

**MINUTES**  
**ENVIRONMENTAL QUALITY BOARD MEETING**  
**April 8, 2025**

**VOTING MEMBERS AND/OR ALTERNATES PRESENT**

Jessica Shirley, Acting Chairperson, Acting Secretary, Department of Environmental Protection  
Erin Corrigan, alternate for Akbar Hossain, Secretary, Governor's Office of Policy and Planning  
*Greg Hostetter, alternate for Russell Redding, Secretary, Department of Agriculture*  
Adam Walters, alternate for Frederick Siger, Secretary, Department of Community & Economic Development  
*Kristen Rodack, alternate for Dr. Debra Bogen, Secretary, Department of Health*  
Scott Weiant, alternate for Nancy Walker, Secretary, Department of Labor and Industry  
Shane Rice, alternate for Michael Carroll, Secretary, Department of Transportation  
*Heather Smiles, alternate for Tim Schaeffer, Executive Director, Pennsylvania Fish and Boat Commission*  
Paul Lupo, alternate for Stephen Smith, Executive Director, Pennsylvania Game Commission  
*Andrea Lowery, Executive Director, Pennsylvania Historical & Museum Commission*  
Kathryn Zerfuss, alternate for Stephen DeFrank, Chair, Public Utility Commission  
Matt Osenbach, 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 Representative Martin Causer, House Energy Committee  
Representative Greg Vitali, House Environmental and Natural Resource Protection Committee  
Robert Barkanic, Citizens Advisory Council  
*Trisha Salvia, Citizens Advisory Council*  
Thaddeus Stevens, Citizens Advisory Council  
*John St. Clair, Citizens Advisory Council*  
*John Walliser, Citizens Advisory Council*

**DEPARTMENT OF ENVIRONMENTAL PROTECTION STAFF PRESENT**

High Garst, Policy Director  
Laura Campbell, Regulatory Coordinator  
Laura Griffin, Regulatory Coordinator  
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 Acting Chairperson Shirley at 9:28 a.m. The Board considered its first item of business: approval of the November 12, 2024, EQB meeting minutes.

**Robert Barkanic made a motion to adopt the November 12, 2024, EQB meeting minutes.**  
**Kathryn Zerfuss seconded the motion, which was approved by the Board (19-0).**

**FINAL RULEMAKING: WATER QUALITY STANDARDS – SITE-SPECIFIC WATER QUALITY CRITERIA (25 Pa. Code Chapter 93)**

Jill Whitcomb (Deputy Secretary for Water Programs) provided an overview of the final rulemaking. Josh Lookenbill (Manager, Water Quality Standards Division, Bureau of Clean Water) and Michele Moses (Assistant Director, Bureau of Regulatory Counsel) assisted with the presentation.

There was no discussion following the Department's presentation.

**Kathryn Zerfuss made a motion to adopt the final rulemaking. Representative Greg Vitali seconded the motion, which was approved by the Board (17-2). Matt Osenbach and Glendon King voted in opposition.**

**PROPOSED RULEMAKING: LEGAL AUTHORITY FOR DELEGATION OF FEDERAL PLANS IN 40 CFR PART 62 (25 Pa. Code Chapter 122)**

Ali Tarquino Morris (Deputy Secretary for Waste, Air, Radiation, and Remediation) provided an overview of the proposed rulemaking. Nick Lazor (Director, Bureau of Air Quality) and Maria Solomidou (Assistant Counsel, Bureau of Regulatory Counsel) assisted with the presentation.

There was no discussion following the Department's presentation.

**Robert Barkanic made a motion to adopt the proposed rulemaking. Kathryn Zerfuss seconded the motion, which was approved by the Board (19-0).**

**PROPOSED RULEMAKING: ADMINISTRATION OF THE LAND RECYCLING PROGRAM – CHROMIUM (VI) (25 Pa. Code Chapter 250)**

Ali Tarquino Morris (Deputy Secretary for Waste, Air, Radiation, and Remediation) provided an overview of the proposed rulemaking. Troy Conrad (Director, Bureau of Environmental Cleanup and Brownfields), Michael Maddigan (Manager, Land Recycling Program Division), and Lindsay Williamson (Assistant Counsel, Bureau of Regulatory Counsel) assisted with the presentation.

There was no discussion following the Department's presentation.

**Scott Weiant made a motion to adopt the proposed rulemaking. Representative Greg Vitali seconded the motion, which was approved by the Board (18-0). John St. Clair abstained.**

**CONSIDERATION OF RULEMAKING PETITION: UNCONVENTIONAL WELL SETBACKS (25 Pa. Code Chapter 78a)**

Kurt Klapkowski (Deputy Secretary for Oil and Gas Management) provided an overview of the rulemaking petition. Kris Shiffer (Director, Bureau of Oil and Gas Planning and Program Management) and Nic Pistor (Assistant Counsel, Bureau of Regulatory Counsel) assisted with the presentation.

Following the Department's presentation, Glendon King asked if the Department had conducted a legal review to determine if the action requested in the petition could be taken by the Board. Bo Reiley said the Department performed a broad legal assessment of the petition and determined that the Board had the authority to promulgate a rulemaking concerning oil and gas. Mr. Reiley added that if the Board accepts the petition for study, then the Department would conduct a thorough legal and statutory evaluation of the

petition. Acting Chairperson Shirley noted the Department reviews a petition to identify if there is general authority to regulate the industry or subject area, which is oil and gas in this case.

Glendon King questioned whether the Department is required to perform a more in-depth analysis of the EQB's legal authority at this initial stage of the petition process, noting that it seems illogical for the Department to determine now that the Board has the authority, but then later determine that it does not have statutory authority. Bo Reiley responded that this petition is at the very beginning of the petition process, so to delve into an in-depth analysis, which is not required now, would be to skip over several steps. He provided an example of a previous petition that requested regulations for not only the Department, but other Commonwealth agencies for which the Board had no authority. The Department informed the petitioners that the EQB could not take the requested action for those agencies, so the petitioners revised their petition to remove the other agencies. The EQB then accepted the petition for further study. Ultimately, the Department did not recommend proceeding with a rulemaking in its final report. Mr. Reiley concluded that, at this stage in the process, the determination is a low threshold. Mr. King disagreed and asserted that the Department has previously stated in writing that only the General Assembly has the authority to change well setbacks. Mr. Reiley acknowledged those previous statements but noted that the petitioners identified Pennsylvania Supreme Court cases [interpreting the Environmental Rights Amendment] that were decided after those statements were made, which the Department would need to analyze as part of the evaluation.

Glendon King asked about the process for studying a petition, such as what staff resources and time are necessary to evaluate the petition. Kurt Klapkowski noted there are several scientific studies included with the petition, which contain a significant amount of information. However, he did not have an estimate yet because the Department was waiting until the Board formally accepts the petition for further study of the petition to identify necessary resources and a timeline. High Garst added that the Board's petition policy instructs the Department to either draft the report in 60 days or, at the next Board meeting after 60 days, inform the EQB of how much additional time is needed.

Glendon King again asked if the Department should conduct a more thorough legal analysis at this early stage to avoid accepting a petition that is not statutorily authorized, which will require the Department to engage in an extensive and burdensome petition review process. Bo Reiley responded that the Board needs to accept the petition and then the Department would review the statutory authority when beginning its analysis. He noted that upon his initial, cursory review, the petitioners have made a sophisticated legal argument involving multiple statutes and case law that will require closer analysis.

Glendon King asked if DEP had informed EQB members who are part of the Shapiro Administration that they are making a different evaluation than the Department made when voting on whether to accept a petition for study, adding that regulatory and policy considerations should be considered. High Garst said that all EQB members have been briefed on the petition policy. Mr. King asserted that if a member votes to accept the petition for further study, they believe it is sound policy to essentially ban all natural gas development in the Commonwealth. Acting Chairperson Shirley responded that a vote to accept the petition for further study does not infer any policy decision, it only means that the member determined the petition meets the policy and would like the Department to study the petition further. Bo Reiley added that a vote to accept the petition for study is not an endorsement of the petition.

Thaddeus Stevens asked if the issue of setbacks has already been addressed by the legislature since the passage of Act 13 [of 2012]. Kurt Klapkowski said bills were introduced in previous legislative sessions proposing to change well setbacks, but none moved out of committee.

On behalf of the petitioners, Lisa Hallowell, senior attorney with the Environmental Integrity Project, provided an overview of the rulemaking petition. Larry Hafetz, legal director with the Clean Air Council, assisted with the presentation.

Following the petitioners' presentation, Kathryn Zerfuss noted that Board members received additional information related to the petition that morning, as well as several letters from industry over the past 48 hours. She requested more time to review the additional information to be better prepared to ask questions of the petitioners and the Department, and suggested the Board would benefit from taking time to review the additional materials.

**Kathryn Zerfuss made a motion to lay the petition on the table. Matt Osenbach seconded the motion.**

Kathryn Zerfuss clarified that the petition would be on the table until a future meeting when the Board voted by a majority to take it off the table, and then a motion could be made to accept the petition for further study.

**The Board voted to approve the motion (16-3). Emily Eyster, Representative Greg Vitali, and John Walliser voted in opposition.**

Larry Hafetz asked if the petitioners would receive sufficient notice to attend the future meeting when the Board would vote to take up the petition again for consideration. High Garst responded yes, they would receive notification. He also explained that if the petitioners would like the Board to consider supplemental information, they could withdraw the current petition and resubmit a revised petition with the additional materials. Acting Chairperson Shirley clarified that if the petitioners would like the supplemental materials they submitted to the EQB members that morning to be considered as part of the petition, they need to withdraw the current petition and submit a new petition with those materials included.

Representative Vitali suggested the Board could provide more certainty to the petitioners to know what meeting to attend by making a motion to remove the petition from the table at the next meeting to ensure it would be an agenda item for consideration, which would also provide enough time for the Board to review the additional materials.

**Representative Vitali made a motion to remove the petition from the table at the next EQB meeting. Trisha Salvia seconded the motion.**

Thaddeus Stevens asked if Robert's Rules of Order allow for a motion to remove an item from the table during the same meeting that the item has been tabled.

**Acting Chairperson Shirley clarified that the motion to remove the petition from the table at the next Board meeting was not a valid motion, and the motion must be taken up at a subsequent Board meeting under Robert's Rules of Order. No vote was taken.**

Representative Vitali asked if a motion to have the petition listed on the agenda at the next EQB meeting may be made. After discussion among the members and the Department, Bo Reiley said that the petition

would fall under “Other Business” on the agenda and does not need to be listed explicitly. Following Robert’s Rules of Order, the petition stays on the table until a member moves to take it off the table at a subsequent meeting; it cannot be reconsidered at this meeting. At the next meeting, an EQB member could make a motion to remove the petition from the table and, if the motion is approved, then the petition could be discussed and a motion could be made to accept it for further study.

### **ADJOURN**

Glendon King moved to adjourn the meeting. Matt Osenbach seconded the motion, which was approved by the Board by a roll call (18-1). Representative Greg Vitali voted in opposition. The April 8, 2025, meeting of the Board was adjourned at 11:04 a.m.