

**Department of Environmental Protection (DEP)
Agricultural Advisory Board (AAB)**

March 15, 2023

9:00 AM – 12:00 PM

Meeting Minutes

Susquehanna Rooms A and B
DEP Southcentral Regional Office

Welcome & Introductions – Grant Gulibon, Chair

Jay Braund conducted a roll call of members.

Members present:

Lisa Daniels	Grant Gulibon
Lynn Dietrich	Jennifer Reed-Harry
William Evans	Brenda Shambaugh

Action on Previous AAB Meeting Minutes

The Board was not able to approve minutes from the December 8, 2022 meeting due to a quorum not being met.

Legislative Update

Bill Evans stated the budget hearings with the Appropriations Committee begin the week of March 20.

Brenda Shambaugh commented the General Assembly increased the conservation district lines in both DEP and PDA by \$6.8 million and the Governor's office has included this money in Governor Shapiro's proposal. If the General Assembly includes this money in the budget, there will be over \$10 million for conservation district operations.

Clean Water Procurement Program Draft Guidance – Rob Boos, PENNVEST

Mr. Boos informed the Board that the pay-for-performance program was established to purchase nutrient and sediment reductions that will improve water quality and help Pennsylvania meet goals and objectives under the Watershed Implementation Plan (WIP). Twenty-two million dollars was appropriated for the program from American Rescue Plan Act funding. The program establishes procedures where proposals can be submitted and essentially bid on, providing nutrient and sediment reductions that will then be applied to the WIP.

Qualified bidders must have a DEP-approved verification plan for reduction. Entities must be in good standing to be a qualified bidder.

Any standard BMP that is already approved for use in the Chesapeake Bay Nutrient Tracking Tool (CBNTT) is eligible. Ineligible projects include those already participating in the Nutrient Credit Trading Program and any BMP that was implemented prior to October 1, 2023. Technically qualified submittals are reviewed and ranked based on seven criteria. Once a contract is in place, payments and reductions are provided on an annual basis.

Brenda Shambaugh asked if the program is statewide or solely within the Chesapeake Bay Watershed and if the program is modeled after the nutrient trading program that's over a decade old.

Mr. Boos replied the program is currently only in the Chesapeake Bay Watershed and is not a nutrient trading program but a purchase program in that reductions are purchased.

Jennifer Reed-Harry asked what projects are considered eligible. Mr. Boos responded that additive projects as opposed to those already in place are eligible.

Grant Gulibon commented that the guidance states that reductions cannot be used for compliance and asked if this was specifically included in the legislation or if the guidance came from someplace else. Mr. Boos responded there was collective input.

Chapter 83, State Conservation Commission, Update on Funding Statement of Policies – Frank Schneider, State Conservation Commission

Mr. Schneider discussed the removal of two statements of policy from regulation, the Conservation District Fund Allocation Program, and the Nutrient Management Funding Program. The purpose of both statements of policy is to annually allocate available funding in both programs for a fair and equitable distribution. The State Conservation Commission (SCC) voted in November 2022 to remove both statements from DEP's title and they will now be standing policies of SCC.

Water Quality Standards Site-Specific Criteria and Development – Kristen Schlauderaff, Bureau of Clean Water

Ms. Schlauderaff informed the committee that an additional amendment to Chapter 16 will be proposed as part of the 10th triennial review of water quality standards. Since the proposed rulemaking was presented to the board at the December 8, 2022 meeting, DEP has become aware of the availability of EPA-approved analytical test methods for free-cyanide. DEP intends to delete the department derived method and the footnote in Chapter 16, Table 2(a) that states EPA has not approved analytical methods for free-cyanide.

DEP is recommending updates to the site-specific criteria development process found in Section 93.8(d) and an updated mercury water quality criterion for portions of Ebaughs Creek. The proposed updates will provide clarification on requesting site-specific criteria and when it may or may not be requested. DEP is proposing the addition of a new section, 93.8d(a.1), which recognizes the conditions under which site-specific criteria may not be requested.

In 2015, the York County Solid Waste and Refuse Authority (YCSWRA) initiated a site-specific criteria request to replace the statewide total mercury criterion of 0.05 µg/L with a site-specific dissolved methylmercury criterion for the protection of human health. The final recommended ambient water quality criterion for methylmercury was determined to be 0.00004 µg/L. The proposed rulemaking will be presented to the Environmental Quality Board (EQB) in the second quarter 2023. If the EQB adopts the proposed rule, a 45-day public comment period will be initiated upon publication in the *Pennsylvania Bulletin*. DEP intends to hold a public hearing during the comment period. The final form rulemaking is expected to be presented to the EQB in 2024.

Jennifer Reed-Harry asked how often DEP will check site-specific criteria for any change in value. Ms. Schlauderaff replied that the criterion becomes part of the water quality standards and will be reviewed and revised, as necessary, as part of the triennial review of water quality standards. Every other permit cycle, the facility will conduct additional studies and provide the information to DEP who reviews it and revises the water quality standards as necessary.

Ms. Reed-Harry asked how this will impact fish farms and agriculture with any site-specific permitting or will this be tied to their current permit(s). Ms. Schlauderaff responded that the York County Authority's permit is the only permit that will be affected by the proposed site-specific methylmercury criterion for Ebaughs Creek included in this rulemaking. Where a site-specific criterion is adopted for a water body, it will potentially impact any NPDES permits on that water body if the pollutant has the potential to be discharged from that operation. Ms. Schlauderaff said this will generally impact individual NPDES permits.

Grant Gulibon asked how often this would be a pollutant of concern in an ag setting. Ms. Schlauderaff replied the most common pollutant they see requests for is copper and is often related to wastewater treatment plants that discharge treated sewage to surface waters.

2023 Concentrated Animal Feeding Operation (CAFO) PAG-12 Update and Discussion – Grant Gulibon, Chair and Kate Bresaw, Bureau of Watershed Restoration and Nonpoint Source Management

Ms. Bresaw informed the Board that the workgroup met on February 6, 2023 to discuss where things stood with the administrative extension. Ms. Bresaw stated last week's meeting with EPA centered around the issue of uncertainty. Once potential paths forward are fully developed, the workgroup will meet again to discuss and if in agreement, they will be presented to the board. Jill Whitcomb added they are actively engaged in conversation with EPA regarding the concerns of the board.

Jennifer Reed-Harry asked about a timeframe. Ms. Whitcomb responded they are hopeful they will have a response from EPA by next week and will coordinate another meeting with the workgroup.

Grant Gulibon asked if there has been anything previously discussed that has been eliminated as a possibility. Ms. Whitcomb stated they are looking at the details surrounding the checklist.

PCSM Workgroup Update – Grant Gulibon, Chair

The board will submit individual comments.

Public Comments – Grant Gulibon, Chair

There were no public comments.

Adjourn – Grant Gulibon, Chair

Lynn Dietrich motioned to adjourn the meeting, seconded by Bill Evans. All approved, none opposed. Motion carried.