

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

December 8, 2022

9:00 AM – 12:00 PM

Meeting Minutes

Susquehanna Room A and B
Southcentral Regional Office

Welcome & Introductions – Jennifer Reed-Harry, Chairperson

Jay Braund conducted a roll call of members.

Members present:

Lisa Daniels	Johanna Davis
Lynn Dietrich	Mike Eby
William Evans	Kerry Golden
Grant Gulibon	Darwin Nissley
Tim Peters	Jennifer Reed-Harry
Matt Royer	Brenda Shambaugh
Destiny Zeiders	

Action on Previous AAB Meeting Minutes

Destiny Zeiders motioned to approve the March 24, July 18 and October 20 meeting minutes, seconded by Jennifer Reed-Harry. All approved, none opposed. Motion carried.

Election of Officers for 2023

Jennifer Reed-Harry stated that Chris Uhland expressed interest in serving as Vice-Chair and Grant Gulibon expressed interest in serving as Chair.

Destiny Zeiders motioned to nominate Grant Gulibon as Chair and Chris Uhland as Vice-Chair, seconded by Darwin Nissley. All approved, none opposed. Motion carried.

Legislative Update – Kerry Golden and Destiny Zeiders

Kerry stated that Chairman Moul will remain chair of the House Ag Committee. Destiny had no updates. Bill Evans said Senator Schwank likely will remain chair of the Senate Ag Committee.

Destiny noted that Cara Laudenslager will no longer serve on the board. Her replacement will be Nathan Clark.

Draft Proposed Rulemaking: Triennial Review of Water Quality Standards (TR#10) – Kristen Schlauderaff, Bureau of Clean Water

Proposed updates and corrections include 17 new or updated human health (HH) and aquatic life (AL) water quality criteria, exceptions for fishable/swimmable uses and minor edits to Chapters 93 and 16. DEP developed one new HH water quality criterion for 1,4 – Dioxane, updated two existing HH criteria with EPA 304(a) recommendations and updated eleven existing department-derived criteria (7 criteria became more stringent and 4 became less stringent).

DEP is recommending adoption of a statewide HH criterion of 0.3 mg/L for 1,4-dioxane which was previously evaluated in the 2013 triennial review (TR#8). Additional data was collected from National Pollutant Discharge Elimination Systems (NPDES) permitted discharges and resulted in 1,4-dioxane being present in treated wastewater effluent from 5 out of the 6 regions in Pennsylvania. The Environmental Protection Agency (EPA) has identified 1,4-dioxane as a likely human carcinogen.

Aquatic life water quality criteria contain three major components which include magnitudes, duration period and frequency. EPA generally recommends duration periods of 1 hour and 4 days for acute and chronic criteria respectively and a frequency of no more than once every 3 years on average. DEP is recommending new or updated water quality criteria for cadmium, carbaryl and tributyltin and is consistent with EPA's current 304(a) recommendations.

During the triennial review process, states are required to re-examine water body segments that do not meet fishable/swimmable uses. The water contact sports use has been removed from the Harbor Area and central channel to Outer Erie Harbor/Presque Isle Bay and for portions of the Delaware River Basin and Delaware Estuary and replaced with secondary recreation use according to Delaware River Basin Commission (DRBC) water quality regulations. The warm water fishes (WWF) and migratory fishes (MF) aquatic life uses have been removed or modified for portions of the lower Delaware River.

Post-Construction Stormwater Management (PCSM) Manual – Sean Furjanic, Bureau of Clean Water

DEP contracted with Villanova University in October 2017 to update the 2006 Pennsylvania Stormwater BMP Manual, which resulted in the new draft PCSM manual. The draft manual is anticipated to be published in the *Pennsylvania Bulletin* soon with a 90-day public comment period. Updates to water quality data and design criteria will be documented on DEP's website and the changes will be recorded in Appendix M: Errata Sheet.

The manual prescribes a hierarchy of objectives that each PCSM plan should follow and offers three different approaches to managing stormwater – design storm, continuous simulation and water balance.

Kerry Golden requested the AAB receive a copy of the full draft publication for review prior to publication for public comment. Lynn Dietrich and Grant Gulibon concurred with Kerry's request. Jennifer Reed-Harry asked Sean to refresh the board on the basics of earth disturbance and stormwater management and to clarify how the public will be notified of changes or updates to the manual. Sean explained that the manual is divided into a policy section and a technical section. Any policy changes will continue to go through the public comment process. Changes to the technical section will be made in the manual, updated on the website and documented as an appendix to the manual. Jennifer Reed-Harry asked about the cost of infiltration testing. Sean explained that prior to any earth disturbance project, a pre-development site characterization must be done (soil classification and infiltration testing). The manual proposes infiltration testing must be done post-construction as well. Lynn Dietrich asked if the PCSM manual applies to solar farms. Sean explained that, in the case of solar farms, if they meet a set of stringent criteria, they do not need to install a PCSM basin.

PAG-11: NPDES General Permit for Discharges from Aquatic Animal Production (Aquaculture) Facilities – Sean Furjanic, Bureau of Clean Water

The permit is set to expire on March 2, 2023. Only one facility is currently covered. DEP intends to extend the permit by 12 months and allow it to expire on March 2, 2024 because it is a strain on resources to maintain a general permit for only one permittee. DEP will work with the current facility to transition to a general permit.

Grant Gulibon asked what DEP's position is if there is a need to renew the permit in the future. Sean replied that if the need exists, DEP will certainly go through the process to reestablish PAG-11. Lynn Dietrich asked if the permit is meant to cover fish hatcheries. Sean explained it is designed to cover fish hatcheries of a certain size. Most of the fish hatcheries in Pennsylvania are below the thresholds in terms of biomass and the amount of feed used. If the hatcheries meet the criteria of a concentrated aquatic animal production facility, EPA's regulations require an NPDES permit.

Expanded Agricultural Inspection Program Annual Summary – Kate Bresaw, Bureau of Watershed Restoration and Nonpoint Source Management

Kate updated the board on the July 1, 2021-June 30, 2022 annual summary. There were 1,689 initial inspections in 34 counties, 159 Phase 2 inspections in 10 counties and 822 Act 38 Nutrient Management Status Reviews in 29 counties. Phase 2 inspection compliance rates increased to 81% for Manure Management (MM) plans and 89% for Erosion and Sediment (E&S) plans.

Brenda Shambaugh commented that the conservation districts who are participating in the program have found that the farmers and landowners are willing to work with the districts to get the plans in place and implemented. She thanked DEP for the Growing Greener grant that allows for reimbursement for plan development. Since August, over 50 plans have been drawn, developed and approved. This effort aids in the inspection program accomplishments.

Jennifer Reed-Harry said that the program accomplishments are significant and thanked Kate and others for overseeing the program.

2023 CAFO (PAG-12) Update – Kate Bresaw, Bureau of Watershed Restoration and Nonpoint Source Management

Kate outlined the changes to the permit. Comments were received by the AAB and the Water Resources Advisory Committee (WRAC). Most of comments received related to the inclusion forms and procedures for assuring that permit holders are implementing BMPs consistent with the assumptions and requirements of an applicable TMDL. The existing permit will be administratively extended to March 31, 2024. Consultation meetings will continue with the AAB PAG-12 workgroup through April 2023 and a revised draft will be presented at the May 2023 AAB meeting. The revised draft will be published in the *Pennsylvania Bulletin* in August 2023 with a 30-day comment period. The final draft is anticipated to be published in the *Pennsylvania Bulletin* in October 2023.

Jennifer Reed-Harry asked if all general permit holders still need to submit their annual report and fee. Kate responded yes and they should have received a reminder letter in October. Jennifer asked if it will be a 5-year permit from the March 31, 2024 date. Kate explained it is 5 years from the effective date of the reissued permit.

Evan Fitzpatrick (Country View Family Farms) asked how long Act 14 notifications are good for now that the permit has been extended. Sean stated that, to his knowledge, there is no guidance on how long the notifications are good for. He stated that if it gets to be 5 years later, there would be an obligation to redo them.

Jennifer Reed-Harry asked if DEP knows how many new general permits are issued each year. Sean said approximately 5 to 10 each year. Jennifer asked if the board can see what will be published in the *Pennsylvania Bulletin* on December 17 and asked for clarification on slide 16 that states *DEP may not grant coverage under PAG-12 to new facilities until the final permit is reissued in accordance with EPA policy*. Kate said they cannot grant PAG-12 permits and Adam Duh stated that *may not* means the option does not exist.

Manure Management Manual Revisions – Kate Bresaw, Bureau of Watershed Restoration and Nonpoint Source Management

Kate summarized the background of the manual and progress to date. This guidance document is currently in the approval process. Once approved, the AAB will have an opportunity to review the document prior to publication with a 60-day comment period.

Discussion and Approval of 2023 Meeting Dates

The proposed meeting dates are March 15, June 22, August 23, October 26 and December 14. Destiny Zeiders suggested moving the October and December meetings due to the Farmland Preservation Board meeting on December 14 and the Aquaculture Advisory Committee meeting on October 26. Jennifer Reed-Harry asked if the meetings can be scheduled on days other than Thursday. Bill Evans asked if the March, June and August meetings could be approved and dates for the October and December meetings scheduled and approved at another time. Jay Braund stated it is preferred that all the meetings are selected and approved at the same time. Destiny suggested the board meet on October 19. Jennifer suggested December 13.

Jennifer Reed-Harry motioned to approve the 2023 meeting dates as March 15, June 22, August 23, October 19 and December 13, seconded by Lynn Dietrich. All approved, none opposed. Motion carried.

Public Comments

Lynn Dietrich asked if the call-in number issue be resolved.

Adjourn

Jennifer Reed-Harry motioned to adjourn the meeting, seconded by Bill Evans. All approved, none opposed. Motion carried.