

Meeting Minutes
Cleanup Standards Scientific Advisory Board
Hybrid Virtual (Microsoft Teams) & In-Person Meeting (RCSOB Room 105)
November 9, 2023

Cleanup Standards Scientific Advisory Board (CSSAB) Members Present

Charles Campbell, Chairperson*
Joel Bolstein
Annette Guiseppi-Elie
James Conner
Mark Smith
Colleen Costello
Mark Urbassik
Donald Wagner
Craig Robertson
Neil Ketchum (Alternate)
Stephanie Gundling (Alternate)

Department of Environmental Protection (DEP) Staff Present

Troy Conrad*
Michael Maddigan*
John Gross*
Brie Sterling*
Deborah Miller*
Megan Specht*
Abbey Caden
Nicholas Pistory*
Frank Nemec
Justin Dula
High Garst*

Members of the Public Present

William Hitchcock
Sean Fullmer
Terry O'Reily

* Attended meeting in person. If no asterisk, then attendance was virtual.

Open Meeting

CSSAB chairman, Mr. Charles Campbell, opened meeting at 0930.

Approval of Minutes

Mr. Craig Robertson motioned to approve the minutes for the 5/31/23 meeting. The motion was seconded by Mr. Joel Bolstein. The CSSAB unanimously voted to approve the 5/31/23 meeting minutes.

Administrative Issues

No administrative issues were raised during this meeting.

Membership

Mr. Maddigan provided an update on the board membership. The Secretary's appointments expired on May 31st. There is currently one empty spot to be filled after the departure of Mr. Michael Meloy. There are also two vacancies under the House Minority; Mr. Campbell's appointment expired in 2013 and Ms. Tina Serafini's appointment expired in 2019. Mr. Donald Wagner, Mr. Mark Urbassik, and Mr. James Conner's appointments are current through 2024. Mr. Mark Smith's appointment is current through 2027. Letters are being drafted to send to legislators as a reminder of these vacancies. The letters are in the process of being reviewed and approved; they will be sent out after full approval has been gained. Additionally, anyone who is interested in being reappointed or filling a vacancy should reach out to the legislators directly.

Land Recycling Program Update

Mr. Michael Maddigan reported that the Remediation Standards section currently has two Environmental Chemist (EC) 2s and one EC1. The third EC2 position was recently vacated and a posting to fill the vacancy will be published soon. This group handles the technical aspects of the program, which includes updating the Technical Guidance Manual (TGM), updating databases, reviewing risk assessments, and assisting consultants and regional staff with technical questions and issues. The Brownfields Redevelopment section is fully staffed with four Solid Waste Program Specialists and one Program Analyst 1. This group handles program analytics, regional report tracking, publications, conferences, etc.

Mr. Maddigan also reported that the final chapter 250 rulemaking for vanadium is slated to be published in the November 11th edition of the *Pennsylvania Bulletin*. The lead and PAH rulemaking is on track to be presented to the EQB at their January 9, 2024 meeting.

Mr. Maddigan delivered a report on program statistics. As of the end of September, 8,184 sites have been completed through the program since its inception, and there are currently 2,088 sites currently in the program. The Department has received 177 Notices of Intent to Remediate and foresees having received a number near to their three-year mean (253) by the end of the year. Mr. Maddigan also announced that Pennsylvania led the nation in EPA brownfields grants received, with 21 grants totaling

\$15M awarded to Pennsylvania stakeholders for FY23-24. The Department plans to continue their outreach efforts educating stakeholders on what grants are available to them and how to apply.

Mr. Maddigan reported that the Department continues to evaluate which areas of the program need improvement. At this time, they are focusing on the data surrounding final report decisions made by the regional offices. Technical deficiency decisions are final, but not treated the same way as an approval or disapproval. In this way, the review clock restarts, but there is no need for additional fees or public notices, or for the submission of an entirely new report. Lumping technical deficiencies together with a final decision on a review would therefore make no sense. Tracking technical deficiency notices allows the Department to review each region's workload and their willingness to work with remediators to make revisions and corrections without having to submit additional fees or public notices. Since it is difficult to get technical assistance, the Department pulled that data out and then tried to figure out what reports have been receiving technical vs actual disapprovals. The Department is also comparing rates of approvals and disapprovals for 2020-2023 and comparing those numbers to those received in the past. This will allow them to review how changes in the way the program has been managed over the past 10-15 years has affected approval rates and whether the changes the Department have implemented are working. They are also taking note of what percentage of disapprovals are due to incomplete submissions, which will allow them to implement training for areas that need it. All of the data is being pulled from the eFACTS database, at which time the Department is also taking note of any differences in the way each region inputs documents in order to standardize procedure. Mr. Bolstein noted that many of the Department's external stakeholders have found that technical deficiencies are being issued more frequently than in the past and is grateful the Department is looking into what the causes may be. He suggested the Department also discuss the topic with environmental attorneys and consultants to learn what types of problems they are encountering when submitting reports. Ms. Colleen Costello suggested analyzing how sites that go through the One Cleanup program compare to sites that do not. Mr. Maddigan noted that he was not sure whether the Department tracks that information, but that it is a good idea and the Department will consider that. Mr. Maddigan stated that the Department's findings will be presented to the Board verbally when the analysis is complete.

Ms. Brie Sterling noted that some CSSAB members had previously expressed concerns with the One Cleanup program. Nothing has been formally discussed or decided on yet, but she discussed things with the regions and may reach out to the EPA to get more information.

PFAS Action Team Update

Mr. High Garst reported that the Department has reconvened their internal workgroup to discuss a variety of PFAS topics. The initial PFAS monitoring requirements from the Bureau of Safe Drinking Water have been released. In the wake of this, DEP has been exploring ways to increase testing capacity at state labs and exploring potential funding sources for new lab equipment. DEP has also identified the need to implement data sharing both internally and externally to ensure that remediation data reaches the public. They are also looking into reconvening the interagency action team. A question was raised as to whether any new PFAS data has been released. The most substantial update was a press release from two or three months ago that discussed data collected on a range of PFAS through surface water testing, and the Department has been keeping that data in mind when doing work on PFAS.

Ms. Costello noted that if EPA's proposed PFAS MCLs are finalized there will be some challenges with Pennsylvania's approach to the hazard index and how we calculate our soil to groundwater numbers. She inquired as to whether there will be a need to create a CSSAB work group on the subject to assist the Department with solving those challenges. Mr. Maddigan said it will be difficult to know for certain until things develop further. It could depend on whether the state and federal MCLs are different and what the impact on the Act 2 program will be. He did agree that once those questions are answered, the CSSAB will likely need to create a work group. Ms. Costello mentioned that during a presentation from Safe Drinking Water at the Southwest regional office, it was implied that the state will have to use the federal MCLs and that most people believe the state MCLs will no longer apply. Mr. Maddigan stated that opinions on the topic vary currently and that a universal decision has not yet been made. The subject is being considered on multiple fronts; the Department is researching programs in other states to see what decisions they are making and figuring out if anything is applicable to how they calculate their soil to groundwater numbers. Ms. Sterling is involved with the ITRC PFAS group, which is on the cutting edge of the still-evolving PFAS science, and she and her staff are working on figuring out what the Department's groundwater number should be. Mr. Donald Wagner noted that the Department will also have to consider how the wording in Act 2 describes what standards must be applied and how they should be calculated.

CSSAB Questions

A question was raised as to whether the Q&A workgroup is still ongoing. Mr. Maddigan reported that the group still exists and meets intermittently as questions arise. The most recent question under consideration is regarding how to address soil contamination in groundwater for soil-only cleanups. For soil-only cleanups under a site-specific standard, there is the potential for the impact of contamination on groundwater to go unaddressed. However, there is a portion of the statute that says addressing groundwater contamination is required when addressing soil contamination. The group is figuring out how to balance that statutory requirement with the voluntary nature of Act 2. Additionally, the Department's intention is to incorporate information from the current Q&A document into the revised TGM. Once the TGM is finalized, the Department will remove its current Q&A list and begin a document for new Q&As that arise.

Ms. Costello inquired as to the status of the updated UECA form. Mr. Maddigan confirmed that the new model environmental covenant has been completed. The revisions were presented to the Department's attorneys and the regional staff, who provided input. The final version was approved and has been posted to the Department's website.

Ms. Costello asked if the historic pesticide guidance was still planned to be added to the TGM. Mr. Maddigan explained that the Department put the project on hold while focusing on the upcoming rulemakings. Now that there is a break in the rulemaking work, the group can refocus their efforts on the historical pesticide guidance. The internal workgroup is finished creating their outline and is now working on draft text. The current plan is to include the guidance as an addendum to Section II of the TGM in order to cut down on the administrative work that would be required to publish them separately.

Ms. Costello asked if there is any guidance on using PQLs. Mr. Maddigan explained that adding such guidance is on the list of planned TGM revisions. Ms. Sterling confirmed that the revisions include language clarifying and defining PQLs but will not be adding a list of them. The regulations and TGM define how to calculate PQLs, and the language in Act 2 allows remediators to meet the lower of the PQLs or the MSCs. There is no requirement to provide a list.

Environmental Justice Policy and PennEnviroScreen

Mr. Justin Dula, Director of the Office of Environmental Justice (EJ), joined the meeting to discuss the Commonwealth's Environmental Justice policy and to introduce their new PennEnviroScreen tool. Mr. Dula shared a presentation on Environmental Justice history, including redlining, highway infrastructure choices, and the history of Environmental Justice policy and enforcement. After this presentation, he explained the EJ office's updated policy, which was released for public comment in the spring of 2022. The public comment period included meetings and hearings across the state. The majority of the comments were that the state needs to be doing even more than the updated policy requires. The office is still taking public comment now and are creating a formal comment response document; still, the policy was adopted as interim final, enacted September 16th. The interim final policy contains nine sections:

1. Introductions
2. Definitions
3. Environmental Justice Area Criteria
4. Proactive Community Outreach and Engagement
5. Enhanced Public Participation
6. Inspections, Compliance, and Enforcement
7. Community Development Investments, Brownfields, and Mitigation Practices
8. Climate Initiatives
9. Policy Updates

The Office of Environmental Justice website includes a page about this policy revision, including the presentation Mr. Dula gave and a variety of other useful information.

Mr. Dula also introduced the new PennEnviroScreen, an updated mapping tool that changes how Environmental Justice areas are mapped and defined, though it does not change how said areas are treated in policy. The new tool considers over 30 different factors, which are averaged together into total scores. Ms. Annette Guiseppi-Elie asked whether the tool takes cumulative impacts into account. Mr. Dula explained that there are certain legal requirements for cumulative impacts, so using that exact term would confuse things or set a precedent beyond what the policy can actually enforce. Using the phrase may also cause confusion with Air and Water's use of the term. For those reasons, they stopped shy of calling them cumulative impacts and instead refer to it as the "community environmental burden." The model for the PennEnviroScreen is currently up and running, including a training video on how to navigate the tool. Mr. Dula offered to have a one-on-one conversation with anyone who is not seeing their numbers work out to the same conclusions as the tool.

Mr. Dula reported that the database will be updated once per calendar year starting in 2025 to reflect any changes, incorporating the latest data at the time of update. Ms. Costello noted that the tool already seems to be showing sites that have been remediated as impacted sites, and suggested the office look into how those types of things are being calculated and updated in the system. Mr. Maddigan added that the Department is often asked for a list of brownfield sites that are available for redevelopment, and the Department has to direct them to the area they're looking to develop in to see if there is a redevelopment authority more familiar with the area. He noted that the new PennEnviroScreen could be a tool for them to use to find former brownfields that are available for redevelopment.

Ms. Costello noted that the current EJ policy is focused on permitting and permit triggers and asked how the new policy will affect the Act 2 program, where the regulations slow down the process. Mr. Dula explained that as a policy, as opposed to a statute or regulation, this is not a set of requirements. It is a resource that can be used to make public participation and other statutory requirements easier and more impactful. As people take their projects through the Act 2 program, they can contact their regional EJ staff, who can assist with figuring out who to reach out to and who to get on board with a project to make sure that the public participation process has the best impact. Ms. Costello asked if Mr. Dula anticipates that over time DEP may develop publicly available grants to provide resources directly to communities like the EPA's EJ department does. Mr. Dula agrees that there is a call to provide more technical assistance to communities but notes that there is nothing in the current policy that provides money for grants. The office will, however, help point communities towards the federal resources that are available to them.

Mr. Bolstein mentioned the lack of affordable housing in the Commonwealth and that many are building such housing on brownfield sites, often within cities or central parts of bureaus. He noted that there could be a connection between what the Environmental Justice office and the PA Human Relations Commission are doing to address affordable housing, and posited that the Department might incentivize people to build affordable housing on brownfields in the Commonwealth.

TGM Edits: Sections II and III

After the publication of the last TGM revision in 2019, the Department collected comments and suggestions from the regions and the public. These, along with information from the Q&A, have been incorporated into the current revisions. When all edited sections of the current revisions to the TGM have been reviewed by the CSSAB and the regions, it will go back out for public comment.

Mr. Urbassik inquired what the Department is requesting of the Board at this time.

The Department is requesting comments from the Board regarding Sections II and III of the TGM revisions at this time. The revisions to Section IV will be presented to the board for comment at the next board meeting. Following Section IV, the Department will be updating the figures presented in the TGM. They are working with the Document Processing division to change figures and formatting. Mr. Maddigan explained that there is no specific timeline yet for sending the document out for public comment. The timeline will depend on how substantial the comments received from the Board are. He confirmed that the information in Section II and III vs Section IV is separate, and there is no need to wait for the Section IV revisions to be complete for the board to give comments on Sections II and III.

Mr. Maddigan suggested that the Board's comments all be collected into a single document. Mr. Robertson seconded this idea. Ms. Stephanie Gundling will compile the Board's comments into a spreadsheet, including the section and page number. With the next CSSAB meeting scheduled for March, and work needing to be ready six weeks before, Mr. Maddigan asked that the Board have their comments to the Department by the end of the year. He explained that the Department has been collecting comments section by section during revisions, and once the entire revised draft is completed, they will set a deadline by which they want final input on the completed document. Once that is finished, the Board can choose to provide a letter of support for the revisions if they wish. Mr. Maddigan explained that this is not required for the Department to publish the final document but is helpful.

Members of the Board flagged a number of revisions in Sections II and III that they requested clarification on before being able to provide comment. The clarifications on these revisions are listed below by section and page number.

- II-4
 - i. This revision came out of an FAQ. The Department's regional offices were seeing issues with this item and there is something missing from the statement here. For some public notices it takes a long time to get the proof back from the public entity. However, the Department only needs proof the notice was sent out. What causes trouble is that an entity will submit an NIR and the Department never receives notice from them that the public notice was done. If the entity then tries to start the project, the Department has to stop them because they never submitted the notices. The statute requires that the NIR and public notice need to be run simultaneously, but if the Department does not receive the proof of public notice things may need to be resubmitted. Mr. Donald Wagner noted that in discussions with the Department, because return receipts are often never returned, proof of mailing can suffice as proof of public notice, including a photocopy of the original certified mail documents. Suggestions about reworking this section can go to Ms. Gundling to be added to the comment spreadsheet.

- II-8
 - i. This is simply a wording difference; it does not denote a difference between background/statewide health standard and site-specific standards when submitting final report summaries.

- II-11
 - i. The Department has been receiving reports in which submitters request Relief Of Liability (ROL) by simply stating compounds were not detected. This edit clarifies that requesting ROL should be related to a historical release, include an investigation, and demonstrate attainment. In short, receiving an ROL needs to be part of the process.

- II-22
 - i. The Department wants the TGM to be as clear and concise as possible. For this reason, other examples were not included in this section. This example was included simply because

the Department has received a number of questions about using the residential vs. non-residential standard in edge cases.

- ii. Ms. Gundling asked if the actual Act 2 definitions could be included in the TGM to clear things up. Mr. Maddigan explained that the Department tries not to put language from the regulations into the TGM because the purpose of the TGM is to reword the regulations to be clearer and more concise. There is nothing prohibiting the Department from doing so, however, so it could be added if necessary. Mr. Urbassik also suggests including the language from the regulations in the Q&A document.

- II-40
 - i. Ms. Costello suggested adding wording to this section that explains how to avoid common OnBase upload issues.

- II-52
 - i. While the Department has not been seeing any confusion about rounding, they still wanted to add clarification on the subject, as the DEP rounds their values and the EPA does not.

- II-55
 - i. This wording was added to clarify that remediators are allowed to evaluate the soil below the groundwater table without evaluating the groundwater itself. They are able to use soil numbers even on permanently saturated soils. Ms. Sterling was unsure if the edit came from the Q&A or from the regions.

- II-73
 - i. Most of the instances of the Department receiving incorrect PNDIs, the remediator is using construction, which is not applicable to cleanup. Ms. Gundling noted that in order to get the 2,500ft buffer, the remediator has to check the box for “hazardous waste cleanup/site remediation and reclamation,” which many are wary to do. Including this in the TGM will take some of the uncertainty out of it. Ms. Gundling asked if there is a way within the PNDI system to include an Act 2 or brownfield box to check, and Ms. Sterling offers to reach out and ask. Mr. Urbassik also recommends clarifying the wording in the TGM regarding the hazardous waste cleanup box.

- II-101
 - i. This revision is copied directly from the Q&A document. The addition to the capping appendix clarifies that a cap to the MSC is not sufficient, and a risk calculation outside of the cap area is needed as well.

- II-104/106
 - i. The regulation specifically states, “drinking water or agricultural,” but there are other groundwater uses that may need to be protected, so the TGM’s language is kept broader. Mr. Robertson asked if there is a distinction between statewide health standard cleanups and site-specific cleanups, and Ms. Sterling clarified that this section only deals with site-specific.

- II-112
 - i. The Department is removing this language from the TGM because the SQUIRT tables are no longer being updated; the tables may not be available anymore, and if they are, they are around 10-15 years old.

- II-116
 - i. The regions were running into issues with this section, so the Department wanted to provide further clarification to help alleviate those issues.

- II-148
 - i. This revision relates to revision II-101.
 - ii. When there is a cap that extends to the boundaries of the site, whether or not there needs to be sampling at the ends of the cap - off site - depends on how the boundaries of the site are defined. The definition of a site is the extent of contamination associated with a release. A cap must cover the area of unacceptable risk so that risk associated with exposure to that contamination has been eliminated. The important part is figuring out cumulative risk, which cannot be calculated with the MSCs alone.

- III-5
 - i. Mr. Robertson asked why information about bedrock was included in this section, which seems to only be about unsaturated soil. Mr. Maddigan noted that some of the information in this section was reviewed by a staff member that is no longer with the program, and therefore the Department may not be able to provide clarification on them during this meeting.

- III-10
 - i. The list of published values has been included here, though hydrogeologists typically use different tests and do not rely on published values unless they were unable to field test. Clarification was not available during this meeting.

- III-20
 - i. Mr. Nemeč clarified that because there was no training or warning when this part of the program was first introduced, many remediators are unsure about how to use it properly. This section was revised to simplify and clarify its use.
 - ii. At the outset of the Act 2 program, remediators would use fate and transport to calculate the extent of a plume. More recently, the Act 2 program has studied the Storage Tanks program and their methods of site characterization. Storage Tanks have been disallowing the use of fate and transport, requiring more offsite wells. This practice causes an enormous delay in Act 2 projects as remediators figure out where to put wells and how to acquire access to do so. Mr. Bolstein, Ms. Costello, and Ms. Sterling discussed the Department's current handling of cases using fate and transport modeling, and Ms. Gundling took down a note to return to this topic at a later time. Mr. Troy Conrad clarified that the Department has no strict rule on requiring offsite wells, but that decisions on the subject should be made based on the merits of the method or on the facts of each specific release or contamination. He offered to connect outside of the meeting with anyone who is running into specific

problems.

- III-26
 - i. Mr. Bolstein suggested that it might be helpful to add language about the alternative of demonstrating attainment in surface water by collecting samples.
- III-27
 - i. Mr. Nemeč is confident that the numbers shown here are correct.
- III-41
 - i. The regions requested that the Department include a reference to the ITRC *Soil Background and Risk Assessment* document in the TGM, but the Department will consider working the information into the TGM more directly to add clarity.
- III-53
 - i. This revision was not intended to imply a problem with systematic random sampling. The language about random sampling was deleted from an earlier paragraph. Ms. Sterling will look into this instance further to make sure it makes sense.
- III-55
 - i. The paragraph following the blue text seems to contradict the blue text. Ms. Sterling will look into this instance, as she is not aware of the of the reason they added the blue text.
- III-62
 - i. This was simply a clarification edit.
- III-76/77
 - i. There was a possible error found in 5.2, and therefore a lot of statisticians couldn't support it. Because of this, the Department recommends using 5.1 until that is fixed.
- III-77
 - i. Mr. Nemeč explained that this section was removed because it is antiquated information that is no longer needed.
- III-87
 - i. This table was not created by the Department, so rather than host something in their technical guidance that could be incorrect, they decided to simply refer back to its source.
- III-102
 - i. Since this is a guidance, rather than a requirement, the Department wanted to clarify the language to make it less restrictive.
- III-110
 - i. Someone asked if this section was meant to use "or" in this section, or if "and" should be used instead. Mr. Maddigan explained that this language comes directly from a section of

Act 2 that is notoriously difficult to interpret, and he will go back to the Act itself to check the language used.

Ms. Gundling will follow up with the Board with the table of comments and will put together a time for the Board to discuss the comments they compile for the Department.

Public Comments

None

Next meeting will be held on March 13, 2024

Mr. Urbassik moved to adjourn the meeting. Motion approved.

Meeting adjourned 1534.