

**Department of Environmental Protection (DEP)
Agricultural Advisory Board (AAB) and State Conservation Commission (SCC)
Nutrient Management Advisory Board (NMAB) Joint Meeting
August 23, 2023
9:00 AM – 3:00 PM
Meeting Minutes**

Room 309
Pennsylvania Department of Agriculture
and Microsoft Teams

Welcome & Introductions – Grant Gulibon, Chair

Bob Haines conducted a roll call of AAB members. Four voting members were present which did not constitute a quorum. The following is the attendance record for this meeting.

Members present:

Bevin Buchheister*	Grant Gulibon
Greg Hostetter*	Jennifer Reed-Harry
Matt Royer	Paul Shaefer (in for Tim Peters) *
Christopher Uhland	

Members absent:

Rob Amsterdam	Nathan Clark
Lynn Dietrich	William Evans
James Gillis*	Kerry Golden
Matthew Matter	Darwin Nissley
Brenda Shambaugh	Destiny Zeiders

***Non-Voting Member**

Brady Seely conducted roll call of NMAB members. Six members of the NMAB were present, which did not constitute a quorum. The following NMAB members and Advisors were in attendance:

NMAB Members:

- Brook Duer – Non-Farmer Citizen Representative
- Tom Jennings – Local Government Representative
- Dr. Jaclyn Fiola – Academia Faculty Agronomy

- Dr. Joseph Bender – Veterinary Nutrition Specialist
- James Adams – Livestock (Swine) Producer Representative
- Dr. John Clune – Hydrologist

NMAB Advisors:

- Executive Deputy Secretary Greg Hostetter – PDA Advisor
- Rich Heuther – PACD Advisory

Introductions: Brady Seeley, NMAB Liaison with the State Conservation Commission (SCC), introduced newly appointed and reappointed members to the NMAB. They are:

- Brook Duer – Non-Farmer Citizen Representative
- Tom Jennings – Local Government Representative
- Dr. Jaclyn Fiola – Academia Faculty Agronomy
- Dr. Joseph Bender – Veterinary Nutrition Specialist
- Dr. Robb Meinen - Academia Faculty Animal Odor PSU

Brady also announced that there are currently 4 vacancies on the NMAB that are looking to be refilled. Letters requesting nominations have been sent out to the PA Farm Bureau, PennAg Industries, PA Farmers Union, and the PA Grange. All members and guests present introduced themselves for the record.

➤ **AAB Business**

Action on previous AAB Minutes from March 15, 2023 and June 22, 2023 – Grant Gulibon, Chair

No action could be taken on approving previous meeting minutes because there was not a quorum.

Legislative Update

No legislative appointees were present.

Land Application of Manure Substantive Revision – Kate Bresaw, Bureau of Watershed Restoration and Nonpoint Source Management

Ms. Bresaw informed the Boards that land application of manure should follow the standards set forth in the Manure Management Manual. The purpose of the revisions is to address the

diverse planning needs of the regulated community. Ms. Bresaw stated that a draft was given to the AAB on June 5, 2023. The draft will be published in the *Pennsylvania Bulletin* on August 26, 2023 with the public comment period ending September 25, 2023. The standard planning options for non-Concentrated Animal Operations (CAOs) and non-Concentrated Animal Feeding Operations (CAFOs) to meet their requirements under 91.36(b) are the Manure Management Plan Short Form and the Manure Management Plan Workbook. The Act 38 Nutrient Management Plan (NMP) is also an acceptable form. If an operator is currently following the guidelines in the short form, then it will become their manure management plan and meet their planning requirements under 91.36(b).

New worksheets in the workbook include the Animals Worksheet which is an Animal Equivalent Unit (AEU) calculation and the Agricultural Process Wastewater worksheet. The Animals Worksheet does not change the regulatory threshold of when an Act 38 NMP will be required, however, it provides the operator with the necessary information to determine if they are approaching the regulatory threshold. It also encourages the operator to have a certified nutrient management technician complete the AEU calculation for them.

Acting Deputy Secretary Bevin Buchheister asked if the manure application rate tables consider the phosphorus level in the soil. Ms. Bresaw responded that anyone that does not have soil samples or has soil phosphorous levels that have greater than or equal to 200 parts per million (Mehlich-3) would apply their nutrients to the phosphorus removal rate.

John Clune asked for clarification on environmentally sensitive areas and what they include. Ms. Bresaw responded with the definition in the manual which states that these areas consist of private or public drinking water wells; streams, lakes, springs or ponds; sinkholes; areas of concentrated flow and for winter application, above-ground inlets to an agricultural drainage system.

Jennifer Reed-Harry confirmed the noticing and public comment period information with Ms. Bresaw. Ms. Reed-Harry asked Ms. Bresaw to clarify when it's appropriate to use the Act 38 plan, Manure Management short form, and Manure Management workbook which Ms. Bresaw did.

Executive Deputy Greg Hostetter confirmed that with the proposed draft revision that there is no regulatory change, but more of a guidance to help do your own plan. Ms. Bresaw confirmed, but added that some individuals may still need professional assistance to write their plan.

Ms. Reed-Harry asked to clarify that this manual does not cover food processing waste. Ms. Bresaw confirmed the clarification.

Grant Gulibon reminded the Boards that any comments on the draft Manure Management Manual revisions should be submitted to DEP by September 25, 2023.

**Concentrated Animal Feeding Operation (CAFO) PAG-12 Permit Reissuance – Kate Bresaw,
Bureau of Watershed Restoration and Nonpoint Source Management**

Ms. Bresaw provided historical background on the collaboration between DEP, the Ag Advisory Board workgroup and EPA in developing the current version of the PAG-12 permit to include the various milestones and iterations. Ms. Bresaw informed the Boards that the current proposal to address the permit's consistency with National Pollutant Discharge Elimination System (NPDES) regulations for discharges to impaired waters with an approved Total Maximum Daily Load (TMDL) is the use of the CAFO Reasonable Potential Analysis (RPA) tool for impaired waters that will be used for any CAFO seeking PAG-12 coverage that is located in an impaired watershed due to nutrients and/or sediment, regardless of whether there is an EPA-approved TMDL, including the Chesapeake Bay watershed. The tool is a set of conditions determined by reasonable and professional assumptions which are known to increase the potential for discharges from the CAFO. Ms. Bresaw stated that at meeting with EPA on August 16, 2023, DEP secured a verbal commitment that EPA is generally supportive of the Department's current approach, and therefore, DEP does not anticipate any last-minute comments from EPA prohibiting the timely publication of the final permit.

Ms. Bresaw informed the Boards that her group is currently working on a training for permitting and compliance staff on the RPA tool which will be presented to the staff on September 7, 2023 and plans to gather feedback about the adequacy of the training from staff. From the staff feedback, a web-based training will be developed to be accessed from the Clean Water Academy.

Ms. Bresaw informed the Boards that changes are being made to the permitting SOPs for guidance on the RPA tool.

Ms. Bresaw restated that Notice of Intent (NOI) submission for existing permittees is tentatively set for October 2023 to January 2024. Existing permittees will maintain coverage under the extended permit; however, DEP may not grant coverage under PAG-12 to new facilities until the final permit is reissued in accordance with EPA policy which is tentatively scheduled for January 1, 2024.

Ms. Bresaw stated that feedback from the AAB board is requested to determine if the revised permit should be published sooner than October. Publishing sooner would give the regulated community longer to submit NOIs.

Grant Gulibon agreed that publishing the final permit sooner is better. Mr. Gulibon encouraged anyone on the board who has comments to submit them as soon as possible. Jennifer Reed-Harry agreed that publishing sooner is better and asked if an electronic vote would suffice. Bob Haines reported that he will review the by-laws to see if an electronic vote is permitted.

➤ **NMAB Business**

January and February 2023 NMAB Meeting Minutes: Tabled to October meeting due to lack of quorum.

Financial Programs Update - Justin Challenger (SCC): Justin Challenger, Director of Financial and Technical Assistance Programs provided an update regarding all financial programs.

Justin began with discussing the Agriculture Conservation Assistance Program (ACAP). The Center for Ag Conservation Assistance Training is being set up and interviews for staff positions are being completed. This is designed to help conservation district technicians to implement various programs and to provide conservation training.

Conservation districts are receiving and processing ACAP applications. There are currently \$29 million worth of approved applications. Some districts have been able to install Best Management Practices already under ACAP.

Conservation Excellence Grant (CEG) received funding through the Most Effective Basins program that will be used for conservation district special projects or public-private partnerships. This action will take place at the September SCC meeting.

The Sustainable Ag Board, headed by Mike Roth of the SCC, will have \$2 million per year for sustainable ag grants. Each grant is limited to \$25,000 or up to \$50,000 if project has a dollar for dollar match. First meeting is planned for October. This board is being created under the authority of the Sustainable Agriculture Act which has been in existence for 25 years.

Resource Enhancement & Program (REAP) applications are currently being received. Funding round is currently open, and funds are being dedicated to applications rapidly. Funding is anticipated to be exhausted by mid-September.

Nutrient Management Technical Manual Updates and Record of Change - Frank Schneider (SCC): Frank Schneider, Director of the Nutrient Management and Odor Management Programs, provided an update to the NM Technical Manual Record of Change that is planned for October. Typically, a new manual version is released every two years but due to the Commission looking at regulatory revisions it was thought that a record of change is more appropriate. New manuals will be produced when the regulatory revisions are completed.

Some of the changes that are planned to make are as follows:

- Revisions to wording and language.

- Nutrient Balance Sheets for manure that is exported to contiguous owned acres need to be completed and placed in Appendix 8.
- Added various guidance to Appendix 3 including Food Processing Residuals (FPRs), grazing, naming manure groups, animal weights, and outdoor poultry access.
- Move from Total N planning option to all plans using the N-Fractions Method. Total N planning has been removed from the PSU Agronomy Guide. N-Fractions Method of planning is a more accurate means of nutrient planning.
- Updated Emergency Response Plan template

Revised Record of Changes will be presented to the Commission at the September 2023 meeting. If revisions are approved, manual will become effective in October 2023 with a planned overview and training in November 2023.

Nutrient Management Planning Spreadsheet Revision - Don Orner (Penn State): Don Orner, Research Technologist, provided an update to the Version 9.0 Nutrient Management Plan Spreadsheet revision and the Version 7.0 Nutrient Balance Sheet Spreadsheet revision. Don mainly highlighted the changes to each respective spreadsheet regarding the switch from Total N method of planning to the N-Fractions method of planning. These revised spreadsheets will be released in October 2023 pending Commission approval at the September 2023 meeting.

Nutrient Management Administrative Manual Updates and Record of Change - Frank Schneider (SCC): Frank provided an update to the NM Administrative Manual Record of Change planned for October. Typically, a new manual version is released every two years but due to the Commission looking at regulatory revisions it was thought that a record of change is more appropriate. New manuals will be produced when the regulatory revisions are completed. Major changes to the manual include revisions to wording and language, updated the Chapter 91 delegated duties, addition of new delegation agreement, and update to the supplemental status review form and provided additional guidance.

Chapter 83, Chapter 130b, Chapter 130f, and Chapter 130e Regulatory Revisions Update and Overview - Frank Schneider (SCC): Frank provided an update to the proposed regulatory revisions. Proposed revisions are still sitting in PDA and DEP legal offices being unofficially reviewed to determine if the proposed revisions legally valid. Once revisions are returned, they will be released for a public comment period.

Written Reports: No written reports were provided to the NMAB or AAB.

Adjourn – Grant Gulibon, Chair

A motion was made to adjourn the meeting by Charlie White (NMAB) and second by Chris Uhland (AAB). Motion passed unanimously with a joint member vote and meeting was adjourned.

The next NMAB meeting is October 18, 2023 at 1:00 PM at PDA, Room 309 and a virtual option will be provided.

The next AAB meeting is October 19, 2023 at 9:00 AM at DEP South-Central Regional Office, Susquehanna Conference Room B and a virtual option will be provided.