

MINUTES
ENVIRONMENTAL QUALITY BOARD MEETING
June 17, 2008

VOTING MEMBERS OR ALTERNATES PRESENT

Barbara Sexton, alternate for Kathleen A. McGinty, Chairperson, Secretary, Department of Environmental Protection
Kenneth Graham, alternate for Acting Secretary Sandi Vito, Department of Labor and Industry
Danielle Spila, alternate for Secretary Allen D. Biehler, Department of Transportation
William Hall, alternate for Chairman Wendell F. Holland, Public Utility Commission
Jonathan Lutz, alternate for Representative Scott E. Hutchinson
Richard Fox, alternate for Senator Raphael J. Musto
Patrick Henderson, alternate for Senator Mary Jo White
Richard Manfredi, Citizens Advisory Council
David Day, alternate for Dr. Douglas J. Austen, Executive Director, Pennsylvania Fish and Boat Commission
Howard Pollman, alternate for Executive Director Barbara Franco, Pennsylvania Historical and Museum Commission
Joanne Denworth, alternate for Secretary Donna Cooper, Governor's Office of Policy and Planning
Jolene Chinchilli, Citizens Advisory Council
Cynthia Carrow, 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
Kelly J. Heffner, Policy Office Director
Michele Tate, Regulatory Coordinator

CALL TO ORDER AND APPROVAL OF MINUTES

Chairperson Sexton called the meeting to order at 9:02 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The members introduced themselves and the Board considered its first item of business - the April 15, 2008, EQB meeting minutes.

With no corrections or amendments, Chairperson Sexton called for a motion to adopt the minutes of the April 15, 2008, EQB meeting.

Michael Pechart moved to adopt the April 15, 2008, EQB meeting minutes. David Strong seconded the motion, which was unanimously approved by the Board.

FINAL RULEMAKING – CONSUMER PRODUCTS; AND ARCHITECTURAL AND INDUSTRIAL MAINTENANCE COATINGS (25 Pa Code, Chapter 130, Subchapter B and C)

Joyce Epps, Director, Bureau of Air Quality, provided an overview of the final rulemaking to the Board. Susan Hoyle, Air Quality Program Specialist, and Kristen Furlan, Assistant Counsel, assisted with the presentation.

Following the Department's presentation, the Board did not pose any questions to the Department concerning the final rulemaking.

Paul Opiyo moved to adopt the final rulemaking. Joanne Denworth seconded the motion, which was unanimously approved by the Board.

PROPOSED RULEMAKING – BLUFF RECESSION AND SETBACK (25 PA Code, Chapter 85)

John Hines, Director, Bureau of Watershed Management, provided the Board with a presentation concerning the proposed rulemaking. Andrew Zemba, Assistant Director, Water Planning Office, Gary Obleski, Coastal Resources Program Manager, and Bill Cumings, Assistant Counsel, assisted with the presentation.

Following the Department's presentation, Walter Heine asked the Department to clarify whether the rulemaking petition submitted by Millcreek Township, Erie County, was the origination of the rulemaking. Mr. Hines responded yes, that in 2001, Millcreek Township submitted a petition to the EQB requesting clarification of the setback distances for Bluff Recession Hazard Areas along the Lake Erie coastline. In response to that petition, the Department contracted with Wetland and Coastal Resources to conduct an extensive study of the Lake Erie coastline. Based upon the conclusions of that study, as well as its own independent analysis, the Department concluded that the 1.5 miles of shoreline of the City of Erie receded at an average rate of 0.24 feet/year, thereby warranting protective setbacks as provided in 25 Pa Code, Chapter 85 for Bluff Recession Hazard Areas. Mr. Heine further asked if the City of Erie supported the proposed rulemaking, with the associated 25 foot setback for the city. Mr. Hines replied that yes, the proposed rulemaking was shared with officials from the City of Erie and they supported the 25 foot setback limits imposed by the regulation. Mr. Heine also questioned if the set back distances established for other Lake Erie coastline municipalities were altered or amended by the proposed rulemaking. Mr. Hines responded that they were not, and only impacted the City of Erie.

Mr. Manfredi inquired whether any of the impacted municipalities along the Lake Erie coastline provided comments to the Department concerning its study and the proposed regulations. Mr. Zemba responded that the only comments the Department received were from the City of Erie which were supportive of the proposed rulemaking. Mr. Manfredi also questioned if municipalities could be penalized for not adhering to the setback provisions in Chapter 85. Mr. Zemba replied that fortunately the Department has not encountered resistance from the regulated municipalities, as all have adopted zoning ordinances that are reflective of the setbacks imposed in Chapter 85. Mr. Hines further noted that the Department also provides funding to municipalities to offset the costs associated with the implementation of zoning ordinances pursuant to Chapter 85. In conclusion, Mr. Hines did note to the Board that the Department has the authority to invoke sanctions against those municipalities that fail to adopt a bluff setback ordinance, however, the Department, to date, has not had to invoke this authority.

Mr. Pechart moved to adopt the proposed rulemaking, with a 30-day public comment period and one public hearing in Erie, PA. Richard Manfredi seconded the motion, which was unanimously approved by the Board.

OTHER BUSINESS:

Under Other Business, Chairperson Sexton brought to the Board's attention correspondence it was copied on to Mr. Joseph K. Reinhart, Counsel for Beazer East, Inc., concerning its petition to the EQB for the Board to develop ambient water quality criteria in 25 Pa Code, Chapter 16, Appendix A for the Sulfonates and Resorcinol. The action requested of the Board is not one that it can take, as amendments to Chapter 16, which is a codified Statement of Policy, are under the jurisdiction of the Department. Chairperson Sexton informed the Board that the Department would review the petition and consider the requested action. In addition, Chairperson Sexton updated the Board on the status of two rulemakings that were previously approved by the Board. These include the final Radiological Health amendments rulemaking that was published as final in the May 17, 2008, edition of the *Pennsylvania Bulletin*, as well as the final Air Quality Permit Streamlining regulations, which were published as final in the May 24, 2008, edition of the *Pennsylvania Bulletin*.

ADJOURN:

Chairperson Sexton announced that the next meeting of the EQB would occur on Tuesday, July 15, 2008, at 9:00 a.m. in Room 105 of the Rachel Carson State Office Building, Harrisburg.

With no other business before the Board, Mr. Manfredi motioned to adjourn the meeting. The motion was seconded by Cynthia Carrow. The meeting was adjourned at 9:27 a.m.