

MINUTES
ENVIRONMENTAL QUALITY BOARD MEETING
November 30, 2022

VOTING MEMBERS AND/OR ALTERNATES PRESENT

Ramez Ziadeh, Acting Chair, Acting Secretary, Department of Environmental Protection
Aimee Wechsler, alternate for Allison Jones, Secretary, Governor's Office of Policy and Planning
Greg Hostetter, alternate for Russell Redding, Secretary, Department of Agriculture
Adam Walters, alternate for Neil Weaver, Acting Secretary, Dept. of Community & Economic Development
Kristen Rodack, alternate for Dr. Denise Johnson, Acting Secretary, Department of Health
Kristen Gardner, alternate for Jennifer Berrier, Secretary, Department of Labor and Industry
Nathan Walker, alternate for Yassmin Gramian, Secretary, Department of Transportation
Heather Smiles, alternate for Tim Schaeffer, Executive Director, Pennsylvania Fish and Boat Commission
Mike DiMatteo, alternate for Bryan Burhans, Executive Director, Pennsylvania Game Commission
Andrea Lowery, Executive Director, Pennsylvania Historical & Museum Commission
Regi Sam, alternate for Gladys Dutrieuille, Chair, Public Utility Commission
Nick Troutman, alternate for Senator Gene Yaw, Senate Environmental Resources & Energy Committee
Senator Carolyn Comitta, Senate Environmental Resources & Energy Committee
(Emily Eyster, alternate for Senator Carolyn Comitta, Senate Environmental Resources & Energy Committee)
Glendon King, alternate for Rep. Daryl Metcalfe, House Environmental Resources Energy Committee
Representative Greg Vitali, House Environmental Resources & Energy Committee
Robert Barkanic, Citizens Advisory Council
Trisha Salvia, Citizens Advisory Council
James Schmid, Citizens Advisory Council
John Walliser, Citizens Advisory Council

DEPARTMENT OF ENVIRONMENTAL PROTECTION STAFF PRESENT

Laura Griffin, Regulatory Coordinator
Brian Chalfant, Acting Policy Director
Robert "Bo" Reiley, Bureau of Regulatory Counsel

CALL TO ORDER AND APPROVAL OF MINUTES

The hybrid meeting of the Environmental Quality Board (EQB or Board) was called to order by Chairperson Ziadeh at 9:03 a.m. The Board considered its first item of business: approval of the November 15, 2022, EQB meeting minutes.

Representative Vitali made a motion to adopt the November 15, 2022, EQB meeting minutes. Andrea Lowery seconded the motion, which was approved by the Board by a vote of 16-0-1. Kristen Gardner abstained from the vote.

(Senator Comitta was not present for voting on the approval of minutes.)

Emergency Certified Final-Omitted Rulemaking: Control of VOC Emissions from Conventional Oil and Natural Gas Sources (25 Pa. Code Chapter 129)

Krishnan Ramamurthy (Deputy Secretary for Office of Waste, Air, Radiation, and Remediation) provided an overview of the emergency certified final-omitted rulemaking. Mark Hammond (Director, Bureau of Air Quality) and Jennie Demjanick (Assistant Counsel, Bureau of Regulatory Counsel) assisted with the presentation.

Following the Department's presentation, Glendon King asked if the Board was voting on the annex (regulatory language) alone, or on both the annex and the governor's emergency certification. Bo Reiley responded that the Board was voting on the annex only. King asserted that the EQB's vote should take into consideration the emergency certification and questioned if there was an emergency. Krishnan Ramamurthy explained that if a complete State Implementation Plan (SIP), including the final, published and effective regulation addressing VOC emissions from conventional oil and natural gas sources, was not submitted to the United States Environmental Protection Agency (EPA) by December 16, 2022, the Commonwealth would face mandatory sanctions under the Clean Air Act. Ramamurthy reiterated the sanctions discussed in the Department's presentation; the EPA had already imposed the mandatory emission reduction credit offsets of two to one on the Commonwealth, which started on June 16, 2022, and the December 16th deadline would trigger the withholding of hundreds of millions of dollars in federal transportation funding. Ramamurthy repeated that the sanctions are mandatory under the Clean Air Act, not discretionary, and that the regulations for both the unconventional and conventional oil and natural gas sources must be included for the SIP to be complete.

Nick Troutman asked for clarification on language in the emergency order regarding the EQB being under the authority of the Department. Bo Reiley explained that it is incorrect that the language would be corrected to indicate the EQB is independent of the Department and reiterated that the EQB was voting on the regulation alone and not the emergency certification.

Representative Vitali asked if the regulation was published in the *Pennsylvania Bulletin* by December 16th and effective upon publication, would the conventional oil and natural gas industry be required to comply with the regulation at that time. Reiley explained that if the industry wanted to challenge the regulation once it became effective, they would have to file a petition for review in the Commonwealth Court.

Glendon King alleged that the Department was incompetent in its handling of the regulation because of the length of time it took to complete it and the Department's delay was the cause for the emergency. Representative Vitali strongly disagreed with the allegation of incompetence on the part of the Department, emphasizing his conservative Republican colleagues have starved the agency of adequate funding and personnel to complete regulations but then blame the Department staff for not moving faster. Vitali noted the Department's challenges in advancing the regulation through the rulemaking process while accounting for potential lawsuits and legislative action to stop it. Vitali highlighted the chair of the House Environmental Resources and Energy Committee's (Representative Metcalfe) multiple procedural motions under the Regulatory Review Act to slow down the process and that the regulation had already been approved by the Board twice earlier in 2022. Representative Vitali concluded by stating that the loss of \$500 million in highway funding is an emergency, especially in the eyes of his constituents because it would directly affect funding for ongoing projects in his legislative district.

Representative Vitali made a motion to adopt the final-omitted rulemaking. James Schmid seconded the motion, which was approved by the Board (16-2). Nick Troutman (alternate

for Senator Gene Yaw) and Glendon King (alternate for Representative Daryl Metcalfe) voted in opposition.

(Emily Eyster voted on behalf of Senator Comitta.)

OTHER BUSINESS

Laura Griffin provided the following regulatory updates.

- On November 17, 2022, the Independent Regulatory Review Commission (IRRC) approved the Safe Drinking Water PFAS MCL Rule final rulemaking and the VOC RACT Requirements for Shipbuilding and Ship Repair Surface Coating Operations, Synthetic Organic Chemical Manufacturing Industry Processes and Large Petroleum Dry Cleaners for the 2015 Ozone NAAQS final rulemaking.
- The Control of VOC Emissions from Unconventional Oil and Natural Gas Sources final rulemaking is scheduled for publication in the December 10, 2022 issue of the *Pennsylvania Bulletin*.

NEXT MEETING

Chairperson Ziadeh announced the December 20, 2022 meeting of the EQB is cancelled and the next Board meeting is not yet scheduled.

Before adjourning, Representative Vitali acknowledged that it was Deputy Secretary Ramamurthy's last EQB meeting before his retirement and thanked Ramamurthy for the decades of service to the Commonwealth and expressed that it was a pleasure to work with him. Chairperson Ziadeh echoed the sentiments, noting that Ramamurthy will be greatly missed.

ADJOURN

With no further business before the Board, Representative Vitali moved to adjourn the meeting. Nick Troutman seconded the motion, which was unanimously approved by the Board. The November 30, 2022, meeting of the Board was adjourned at 9:38 a.m.