

## **WATER RESOURCES ADVISORY COMMITTEE**

November 18, 2021 9:30 a.m.

Rachel Carson State Office Building – Room 105  
400 Market Street, Harrisburg, PA 17105

and

### **Teams Meeting**

[Click here to join the Microsoft Teams meeting](#)

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_MTFhZGFjNGItMDU3ZS00NjExLWJhMDItMDNkODEzMTIwOThj%40thread.v2/0?context=%7b%22id%22%3a%22418e2841-0128-4dd5-9b6c-47fc5a9a1bde%22%2c%22oid%22%3a%22c384cfe4-175f-458e-ac41-d40d932b22f5%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_MTFhZGFjNGItMDU3ZS00NjExLWJhMDItMDNkODEzMTIwOThj%40thread.v2/0?context=%7b%22id%22%3a%22418e2841-0128-4dd5-9b6c-47fc5a9a1bde%22%2c%22oid%22%3a%22c384cfe4-175f-458e-ac41-d40d932b22f5%22%7d)

### **Join by phone**

Toll number: +1 (267) 332-8737

Conf. ID: 242 316 658#

### **AGENDA**

#### **9:30 a.m. Call to Order, Introductions and Attendance – John Jackson, Chair**

The meeting of the Water Resources Advisory Committee was called to order by John Jackson at 9:30 a.m., virtually via Microsoft Team and in-person in room 105, Rachel Carson State Office Building, Harrisburg, PA. A roll call was conducted, and of the 18 members of the committee, 14 were present, 3 were not present, and 1 member joined mid-meeting.

#### **The following committee members were present:**

Myron Arnowitt-Clean Water Action  
Harry Campbell-Chesapeake Bay Foundation  
Jenifer Christman-Western Pennsylvania Conservancy  
Shirley Clark, Ph.D., P.E.-Pennsylvania State University  
Kent Crawford, Ph.D.-Retired, USGS  
Andrew Dehoff-Susquehanna River Basin Commission  
Jeffrey Hines, P.E.-York Water Supply  
John Jackson, Ph.D.-Stroud Water Research Center  
Theo Light, Ph.D.-Shippensburg University  
Gary Merritt, P.G.-Northern Star Generation  
Cory Miller-University Area Joint Authority  
Dean A. Miller-Pennsylvania Water Environment Association  
Stephen Rhoads-Retired, Shell  
Jeff Shanks-Waste Management  
Steven Tambini-Delaware River Basin Commission

#### **The following committee members were not present:**

Matthew Genchur-White Township  
Sarah Whitney-Pennsylvania Sea Grant  
Charles Wunz, P.E.-Wunz Associates

**The following guests were present in-person**

Dr. Will Brogan-PA DEP  
Alex Chiaruttini-York Water  
Josie Gaskey-PACA  
Rachel Gleason-PCA  
David Goerman-PA DEP  
Andy Klinger-PA DEP  
Manyi Liu-PA DEP  
Kristen Schlauderaff-PA DEP  
Gary Walters-PA DEP  
Michelle Moses-PA-DEP

**9:40 a.m. Review and Approval of Minutes from September 23, 2021 Meeting – John Jackson, Chair**

No corrections or suggested edits to the September 23, 2021 meeting minutes were proposed by any Committee members. Andrew Dehoff motioned to approve the meeting minutes. Jeff Hines seconded the motion. The meeting minutes were unanimously approved.

**9:45 a.m. Function Based Compensation Protocol – Dave Goerman, Water Program Specialist, Bureau of Waterways Engineering and Wetlands**

Mr. Goerman presented an update on the finalized technical guidance for Function Based Compensation Protocol.

Jenifer Christman asked Mr. Goerman where the draft document could be reviewed, and Mr. Goerman replied that the draft technical guidance document is still on eLibrary.

Stephen Rhoads ask Mr. Goerman to explain how the compensation equation would work in a real-life situation. Mr. Goerman responded by using an example of a road crossing a stream project and explained how the calculations would be applied.

Kent Crawford asked what the role of DEP is within the protocol. Mr. Goerman replied that DEP evaluates the accuracy of the applicant's calculations and provides guidance through technical deficiency letters. Mr. Crawford confirmed that DEP's assessments are completed at the regional office level. Mr. Goerman confirmed, but added that mitigation banking is done at central office.

Harry Campbell asked if DEP tracked an annual assessment of activity as it relates to Function Based Compensation Protocol. Mr. Goerman replied that DEP has not in recent years but submits data to the Army Corps of Engineers for the issuance or reevaluation of the State Programmatic General Permit but is not sure if that data is published to the program's website. Mr. Goerman added that the Army Corps of Engineers maintains a ledger system of mitigation banking and In-lieu Fee projects that is available to the public. Mr. Goerman stated that he foresees more data becoming available as DEP's In-lieu Fee program is established.

**10:00 am PAG-03 NPDES General Permit Reissuance– Maria Schumack, Environmental Engineer Manager, NPDES Permit Section, Bureau of Clean Water**

Ms. Schumack presented information on the reissuance of the PAG-03 NPDES General Permit for discharges of stormwater associated with industrial activity. Ms. Schumack clarified that the information

presented is for the pre-draft version of the draft General permit. Ms. Schumack informed the committee that the general permit expired on September 23, 2021 but was administratively extended until September 23, 2022 and that presently 1900 facilities operate under the PAG-03 General Permit. Ms. Schumack discussed the proposed changes to the reissued permit as well as sector-specific proposed changes.

Kent Crawford asked about the frequency of monitoring for Nitrogen and Phosphorus under the proposed changes. Ms. Schumack replied that permittees will be required to monitor semi-annually, once in the first part of the year and once in the second part of the year. Mr. Crawford acknowledged that the monitoring frequency seemed inadequate and wanted to know if the monitoring should be tied to a storm event. Ms. Schumack confirmed that monitoring is required to be tied to a storm event unless a permittee has a stormwater basin that never discharges then a sample needs to be taken from the basin.

Jeff Shanks questioned why DEP switched from renewing coverage with an annual report to submitting a Notice of Intent (NOI) for renewal. Ms. Schumack explained that DEP does not believe that renewing with the annual report is supportable based on Chapter 92a.23 regulation. Mr. Shanks asked when the NOI would be required to be submitted and Ms. Schumack replied that permittees will have to submit the renewal NOI once the permit is finalized. Ms. Schumack added that a letter will be sent out to all existing permittees informing them of what is needed to maintain existing coverage.

Myron Arnowitt asked about DEP's proposed increase in the Total Suspended Solids (TSS) limit and if DEP has done any water quality analysis of the downstream implications of raising the limit. Ms. Schumack replied that DEP has not conducted a specific in-stream water quality analysis as DEP does not expect it to be an issue since the facilities will be discharging during high flows events where it will not have much of an impact on the stream.

Shirley Clark expressed a concern with regard to DEP's proposed TSS limit increase as well and cited recommendations from the National Academy of Sciences to EPA to maintain TSS limitations and to improve or tighten Industrial Stormwater permits. Ms. Clark added that it is not wise on the part of DEP to go against National Academy recommendations as DEP may be setting itself up for lawsuits. Ms. Schumack acknowledged Ms. Clark's concern and explained that, in part, the reason for the proposed TSS increase was to keep facilities with gravel parking lots from paving their lot to reduce their TSS discharge.

John Jackson shared thoughts about what DEP expects to get from data coming in from required storm events reported by the permittee and whether DEP will know if it is on the rising or falling arm of the hydrograph and for the stormwater operation, knowing what is installed upstream and if it will get filtered. Mr. Jackson further expressed concern about DEP relying on concentrations versus correcting for volume, which will help DEP understand what the load is during a stormwater event. Mr. Jackson recommended that DEP should have a plan to review data once it comes in to better understand some of the unmeasured loads that are a concern for DEP. Ms. Schumack responded that DEP requires permittees to submit information about the storm event when sampling on the annual report, but currently the data is not in a format to be easily gathered and reviewed. Ms. Clark added that there are similar issues with the national Discharge Monitoring Report (DMR) database where information about type of treatment onsite not available.

**10:25 am Final Rulemaking – Water Quality Standard for Manganese and Implementation – Kristen Schlauderaff, Water Program Specialist, Bureau of Clean Water**

Ms. Schlauderaff presented an overview of DEP's final recommendation to the Environmental Quality Board (EQB) on the water quality standard for Manganese and implementation. On behalf of DEP, Ms. Schlauderaff asked the Committee for a motion to support moving the proposed rulemaking to the EQB for final approval.

Gary Merritt expressed a concern about sites where DEP has required trust funds to be established and stated that many of the companies (sites) are gone and said that this rule will cause a hardship to remaining companies and may cause a bankruptcy issue, but moving the point of compliance back to the intake could be more easily done for the companies with these trust funds. Mr. Merritt wanted to know if this rule applies to all point source discharges. Ms. Schlauderaff replied that this does apply to all NPDES point source discharges, if the criterion is approved by EPA. Mr. Merritt responded that he feels that is still an open question and that DEP did not do enough evaluation, but said he is willing to back away from that issue. Mr. Merritt asked if the Committee is voting to have DEP move the final rulemaking recommendation to the EQB and Ms. Schlauderaff affirmed that that is DEP intentions.

Stephen Rhoads asked about comments received that the "second alternative" does not comply with Act 40 and wanted to know what that meant and how DEP responded to that comment. Michelle Moses, DEP Counsel, responded to Mr. Rhoads question. Ms. Moses replied that DEP does not agree that the proposed rulemaking is problematic for Act 40. Ms. Moses added that the proposed rulemaking included language that was requested by Act 40 which is language regarding moving the point of compliance. Ms. Moses explained, that DEP and the Board felt an obligation to consider other options because of the impacts that the proposal would have on other sectors, such as drinking water facilities, to the extent that the point of compliance would be moved to their point of intake and therefore the board offered another option in the regulation to address the possibility of not moving the point of compliance to that location. By proposing both alternatives, either option could be finalized without exceeding the scope of the proposed rulemaking. Mr. Rhoads asked if DEP would address the issue of compliance with Act 40 within the preamble of the final rulemaking. Ms. Moses replied that DEP could put it in the preamble but added that also it will be clearly explained in the comment-response document. Mr. Rhoads agreed that that would be a good idea.

After discussion amongst the Committee, the following motion was presented,

**A motion to approve the Manganese criterion of 0.3 mg/l and point of compliance at the point of discharge as presented by DEP staff on November 18, 2021.**

Jeff Hines made the motion and was seconded by Kent Crawford. The motion was approved with a 12-2 majority.

**11:00 a.m. General Discussion/Agenda Topics Request – John Jackson, Chair**

Kent Crawford and John Jackson recognized Jeff Hines' service to the committee and announced that Mr. Hines is stepping down after this meeting.

Mr. Jackson discussed committee member reappointments, officer elections at the January 20, 2022 WRAC meeting and meeting dates for 2022.

Bob Haines announced that an email would be sent out to all committee members asking if they would like to be reappointed since all members are due for reappointment. Mr. Haines added that he would include 2022 meeting dates with that email.

The committee discussed possible nominations for Chair and Vice-Chair. No committee member volunteered to be a nominee, so Mr. Jackson said that he and Mr. Crawford would form a nominating committee and reach out to members individually on the prospect of being a nominee.

**11:10 a.m. Public Comment Period – John Jackson, Chair**

No public comments.

**11:15 a.m. Adjourn – John Jackson, Chair**

Gary Merritt moved to adjourn the meeting. Dean Miller seconded the motion. The motion to adjourn the meeting was unanimously approved.

DRAFT