

MINUTES
ENVIRONMENTAL QUALITY BOARD MEETING
September 10, 2024

VOTING MEMBERS AND/OR ALTERNATES PRESENT

Jessica Shirley, Acting Chairperson, Acting Secretary, Department of Environmental Protection
Erin Corrigan, 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, Department of Community & Economic Development
Kristen Rodack, alternate for Dr. Debra Bogen, Secretary, Department of Health
Scott Weiant, alternate for Nancy Walker, Secretary, Department of Labor and Industry
Shane Rice, 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 Stephen Smith, Executive Director, Pennsylvania Game Commission
Andrea Lowery, Executive Director, Pennsylvania Historical & Museum Commission
Kathryn Zerfuss, alternate for Stephen DeFrank, 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
Evan Franzese-Peterson, alternate for Rep. Greg Vitali, House Environmental Resources & Energy Committee

Committee
Robert Barkanic, Citizens Advisory Council
Trisha Salvia, Citizens Advisory Council
John Walliser, Citizens Advisory Council
James Welty, Citizens Advisory Council

DEPARTMENT OF ENVIRONMENTAL PROTECTION STAFF PRESENT

Laura Griffin, Regulatory Coordinator
Laura Campbell, Regulatory Coordinator
High Garst, 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 Acting Chairperson Shirley at 9:01 a.m. The Board considered its first item of business: approval of the March 12, 2024, EQB meeting minutes.

Kathryn Zerfuss made a motion to adopt the March 12, 2024, EQB meeting minutes. Robert Barkanic seconded the motion, which was approved by the Board by a vote of 18-0.

PROPOSED RULEMAKING: WATER QUALITY STANDARDS; CLASS A STREAM REDESIGNATIONS (25 Pa. Code Chapter 93)

Jill Whitcomb (Acting Deputy Secretary for Water Programs) provided an overview of the proposed rulemaking. Jay Patel (Acting Director, Bureau of Clean Water), Josh Lookenbill (Program Manager, Bureau of Clean Water) and Michelle Moses (Assistant Director, Bureau of Regulatory Counsel) assisted with the presentation.

There was no discussion following the Department's presentation.

John Walliser made a motion to adopt the proposed rulemaking. Andrea Lowery seconded the motion.

Glendon King stated appreciation for the outreach efforts by the Department and the Pennsylvania Fish and Boat Commission to let potentially affected communities know about these redesignations. King had a general concern about combining this many stream designations into a single vote on a single regulatory package, explaining that it makes it difficult for the public and Board members to understand and analyze what is being voted on.

The motion was approved by the Board (16-2). Matt Osenbach and Glendon King voted in opposition.

PRESENTATION OF REGULATORY FEE REPORT: LABORATORY ACCREDITATION PROGRAM (25 Pa. Code Chapter 252)

Ian Harlow (Deputy Secretary for Administration) provided an overview of the three-year fee report. Dr. Pamela Higgins (Director, Bureau of Laboratories) and Leda Lacomba (Assistant Counsel, Bureau of Regulatory Counsel) assisted with the presentation.

There was no discussion following the Department's presentation.

This was a presentation to the Board. No formal action was needed.

OTHER BUSINESS

Laura Griffin provided the following regulatory update.

- Adopted by this Board on March 12, 2024, the Administration of the Land Recycling Program proposed rulemaking was published in the *Pennsylvania Bulletin* on July 13, 2024, for a 60-day public comment period that will close on September 11, 2024. Public hearings were held on August 19th and 27th and September 4th.

Glendon King discussed Pennsylvania regulations that incorporate by reference California regulations setting standards for heavy-duty diesel trucks. King stated that California recently adopted new warranty standards, which he characterized as burdensome, that are automatically adopted in Pennsylvania. King stated that the Department is currently being sued because of this issue and noted the Department temporarily suspended enforcement of this regulation.

Glendon King motioned that within the next 6 months, the Department shall bring forward a proposed regulation for a vote to the Board that would abrogate the contents of Title 25, Chapter 126, Subchapter E, relating to the creation of a heavy-duty diesel emissions control program adopting by reference California regulations. If the Department finds it necessary to comply with federal law, the proposed regulation may also create a new provision adopting or stating that Pennsylvania will follow federal heavy-duty diesel emissions control standards. The Department shall follow all requirements of the regulatory process and proceed through all steps to finally publish the regulation, including bringing a final regulation back to the board for a vote within two years of the vote on the proposed regulation if the Board has approved the proposed regulation. Matt Osenbach seconded the motion.

Bo Reiley explained that this issue is being litigated in Commonwealth Court and it has been the Board's policy not to entertain petitions for rulemaking or motions related to current litigation. King asked if this is a legal requirement or a policy of the Board, to which Acting Chairperson Shirley responded that this is a policy of the Board and not a legal prohibition.

The motion failed by a majority vote of the Board (4-14). Erin Corrigan, Adam Walters, Kristen Rodack, Scott Weiant, Shane Rice, Heather Smiles, Tim Haydt , Andrea Lowery, Kathryn Zerfuss, Emily Eyster, Evan Franzese-Peterson, Robert Barkanic, Trisha Salvia and John Walliser voted in opposition.

NEXT MEETING

Acting Chairperson Shirley announced the next meeting of the EQB is tentatively scheduled for Tuesday, October 8, 2024.

ADJOURN

With no further business before the Board, Robert Barkanic moved to adjourn the meeting. Shane Rice seconded the motion, which was unanimously approved by the Board. The September 10, 2024, meeting of the Board was adjourned at 9:43 a.m.