



# Citizens Advisory Council

to the Department of Environmental Protection

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April 21, 2009

Ms. Joyce Epps, Director  
Bureau of Air Quality  
RCSOB, 12<sup>th</sup> Floor  
400 Market Street  
Harrisburg, PA 17105

Dear Joyce:

Attached are the Citizens Advisory Council's comments on the draft of the Bureau's report, *An Evaluation of the PA Air Quality Program 2002-2007*, that was presented to Council's Air Committee at its February 17, 2009 meeting. Please note that earlier this month, a draft of these comments was shared with BAQ staff due to the department's internal deadlines; the draft comments were amended and approved at the April 21, 2009 Council meeting.

Please feel free to call me if you have any questions.

Respectfully,

Susan M. Wilson  
Executive Director

cc: Secretary Hanger  
Dep. Sec. Fidler  
Dean Van Orden  
AQTAC



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### Comments on “An Evaluation of the PA Air Quality Program 2002-2007”

Council’s Air Committee reviewed DEP’s draft report, “An Evaluation of the Pennsylvania Air Quality Program 2002-2007.” The committee commends the department for its many successful efforts in improving the Commonwealth’s air quality. For example, of the six National Ambient Air Quality Standards (NAAQS) established by EPA, four have been attained for almost the entire Commonwealth. The department is making progress toward Clean Air Act compliance for two other pollutants of concern -- ozone and PM<sub>2.5</sub> – through initiatives such as the Clean Vehicles Program, Consumer Products Rule; etc. However, the report does not indicate that the Air Quality Program has made any progress on, or given attention to, addressing other air pollution issues such as synergistic effects, environmental justice, pollution prevention, or cross-media concerns.

The committee acknowledges the high number of staff retirements from the Bureau of Air Quality during this reporting period, and the subsequent effect this had on the workload of the remaining staff. While this report does fulfill DEP’s requirement to conduct “an evaluation of the effectiveness of the programs adopted to implement the Clean Air Act,” the committee feels the department again did not take full advantage of this opportunity to truly assess current efforts and identify future needs and objectives. As explained by EPA, “A practical and efficient program evaluation not only looks at results, but also identifies ways to improve the program.”<sup>1</sup>

### **Comments and Suggestions**

1. Section 4.3 of The Air Pollution Control Act requires DEP “to conduct and submit a report...that evaluates the effectiveness of the programs adopted to implement the federal Clean Air Act requirements. This evaluation shall be conducted 5 years after the effective date of the provision and 5 years thereafter.” DEP should explain why the 2002-2007 report was not completed until December 2008 and what it plans to do to ensure that the next report is completed in a more timely manner.
2. There is again no reference to or discussion of synergistic effects, environmental justice, pollution prevention or cross-media impacts and concerns. Council identified these omissions in its review of the 1992-2001 evaluation.
3. The committee thanks the department for including information on acid rain (page 37), which we recommended in our review of the 1992-2001 evaluation. The report

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<sup>1</sup> U.S. EPA National Center for Environmental Innovation, Evaluation Support Division, brochure “Improving Performance with Program Evaluation,” Summer 2003.



provides data showing that acid deposition in Pennsylvania has decreased due to implementation of the federal Acid Rain Program (authorized under Title IV of the Clean Air Act Amendments of 1990). However, there is no reference to the 2007 DEP-funded report by the Penn State Institutes of Energy and the Environment.

The report, "Reductions in Acidic Wet Deposition in Pennsylvania Following Implementation of the Clean Air Act Amendments of 1990: 1995-2006," also acknowledges that the 1990 amendments have resulted in lower sulfur dioxide and nitrogen oxides emissions in Pennsylvania and upwind states. However, the report adds that in spite of those reductions, Pennsylvania, particularly the western third of the state, still receives some of the most acidic precipitation of any region of North America. The report offers recommendations to further reduce acidic deposition in the Commonwealth. What is the department's reaction to the report and the recommendations? Are any of the recommendations being pursued to further reduce acidic deposition?

4. The department's recommendations to improve compliance assistance for small businesses (page 65) are the same ones from the 1992-2001 evaluation. Have any of them been implemented and, if so, to what effect?
5. The department's recommendation for CAC is the same as the previous evaluation (page 69). DEP should use this opportunity to comment on its relationship with CAC and recommend ways to improve or strengthen that relationship. Rather than just "meet" its mandate to consult with CAC, the department should draw on CAC's diverse and experienced membership as a valuable resource, especially during conceptual stages of rulemaking. The department should alert CAC to any upcoming air quality initiatives so that Council can be better prepared to provide assistance?
6. Recommendations from AQTAC members on how to enhance their ability to advise DEP are the same as the previous evaluation (page 71). Did the department ever respond to AQTAC about their recommendations? If so, what was the response and were there further discussions with AQTAC on how they can best assist the department?
7. Regarding the impact of the federal government's missed deadlines (page 79), DEP recommends that since those missed deadlines often affect many states, it would be more effective to collaborate with organizations such as the Environmental Council of the States, Ozone Transport Commission, etc., to develop and implement strategies to reduce air pollution. Has the department been in any discussions with those organizations? If so, what was their response?

## **Conclusion**

Although DEP was faced with many challenges during this evaluation period, e.g., Mercury Rule, CAIR and Clean Vehicle Program, it successfully developed and implemented many initiatives to improve the Commonwealth's air quality. Regarding the Mercury Rule, the committee particularly commends the department's efforts in preparing the *Final Decision Document for Reducing Mercury Emissions from Coal-fired Electric Generating Units*. Council's EQB representatives found the decision document very helpful in deliberating the significant issues related to this contentious regulation, and recommend that the department consider the use of decision documents in future efforts.

As the report indicates, however, what lies ahead could prove to be even more challenging. EPA's new 8-hour ozone standard may result in nonattainment for at least 27 counties, while the more protective 24-hour PM<sub>2.5</sub> standard may result in nonattainment for 22 counties. Additionally, Pennsylvania's 17-year attainment for lead may be threatened by the new lead standard that became effective in January 2009

As stated earlier, the draft fulfills the basic requirement to complete this evaluation. However, it did not take advantage of the opportunity to self-assess, address other air issues that impact the citizens of the Commonwealth and provide recommendations for improvement. Taking it one step further, the department could use this report to assist with developing its own strategic workplan for future initiatives. For example, emerging issues include:

- Northern tier counties will have increased truck traffic from Marcellus Shale activities. This could result in public concerns about diesel pollution.
- In 2006, DEP partnered with the Department of Health and other organizations to develop a statewide health tracking system. This initiative was part of a national effort lead by the Centers for Disease Control to track potential links between environmental hazards and public health. Their efforts culminated in the launch of Pennsylvania's Environmental Public Health Tracking Network in March 2009. Information provided by the tracking network may potentially influence environmental policy and regulatory action.
- Develop a comprehensive Air Pollution Plan inclusive of federal Clean Air Act programs and requirements; state statutes, regulations and initiatives; and other air pollution issues such as synergistic effects, mediation of environmental justice areas, pollution prevention, and cross-media concerns.

The department should at least refer to these and other emerging issues since they might be factors in the next five-year evaluation.

*Approved by Council: April 21, 2009*

*Submitted to DEP: April 22, 2009*