

**MINUTES
ENVIRONMENTAL QUALITY BOARD MEETING
July 11, 2023**

VOTING MEMBERS AND/OR ALTERNATES PRESENT

Richard Negrin, Chair, Secretary, Department of Environmental Protection
Jacob Finkel, alternate for Akbar Hossain, Secretary, Governor’s Office of Policy and Planning
Greg Hostetter, alternate for Russell Redding, Secretary, Department of Agriculture
Adam Walters, alternate for Frederick Siger, Secretary, Dept. of Community & Economic Development
Kristen Rodack, alternate for Dr. Debra Bogen, Acting Secretary, Department of Health
Kabir Hossain, alternate for Nancy Walker, Secretary, Department of Labor and Industry
Marisa Balanda, alternate for Michael Carroll, Secretary, Department of Transportation
Heather Smiles, alternate for Tim Schaeffer, Executive Director, Pennsylvania Fish and Boat Commission
Tim Haydt, alternate for Bryan Burhans, Executive Director, Pennsylvania Game Commission
*Joe Lauver, alternate for Andrea Lowery, Executive Director, Pennsylvania Historical & Museum
Commission*
Kathryn Zeffuss, alternate for Gladys Dutrieuille, Chair, Public Utility Commission
Matt Osenbach, alternate for Senator Gene Yaw, Senate Environmental Resources & Energy Committee
Emily Eyster, alternate for Senator Carolyn Comitta, Senate Environmental Resources & Energy Committee
Glendon King, alternate for Rep. Martin Causer, House Environmental Resources Energy Committee
Representative Greg Vitali, House Environmental Resources & Energy Committee
Robert Barkanic, Citizens Advisory Council
Cynthia Carrow, 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
Ezra Thrush, 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 Negrin at 9:10 a.m. The Board considered its first item of business: approval of the April 11, 2023, EQB meeting minutes.

**James Schmid made a motion to adopt the April 11, 2023, EQB meeting minutes.
Representative Vitali seconded the motion, which was approved by the Board by a
vote of 19-0.**

**FINAL RULEMAKING: ADMINISTRATION OF THE LAND RECYCLING PROGRAM
VANADIUM MSC RULE (25 Pa. Code Chapter 250)**

Ali Tarquino Morris (Acting Deputy Secretary for Waste, Air, Radiation and Remediation) provided an overview of the final rulemaking. Troy Conrad (Director, Bureau of Environmental Cleanup and

Brownfields), and Nicholas Pistory (Assistant Counsel, Bureau of Regulatory Counsel) assisted with the presentation.

There were no questions or discussion following the Department's presentation.

Glendon King (alternate for Representative Martin Causer) made a motion to adopt the final rulemaking. Matt Osenbach (alternate for Senator Gene Yaw) seconded the motion, which was unanimously approved by the Board (19-0).

After the vote, Glendon King thanked the Department for moving the regulation quickly through the rulemaking process.

PROPOSED RULEMAKING: TRIENNIAL REVIEW OF WATER QUALITY STANDARDS (25 Pa. Code Chapter 93)

Manyi Liu (Director, Bureau of Clean Water) provided an overview of the proposed rulemaking. Josh Lookenbill (Program Manager, Bureau of Clean Water) and Michelle Moses (Assistant Director, Bureau of Regulatory Counsel) assisted with the presentation.

Following the Department's presentation, Robert Barkanic asked when and how facilities would come into compliance with the new standards once they are finalized. Manyi Liu explained that new or updated limits would be incorporated into a facility's National Pollutant Discharge Elimination System (NPDES) permit when it comes up for renewal after the standards are in effect.

Kathryn Zerfuss made a motion to adopt the proposed rulemaking. Representative Vitali seconded the motion, which was approved by the Board (17-2). Matt Osenbach (alternate for Senator Gene Yaw) and Glendon King (alternate for Representative Martin Causer) voted in opposition.

PRESENTATION OF STATEMENT OF POLICY: WATER QUALITY TOXICS MANAGEMENT STRATEGY (25 Pa. Code Chapter 16)

Manyi Liu (Director, Bureau of Clean Water) provided an overview of the statement of policy. Josh Lookenbill (Program Manager, Bureau of Clean Water) and Michelle Moses (Assistant Director, Bureau of Regulatory Counsel) assisted with the presentation.

The Chapter 16 Statement of Policy amendments were provided to the Board as an informational item in concert with the Triennial Review proposed rulemaking. Amendments to policies are Department actions.

There were no questions or discussion following the Department's presentation.

No formal action needed.

PROPOSED RULEMAKING: WATER QUALITY STANDARDS – SITE-SPECIFIC WATER QUALITY CRITERIA (25 Pa. Code Chapter 93)

Manyi Liu (Director, Bureau of Clean Water) provided an overview of the proposed rulemaking. Josh Lookenbill (Program Manager, Bureau of Clean Water) and Michelle Moses (Assistant Director, Bureau of Regulatory Counsel) assisted with the presentation.

Following the Department's presentation, Secretary Negrin asked how Department staff decide which species to use to develop a site-specific water quality criterion recommendation and how often the Department receives requests for site-specific criteria. Josh Lookenbill said that the highest trophic level species that are available at that specific location are used and there are approximately 30 site-specific criteria currently, which have been requested over many years, so the requests are not common.

Representative Vitali made a motion to adopt the proposed rulemaking. James Schmid seconded the motion, which was approved by the Board (17-2). Matt Osenbach (alternate for Senator Gene Yaw) and Glendon King (alternate for Representative Martin Causer) voted in opposition.

CONSIDERATION OF RULEMAKING PETITION: CONVENTIONAL OIL AND GAS WELL BONDING (25 Pa. Code § 78.302)

Kurt Klapkowski (Deputy Secretary for Oil and Gas Management) provided an overview of the proposed rulemaking. Kris Shiffer, Director (Bureau of Oil & Gas Planning and Program Management) and Kathleen Ryan (Assistant Counsel, Bureau of Regulatory Counsel) assisted with the presentation.

Following the Department's presentation, Glendon King asked if the Board was voting to accept the Department's report on the petition or just on the recommendation to deny the petition for rulemaking. Secretary Negrin confirmed that the Board was voting only on the recommendation to deny the petition. Jacob Finkel requested confirmation that the Department was making the recommendation based on procedure and not a substantive analysis of the petition. Kurt Klapkowski said yes, the recommendation is based on the change in the law removing the Board's authority and not a substantive analysis.

James Schmid asked if the Department could tell the Board whether the current bonding amounts are adequate to cover the cost of closing a conventional well right now. Kurt Klapkowski responded that, based on the Department's experience plugging previous wells, the historic average cost has been around \$33,000 per well plugged. Klapkowski added that when the Department submitted information to the federal Department of the Interior in late 2021 for the notice of intent to apply for the Bipartisan Infrastructure Law's orphaned well plugging formula grant, Department staff projected it would cost around \$68,000 to plug these wells going forward, based on cost trends and the nature of the wells that will be plugged. Klapkowski said that the bids in 2022 for the first round of well plugging using the federal grant money came out to around \$100,000 per well, noting that the bids may have been higher because prevailing wage was required and there is currently high demand and competition for well plugging services. Klapkowski concluded that, based on those three figures, the \$2,500 bonding requirement currently set in statute would not be enough.

Kathryn Zarfuss made a motion to accept the Department's recommendation to deny the petition for rulemaking. Adam Walters seconded the motion, which was approved by the Board (18-0). John Walliser abstained from voting.

OTHER BUSINESS

Laura Griffin provided the following regulatory updates.

The Board adopted five final regulations at its November 15, 2022 and April 11, 2023 meetings, which were then approved by the Independent Regulatory Review Commission on May 18, 2023.

The three of the final regulations were published in the *Pennsylvania Bulletin* on June 24, 2023: National Pollutant Discharge Elimination System (NPDES) Schedules of Compliance, Water Quality Standards - Dunbar Creek et al. Stream Redesignations, and Radiological Health Fees that will be effective 30 days after publication on July 24, 2023.

The Radiation Safety Requirements for Non-Healing Arts Radiation Producing Devices final regulation is scheduled for publication in the *Pennsylvania Bulletin* on August 12.

The Noncoal Mining Clarifications and Corrections final regulation is scheduled for publication in the *Pennsylvania Bulletin* on August 19.

NEXT MEETING

Chairperson Negrin announced the next meeting of the EQB is tentatively scheduled for Tuesday, September 12, 2023. The August 8th meeting will be canceled.

ADJOURN

With no further business before the Board, Jacob Finkel moved to adjourn the meeting. Glendon King seconded the motion, which was unanimously approved by the Board. The July 11, 2023, meeting of the Board was adjourned at 10:38 a.m.