



**Standard Operating Procedure (SOP)<sup>1</sup> for District Mining Operations**  
**Social or Economic Justification Request Review**  
**SOP No. BMP-007**  
**October 23, 2017**

## **BACKGROUND**

Antidegradation requirements relating to Social or Economic Justification (SEJ) are a critical component of water quality protection for High Quality (HQ) waters. Proposed discharges to HQ waterbodies must meet a test of non-degradation if there are no cost-effective and environmentally sound nondischarge alternatives, or if the alternatives can only accommodate a portion of the wastewater. When the discharge cannot meet the test of non-degradation, the applicant must demonstrate that the proposed degradation is socially and/or economically justified. In all cases, a discharge shall use an Antidegradation Best Available Combination of Technologies (ABACT) and protect applicable Tier 1 water uses. [Pa. Code §§ 93.4(c) & 105.16] Technical guidance document no. 391-0300-002 "Water Quality Antidegradation Implementation Guidance" will be used.

## **PROGRAM OVERVIEW**

The SEJ demonstration is made on the form *Social and Economic Justification (SEJ) and Water Use Demonstration* (5600-PM-BMP0028). The final decision to approve or disapprove the proposed discharge and associated activities is the responsibility of the District Mining Office. Environmental Group Managers of the permits and technical sections ("Tech Chiefs") of the other District Mining Offices can assist the responsible office with peer review of the SEJ scenario, if requested. The DEP regional office will be notified of the request for SEJ and any comments will be considered in the evaluation.

## **PROGRAM SPECIFIC PRACTICES**

The SEJ process is initiated **only** after the Anti-Degradation Supplement for Mining Permits (5600-PM-BMP0007) has been reviewed and the applicant has demonstrated that a discharge will occur as a result of the proposed operation that does not meet the criteria of non-degradation. Only then can the applicant pursue the SEJ process for demonstrating that lowering water quality is necessary to accommodate important economic or social development in the area.

<sup>1</sup> Disclaimer: The process and procedures outlined in this SOP are intended to supplement existing requirements. Nothing in the SOP shall affect regulatory requirements. The process, procedures and interpretations herein are not an adjudication or a regulation. There is no intent on the part of the Department to give the rules in this SOP that weight or deference. This document establishes the framework within which the Department will exercise its administrative discretion in the future. The Department reserves the discretion to deviate from this policy statement if circumstances warrant.

Any SEJ submission that is incomplete or contains insufficient data to support the petition to allow the discharge should be returned. Site-specific cost calculations and documentation must be included for the SEJ to be processed.

The reviewing district office conducts a preliminary review to identify any deficiencies. This includes confirming information provided in the SEJ.

Once the SEJ application is determined to be administratively complete and accurate, the receiving district mining office staff conducts the application review.

The review should consider the following factors:

- Was a reasonable analysis provided of nondischarge alternatives?
- What are the potential hydrogeologic impacts?
- Does the mineral meet quality standards?
- Is the requested information in the module complete, with all questions answered and justified?
- Are the economic assumptions reasonable (e.g. Does an operation employing seven people generate an additional 70 jobs?)
- Do the potential risks outweigh the potential benefits?

DMO staff should consult TGD 391-0300-002 "Water Quality Antidegradation Implementation Guidance" which contains an outline of factors that must be considered in the SEJ evaluation. Once the review is complete, the application and Department documentation of the review should be forwarded to the appropriate District Mining Manager for final comments and the Bureau Director for District Mining Operations should be briefed on the analysis and conclusions.

Once all Department issues are resolved, the reviewing office will discuss the SEJ with the applicant to move towards the permit action of issuance, withdrawal, or denial.

In conjunction with Department's final action on any permit or approval that involves the determination of an existing use which differs from the designated use of the waterbody in Chapter 93, the Department will include information on the existing use determination in the *Pennsylvania Bulletin* notice of the final permit or approval action and on the Department's website, if applicable. The District office will also include written findings specific to the nondischarge alternatives analysis and ABACT analysis, and a record of decision regarding the SEJ request.