennsylvania and in October of 2019 signed Executive Order 2019-7, Commonwealth Leadership in Addressing Climate Change Through Electric Sector Emissions Reductions, directing DEP to develop a regulation and move it to the EQB by July of 2020. It also required interaction with a regional transmission organization, PJM, and it directed the Department to develop a regulation that was sufficiently consistent with the RGGI model rule such that allowances could be traded among Pennsylvania and the RGGI states. Hayley detailed the model rule, the framework for states who are interested in participation in RGGI, allowances that are sold at auction or on the secondary or private market with the proceeds being reinvested in programs that reduce air pollution, and oversight of the program. In Pennsylvania, the regulation will be promulgated under the authority of the Air Pollution Control Act. The current form of the package is a preliminary draft proposed regulation.

Next steps include continued engagement with the General Assembly, key stakeholders, residents, and businesses in Pennsylvania; completion of power sector modeling and identification of an allowance budget in 2022; presentation of the proposed draft annex to the Air Quality Technical Advisory Committee in April 2020; presentation of the proposed draft to the EQB in July; and public comment period and hearings in the fall.

Draft Chapter 105 Regulations

Roger Adams, Director of the Bureau of Waterways Engineering and Wetlands, provided an overview of the proposed regulation revisions. Ken Murin, annuitant, and Jesse Walker from Regulatory Counsel were also present. The last comprehensive revisions to Chapter 105 were done in 1991. The Department is proposing amendments to clarify existing requirements, delete or update obsolete requirements and references, incorporate new or revised sections and definitions to codify existing practices, and to correct typographical errors. A lot of time was spent on the Section 105.1 to add definitions for abandonment, aquatic resource functions and restoration, conservation district, crop production, cross-section, maintenance, probable

maximum flood, probable maximum precipitation, project, project purpose, reservoir, stormwater management facilities, water dependent, and wetland functions.

Stakeholder outreach efforts include the Chapter 105 Agricultural Workgroup, state agency representatives, major dam owners, the Water Resources Advisory Committee (WRAC) who approved moving the revisions forward on January 30, the Agricultural Advisory Board (AAB) who approved moving forward with the revisions on January 27, the State Conservation Commission (SCC), the Citizens Advisory Council (CAC), and the County Conservation District Workgroup. The regulation will be going to the EQB in the second quarter and to a 60-day comment period after approval by the EQB.

NEW BUSINESS/OPEN DISCUSSION:

Items for the March 17 CAC meeting include discussion of the CAC draft Standard Operating Procedure, an Act 54 update from the mining program, and a presentation from the Permit Coordinator for trenchless technologies.

ADJOURNMENT:

With no further business, Chairman Shabazz requested a motion for adjournment. James Schmid moved to adjourn the meeting, which was seconded by Jim Welty, and all were in favor. The February 18, 2020 meeting of the CAC was adjourned at 2:10.