



west virginia department of environmental protection

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Environmental Protection Advisory Council 2011 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, 2011 through December 31, 2011. 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.

There were no changes among the seven appointed members during 2011:

MEMBER	APPOINTMENT	REPRESENTS	TERM EXPIRES
Lisa K. Dooley Madison, West Virginia	10/01/1999 2002, 2005	Local Governments	June 30, 2009
Charles "Larry" Harris, Ph.D. Morgantown, West Virginia	10/12/1995 1997, 2002, 2005	Environmental Organizations	June 30, 2009
Jacqueline A. Hallinan, Esquire Charleston, West Virginia	11/02/1995 1999, 2002, 2006	Environmental Organizations	June 20, 2010
Karen Price Charleston, West Virginia	05/18/2005	Industry	June 30, 2010
William Raney Charleston, West Virginia	10/12/1995 1996, 2000, 2004	Industry	June 30, 2008
Charles "Rick" Roberts, Jr. Charleston, West Virginia	10/12/1995 1996, 2000, 2004	Public Service Districts	June 30, 2008
Ted Hapney Roane County, West Virginia	10/29/2010	UMWA	June 30, 2014

III. SUMMARY OF ACTIVITIES DURING 2011

The Council met four times during 2011. The first meeting, on March 17, discussed the 2011 Regular Session of the Legislature as it pertained to environmental laws. At the June 2 meeting, DEP presented for the Council's review and comment the entire slate of agency rules proposed for 2012. The September 22, 2011 meeting dealt with the agency's Emergency Rule (35 CSR 8) *Rule Governing Horizontal Well Development* drafted pursuant to the Executive Order issued by Governor Tomblin on July 12, 2011. The Council's final meeting for the year, on December 15, was devoted in large part to a briefing from the agency on its legislative agenda for the 2012 Regular Legislative Session and a recap of the 4th Special Session called by Governor Tomblin pertaining to the Natural Gas Horizontal Wells Act, which passed on December 14. A more detailed recitation of the Council's discussions and actions appears in the Council's official minutes.

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.

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. DEP strives to do the best possible job with all resources it may access to implement the letter and the spirit of the Legislature's charge.

V. CONCLUSION

It must be noted that, because of the timing of meetings and the statutory requirements that this Report be submitted on or before January 1 of the calendar year following the last meeting, neither this Annual Report nor the minutes of the December meeting have been formally approved and adopted by the Council. The undersigned expects, however, that the Council will approve and adopt the December minutes and this Annual Report without significant change at its next publicly noticed meeting on March 15, 2012. The undersigned acknowledges DEP's duty to submit an Amended Annual Report in a timely fashion should circumstances warrant.

SUBMITTED this 30th day of December, 2011.

/s/ Kristin A. Boggs

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General Counsel

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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