

MINUTES
ENVIRONMENTAL QUALITY BOARD MEETING
February 15, 2022

VOTING MEMBERS AND/OR ALTERNATES PRESENT

Patrick McDonnell, Chair, Secretary, Department of Environmental Protection
Erin Wachter, alternate for Allison Jones, Secretary, Governor's Office of Policy and Planning
Michael Hanna, alternate for Russell Redding, Secretary, Department of Agriculture
Adam Walters, alternate for Neil Weaver, Acting Secretary, Dept. of Community & Economic Development
Peter Blank, alternate for Keara Klinepeter, Acting Secretary, Department of Health
Patrick McKenna, alternate for Jennifer Berrier, 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 Dutrieuille, Chair, Public Utility Commission
Nick Troutman, alternate for Senator Gene Yaw, Senate Environmental Resources & Energy Committee
Emily Eyster, alternate for Senator Carolyn Comitta, Senate Environmental Resources & Energy Committee
Glendon King, alternate for Rep. Daryl Metcalfe, House Environmental Resources & Energy Committee
Representative Greg Vitali, House Environmental Resources and Energy Committee
Robert Barkanic, Citizens Advisory Council
Cynthia Carrow, Citizens Advisory Council
Trisha Salvia, Citizens Advisory Council
Jim Welty, Citizens Advisory Council
John Walliser, 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 hybrid meeting of the Environmental Quality Board (EQB or Board) was called to order by Chairperson McDonnell at 9:00 a.m. The Board considered its first item of business: approval of the November 16, 2021, EQB meeting minutes.

**Michael Hanna made a motion to adopt the November 16, 2021, EQB meeting minutes.
Andrea Lowery seconded the motion, which was unanimously approved by the Board. (19-0)**

**PRESENTATION OF REGULATORY FEE REPORT: RADIATION PROTECTION PROGRAM
(25 Pa. Code Chapters 218 and 240)**

Krishnan Ramamurthy (Deputy Secretary for Office of Waste, Air, Radiation, and Remediation) provided an overview of the 3-year regulatory fee and program cost analysis report. David Allard (Director for Bureau of Radiation Protection) and Chris Minott (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.

**PRESENTATION OF REGULATORY FEE REPORT: OIL AND GAS PROGRAM
(25 Pa. Code Chapters 78 and 78a)**

Kurt Klapkowski (Director for Bureau of Oil and Gas Planning and Program Management) provided an overview of the 3-year regulatory fee and program cost analysis report. Todd Wallace (Executive Assistant for Office of Oil and Gas Management) and Elizabeth Davis (Assistant Director for Bureau of Regulatory Counsel) assisted with the presentation.

Following the Department's presentation, Representative Vitali commented on the Department being under resourced for years, highlighting the oil and gas program's lack of staffing and resources and that inspections of oil and gas operations are down to the lowest level in years. Representative Vitali noted there are an estimated 200,000 abandoned oil and gas wells in Pennsylvania, but the Department is only able to plug about ten per year. Representative Vitali concluded by stressing that the Department will be receiving \$400 million in federal money for oil and gas well plugging over the next 15 years, which will require increased staffing, and expressed his concern that Deputy Secretary Scott Perry was no longer with the Department.

Jim Welty commented that when the fee was raised in 2013, the unconventional shale industry had cautioned the Department not to overestimate the number of well permits for funding purposes. Welty noted the complement for the program was increased from 60 to 190 employees currently and asserted that the number has decreased from the high watermark of 20 or 30 additional employees because the Department overestimated future permits. Welty stated that the unconventional shale industry represents about 60% of the workload and 60% of the funding of that program, when including the \$6 million impact fee. Welty suggested allocating general fund revenues or other revenues to help with the funding gap and cautioned the Department to not rely solely on one segment of the industry to fund the entire program. Welty concluded by urging the Department strongly to work with industry and collaborate to find that alternative means of funding to ensure that it's a robust program.

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

OTHER BUSINESS:

Laura Griffin provided the following regulatory updates.

- On January 26, 2022, the Independent Regulatory Review Commission (IRRC) unanimously approved the Control of VOC Emissions from Gasoline Dispensing Facilities final rulemaking.

- The following proposed rulemakings have been published in the *Pennsylvania Bulletin* for public comment:
 - Adopted by the Board on September 21, 2021, the Exclusion for Identification and Listing Hazardous Waste at MAX Environmental Technologies, Inc. Bulger and Yukon Facilities was published on January 8, 2022, for a 45-day public comment period that will close February 22, 2022. Three public hearings were held with 9 individuals providing testimony.
 - Also adopted by the Board on September 21, 2021, the VOC RACT Requirements for Shipbuilding and Ship Repair Surface Coating Operations, SOCM Processes, and Large Petroleum Dry Cleaners for the 2015 Ozone NAAQS was published on January 29, 2022, for a 66-day public comment period that will close April 4, 2022. Three public hearings are scheduled for March 1, 3 and 4, 2022, at 1 pm.
 - Adopted by the Board on October 19, 2021, the National Pollutant Discharge Elimination System (NPDES) Schedules of Compliance was published on January 15, 2022, for a 45-day public comment period that will close March 1, 2022. One public hearing is scheduled for February 16, 2022, at 1 pm.
 - Adopted by the Board on November 16, 2021, the Municipal Waste Rural Transfer Facility Permit-By-Rule was published on January 15, 2022, for a 30-day public comment period that closed February 14, 2022.

Laura Griffin also provided an update on the well bonding petitions.

- Two petitions for rulemaking were accepted for further study by the Board on November 16, 2021, on Conventional Oil and Gas Well Bonding and Unconventional Gas Well Bonding. To provide a status update, the Department will need more time to review both petitions in order to do a more rigorous evaluation. Another update will be provided at the next EQB meeting.

Glendon King asked about the status of two rulemakings: the land recycling program's supplemental rulemaking to address vanadium and the ZEV rulemaking. Jessica Shirley responded that the vanadium proposed rulemaking is under internal review and is anticipated to be considered by the Board within the next few months. The Department is evaluating the ZEV rulemaking to identify Pennsylvania's path forward now that California is proceeding with its Advanced Clean Cars II rulemaking.

Jim Welty asked about the status of the greenhouse gas cap and trade petition. Jessica Shirley responded that the cap and trade petition is back under review to evaluate how the Regional Greenhouse Gas Initiative (RGGI) potentially interacts with the Department's report responding to the petition, as well as to update some figures. Shirley indicated that the Department intends to send the report to the petitioner sometime in the next few months. Shirley added that after the report is sent to the petitioner, the petitioner has 30 days to submit a written response on the report, and then the Department develops the recommendation to the Board based on its report and the petitioner's response.

Welty then asked about the well bonding petitions, noting that it had been around 60 days since the Board accepted the petitions. Shirley responded that when the petition policy was created, it did not contemplate all the new factors subsequently added to the Regulatory Review Act, which the Department must now consider. This makes it almost impossible for the Department to complete its evaluation of a petition in 60 days. The Department hopes to have the reports out in the late spring or early summer and is considering

potentially updating the petition policy to be more consistent with the requirements of the Regulatory Review Act.

NEXT MEETING:

The next meeting of the EQB is scheduled for Tuesday, March 15, 2022.

ADJOURN:

With no further business before the Board, Patrick McKenna moved to adjourn the meeting. Michael Hanna seconded the motion, which was unanimously approved by the Board. The February 15, 2022, meeting of the Board was adjourned at 9:44 a.m.