

DRAFT

MINUTES

AGRICULTURAL ADVISORY BOARD MEETING December 16, 2009

DEP South Central Regional Office
Susquehanna Room A
Harrisburg, PA

In Attendance – Members

Doug Beegle, Pennsylvania State University
Larry Breech, PA Farmers Union
Barry Frantz, Natural Resources Conservation Service
Michael Firestine, Agri-business
Jennifer Harry, PennAg Industries
Dian Hain, PA House
George Hazard, PA Farm Bureau
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
Brenda Shambaugh, PA Association of Conservation Districts
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
Pete Kleinman, Agricultural Research Service
Kelly O'Neil, Chesapeake Bay Foundation
Scott Shalles, IRRRC
Duke Adams, Don Fiesta, Kristen Furlan, Tom Juengst, Dukes Pepper, Carl Rohr, Frank Schneider, Ann Smith, Andrew Zemba, Department of Environmental Protection

The December 16, 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:

- Michael Brendle, Poultry Producer
- Duane Hobbs, Agricultural Chemicals Manufacturing Representative
- David McElhaney, Livestock Producer
- Gerald Seyler, Grain Producer

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

Minutes from the October 21, 2009 meeting were approved as written.

Election of Chairperson for 2010 – Chairman Firestine opened the floor for nominations for the position of AAB Chairperson for 2010. George Hazard was nominated, seconded, and unanimously elected to the position of AAB Chairperson.

Election of Vice Chairperson for 2010 - Chairman Firestine opened the floor for nominations for the position of AAB Vice Chairperson for 2010. Jennifer Harry was nominated, seconded, and unanimously elected to the position of AAB Vice Chairperson.

Chapter 123 (Standards for Contaminants) Particulate Matter Emissions (Outdoor Wood-Fired Boilers) Proposed Rulemaking Subcommittee Report and Comments – George Hazard, Pennsylvania Farm Bureau, reported on the AAB subcommittee meeting that was held to discuss official comments on this proposed rulemaking. The AAB accepted the comments that were provided by the subcommittee and approved sending the comments to the Environmental Quality Board (EQB).

Larry Breech added that there is a concern that large smoke stacks will have a negative effect on the efficiency of the outdoor wood-fired boiler. There is a serious question on how large the smoke stack can be before the efficiency of the stove decreases. This comment will be added to the comments that were previously approved.

Tom Williams questioned if an “after burner” can be installed to alleviate the smoke stack height requirements. He wondered if there was a technology similar to a catalytic converter for automobiles, which could be added as an alternate to relieve the smoke stack height. With a clean exhaust technology, a person may also be allowed to burn unclean fuels, but still have clean exhaust, due to the technology. This comment will be added to the comments that were previously approved.

Chapter 96.8 (Water Quality Standards Implementation) New Subchapter (Use of Offsets and Tradable Credits from Pollution Reduction Activities in the Chesapeake Bay Watershed – Ann Smith and Andrew Zemba, Water Planning Office, presented on the new subchapter to Chapter 96.

Ms. Smith mentioned that the proposed rulemaking was approved by the EQB on November 17 and should be published in the PA Bulletin in the middle of January. The proposed rulemaking will be available for a 30 day comment period.

Ms. Smith reviewed the Nutrient Trading timeline which began in 2003 as a discussion on the Pfizer voluntary trade, the policy in 2005, and now this proposed rulemaking. She also reviewed future program activities that include the development of a “bank and exchange”.

Ms. Smith mentioned that 78 proposals have been submitted to the Department and that 55 have been approved to date. Those 55 approved proposals have approximately 1.7 million nitrogen credits and 202,000 phosphorous credits. She also mentioned that eight contracts have been executed, with six being for new developments and two for existing waste water treatment facilities. Mr. Breech asked what the price range has been for nitrogen and phosphorous credits. Ms. Smith answered that nitrogen credits have ranged from \$3.81 to \$9.00 while phosphorous credits have been around \$4.00. Mr. Breech then asked about the market potential for credits. Ms. Smith answered that the information is not available at this time, but she will follow up with the AAB.

Ms. Smith reviewed the different activities that could be used to generate credits that include agricultural best management practices (BMP's) and manure technologies.

Ms. Smith reviewed the purpose of the proposed rulemaking, which includes:

- 1 - Codify the Departments existing nutrient and sediment credits trading policy.
- 2- Provide a cost effective means for facilities subject to new discharge limits for nitrogen, phosphorous, and sediment.
- 3 – Assist the Commonwealth in its efforts to achieve its Chesapeake Bay nutrient reduction goals.

Ms. Smith also made it clear that this proposed rulemaking is completely voluntary.

Ms. Smith reviewed the key areas of the proposed rulemaking that includes:

- 1 – Methodology
- 2 – Eligibility requirements for the Chesapeake Bay
- 3 – Certification requirements for the Chesapeake Bay
- 4 – Registration requirements for the Chesapeake Bay
- 5 – Use of credits and offsets to meet National Pollutant Discharge Elimination System (NPDES) requirements related to the Chesapeake Bay
- 6 – Use of credits and offsets generally

Ms. Smith additionally introduced Kristen Furlan as the new program attorney for the Nutrient Trading Program.

Mr. Barry Frantz asked if there was a life span to credits. Ms. Smith answered that credits have a life span of one year, which is from October 1st to September 30th. These dates were chosen so they match with the water year in the NPDES permit. Ms. Smith also mentioned that as long as the BMPs are in place and maintained, the credits can be re-verified and re-certified. Mr. Frantz then asked if there was minimum setback for streambank fencing. Ms. Smith answered that any setback that would be required for Concentrated Animal Feeding Operations (CAFOs) or Concentrated Animal Operations (CAOs) would need to be followed, but that any extra feet past those setback, would be eligible for credits. She added that if an operation does not fall under the CAFO or CAO definition, that there is no minimum setback requirements for fencing.

Dr. Doug Beegle mentioned that the scientific community has concerns on the methodology and wondered if there was a provision for alternate methodologies. Deputy Secretary Hines answered that a provision for alternative methodologies will be considered.

Deputy Secretary Hines mentioned that Pennsylvania has eight non-point to point source trades and that no other states have done this. This should be a celebration of our success. He noted that this proposed rulemaking is another tool for our Bay efforts, and not the end all be all. The Departments role will be in certification, verification, and to ensure that water quality is not impaired. The Department will not be market regulators. He additionally noted that it is great that many organizations, associations, and groups have come together to stand behind trading.

Mr. Breech mentioned that the National Farmers Union is looking at trading on a national basis, and they are waiting to see what happens in the Chesapeake Bay.

Mr. Frantz mentioned that The Natural Resources Conservation Service (NRCS) has money available to get agricultural operations into baseline compliance and install additional practices

that could generate credits. Deputy Secretary Hines added that the Environmental Protection Agency (EPA) is starting to take a hard look at agricultural compliance. He mentioned that the Department is working with the Pennsylvania Department of Agriculture on this issue. He mentioned that coupling dollars from NRCS to get operations into baseline and then using dollars from PENNVEST to install credit generating practices will help.

Deputy Secretary Hines mentioned that the Department is investigating forming an independent review board of experts to give the certification of credits more validity.

Chairperson Firestine formed a subcommittee to look at the proposed rulemaking and report back to the full AAB at the February 17, 2010 meeting.

Manure Management Manual Revisions – Don Fiesta, Bureau of Watershed Management, gave an update on the proposed revisions to the Manure Management Manual.

Mr. Fiesta mentioned that the Department will be updating the Field Application Supplement to the Manure Management Manual and possibly the whole manual. One of the main reasons for the revisions is that the documents have not been revised for nine years, and that EPA is starting to look more closely at agricultural compliance. The revisions are on a “fast track” and the Department would like to have the changes drafted in early 2010.

Mr. Fiesta mentioned that some agency staff has been working on the changes, but he solicited participation from AAB members to serve on a workgroup to assist the Department in updating the supplement and manual. Several members volunteered to serve on the workgroup.

Mr. Jay Howes mentioned that the revisions need to be simple or easily performed, so agricultural operations actually do them, but that the revisions still need to meet requirements for water quality. He also mentioned that once the supplement and manual have been revised, that we will need to do a good job on outreach, so the revisions get implemented.

Member or Public Comments – Deputy Secretary Hines thanked Mr. Michael Brendle and Mr. Tom Williams for their years of service to the AAB; eleven and eight, respectively. Chairperson Firestine echoed Deputy Secretary Hines comments.

Chairperson Firestine reported that the Department acknowledged the receipt of the AAB comments on the Chapter 102 proposed rulemaking.

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 11:45 a.m.