

**MINUTES
ENVIRONMENTAL QUALITY BOARD MEETING
May 19, 2020**

VOTING MEMBERS OR ALTERNATES PRESENT

Patrick McDonnell, Chair, Secretary, Department of Environmental Protection
Joe Lee, alternate for Gerald Oleksiak, Secretary, Department of Labor and Industry
Natasha Fackler, alternate for Yassmin Gramian, Acting Secretary, Department of Transportation
Gladys Brown Dutrieuille, Chairman, Public Utility Commission
Representative Greg Vitali, Pennsylvania House of Representatives
Glendon King, alternate for Representative Daryl Metcalfe, Pennsylvania House of Representatives
Senator Steven Santarsiero, Senate of Pennsylvania
Nick Troutman, alternate for Senator Gene Yaw, Senate of Pennsylvania
Michael DiMatteo, alternate for Bryan Burhans, Executive Director, Pennsylvania Game Commission
John St. Clair, Citizens Advisory Council
Heather Smiles, alternate for Tim Schaeffer, Executive Director, Pennsylvania Fish and Boat Commission
Andrea Lowery, Executive Director, Pennsylvania Historical and Museum Commission
Erin Wachter, alternate for Meg Snead, Secretary, Governor's Office of Policy and Planning
Cynthia Carrow, Citizens Advisory Council
Mark Caskey, Citizens Advisory Council
Duane Mowery, Citizens Advisory Council
Jim Welty, Citizens Advisory Council
Denise Brinley, alternate for Dennis Davin, Secretary, Department of Community and
Economic Development
Michael Hanna, alternate for Russell Redding, Secretary, Department of Agriculture
Peter Blank, alternate for Dr. Rachel Levine, Secretary, Department of Health

DEPARTMENT OF ENVIRONMENTAL PROTECTION STAFF PRESENT

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

CALL TO ORDER AND APPROVAL OF MINUTES

The first virtual meeting of the Environmental Quality Board (EQB or Board) was called to order at 9:02 a.m. via WebEx. The Board considered its first item of business; approval of the January 21, 2020, EQB meeting minutes.

Senator Santarsiero made a motion to adopt the January 21, 2020, EQB meeting minutes. Andrea Lowery seconded the motion, which was unanimously approved by the Board. (19-0)

CONSIDERATION OF PROPOSED RULEMAKING: CONTROL OF VOC EMISSIONS FROM GASOLINE DISPENSING FACILITIES (STAGES I AND II) (25 Pa. Code Chapters 121 & 129)

This proposed rulemaking would amend air quality regulations relating to control of volatile organic compound (VOC) emissions during loading of underground gasoline storage tanks (UST) (“Stage I” vapor recovery), during filling of motor vehicles at the pump (“Stage II” vapor recovery) and during and after decommissioning of Stage II vapor recovery equipment from gasoline dispensing pumps. This proposed rule would amend sections 121.1, 129.61 and 129.82 (relating to definitions; small gasoline storage tank control (Stage I control); and control of VOCs from gasoline dispensing facilities (Stage II)), and add sections 129.61a and 129.82a (relating to vapor leak monitoring procedures and other requirements for small gasoline storage tank emission control; and requirements to decommission a Stage II vapor recovery system).

The rule would require that air quality emission control systems that cause unnecessary, excess emissions be removed from gasoline dispensing facilities (GDFs), while ensuring that excess emissions are not caused during removal or over the long-term. The Stage I and Stage II vapor recovery systems that would be affected control VOCs and air toxics (including benzene) emitted from gasoline at GDF. VOC emissions are precursors to the formation of ground-level ozone, a public health and welfare hazard. Air toxics are hazardous air pollutants.

Krishnan Ramamurthy (Deputy Secretary for Office of Waste, Air, Radiation and Remediation) provided an overview of the proposed rulemaking. Chris Trostle (Bureau of Air Quality) and Jesse Walker (Bureau of Regulatory Counsel) assisted with the presentation.

Following the Department’s presentation, Nick Troutman asked if the U.S. Environmental Protection Agency (EPA) would need to sign off on the rulemaking. Deputy Secretary Ramamurthy affirmed that an approval from EPA will be needed. He further indicated that EPA approval is anticipated without issue, as they approved decommissioning in 2012.

Andrea Lowery inquired regarding the cost of decommissioning. Specifically, she asked if the payback period and a tax deduction that would help offset the costs are related to programs already in place or if they would be new programs. She additionally noted that eco nozzles will only possibly be marketed by two manufacturers at the time of finalization of this rule. She asked if there was a backup plan in case eco nozzles are not available for purchase. Mr. Trostle responded that the deduction referenced in the rule was based on a range of deductions service stations could take from their income and reduce their tax burden when they replaced or decommissioned systems. Regarding ECO nozzles, Mr. Trostle noted that two manufacturers each received California Air Resources Board certification for two ECO nozzles. With the two existing certified ECO nozzles and another in development, ECO nozzles should be easily available upon the finalization of this rule.

Senator Santarsiero made a motion to adopt the proposed rulemaking.

Andrea Lowery seconded the motion, which was unanimously approved by the Board.

(19-0)

OTHER BUSINESS:

Laura Edinger provided the following regulatory updates:

- The EQB adopted two final-form rulemakings on November 19, 2019; the Federal Office of Surface Mining Reclamation and Enforcement Program Consistency rule and the Triennial Review of Water Quality Standards. The Independent Regulatory Review Commission approved both rulemakings on January 31, 2020. The Federal Office of Surface Mining rule was published as final in the *Pennsylvania Bulletin* on March 14, 2020. Triennial Review will be published as final this summer.
- The Environmental Quality Board adopted two proposed rulemakings on December 17, 2019. The Control of VOC Emissions from Oil and Natural Gas Sources rulemaking is scheduled for publication in the *Pennsylvania Bulletin* on Saturday, May 23, 2020, opening a 66-day public comment period. Three virtual public hearings are scheduled for June 23, 24, and 25. Details on how to access the hearings and participate remotely will be available on the Board's webpage. The Water Quality Standards for Manganese and Implementation is anticipated for publication later this summer.
- The Board adopted three rulemakings on January 21, 2020; the final-omitted Hazardous Waste Generator Improvement Rule, the final-form Unconventional Well Permit Application Fees, and the final-form Revision of the Maximum Allowable Sulfur Content Limit No. 2 and Lighter Commercial Fuel Oil. All are scheduled to be considered at the next Independent Regulatory Review Commission's meeting.

Ms. Edinger also noted the OSM Form 23 - Statement of Employment and Financial Interest will be due soon. A copy of the Federal Office of Surface Mining and Reclamation Form 23 will be sent to all Board members and alternates by email. All Board members and alternates are required to submit this information. Forms should be completed and returned by July 1, 2020.

Jim Welty asked for a status on the ongoing review of the Cap and Trade Petition.

Jessica Shirley provided an update noting that the Department continues to work with contractor, ICF, on the economic modeling for the Cap and Trade Petition. The Department is wrapping up the electricity sector modeling and will be moving into transportation. When the transportation sector modeling is complete, the Department will move into the energy production sectors and manufacturing sector. Due to a few setbacks, the modeling will likely not conclude until the end of this year, instead of the middle of the year as originally anticipated.

Mr. Caskey noted that following this meeting, members of the Citizens Advisory Council (CAC), will vote to concur or not with the Department's recommendation to advance the draft proposed CO₂ Budget Trading Program rulemaking. He alleged that the CAC had not been provided with economic modeling data that outlines the impact of the rule and thus, the CAC lacks adequate information to vote. Ms. Shirley explained that the modeling she was referring to was conducted for the Cap and Trade Petition and encompasses economic modeling for all sectors. In contrast, the CAC will be voting on a draft proposed Annex A for a rulemaking that has a narrower focus and impact. The CAC will be evaluating the proposed regulatory amendments that will impact the electricity markets. Ms. Shirley further noted that, each time the draft proposed regulatory amendments were presented to advisory committees, an economic analysis showing the impact to electricity rates was included as part of that presentation.

Mr. Caskey claimed that each time the modeling was presented, the cost to Pennsylvania was not included. Ms. Shirley reaffirmed that the economic impact to electricity sectors is included in presentations on this rule. She referenced the webinar (held on April 23) that is available online.

Mr. Caskey inquired how to vote (at the upcoming CAC meeting) on a rule without having the economic impact information. Chairperson McDonnell reiterated that the rate impacts were presented. Mr. Caskey stated that the Department's rate impacts assessment did not adequately cover the economic impact. Chairman McDonnell noted that disagreement with the Department's modeling numbers is not the same as not receiving modeling data. Economic data has been presented to advisory committees and has been made publicly available through the webinar previously mentioned.

Ms. Shirley noted that this will be brought before the EQB at a later date and further discussion can continue at that time.

NEXT MEETING:

The next meeting of the EQB is scheduled for Tuesday, June 16, 2020. The June meeting will also be a virtual meeting held via WebEx.

ADJOURN:

With no further business before the Board, Senator Santarsiero moved to adjourn the meeting. Nick Troutman seconded the motion, which was unanimously approved by the Board. The May 19, 2020, meeting of the Board was adjourned at 9:48 a.m.