



Citizens Advisory Council

to the Department of Environmental Protection of the Commonwealth of Pennsylvania

Pennsylvania Constitution

Article I, Section 27

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic, and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustees of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

2020 Annual Report

Jerome Shabazz
Chair

Keith J. Salador
Executive Director

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Council Overview

Since its inception in 1971¹, the Citizens Advisory Council (“Council” or “CAC”) has been actively involved in environmental issues affecting the Commonwealth of Pennsylvania. The Council was originally created to establish a non-partisan body to represent citizen viewpoints and provide objective analyses of the Department of Environmental Protection’s (“Department” or “DEP”) performance on environmental issues. With the passage of legislation, the Council was given three specific charges:

- I. The Citizens Advisory Council shall review all environmental laws of the Commonwealth and make appropriate suggestions for the revision, modification, and codification thereof;
- II. The Council shall consider, study, and review the work of the Department of Environmental Protection and, for this purpose, the Council shall have access to all books, papers, documents, and records pertaining to or belonging to the Department; and
- III. The Council shall advise the Department upon request, and shall make recommendations upon its initiative, for the improvement of the work of the Department.

Because of this legislation, the Citizens Advisory Council is the only legislatively-mandated advisory committee with the comprehensive charge to review all environmental legislation, regulations, and policies affecting the Department of Environmental Protection.

Additionally, the 1992 amendments to Pennsylvania’s Air Pollution Control Act require DEP to consult with the Council in developing state implementation plans and regulations developed by the Department to implement the federal Clean Air Act. The Council also can “consider, study and review department policies and other activities related to the Clean Air Act...” and to provide a summary of activities every five years to the Department’s evaluation of the effectiveness of its programs to the General Assembly.²

The Council is comprised of the Secretary of the Department of Environmental Protection (ex officio), six members appointed by the Governor, six members appointed by the President Pro Tempore of the Senate, and six members appointed by the Speaker of the House of Representatives³. The term of office for each of the appointed members of the Council is three years and may continue beyond three years until a successor is appointed. All actions of the Council are by majority vote. According to the statute, the CAC shall meet quarterly; however, the Council tends to hold monthly meetings, except in August and December.

An important part of the Council’s mission is to encourage public participation and engagement from citizens of the Commonwealth. The CAC seeks to represent all people of the Commonwealth and bring a collective view of the public interest in the environment through a

¹ The Citizens Advisory Council is an independent advisory board of the Department of Environmental Protection housed within the DEP and charged with reviewing all environmental issues, legislation, regulations, policies, and programs pursuant to Sections 448(p) and 1922-A of the Administrative Code of 1929, as amended by Act No. 1970-275 and Act No. 2016-07, 71 P.S. §§158(p) and 510-22.

² Act of January 8, 1960, P.L. (1959) 2119, No. 787, as amended, known as The Air Pollution Control Act (35 P.S. § 4001, et seq.).

³ No more than three members nominated by each of the respective authorities may be from the same political party.

diversity of personal experiences and perspectives. The ability of the public to provide input and participate in the development of environmental regulatory and policy initiatives is tantamount to the Council's ability to provide guidance and oversight to the Department.

The CAC members are integrated into the oversight structure of the Department because they are also elected to serve on various boards and advisory committees within the DEP. The CAC designates five of its members to serve on the Environmental Quality Board, four members to the Mining and Reclamation Advisory Board, as well as seats on the Aggregate Advisory Board, Air Quality Technical Advisory Board ("AQTAC"), Low-Level Waste Advisory Committee ("LLWAC"), Solid Waste Advisory Committee ("SWAC"), Oil and Gas Technical Advisory Board ("TAB"), Environmental Hearing Board Rules Committee ("EHB"), and the Radiation Protection Advisory Committee ("RPAC").

Within the CAC, subcommittees focus on specific areas of interest. The Legislative Committee, Policy and Regulatory Oversight Committee, Strategic Issues Committee, Public Participation Committee, Advisory Board, and Executive Committee meet on an as-needed basis and report back to the full Board on topics and issues brought before their respective Committee.

At the end of the year, the CAC summarizes its activities and provides an Annual Report to the Governor, the General Assembly, the Department, and the public. This Annual Report highlights the activities of the Council and provides an opportunity for interested stakeholders to provide feedback on the work of the CAC and offer suggestions for improvement or future areas of focus for Council.

Council Membership

The CAC is comprised of a dedicated group of concerned citizens appointed to the Council by either the Governor or the General Assembly. Each member brings with him or her a unique perspective and wealth of knowledge on environmental issues. Diversity of experience and thought allows for a comprehensive understanding and analyses of Department regulations and policy initiatives. The Council engages in thoughtful discussion prior to counseling the Department or alerting relevant decision-makers of necessary action to be taken.

Below is a list of CAC Members in 2020:

Robert Barkanic, Lehigh County

Cynthia Carrow, Allegheny County

Mark Caskey, Washington County

Terry L. Dayton, Greene County

David Dunphy, Philadelphia County

William C. Fink, Bedford County

Mitchell Hescox, York County

Duane E. Mowery, Cumberland County

John R. Over, Jr., Fayette County

James Schmid, Delaware County

Jerome Shabazz (Chair), Philadelphia County

John St. Clair, Indiana County

Thaddeus Stevens, Tioga County

John J. Walliser, Esquire, Allegheny County

James Welty, Cumberland County

Timothy Weston, Esquire, (Vice Chair) Cumberland County

Patrick McDonnell, DEP Secretary, ex-officio

There were two vacant Council appointments in 2020

The Department of Environmental Protection provides an Executive Director to serve as a liaison between the Council and the Department. The Executive Director also assists the Council with its administrative functions. The Council has the statutory authority to hire experts, stenographers, and assistants as may be deemed necessary to carry out its work. Keith Salador served as Executive Director in 2020.

Officers

During the 2020 meetings of the CAC, Jerome Shabazz was elected Chair and Timothy Weston was elected Vice Chair, respectively.

Committees and Advisory Boards

As members of the Council, each person is asked to serve on various committees and advisory boards to help direct activities of the CAC, as well as provide leadership and expertise to the Department on important issues. To date, the list of potential committee and advisory board assignments are as follows: Legislative; Policy and Regulatory Oversight; Public Participation; Executive; Strategic Issues; Environmental Quality Board; Mining and Reclamation Advisory Board; Aggregate Advisory Board; Air Quality Technical Advisory Board; Low-Level Waste Advisory Board; Solid Waste Advisory Committee; Oil and Gas Technical Advisory Board; Environmental Hearing Board Rules Committee; and the Radiation Protection Advisory Committee.

Highlights of Council Activities

Operations During COVID-19 Pandemic

The COVID-19 pandemic that began in March 2020 presented the entire globe with unprecedented challenges, and CAC was no different. After canceling the Council's March meeting and holding the Council's April meeting on Skype, all subsequent Council meetings in 2020 were held virtually via WebEx. Each meeting was open to the public, including the availability to give public comment. For example, the Council's meeting on May 19 saw over 40 members of the public give comment over WebEx. Additionally, DEP Executive staff kept the Council updated each month on the agency's successful shift to telework.

While Council members did miss the opportunity to gather in the same room as their colleagues, DEP staff, and other stakeholders, the WebEx meetings allowed the Council to continue to operate at pre-pandemic levels and to continue to serve the Citizens of the Commonwealth. CAC even noted a general increase in attendance at WebEx meetings from members of the public in comparison to pre-pandemic, in-person meetings.

CAC would like to specially thank DEP staff members Darek Jagiela and Glenda Davidson who both provided vital support under stressful conditions to ensure that the work of the Council was successfully carried out despite these new challenges.

Mining Issues

Act 54 Report

Bill Allen, Director of the Bureau of Mining Programs explained the background of Act 54 and the process of the latest report. Mr. Allen offered that the plan going forward will shift to data sharing on a timelier basis. Instead of a five-year report, the program would like to do a snapshot each year.

Sharon Hill, also of the Bureau of Mining Programs, explained in detail what the Act 54 Report is intended to do, what the statute says about the ongoing collection of data and its analysis and report every five years, specifics on the current report, the Bureau's attempt to identify trends; and follow-up and response to recommendations made in the report. Ms. Hill offered that the annual data collection for 2018 and 2019 will be tabulated and released to the public hopefully in the summer of 2020. The Bureau was still working to develop a product for the public to access. Going forward, yearly data releases will go on DEP's website.

In light of innumerable questions from CAC members and in-depth discussions around the Act 54 Report, Chairman Shabazz suggested establishing a work group to address issues and concerns surrounding the primary guidance document being developed by the mining program, seeking guidance on the program's GIS report and evaluation of stream recovery, and a broad review of Act 54 itself. The Act 54 work group was unanimously approved by the Council. Members volunteering to participate in the work group included John Walliser, Cynthia Carrow, James Schmid, Terry Dayton, and John St. Clair, with John Walliser serving as Chair.

Water Issues

State Water Plan

Mark Matlock, Chief, State Water Plan Section, provided a briefing on the update to the State Water Plan. Regional committees and a state-wide committee are forming and beginning to meet.

James Horton, Senior Civil Engineer, reviewed the history of water planning, including the passage of water laws in the 1920s and 1930s, northeastern droughts in the 1960s, and the 1990s and early 2000 droughts. Act 220 was passed as Pennsylvania was exiting a drought in 2002. The Act requires continual updates every five years, including water use reporting, identification of critical water planning areas, and voluntary water conservation programming. Mr. Horton discussed the roles and responsibilities of the 2003-2009 plan update, including the output of a State Water Plan Principles document, a marketing “touchstone document,” a water atlas, and web-based water use registration and reporting. From 2009 to the present, DEP staff have been working on water management plans for oil and gas operations, a Water Use Data System (WUDS) and Greenport, and Water Use Data and Research (WUDR) programs. The Department is using Power BI, a business analytics solution allowing visualization and sharing of insights across organizations. DEP is also working on a data sharing project with the Susquehanna River Basin Commission and the Delaware River Basin Commission.

Objectives of the present Water Plan include a reviewed and updated State Water Plan, approved and adopted Critical Area Resource Plans (CARPs) in the Potomac and Ohio planning areas, enhanced web-based applications and tools, and focus on the water resources strategies outlined in the 2018 Pennsylvania Climate Action Plan. Secondary objectives include a long-term work and funding model and legislative, regulatory, policy, or programmatic changes.

Draft Chapter 105 Regulations

Roger Adams, Director of the Bureau of Waterways Engineering and Wetlands, provided an overview of the proposed Chapter 105 revisions. Ken Murin, annuitant, and Jesse Walker from Regulatory Counsel were also present. The last comprehensive revisions to Chapter 105 were done in 1991. The Department is proposing amendments to clarify existing requirements, delete or update obsolete requirements and references, incorporate new or revised sections and definitions to codify existing practices, and to correct typographical errors. A lot of time was spent on the Section 105.1 to add definitions for abandonment, aquatic resource functions and restoration, conservation district, crop production, cross-section, maintenance, probable maximum flood, probable maximum precipitation, project, project purpose, reservoir, stormwater management facilities, water dependent, and wetland functions.

Stakeholder outreach efforts include the Chapter 105 Agricultural Workgroup, state agency representatives, major dam owners, the Water Resources Advisory Committee (WRAC) who approved moving the revisions forward on January 30, 2020, the Agricultural Advisory Board (AAB) who approved moving forward with the revisions on January 27, 2020 the State Conservation Commission (SCC), the Citizens Advisory Council (CAC), and the County Conservation District Workgroup. The regulation will be going to the EQB in the second quarter of 2022 and to a 60-day comment period after approval by the EQB.

Chesapeake Bay

Jill Whitcomb, Director of DEP's Chesapeake Bay Office, provided an update on the Phase III watershed implementation plan, including PA's progress, current challenges, and next steps.

Air Issues

Draft RGGI Regulations

Hayley Book, Senior Advisor to the Secretary on energy and climate, as well as Jennie Demjanick from DEP's Regulatory Counsel, discussed the proposed CO2 budget trading program that is being developed for Pennsylvania. Governor Wolf kicked off 2019 by signing an Executive Order establishing the first ever greenhouse gas reduction goals for Pennsylvania and in October of 2019 signed Executive Order 2019-7, Commonwealth Leadership in Addressing Climate Change Through Electric Sector Emissions Reductions, directing DEP to develop a regulation and move it to the EQB by July of 2020. It also required interaction with a regional transmission organization, PJM, and it directed the Department to develop a regulation that was sufficiently consistent with the RGGI model rule such that allowances could be traded among Pennsylvania and the RGGI states. Ms. Book detailed the model rule, the framework for states who are interested in participation in RGGI, allowances that are sold at auction or on the secondary or private market with the proceeds being reinvested in programs that reduce air pollution, and oversight of the program. In Pennsylvania, the regulation will be promulgated under the authority of the Air Pollution Control Act.

CAC also participated in a virtual special joint informational meeting with the Air Quality Technical Advisory Committee in which the Department provided a presentation on the modeling results associated with Pennsylvania's participation in a CO2 budget trading program.

Waste Issues

Keep PA Beautiful Litter Study

Shannon Reiter, President of Keep PA Beautiful, an affiliate of Keep America Beautiful, discussed in detail a comprehensive litter study which included a visible litter study, public attitude survey, municipal litter and illegal dumping cost study, and a Litter Summit held in November of 2019, all of which provided the organization with key information that will assist in the development of strategies to reduce littering behavior. Ms. Reiter has been working on illegal dumping since 1990, and she discussed the need to shift resources from merely cleanup of litter to prevention. Keep PA Beautiful is working to develop a strategy for getting ahead of litter, including behavioral change through education and outreach and the building of infrastructure.

Food Waste Recycling

Larry Holley, Program Manager in the Bureau of Waste Management, discussed food waste reduction, recycling, digestion activities, and waste processing. The last waste composition study was conducted in the early 2000s to evaluate what was in the waste stream as far as materials, types, and where the waste was being generated. The Bureau will conduct another waste composition study to compare where the Commonwealth is 20 years later. The study will likely support prioritizing food waste management as the largest portion of the waste that is being

disposed of. The Bureau will look at food facilities in all six DEP regions, including transfer stations, landfills, and waste energy facilities, doing random sampling of trash being taken to facilities from commercial and residential settings, and the waste will be broken out into 80-100 different categories. Mr. Holley discussed in detail the success of the recent Food Recovery Infrastructure Grant Program, as well as a waste composition joint project between DEP's Energy Program and the Waste Program that looked at food waste to energy capacity in the Commonwealth. The Bureau will also be looking at opportunities to improve multiple general and specific waste permits.

Radiation Protection Issues

Three Mile Island Decommissioning

Dave Allard, Director of DEP's Bureau of Radiation Protection, provided an overview of the decommissioning efforts at the recently shuttered Three Mile Island Nuclear Power Plant. After the accident in 1979, the site was decontaminated to the extent possible and sealed off, but damaged fuel from the reactor vessel remains, as well as unknown amounts of radioactive material. GPU Nuclear, the company that operated the plant during the meltdown, plans to transfer its license to Salt Lake City-based Energy Solutions, one of a few companies that purchase shuttered nuclear facilities to take over decommissioning, with the goal of dismantling and disposing of radioactive materials cheaper and faster. On March 26, the Nuclear Regulatory Commission published a notice in the Federal Register for review of the transfer, setting a 30-day period for public comment. On April 6, Secretary McDonnell wrote a letter to the NRC detailing multiple concerns, including the lack of funds to properly clean up the site, unknown levels of radiation that remain on the site, how and where the remaining radioactive materials will be disposed of, whether any of the low-level waste would be disposed of in Pennsylvania landfills, and how the process could affect the health of the Susquehanna River.

The Department asked for more time to review the company's plan for decommissioning and is seeking legal assurances that financial resources will be available to complete the decommissioning once started and expects that no radioactive waste from TMI Unit 2 will be left on Three Mile Island.

Joint Meeting with DEP's Environmental Justice Advisory Board

On November 17, 2020, CAC and DEP's Environmental Justice Advisory Board (EJAB) held a joint meeting to hear presentations on topics of mutual interest and to discuss ways the two committees could work together in the future.

Environmental Education Update

Bert Meyers, DEP's Director of Environmental Education, offered an update on the Environmental Education Grants Program, including eligible applicants, mini and general grants, program priorities such as water, climate change, and environmental justice, the timeframe from grant opening to final reports (including assessment results and final request for reimbursement), and information about the Environmental Education Grants website.

New Jersey Environmental Justice Legislation and Program Update

Four members of New Jersey's Department of Environmental Protection—Olivia Glenn, Shawn LaTourette, Sean Moriarty, and Riche Outlaw—provided details on legislation requiring its Department of Environmental Protection to evaluate environmental and public health impacts of certain facilities on overburdened communities when reviewing certain permit applications. With this legislation, New Jersey became the first state in the nation to require mandatory permit denials if an environmental justice analysis determines that a new facility will have a disproportionately negative impact on overburdened communities.

Actions Taken

Throughout the year, Council undertakes several actions, including the review of regulations brought forward by DEP. Below is a list of specific actions taken by the CAC in 2020:

- Letter to the employees of DEP commending all staff for their exceptional continuity of operations during the COVID-19 pandemic.
- The CAC concurred with the following Air Quality rulemakings in 2020:
 - Air Quality Fees Final Rulemaking
 - RACT III Proposed Rulemaking
 - Control of VOCs from Large Petroleum Dry Cleaners, Shipbuilding and Repair Coating Operations, and SOxMI Reactors, Distillation, and Air Oxidation Processes Proposed Rulemaking.
- The CAC did not concur with the Interstate Pollution Transport Reduction CO2 Budget Trading Program Proposed Rulemaking.

Public Participation

As part of its mission, Council seeks to represent all people of the Commonwealth and bring a collective view of the public interest in environmental protection and natural resources through a diversity of personal experiences and perspectives. A regular part of the Council meetings is the public comment period, which allows citizens of the Commonwealth to provide written or oral testimony to the Council on various concerns involving environmental resources of the Commonwealth. Minutes of the CAC meetings list anyone who provides public comments to the Council, as well as a summary of their concerns. Comments from concerned citizens help to inform the Council members on issues and allow the Council to follow up with the Department if necessary.

For more information, please go to:

<http://www.dep.pa.gov/PublicParticipation/CitizensAdvisoryCouncil/Pages/default.aspx>

or contact Keith J. Salador, Executive Director at ksalador@pa.gov.