

DRAFT

MINUTES

AGRICULTURAL ADVISORY BOARD MEETING

April 18, 2012

DEP Southcentral Regional Office

Susquehanna Room A

Harrisburg, PA

In Attendance – Members

Kristen Saacke Blunk, the Pennsylvania State University

Michael Firestine, Agribusiness

Kerry Golden, PA House - Agriculture and Rural Affairs Committee

Jennifer Harry, PennAg Industries

Kelly Heffner, Department of Environmental Protection

Jay Howes, Department of Agriculture

Betsy Huber, Pennsylvania State Grange

Larry Kehl, USDA Farm Service Agency

Keith Masser, Vegetable Producer

Robert Maiden, Pennsylvania Association of Conservation Districts

Susan Marquart, USDA Natural Resources Conservation Service

William Neilson, Pennsylvania Farm Bureau

Jeanne Sullivan - PA House - Agriculture and Rural Affairs Committee

William Wells Jr. – Ornamental Horticulture

In Attendance - Agencies, Advisors, and Guests

Johan Berger – State Conservation Commission

Shelly Dehoff, Lancaster County Conservation District

William Fink, Country View Farms

Katie Hetherington – PA Landscape and Nursery Association

Greg Hostetter – USDA Farm Service Agency

Lita Lipton

Kelly O'Neil, Chesapeake Bay Foundation

Tom Barron, Fred Fiscus, Sean Gimbel, Marge Hughes, Bonita Moore, Frank Schneider,

Susan Seighman, Steve Taglang - Department of Environmental Protection

The April 18, 2012, meeting of the Agricultural Advisory Board (AAB) was called to order by Chairperson Keith Masser at 10:04a.m.

Chairperson Masser announced that the following members had asked to be excused:

- Duane Hobbs, Ag Chemicals Manufacturer

Chairperson Masser welcomed Robert Maiden, Executive Director of the Pennsylvania Association of Conservation Districts (PACD), as the new PACD representative.

Chairperson Masser thanked Steve Taglang for the coffee and donuts this morning.

Chairperson Masser announced that there were copies of the DEP Office of Environmental Advocate's "Plain Language Guide to Regulations", Susquehanna River Basin Commission's (SRBC) "2010 Summary Report of their Sediment and Nutrient Assessment Program", and "Discharges Associated with Pesticide Applications Under the NPDES Permit Program Frequently Asked Questions (FAQ)" document available on the table.

Members of the AAB introduced themselves, as did the various guests.

Minutes from the December 21, 2011, meeting were approved.

Legislative Update – Kerry Golden, representing Representative John Maher, reported that Senate Bill 1298 (Composting on Clean and Green enrolled lands) has passed in the Senate and is now awaiting action by the House.

Ms. Golden also reported that she has been fielding many constituent questions on the new Manure Management Manual (MMM) and that many believe that these are new requirements and she has been informing them that they are not new requirements and the history of the MMM.

Water Quality Standards Triennial Review - Thomas Barron, Bureau of Point and Non-Point Source Management provided an overview of the Triennial Review of Water Quality Standards Proposed Rulemaking.

Mr. Barron reported that the Triennial Review of Water Quality Standards is required by the Clean Water Act and the previous review was performed in 2009 and approved by the US Environmental Protection Agency (EPA) on April 15, 2010. The Water Quality Standards are contained within 25 Pa Code Chapter 93 and Chapters 16. Additionally, the Department will be updating Chapter 16 and running those proposed changes concurrent with the Triennial Review proposed rulemaking, since all Chapters are cross referenced or related to the water quality standards.

Mr. Barron stated that the proposed general changes include the following:

- Delete definition for “Critical use” in Section 93.1 since currently defined in Sec. 93.7, Table 3 footnote.
- Revise and update all cross references and citations pertaining to the new Chapter 92a; replacing citations to the old Chapter 92.
- Corrections to use designations and stream entries in Drainage Lists at Sections 93.9a – 93.9z.

Mr. Barron reported that improvements are proposed for the public notification process associated with the stream re-designation process that will supplement specific requirement to publish notices in local newspapers with more general requirements to use the most appropriate and effective means of notification. This could include newspapers, but also direct mailings, web-based features, list serves and subscriber-based notifications, electronic bulletin boards, and other social media, as appropriate.

Mr. Barron stated that the Department proposes to revise and update water quality criteria found in Chapters 93 and 16 to reflect the latest scientific information and Federal guidelines for criteria development, and that the revisions are based in part on the most recent compilation of nationally recommended water quality criteria. This will include adding new statewide aquatic life criteria, derived by the Department, for Chloride and Sulfate, and revise the existing criteria for Dissolved Oxygen. The Chloride and Sulfate will be using equation-based criteria and the freshwater Dissolved Oxygen criteria will be more consistent with EPA’s recommendations. Additionally, the metals criteria conversion factor for Chromium III, in Section 93.8b was updated based on updates from EPA.

Mr. Barron mentioned that the Department is not recommending a change to the temperature criteria, at this time, but is requesting, in the Preamble, new peer-reviewed scientific data related to species-specific thermal tolerance and responses to the rate of temperature change.

Mr. Barron reported that new statewide ambient water quality criteria are proposed for aquatic life and human health uses. The Aquatic life criteria include:

- Acrolein
- Molybdenum
- Nonylphenol
- Resorcinol & sulfonates

The Human Health criteria include:

- Acrolein
- Phenol
- Benzyl chloride
- 2-Butoxyethanol
- Cyclohexylamine
- Acrylamide
- 1,4-dioxane
- Strontium
- Molybdenum
- 1,2 cis-dichloroethylene (DCE)
- Resorcinol
- 1,2,4 and 1,3,5-trimethylbenzene (TMB's)

Mr. Barron stated that in regards to the updates to Chapter 16, the Department proposes to remove the criteria for 1,4 Dioxane and Acrylamide since they are proposed to be moved to Chapter 93, and proposes to update approved analytical methods and detection limits to reflect updates from EPA, and to add Department approved methods related to the new criteria proposed in the Triennial Review.

Mr. Barron reported that the Environmental Quality Board (EQB) approved the proposed rulemaking and that there will be a 45-day public comment period and a public hearing in Harrisburg during the public comment period.

Mr. William Neilson inquired if criteria for sulfates, molybdenum, and chloride were just added, and if the sulfate criterion will affect the mining industry. Mr. Barron answered that the molybdenum human health criterion was in the previous version of the water quality Triennial, but that sulfates and chloride were added with this version, as well as aquatic life criteria for all three. In regards to the addition of the sulfate criterion affecting the mining industry, Mr. Barron answered that this revision could affect the industry but could not elaborate.

Mr. Jay Howes mentioned that it was good to see the improvements to the public participation requirements and asked what the implementation of the new standards will have on stream redesignation, and if it will change those designations. Deputy Secretary Kelly Heffner answered that the Triennial Review will not affect the stream redesignation process or schedule, but that when streams are studied or recommended for redesignation, the Department will utilize the new notification process to keep everyone better informed. These proposed changes for notification do not change the evaluation criteria used in qualifying for stream use designation.

Concentrated Animal Feeding Operation (CAFO) General Permit Renewal (PAG-12) – Steve Taglang, Bureau of Conservation and Restoration, provided an update on the status of the renewal of the CAFO General Permit.

Mr. Taglang stated that currently there are roughly 184 Individual Permits (IP) and 181 General Permits (GP) in Pennsylvania. Additionally, the Department plans to publish the revisions to the GP for public comment on or before August 2012 and a final GP on or before March 31, 2013.

Mr. Taglang reported that revisions to the GP, in response to EPA's August 2011 comments, have been completed and those preliminary revisions were shared with the AAB CAFO workgroup and other interested parties. On March 28, 2012, EPA provided comments on an IP with the intent that those comments would also provide guidance to the Department on revisions to the GP. At this time, the Department is making changes, as appropriate, to the IP and making changes to the GP to maintain consistency.

Mr. Taglang reported that the latest EPA comments have focused on annual reporting requirements and winter manure spreading. In terms of annual reporting requirements, the

Department feels that most of the information is already collected by the Nutrient Management Act program and that we should be able to develop a joint form, between the two programs, that EPA will accept. There may be some issues in the reporting of weather conditions on the day manure is spread and the day after manure is spread. In terms of winter spreading of manure, the Department does not encourage it but also does not ban it. The Department will have additional discussion with EPA on this issue, as EPA's own regulations allow winter spreading of certain manures and disallows winter spreading of other types of manure.

Mr. Neilson asked if any IP or GP have been approved since EPA started to comment.

Mr. Taglang answered that coverage under the existing GP have been approved and that EPA has only commented on some IPs. Mr. Neilson then asked if there is a connection between the EPA comments, the Pennsylvania Watershed Implementation Plan (WIP), and the question of "reasonable assurance". Mr. Taglang answered there could be because EPA notified the Department, during the review of the Phase II WIP, that they would take "enhanced oversight" of the CAFO program.

Mr. Johan Berger mentioned that the Department and State Conservation Commission do not know what exact Nutrient Management Act regulations that EPA wants changed and that the two agencies will continue to discuss with EPA officials.

Mr. Greg Hostetter inquired as to what EPA is trying to get at with weather reporting at the time of application and the day after application. Mr. Taglang could not answer fully, as he has the same questions, but did mention that the weather reporting requirements are in the Federal regulations, so they can ask for us to include them in our Pennsylvania CAFO program.

Update – Draft “Conservation District Model Agricultural Complaint Response Policy” -

Steve Taglang, Bureau of Conservation and Restoration, provided an update on the status of the Draft “Conservation District Model Agricultural Complaint Response Policy”.

Mr. Taglang reported that the Department received 84 comments from 42 commentators.

Comments were received on the draft up to April 1, 2012, so the Department does not have any formal documents to share at this time, but a formal revised document should be available at the June 20, 2012, AAB meeting.

Mr. Taglang did touch base on one comment that was received that thought “This type of Policy could significantly impact the relationship that conservation districts have with the farm

community should it be implemented”. Mr. Taglang stated the Department agrees that conservation districts have developed a trust and rapport with farmers over the years in environmental management, but the Department disagrees that this “model” policy will dissolve that trust. It should be noted that this “model” is only for complaint driven response.

Pennsylvania Chesapeake Bay Agricultural Water Quality Initiative (AgWQI) –

Steve Taglang, Bureau of Conservation and Restoration, provided an update on the activities associated with the Pennsylvania Chesapeake Bay Agricultural Water Quality Initiative and the Pennsylvania Phase I Chesapeake Bay Watershed Implementation Plan (WIP).

Mr. Taglang reported that since 1986, Pennsylvania conservation districts have assisted with the Chesapeake Bay Best Management Practices (BMPs), education and outreach. Mr. Taglang stated that the Department supports 50 staff in the conservation districts with Chesapeake Bay Implementation Grant (CBIG) funds.

Mr. Taglang reported that starting in Fiscal Year (FY) 2011 those staff were required to perform educational outreach visits to farms to inform them of their regulatory requirements. As of December 2011, 1,200 visits have been completed.

Mr. Taglang showed several before and after photos of BMP projects that the conservation districts have done that include barnyard practices, no-till, cover crops, streambank fencing, and riparian areas.

Mr. Taglang reported that WIP milestones that have been addressed or which the Department is working on include the following:

- Completion of the Manure Management Manual (MMM)
- Educational Site Visits
- Additional BMP Funding thru PENNVEST
- Model Compliance Policy
- Revisions to Nutrient Management Delegation Agreements with Conservation Districts
- Targeted Watershed Efforts

Mr. Taglang reported that EPA has provided additional funding under the Chesapeake Bay Regulatory and Accountability Grant (CBRAP) and that the Department has added regulatory staff, expanded outreach materials, and will improve BMP tracking and accountability.

Mr. Taglang stated that the additional staff have completed over 200 inspections, 100+ enforcement actions, and levied roughly \$20,000 in fines. In regards to BMP tracking and

accountability, the Department has contracted with the Capital Resource Conservation and Development Council (RC&D) to perform a tillage transect survey. In regards to outreach materials, several items have been developed that include brochures and barn sheets. Over 57,000 brochures have been distributed and over 20,000 copies of the Erosion and Sedimentation Control and Manure Management barn sheets have been distributed.

Mr. Taglang shared a draft copy of the “Am I in Compliance” brochure that will be mailed out to the National Agricultural Statistic Service (NASS) mailing list, which is 82,000 people. The brochure was developed by the Lancaster County Conservation District, under their Agricultural Ombudsman program, and is similar to the previous “Am I in Compliance” brochure but now contains more information on the MMM revisions. Mr. Taglang asked that if any members had comments to get them in as soon as possible, since the brochure has to be to NASS by May 1st. Mr. Taglang additionally discussed and showed a draft copy of the Ag Compliance DVD, which was produced by the Blair County Conservation District, under their Ag Ombudsman program.

Chairperson Masser asked if any members of the AAB or public had any comments.

Deputy Secretary Heffner asked all members to take some time and read the Susquehanna River Basin Commission’s (SRBC) “2010 Summary Report of their Sediment and Nutrient Assessment Program” as they will be pleased to see Pennsylvania’s accomplishments and progress.

There being no additional discussions, the meeting was adjourned at 12:04p.m.