

**SMALL BUSINESS COMPLIANCE ADVISORY COMMITTEE  
MEETING MINUTES  
May 19, 2021**

Members/Alternates Present: Dale Kaplan, Walter Schroth, Jeremy Hancher, Samantha Harmon, Rebecca Oyler, Adam Walters, Richard Burrell, Sarah Pinter

Others Present: Susan Foster, Nancy Herb, Lucas Hershey, Chris Trostle, Jennie Demjanick, Mark Hammond, Hayley Book, Allen Landis, Jesse Walker, Krishnan Ramamurthy, Alex Charlton, David Hess, Emily Eyster, Glendon King, Jennifer Bush, Jessica Shirley, Josephine Martin, Leann Leiter, Liz Robinson, Mark Huncik, Michael Bull, Nick Troutman, Nina Siegel, Rachel McDevitt, Robert Routh, Scott Schalles, Sunny Roe, Aaron Dimick, Ezra Thrash.

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Call to Order and Introductions

The Small Business Compliance Advisory Committee's (SBCAC or Committee) May 19, 2021, meeting began at 10:00 a.m. via Webex conference call. Members of the SBCAC and others participating in the meeting introduced themselves.

Nancy Herb noted that there are a number of people who joined the meeting as attendees in the WebEx meeting, and by default they are muted.

**Administrative Items**

Approval of Minutes from Previous Meeting

The October 28, 2020, draft SBCAC meeting minutes were approved as written.

**Regulatory Item**

Draft Final-Form Rulemaking: CO<sub>2</sub> Budget Trading Program

DEP's Senior Advisor on Energy and Climate, Hayley Book, presented the draft final-form rulemaking for the Pennsylvania CO<sub>2</sub> Budget Trading Program. The CO<sub>2</sub> Budget Trading Program is an effort directed by Governor Wolf's Executive Order of October 3, 2019, titled "Commonwealth Leadership in Addressing Climate Change through Electric Sector Emissions Reductions."

In the presentation, Ms. Book highlighted the small business analysis that was conducted for the rulemaking. In the analysis, there were initially 21 potential facilities that would likely be impacted by the rulemaking. Of these, seven were removed, as their parent entity does not qualify as a small business. Another 3 facilities were removed upon additional determination. This left a total of 11 facilities that will likely be impacted by the rulemaking. Of those sites, 8 are waste coal facilities, and 3 are other

facilities. The rulemaking will have a waste coal set-aside that will offset most, if not all, of the compliance costs associated with the regulation on waste coal facilities.

Mr. Schroth explained that while there was an analysis done on the impact this rulemaking would have on small businesses that are directly associated with energy production, there was no analysis done on the impact on small businesses that support businesses that are impacted by the rulemaking. He also mentioned that there was information provided showing the average increase in energy costs to residential households as a result of the rulemaking, and he asked if there was any research done showing average increase in energy costs to businesses. Ms. Book explained that businesses are so varied in their electricity consumption and how they secure that electricity, along with the need to consider potential offsets on energy costs, that it is difficult to determine average increase in energy costs to businesses. She explained that DEP has partnered with the Delta institute, who is working with businesses all across Pennsylvania. They are especially focused on Indiana and Armstrong counties, to analyze the economic impact on all businesses and even school districts in the region. Delta's research should provide insights as to where the proceeds from the CO<sub>2</sub> Budget Trading program can best provide assistance.

Mr. Schroth asked when the Delta Institute will start in Indiana County, and also asked which environmental justice communities DEP is engaging with. Ms. Book explained that Delta has just begun outreach across the Commonwealth recently and they have done some work in Indiana County already. She offered to provide Mr. Schroth with a link from DEP's website that outlines where environmental justice communities are located.

Ms. Oyler asked if there is a comment response document for the more than 14,000 comments. Ms. Book explained that the comment response document will be made available with the full regulatory package in advance of being presented to the Environmental Quality Board (EQB).

Ms. Oyler asked when a report from the Delta Institute will be available. Ms. Book explained that the Delta Institute is doing their outreach in May and June and will be completing some of their work products in the July and August timeframe. The Delta Institute report will inform the investment plan.

Ms. Oyler asked why the budget reductions seem so drastic in 2022 for the CO<sub>2</sub> Budget Trading Program if the rulemaking implementation is delayed (per slide 15). Ms. Book and Mr. Hammond both explained that the emission allowances are pro-rated, so that a full year of allowances are not given if Pennsylvania is not participating for the entire year. These partial year quarterly allowances are not an exact fraction of the full 78,000,000 that would be given during a full year because emissions in Pennsylvania fluctuate throughout the year (e.g., emissions are typically higher during the summer months due to higher energy use).

Mr. Schroth asked why there would be a delay in publication of the rulemaking. Ms. Book explained that rulemakings can be delayed for many reasons and are sometimes not published when anticipated, so the quarterly allowance options for 2022 were created to provide flexibility in case publication of the rulemaking is delayed.

Mr. Hancher pointed to the 1,000 adverse comments referred to in slide 7 of the presentation relating to small business and asked whether there were any unique comments related to small business that the Committee should be aware of. Ms. Book explained that most of the important small business related comments have been covered during the meeting, such as supply chain concerns, impacts to businesses and communities that support regulated facilities, and impacts to anchor employers and any ripple effects that could cause.

Leann Leiter of the Keystone Energy Efficiency Alliance registered in advance to provide verbal remarks at the meeting. She also provided a written copy of her remarks.

Ms. Harmon offered a motion to concur with DEP's recommendation to move the draft final-form rulemaking to the EQB for consideration. Ms. Pinter seconded the motion.

Ms. Oyler urged a no vote on the rulemaking because the economic impact analysis on small businesses is still incomplete, which was one of the reasons why the Committee voted not to recommend presenting the proposed rulemaking to EQB for consideration in July 2020. Mr. Schroth agreed with Ms. Oyler, explaining that further analysis on the impacts to all small businesses should be completed before the Committee votes to recommend presenting the rulemaking to the EQB for consideration.

The Committee decided to go forward with the vote, and voted 4-3-0, concurring with the Department's recommendation to present the final-form rulemaking to the EQB for consideration.

## **Informational Items**

### Environmental Management Assistance Program (EMAP)

Jeremy Hancher, EMAP Program Manager, provided an update on EMAP activities. Mr. Hancher reported that in the first quarter of 2021, EMAP received 36 requests for technical assistance; 18 of them were received through the EMAP hotline and 18 were received through other means, such as directly through the EMAP website. Some of these technical requests were to review air permits of natural minors versus synthetic minors, due to increases in permitting fees that went into effect in January 2021.

Ten requests were from small businesses referred by DEP staff, nine were air quality-related, and one was waste-related. There were 12 requests for permit-related assistance, 10 air-related, one water-related, and one waste-related. There were six new EMAP clients during the quarter. EMAP assisted or provided information to 89 small businesses. Major work output included: three Requests for Determination (RFD);

six Plan Approval applications; 15 State-Only Operating Permit applications; five General Permit applications; and six Allegheny County Health Department (ACHD) installation/operating permit applications.

Mr. Hancher mentioned that the Pennsylvania Association of School Business Officials (PASBO) was in contact with EMAP and is interested in checking on their air quality permits for back-up generators and boilers and discussing potential air quality related fees to make sure everything is in good order.

Recently, EMAP has noticed questions from small businesses regarding ways to measure or evaluate their carbon footprint. Also, EMAP is continuing to assist small businesses in utilizing DEP's online resources such as the OnBase upload tool and GreenPort. EMAP has been suggesting businesses submit electronic applications and helping businesses work out any bugs/issues they encounter.

For outreach, EMAP has been participating in webinars, such as an April 20, 2021, webinar with Clarion Small Business Development Center (SBDC). On this webinar, Ed Boito highlighted the SBO Office and resources and EMAP did an "Air Permitting 101" theme. There are future webinars planned with Clarion SBDC on June 17 and September 16, along with another webinar with the Wilkes SBDC with the date to be determined.

Mr. Schroth asked for more information about the assistance requested by PASBO. Mr. Hancher explained that he thinks that one of the DEP district offices may have referred one or two school districts to EMAP. The school districts were evaluating how to best manage the air permits associated with their boilers and back-up generators to see if they could make modifications to their source levels to minimize fees.

Mr. Hammond explained that the reason that school districts had these questions was the recently finalized air quality permit fees rulemaking. Natural minor stationary sources now pay less in fees than synthetic minor stationary sources. Natural minors are stationary sources that have maximum potential emissions below major source thresholds, and therefore do not require a Title V permit (as major sources require a Title V permit). Synthetic minors are stationary sources that have maximum potential emissions above the major source thresholds but have taken enforceable operating or emission limits that restrict their emissions below those thresholds, and therefore do not require a Title V permit. He mentioned that Pennsylvania has less than 10 school buildings that were considered synthetic minor stationary sources, and in every case, this was because they were operating a coal-fired boiler.

#### Small Business Ombudsman Report

Ms. Harmon introduced herself as the new Small Business Ombudsman for DEP. She has worked for DEP for the last 14 years and was in BAQ mobile sources section prior to this role. She announced that the SBO office is adding a third staff member, a mechanical engineer, who will assist with technical reviews for the grant program and participating in some of the energy efficiency work for DEP's Energy office. Having this

additional staff member will open up extra time for the SBO to do private or public meetings, speaking engagements and presentations.

Ms. Harmon provided an update on the status of the 2020-2021 Small Business Advantage (SBAG) grant program. So far, the program received a total of 253 applications for 214 projects for approximately \$999,970, leaving only \$30 left available to be awarded. She mentioned that there were 39 ineligible projects. The vast majority of the ineligible applicants were deemed ineligible because they had obligations to the Commonwealth, did not meet the energy or monetary savings requirements for the program, had proposed ineligible project types or made purchases before July 1, 2020, a few businesses had applications that were merged together, and two did not qualify as small businesses.

Ms. Harmon mentioned that lighting projects have accounted for 55% of the projects and 46% of the funds awarded, with 119 of the 214 projects being lighting projects. HVAC made up 8% of projects. There were a few interesting standalone projects, which included replacement of a crucible furnace, one to replace lawn equipment with environmentally friendly electric versions, and one for solvent recycling.

In reference to the earlier EMAP presentation on boiler fees, Ms. Harmon mentioned boiler replacement projects as being eligible under SBAG. She also clarified that only small businesses are eligible for SBAG funds, so schools would not be eligible for funding through the SBAG.

The upcoming SBAG grant cycle for 2021-2022, is expected to open at the end of July with about \$1 million available and cover the same types of projects and same restrictions on energy and cost savings. There is a significant change where the maximum awarded for any category cannot exceed \$5,000 per applicant. Applicants can use multiple project types to reach that limit.

Ms. Harmon also mentioned the Pollution Prevention Assistance Account (PPAA) loan program, which is administered by the Department of Community & Economic Development (DCED). The PPAA program funds similar projects to the SBAG grant. PPAA has a total of about \$1.38 million available for eligible projects. If eligible for both, these loans can be used in combination with SBAG.

## **Regulatory Item**

### Draft Final-Form Rulemaking: Control of VOC Emissions from Gasoline Dispensing Facilities (Stage I and II)

BAQ Environmental Group Manager, Chris Trostle, presented the draft final-form rulemaking for Control of VOC Emissions from Gasoline Dispensing Facilities (Stage I and II). The rulemaking updates control requirements relating to gasoline station fuel pumps and storage tanks to account for technological changes since the current regulations were promulgated.

When the draft proposed rulemaking was presented to the SBCAC, the Committee requested data on how the rulemaking will affect small businesses in the state. Mr. Trostle explained that it is difficult to precisely know how the rulemaking will affect small businesses but can get a good idea based on data that is available. There are 977 gasoline dispensing facilities that dispense less than 120,000 gallons of gasoline per year in Pennsylvania, which would not be impacted by this rulemaking. Data from D&B Hoovers using the NAICS for convenience stores and gasoline retailers indicates that there are approximately 920 small businesses in this category, which matches up closely to the 977 gasoline dispensing facilities that will not be affected by the rulemaking. The Committee expressed appreciation for the follow-up on the small business impacts of this rulemaking.

The Committee voted 7-0-0, concurring with the Department's recommendation to present the final-form rulemaking amendments to the EQB for consideration for adoption and publication as a final-form rulemaking.

#### Hydrofluorocarbon (HFC) Update

In April 2020, DEP presented regulatory concepts to SBCAC for development of a regulation to phase down HFCs. Lucas Hershey, BAQ, provided the Committee with an update on the status of this initiative.

Mr. Hershey explained that in December 2020, the U.S. Congress finalized the American Innovation and Manufacturing (AIM) Act of 2020. Because the federal regulations to be developed by the EPA in accordance with the AIM Act will be more comprehensive, DEP is suspending the development of a Pennsylvania-specific HFC rulemaking until EPA finalizes their rules. At that time, DEP will evaluate whether development of a Pennsylvania-specific HFC rulemaking would fill any gaps left by EPA's rules.

#### Election of Officers

The Committee unanimously re-elected Dale Kaplan as Chair and Walter Schroth as Vice Chair.

#### Adjournment

The SBCAC meeting was adjourned at 12:23 p.m.