

June 10, 2021

9:00 AM – 12:00 PM

Department of Environmental Protection (DEP) Agricultural Advisory Board (AAB)

Virtual Meeting

<https://meet.lync.com/pagov/jbraund/M3490W4Y>

Toll number: +1 267-332-8737

Conference ID: 985062905

Supporting documentation and presentations for this meeting can be found on DEP's website at www.dep.pa.gov/PublicParticipation/AdvisoryCommittees/WaterAdvisory/AAB/Pages/Agendas-and-Handouts.aspx.

Members In Attendance

In attendance:

Michael Firestine
John Bell
Mike Eby
Jennifer Harry
Brenda Shambaugh
Chris Hauser (Matt Royer)
Pete Vanderstappen
Destiny Zeiders
William Evans
Aneca Atkinson
Gregory Hostetter
Walter Moore
Darwin Nissley
Stephen Hershey
Chris Uhland
Matt Matter

Absent:

JV Lamb
John Tebbs
Kerry Golden
Cara Laudenslager
Nelson Heagy

9:00 AM Welcome & Introductions

9:05 AM Action on previous AAB minutes

Jennifer Reed-Harry moved the following as an amendment to the meeting minutes from the March 18, 2021 meeting: "Ms. Reed-Harry mentioned that the Board forms a biosolids workgroup to review and

consider DEP's proposed changes for general permitting of land applications of biosolids with John Bell given authority to appoint individuals to the workgroup from both inside and outside the Board's membership." Brenda Shambaugh seconded the motion. The amendment to the minutes was unanimously approved.

John Bell presented a list of technical changes to the meeting minutes previously circulated to the Board. No additional edits were suggested.

Walt Moore moved to approve the meeting minutes as amended. Mike Firestine seconded the motion. The meeting minutes from the March 18, 2021 meeting were unanimously approved.

9:15 AM Legislative Update

Both Bill Evans and Destiny Zeiders did not have any legislative updates to share that would be of interest to the Board.

Mr. Evans and Ms. Zeiders needed to step away for the remainder of a meeting and wanted to ensure a quorum would still be present for the meeting. Bob Haines confirmed that a quorum would still be present without including the alternates.

Mr. Bell reiterated that if there is an issue that legislative staff would like to bring to the Board's attention between meetings, they are welcome to circulate any information to him. He will be sure it is distributed to the Board.

9:30 AM Draft PA Climate Impact Assessments - Lindsay Byron

Mr. Firestine asked Ms. Byron, who conducted most of the research for the report she presented. Ms. Byron replied that a lot of the climate protection research and the forestry and land research was conducted by Penn State University. The bulk of the remainder of the research for the Climate Action Plan was conducted by ICF – a worldwide organization that does climate modeling and research.

Mr. Firestine also asked if replacing 25% of the state vehicle fleet with electric or hybrid vehicles is within the state budget and if the state is really equipped to have 25% of that fleet be electric by 2025 as suggested. Ms. Bryon stated that Mr. Firestine's question would be best suited for the Department of General Services (DGS); however, she believes the replacement of the vehicles will happen on the regular replacement schedule and within the normal budget. Ms. Byron shared that DGS is doing an analysis on replacement plug-in and hybrid vehicles and is assessing what locations may be the most appropriate to deploy these vehicles.

Mr. Firestine proceeded to mention the Keystone Green Bank Partnership. He asked if the Pennsylvania Bankers Association would be involved in the discussions when creating the various credit enhancement programs in Ms. Bryon's presentation. In the past, the PA Bankers Association was involved in getting some involvement and buy-in from the banking industry, and Mr. Firestine believes that communication is important when developing these programs. He also asked what the timeline was for the Green Bank to be established. Ms. Byron replied that she has not been involved with this particular program and could not answer his questions at this time. Mr. Bell agreed with Mr. Firestine and requested that updates on the Keystone Green Bank Partnership and their involvement with the banking industry be passed along to the Board. Ms. Byron agreed to put effort into getting an update for the Board on this topic.

Mr. Bell brought up the draft Climate Action Plan and asked what they had envisioned in the plan for Pennsylvania farmers and agriculture. Ms. Byron responded that she was not prepared to speak to specific strategies in the action plan during this meeting.

Matt Matter voiced his concerns regarding solar farms being established on some of the highest quality soil that Pennsylvania has to offer, particularly in Juniata County. In conjunction with this concern, Mr. Matter also pointed out the potential issue of manure. He asked what farmers would be expected to do with their excess manure as solar farms do not require the importing of manure from local farms. The main concern is that farmers cannot compete with solar given the incentive programs that are offered to form them. Mr. Bell agreed that Mr. Matter's concerns require consideration because when progress in commercial development is concerned, there is typically conflict between a competitive system and property rights versus what may be the highest, best, and most reasonable use of the land. Ms. Byron replied that conversations regarding farmland as well as forestry land are happening as DEP does not have an interest in seeing forests cut down. However, DEP is not in a position to regulate land use development in that manner. The Pennsylvania Solar Future Plan talks about acreage needed to increase solar deployment in the state to a certain percentage in the availability of brownfields, landfills and abandoned minefields for that deployment. Ms. Byron stated that DEP will not be telling private landowners what to do with their land. Mr. Matter reiterated that as a farmer, there is no way he could financially compete to rent or buy land when government incentives support solar farm development.

Steve Hershey offered that he finds it interesting how Pennsylvania currently has a governor and administration that claims to be supporting agriculture with an ethanol mandate, but through tax subsidies are supporting solar farms and electric vehicles. Mr. Hershey stated that at some point in time those two ideas collide and at this point it seems it may be out of political correctness that the government appears to be supporting both.

Peter Vanderstappen suggested that there should be consideration in the legislature regarding protecting private farmland and that doing so might solve this issue. Mr. Bell responded that several other states have passed legislation to regulate the direction of solar energy development and more specifically direct it away from prime farmland. This may be something for agricultural interests to consider and potentially pursue.

Mr. Moore said he is aware that California has mandated that all public vehicles must be replaced with vehicles that use renewable natural gas. This has caused a huge push to put in digesters across the country to supply renewable natural gas to that marketplace as they are paying 80 times the cost of regular gasoline, creating a huge economic incentive. Mr. Moore said that he has been approached by several digester companies who are interested in putting in a community digester because to make this economically work, there would be a need for about 2,500 cows. Mr. Moore added that there was talk of trucking manure to the digesters to make the renewable natural gas which would then be transported to California. Mr. Moore wonders if we are really gaining anything when we look at the big picture and evaluate the entire footprint of manufacturing and transporting these renewable energy sources, including solar. Mike Eby and Matt Matter voiced their agreement to Mr. Moore's points.

10:15 AM Act 38 ODOR Management Program - Program guidance and Technical Manual Proposed Version 4.0 - Frank Schneider - State Conservation Commission

In reference to Comment 7, *No Name Stated* asked what would happen in terms of AEU's if someone chose to build a new barn and physically remove or decommission the barn it replaced. Mr. Schneider explained that if the plan to remove or decommission an old barn was communicated in the plan for a new barn, they would allow the AEU's to be transferred.

10:25 AM Act 38 Nutrient Management Program Technical Guidance Manual Proposed Version 12.0 - Frank Schneider Act - State Conservation Commission

In reference to Comment 7, Brenda Shambaugh wanted Mr. Schneider to clarify when a district should reach out to a plan writer regarding a deficiency letter in relation to the public comment period. Mr. Schneider replied that a formal technical review letter must be sent out according to the regulations. In the past when dealing with CAFOs who have a 30-day public notice period, letters were not to be sent until the public notice period was over because plan writers did not like to receive multiple letters with comments. Now, one may send unofficial comments to a plan writer and let them know there may be additional comments to follow after the public notice period is over. The purpose of allowing unofficial comments to be submitted to plan writers is to get the process started and completed in a more-timely manner. Once the public notice period is over, a formal letter must be sent with official comments.

In reference to Comment 6, Mr. Moore requested clarification as he understood this to mean that as long as a run-in-shed has three sides and is open, the odor location will not change given no animals are permanently housed in a run-in shed. Mr. Schneider confirmed Mr. Moore's understanding and explained that debate is brought into the conversation when discussing run-in-sheds that have gates along the open side of the building that could technically be used to store animals. To prevent this debate, they tried to simplify things by using the presence of a water system and/or food source as a benchmark.

Mr. Bell asked if the wording in blue on the slides indicated the language that was going to be put into the technical manual. Mr. Schneider confirmed this.

10:35 AM Act 38 Nutrient Management Program and Chapter 91 Manure Management Manual - Frank Schneider - State Conservation Commission

Ms. Shambaugh asked if districts need to send changes regarding their local board to the Nutrient Management Board in addition to being sent to the SCC. Mr. Schneider responded that when there is a change in the Nutrient Management Plan that is just an update, it does not need to go the county Board of Directors as the staff have the authority to approve the updates themselves. Some staff were letting their local board know and some were not, which is why the SCC is now requiring all districts that are delegated let their board know of any plan updates.

Mr. Bell wanted to clarify that these matters will be brought again before the August joint meeting of the AAB and NMAB. Mr. Schneider confirmed this.

10:45 AM Draft Timber Harvest Operations Field Guide for Waterways, Wetlands, and Erosion Control - Sean Furjanic and Andy Klinger

Mr. Furjanic did not have a presentation to share and instead read an update to the Board. Mr. Bell requested that the summary Mr. Furjanic had prepared would then be shared with the Board after the meeting concluded. Mr. Furjanic agreed to this.

Mr. Bell stated that he does not personally realize the relationship between the field guide and the need to redo the field guide nor is he familiar with the regulatory provisions that are included in the E&S regulations that are also captured in the E&S manual. Mr. Bell asked if Mr. Furjanic could provide him with an idea of what the relationship is between the two and if this field guide is just a practical, informative document or if it attempts to prescribe additional standards to what is already in the E&S manual. Mr. Furjanic responded that there is a lot of information in this draft field guide that already exists within the E&S manual. DEP has heard over the past few years from those in the industry that they have liked having this pocket field guide because operators can pull it out and look up information quickly in terms of how to achieve compliance with Chapter 102 and Chapter 105. Mr. Furjanic explained that the field guide essentially provides recommended BMPs for timber harvesters to comply with the regulations and also provides an overview of regulations that are pertinent to that industry. The field guide does not prescribe anything further than what the regulations require.

Mr. Bell requested confirmation that this field guide itself does not serve as a regulatory document and that there may be additional requirements that a timber harvester may need to follow that are not found in the field guide. Mr. Furjanic confirmed that this is not a comprehensive document.

Mr. Bell asked if Mr. Furjanic could identify who the industry associations are that were involved in requesting an update of the field guide. Mr. Furjanic listed the Pennsylvania Forest Products Association, Sustainable Forestry Initiative Committee, and the Department of Agriculture Hardwood Development Council, but beyond that he wasn't sure what other associations may have contributed to the ask of an updated field guide.

Mr. Eby said it scares him when he hears that the draft will not be open for public comment. While this is just a pocket guide and is not the regulatory manual that is to be viewed and questioned, not allowing public comment still sends red flags. Mr. Bell understands Mr. Eby's concern and said the challenge here is to manage the need for transparency versus not having everything formally go through the comment period. Mr. Bell asked if for the sake of transparency DEP would consider informing the public of this field guide revision through the *Pennsylvania Bulletin* and allow the public to send in comments. Mr. Furjanic replied that those from DEP who would be involved in making that decision were present during the meeting and said it is something they could discuss.

Ms. Shambaugh asked what the next steps are with this document. Mr. Furjanic stated that DEP would like comments and feedback from the Board within the next 60 days. The plan is also to share DEP's updated version with the Department of Agriculture Hardwood Development Council, the Sustainable Forestry Initiative Committee, the Pennsylvania Forest Products Association, and anyone else who had shared their version with DEP to help formulate a revision.

Mr. Matter requested confirmation that the laws would not be changing and that the information in the field guide is just information pulled from the existing regulations that are relevant to timber harvest

operations. Mr. Furjanic confirmed that no changes in laws or regulations would be the outcome of this field guide.

11:00 AM Agriculture Energy Initiative - Michele Ferguson & Geoffrey Bristow

Mr. Vanderstappen commended Ms. Ferguson's use of reporting to demonstrate the demand for energy and supports their findings. He believes this is a step in the right direction and hopes they experience great success with getting the farming community involved.

Mr. Bell asked how they plan to formulate a practical way to take the information and recommendations from the study and apply them on a broad scale to farmer operations as it seems this initiative is still in the beginning stages. Ms. Ferguson said that right now they are sharing information with their partners to help get the word out through the correct outlets. Mr. Bristow added that when DEP comes out with this rebate program, vendors of LED lighting and equipment vendors will likely be the ones doing the outreach because it is a business opportunity for them. While DEP is not solely relying on this to be the stream of outreach, it will be highly beneficial to their goal of spreading the word. Mr. Bell replied that they may need to schedule sessions on a more localized basis with local farm bureaus, ag. organizations, and producer groups in an effort to capture and engage the ag. community.

11:45 PM Public Comments

Matt Gabler with the Pennsylvania Forest Product Association requested the opportunity to engage with the personnel involved in moving forward with the draft Timber Harvest Operations field guide. The Pennsylvania Forest Product Association supports the field guide going forward, but they want to be sure that all details are accounted for first. There are some notable edits the association would like to propose formally in writing as a follow up. Mr. Bell asked if he would be willing to share the recommended edits and changes to the Board. Mr. Gabler said he would be more than happy to provide the recommended edits and changes in a reader-friendly format to the Board so that they can understand the concerns that still remain with the draft. Mr. Gabler added that it is important to consider the purpose of a field guide. Its main intent is to enable operators in the field to quickly find answers to regulatory questions; however, it cannot be ignored that regulatory personnel may refer to it as a means to clarify for themselves what they need to enforce. Despite knowing the field guide does not change the underlying laws and regulations, Mr. Gabler believes it could impact the means of enforcement and for that reason, clarity is of the utmost importance.

12:00 PM Adjourn

Mr. Firestine moved to adjourn the meeting. Chris Uhland seconded that motion. The motion to adjourn the meeting was unanimously approved.