



Citizens Advisory Council

to the Department of Environmental Protection of the Commonwealth of Pennsylvania

Pennsylvania Constitution

Article I, Section 27

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustees of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

2016 Annual Report

William Fink
Chair

Katherine Hetherington Cunfer
Acting Executive Director

Prepared by
Lee Ann H. Murray
Executive Director

Council Overview

Since its inception in 1971¹, the Citizens Advisory Council (“Council” or “CAC”) has been actively involved in environmental issues affecting the Commonwealth of Pennsylvania. The Council was originally created to establish a non-partisan body to represent citizen viewpoints and provide objective analyses of the Department of Environmental Protection’s (“Department” or “DEP”) performance on environmental issues. With the passage of legislation, the Council was given three specific charges:

- I. The Citizens Advisory Council shall review all environmental laws of the Commonwealth and make appropriate suggestions for the revision, modification, and codification thereof;
- II. The Council shall consider, study, and review the work of the Department of Environmental Protection and, for this purpose, the Council shall have access to all books, papers, documents, and records pertaining to or belonging to the Department; and
- III. The Council shall advise the Department upon request, and shall make recommendations upon its initiative, for the improvement of the work of the Department.

Because of this legislation, the Citizens Advisory Council is the only legislatively-mandated advisory committee with the comprehensive charge to review all environmental legislation, regulations, and policies affecting the Department of Environmental Protection.

Additionally, the 1992 amendments to Pennsylvania’s Air Pollution Control Act require DEP to consult with the Council in developing state implementation plans and regulations developed by the Department to implement the federal Clean Air Act. The Council also can “consider, study and review department policies and other activities related to the Clean Air Act...” and to provide a summary of activities every five years to the Department’s evaluation of the effectiveness of its programs to the General Assembly.²

The Council is comprised of the Secretary of the Department of Environmental Protection (ex officio), six members appointed by the Governor, six members appointed by the President Pro Tempore of the Senate, and six members appointed by the Speaker of the House of Representatives³. The term of office for each of the appointed members of the Council is three years and may continue beyond three years until a successor is appointed. All actions of the Council are by majority vote. According to the statute, the CAC shall meet quarterly; however, the Council tends to hold monthly meetings, except in August and December.

An important part of the Council’s mission is to encourage public participation and engagement from citizens of the Commonwealth. The CAC seeks to represent all people of the Commonwealth and bring a collective view of the public interest in the environment through a

¹ The Citizens Advisory Council is an independent advisory board of the Department of Environmental Protection housed within the DEP and charged with reviewing all environmental issues, legislation, regulations, policies, and programs pursuant to Sections 448(p) and 1922-A of the Administrative Code of 1929, as amended by Act No. 1970-275 and Act No. 2016-07, 71 P.S. §§158(p) and 510-22.

² Act of January 8, 1960, P.L. (1959) 2119, No. 787, as amended, known as The Air Pollution Control Act (35 P.S. § 4001, et seq.).

³ No more than three members nominated by each of the respective authorities may be from the same political party.

diversity of personal experiences and perspectives. The ability of the public to provide input and participate in the development of environmental regulatory and policy initiatives is tantamount to the Council's ability to provide guidance and oversight to the Department.

The CAC members are integrated into the oversight structure of the Department because they are also elected to serve on various boards and advisory committees within the DEP. The CAC designates five of its members to serve on the Environmental Quality Board, four members to the Mining and Reclamation Advisory Board, as well as seats on the Aggregate Advisory Board, Air Quality Technical Advisory Board ("AQTAC"), Low-Level Waste Advisory Committee ("LLWAC"), Solid Waste Advisory Committee ("SWAC"), Oil and Gas Technical Advisory Board ("TAB"), Environmental Hearing Board Rules Committee ("EHB"), and the Radiation Protection Advisory Committee ("RPAC").

Within the CAC, sub-committees focus on specific areas of interest. The Legislative Committee, Policy and Regulatory Oversight Committee, Strategic Issues Committee, Public Participation Committee, Advisory Board, and Executive Committee meet on an as-needed basis and report back to the full Board on topics and issues brought before their respective Committee.

At the end of the year, the CAC summarizes its activities and provides an Annual Report to the Governor, the General Assembly, the Department, and the public. This Annual Report highlights the activities of the Council and provides an opportunity for interested stakeholders to provide feedback on the work of the CAC and offer suggestions for improvement or future areas of focus for Council.

Council Membership

The CAC is comprised of a dedicated group of concerned citizens appointed to the Council by either the Governor or the General Assembly. Each member brings with him or her a unique perspective and wealth of knowledge on environmental issues. Diversity of experience and thought allows for a comprehensive understanding and analyses of Department regulations and policy initiatives. The Council engages in thoughtful discussion prior to counseling the Department or alerting relevant decision-makers of necessary action to be taken.

Below is a list of CAC Members in 2016:

Cynthia Carrow, Allegheny County

Mark Caskey, Washington County

Terry L. Dayton, Greene County

William C. Fink (Chair), Bedford County

John Hines, Lebanon County

Walter Heine, Cumberland County

John R. Over, Jr., Fayette County

James Sandoe, Lancaster County

Dr. Joi Spraggins, Philadelphia County

Thaddeus Stevens, Tioga County

Burt A. Waite, Crawford County

John J. Walliser, Esquire, Allegheny County

Donald S. Welsh (Vice Chair), Chester County

James Welty, Cumberland County

Timothy Weston, Esquire, Cumberland County

John H. Quigley, DEP Secretary, ex-officio

Patrick McDonnell, DEP Acting Secretary, ex-officio

The Department of Environmental Protection provides an Executive Director to serve as a liaison between the Council and the Department. The Executive Director also assists the Council with its administrative functions. The Council has the statutory authority to hire experts, stenographers, and assistants as may be deemed necessary to carry out its work.

Officers

During the 2016 meetings of the CAC, William C. Fink and Donald S. Welsh were elected Chair and Vice Chair, respectively. Cynthia Carrow and Terry Dayton were also selected to serve on the Executive Committee, along with the Chair and Vice Chair.

Committees and Advisory Boards

As members of the Council, each person is asked to serve on various committees and advisory boards to help direct activities of the CAC, as well as provide leadership and expertise to the Department on important issues. To date, the list of potential committee and advisory board assignments are as follows: Legislative; Policy and Regulatory Oversight; Public Participation; Executive; Strategic Issues; Environmental Quality Board; Mining and Reclamation Advisory Board; Aggregate Advisory Board; Air Quality Technical Advisory Board; Low-Level Waste Advisory Board; Solid Waste Advisory Committee; Oil and Gas Technical Advisory Board; Environmental Hearing Board Rules Committee; and the Radiation Protection Advisory Committee.

Highlights of Council Activities

Mining Issues

The 2008 – 2013 Act 54 Report was discussed with members of the Department. Environmental concerns were raised by the Council, including, but not limited to, the number of water quality violations occurring outside of the rebuttable presumption zones. Section 18.1 of the Bituminous Mine Subsidence and Land Conservation Act (Act 54) requires the Department to report its findings regarding the effects of underground mining on overlying land, structures, and water resources to the Governor, General Assembly, and the CAC at five-year intervals. The 2008 – 2013 Report was prepared under a contract with the University of Pittsburgh. The Council often provides input into the workplan.

Department Comments on the US Office of Surface Mining (OSM) Proposed Stream Protection Rule were presented to the Council by DEP's Mining Program staff. The Department focused their comments on the rule, pointing out errors in tables, requesting clarification and further detail on various topics, including how the rule would interact with existing Clean Water Act requirements, and requesting tailoring of the rule to meet state needs.

Water Issues

The Department provided a presentation on the **Chesapeake Bay Reboot Strategy**. Under Secretary Quigley, the Department created a newly-formed Chesapeake Bay Office, which is part of the Office of Water Programs. The goal of the reboot is to find new and lasting ways to address the US Environmental Protection Agency's (EPAs) Total Maximum Daily Load (TMDL) for the Chesapeake Bay, reach milestones for PA, and instill a "culture of compliance" within the agricultural community and landowners within the basin. Better data collection and management, legislative solutions, private/public/partnerships, and program updates were all discussed.

The **Susquehanna River Causal Analysis/Diagnosis Decision Information System (CADDIS) Report** was discussed in the context of smallmouth bass declines in the Susquehanna and Juanita Rivers. The study indicated that the likely candidate causes are endocrine-disrupting compounds and herbicides, as well as pathogens and parasites, as being the affecting causes for the impairment in the smallmouth bass populations. The Department's study of the Susquehanna River system has included pioneering research in stream composition and ecosystem interaction that is being replicated by other states.

Proposed Rulemaking for the Revised Total Coliform Rule on the Disinfectants Requirements Rule was presented to the Council by the Department's Bureau of Safe Drinking Water. The proposed rule was the result of an alarming trend noted by the Department of water-borne disease outbreaks associated with distribution system defects. In 2010 alone, these outbreaks resulted in 117 cases of illnesses, 71 hospitalizations, and 8 deaths. According to the Department, the distribution system is the remaining component to be adequately addressed in a national and state effort to eradicate water-borne disease. The purpose of the proposed rulemaking is to amend DEP's safe drinking water regulations to clarify primary enforcement authority, requiring a multi-barrier approach designed to guard against microbial contamination,

strengthen the treatment technique requirement by increasing the current residual standard, and implementing weekly monitoring at Revised Total Coliform Rule sites as a written plan.

A presentation by the US Geological Survey on the **Nitrogen, Phosphorus, and Suspended-Sediment Loads and Trends Measured at the Chesapeake Bay Nontidal Network Station in PA** showed improvement in water quality in most of the monitoring locations, with a few sites degrading, and some remaining unchanged. The objective of the Chesapeake Bay Nontidal Monitoring Program is to quantify nutrient and sediment loads in nontidal rivers of the Chesapeake Bay. In Pennsylvania, the vast majority of trends are improving, but with continued population growth more reductions will be needed to maintain the current positive trends.

The Department's Bureau of Clean Water came before the CAC to present the **Triennial Review of Water Quality Standards TR17 Updated Scope and Recommendations and the Triennial Review of Water Quality Standards TR17 Updates to Chloride Criteria**. The Department is required to review, revise, and update, as needed, at least every three years, water quality criteria standards found in 25 Pa. Code Chapters 93 and 16 and portions of 92a to reflect the latest scientific information and new federal guidelines for criteria development.

DEP is required by the Federal Clean Water Act to develop the **2016 PA Integrated Water Quality Monitoring and Assessment Report**. The Integrated Report is required by Sections 303(d) and 305(b) of the Federal Clean Water Act to report the status of waters that will not meet water quality standards and will require the development of a TMDL for pollutants, and a status of all surface waters, respectively. The Department received comments on its report, which they were reviewing and preparing responses. The majority of comments on DEP's assessment were focused on the Susquehanna River main stem from Sunbury to Holtwood.

Air Issues

The Council reviewed proposed regulations brought forward by the Bureau of Air Quality. Ultimately, the Council voted to recommend that the EQB adopt the final rulemaking for **Control of Volatile Organic Chemical (VOC) Emissions from Automobile and Light-Duty Trucks Assembly Coating Operations and Heavier Vehicle Coating Operations; Control of VOC Emissions from Miscellaneous Metal Parts Surface Coating Processes, Miscellaneous Plastic Parts Coating Processes, and Pleasure Craft Surface Processes; and Control of VOC Emissions from Industrial Cleaning Solvents in Aerospace Manufacturing**. The Council also recommended sending the **Proposed Rulemaking for Gasoline Volatility Requirements** to the EQB.

General Permit 5 (GP-5) for Well Pad Methane Emissions was introduced to the CAC by the Department's Bureau of Air Quality. This early discussion allowed the Council to weigh in on various concepts being floated by the Department. Best management practices for leak detection and repair to reduce emissions from production, gathering, transmission, and distribution lines, fugitive dust controls, efficient reuse of produced water, and optical gas imaging systems and monthly Audio Video Olfactory inspections were some of the topics discussed.

The Department provided a presentation to the CAC on its comments to the EPA on the **Cross-State Air Pollution Rule**. Comments focused on the cost thresholds used to develop the state nitrous oxide (NO_x) budgets, timing and compliance requirements, the shifting of electricity generation to lower NO_x-emitting energy generating units, and the EPA's proposed banking allowance surrender ration.

Oil and Gas Issues

Governor Wolf's **Pipeline Infrastructure Task Force** was discussed with the CAC. As the nation's second largest producer of natural gas, Pennsylvania is faced with the challenge of getting the natural gas to market. The Task Force was created to help identify a path forward for responsible infrastructure development. Specifically, the Task Force was asked to identify best practices and other recommendations in six (6) key areas: 1) amplify and engage in meaningful public participation; 2) develop long-term operations and maintenance plans to ensure pipeline safety and integrity; 3) employ construction methods that reduce environmental and community impact; 4) maximize opportunities for predictable and efficient permitting; 5) plan, site, and route pipelines to avoid or reduce environmental and community impacts; and 6) enhance workforce and economic development aspects.

A **Legacy Well Emission Study** was conducted by the Bureau of Oil and Gas Planning and Program Management to allow the Department to inspect a representative sample of abandoned, orphaned, and plugged wells and assess the integrity of those wells. The Department estimates that there are hundreds of thousands of abandoned or orphaned legacy wells and wells plugged under inadequate standards in the Commonwealth. The Department is trying to assess the potential environmental impacts of those abandoned and orphaned wells, identify needed changes to regulations, quantify the Department's plugging liability, and make an argument for new equipment for inspectors.

Waste Issues

The role of **Recycling** in Pennsylvania was presented to the CAC by DEP's Bureau of Waste Management. Recycling is an important tool in reducing the amount of waste that goes into a landfill. It also plays an important role in the Commonwealth's economy. Changes to waste generation, commodity prices, quality of materials, oil prices, and international and national markets are all having an impact on Pennsylvania's recycling industry. The industry continuously asks the Department for more education. Everyone agrees that education should be increased to continue to reduce the amount of waste generated and promote more recycling.

The **Covered Device Recycling Act (CDRA)** needs to be changed if the Commonwealth would like to see electronic equipment recycled properly and not disposed of illegally, according to the Bureau of Waste Management. The 2010 law is no longer viable due to changing markets. The Department would like to see a return share, which means that manufacturer obligations for recycling a certain amount of waste or a percent of sales is no longer the law, rather any material brought into the Commonwealth can be recycled. Also, the establishment of a base price for manufacturers to pay, which ensures that material is being recycled in an environmental and

responsible manner, will help to guarantee that citizens and local governments are not paying for the collection, transportation, and recycling of covered devices.

Energy Issues

An overview and update was provided to the Council on the **Alternative Fuel Incentive Grant Program**. The Department's Office of Pollution Prevention and Energy Assistance explained that the primary goal of the grant program is to improve Pennsylvania's air quality and reduce consumption of imported oil through the use of domestic alternative fuels. At that time, the program managed 43 active projects totaling almost \$7.3 million. This is a competitive grant program which is mainly for non-profit and for-profit businesses, school districts, colleges, and universities. The program seeks to attract innovative, advanced fuel, and vehicle technology projects that result in cleaner transportation in the state. The project categories are: 1) vehicle retrofit and/or new purchases; 2) alternative fuel refueling infrastructure; 3) biofuel use projects; and 4) innovative technology.

Natural Resource Issues

The Department of Conservation and Natural Resources' (DCNR) Bureau of Forestry spoke to the CAC about the work of the **Riparian Forest Buffer Advisory Committee and the Bureau of Forestry's Two-Year Workplan**. The Riparian Forest Buffer Advisory Committee was created after a USDA-sponsored riparian forest buffer leadership summit in D.C. to increase the number of acres of forested riparian buffers in the Commonwealth by 95,000 acres. The Bureau of Forestry's workplan consists of: leadership and collaboration; a review of funding and ways to try to identify innovative sources to incentivize buffer programs; improving and increasing messaging and outreach; and better use of technologies.

Administrative and Program Issues

A presentation was given to the Council by the Bureau of Laboratories on the **Association of Public Health Laboratories' Peer Review of DEP's Laboratory**. The peer review was conducted on two separate occasions at the request of the Department to assess the lab's strengths and weaknesses and to determine how staffing reductions may have impacted the laboratory. While the lab was given an exceptional rating in 2011-2013 when it had 76 full-time employees, in 2016 the reduction of staff to 56 full-time employees resulted in a drop in the lab's rating from exceptional to adequate. The critical recommendation from the Association of Public Health Laboratories is to find ways to return the number of staff back to its 2011-2013 level. The lab is concerned that the continued lack of funding and inability to staff the suggested compliment will have lasting impacts on the lab's accreditation.

DEP and DCNR's Human Resource Director provided an update to an earlier presentation where he discussed the challenges of workforce planning in the Department and the overall complement staffing levels. A recent bill (SB 1154) had just passed the Senate and was anticipated to become law. This legislation would reform the Civil Service process to make hiring easier. The Office of Administration was also putting together a millennial hiring taskforce to try to get recent college graduates interested in employment with the

Commonwealth. Concerns were raised over the loss of positions, the aging of the current staff, and the inability to draw new, young talent to the Department.

The **Climate Change Action Plan** was discussed with the CAC. According to the Bureau of Air Quality, the last iteration of the Climate Change Action Plan was submitted to the Governor in August and was a collaborative effort between the Department and the Climate Change Advisory Committee. The main focus of the Action Plan is to identify greenhouse gas emissions, sequestration trends, and baselines. It evaluates strategies for reducing or offsetting greenhouse gas emissions and identifies costs and other co-benefits of greenhouse gas reduction strategies, including the impact of future needs. The Action Plan identifies areas of agreement and disagreement among committee members and also makes recommendations for legislative changes.

A joint meeting was held between the **Environmental Justice Advisory Board** (“EJAB”) and the CAC. The meeting began with a discussion on **Public Engagement and Public Outreach** led by Acting Secretary McDonnell. The Department supports the definition of public participation as defined by the International Association for Public Participation. Public participation means: to involve those who are affected by a decision in the decision-making process; to promote sustainable decisions by providing participants with information needed to be involved in a meaningful way; and communication to participants how their input impacts the decision. Questions were posed to the CAC and EJAB to better assess the Department’s engagement of the public. The Acting Secretary noted that the Department intends to provide updates to both advisory councils on public participation policies as they move forward. Also, in that meeting, the CAC and the EJAB heard presentations from the Department on **DEP’s Brownfields Program, the Volkswagen Settlement, Robinson Twp. v. Commonwealth Update, and an Update on Recycling, Hazardous Sites Cleanup Act, and CDRA.**

New Bylaws

In February 4, 2016, the CAC voted to write bylaws to replace the outdated Rules of Procedure to offer more structure for both Council and staff. A committee of members was formed and a draft version of the bylaws was presented to the CAC for review and comment. The draft bylaws were discussed and amended at the October 18, 2016 meeting. Comments were solicited and extended until November. The final version of the bylaws was passed unanimously at the January 17, 2017 meeting of the CAC.

Public Participation

As part of its mission, Council seeks to represent all people of the Commonwealth and bring a collective view of the public interest in environmental protection and natural resources through a diversity of personal experiences and perspectives. A regular part of the Council meetings is the public comment period, which allows citizens of the Commonwealth to provide written or oral testimony to the Council on various concerns involving environmental resources of the Commonwealth. Minutes of the CAC meetings list anyone who provides public comments to the Council, as well as a summary of their concerns. Comments from concerned citizens help to

inform the Council members on issues and allow the Council to follow up with the Department if necessary.

For more information, please go to:

<http://www.dep.pa.gov/PublicParticipation/CitizensAdvisoryCouncil/Pages/default.aspx>

or contact Lee Ann H. Murray, Executive Director at leemurray@pa.gov.