

DRAFT

MINUTES

AGRICULTURAL ADVISORY BOARD MEETING October 21, 2009

DEP South Central Regional Office
Susquehanna Room A
Harrisburg, PA

In Attendance – Members

Larry Breech, PA Farmers Union
Michael Brendle, Poultry Producer
Michael Firestine, Agri-business
Jennifer Harry, PennAg Industries
John Hines, Department of Environmental Protection
Jay Howes, PA House
Betsy Huber, PA Grange
Douglas Kilgore, PA Department of Agriculture
Keith Masser, Vegetable Producer
John Peters, Fruit Producer
Joel Rotz, PA Farm Bureau
William Wells, Ornamental Horticulture
Tom Williams, Dairy Producer

In Attendance - Agencies, Advisors, and Guests

Rob Davidson, PA Department of Agriculture
William Fink, Hatfield Quality Meats
Grant Gullibon, Pa Builders Association
Anthony Jordan, Widener University
William McLaughlin, IRRC
Kelly O'Neil, Chesapeake Bay Foundation
Derek Ross
Toni Zawisa, PennDot
Duke Adams, Patricia Buckley, Don Fiesta, Marge Hughes, Shelby Reisinger, Frank Schneider, Steve Taglang, Department of Environmental Protection

The October 21, 2009, meeting of the Agricultural Advisory Board (AAB) was called to order by Chairperson Michael Firestine at 10:05 a.m.

Chairperson Firestine announced that the following members had asked to be excused:

- Dr. Douglas Beegle, The Pennsylvania State University
- Duane Hobbs, Agricultural Chemicals Manufacturing Representative
- Barry Frantz, Natural Resources Conservation Service
- Gerald Seyler, Grain Producer
- Brenda Shambaugh, Pennsylvania Association of Conservation Districts

Members of the AAB introduced themselves, as did the various guests.

Chairperson Firestine announced that copies of the draft proposed riparian forest buffer guidance are available. This draft proposed guidance was discussed with the AAB on April 15th and June 17th. If you wish to provide comments, they should be submitted no later than November 24th.

Chairperson Firestine announced that The Outdoor Wood Fired Boilers (Chapter 123 (Standards for Contaminants) – Particulate Matter Emissions) proposed rulemaking was published in the *Pennsylvania Bulletin* on October 17, 2009 for a 60 day comments period. He asked if the AAB would like to form a subcommittee to look at this proposed regulation and report back to the AAB on December 16, 2009. The last day of public comment is January 4, 2010. A committee was formed and DEP Liaison Frank Schneider will poll members to serve on the committee. He will work the committee by electronic mail and set up a meeting date/location.

Minutes from the August 19, 2009 meeting were approved as written.

The 2010 AAB meeting dates were approved as follows:

The Agricultural Advisory Board will hold bimonthly meetings on the following dates. The meetings will begin at 10:00 a.m. in Susquehanna Room A, DEP South Central Regional Office, 909 Elmerton Ave, Harrisburg, PA, unless otherwise noted.

February 17, 2010

April 21, 2010

June 16, 2010

August 18, 2010 – 8:00 am start

Pennsylvania Department of Agriculture

Samuel E Hayes, Jr.

Livestock Evaluation Center

1494 West Pine Grove Road

Pennsylvania Furnace, Pa 16865

October 20, 2010

December 15, 2010

Chapter 105 (Dam Safety and Waterway Management) – Shelby Reisinger, Bureau of Watershed Management, presented information on proposed revisions to the Chapter 105 (Dam Safety and Waterway Management) Regulations. This presentation was a “primer” for when the actual proposed changes come before the board. Ms. Reisinger reviewed the scope of the current regulations, the annual activity that occurs (number and type of permits issued) and the themes for change, with emphasis on agricultural activities.

Ms. Reisinger made note that she does not foresee a big impact on agriculture and that the changes move the Department to a more holistic approach to watershed management. Chairperson Firestine inquired about the timetable for the Chapter 105 changes. Ms. Reisinger answered that, at this time, the process is on-going and that staff is meeting with the Water Resources Advisory Committee (WRAC). She mentioned that once the changes are complete they will come before the AAB again. Deputy Secretary Hines mentioned that the changes to Chapter 102 are the Departments priority at this time. He mentioned that the best case scenario would be for the Chapter 105 regulation changes to go before the Environmental Quality Board (EQB) in the spring of 2010. Deputy Secretary Hines also mentioned that the dam portion of Chapter 105 (brought before the AAB on April 15, 2009) should go before the EQB in November.

Mr. Tom Williams inquired if the proposed 4 tiered system for general permits was simpler or more complicated compared to the current regulations. Ms. Reisinger answered that it will be more difficult for the Department, up front, but it will make it easier and more user friendly for applicants. Deputy Secretary Hines added that it is a benefit for those seeking permits. Mr.

Williams than asked if a chart can be developed to show what tier you are in. Ms. Reisinger answered that a key is being developed at this time.

Ms. Jennifer Harry asked about fees for the permits. Ms. Reisinger and Deputy Secretary Hines answered that there will be fees but a schedule of fees has not been worked on at this time. They also mentioned that the fee schedule will come before the AAB for comment. Ms. Harry then asked about invasive species and notification between different agencies and how it will be coordinated. Ms. Reisinger mentioned that for the tier 1 projects, the department just wants to be notified that you are doing the work. The notification for the other three tiers still needs to be worked out and the department is working with other agencies.

Mr. Rob Davidson inquired on how the changes to chapter 105 are going to correlate with conservation plans. He pointed out that permit fees should be reduced if an agricultural operation is doing a practice that will benefit water quality. Ms. Reisinger and Deputy Secretary Hines agreed and mentioned that the Department is working on this.

Chapter 102 (Erosion and Sediment Control and Stormwater) Subcommittee Report on the Proposed Regulation Revision – Jennifer Harry, PennAg Industries, presented on the Chapter 102 subcommittee meeting that was held on October 5, 2009. Ms. Harry went over the 8 comments that the subcommittee would like to see submitted to the Department as official AAB comments. Following discussion of each comment, the AAB voted unanimously to submit the 8 comments on the proposed Chapter 102 rulemaking to the Department.

Chesapeake Bay Program Update - Patricia Buckley, Water Planning Office, gave an update on the recent happenings within the Chesapeake Bay Program. Ms. Buckley reviewed the Environmental Protection Agencies (EPA) new accountability framework for the Bay that consists of Plans, Milestones, and Consequences. The framework will identify nutrient and sediment reductions by sector (waste water treatment, septic, agriculture, and land development) and area over time. The framework is split into short term and long term needs and provides assurance that the Chesapeake Bay Total Maximum Daily Load (TMDL) can and will be achieved and maintained.

Ms. Buckley mentioned that the short term plans (Phase 1) will target loads by source sector and segment drainage area and will be final by November 1, 2010. Phase II will include local area (county level) target loads and identify specific controls to be implemented by 2017. This phase is to be completed prior to November 1, 2011. Phase III will be to update the 2018-2025 implementation efforts and will be completed prior to January 1, 2017. All three phases will contain 2-year milestones and spell out specific commitments and actions. Ms. Buckley reviewed that the states must have controls in place to meet interim target goals by 2017 and final target loads by 2025. She also mentioned that by 2017, 60% of the goal must be met.

Mr. Larry Breech asked who is held accountable, and what are the consequences, if the state does not meet its goals. Ms. Buckley and Deputy Secretary Hines answered that the Commonwealth of Pennsylvania will be held accountable and that the EPA could withhold funds from the state. It was noted that the Department does not support this position because it could cost funding opportunities to be lost, for those that do not even live within the Bay region.

Mr. Joel Rotz inquired what would happen if PA could demonstrate a 60% reduction but water quality data did not show it. Ms. Buckley answered that we would not be penalized.

Deputy Secretary Hines mentioned that there is going to be a heavy focus on agriculture and that EPA has already started the process. Deputy Secretary Hines discussed key points that the EPA is focusing: including an evaluation of the Concentrated Animal Feeding Operation (CAFO) program. EPA would like to see any farm with a pipe discharge be labeled a CAFO. The Department disagrees with the approach and feels that it will set our agricultural progress back. EPA would also like to perform small watershed evaluations or farm to farm visits. Deputy Secretary Hines recognized the efforts of Lancaster Conservation District Manager Don McNutt in educating EPA on plain sect farming operations in Lancaster County and his helpful participation in the discussion.

Deputy Secretary Hines reported on a proposed DEP agricultural compliance strategy that is under development. The three key components include implementing the programs that we already have in place, utilizing the Nutrient Trading program as an incentive, and conducting watershed evaluations. Deputy Secretary Hines also reported that the Pennsylvania preferred approach to the Chesapeake Bay program is to better report and count our milestone achievements, get new technologies on the ground (regional digesters, etc.) and better compliance, with existing regulations, through incentives.

Chairperson Firestine mentioned that funding will be needed to support BMP implementation during this difficult economy, and Deputy Secretary Hines noted that the point was taken. Mr. Michael Brendle mentioned that the AAB has been working on compliance for 15 years. He mentioned that PA has gone well beyond other states, numerous times, and yet EPA is still asking us to do more. He questions whether EPA wants to put agriculture out of business because they will if the keep ratcheting down the regulations. Deputy Secretary Hines answered that 55% of the current Chesapeake Bay reductions can be attributed to PA agricultural compliance. He went on to explain that we see the reductions in the “model” but that the “model” can only tell us what we enter into it. We need to do a better job of tracking and reporting implemented Best Management Practices (BMP’s). Mr. Keith Masser suggested the Department look at the tracking “model” used in the “Water Use Registration System”.

Deputy Secretary Hines additionally mentioned that the Department needs to speed up its review of technologies, as the current process is slow, and that we need to see what these technologies can do, as they will take us to the next level.

Mr. William Wells mentioned that the lawn care industry has significant impact on water quality. Deputy Secretary Hines acknowledged that the Department is aware of the issue and reported that EPA is working with the industry.

Member or Public Comments – Chairperson Firestine announced that he has sent a letter to Secretary John Hanger asking that Brenda Shambaugh, Pennsylvania Association of Conservation Districts, be appointed as a member of the Water Resources Advisory Committee (WRAC), and serves as the AAB representative.

Chairperson Michael Firestine asked if any members of the AAB or public had any comments. There were no comments from the public.

There being no additional discussions, the meeting was adjourned at 12:05 p.m.