

August 27, 2020
9:00 AM – 2:00 PM
Department of Environmental Protection (DEP) Agricultural Advisory Board (AAB) and State
Conservation Commission (SCC) Nutrient Management Advisory Board (NMAB) Joint
Meeting
Virtual Zoom Meeting

Zoom Link: <https://psu.zoom.us/j/96194640781>
or call: (646)876-9923 or (301)715-8592 and enter the meeting ID 96194640781#

9:00 AM Welcome & Introductions
 Announcement of Quorums

Nine members of the AAB were present, which did not constitute a quorum.
Eleven members of the NMAB were present, which constituted a quorum.

9:15 AM Action on previous NMAB minutes
 Action on previous AAB minutes

Action could not be taken on the previous AAB meeting minutes due to a quorum not being present. After reviewing the January 30, 2020 NMAB meeting minutes, a motion to approve was made by Adam Serfass and second by Martin Yahner. The motion carried unanimously.

9:30 AM Demonstration of the Chapter 102 ePermit System; Nathan Crawford (DEP)

Nate Crawford began his presentation by outlining the phases of the PAG-02 implementation and the actions that need to be taken before the Go Live launches. There will be a transition period that allows applicants to submit a Notice of Intent (“NOI”) via paper application or online application. After the transition period has ended, applicants will only be able to submit an NOI using the online system.

Mr. Crawford then demonstrated how the Go Live ePermitting website would operate from a user perspective when creating a new NOI. Upon completion of an NOI, a user will input payment information online prior to submitting. After a user submits their NOI, the NOI will then be in the hands of the DEP or the County Conservation District. The applicant may go back and view the NOI information but may not make changes. If a change needs to be made on the NOI after being reviewed, the applicant will receive a correction notice in their online portal that outlines the errors which require attention.

John Bell asked if there are any tentative target dates that DEP is anticipating for completion and use of this new ePermitting system. Mr. Crawford explained that the launch is fluid right now as there are some quirks that need to be fixed with the ePermitting system to have a successful Go Live. DEP is working internally with the bureau and IT to get those items corrected. IT sets aside predetermined dates for major system pushes, so DEP can only launch the Go Live on those specific dates. If DEP misses one of the predetermined dates due to the system not being ready, they must wait until the next IT-scheduled date to launch the Go Live. November 2, 2020 is the next available system push date. Mr. Crawford is hoping November 2 will work to launch the Go Live and get the new ePermitting system up and running.

10:30 AM Phosphorus- Index (P-Index) Update; Jennifer Weld (PSU)

Jennifer Weld of Penn State University gave a presentation on the updates to the Pennsylvania Phosphorus Index (P-Index) that are currently being worked on. Ms. Weld presented a brief overview of the factors that contribute to the current P-Index. She explained the P source factors which are management-based factors. They include soil P content; fertilizer P – rate, method, and timing; and organic P – rate, method, timing, and availability coefficient. She also explained the P transport factors which are landscape-based factors. They include erosion potential, runoff potential, sub-surface drainage, and connectivity to stream channel.

Ms. Weld displayed and explained the current P-Index Version 2 matrix. She explained how the source and transport factors are used in the P-Index to give a numerical value that directly relates to a scale which determines how phosphorus needs to be managed in a specific crop field. Ms. Weld then detailed considerations that were looked at when updating the P-Index to version 3. These considerations include incorporating annual erosion, re-structuring the P-Index such as separating the dissolved P and particulate P assessment and coordinating with other initiatives. Ms. Weld then showed off the draft P-Index Version 3 matrix with the proposed changes. The matrix is broken out into 3 sections that specifically consider the particulate P site factors, the soluble P site factors, and the management factors. The benefit of doing this is that a planning priority can be produced for sediment P vulnerability and a planning priority for dissolved P vulnerability. This allows planners, plan reviewers and farmers to look at these priorities and to considered in-field managements that will help to mitigate phosphorus from entering the waterways.

The current draft version of the P-Index Version 3 is far enough along that Ms. Weld wanted to bring it before the AAB and NMAB for their consideration and inputs. Dr. Zhengxia Dou asked the question in chat “Is the P-Index currently required for all NMP planning?” Frank Schneider answered in the chat that “Version 2 of the P-Index is required for all NMPs and that we are looking to update to a Version 3”. Dr. Charlie White asked how difficult it is to get the annual erosion value from fields. Ms. Weld answered stating that the new revised Ag E&S Technical Manual and the new revised Ag E&S Plan format includes a reporting of the annual erosion. This is also being included and brought forward onto PAOneStop. RUSLE II has always had the ability to determine the erosion over the crop rotation as well as annual erosion. Edward Hartman asked what incorporation technique in regard to manure would be suitable for a no-till cropping operation. Ms. Weld answered stating that there is guidance in the NM Technical Guidance for these situations and will help in answering questions in the P-Index. Dr. White followed up with a comment stating that there are various methods of manure injection that are low disturbance that still allows for a successful no-till cropping system. John Bell asked if any hypothetical scenarios have been developed regarding version 3 of the P-Index to be tested on what a typical farm would experience and to share the results to the stakeholders on what the impacts of the new version will have on these farms. Ms. Weld answered that the process to share these impacts and to start testing state-wide is a process that she hopes will start today.

11:00 AM Formation of Sub-Workgroup of NMAB Members Regarding P-Index

Frank Schneider called for a formation of a sub-workgroup of NMAB members and other interested parties to look at and evaluate this new version of the P-Index. Mr. Schneider asked for volunteers on the call but also stated that he will send out emails to various parties that may be interested. Those that volunteered on the call include: Dr. Charlie White, Kelly O’Neil, Katie Turner, Mike Brubaker (farmer), Mark Goodson, Dr. Zhengxia Dou, Leslie Bowman, and Edward Hartman.

John Bell encouraged the farmer representatives of both boards to join this workgroup as they are the ones doing the in-field, day-to-day work.

11:15 AM PAG 12 CAFO Permitting Update; Jay Patel (DEP)

Jill Whitcomb and Brian Chalfant filled in for Jay Patel as he was unable to participate in the meeting.

Ms. Whitcomb briefly reviewed the reasons that revisions were proposed for the PAG-12 CAFO general permit. Ms. Whitcomb also reviewed the timeline of progress regarding the PAG-12 CAFO general permit. DEP shared the draft permit with EPA for review and, as of the meeting date, was awaiting EPA's response. The draft permit was published in the *Pennsylvania Bulletin* on August 15, 2020, for a 30-day public comment period which will end on September 14, 2020.

Ms. Whitcomb noted that members of the AAB made several comments regarding the proposed requirement that all permittees submit NOIs by January 1, 2021. These comments were carefully considered and appreciated by DEP. The NOI submission process was one of the driving factors that brought about the proposed changes to the PAG-12 CAFO general permit. Ms. Whitcomb explained that DEP believes that requiring the submittal of NOIs will help avoid confusion and help minimize appeals of CAFO permits.

John Bell encouraged both Boards to look over the changes that are being proposed. Mr. Bell stated that he believes that the NOI issue continues to raise questions and concerns on materials that will need to be submitted by permittees. Ms. Whitcomb encouraged Board members to provide any comments before the September 14 deadline.

Leslie Bowman asked if there was a list of proposed changes available for the NMAB to review. Ms. Whitcomb replied that she would work on locating and distributing the draft that tracks the proposed changes to NMAB members.

12:00 PM Break for Lunch

12:45 AM Fertilizer Bill SB 915; Natalie Krak (PDA)

Secretary Russell Redding provided an overview of the Fertilizer Bill SB 915. Secretary Redding explained how this new Fertilizer Bill is a key part to helping Pennsylvania achieve their Chesapeake Bay Phase 3 Watershed Implementation Plan (Phase 3 WIP). This bill passed the Senate with a 49-1 vote and now moves onto the House of Representatives for their consideration. The first Fertilizer Bill was passed in 1956 and has not been substantially modernized since. Key changes and aspects to the new Fertilizer Bill include:

- Establish best practices for use of fertilizer.
- Create a certification program for commercial and public applicators of fertilizer.
- Promote homeowner and private agricultural fertilizer education through public outreach.
- Enhance required labeling of all fertilizer products.
- Provide for the preemption of local laws and regulations.
- Re-establish enhance reporting requirements.

- Provide a broad-based increase of fees while repealing the separate classification for small package fees for inspections.

Secretary Redding requested support from the NMAB and AAB as the Fertilizer Bill SB 915 moves forward in the legislature. Natalie Krak added that urban fertilizer management is an important aspect of PA's Phase 3 WIP submitted to EPA and that this Fertilizer Bill will help to address this issue. Ms. Krak highlighted the fee increase and emphasized that this fee increase is solely for helping to administer the certification and inspection programs.

Pete Vanderstrappen asked in chat what percentage of fertilizer is applied by commercial applicators on residential properties vs. what is sold at retailers to the general public. Ms. Krak did not know the answer to this question. She sent it to their subject matter expert and said she would get back to the boards with an answer. Ms. Krak did state that one aspect of this Fertilizer Bill is to create a homeowner education program where they will be working with the big box store retailers.

Leslie Bowman asked how the phosphorus application being prohibited except under approved conditions affect the use of compost and other organic based fertilizers on yards. Ms. Krak answered that if a farmer is applying on his own land, they would be exempt from restricted application rates. Mr. Bowman expressed that there could be a use for composted manure to be used on yards by professionals due to excess manure being present in Pennsylvania. Marel King from the Chesapeake Bay Commission added that under Mr. Bowman's described scenario, a compost product would typically fall under a soil amendment rather than a fertilizer. However, organic or natural fertilizers have several exemptions under the legislation.

Mr. Bowman asked if farmers would be affected by this Fertilizer Bill who maintain a private applicators license for pesticide. Ms. Krak answered by stating that if a farmer is applying on his own private land then they would not need a fertilizer license but if they would apply commercially for someone else then yes, they would need to go through certification.

1:15 PM Manure and Nutrient Planning Technical Team (MNPTT) Update; Frank Schneider (SCC)

Frank Schneider provided an update on the Manure and Nutrient Planning Technical Team (MNPTT) recommendations. Mr. Schneider provided a brief update about the purpose and formation of this team. The MNPTT has meet several times since it's formation and has also broken out into five smaller, separate workgroups in order to dive deeper into specific issues. Mr. Schneider went on to explain the recommendations that the MNPTT found to be important issues and the MNPTT would like the NMAB's approval to continue to look into these issues further.

Mr. Schneider presented recommendation number 1 which is to form a separate working group to do a deeper dive into various Act 38 issues. It was determined that this recommendation does not need a formal vote. Leslie Bowman asked the NMAB if there were any objections to moving forward with this first recommendation. No objections were expressed.

Mr. Schneider presented recommendation number 2 which is to continue with looking into the 9,000-gallon per acre application rule. It was determined that this recommendation does not need a formal vote. Mr. Bowman asked the NMAB if there are any objections to moving forward with the second recommendation. No objects were expressed.

Mr. Schneider presented recommendation number 3 which is to continue looking into allowing the addition of acreage to a NMP without requiring a full plan amendment approval. This would be a regulatory change to Chapter 83 (83.371(A)(8)). It was determined that this recommendation did need a formal vote to move forward to executive staff for their consideration. Michael Brubaker discussed how this specific issue is a recurring problem that he and many other farmers experience. Darwin Nissley agreed with Mr. Brubaker. Mr. Brubaker motioned for this recommendation to move forward to executive staff. Dr. Zhengxia Dou seconded in chat. John Bell asked for any further discussion. Rob Meinen asked what the process would be that this vote could initiate. Mr. Schneider answered by stating the he will draft a memo to the State Conservation Commission. The Commission will consider that memo/recommendation and take an action. The Commission will provide proposed changes of those regulations. Mr. Bell called for a vote on the motion provided by Mr. Brubaker. The motion passed unanimously.

Mr. Schneider presented recommendation number 4 which is to form a separate working group to do a deeper dive into various Manure Management Manual issues. It was determined that this recommendation does not need a formal vote. Mr. Bell asked the AAB if there were any objections to moving forward with this fourth recommendation. No objections were expressed.

Mr. Schneider presented recommendation number 5. EPA has indicated their interest in all farms using manure in PA to be under the Act 38 program. There was no strong support from the workgroup on this issue and the MNPTT recommends this issue goes no further. Mr. Bell asked the NMAB and AAB if there were any objections to not moving forward with this issue. No objections were expressed.

Mr. Schneider presented recommendation number 6 which are items that have merit but should be discussed separately and at a later time. This includes soil health and advancing technology such a precision agriculture. These items are thought to not be pressing issues at this time but might be in the future. There was no discussion and no objections.

The end goals of these separate working groups are to look more in depth into these specific issues and then make their recommendations to the larger MNPTT. The MNPTT will consider these recommendations, present to the NMAB, and the NMAB will decide if these recommendations should be taken to the State Conservation Commission for their consideration.

Mr. Schneider presented comments that are planning to be addressed through NMP Technical Manual revisions. These include allowing for full electronic submissions of draft NMPs, developing a standardized verification form for operations that would not be required to get a plan amendment at their triennial review, and guidance stating that operators are not out of compliance if they have not over applied nutrients even if manure and/or crops have changed from what was written into the approved plan. These changes came from recommendations that were discussed and worked on in the MNPTT.

1:45 PM Open Comment Period and Public Comments

John Bell spoke to the issue of a lack of quorum on the side of the AAB and asked for a timely distribution of materials and handouts before meetings.

Rob Meinen offered his thanks and gratitude to the agriculture industry representatives that sit on both boards who take the time to listen, consider and discuss the issues and information that is shared with the NMAB and AAB. Frank Schneider reiterated this statement with his thanks and gratitude to members on both boards.

Secretary Russel Redding joined the meeting and offered his thanks and gratitude to the members of the NMAB and AAB for the work they do.

2:00 PM Adjournment

Rob Meinen motioned to adjourn the meeting and seconded by Sarah Dohle. Meeting adjourned unanimously at 1:26 PM.

Next meeting of NMAB is at: 1:00 PM, November 5, 2020 PDA Room 309

Next meeting of AAB is at: 9:00 AM, October 22, 2020 virtual meeting