

**MEETING MINUTES
ENVIRONMENTAL QUALITY BOARD
March 16, 2021**

VOTING MEMBERS AND/OR ALTERNATES PRESENT

Patrick McDonnell, Chair, Secretary, Department of Environmental Protection
Erin Smith Wachter, alternate for Meg Snead, Secretary, Governor's Office of Policy and Planning
Michael Hanna, alternate for Russell Redding, Secretary, Department of Agriculture
Denise Brinley, alternate for Dennis Davin, Secretary, Dept. of Community and Economic Development
Peter Blank, alternate for Alison Beam, Acting Secretary, Department of Health
Joe Lee, alternate for Jennifer Berrier, Acting Secretary, Department of Labor and Industry
Natasha Fackler, alternate for Yassmin Gramian, Secretary, Department of Transportation
Heather Smiles, alternate for Tim Schaeffer, Executive Director, Pennsylvania Fish and Boat Commission
Michael DiMatteo, alternate for Bryan Burhans, Executive Director, Pennsylvania Game Commission
Andrea Lowery, Executive Director, Pennsylvania Historical and Museum Commission
Regi Sam, alternate for Gladys Brown Dutrieuille, Chairman, Public Utility Commission
Nick Troutman, alternate for Senator Gene Yaw, Senate Environmental Resources and Energy Committee
Senator Carolyn Comitta, Senate Environmental Resources and Energy Committee
Representative Daryl Metcalfe, House Environmental Resources and Energy Committee
Representative Greg Vitali, House Environmental Resources and Energy Committee
Robert Barkanic, Citizens Advisory Council
Cynthia Carrow, Citizens Advisory Council
John St. Clair, Citizens Advisory Council
John Walliser, Citizens Advisory Council
Jim Welty, Citizens Advisory Council

DEPARTMENT OF ENVIRONMENTAL PROTECTION STAFF PRESENT

Laura Griffin, Regulatory Coordinator
Jessica Shirley, Policy Director
Robert "Bo" Reiley, Bureau of Regulatory Counsel

CALL TO ORDER AND APPROVAL OF MINUTES

The virtual meeting of the Environmental Quality Board (EQB or Board) was called to order by Chairperson McDonnell at 9:03 a.m. via Webex. The Board considered its first item of business: approval of the November 17, 2020, EQB meeting minutes.

Representative Vitali made a motion to adopt the November 17, 2020, EQB meeting minutes. Andrea Lowery seconded the motion, which was unanimously approved by the Board. (19-0)

CONSIDERATION OF FINAL RULEMAKING: WATER QUALITY MANAGEMENT (WQM) AND NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT APPLICATION FEES AND ANNUAL FEES (25 Pa. Code Chapters 91 and 92a)

Aneca Atkinson (Deputy Secretary for Office of Water Programs) provided an overview of the final rulemaking. Jay Patel (Acting Co-Director for Bureau of Clean Water), Sean Furjanic (Environmental Program Manager for Bureau of Clean Water) and Adam Duh (Assistant Counsel for Bureau of Regulatory Counsel) assisted with the presentation.

Following the Department's presentation, Representative Metcalfe noted that while decreasing some of the fees from the proposal was an improvement, he argued it would still be a hefty burden on Pennsylvanians. He commented the Department should not fund operations through continually increasing fees as that negatively impacts all citizens. He added comparing fees to New York or New Jersey is not a justification for fee increases.

Jim Welty asked what percentage of the program is funded by fees versus general fund revenues. Sean Furjanic replied that 18% is currently funded by fees, roughly 33% from a federal grant and the rest is from the general fund. As a result of the rulemaking, it would be a 15-16% increase over the current amount funded by fees. Jim followed up by asking when the general fund revenues were last increased for the program.

Sean mentioned that while he did not have the information readily available, that data is included within the comment and response document as a commentator had provided what the general fund contribution was from 2009 to the present. Chairperson McDonnell added that often what is proposed in the general fund budget is not what is received.

John St. Clair asked if Department conducted comparisons with Ohio, Maryland or West Virginia. Sean Furjanic responded that the Regulatory Analysis Form does include Ohio and Maryland, but not West Virginia. Jessica Shirley shared a link to the Regulatory Analysis Form and referenced Page 8.

Jim Welty voiced his concerns with respect to the funding mechanisms used for programs within the Department, leaning more on fees and less on general fund revenues, while also recognizing the challenges faced when trying to identify dollars necessary to fund programs.

Representative Vitali complimented the Department on the work done with limited resources. He went on to state his concern that the fee increase may not be adequate and asked how many positions have been filled in the Bureau of Clean Water since 2018 when 63 positions were needed. He also questioned how the fee increase would work towards that goal.

Deputy Secretary Atkinson responded by saying while there is a staff complement authorized for each bureau, the Department hasn't been able to fill all positions when vacancies occur. The fee increase would help to support those positions going forward. Representative Vitali reiterated his focus on filled positions and noted 63 positions were needed in 2018. He asked how many positions were needed today and how many positions this fee increase would help to provide for. Sean responded he would need to talk to fiscal before he could provide an answer. Representative Vitali asked for a rough estimate and wanting to get a sense of scale.

Chairperson McDonnell responded that while the rulemaking is designed to allow positions of the authorized complement to be filled, there are no additional positions related to the increase. The revenue and resources would allow existing positions in the complement to be filled. To be clear, Representative Vitali repeated that the fee increase would only allow the program to be maintained. Chairperson McDonnell agreed and said the fee increase will allow positions to be filled that were already in the complement.

Robert Barkanic made a motion to adopt the final rulemaking. Andrea Lowery seconded the motion, which was approved by a majority of the Board. The motion passed with a vote of 16-3. Nick Troutman (alternate for Senator Gene Yaw), Representative Metcalfe and Jim Welty voted in opposition.

PRESENTATION OF REGULATORY FEE REPORT: WATER AND WASTEWATER SYSTEMS OPERATORS' CERTIFICATION PROGRAM (25 Pa. Code Chapter 302)

Aneca Atkinson (Deputy Secretary for Office of Water Programs) provided an overview of the three-year fee report. Lisa Daniels (Director for Bureau of Safe Drinking Water) and Ed Chescattie (Program Manager for Training Technical and Financial Services within Bureau of Safe Drinking Water) and Adam Duh (Assistant Counsel for Bureau of Regulatory Counsel) assisted with the presentation.

There was no discussion following the Department's presentation.

This was only a presentation to the Board. No formal action was needed.

OTHER BUSINESS:

Laura Griffin provided a regulatory update.

- On November 17, 2020, this Board adopted one proposed rulemaking and two final-form rulemakings.
 - The proposed rulemaking – Noncoal Mining Clarifications and Corrections – will be published in the *Pennsylvania Bulletin* on Saturday, March 20, 2021, opening a 45-day public comment period, which will close May 4, 2021. No public hearings are scheduled at this time.
 - The final rulemaking packages – Water Supply Replacement for Surface Coal Mining and Water Quality Standards Class A Stream Redesignations – were both delivered to the House and Senate Environmental Resources and Energy Committees and the Independent Regulatory Review Commission (IRRC) on February 25, 2021. IRRC will consider these two final regulations at its April 15, 2021 public meeting.

NEXT MEETING:

The next meeting of the EQB is tentatively scheduled for Tuesday, April 20, 2021.

Jim Welty questioned the status of the statewide carbon cap and trade program petition. Jessica Shirley replied that the Department has drafted a report that is currently under internal review. After internal review is complete, the report will be sent to the petitioner. The petitioner will then have 30 days to review and provide comments. The Department will prepare a response and recommendation and provide

it to EQB members. It is anticipated to go to EQB for consideration soon, but it wouldn't be ready in time for the next EQB meeting.

ADJOURN:

With no further business before the Board, Jim Welty moved to adjourn the meeting. Robert Barkanic seconded the motion, which was unanimously approved by the Board. The March 16, 2021, meeting of the Board was adjourned at 10:11 a.m.