

MINUTES
ENVIRONMENTAL QUALITY BOARD MEETING
January 17, 2007

VOTING MEMBERS OR ALTERNATES PRESENT

Kathleen A. McGinty, Chairperson, Secretary, Department of Environmental Protection
Kenneth Graham, alternate for Secretary Stephen M. Schmerin, Department of Labor and Industry
Eric Madden, alternate for Secretary Allen D. Biehler, Department of Transportation
Elizabeth Dunn, alternate for Representative Camille George
Mark Brown, alternate for Representative William Adolph, Jr.
Richard Fox, alternate for Senator Raphael J. Musto
Patrick Henderson, alternate for Senator Mary Jo White
John Byerly, alternate for Executive Director Carl Roe, Pennsylvania Game Commission
Richard Manfredi, Citizens Advisory Council
John Arway, alternate for Dr. Douglas J. Austen, Executive Director, Pennsylvania Fish and Boat Commission
Dr. Walter Meshaka, alternate for Executive Director Barbara Franco, Historical and Museum Commission
Joanne Denworth, alternate for Secretary Donna Cooper, Governor's Office of Policy and Planning
Cynthia Carrow, alternate for Jolene Chinchilli, Citizens Advisory Council
Bruce Tetkoskie, Citizens Advisory Council
Walter Heine, Citizens Advisory Council
David Strong, Citizens Advisory Council
Paul Opiyo, alternate for Secretary Dennis Yablonsky, Department of Community and Economic Development
Michael Pechart, alternate for Secretary Dennis C. Wolff, Department of Agriculture
Dr. James Logue, alternate for Secretary Calvin B. Johnson, Department of Health

DEPARTMENT STAFF PRESENT

Richard P. Mather, Sr., Deputy Chief Counsel
Patrick McDonnell, Policy Office Director
Marjorie Hughes, Regulatory Coordinator

CALL TO ORDER AND APPROVAL OF MINUTES

Chairperson McGinty called the meeting to order at 9:04 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg. The members introduced themselves and the Board considered its first item of business - the October 17, 2006 EQB meeting minutes.

Chairperson McGinty noted that there is one revision in the Mercury Final Rule discussion on page 5 at the request of Patrick Henderson. The revised language reads: "Mr. Henderson asked for the status of the Department's allocation litigation, and explanation if the Department's position is upheld, will this result in the Commonwealth actually receiving more mercury emission allowances than currently authorized under CAMR. Bo Reiley explained that the case has not yet been briefed and there is no schedule as yet. He added that Mr. Henderson's understanding was correct, and because our air

regulations incorporate the federal regulations by reference, no additional regulatory action is needed by PA unless we want to set different requirements.” Chairperson McGinty called for a motion to adopt the revised minutes of the October 17, 2006, EQB meeting.

Patrick Henderson moved to adopt the October 17, 2006, EQB meeting minutes as revised. Richard Fox seconded the motion, which was unanimously approved by the Board.

PETITION TO ADOPT A REGULATION RESTRICTING THE IDLING OF DIESEL-POWERED VEHICLES

Thomas K. Fidler, Deputy Secretary, Office of Waste, Air, and Radiation Management, presented a summary of the petition. Joyce Epps, Director, Bureau of Air Quality; Arleen Shulman, Chief of the Mobile Sources Section, and Kristen Campfield, Assistant Counsel, assisted.

Deputy Secretary Fidler reported that a petition, submitted by the Clean Air Board (CAB) of Central Pennsylvania, Inc., requests the EQB establish regulations to restrict the idling of diesel-powered vehicles. The petitioner has recommended new regulatory language be added to 25 Pa. Code §§ 121.1 and 126.601 – 126.605. He covered concerns and benefits included in the petition and presented the Department recommendation that the petition be accepted for study.

Following DEP’s overview and recommendation, Reverend Jennifer McKenna of the Clean Air Board of Central Pennsylvania, several members of the CAB Board and Jesse Keen of Keen Transport, Inc. spoke. Reverend McKenna stressed the urgent need for regulation to preserve air quality and to protect public health. Mr. Keen offered support for statewide requirements rather than a municipality-by-municipality approach.

Richard Fox asked if a regulatory revision petition was also submitted to the PA Department of Transportation (PADOT). Eric Madden responded that PADOT had received such a petition and they are working closely with DEP. He also stated that they have been working with the state and local police departments regarding enforcement. Richard Fox asked if state and local police would be able to enforce a regulation adopted by PADOT. Mr. Madden responded that they would. Mr. Fox questioned if state and local police would be able to enforce a regulation adopted by DEP. Kristen Campfield noted that the Department will evaluate enforcement as part of developing the petition study.

Bruce Tetkoskie asked what was being done to promote alternate fuel vehicles as well as the difficulty with accurately timing how long a vehicle has idled. Deputy Fidler touched on several bio diesel efforts as well as the electrification of truck stops where trucks can plug into a power source and turn off their engines while at the truck terminal. He agreed that enforcement is a challenging issue.

With the exception of the need for refrigerated trailers, Dr. Walter Meshaka wondered why the transportation industry wouldn’t be interested in reduced idling to reduce their fuel costs. Mr. Keen offered that the industry as a whole does support reduced engine idling not only to reduce fuel consumption but also to reduce engine wear. He indicated that over-the-road drivers are required to be off-duty a certain number of hours and during that time they need to be resting. It isn’t practical to expect the driver to wake up turn the engine on and off. Further, because of security issues drivers can’t simply roll the windows down, and so must rely on the engine to power heating or air conditioning in the cab. He indicated that alternate power sources are available and should be widely installed in Keen Transport vehicles by 2010.

Reverend McKenna indicated their interest in effective enforcement was the reason CAB also petitioned PADOT. She noted that all the states surrounding Pennsylvania have anti-idling restrictions and truck drivers have indicated they often stop their vehicles in PA so they can continue idling before they proceed into the other states.

Following the discussion, Eric Madden moved to accept this petition for further study. Walter Heine seconded the motion, which was unanimously approved by the Board.

Secretary McGinty suggested the EQB members review legislation currently under debate that would limit the EQB's authority to consider petitions similar to the anti-idling petition just discussed.

PROPOSED RULEMAKING – AQ PERMIT STREAMLINING

Deputy Secretary Fidler presented a summary of the proposal. Joyce Epps, John Slade of the Permits Division, and Robert Reiley, Assistant Counsel, assisted.

Deputy Secretary Fidler explained that this proposed rulemaking would revise provisions of Chapter 127, Subchapter B, relating to plan approval requirements, add provisions relating to completeness determinations for applications for plan approval, revise certain public notice and public comment provisions related to plan approval applications, and extend from 120 to 180 days the duration for temporary operation of the source to permit compliance testing and shakedown operation of new equipment subject to the plan approval requirements.

He explained that as part of an effort to streamline the air quality permitting process, the Department investigated ways to reduce the plan approval application response time, reduce unnecessary costs to industry, and continue to ensure that citizens receive adequate notice of all potential plan approval/permitting actions to enable timely comment on issues of public concern. The proposed revisions would allow the Department to more promptly respond to applications for plan approval for minor permitting actions for needed production improvements. This reduced approval time will allow industry to be more responsive to market changes, and at the same time ensure that the public has an opportunity to comment on concerns related to a project.

He reported that the Air Quality Technical Advisory Committee (AQTAC) reviewed the proposal on March 13, 2006. The AQTAC concurred with the Department's efforts to improve permit streamlining and the Department's recommendation to present the regulation to the EQB for consideration for proposed rulemaking. He concluded that the Department recommends a 60-day public comment period with three public hearings.

Walter Heine asked if the revision to combine the notice of receipt and notice of intent to approve would unreasonably limit the public's opportunity to comment on the application. Deputy Secretary Fidler explained that because the public would still have a 30-day comment window, this provision applies to only minor source categories combined, and our review of the records (that showed that we had never received a comment from the public during the previous review period) convinced the Department that combining the two periods would not negatively impact the public's comment opportunity.

Following DEP's presentation, Bruce Tetkosie moved to adopt this proposed rulemaking with a 60-day comment period and three hearings. Michael Pechart seconded the motion, which was unanimously approved by the Board.

OTHER BUSINESS

Patrick Henderson clarified that Senator White's draft legislative proposal regarding the EQB's authority to consider petitions mentioned by Secretary McGinty earlier in the meeting would have allowed the submission and consideration of the anti-idling petition considered at this EQB meeting as well as the mercury emission petition considered at previous EQB meetings.

ADJOURNMENT:

With no further business before the Board, the January 17, 2007, meeting of the EQB was adjourned at 9:46 a.m.