



---

west virginia department of environmental protection

---

Office of Environmental Advocate  
601 57<sup>th</sup> Street, SE  
Charleston, WV 25304  
304.926.0441

Harold D. Ward, Cabinet Secretary  
dep.wv.gov

## **Environmental Protection Advisory Council**

### **2021 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, 2021 through December 31, 2021. 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 3, 2021 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. It was also announced that long-time board member Bill Raney had resigned his position and Jason Bostic has been approved by the Governor's Office to complete Bill's current term in office which runs through 2024. With that appointment and 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, 2025
Charles "Larry" Harris, Ph.D. Morgantown, West Virginia	10/12/1995 1997, 2002, 2005, 2015, 2019	Environmental Organizations	June 30, 2025
Rebecca M. McPhail Huntington, West Virginia	01/22/2015 2019	Industry	June 30, 2023
Jason Bostic Charleston, West Virginia	2021	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, 2023
Angie Rosser Charleston, West Virginia	2019	Environmental Organizations	June 30, 2023

### **III. SUMMARY OF ACTIVITIES DURING 2021**

Due to continuing concerns related to the Covid Pandemic, all of the EPAC meetings were held virtually in 2021. The first meeting of the year was conducted on 03/11/21 with five of seven members participating. At the meeting, newly appointed Cabinet Secretary Harold Ward spoke to the group about his extensive background working with the Mining Division of DEP. Secretary Ward touched upon some of his priorities for the Agency, including a strong emphasis on improved communication with the Public. At the meeting, Secretary Ward introduced Jonathan Rorrer as the new Acting Director for the Division of Mining and Mine Reclamation.

Reports provided at this meeting included an update on the monthly meetings being held by the Human Health Criteria Work Group, a review of bills of DEP interest that were under consideration in the legislature, and a report from DAQ Director Laura Crowder on the somewhat inconclusive results of an agency/industry/utilities/public work group that had met over several months to consider potential changes in how the Division of Air Quality charges fees. Ed Maguire reported on what he anticipated will become a continuing series of quarterly Town Hall virtual meetings hosted by the Office of Environmental Advocate. And Deputy Director Mike Sheehan with the Division of Land Restoration gave a report on a large deep mine blow-out that had occurred the previous week on Muddy Creek of the Cheat River in Preston County.

The next regular meeting of EPAC was conducted on 06/03/21 with six of seven members participating. As mentioned previously, board members Larry Harris and Travis Blosser were re-elected to their positions and Jason Bostic was introduced as a new member, filling the slot recently vacated by the retiring Bill Raney.

In addition to a 2021 legislative summary report from Jason Wandling, the major topic of discussion at this meeting was the final report from the Water Quality Standards Human Health Criteria work group. This year-long effort involved monthly meetings between DEP staff and representatives of the Advisory Council. While the effort ended with some mixed recommendations, it was noted that a precedent had been established whereby EPAC was actively involved with the in-depth review and development of technical recommendations to the Secretary and Legislature on a complex and sometimes contentious issue. Secretary Ward had noted previously that he was very supportive of this involvement by EPAC since its participation as an “advisory” panel for the agency was a primary reason why it was created. It is anticipated that this model will become a regular model for dealing with other complex topics that arise in the future.

Also at the meeting, Ed Maguire provided an introduction concerning the new Biden Administration initiative related to Environmental Justice. He noted that EPA has endorsed this program as an agency priority and will be working with state regulatory agencies on how its various components will be incorporated in how we do our work.

The third EPAC meeting of 2021 was held on 09/09/21 with six of seven members participating. Major topics discussed included Jason Wandling commenting on the Legislative Audit of the Mining Division's Special Reclamation Fund, Ed Maguire describing efforts to develop a new statewide program under REAP to assist counties and municipalities in dealing with abandoned and dilapidated structures, and a review of bills expected to be introduced in the 2022 legislative session.

Air Quality Director Laura Crowder gave a presentation on DEP efforts in conjunction with EPA to address newly heightened health concerns with Ethylene Oxide at the chemical facilities in South Charleston and Institute. Those efforts have included detailed computer modeling to track air emissions and will involve actual "fence line" air monitoring at the facilities. A well attended virtual meeting hosted by EPA and DEP for the public was held 09/23/21 to provide details about the situation plans by the agencies in moving forward.

The final EPAC meeting of 2021 was held on 12/16/21. The primary topic of discussion was DEP's proposed legislative rules package for 2022.

#### **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.

#### **IV. CONCLUSION**

For 2021, 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 has again been the case in 2021 as DEP needed to accommodate ongoing constraints from the Covid pandemic while slowly transitioning back to a more traditional in-office work environment toward year's end.

With the new Biden Administration's heavy emphasis on Environmental Justice, the Department of Environmental Protection – like regulatory agencies in all other states – will be challenged to develop its own emphasis on enhanced communication and involvement by the public in all that it does. WV-DEP is particularly well experienced in dealing with environmentally and economically distressed communities and should look forward to incorporating whatever new guidelines EPA eventually might recommend when it comes to community outreach.

this 16th day of December, 2021.

Edward F. Maguire II, DEP Environmental Advocate