

MINUTES
ENVIRONMENTAL QUALITY BOARD MEETING
June 19, 2007

VOTING MEMBERS OR ALTERNATES PRESENT

Barbara Sexton, alternate for Kathleen A. McGinty, Chairperson, Secretary, Department of Environmental Protection
Kenneth Graham, alternate for Secretary Stephen M. Schmerin, Department of Labor and Industry
Eric Madden, alternate for Secretary Allen D. Biehler, Department of Transportation
William Hall, alternate for Chairman Wendell F. Holland, Public Utility Commission
Ryan McIlmoyle, alternate for Representative Camille George
Joseph Deklinski, alternate for Representative Scott E. Hutchinson
Richard Fox, alternate for Senator Raphael J. Musto
Patrick Henderson, alternate for Senator Mary Jo White
Richard Manfredi, Citizens Advisory Council
David Day, alternate for Dr. Douglas J. Austen, Executive Director, Pennsylvania Fish and Boat Commission
Dr. Walter Meshaka, alternate for Executive Director Barbara Franco, Pennsylvania Historical and Museum Commission
Joanne Denworth, alternate for Secretary Donna Cooper, Governor's Office of Policy and Planning
Jolene Chinchilli, Citizens Advisory Council
Bruce Tetkoskie, Citizens Advisory Council
Walter Heine, Citizens Advisory Council
David Strong, Citizens Advisory Council
Paul Opiyo, alternate for Secretary Dennis Yablonsky, Department of Community and Economic Development
Michael Pechart, alternate for Secretary Dennis C. Wolff, Department of Agriculture
Dr. James Logue, alternate for Secretary Calvin B. Johnson, Department of Health

DEPARTMENT STAFF PRESENT

Pamela G. Bishop, alternate for Richard P. Mather, Sr., Deputy Chief Counsel
Kelly J. Heffner, Policy Office Director
Michele Tate, Regulatory Coordinator
Natasha Harley, Administrative Support

CALL TO ORDER AND APPROVAL OF MINUTES

Chairperson Sexton called the meeting to order at 9:02 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The members introduced themselves and the Board considered its first item of business - the May 16, 2007, EQB meeting minutes.

With no corrections or additions, Chairperson Sexton called for a motion to adopt the minutes of the May 16, 2007, EQB meeting.

Patrick Henderson moved to adopt the May 16, 2007, EQB meeting minutes. Joseph Deklinski seconded the motion, which was unanimously approved by the Board.

PROPOSED RULEMAKING – CHAPTER 109, SAFE DRINKING WATER REGULATIONS

Cathy Curran Myers, Deputy Secretary, Office of Water Management, presented a summary of the proposed rulemaking. Lisa Daniels, Division of Drinking Water Management, assisted.

Following the Department's presentation, Walter Heine inquired about the regulatory controls placed on bottled water, in particular, the advertisement of bottled water. Deputy Secretary Myers responded that Pennsylvania regulates bulk and bottle water with the same water quality standards, including source verification for both bulk and bottle water. Regarding labeling and truth in advertising, Ms. Daniels noted that bottled water can only be advertised as "spring water" if it actually contains spring water. If tap water is treated and rebottled, it must be advertised under another name, and contain a list of the sources on the bottle. Joanne Denworth further inquired if pure spring water is more pure than tap water. Ms. Daniels responded that all public water sources in Pennsylvania are treated the same and must meet the same water quality standards. Deputy Secretary Myers added that you may be able to find tap water that is more pure than bottled water based on the total level of contaminants in each; however, in Pennsylvania, all are regulated to meet health standards in place in Pennsylvania.

Jolene Chinchilli asked for clarification concerning what the Department considers "reliably" or "consistently", as used in the sections of the proposed rulemaking that cover reduced monitoring for MCLs. Ms. Daniels responded that to determine "consistency" in relation to reduced monitoring for systems currently monitoring quarterly, the Department examines four quarters of sampling data. If the data for those four quarters shows that the system is below 80% of the Maximum Contaminant Level (MCL), the Department is more confident that the levels are going to stay below the MCL and therefore reduced monitoring is appropriate. She further explained that "reliably" and "consistently" are new concepts in DEP regulations; the absence of which previously prevented us in the past from achieving primacy from EPA.

Patrick Henderson asked why the Department delayed in moving the proposed rulemaking forward; in light of the fact that the Department's Technical Advisory Board reviewed the regulation in November 2005. Ms. Daniels responded that delays were the result of other pressing Department priorities, including the development of a public notification rulemaking in response to a fluoride spill in 2006 and the implementation and enforcement of the new arsenic MCL, which began in 2006.

**Michael Pechart moved to adopt the proposed rulemaking with a 30-day comment period.
Richard Manfredi seconded the motion, which was unanimously approved by the Board.**

PROPOSED RULEMAKING – CHAPTER 130, SUBCHAPTER B, CONSUMER PRODUCTS

Thomas Fidler, Deputy Secretary, Office of Waste, Air and Radiation Management, presented a summary of the proposed rulemaking. Joyce Epps, Director, Bureau of Air Quality, and Kristen Campfield, Assistant Counsel, assisted.

After the Department's presentation, Mr. Deklinski inquired whether the Department knew the number of products that would be affected by this regulation. Deputy Secretary Fidler responded that he was unsure of the specific number of products but noted that California has already promulgated regulations in this area and that most manufacturers generally follow the requirements set by California concerning the reformulation of their products. Joyce Epps noted that the compliance deadline for the regulation established in California was December 2006, so a number of manufacturers have already reformulated their products to be in compliance with California's rule. Mr. Deklinski further asked if other states, including those in the Ozone Transport Region, have adopted similar regulations as Pennsylvania. Ms.

Epps responded that the Department's proposal is consistent with regulatory initiatives that will be undertaken by other jurisdictions in the Ozone Transport Region, and that the Ozone Transport Commission Member States collectively developed a model rule for consumer products, which the Department has closely followed.

Mr. Manfredi asked if the Department had any quantifiable data to illustrate the expected reduction in ozone precursor emissions in Pennsylvania from the proposed rulemaking. Deputy Secretary Fidler responded that projections show we should expect a reduction of 767 tons per year of VOC emissions. Ken Graham asked the Department what percentage that reduction represents. Ms. Epps responded that it represents 2.1 tons per day in Pennsylvania multiplied by the number of days per year.

William Hall moved to adopt the proposed rulemaking with a 60-day comment period and three public hearings. Ms. Chinchilli seconded the motion, which was unanimously approved by the Board.

FINAL RULEMAKING – CHAPTER 245, STORAGE TANK PROGRAM AMENDMENTS

Deputy Secretary Thomas Fidler presented a summary of the final rulemaking. Charlie Swokel, Division of Storage Tanks, and Kurt Klapkowski, Assistant Counsel, assisted.

The Board did not have any comments or questions following the conclusion of Deputy Secretary Fidler's presentation.

Mr. Manfredi moved to adopt the final rulemaking. Mr. Heine seconded the motion, which was unanimously approved by the Board.

OTHER BUSINESS:

Deputy Secretary Thomas Fidler presented a status report of EPA's review of the Commonwealth's revised State Implementation Plan (SIP), which incorporates the Pennsylvania Clean Vehicles Program. Joyce Epps and Kristen Campfield assisted.

Deputy Secretary Fidler elaborated that Pennsylvania's SIP revision was submitted to EPA Region III on May 31, 2007. To date, the EPA has not taken final action on the Department's request, thereby making it difficult for the Department to fulfill its obligations under 25 Pa. Code § 126.451. Following action by EPA on the Commonwealth's SIP revision, Deputy Secretary Fidler committed to providing the analysis to the EQB, as required by 25 Pa. Code § 126.451, within 30-days of EPA's action.

Following Deputy Secretary Fidler's report, Mr. Henderson inquired if the Department could estimate the incremental benefits that are expected from implementation of the Commonwealth's Clean Vehicles Program. Deputy Secretary Fidler responded that given the program is part of the revised SIP, it would be premature for the Department to speculate on anticipated emission reductions until the EPA has approved the Commonwealth's SIP revision. Mr. Henderson acknowledged the difficulty of providing any specific estimates or determinations, but reiterated his question by inquiring if any ballpark estimates could be provided to the Board. Ms. Epps responded by stating that when the Commonwealth submitted its SIP revision to EPA, it included anticipated reductions Pennsylvania would achieve under the Section 177 program.

When EPA reviews the proposal, it will conduct an independent analysis of the Commonwealth's projections. When EPA proposes to approve the SIP revision, it will announce this decision through publication of a notice in the Federal Register. In that notice, EPA will identify the anticipated reductions the Commonwealth should achieve through implementation of the Clean Vehicles Program.

Mr. Henderson asked if the Commonwealth's SIP revision was published in the *Pennsylvania Bulletin*. Ms. Epps responded that it wasn't, as publication was not necessary since the Department articulated its intent to submit a revised SIP to EPA in the Preamble of the Clean Vehicles Program regulations. In response, Mr. Henderson asked that the estimated air quality benefits, as identified by the Department in its SIP submittal, be shared with the Board prior to EPA's approval of the SIP. Mr. Henderson expounded by stating he felt it is imperative for the Board to understand the Department's baseline numbers and projected estimates, as included in the SIP, as they will be fundamental points of discussion between the Board and the Legislature concerning future policy decisions. Ms. Epps and Ms. Campfield responded that those numbers are part of the SIP submittal, which is available on the Department's website (under DEP Keywords: "Clean Air Plans"). It was noted that the specific website address, where the SIP revision is posted, would be provided to the Board.

Chairperson Sexton announced that due to a lack of agenda items, the July 17, 2007, EQB meeting has been cancelled. The next EQB meeting is scheduled for Tuesday, August 21, 2007, at 9:00 a.m. in Room 105 of the Rachel Carson State Office Building, Harrisburg, PA.

ADJOURNMENT:

With no further business before the Board, Mr. Pechart moved to adjourn the meeting. Mr. Manfredi seconded the motion. The June 19, 2007, meeting of the EQB was adjourned at 10:16 a.m.