



**Minutes of the
January 30, 2020 Meeting of the
Water Resources Advisory Committee (WRAC)**

Call to Order, Introductions and Attendance –John Jackson called the meeting to order at 9:36 am on Thursday, January 30, 2020, in Room 105 of the Rachel Carson State Office Building, Harrisburg, PA. Bob Haines was announced the new liaison for WRAC, and all attendees introduced themselves. Participation in this meeting of 16 members represents a quorum.

The following committee members were present:

Harry Campbell, Chesapeake Bay Foundation
Kent Crawford
Andrew Dehoff, Susquehanna River Basin Commission
Matthew Genchur, White Township
Jeff Hines, York Water Company
John Jackson, Stroud Water Research Center
Gary Merritt, NSG
Cory Miller, University Area Joint Authority
Stephen Rhoads

The following committee members were present (via phone):

Myron Arnowitz, PA Clean Water Action
Jenifer Christman, Western Pennsylvania Conservancy
Shirley Clark, Pennsylvania State University
Theo Light, Shippensburg University
Jeff Shanks, Waste Management
Steve Tambini, Delaware River Basin Commission
Sara Whitney, Pennsylvania Sea Grant

The following committee members were not present:

Charles Wunz, Wunz Associates
Dean Miller, Pennsylvania Water Environment Association

The following DEP/DCNR staff members were present:

Roger Adams, Bureau of Waterways, Engineering and Wetlands
Hind Al Fayadh, Bureau of Safe Drinking Water
Aneca Atkinson, PA DEP Office of Water Programs
Heidi Biggs, PA DEP Office of Water Programs
Brian Chalfant, PA DEP Policy Office
Susan Despot, PA Ag Office of Chief Counsel
Kara Fetter, PA DEP Policy Office
Shelby Freyermuth, PA DEP Office of Water Programs
Sean Furjanic, Bureau of Clean Water
Joseph Herbstritt, DCNR
Felica Lamphere, Bureau of Clean Water



Ken Murin, Bureau of Waterways, Engineering and Wetlands
Andy Klinger, Bureau of Waterways, Engineering and Wetlands
James Long, DCNR
Bo Reiley, DEP Office of Chief Counsel
Dustin Shull, PA Bureau of Clean Water
Jesse Walker, DEP Office of Chief Counsel
Susan Weaver, PA Bureau of Safe Drinking Water
Ray Zomok, DCNR

The following guests were also present:

Jennifer Case, PA Municipal Authorities Association
Kelly Dell, Widener Commonwealth
Craig Fahenstock, PA Municipal Authorities Association
Glendon King, PA House
Barb Sexton, Chesapeake Energy

Review and Approval of Minutes from October 30, 2019 Meeting –Jeff Hines made a motion to approve the minutes. Gary Merritt seconded the motion. The motion was approved by unanimous vote.

Chapter 105 Regulatory Revisions- Andy Klinger (PA DEP Bureau of Waterways, Engineering and Wetlands)- Roger Adams introduced Andy Klinger, the new Division Chief, who has replaced Ken Murin as the program manager within the Bureau of Waterways, Engineering and Wetlands. Ken Murin was brought back as an annuitant to work on the 105 revisions, and Jesse Walker, regulatory counsel was present. Mr. Klinger then presented the proposed regulation changes to Chapter 105, as follows:

The changes are to clarify requirements, to delete or update references, to incorporate definitions and to correct typographical errors. Many changes are more editorial in nature.

105.1 (Definitions), there have been some proposed additions, revisions and deletions.

Abandonment is a new definition, to help support section 47 and section 11 under 105.12a, which has to do with the abandonment of a water obstruction dams, water obstructions or encroachment.

Additions are Aquatic Resource Functions and Aquatic Resource Restoration. These are to support section 105.15 which is the environmental assessment and section 105.20(a) which has to do with mitigation. These two definitions will refer to all regulated waters of the Commonwealth. Aquatic resource functions is replacing the definition for wetland functions, the combining of all regulated waters of the Commonwealth to one definition that recognize advances in science and our understanding of resource functions.

An addition is Conservation District, a term that is defined in conservation district law, and the language is now consistent with language in chapter 102.

Crop Production was added. The program took the language and removed it from the body of the regulations, and just cleaned up the language to add it to the definition section.



Cross-section definition was revised for clarity and consistency purposes.

Maintenance was an added definition.

Probable Maximum Flood (PMF) was moved into correct alphabetical order. Before it was listed as acronym, PMF.

Probable Maximum Precipitation (PMP) was added. PMP was referenced in the existing definition for Probable Maximum Flood and the program felt it was necessary to add as a new definition for clarification purposes.

Project and Project Purpose were added for clarification and to provide context for informational requirements under 105.13.

Reservoir was an added definition.

Stormwater Management Facilities, the definition was modified. Before it said manmade measures designed and constructed. The program have added designed, constructed and maintained to convey stormwater runoff. The program also added a few more examples of types of facilities included and types of facilities not included.

Water Dependent was added from the body of 105.13 regulations and went into the definition section to add clarification for applicants.

Wetland Functions definition was replaced by Aquatic Resource Functions.

105.2 (Purposes), language was revised to include terms Restore and Improve and Aquatic Resource Functions. Geomorphic Stability was added referemcing regulated waters of this Commonwealth. Revisions were made to reflect current scientific language.

A question was asked about what is considered regulated waters in the Commonwealth (CW) and Mr. Klinger explained that regulated waters of the CW are already defined in Chapter 105 including watercourses (aka streams) and bodies of water including wetlands, reservoirs, lakes.

105.3 (Scope), subsection b, proposed to revise the high-water elevation number of Lake Erie to reflect new or revised numbers using the International Great Lakes Datum that is established by the US Department of Commerce and NOAA.

105.12 (Waiver of permit requirements) revisions made to clarify subsections (a)(1), (2), (3), (7), (11), (16), and (b)(1). Clarifications include restricting eligibility to waivers where structures, facilities, or activities will occupy submerged lands, includes language for a submerged lands license agreement.

105.12(a)(1), the reference to Fish and Boat Commission was changed to PA Fish and Boat Commission. Mr. Klinger explained that, in the regulations, wherever it says Fish and Boat Commission, PA was added in front of the title to make it more accurate.

105.12(a)(2), the term “encroachment” was added to the eligibility language. Limitations language was added that would not allow an activity or structure to impede flow or aquatic life or impact wetlands. This changes would be consistent with existing language in 105.12(b)(4).



105.12(a)(3), proposed revisions clarify that single poles with concrete pilings/foundations are not eligible for a waiver. The original intent of waiver was for a single telephone pole size. Larger concrete foundation being installed for larger projects have a greater footprint and greater impact.

105.12(a)(7), the definition part of crop reduction was removed as it is proposed to be defined in the definition section of the regulation, waiver not changed.

105.12(a)(11), added a reference to abandonment of dams, water obstructions, and encroachments, to reference new proposed definition of Abandonment. 105.12(a)(11) and (16) proposed revision clarifies requirement of a department approved environmental assessment referenced in 105.15.

New waivers proposed:

- 105.12(a)(17) for streambank fencing, a conservation practices related to crop production located along a body of water or along water course and floodway. This would be associated with current BMP's for agricultural streambank fencing, related to grazing. As an example.
- 105.12(a)(18) for a passive, low impact, non- motorized recreational activity, such as hiking, biking trails that would require the construction, operation and maintenance of a single span structure of 75 feet or less in length that would not result in backwater to property not in possession of the owner or impede passage of aquatic life through lakes, rivers or streams. This proposed waiver does not apply to stream enclosures.
- 105.12(a)(19) for the construction and maintenance of elevated boardwalks which requires a department approved plan. This would be for educational and interpretive trails.
- 105.12(a)(20) for temporary emergency placement and operation and maintenance of water obstruction or encroachment for water withdrawals, for example, for crop production and fire protection. This includes the placement and operation and maintenance of dry hydrants. The waiver does not apply to ancillary facilities such as parking lots and new roads or other water obstructions or encroachments.
- 105.12(a)(21) for construction, operation or removal of temporary environmental testing and monitoring, and investigative activities. The program felt this waiver was important to avoid the need of a permit to conduct such temporary activities necessary to obtain a permit.
- 105.12(a)(22) for the placement, maintenance and removal of temporary mats and pads used for minimizing erosion and sedimentation at wetland crossings.

105.13 (Regulated activities-information and fees), proposed addition to include an option for electronic payment methods.

105.13(c)(1)(vii), corrections were made to transfer of fees to hazard potential categories. Category 1 and 2 dams are on one fee level and Category 3 and 4 dams on another fee level. The fees were not changed, it just clarifies the types of activities that fall within the scope of this subsection.

105.13(c)(2)(iii)(A), Clarifies language providing an option for the submission of the disturbance review fee to the Department may occur at the end of either the technical or eligibility review,



and prior to the departments permits decision based on the largest area of disturbance of regulated waters in the Commonwealth as determined during the final permit application or registration review. Mr. Klinger explained that the size of the disturbed area can change during the course of the permit review, and this proposed change will provide flexibility for applicants.

105.13(d) provides for the Department to accept one application and authorize activities under one permit that cross county lines for the same project.

105.13(e)(1) proposes clarifications and organizational changes to improve review efficiency, to provide a logical order for submitting information to the Department, adding clarification for the demarcation of floodplains and regulated waters, including wetlands. Clarified requirements for discussion and analysis of water dependency.

Additional proposed changes to 105.13(e)(1) include, clarification of the demarcation of floodplains, floodways and regulated waters, that they be verified through on the ground investigation or otherwise field-verified. Proposed requirement to include FEMA floodplain maps when submittin project information, if available. Clarified the scale and cross section minimum standards for site plans and requirements for water dependency. Proposed updates for stormwater and floodplain management information. Proposed addition of an alternative analysis description which establishes cross references to the application requirements in other sections of the reg, including 105.14, 16 and 18(a) for consistency purposes. Proposed updates to the mitigation plan requirements when impacts cannot be avoided or eliminated. Proposed to establish cross-referencing application requirements for the anti-degradation demonstration and the impacts and cumulative impacts requirements to provide consistency with requirements in section 105.14.

Proposed to eliminate the 60-day period to provide responses to incomplete applications and provide updated references to conservation districts or local delegated agencies when delegated.

105.13(g) proposed revisions to provide updated references to chapter 102 terms and requirements. 105.13(h) clarified requirements for partnerships by merging information from the current version of section 105.13(i) related to partnerships and political subdivision. It will also provide reference to electronic permit application submissions. A proposed new subsection 105.13(j), which requires geologic information to be submitted by a registered professional geologist or engineer, for geologic details pertaining to the project. 105.13(k) proposed revision to allows the Department to waive certain information requirement, if the department determines they are not necessary to determine compliance with regulations.

105.13(l), proposed minor correction to the spelling out of the references to the Environmental Equality Board, (EQB).

105.13a, addition of clarifying language regarding completeness of applications that meets the essential requirements of Chapter 105 regulations and the enabling acts of Dam Safety and Encroachment Act and Clean Streams Law. Proposal to eliminate 60 day period to provide responses for incomplete applications and the Department will confirm extension requests and provide updated references to conservation districts and delegated local agencies.

105.13b, proposed to add a requirement for enrollment and continued good standing in the Commonwealths' Private Dam Financial Assurance program.

105.14(a), references were added for consistency and clarity to update to current scientific and environmental practices. 105.14(b)(11) added language to provide consistency for protection and maintenance of existing and designated uses pursuant to Chapter 93-Water Quality Standards. 105.14(b)(13) added clarification to reference the definition of Aquatic Resource Functions and possible impacts of the project on those functions. 105.14(c), proposed new section, to identify that the Department will review applications to be consistent with requirements contained in 105.13, 15, 17, 18(a), and 20(a) when impacts to wetlands are proposed.

105.15, various references were corrected or changed for accuracy and consistency. A new proposed subsection will also be included to address aquatic resource restoration activities.

105.16, proposed to update reference to requirements in 105.20(a), referencing mitigation requirements.

105.20(a), revised to address compensation for impacts to aquatic resources. Added language for the no net loss of wetlands. Proposed revisions to siting criteria for consistency with mitigation banking, in-lieu fee, and permittee responsible mitigation. Added language proposed to established compensation factors for the applicant will provide information for and the Department will evaluate factors such as direct, indirect impacts and secondary impacts to aquatic resources functions. Propose to delete references to antiquated technical guidance documents and methodologies in this section.

105.21 (Criteria for permit issuance and denial), proposed for revisions of consistency of updated terminology.

105.25 (Transfer of permits), updated language regarding notifying the Department within 30 days of transfer of ownership.

105.35, regarding submerged lands license agreement section. Proposed clarifications include:

- Mooring areas are associated with barge fleeting only.
- Annual fee is only applicable to coverage under the general permit (GP-2) for recreational decks/ramps.
- Construction, operation and maintenance of docks under Dam Safety and Encroachment Act.

105.35(c)(8), proposed new subsections provides exemption for structures or activities related to construction implementation, operation or maintenance of an environmental remediation reclamation project, floodplain, floodway or aquatic resource restoration and agricultural conservation practices.

105.35(c)(9), proposed new subsections provides exemption for temporary projects where site will be fully restored to pre-existing condition consistent with Department approved permits/registrations.

105.43 (Time limits), propose to add subsections (c)(1), (2), (3), related to dam permit expiration unless extended by the department; notifications requirements to the permittee or owner; notification by permittee/owner that work will not commence.



105.47, added proposed clarifying language regarding removal of dams or removal or abandonment of water obstructions and encroachments.

105.53, clarifies conduit inspection criteria by permit.

105.81, 105.82, 105.89, corrections to citations with cross-references made to 105.13(b) and (e). 105.82(a)(9) clarification for easement requirements.

105.96 (Outlet works), revised to clarify drawdown rates.

105.97, added terminology to be consistent with the Army Corp of Engineer's Standard Design terminology.

105.98, proposed clarification to the design flood criteria and incremental dam breach analysis.

105.121-123 and 171, removed citations to antiquated references of antiquated references.

105.134, updated information related to the emergency action plan.

105.161 (hydraulic capacity), updated antiquated references.

105.401, revised to reference location of public water supply wells and updated references to demonstrate that fill material does not contain any regulated substances and applicable numeric limits.

105.411, revised references to applicable criteria for the discharge of dredge or fill material and to ensure that eminent threats to public health safety and environment are nullified

105.446(e), Proposed new section that will provide for the department to conduct periodic review of issued general permits for adequate fees and to make revisions and updates or revoke as necessary.

105.451 (Identification and delineation of wetlands-Statement of Policy), proposed to delete the Bureau's contact information and added online availability of documents referenced in section.

105.452 (Status prior converted cropland-Statement of Policy), proposed to provide updates on current NRCS standards and provide clarification regarding departments implementation of prior converted cropland policy.

Mr. Klinger provided some background on the compilation of this proposed reg revision. They convened a 105 Ag Workgroup that included select CCD's, NRCS, State Conservation Commission, DCNR, WRAC and Fish and Boat were represented in proposed additions/revisions, to name a few.

There were previous discussions with WRAC on 7/25/2019 and 10/30/2019, and the Agricultural Advisory Board on 11/7/2019 as well as this past Monday, to discuss the same PowerPoint presentation.

Mr. Klinger added that there is a plan to present this to the State Conservation Commission and the Citizens Advisory Council. The program had previously gone to them with preliminary proposed changes.



Mr. Klinger further explained that the plan is to move forward with proposals to the Environmental Quality Board by the 2nd quarter of 2020, with a goal upon approval to publish in the PA Bulletin for comments.

Kent Crawford asked a question concerning section 105.13, about an addition for an anti-degradation demonstration. If the onus is on the person requesting the permit, then how would a person demonstrate anti degradation? Mr. Klinger responded that is an existing requirement to provide analysis of the effect of the project on designated or existing uses of a surface water, and how water quality standards would be affected. If the project proposes a bridge, for example, what affect will there be on any waters? Mr Crawford suggested, that perhaps a hydraulic study, for example. Mr Klinger added that it would depend on the impact, existing uses.

Gary Merritt asked about the removal of wetland functionality, and how to treat manmade wetland treatment systems? Mr. Klinger replied that under current waiver 5 answers this, and current waiver 6, as asked by Roger, references facilities constructed and continued to be maintained by stormwater management. There are no proposed changes to those waivers.

Mr. Merritt inquired regarding submerged lands, how to treat something manmade? Mr. Merritt said it does not have to be answered today and explained that there are some manmade harbors that were permitted in the 30's and 40's that are still in existence and many mooring structures are built on someone's' property. Mr. Merritt suggested a sit-down conversation may be more appropriate as there are many nuances involved. There was some added language to clarify moorings, as it is a complex issue. Mr. Merritt suggested that there should also be a conversation regarding the infiltration well on the edge of the river, used to be part of the public water supply into sandy gravel. The whole structure is still there. Mr. Adams pointed out that there has been strengthening of language for public safety issues, about abandoned structures.

Jesse Walker addressed the issue of tributaries in the West that was brought up by Mr. Merritt. Mr. Walker informed that submerged lands determination is based on a test of navigability. Mr. Rhoads added that historic permits provided with authorizations to occupies submerged lands. Mr. Merritt clarified that he was not worried about occupancy, but rather the remediation concerns.

Mr. Crawford asked about the changing of fees for permits. Any anticipation for fee changes in these regs? Mr. Adams explained that Part of 105 fee changes additions was 2/16/13. Part of the requirement of the fee package was a 3-year analysis to determine if there should be any changes for fees. In 2016 and 2017, no fees were changed. They are close to another 3-year review, which will be soon. Dam Permit Transfers, the language was misleading in 2013 and needed clarification.

Mr. Crawford asked about 105.446, it adds a new section for periodic reviews, does that require an increase of staff time for periodic reviews? Mr. Adams replied that it will be considered in future analysis.

Steve Rhoads asked about timeline for public comments, after publication? Mr. Klinger stated that the program proposed a 60-day comment period. Mr. Rhoads asked if there will be any outreach to the regulated community? Mr. Rhoads explained that there was outreach to the environmental side of the equation, but have impacted industries-construction, road building,



pipelines, oil and gas-been given an opportunity for feedback during the comment period or before?

Mr. Adams clarified that the revisions have a lot of cross referencing, clarifications, and that the program will be reactive to public comments, but right now, no anticipation of public meetings. Mr. Rhoads recommended meeting with industries most impacted.

Drew Dehoff inquired about PMP and PMF and references to data from NOAA and elsewhere in the definitions, the core of engineer standards. Which data is used? Mr. Adams replied that PMF was tied into data from NOAA and since 1979 when the regulations first came out, NOAA has not been active with providing probable maximum precipitation (PMP) reports to analyze, so Pennsylvania did their own analysis. Mr. Adams added that the NOAA data was not referred to within the definition, although it is still used. But there is a lot more data to rely on now, PMF it is more consistent with national standard.

Harry Campbell inquired about the proposed Ch. 105 revisions referenced in the PA Phase III Watershed Implementation Plan (WIP) and the assigned sediment and nutrient reductions. Mr. Campbell asked how those numbers were derived. Mr. Klinger replied that the program could not comment on how the numbers were derived. Mr. Walker added that the program will look into it and get back to the committee, but the comment is outside the scope of the rulemaking.

Drew Dehoff asked a question about the description of the intent of the alternatives analysis? Mr. Klinger explained that the program is codifying existing department practices and that existing language is vague. The revisions are intended to give applicants a greater understanding in what the department is looking for in an alternatives analysis requirement. The annex provides more prescriptive language.

John Jackson confirmed that the program's next step is go before the EQB in the 2nd quarter of 2020, and that the program would like a motion from WRAC to move forward with the revisions. After much discussion and debate amongst members of the committee, three motions were approved:

1. Mr. Rhoads made a motion to recommend to DEP to expand outreach on the proposed Ch. 105 regulation revisions to the regulated community before and during the public comment period to ensure greater transparency and feedback . Mr. Crawford seconded the motion. Motion was approved with 15 ayes, 1 nay.
2. Mr. Arnowitz made a motion to recommend to DEP to engage in outreach on the proposed Ch. 105 regulation revisions to local communities and elected officials, the public, and other associations that may be impacted by the proposed changes to the Ch. 105 regulation. Mr. Crawford seconded the motion. Motion was approved with 14 ayes, 2 nays.
3. Mr. Merritt made a motion to recommend to DEP to move forward with the proposed Ch. 105 regulation revisions to the Environmental Quality Hearing Board (EQB). Mr. Rhoads seconded the motion. Motion was approved unanimously.

John Jackson requested that, in the future, if WRAC can be notified ahead of time, if a vote will be expected by a DEP program.



It was recommended that if any committee members have any additional comments, suggestions, to reach out to Mr. Adams directly

Integrated Report Update- Dustin Shull (Bureau of Clean Water)- Mr. Shull reviewed the 2020 Draft of the Integrated Report and provided background on the report with regards to DEP's obligation to produce a report every two years to fulfill requirements of section 305(b) and 303(d) of the Clean Water Act. Mr Shull explained that as with the 2018 Integrated Report, due to the overwhelmingly positive feedback from users, DEP will continue to produce the Integrated Report as an interactive Storymap format.

Mr. Shull reviewed each section of the report and demonstrated the navigation functionality to access pertinent information for each section. Mr. Shull also highlighted the updated information and functionality from the 2018 Integrated Report for each section.

Mr. Shull also demonstrated the use of the Integrated Report Viewer GIS tool to access the the data behind the Integrated Report Storymap

Mr. Shull addressed general questions from the committee.

Chapter 91/92(a) Fee Draft Final Annex A- Sean Furjanic (Bureau of Clean Water)- Mr. Furjanic presented on behalf of Jay Patel, Bureau of Clean Water. Mr. Furjanic discussed the final rulemaking that DEP plans to take to the Environmental Quality Board during 2020, after having gone through the public comment period. This is related to Water Quality Management (WQM) permit application fees and NPDES permit application and annual fees under Chapters 91 and 92a, respectively.

Mr. Furjanic presented the following:

WQM and NPDES fees go toward DEP's administration and implementation of its statewide Clean Water Program, involving the review of 500-600 WQM permit applications and over 2,000 NPDES permit applications annually; compliance monitoring and enforcement of permits, including 4,000 – 5,000 inspections annually; development of water quality standards; and assessment of the Commonwealth's surface waters.

DEP presented information regarding the draft Chapters 91 and 92a rulemaking twice in 2017 and once in 2019. The draft rule was approved by the Environmental Quality Board and the draft rule was published on March 30, 2019, in the PA Bulletin, for public comment.

Most public comments that came in viewed the proposed changes negatively. The Department decided to make several changes in the final rulemaking to alleviate some concerns.

Chapter 91 changes focused on the impact a fee increase would have on small businesses and agriculture. Depending on the categories where water quality and NPDES permits would most likely be used by small businesses and agriculture were where reductions in fees took place, still



taking into consideration how the department would get enough revenue to carry out its responsibilities.

For WQM permits, the joint pesticide permits and permits for manure storage facilities and other wastewater impoundments were reduced. Joint pesticide permits from \$500 to \$250, while manure storage and impoundment permits would be reduced from \$2500 to \$1000.

The department removed a provision that authorized the department to adjust fees every 2 years, based on US bureau of Labor Statistics analysis, as this was received negatively by the public.

An amendment is proposed to add language exempting financially distressed municipalities as determined by Act 47, from needing to pay for WQM permit application fees.

Changes to Chapter 92a fees again focused on how fees would impact small businesses and agriculture. There will be no fees for permit renewals. Only new permits and amendments and transfers of permits will have fees, and there will be a continuation of annual fees.

Small flow treatment facilities application fees for a new permit and annual fees are proposed to decrease. Minor sewage facilities with less than 50,000 gallons per day of design flow, decrease in annual and application fees. Minor industrial waste facilities both covered and not by ELGs would have a decrease in application fees and annual fees. Industrial stormwater facilities are would decrease as well. CAFO application fees would decrease, along with annual fees.

A committee member questioned, with the significant decrease in CAFO fees, will the program at large will be underwriting the CAFO program? As per Mr. Furjanic CAFOs are now paying some fees. The PAG-12 permit for CAFO had no fee until 2018 and now they are paying about the same amount as the individual permit being proposed. The individual and general permit fees would be made similar for CAFOs.

As with Chapter 91, there is a proposal to remove 2 provisions regarding automatic adjustment of fees every 2 years as proposed in the draft Chapter 92a rule. Also, the department proposes to add language for the exemption of financially distressed municipalities from needing to pay NPDES application fees and annual fees.

Mr. Furjanic explained that in comparison to other states, PA is still in line or well below other states regarding permitting fees. The department plans to take the Chapters 91 and 92a rulemaking to the EQB as a final rulemaking during the second half of 2020.

Mr. Furjanic addressed the question from Steve Rhoads of whether the final proposed adequate to fund the entire program. As per Mr. Furjanic, the program spends approximately \$21 million a year. The department would continue preparing fee reports every three years and make recommendations to increase fees in the future if warranted.

John Jackson asked when was the last time DEP came to WRAC with a proposed fee increase. Mr. Furjanic stated that three year fee report was presented in front of the EQB in the Fall of 2019, but could not recall if it was presented to WRAC at that time.

Mr. Rhoads asked if DEP counsel agrees with public comments made that suggest DEP has no legal authority to apply indexing to fee assessment, and is that the reason DEP removed

“indexing” from the final rulemaking. Chris Ryder replied that the DEP does not agree with that assertion and that DEP pulled “indexing” from the final rulemaking due to numerous comments questioning the reasonableness of the fees and a regular increase.

John Jackson asked DEP if a recommendation from WRAC to proceed to the EQB with the proposed Chapter 91/92a fee final draft rulemaking is needed. DEP replied that it is not looking for a recommendation from WRAC but rather was providing the board with an update.

General Discussion – John Jackson reminded the committee and the DEP Liason to be aware of wishlist of topics proposed by the committee and asked if anyone had additional ideas to add to the list.

Action Items

1. DEP presentations requested by WRAC members:
 - a. Impairment of the Susquehanna River -**presented at 5/23/19 meeting.**
 - b. The Science of Manganese – **presented at 5/23/19 meeting.**
 - c. Integration of the modifications to the Stormwater Management Control Manual and Chapter 102 into Mining and Reclamation for Coal/Non-Coal and Waste Management
 - d. ePermitting for Chapter 102 during beta-testing
 - e. Ongoing measures of adaptive management using Alternative Restoration Plans
 - f. Agricultural Operations Inspections - **presented at 3/28/9 meeting.**

2. 6-9 month look ahead on potential regulatory and non-regulatory topics to WRAC for comment:
 - a. Chesapeake Bay Update
 - b. Water Allocation Permit Applications
 - c. Act 162 of 2014 Implementation Plan
 - d. Design Standards for Wastewater Facilities
 - e. Small Flow Treatment Facilities
 - f. Draft Technical Guidance: Methods to Consider to Complete Alternative Analysis
 - g. Draft Technical Guidance: Environmental Considerations for the Construction and Operation of Trenchless Technology
 - h. Per- and polyfluoroalkyl substances (PFAS)

Public Comment – None

A motion was made for the meeting to adjourn by Kent Crawford and was seconded by Jeff Hines. The meeting adjourned at 12:02 p.m.