

**MINUTES  
ENVIRONMENTAL QUALITY BOARD MEETING  
June 15, 2010**

**VOTING MEMBERS OR ALTERNATES PRESENT**

John Hanger, Chairman, Secretary, Department of Environmental Protection  
Kenneth Graham, alternate for Secretary Sandi Vito, Department of Labor and Industry  
Danielle Spilla, alternate for Secretary Allen D. Biehler, Department of Transportation  
Wayne Gardner, alternate for Chairman James H. Cawley, Public Utility Commission  
Edward Yim, alternate for Representative Camille George  
Joseph Deklinski, alternate for Representative Scott E. Hutchinson  
Richard Fox, alternate for Senator Raphael J. Musto  
Patrick Henderson, alternate for Senator Mary Jo White  
Bill Capouillez, alternate for Carl Roe, Executive Director, PA Game Commission  
Richard Manfredi, Citizens Advisory Council  
David Spotts, alternate for John Arway, Executive Director, Pennsylvania Fish and Boat Commission  
William Sisson, alternate for Barbara Franco, Executive Director, PA Historical and Museum Commission  
Patricia Allan, alternate for Secretary Donna Cooper, Governor's Office of Policy and Planning  
Jolene Chinchilli, Citizens Advisory Council  
Peter Wilshusen, Ph.D., Citizens Advisory Council  
Walter Heine, Citizens Advisory Council  
David Strong, Citizens Advisory Council  
Paul Opiyo, alternate for Secretary George Cornelius, Department of Community and Economic Development  
Michael Pechart, alternate for Secretary Russell Redding, Department of Agriculture  
Dr. James Logue, alternate for Secretary Everette James, Department of Health

**DEPARTMENT OF ENVIRONMENTAL PROTECTION STAFF PRESENT**

Doug Brennan, Director, Bureau of Regulatory Counsel  
Randal (Duke) Adams, Policy Office, Acting Director  
Michele Tate, Regulatory Coordinator

**CALL TO ORDER AND APPROVAL OF MINUTES**

Chairman Hanger called the meeting to order at 9:09 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The Board considered its first item of business - the May 17, 2010, EQB meeting minutes.

**Michael Pechart moved to approve the May 17, 2010, EQB meeting minutes.  
Richard Manfredi seconded the motion, which was unanimously approved by the Board.**

**CONSIDERATION OF FINAL RULEMAKING: PROPOSED EXCLUSION FOR THE IDENTIFICATION AND LISTING OF HAZARDOUS WASTE (25 Pa Code, Chapter 261a)**

Ken Reisinger, Acting Deputy Secretary for Waste, Air and Radiation Management, provided an overview of the final rulemaking. Todd Wallace, Acting Director, Bureau of Waste Management, and Curt Sullivan, Assistant Counsel, Bureau of Regulatory Counsel, assisted with the presentation.

The Board did not pose any questions or offer comments following the Department's presentation.

**Mr. Manfredi moved to approve the final-form rulemaking. Patrick Henderson seconded the motion, which was unanimously approved by the Board.**

**CONSIDERATION OF FINAL RULEMAKING: CONTROL OF VOC EMISSIONS FROM LARGE APPLIANCE AND METAL FURNITURE SURFACE COATING OPERATIONS (25 Pa Code, Chapter 129)**

Ken Reisinger, Acting Deputy Secretary for Waste, Air and Radiation Management, provided an overview of the final rulemaking. Joyce Epps, Director, Bureau of Air Quality, and Kristen Furlan, Assistant Counsel, Bureau of Regulatory Counsel, assisted with the presentation.

At the conclusion of the Department's presentation, the Board did not pose any questions or offer comments on the rulemaking.

**Mr. Pechart moved to approve the final-form rulemaking. Mr. Henderson seconded the motion, which was unanimously approved by the Board.**

**CONSIDERATION OF FINAL RULEMAKING: ADMINISTRATION OF THE WATER AND WASTEWATER SYSTEMS OPERATORS' CERTIFICATION PROGRAM (25 Pa Code, Chapters 301-303 and 305)**

John Hines, Deputy Secretary for Water Management, provided an overview of the final rulemaking. Nicki Kasi, Bureau of Water Standards and Facility Regulation, and Bill Cumings, Assistant Counsel, Bureau of Regulatory Counsel, assisted with the presentation.

Following the presentation, Wayne Gardner inquired if the Department could return to the Board with a recommendation concerning the banking of extra continuing education credits sooner than the three-year deadline elaborated in the rulemaking. Deputy Secretary Hines responded that the Department will research the issues associated with the banking of extra continuing education credits and return to the Board with recommendations as soon as possible. He further clarified that the three-year deadline identified in the rulemaking was only included as a suggested maximum length of time for the Department to research the issues associated with the banking of extra credits and reflected the length of time the Department must report back to the Board on the adequacy of the fees included in the rulemaking. He noted, however, that the Department could accommodate Mr. Gardner's request to research the issues associated with the banking of extra credits and report back to the Board expeditiously.

With respect to the Department's statement that the EPA may withhold money to Pennsylvania if the Commonwealth's Operator Certification Program does not meet federal guidelines, Mr. Henderson asked if federal guidelines must be met for both the drinking water and wastewater aspects of the final-form rulemaking. Deputy Secretary Hines responded that federal guideline conformance must be achieved by the Commonwealth for only the drinking water components of the Operator Certification Program in order to retain federal funding.

**Mr. Gardner moved to approve the final rulemaking. Richard Fox seconded the motion, which was approved by a majority of Board members. Joe Deklinski voted in opposition to the motion.**

**CONSIDERATION OF PROPOSED RULEMAKING: NONCOAL MINING FEES (25 Pa Code, Chapter 77)**

Tom Callaghan, Director, Bureau of Mining and Reclamation, provided an overview of the proposed rulemaking. Bill Allen, Bureau of Mining and Reclamation, and Richard Morrison, Assistant Counsel, Bureau of Regulatory Counsel, assisted with the presentation.

Following the presentation, Mr. Manfredi asked whether the Department used a weighted average to determine the number of hours staff used to review a permit application, as he believed some permit applications may take longer to review in comparison with others. Mr. Allen replied that the workload analysis used to establish the fees in the proposed rulemaking included a review of staff work time over a 10-year period and reflected the average number of hours staff used over that 10-year period to review a permit application. Mr. Manfredi inquired whether the Department evaluated other permit fee structures including establishing a base fee for all permit applicants and an escrow amount that may be refundable depending upon the amount of staff time used to review a permit application. Chairman Hanger responded by stating that an alternative proposal, such as the one suggested by Mr. Manfredi, was not specifically evaluated, but that the Department would be open to evaluate other proposals presented during the public comment period for the proposed rulemaking. Chairman Hanger also emphasized that the fee structure included in the proposed rulemaking had merit due to its simplicity, for both the permit applicant that must pay the permit fee and for Department personnel who must administer the program.

With regard to the workload analysis, Mr. Capouillez asked whether the Department considered the permit review work completed by the Commonwealth's wildlife resource agencies in determining the number of staff hours used to review a permit application. Mr. Allen replied that the workload analysis used to substantiate the fees in the rulemaking reflected only the staff time of DEP personnel and did not reflect work completed by outside agencies. In reply, Mr. Capouillez asked whether the money generated by the permit fees would be deposited into the General Fund. Mr. Allen responded that the fees generated by the rulemaking would be deposited into an existing Noncoal SMCRA Fund, which is currently used by the Department to administer the program. Mr. Capouillez asked whether this fund is structured in a manner that would facilitate cost recovery for the staff time used by wildlife resource agencies to review noncoal permit applications. Chairman Hanger replied that cost recovery to the wildlife resource agencies was not a part of the fee proposal contained in the proposed rulemaking; however, he stated he understands Mr. Capouillez's concerns, but that any alternative proposals that may include cost recovery to the Commonwealth's wildlife resource agencies may lead to higher permit fees. Chairman Hanger also noted that the Department's authority to provide such cost recovery to other Commonwealth agencies would need to be a component of any further discussion on the topic.

Dr. Logue asked the Department to identify examples of non-coal mining operations. Mr. Callaghan responded that the non-coal mining industry encompasses various operations including those associated with cement, concrete, sand, gravel, and limestone. Mr. Callaghan further explained that economic conditions greatly impact the activity of the non-coal mining industry and noted that the Marcellus Shale gas development play in the Commonwealth has created a strong demand for fill materials within the state.

**Mr. Manfredi moved to adopt the proposed rulemaking. Patricia Allan seconded the motion, which was approved by a majority of Board members. Mr. Deklinski**

**voted in opposition to the motion.**

**OTHER BUSINESS:**

The next regularly scheduled meeting of the Board will occur on Tuesday, July 20, 2010, at 9:00 a.m.

**ADJOURN:**

With no further business before the Board, Mr. Pechart moved to adjourn the meeting. Dr. Wilshusen seconded the motion, which was unanimously approved by the Board. The June 15, 2010, meeting of the Board was adjourned at 9:55 a.m.