



west virginia department of environmental protection

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Environmental Protection Advisory Council 2020 Annual Report

I. INTRODUCTION

This Annual Report is submitted in accordance with W. Va. Code § 22-1-9(e)(6), to apprise the Joint Committee on Government and Finance of the activities undertaken by the Environmental Protection Advisory Council for the period of January 1, 2020 through December 31, 2020. The Council was created in 1994 by an Act of the West Virginia Legislature, and it is currently organized and administered within the auspices of the Department of Environmental Protection (“DEP”). In addition to the preparation and submission of this Report, the Council’s mission, set forth in W. Va. Code § 22-1-9, embraces the following duties:

- (1) To consult with and advise the DEP Cabinet Secretary on program and policy development, problem solving, and other appropriate subjects;
- (2) To identify and define problems associated with the implementation of the legislative statement of purpose and policy set forth in W. Va. Code § 22-1-1(b) (a full recitation of which is made below) and observed by DEP;
- (3) To provide and disseminate to industry and the public early identification of major federal program and regulatory changes;
- (4) To provide a forum for the resolution of conflicts between constituency groups; and
- (5) To strive for consensus, to the extent possible, on the development of overall environmental policy.

II. COUNCIL MEMBERS

Eight members comprise the Council. The Cabinet Secretary is an *ex officio* member and serves as the Chair. The remaining seven members are appointed by the Governor, typically for full terms of four years, and any member may serve successive terms upon renewal of appointment. The balance of constituencies among the Council members is fixed by statute and must be maintained: two members are associated with industries regulated by DEP; two members represent organizations advocating environmental protection; one member represents local government organizations; one member represents public service districts; and one member represents the largest coal miner’s labor organization in the State.

At the June 23, 2020 meeting of the Council, members Bill Raney and Charles “Rick” Roberts were elected for new four year terms in office as their current term was set to expire on June 30. With those reappointments, the current Council membership consists of the following:

MEMBER	APPOINTMENT	REPRESENTS	TERM EXPIRES
Travis Blosser Weirton, West Virginia	2019	Local Governments	June 30, 2021
Charles “Larry” Harris, Ph.D. Morgantown, West Virginia	10/12/1995 1997, 2002, 2005, 2015, 2019	Environmental Organizations	June 30, 2021
Rebecca M. McPhail Huntington, West Virginia	01/22/2015 2019	Industry	June 30, 2022
William Raney Charleston, West Virginia	10/12/1995 1996, 2000, 2004, 2015, 2019	Industry	June 30, 2024
Charles “Rick” Roberts, Jr. Charleston, West Virginia	10/12/1995 1996, 2000, 2004, 2015, 2019	Public Service Districts	June 30, 2024
Ted Hapney Roane County, West Virginia	10/29/2010 2015, 2019	UMWA	June 30, 2022
Angie Rosser Charleston, West Virginia	2019	Environmental Organizations	June 30, 2022

III. SUMMARY OF ACTIVITIES DURING 2020

No spring meeting was held in 2020 as the normal March meeting date coincided with the outbreak of the Covid-19 Pandemic and the accompanying initiation of remote teleworking by all of WV State Government. The other three Council meetings were held virtually so as to avoid in-person meetings. It should be noted that the use of the virtual meeting format worked well for EPAC and may be considered as an available alternative for future meetings in a post-Covid world.

The first meeting of 2020 was held virtually on June 23, with all seven council members participating. A detailed preview of the 2021 legislative rules package was presented by DEP General Counsel Jason Wandling with support from numerous DEP staff. Major topics reviewed included changes in the state's Water Quality Standards, changes in Air Quality Rules necessitated through the Clean Air Act, and the new "ACE" (Affordable Clean Energy) Rule that replaced the federal Clean Power Plan. A proposal was also made at this meeting by the Division of Water and Waste Management for the Council to create a formal Working Group that would meet monthly over the course of the next year to review the issue of Human Health Criteria for Water Quality Standards. The proposal was accepted along with the acknowledgement that providing a forum for the review of topics and legislation for which there is no consensus is one of the basic goals for EPAC. Other items discussed at this meeting included a review of the financial situation with the agency's Office of Oil and Gas, a report on how the agency has successfully adjusted to a telework format, and an update on the Rockwool project in Jefferson County.

The second meeting was held virtually on September 10, 2020, with four of seven members participating. Presentations were made to the Council by the heads of the Divisions of Air Quality, Water and Waste Management, Mining and Mine Reclamation, and the Office of Oil and Gas. Each director explained their respective sources of funding, provided a brief assessment of their current financial health, and gave an approximate timeline for any anticipated funding shortfalls in the future. There was also a discussion about the need for EPAC to conduct a more detailed annual review of the agency each year, which is one of its stipulated duties. An update on the General Stormwater Permitting program was provided by DWWM Acting Director Kathy Emery, Deputy Director Scott Mandirola provided a report on the joint study being done with DHHR for look at PFAS throughout the state, and an update on the Mountain Valley Pipeline and Atlantic Coast Pipeline was provided.

The last meeting was held virtually on December 10, 2020, with five of seven members participating. The major agenda item was a 2021 legislative preview provided by General Counsel Jason Wandling. There was also an involved discussion concerning the process by which EPAC conducts its annual review of DEP and the overall role that EPAC has played and can play in its advisory and oversight capacity with the agency. Lastly, a motion was unanimously approved at the meeting and formally submitted to Secretary Caperton that pledged EPAC's full support for DEP's recent submission to the State Budget Office of a Budget Improvement Request in the amount of \$1,300,000 for the operations of DEP's Office of Oil and Gas.

IV. STATEMENT ON DEP'S PERFORMANCE

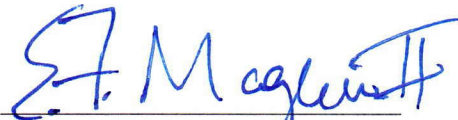
The Council is required to include within its Annual Report its findings with regard to DEP's performance in accomplishing the purposes set forth in W. Va. Code § 22-1-1(b). These statutory purposes, upon which DEP was established, are:

- (1) To strengthen the State's commitment to restore, maintain, and protect the environment;
- (2) To consolidate environmental regulatory programs in a single State agency;
- (3) To provide a comprehensive program for the conservation, protection, exploration, development, enjoyment, and use of the natural resources of the State;
- (4) To supplement and complement the efforts of the State by coordinating its programs with the efforts of other governmental entities, public and private organizations, and the general public, to improve the quality of the environment, the public health and public enjoyment of the environment, and to propagate and protect animal, aquatic, and plant life, in a manner consistent with the benefits to be derived from strong agricultural, manufacturing, tourism, and energy-producing industries;
- (5) To endeavor, insofar as federal environmental programs require State participation, to obtain and continue State primacy in the administration of such programs, to endeavor to maximize federal funds that may be available to accomplish the purposes of the State and federal environmental programs, and to cooperate with appropriate federal agencies to meet environmental goals;
- (6) To encourage the increased involvement of all citizens in the development and execution of state environmental programs;
- (7) To promote improvement in the quality of the environment through research, evaluation, and sharing of information;
- (8) To improve the management and effectiveness of State environmental protection programs;
- (9) To increase the accountability of State environmental protection programs to the Governor, the Legislature, and the public generally; and
- (10) To promote pollution prevention by encouraging reduction or elimination of pollutants at the source through process modification, material substitutions, in-process recycling, reduction of raw material use, or other source reduction opportunities.

For 2020, the Council finds that DEP has engaged in good-faith, reasonable efforts to accomplish the statutory purposes with which it is charged, a fair representation of which are outlined in DEP's Annual Report and State of the Environment publications. It is recognized that the challenges facing the agency in fulfilling its mission are not static, but instead demand constant adaptation. This was especially true this year during the Covid pandemic and associated quarantine. DEP was able to quickly adjust to a remote working environment and the use of virtual meetings so as to address its duties and responsibilities in a manner that continued to meet the letter and the spirit of the Legislature's charge.

V. CONCLUSION

SUBMITTED this 30th day of December, 2020.



Edward F. Maguire II
DEP Environmental Advocate
EPAC Ex Officio Chair