

MINUTES
ENVIRONMENTAL QUALITY BOARD MEETING
September 15, 2015

VOTING MEMBERS OR ALTERNATES PRESENT

John Quigley, Chairman, Secretary, Department of Environmental Protection
Roger Cohen, alternate for Leslie Richards, Secretary, Department of Transportation
Scott Gebhardt, alternate for Gladys Brown, Chairman, PA Utility Commission
Representative Greg Vitali, Pennsylvania House of Representatives
Jonathan Lutz, alternate for Representative John Maher, Pennsylvania House of Representatives
Richard Fox, alternate for Senator John Yudichak
Adam Pankake, alternate for Senator Gene Yaw
Michael DiMatteo, alternate for Matthew Hough, Executive Director, PA Game Commission
Burt Waite, Citizens Advisory Council
Mark Hartle, alternate for John Arway, Executive Director, PA Fish and Boat Commission
Sam Robinson, alternate for John Hanger, Secretary, Governor's Office of Policy and Planning
Cynthia Carrow, Citizens Advisory Council
William Fink, Citizens Advisory Council
Walter Heine, Citizens Advisory Council
John Walliser, Citizens Advisory Council
Paul Opiyo, alternate for Dennis Davin, Secretary, Department of Community and
Economic Development
Russell Redding, Secretary, Department of Agriculture

DEPARTMENT OF ENVIRONMENTAL PROTECTION STAFF PRESENT

Laura Edinger, Regulatory Coordinator
Patrick McDonnell, Director, Policy Office
Kim Childe, Director, Bureau of Regulatory Counsel

CALL TO ORDER AND APPROVAL OF MINUTES

The meeting was called to order at 9:02 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The Board considered its first item of business – the approval of the May 20, 2015, EQB meeting minutes.

Bill Fink made a motion to adopt the May 20, 2015, EQB meeting minutes.
Adam Pankake seconded the motion, which was unanimously approved by the Board.

**CONSIDERATION OF PROPOSED RULEMAKING: HANDLING AND USE OF EXPLOSIVES
(25 Pa. Code Chapters 210 and 211)**

John Stefanko, Deputy Secretary for Active and Abandoned Mine Operations provided an overview of the proposed rulemaking. Tom Callaghan, Director, Bureau of Mining Programs, and Robert Bo Reiley, Bureau of Regulatory Counsel, assisted with the presentation.

Following the presentation, Richard Fox inquired if the numbers provision noted in section 211.182 also applies to the seismic exploration. Deputy Secretary Stefanko affirmed that it does apply to seismic exploration.

Mr. Fox asked when the fees included in the rulemaking package were last updated. Deputy Secretary Stefanko responded that the statute that implements the fees became effective in 1957 and fees have not been updated since that time.

Mr. Fox asked if there will be a review of fees every couple of years. He commented that this is true for other programs. The fees are reviewed by the Board every three years. Deputy Secretary Stefanko responded that a periodic review is not currently included in this proposed rulemaking.

Mark Hartle provided an editorial comment noting that the line axis title for Figure 1 on Page 18 should reflect inches per second. Deputy Secretary Stefanko noted the edit.

Jonathan Lutz commented on possible inconsistencies with the proposed rulemaking and existing federal regulations in the definitions sections of the regulations. He referenced the Mine Safety Health Administration, the International Fire Code and the ATF. Mr. Lutz requested consistency with state and federal regulation. Deputy Secretary Stefanko remarked that he will review to maximize consistency where possible.

Burt Waite made a motion to adopt the proposed rulemaking.

Cynthia Carrow seconded the motion, which was unanimously approved by the Board.

**CONSIDERATION OF FINAL RULEMAKING: SECURITY RULE FOR RADIOACTIVE
MATERIAL (25 Pa. Code Chapter 215)**

Ken Reisinger, Acting Deputy Secretary for Waste, Air, Radiation and Remediation provided an overview of the final rulemaking. Dave Allard, Director, Bureau of Radiation Protection, and Keith Salador, Bureau of Regulatory Counsel, assisted with the presentation.

Following the presentation, there were no questions.

Secretary Redding made a motion to adopt the final rulemaking.

John Walliser seconded the motion, which was unanimously approved by the Board.

Secretary Quigley thanked Acting Deputy Secretary Reisinger and Deputy Secretary Stefanko, noting that the amount of work that goes into developing these regulations before they are brought to the Board for consideration is substantial. He stated that, in some cases, regulations require years' worth of work. Secretary Quigley commented that the Deputy Secretaries and their staff have done extraordinary work, as they always do.

**UPDATE ON APPROVED PROPOSED RULEMAKING: REMINING REQUIREMENTS --
APPROVED MAY 20, 2015 (25 Pa. Code Chapters 87, 88 and 90)**

Kim Childe, Counsel to the EQB, provided an update on the approved proposed rulemaking. Ms. Childe let the Board know that the Remining Requirements proposed rulemaking approved by the Board in May was modified after the Board approved the rule. The Office of Attorney General (OAG) reviews the rule after it has been approved by the Board and, during this review, the OAG requested that the Department make minor corrections. The Department made the requested edits and the OAG signed off on the rule. The OAG must sign off on the rule before it can be submitted to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. The Department provided this update to make the Board aware of the changes that were made.

No action needed on this item.

OTHER BUSINESS:

Clean Power Plan Update: Secretary Quigley provided an update on the Clean Power Plan. He noted that on September 3, 2015, DEP announced 14 listening sessions that will be held across the state on the federal Clean Power Plan. These sessions have been set up to allow DEP to hear from Pennsylvanians and all stakeholders as a Pennsylvania-centric plan is prepared to comply with the Clean Power Plan. The first listening session will be held tonight (September 15) in Dauphin County at the Southcentral Regional Office of DEP. Approximately 20 people have pre-registered to speak. Secretary Quigley continued that in addition to the listening sessions, DEP is accepting public comments on Pennsylvania's compliance with the Clean Power Plan through November 12 of this year. DEP is soliciting comments on the clean energy incentive program, components of the Clean Power Plan, and on the EPA proposed federal plan that serves as the model rule for states developing their own plans. DEP is also soliciting comments on specific compliance related questions all of which are available on DEP's website. DEP is accepting comments through eComment which allows for complete transparency both in the submission of comments electronically, and by allowing interested parties and citizens to see comments as they are submitted. Secretary Quigley commended the work done by DEP staff to implement eComment and commented that eComment will be tremendously helpful with regard to the Clean Power Plan.

Update on Chapter 78 – Oil and Gas Surface Regulations: Secretary Quigley provided an update on the Chapter 78 rulemaking. The draft final regulatory language was presented to the Conventional Oil and Gas Advisory Committee on August 27, 2015 and to the Oil and Gas Technical Advisory Board on September 2, 2015. A joint public webinar will be held on Friday, September 18, 2015 at 9:00 a.m. Meetings will be held next month for the Conventional Oil and Gas Advisory Committee on October 27, 2015 and for the Oil and Gas Technical Advisory Board on October 29, 2015. In these meetings, the committees will be asked to vote and move the draft regulatory language forward in the regulatory review process.

NEXT MEETING:

The next Environmental Quality Board meeting is tentatively planned for Tuesday, October 20, 2015.

ADJOURN:

With no further business before the Board, John Walliser moved to adjourn the meeting. Sam Robinson seconded the motion, which was unanimously approved by the Board. The September 15, 2015, meeting of the Board was adjourned at 9:26 a.m.