

Citizens Advisory Council

to the Department of Environmental Protection

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September 10, 2002

The Honorable David E. Hess
Secretary
Department of Environmental Protection
P.O. Box 2063
Harrisburg, PA 17105-2063

Dear Secretary Hess:

The Citizens Advisory Council (CAC) to the Pennsylvania Department of Environmental Protection (DEP) is pleased to submit our *Five-Year Air Report: Summary of CAC Activities* for the period from July 1997 to July 2002. This report is intended to supplement DEP's five-year evaluation of the Air Quality Program, as required by the 1992 amendments to the Pennsylvania Air Pollution Control Act.

This report summarizes the many air quality-related activities with which Council was involved during this period. Major focus areas included:


- A review of DEP's draft **Air Quality Program Evaluation (1992 – 2001)** provided Council with the opportunity to determine how this report addresses critical matters related to air quality, such as leadership, State-Federal partnerships, performance measures, and public participation. This review also allowed Council to provide comments on how DEP can improve the report in terms of connecting the effort to Environmental Futures, and addressing Pennsylvania's future air quality challenges. Council's review of this report identified several significant shortcomings and questions, including:
 - There is no mention of current or future trends, synergistic effects, environmental justice, pollution prevention, cross-media impacts and concerns, or other challenges Council identified in 1999;
 - There is no mention of the Environmental Futures goals; the report represents an excellent opportunity for DEP to integrate Environmental Futures with existing program requirements and limitations; and
 - There is no mention, much less justification of why this first report, which should have been conducted and completed in 1999, is 5 years late. DEP's failure to meet its statutory obligation needs to be explained.



- Council reviewed specific indicators, objectives, and action plans of the **Environmental Futures Planning Process (EFP2)** initiative, and offered advice on how these could be tailored to better address Pennsylvania's air quality improvement needs. Council's Air Committee also met jointly with the Air Quality Technical Advisory Committee (AQTAC) to identify upcoming air quality priority objectives and recommended approaches for addressing these.
- During this period, Council held four **Annual Regional Meetings**, along with one Strategic Planning Meeting. A wide variety of air quality issues were discussed during these meetings, mainly through public testimony and interactions with other advisory committees, and DEP.

These and other activities are described in detail in the attached *Five-Year Report: Summary of CAC Activities (1997-2002)*. Council welcomes comments from you, the Department, and citizens of the Commonwealth regarding matters of environmental concern in Pennsylvania, particularly air quality matters in the case of this report. We take our responsibility seriously and encourage all citizens to participate in the protection of our air, water, and soil.

Sincerely,



Burt A. Waite
Chairperson

Enclosure



Five - Year Report: Summary of CAC Air Activities (1997-2002)

Introduction

The Citizens Advisory Council (CAC, Council) has actively studied and reported on environmental issues and programs in the Commonwealth since its creation in 1971. Council is the only legislatively mandated advisory committee with an overall charge to review all environmental legislation, regulations and policies affecting the Department of Environmental Protection (DEP, Department). Council was given additional responsibility with the 1992 amendments to the Pennsylvania Air Pollution Control Act (APCA) (Act 95 of 1992), which directs the Department to consult with Council when considering state implementation plans and regulations to implement the federal Clean Air Act (CAA). As a result, Council formed a standing Air Committee¹ to address air issues and policies.

Act 95 also requires DEP to conduct and submit to the General Assembly an evaluation of the effectiveness of the programs adopted to implement the federal CAA. This evaluation is to begin five years after the effective date of July 9, 1992 and every five years thereafter, and include a summary of the activities undertaken by the Citizens Advisory Council. Council issued its first report on its activities between July 1992 and June 1997 on July 14, 1997. This report covers Council's activities between July 1997 and June 2002.

I. Air Quality Program Evaluation (1997-2001)

DEP hired an independent contractor, CONSAD Research, to evaluate its Air Quality Program on March 20, 1998. Council met with the contractor in June of 1998, and with Air Quality staff and the contractor several other times that year. The following recommendations were offered in a June 15, 1998 Air Committee letter to the Department:

- **Public Input is Essential.** Council offered to convene a group of CAC members and others interested in air matters to solicit public input on the current program and identify future programmatic improvements;

¹ *Air Committee Members (1997-2002 Reporting Period): Nan Balmer (1997-1998); Carl Everett (1999-2000); Paul Hess (1997-Present; Current Chair); Brian Hill (1997-Present); Michael Krancer (1999); Howard Laur (1997; deceased); Maggie Powell (2002); Gail Rockwood (1997-2001); Maurice Sampson (1997-2002); Pat Sicilio (1998-Present); Lawrence Tropea (1997-1999; Former Chair); Margaret Urban (2000-Present).*

- **Focus on Strategic and Policy Issues**, not individual permitting decisions;
- **Measures of effectiveness** should include nontraditional air quality statistics, such as the number of hospital visits during ozone alerts;
- **Look to the Future for New Approaches:** Identify key air quality challenges as they evolve, develop new approaches to combat these challenges, and identify strategic actions to implement the recommendations of the 21st Century Environment Commission;
- **Link to Environmental Education Needs.** This evaluation is an excellent forum to identify environmental education needs and strategies essential to addressing future air quality challenges;
- **Draw upon the CAC's Five-Year Report**, which outlines the Council's role in protecting the Commonwealth's air resources; and
- **Public Outreach on the Final Report** should be statewide and ensure adequate public debate on the five-year program evaluations.

In a March 30, 1999 letter to DEP, Council provided advice about how the Department could maximize the study's value. The study offers a unique opportunity for DEP to step back from the day-to-day programmatic activities and invest in critically assessing the progress that has been made. It is also an opportunity to identify creative and aggressive solutions to ever evolving air pollution challenges. Council expanded upon the points raised in an issues paper "*Citizens Advisory Council: Assessment of Clean Air Progress and Future Needs:*"

- **Air Quality Leadership:** Solutions must be built upon foundations of public education and increased societal participation to equitably involve all contributors to the problem;
- **State and Federal Partnership:** DEP should continue to aggressively seek and accept delegation of all federal air regulatory programs, and EPA should give greater attention to regional air quality matters;
- **Air Quality Performance Measures:** The current air quality monitoring network and reporting systems should be maintained, and better, more understandable measurements of air quality progress should be reported;
- **Public Participation:** More opportunity for improvement exists and better public policy results when all parties are represented at the decision-making table and have sufficient understanding to effectively provide their perspectives. Public participation success factors that need to be kept in the forefront include:
 - Communicating – Notification efforts should be required to effectively reach the public of concern and must be designed to attract attention.
 - Building Understanding – We cannot expect the general public to deal with the complexities of environmental decision-making without a basic knowledge of the issues.

- **Balance and Inclusivity** – Striving for balance is critical to developing proposals that will receive support through implementation.
 - **Early Access to the Decision-Making Process** – We need to continue movement away from the “develop and defend” approach to decision-making.
 - **Accountability Mechanisms** – The general public still has few mechanisms to hold government officials (at all levels) and the regulated community accountable; and
 - **Building Trust** – Public involvement is integral to sound decision-making. It is the initiator in building credibility and public trust through openness, consistency, and results.
- **Voluntary Initiatives – Making a Difference:** Ozone Action Partnerships are a tremendous success story. While not a substitute for sound regulation and even-handed enforcement, these partnerships represent an effective way to help address air quality improvement.
 - **Benefits of a Strong Air Quality Program:** Council is concerned that the study’s survey questions over-emphasize compliance costs, and will not accurately portray the benefits of the air quality program. Quantifying the benefits is a difficult but essential part of this study.
 - **Future Challenges:** The study represents an opportunity to evaluate where DEP’s air programs, priorities, and structure should be altered to address future air quality planning challenges: *long range transport; better air quality performance measures that the public can understand; more attention to the synergistic effects between individual pollutants; incorporate pollution prevention strategies with DEP inspectors; evaluate actions to address cross media air impacts; expand public education; link transportation and environmental policy; expand statewide toxic air quality monitoring; and evaluate the impacts of fuel additives.*

In June 2002, Council’s Air Committee reviewed DEP’s draft report, *An Evaluation of the Pennsylvania Air Quality Program: 1992-2002.* In July 2002, Council submitted comments to DEP on this draft report. Overall, the Committee found that the report contains some very useful information, particularly on the progress made in reducing the extent, magnitude, and frequency of high ozone days in the Commonwealth. The Council commended DEP for its highly successful efforts in addressing ozone issues, particularly its aggressive outreach efforts through the ozone action partnerships, prime examples of clean air education that is working. Council’s review of the report identified several significant shortcomings and questions, including:

- Section 4.3 of the Air Pollution Control Act (APCA) requires DEP “to conduct and submit a report...that evaluates the effectiveness of the programs adopted to implement the federal CAA requirements. This evaluation shall be conducted 5 years after the effective date of the provision, and every 5 years thereafter.” The draft report does not acknowledge, much less justify why this first report, which should have been completed in 1997, is 5 years late. DEP’s failure to meet its statutory obligation needs to be explained.

- APCA further specifies subjects and questions to be addressed by the evaluation. One is "...the specific steps taken to meet the Clean Air Act..." While the report does an excellent job of detailing the successes of the ozone program, it barely touches on other CAA programs, such as other National Ambient Air Quality Standards, acid rain, and hazardous air pollutants. Additionally, there is no mention, much less evaluation, of failed efforts, such as the enhanced emissions inspection and maintenance (I/M) program or alternative approaches, which might have been more successful. The report should evaluate all steps taken to implement the CAA, not just the successful ones.
- There is no mention of Environmental Futures, and no evaluation of how the air program can achieve the EFP2 goals. The report should indicate how DEP intends to integrate EFP2 with existing program requirements and limitations. This is particularly important in the Air Quality Program, since so many of the requirements are federally driven. The report should also evaluate whether the EFP2 initiative will be a useful tool in meeting federal requirements. Finally, it should evaluate how well Pennsylvania has succeeded in protecting environmental health along with public health; a focus on ecological receptors is appropriate.
- Instead of viewing the five-year study as merely a statutory obligation, DEP should view it as a unique opportunity to step back from the day-to-day grind of short-term deadlines and invest in critically assessing the progress that has been made and what remains to be done. The report is an opportunity to not only look at where we've been and what we have achieved, but also where we need to go and how, with both state and federal programs. For example, while most of the Commonwealth may be in attainment for sulfur dioxide, Pennsylvania's mean pH in 2000 was 4.30, more acidic than in 1999. This is reportedly the second highest in the country. How effective has this program been in reducing acid rain?
- Current and future air quality challenges call for innovative approaches that involve all sectors of society, and for aggressive action to protect Pennsylvania's citizens and our cherished, rich environment. The report should discuss the challenges that both DEP and Pennsylvania face over the next 5 years, and list some options for how these challenges could be addressed. Existing models, such as the ozone action partnerships, should be evaluated as a potential framework for addressing other air quality challenges in the future.

II. Environmental Futures Planning Process (EFP2)

The Environmental Futures Planning Process (EFP2) initiative is a three-step, recurring process. Three questions are answered in this process: *A) What are the conditions in the environment, and why?; B) What are the targets to improve those conditions?; and C) What are the detailed plans to meet those targets?* The conditions are measured using 17 indicators, which are related to various environmental media, such as air, water, and waste. The reasons for these conditions (e.g., stream conditions – affected by many sources, including agriculture, mining, urban runoff, and sewage treatment plants) are sorted out and ranked by importance. Detailed plans are the last step of the EFP2

initiative – these describe how the targets will be achieved, and provide management and the public a chance to see how DEP is addressing environmental issues. The process is repeated each year, in order to check environmental conditions, evaluate results, and revise plans as needed.²

A. Indicators

In June 2001 Council discussed how the EFP2 initiative relates to air quality issues. Council's Air Committee held a conference call with DEP Air Quality Program staff in July 2001, to further discuss three specific EFP2 indicators related to air quality issues:

- ❖ **Indicator #5 (The number of days and the number of Pennsylvanians affected when air quality does not meet health standards):**
 - More needs to be done to keep the public informed about air quality and health impacts; the report card will help, but more information specific to air is needed. This concern can be handled under both the Stewardship goal (Goal #3), and this indicator.
 - There should be an objective that regards maintaining existing air quality, as per the 21st Century Environment Commission, which recommended that one of the air quality goals should be to *Ensure that all of Pennsylvania meets the health-based air quality standards and protect and maintain those areas where air quality presently satisfied or exceeds the health-based standards.* We need to establish air quality baselines for all parts of Pennsylvania (not just those areas that have exceedances) and protect/maintain those areas that are already in good shape.
 - This indicator only measures human impacts; there should be an objective dealing with ecological impacts, and DEP should consider adding an ecological health indicator in the second round of the process
 - Long-range transport issues need to be addressed, at least through an objective.
- ❖ **Indicator #9 (The quantity of pollutants released to the air, land and water):**
 - Mercury should be included in the 10 "most toxic" hazardous air pollutants list used in the report. While the primary impact is to water quality through deposition, the primary source is smokestacks, so it needs to be considered by both the air and the water programs.
 - The report ignores vehicle miles traveled (VMT); even a gross estimate of the impact of VMT would be an improvement.
 - There should be a discussion of why there is a problem with global warming; the current text sounds like the expected impacts are all beneficial.

² DEP: "Environmental Futures Planning: Setting Environmental Priorities in the 21st Century" (2002)

- How will air quality be handled?
- ❖ **Indicator #10 (The annual mean pH of Pennsylvania's precipitation):**
 - pH alone doesn't measure the environmental outcome; it ignores buffering ability, doesn't include dry deposition, or differentiate between wet and dry seasons;
 - The maps should more clearly differentiate between the two extremes that are supposed to be illustrated.
 - Re: cation exchange in Appendix A: DEP staff was asked to look into overlaying information on annual pH and sulfur ion concentration maps over geological/soil maps to incorporate an area's ability to buffer acid precipitation.
- ❖ **General Comment:** How will the indicators and objectives be qualified to take into account factors such as weather and the economy that will clearly affect air quality?

B. Objectives

A December 2001 Air Committee conference call continued to parallel the EFP2 initiative with a discussion of the program's priority objectives for the above indicators

Under **public education**, one objective should be to identify new ways for DEP to communicate with the public about air issues, starting with an evaluation of its current communication methods. Some suggestions for new communication mechanisms included:

- Adding staff to perform outreach services, or contracting this service out;
- Using the traditional outreach methods of political campaigns, such as TV, cable, radio, and direct mail, and have DEP identify any available funds;
- Soliciting ideas from public relations firms by inviting these firms to a meeting to discuss how DEP can improve its strategies for outreach on air issues; and
- Using consumer alerts, or placing information regarding the pros and cons of a type of product in physical proximity to that product at stores (to provide information on the pros and cons of aspects of a type of product).

The overall objective should be to educate government, industry and citizens about remaining air problems and how each sector contributes to both the problems and potential solutions. We need to inform the above publics that there is an issue, to initiate the debate at all levels.

The Committee again stressed the need to maintain air quality accomplishments in areas that already satisfy or exceed the health-based standards.

Under **long-range transport**, the Committee was concerned that Objective #4 only dealt with nitrogen oxides, and should include other compounds such as mercury, heavy metals, acid rain, and carbon dioxide.

Council recommended that the Air Quality Program evaluate **indoor air quality** if it is not already being addressed elsewhere.

Under **mobile sources**, an action plan for VMT should be included.

Additional comments included specific wording changes to address the need for more information on ecological effects, not just health effects; consideration of carbon sequestration and other techniques for reducing global warming (e.g., DEP could work on developing carbon sinks in cooperation with DCNR using our State forests); and promoting more efficient and cleaner fuel sources (e.g., promoting alternative fuel vehicles by changing DEP's transportation fleet, or providing incentives to utilities to promote fuel cell vehicles to generate energy).

C. Action Plans

On January 23, 2002, the Air Committee held a conference call to address the proposed Statewide Air Quality Environmental Action Plans (EAPs) – activities intended to accomplish the objectives. The Committee's comments included the following:

- DEP should include an explanation of the EAP documents, so that they are more usable for those not intimately involved in EFP2 or the Air Quality Program;
- There is a need to communicate assumptions made in developing the various pieces of EFP2. For example, if the Air Quality Program does not address energy conservation because it assumes that another deputate is including it, how do we ensure that it is in fact included elsewhere? Who is looking at the overall outcome of the process to ensure that there aren't gaps or duplications, and that the plans integrate to most effectively achieve the common goal?
- It appears that the newness of the process and the issue of accountability may have contributed to sidestepping some innovative and forward-looking approaches because they did not appear to be achievable in a one to two-year time frame. DEP needs to identify mechanisms to keep this from being counterproductive to the process in terms of both thinking outside the box and stretching its ability to meet long-range goals;
- Several of the EAPs appear to address the stewardship goal (Goal #3), even though they are not listed as such. Council has advocated the need for better outreach to increase awareness of and responsibility for air quality issues, and would like to see this be a focus area under Goal #3; and
- Mass transit is only tangentially mentioned in the EAPs; while transportation issues overlap agencies and levels of government, mobile source emissions are a

critical issue. The Air Quality Program needs to give more attention to innovative approaches to dealing with mobile sources.

The EFP2 initiative and its associated EAPs can be improved further, in order to properly prioritize and address air quality matters. In order for the initiative to be effective, it must adequately ensure public participation. Achievement of this task may be enhanced through DEP dialogue with its advisory committees, particularly the Air Quality Technical Advisory Committee (AQTAC), and Council, on air quality issues.

D. Future Priorities

As a result of a concern that the magnitude of federal and state mandates has caused the air program to focus almost exclusively on fitting existing approaches into the EFP2 initiative instead of looking at innovated approaches and future trends, on May 23, 2002, the Air Committee met jointly with AQTAC to brainstorm air quality priorities. The purpose of this session was to formulate objectives related to these issues, and to prioritize them. The priority objectives included: **A) Mobile Emissions; B) Fine Particulates; and C) Toxics**. The top priority methods included: **A) Energy Efficiency; B) Public Education; and C) Multiple Pollutants**. Action statements were developed for the top priority objectives and methods:

- **Mobile Emissions:** *Pennsylvania should do more than is currently planned to address mobile emissions.*
- **Fine Particulates:** *As a priority, Pennsylvania should meet the NAAQS for particulate matter (PM 2.5), and approach the PM strategy in a way that integrates other pollutant reduction strategies.*
- **Toxics:** *Pennsylvania should pursue a multiple pollutant approach for the most efficient and effective achievement of air quality goals (public health and ecological protection should be part of this approach).*
- **Energy Efficiency:** *Pursue energy conservation and reduce emissions through energy efficiency, reduced consumption, and lower emission sources.*
- **Public Education:** *Pennsylvania should promote individual behavior change through education incentives.*
- **Multiple Pollutants:** *Evaluate the health impacts of hazardous air pollutants and aggressively pursue reduction of those with the highest public health impacts, or the greatest public health significance.*

DEP has released a summary of the joint CAC-AQTAC meeting to both advisory committees for their further review and comment.

III. CAC-DEP Joint Discussions

CAC and DEP formally discussed a number of air quality topics, as described below. In addition, DEP provided several updates on various aspects of the Air Quality Program.

Council's Air Committee discussed DEP's Proposed Monitoring Plan Revisions during its June 15, 1998 meeting; these revisions would incorporate a new fine particulate matter standard of PM 2.5 into the monitoring network. The Committee agreed with this proposal, and, during Council's November 16, 1998 meeting, the Committee presented a letter of support for submittal to DEP.

Council met with DEP executive staff to discuss potential strategies for garnering public acceptance of a decentralized I/M program and increasing public awareness about air issues. Council agreed that future clean air improvements would, among other things, require that individual citizens understand the positive role each can play in achieving clean air. Council offered outreach possibilities, but contended that a grassroots effort should be utilized to involve and educate a wide range of constituencies.

Power plant proliferation was a prominent air quality issue during this reporting period, formally raised during Council's Regional Meeting in Allentown (September 2000):

- *Siting 13 new power plants and 1 upgrade within a 30-mile radius of Palm, PA;*
- *The need for DEP to suspend any further power plant permits until compliance is reached, along with a need for increased fines against polluters to fit the violations;*
- *Retiring the Emissions Reduction Credit (ERC) program;*
- *Establishing a siting council to review the need and suitability, and to direct the locations for proposed power plants;*
- *Tightening DEP air quality standards for some pollutants, especially PM;*
- *Denying any permit requests for power plants to place additional emissions into the atmosphere until they meet the CAA standards;*
- *Developing conservation measures; and*
- *Connecting non-compliant power plants to an increase in asthma cases.*

Council provided the following responses to these concerns:

- Local governments should use the tools and mechanisms in the amendments to the Municipal Planning Code, Acts 67, 68 and 127;
- DEP should address the following: 1) *the air quality impacts of additional power plants in specific areas;* 2) *environmentally appropriate designs for power plants, in terms of technologies for air emissions control;* and 3) *the promotion of energy conservation in order to reduce the demand for new power plants;* and
- Council requested to meet with the **Public Utility Commission (PUC)** to discuss: 1) How many power plants were projected to be built; 2) The reliability of the **Pennsylvania-New Jersey-Maryland (PJM)** energy grid, and the effects of any

new power plants upon this reliability; and 3) The siting issues and recommendations that testifiers raised during the meeting.

During Council's March 2001 meeting, a panel discussed different perspectives of the power plant proliferation issue. Bill Gast (DEP Chief of Water Planning) focused upon water issues related to power plants. Bob Barkanic (then-DEP Deputy Secretary for Pollution Prevention and Compliance Assistance) dealt with energy efficiency and conservation efforts. Andrew Tubbs (PUC) dealt with PUC input to the power plant proliferation process.

DEP Northeast Regional Director Bill McDonnell reported on the DEP Mobile Lab and its ability to provide analytical profiles of odors as part of his presentation to Council. Council had an opportunity to tour the Mobile Lab during its February 2001 meeting. During Council's May 2001 meeting, Mr. McDonnell related river basin commissions' activities to the power plant proliferation issue.

Air Quality Bureau Director Jim Salvaggio addressed power plant proliferation at Council's May 2001 meeting. He described permitted and pending combustion turbine facilities, and compared NO_x, SO₂ and PM emissions from 300-megawatt power plants, emission trends from electric turbine power plants, and aggregate analysis of pollutants.

IV. CAC Air Activities & Projects

Council worked independently on a wide variety of air quality-related activities and projects during the 1997-2002 reporting period, including:

- From mid-1997 to mid-2000, Council began a monthly Air Quality Page in its *CAC Advisory*. The purpose of this page was to enhance other's awareness of air issues. In addition to addressing a specific air issue each month, the Air Quality Page also periodically included subjects such as "air trivia", "global warming and the greenhouse effect" and "things you can do" as additional avenues to educate the public on air matters.
- During Council's November 2000 meeting, the Air Committee discussed the following topics: 1) *the need for the Air Quality Program to focus upon toxics, NO_x, and acid deposition matters*; 2) *the need to improve citizen input on general air quality matters (e.g., regional haze, acid deposition and nitrogen deposition – where it goes and how it may affect land and water resources)*; 3) *the need for improvements to Council's interaction with the Bureau of Air Quality*; and 4) *papers from Penn Futures that suggested DEP was not doing enough to address air quality problems in Pennsylvania*.
- The subjects of heavy-duty diesel engines regulations, and automobile emissions and standards (on-board tailpipe diagnostics, I/M program improvements) were discussed during Council's February 2001 meeting.

V. Annual Regional Meetings

Council holds a two-day meeting and field trip in a different part of Pennsylvania each year to give area citizens an opportunity to speak about their environmental concerns. Council has traditionally received public testimony at its regional meetings about air quality issues. The issues raised at the regional public meetings held during this reporting period included:

- 1997 - Somerset: *PM and toxic emissions from paper mills and municipal waste incinerators.*
- 1998 - State College: *Vehicle emissions and the need for improvements to the I/M program; air quality impacts from Concentrated Animal Feeding Operations (CAFOs); expansion of public transportation and other transportation alternatives; implementing Title V regulations; acid deposition and its effects on Pennsylvania's forest and stream ecosystems; air quality impacts from wood burning; and additional air quality monitoring needs in high-growth areas.*
- 1999 - Lancaster: *Indoor air quality at shopping malls; and education on local daily air quality and monitoring pursuits.*
- 2000 Regional Meeting – Allentown: *Power plant proliferation and related air quality impacts.*
- 2001 Strategic Planning Meeting – Harrisburg: *Air quality matters related to EFP2; global warming; the CAC and DEP 5-year reports; environmental quality and health; pollution trading; and impacts on use of state lands.*

VI. EPA Inspector General's Audit Work Group Report

On November 12, 1996, then-DEP secretary James M. Seif asked the CAC to convene a work group to act as an independent third party to resolve EPA allegations questioning the effectiveness of Pennsylvania's air quality program. Council added outside interests to conduct this review, and submitted recommendations to DEP and EPA on how to improve Pennsylvania's air quality program and strengthen their relationship in the process. Council approved the report of the work group on February 11, 1997. On January 13, 1998, DEP responded to the specific and general recommendations made by the work group:

A. General Recommendations:

- **For the sake of air quality in Pennsylvania, DEP and EPA must work together:** EPA Region III and DEP staff worked together to resolve both the issues contained in the EPA IG audit and those raised by the CAC.
- **DEP and EPA should use a mediator to resolve these differences:** DEP did not find the need for a mediator, as its discussions with EPA were frank and amicable.

Specific Recommendations:

- **Although DEP has begun to re-centralize the reporting function at EPA's request, the effort needs to go further in order for it to work well. Monthly conferences between EPA and Bureau of Air Quality Central Office with appropriate Regional Office participation should also be held:** DEP's air quality reporting functions are now centralized within its Division of Compliance and Enforcement (C&E). DEP also holds quarterly face-to-face meetings with EPA, along with quarterly conference calls between these meetings, to discuss significant violator (SV) issues, with participation from Regional Office staff.
- **DEP should develop and implement a consistent policy for the issuance of NOV's to major sources to be used by all of its Regional Offices:** DEP now issues NOV's for all violations occurring at facilities covered by the Timely and Appropriate Enforcement Policy (TAEP).
- **Unless DEP and EPA are able to negotiate a change to the TAEP with EPA, DEP must identify all sources that meet the literal definition of SV. If it is not willing to call them SV's, it should call them "companies with potential to be included on the SV list" (or "companies subject to the TAEP"):** DEP now reports all violations at covered facilities as "violations potentially subject to the TAEP", while EPA decides whether to list facilities as SV's on the national list.
- **DEP should use a mutually agreed-upon set of criteria to select those sources that will be the subject of further discussion with EPA:** DEP and EPA have developed a set of criteria that assists both agencies in selecting cases which merit further discussion and tracking.
- **DEP and EPA will determine at the time of notification or during subsequent TAEP discussion whether a source included on the "companies with potential to be included on the SV list" should be designated as a Significant Violator Requiring Special Emphasis:** DEP now enters all violations at TAEP-covered facilities into the Enforcement-Facility-Application-Compliance Tracking System (eFACTs) database, and updates its Air Information Management System (AIMS) periodically. Compliance summary reports are generated prior to telephone conferences or face-to-face discussions to facilitate SV categorization. Regularly scheduled discussions are conducted to assure both EPA and DEP have the most up to date information and to resolve any specific disagreements regarding case designation or case resolution procedures.
- **DEP's ability to draw down the full amount of awarded grant money for FY1997 should be conditioned on reaching resolution of the significant violator reporting issue by September 30, 1997, the end of EPA's fiscal year:** EPA designated \$411,600 to be drawn down based on DEP performance and compliance; EPA released the entire amount, indicating that DEP has complied with the reporting requirements of EPA's grant and TAEP.
- **The next EPA/DEP grant agreement (FY1998) should embody the agreed upon criteria for determining which SV's require "special emphasis." A**

centralized reporting role is critical and should also be incorporated into the next grant agreement. EPA Region III should work towards having the interim guidance (with changes to the criteria as negotiated with DEP) adopted: DEP and EPA have shared positive dialogue on these matters since the FY 1998 grant round.

- **A dialogue-based approach should be explored for use in other programs where similar communication and coordination breakdowns are apparent:** DEP and EPA held two multi-media upper management meetings to discuss enforcement issues; EPA has stated that the SV policies of other disciplines are now open for discussion and modification as needed.
- **EPA should work with the states and state air organizations to outline refinements to the AIRS system and to the data entry process that would improve its effectiveness and usability by all:** Through its AIMS Compliance Module, DEP tracks all air enforcement information. The AIMS interacts with EPA's Aeromatic Information Retrieval System (AIRS) to facilitate updates. DEP has also provided EPA access to AIMS, and implements eFACTs for tracking all violations and their compliance status.
- **It appears that the IG's criticism of DEP's inspection program may be based on differing interpretations of the Section 105 grant agreement and the Compliance Monitoring Strategy. DEP must determine if certain regions are not performing Level 2 inspections on all facilities and if they are not, take action to ensure that Level 2 inspections occur. There is a lack of clarity among field staff as to how to deal with significant violators and the TAEP generally. Training and guidance to regional offices should focus more specifically on these areas:** DEP inspectors have received the EPA-sponsored Rutgers University Generic Training. All inspectors are provided with current policies through the DEP internal web site, and a Level 2 inspection checklist for use in the training of Regional staff has been developed.
- **DEP needs to develop a better method to systematically track violations and subsequent enforcement activities and compliance results. This will assist in evaluating the performance and efficiency of compliance and enforcement:** DEP has implemented the AIMS Compliance Module for the tracking of all enforcement information; this information is available to the public through eFACTS; DEP also permits direct EPA access to the AIMS data, and has improved communication so that both agencies have a full understanding of the others' position. In the future, DEP will investigate ways to compare and evaluate DEP and EPA compliance assistance philosophies.
- **DEP should prepare closure documents to record how and when a violator was brought into compliance. This will clarify and validate final decisions:** DEP now prepares case closure memos and documentation for penalty determination for all cases tracked by a compliance reporting system.
- **DEP needs to continue to clarify any internal misunderstandings regarding enforcement policies, including inspection protocols, issuance of NOVs, the**

circumstances justifying penalties and the circumstances to be considered in setting a compliance schedule. Additionally, DEP and EPA need to establish compliance and performance measures of the effectiveness of compliance assistance, indicators, and measures should quickly identify any adverse changes that may occur: DEP continues interaction between the Regional and Central Office staff, and focuses upon its peer review and evaluation program to aide in identifying areas where more guidance or training is needed.

VII. Ozone Action Program and Related Ozone Issues

The Air Committee sponsored a panel discussion on the regional transport of air pollution at its April 1998 meeting. DEP representatives presented computer simulations to show how States impact each other's air quality, and how ozone concentrations are related to atmospheric transport factors. An EPA representative provided information on ozone pollution, historical approaches to address the ozone problem, and joint EPA/State efforts to address ozone transport issues, such as the Ozone Transport Assessment Group.

Council encouraged further expansion of the Ozone Action Program to other areas of the Commonwealth where residents are at risk of exposure to unacceptable levels of ground level ozone. In March 1998, Council passed a resolution to expand this program to the Susquehanna Valley/Southcentral area; activities in this new area were launched in May 1998. Additionally, in May 1999, Council's Air Committee issued a letter to the Department's Bureau of Air Quality urging that Perry County be included in the Susquehanna Valley/Southcentral Ozone Stakeholders Work Group. CAC member Lawrence Tropea chaired the Susquehanna Valley/Southcentral Ozone Stakeholders Work Group from 1998 to 1999, and CAC Executive Director Susan Wilson served as a member of this Work Group from 1998 to 2000. Paul Hess represented Council on the Southeast (1997) and Susquehanna Valley/Southcentral (1999 - 2000) Ozone Stakeholders Work Groups. Council also appointed two ex-CAC members, Roslyn Kahler (1998 - 2000) and Anne Martin (1997), to serve as representatives on the Lehigh Valley/Reading and Southwest Ozone Stakeholder Work Groups, respectively.

In January 2000, the Lehigh Valley/Reading and Susquehanna Valley/Southcentral Ozone Stakeholder Work Groups submitted their final reports; these reports contained several air pollution control recommendations, including:

- *Reducing ozone transport from upwind states;*
- *Implementing a decentralized I/M program;*
- *Testing emissions of heavy-duty diesel vehicles at weigh stations;*
- *Establishing a law to limit idling of heavy-duty vehicles;*
- *Increasing outreach and public education efforts about the dangers of ozone and how to reduce it;*
- *Encouraging sound land use practices and smart-growth planning; and*

- *Expanding State safety inspections to include gas-cap and visual emissions equipment checks.*

In March 2000, the Susquehanna Valley/Southcentral Ozone Stakeholders Work Group officially began its public education efforts on ozone pollution by holding its first meeting at the Harley-Davidson motorcycle plant in York County. In May 2000, a new Ozone Action Partnership began in the Allentown-Bethlehem area, as a result of a recommendation by the 1999 Lehigh Valley/Reading Ozone Stakeholders Work Group.

Ozone-related matters were also mentioned during Council's October 2000 meeting. These matters included the following:

- *Pennsylvania's need to maintain the 1-hour ozone attainment standard;*
- *The possibility of meeting the 8-hour ozone attainment standard by 2004;*
- *Factors facing Pennsylvania in maintaining ozone standards;*
- *Ozone attainment strategies for Pennsylvania; and*
- *A pending Supreme Court decision on the 8-hour ozone standard, which will focus upon cost-benefit analysis and the need to better define transitional ozone attainment areas.*

Concluding Remarks

Despite the significant progress made, the battle for clean air is unfinished. The Commonwealth now faces tough, new air quality challenges. Today's air pollution is often less visible, but in some ways, equally significant from a human health and environmental impact perspective. Despite numerous pollution prevention activities, nearly 97 million pounds of toxic air emissions are generated in Pennsylvania each year.³ After years of focus on reducing total particulates, scientists and regulators now recognize that fine particulates pose the greatest danger to human health. Since air pollution defies geographical and political borders, pollution generated in upwind states adversely affects the health and welfare of Pennsylvanians.

Earlier air quality problems entailed the identification of major pollutant sources and the adoption of regulations mandating the installation of appropriate pollution control equipment. Today, many air quality problems stem from the action of individuals, and from distant sources. Tomorrow's solutions must recognize this shift, and be built upon foundations of public education and increased societal participation that involves all contributors to the problem.

The Council will continue its work to expand and improve public participation in DEP decision-making, and stands ready to cooperate fully to promote continued air quality improvements.

³ EPA: "Toxic Releases Inventory" (2000)