

**MINUTES  
ENVIRONMENTAL QUALITY BOARD MEETING  
October 17, 2017**

**VOTING MEMBERS OR ALTERNATES PRESENT**

Patrick McDonnell, Chairman, Secretary, Department of Environmental Protection  
Jennifer Rapach, alternate for Gerald Oleksiak, Acting Secretary, Department of Labor and Industry  
Emma Lowe, alternate for Leslie Richards, Secretary, Department of Transportation  
Andrew Place, alternate for Gladys Brown, Chairman, Public Utility Commission  
Richard Fox, alternate for Representative Mike Carroll  
Jonathan Lutz, alternate for Representative John Maher  
Joanne Manganello, alternate for Senator John Yudichak  
Nick Troutman, alternate for Senator Gene Yaw  
Mike DiMatteo, alternate for Bryan Burhans, Executive Director, Pennsylvania Game Commission  
Heather Smiles, alternate for John Arway, Executive Director, Pennsylvania Fish and Boat Commission  
Doug McLearn, alternate for Andrea Lowery, Executive Director, Pennsylvania Historical and  
Museum Commission  
Sam Robinson, alternate for Sarah Galbally, Secretary, Governor's Office of Policy and Planning  
Cynthia Carrow, Citizens Advisory Council  
William Fink, Citizens Advisory Council  
Don Welsh, Citizens Advisory Council  
Jim Sandoe, Citizens Advisory Council  
Denise Brinley, alternate for Dennis Davin, Secretary, Department of Community and  
Economic Development  
Michael Smith, alternate for Russell Redding, Secretary, Department of Agriculture  
Sharon Watkins, alternate for Dr. Rachel Levine, Acting Secretary, Department of Health

**DEPARTMENT OF ENVIRONMENTAL PROTECTION STAFF PRESENT**

Laura Edinger, Regulatory Coordinator  
Jessica Shirley, Policy Director  
Bo Reiley, Bureau of Regulatory Counsel

**CALL TO ORDER AND APPROVAL OF MINUTES**

The meeting was called to order at 9:00 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The Environmental Quality Board (EQB or Board) considered its first item of business – the approval of the August 15, 2017, EQB meeting minutes.

**Andrew Place made a motion to adopt the August 15, 2017, EQB meeting minutes.  
Jim Sandoe seconded the motion, which was unanimously approved by the Board.**

**CONSIDERATION OF PROPOSED RULEMAKING:  
NONCOAL MINING PROGRAM FEES (25 Pa. Code Chapter 77)**

John Stefanko, Deputy Secretary for Active and Abandoned Mine Operations, provided an overview of the proposed rulemaking. Tom Callaghan, Director for Bureau of Mining Programs, and Joe Iole, Assistant Counsel for the Bureau of Regulatory Counsel, assisted with the presentation.

After the presentation, Mr. Place noted that the revenue and cost data are provided for the prior two years, and he inquired if the Noncoal Mining Program has data available for the current fiscal year. Deputy Secretary Stefanko responded that the information is available and will be provided.

Mr. Place further inquired if additional productivity efficiency measures have been explored to offset rising costs. Deputy Secretary Stefanko responded that the Noncoal Mining Program is continuously seeking the most efficient and effective ways to run the program. Overall, the Noncoal Mining Program maintains a consistent workload and the Department will continue to make cost adjustments as necessary and as the Department is able in order to ensure adequate staffing to continue to maintain program performance. Deputy Secretary Stefanko additionally noted that one efficiency improvement that is highly anticipated is ePermitting.

Mr. Place inquired if, given the information provided relating to costs outpacing revenue, it is reasonable to believe that annual fee increases may be reality in the future. Deputy Secretary Stefanko responded affirmatively, noting that costs for existing staff continue to rise.

Mr. Place referenced the note made related to the increasing complexities of the Noncoal Mining Program. He asked for additional explanation as to why running the program has grown more complex over time. Mr. Callaghan responded that, over the past couple of decades, the Noncoal Mining Program has witnessed increased complexity in permit applications. This is primarily driven by groundwater extraction. The use of groundwater models and the prediction of impacts and changes to facilities increase the complexity of a permit application thereby increasing the time needed to review the applications.

**Richard Fox made a motion to adopt the proposed rulemaking.**

**Doug McLearan seconded the motion, which was unanimously approved by the Board.**

**CONSIDERATION OF PROPOSED RULEMAKING: ADMINISTRATION OF THE  
STORAGE TANK AND SPILL PREVENTION PROGRAM (25 Pa. Code Chapter 245)**

George Hartenstein, Deputy Secretary for Waste, Air, Radiation and Remediation, provided an overview of the proposed rulemaking. Kris Shiffer, Chief for Division of Storage Tanks, and Keith Salador, Assistant Counsel for the Bureau of Regulatory Counsel, assisted with the presentation.

After the presentation, Mr. Fox noted that this proposed rulemaking primarily incorporates Federal regulations. He inquired if there are areas in the rulemaking package where Pennsylvania would be more stringent than the Federal government. Deputy Secretary Hartenstein responded that none of the proposed regulatory amendments would be more stringent than Federal requirements.

Mr. Fox referenced the statement that the Department receives 2.3 million dollars annually in Federal grant funding for the program. He asked what percentage that is for overall program costs. Deputy Secretary Hartenstein responded that the total program costs, including the aboveground storage tank

program (no Federal regulations exist for aboveground storage tanks), range from nine to ten million dollars annually.

Mr. Fox noted that 7,100 storage tanks and 1,600 facilities are located in Pennsylvania. He asked if the number of tanks are staying relatively the same or if they are increasing or decreasing in number. Deputy Secretary Hartenstein responded that, beginning in the 1990s, the Department has noticed a decrease in the number of underground storage tanks. The Department has seen a small increase in small aboveground storage tanks more recently, but the number of those tanks remains relatively steady overall.

Ms. Brinley commented regarding primary liabilities for underground storage tank owners. She inquired if the Department has knowledge of the impact on insurance premiums related to storage tanks. Deputy Secretary Hartenstein responded that the Department does not track insurance premiums or that type of data.

**Richard Fox made a motion to adopt the proposed rulemaking.**

**Andrew Place seconded the motion, which was unanimously approved by the Board.**

### **OTHER BUSINESS:**

Ms. Edinger provided the Board with a regulatory update. She informed the Board that the proposed Triennial Review of Water Quality Standards is scheduled for publication on Saturday, October 21, which will open the public comment period. The comment period will close on December 29. Three public hearings are included as part of this publication –Wilkes Barre on December 6, Harrisburg on December 8, and Pittsburgh on December 14. The Board adopted this rulemaking on April 18, 2017, with a modification to the Annex A (removing language related to conservation easements). Some revisions were made to the preamble to address comments received from the Office of Attorney General during its form and legality review. Specifically, a section has been added to the preamble requesting comments and information for a future rulemaking regarding conservation easements – not for this rulemaking. No changes were made to the proposed regulatory language in the Annex A adopted as modified by the Board. The proposal, as well as all comments, will be available to view on eComment. Ms. Edinger noted that she will be recruiting Board members and alternates to chair the three scheduled public hearings.

Ms. Edinger noted that the final Radiological Health and Radon Certification Fees and Pennsylvania Radon Mitigation System Fee rulemaking is scheduled for publication on Saturday, October 21, making the rulemaking effective. The final rule was adopted by the Board on June 20, 2017.

Ms. Edinger further informed the Board that IRRC will consider the Sobers Run et.al. Stream Redesignations final rulemaking at its November 16 meeting. This Board adopted the final rule at its August 15, 2017 meeting. If IRRC approves the rulemaking, it will then be submitted to the Office of Attorney General for a 30-day form and legality review prior to publication as final and effective.

Ms. Shirley provided an update to the Board regarding the publication of Departmental Policies. She noted that over the past few months, the Department's Policy Office has worked with an internal group of Department staff to revise the Advisory Committee Guidelines, Policy for the Development and Publication of Technical Guidance, and Policy for the Development and Review of Regulations. The purpose in revising these documents is to modernize the policies, evaluate ways to enhance the public's understanding of the Department's processes that solicit public feedback, and make changes based on recommendations provided by the Citizens Advisory Council.

This is the first step in an effort to enhance public engagement with the Department. After feedback is received, additional policies, including the Environmental Justice Public Participation Policy and the Public Participation in the Development of Regulations and Technical Guidance Policy, will also be updated. Updates will be made to the Department's website and information about providing feedback will be readily available. The policies can be viewed on eComment. The Department will accept all comments through 11:59 p.m. on Wednesday, December 13, 2017.

Secretary McDonnell informed the Board that the next Board meeting is tentatively planned for Tuesday, November 14, 2017. This meeting is scheduled for the second Tuesday of the month, rather than the third, in order to avoid conflict with the Thanksgiving holiday.

**ADJOURN:**

With no further business before the Board, Nick Troutman moved to adjourn the meeting. Jonathan Lutz seconded the motion, which was unanimously approved by the Board. The October 17, 2017, meeting of the Board was adjourned at 9:36 a.m.