



Department of Environmental Protection
Report to the Citizens Advisory Council
January 2010

I. Pending Issues

Water Management

State Water Plan:

Progress:

Critical Water Planning Designation Process

Upon the recommendation by the Statewide Water Resources Committee, Secretary John Hanger approved and adopted the State Water Plan package on February 2, 2009 followed by Governor Rendell's letter of appreciation on March 19, 2009. A "signing celebration" attended by many of the Statewide and Regional Committee members and partnering agencies was held on March 26, 2009 at the State Farm Show Complex. This event, well covered by the media, showcased the accomplishments and outcomes of the planning process over the past five years.

DEP and its technical partners met in April with technical subcommittees of each regional committee to review the technical results of the data verification work on the 32 watersheds. The recommendations for designation as critical water planning areas coming from the tech subcommittees will be shared with the overall regional committees at their next round of meetings, which are currently scheduled for August. During the next regional committee meetings, it is expected that final recommendations will be formed and public hearing scheduled on nominations.

DEP staff is working with its technical partners to prepare for the next round of six regional committee meetings scheduled between August 14, 2009 and September 18, 2009. Recommendations from each of the six Technical Subcommittees review of the technical work during April 2009 meetings will be shared with the overall Regional Committees who will then provide official recommendations for designation of critical water planning areas.

Subsequent to proper notice, each of the 6 Regional Committees held public meetings/hearings in November 2009 to seek public comment and testimony on nominations of watersheds for designation as critical water planning areas. At the same time, written comments were accepted through November 30, 2009. The Department has assembled the recorded oral testimony and written comments together and have posted those comments on the State Water Plan website www.pawaterplan.dep.state.pa.us along with supporting documentation for the watersheds under consideration by each of the Regional Committees.

The Department and its technical partners (ICPRB, DRBC, SRBC and the USGS) are meeting through the month of January 2010 to review the comments in preparation of providing advise to the Regional Committees in regularly scheduled February meetings during which it is planned that each committee will decide on which watersheds they will recommend for designation to the Statewide Committee who will be meeting in April. A technical subcommittee of the Statewide Committee is scheduled to meet in March for preliminary discussions on nominated watersheds to provide advise to the overall Statewide Committee and Department.

Subsequent to the Statewide Committee, nominations will be under consideration for final designation by DEP Secretary John Hanger.

Website

GeoDecision, the contractor working on developing the new State Water Plan website and applications are several months behind schedule. Originally projected for deployment by June 17th, the “going live” time period is now estimated to be around August. The new website is to provide a “Digital Water Atlas” that will allow quick access to various water related maps at several zoom levels along with overlay of information on watershed groups, water projects, photographs and events. A calendar of watershed events will be provided along with a web tool for download of water use information that’s important to local planners and engineers.

Consultant working on website now estimates completion in September. Program and IT staff are preparing an agreement to be executed upon approval of FY 09 Commonwealth budget for completion of project.

Website www.pawaterplan.dep.state.pa was completed and went on line in late October 2010.

Pennsylvania Water Atlas- The State Water Atlas is distributed to State Water Planning committee members. Distribution to other entities that would benefit the Atlas is being developed.

An interactive “Flash” based version of the State Water Atlas is being developed. This version will provide quicker access to maps without download not offered by the current PDF version which requires a large download to those accessing it. The paper “coffee table”, PDF, web-based “Digital Water Atlas” viewer and the new Flash versions provide a variety of media forms to meet a wide range of needs.

The new State Water Plan website offers a digital version of the paper based or coffee-table version of the Pennsylvania Water Atlas. Efforts to further convert the Atlas to a “Flash” based version have been put on hold indefinitely due to resource constraints.

Marcellus O&G Water Management Plan Activities

Water Use Planning staff recently met with representatives of the PA Oil and Gas Producers to discuss the water withdrawal registration and reporting under Act 220 and Chapter 110 regulations. The Division of Water Use Planning has been working internally with Bureau of Information Technology and the Oil and Gas program central and regional offices in developing Marcellus electronic water use reporting and data management systems. As applications are developed to accommodate quarterly reporting of water withdrawals by Marcellus operators, longer term solutions will be developed for overall water management plan data management and sharing of information with River Basin Commissions.

DEP’s Water Use Planning (WUP) and the Bureau of Information Technology met with representatives of the Susquehanna River Basin Commission (SRBC) in late 2009 to discuss coordination of data management information and systems, specifically in regards to water use in Marcellus gas operations. It was the consensus of that group to begin defining their respective data needs that will lead to data sharing in the future.

In addition, WUP staff continue to develop and further refine Marcellus electronic water use reporting and data management systems.

Chesapeake Bay Program:

Chesapeake Bay TMDL: EPA is working on a Total Maximum Daily Load (TMDL) for the Chesapeake Bay, which will establish a ‘budget’ for nitrogen, phosphorous and sediment loadings.

The current schedule has the TMDL being completed by December 2010, with EPA requesting states to submit initial draft Watershed Implementation Plans (WIPs), formerly referred to as ‘tributary strategies’, by June 2010. EPA has established a website specifically for the TMDL, which can be accessed at <http://www.epa.gov/chesapeakebaytmdl/> . DEP staff are working to develop a plan for formulating the Pennsylvania WIP.

Two-Year Milestones: At a Chesapeake Executive Council (EC) meeting in 2009, the seven Bay jurisdictions (Maryland, Virginia, Pennsylvania, Delaware, West Virginia, New York and the District of Columbia) agreed to establish short, two-year goals called milestones. The first set of milestones announced at the 2009 EC meeting are set to be met by December 31, 2011. By meeting these and future milestones, the Bay jurisdictions will put in place measures necessary for a restored Bay no later than 2025.

Presidential Executive Order on the Chesapeake Bay: The same day as the 2009 EC meeting, President Barack Obama signed an Executive Order that declares the Chesapeake a national treasure and increases the federal commitment to restoring the Bay. Highlights and goals of the Executive Order include: Establishment of a Chesapeake Bay Federal Leadership Committee; direction to EPA to fully use its Clean Water Act authorities; reduction of water pollution from federal property; development of a Bay climate change strategy; improvement of agricultural conservation practices; and expansion of public access. The Federal Leadership Committee will oversee the development and coordination of reporting, data management and other activities by agencies involved in Bay restoration. The committee is chaired by the Administrator of the Environmental Protection Agency and includes senior representatives from the federal departments of Agriculture, Commerce, Defense, Homeland Security, Interior, Transportation and others. A website with updates on the federal activities related to the Order can be accessed at <http://executiveorder.chesapeakebay.net/default.aspx> .

Chapter 105 Regulation Revisions: The Division of Waterways, Wetlands, and Stormwater Management is currently working to revise the Chapter 105 Dam Safety and Waterway Management regulations. The Chapter 105 Wetland program is a very strong program and one of the leading wetland programs in the Mid-Atlantic States. The program is considering regulation revisions that would further strengthen the program in two (2) general areas: 1) the wetland classification system, and 2) the wetland and waterway compensation program. The proposed wetland classification system would include an assessment of natural wetland condition allowing for the classification of high value resources. The proposed waterway compensation program would require applicants to offset waterway and floodway impacts authorized by Chapter 105 authorizations similarly to the way wetland impacts are offset.

The Division is getting input on the revisions from Regional Office staff through meetings and resource agencies and the regulated community through the WRAC Chapter 105 Adhoc Workgroup, which met January 9th, February 20th, May 9th, July 7th, September 22nd, November 13th, 2008 and January 23rd, 2009. The workgroup reviewed conceptual changes for wetland classification and wetland compensation. Many comments on each topic were shared and discussed. Comments and recommendations from the workgroup on these topics *were* presented to WRAC at their July 2009 meeting.

WRAC recommended program staff continue moving forward with the regulation revision.

Chapter 102 Regulation Revisions: DEP staff is in the process of revising the Chapter 102, Erosion Control Regulations to ensure comprehensive and complimentary Erosion and Sediment and Post Construction Stormwater Management requirements while referencing appropriate water quality protection and permitting requirements. Revisions to the regulations include requirements addressing post construction stormwater management, antidegradation analysis and buffers. DEP staff has conducted presentations on the regulation revision process to various DEP advisory boards and committees, conservation district roundtable meetings and with other interested stakeholder groups. Once the regulated rewrite is complete, DEP will send the draft regulations to its delegated conservation districts for a 60 day review. Staff continues to meet on the draft Chapter 102 regulatory revisions, however, the timeframes for completion of the draft have been pushed back due to some of the proposed sections in Chapter 102 needing more internal discussions and clarifications. We would like to have a draft available for discussion with advisory groups by early summer. We received additional direction and had more internal discussion on some of the outstanding issues that impact moving forward with the draft regulation. The committee will meet twice the first week of July to continue working on completion of the draft. There have been several more committee meetings conducted to date and more details of the draft regulation continue to get worked through. We anticipate a few more meetings before we are prepared to go before the various advisory committees with a solid draft. The committee is working with Dana Aunkst's staff to ensure consistency and coordination between the proposed Chapter 102 draft and the proposed Chapter 92a draft, since both regulations deal with NPDES permitting. The committee continues to push forward with the Chapter 102 draft. We anticipate going before WRAC and the Ag. Advisory committee in April, 2009 with the completed draft. There were three WRAC meetings in April where the Chapter 102 draft regulations were discussed, as well as discussion of the draft at the April Agricultural Advisory Committee meeting. The Chapter 102 proposed rulemaking was approved by EQB. The next step is to obtain approval from the Governor's Office and the Office of Chief Counsel. *Three public meetings/hearings were conducted in September and October. The proposed rulemaking was published in the Pennsylvania Bulletin and the comment period closed in November, 2009. There were over 1,200 commentators. Program staff are currently working on the comment.response document.*

Post Construction Stormwater Delegation Agreement: DEP staff has developed a draft Post Construction Stormwater Delegation agreement to offer conservation districts the opportunity to review Post Construction Stormwater Management plans, in an effort to expedite the NPDES permit review process. The draft delegation agreement is currently under review. DEP met with conservation district representatives on February 8, 2008 to review the draft delegation agreement. DEP *went* before the State Conservation Commission at their March 13, 2008 meeting, requesting approval to delegate this program to conservation districts. On March 13, 2008, the State Conservation Commission unanimously approved the Post Construction Stormwater Management Delegation Agreement. The final agreement was emailed to all conservation districts statewide for their consideration. On March 30, we received the first delegation agreement signed by the Chester County Conservation District. On April 29 we received the second delegation agreement signed by the Washington County Conservation District. The Monroe, Pike, and Lehigh County Conservation Districts stated that they will be sending in their signed delegation agreements after their May board meetings. At their May meeting, the Columbia County Conservation District voted to accept delegation, and Bucks County Conservation District will be making a decision on whether or not to accept delegation at their July board meeting. On June 1, we received the second delegation agreement signed by Lehigh County Conservation District. Chester,

Washington, and Lehigh delegation agreements are currently going through the multiple-agency signatory approval process. On July 31, Columbia Conservation District formally submitted their request for Post Construction Stormwater Management delegation. In December, 2008, post construction stormwater management delegation agreements were received for Pike and Westmoreland Conservation Districts. In January, 2009, a post construction stormwater management delegation agreement was received for Allegheny County Conservation District. The delegation agreements for Chester, Washington, Lehigh and Pike Conservation Districts have been fully executed and program delegation has begun for those counties. In February 2009, the Department received a post construction stormwater management delegation agreement from Schuylkill County Conservation District. In April 2009, the Department received a post construction management delegation agreement from Jefferson County Conservation District. In May, 2009, the Department received a post construction stormwater management delegation agreement from Monroe County Conservation District. Additionally, the post construction delegation agreement was executed for Columbia County Conservation District in June, 2009 and program delegation has begun. *Monroe Conservation District received their executed delegation agreement in October, 2009.*

Proposed Permit for Oil and Gas Activities: In response to the United States Environmental Protection Agency's (EPA's) rulemaking and the effect of the federal Energy Policy Act of 2005, DEP plans to issue an "Erosion and Sediment Control General Permit -1 (ESCGP-1) for oil and gas activities that disturb five acres or greater at one time over the life of the project. This permit will apply to earth disturbance activities for oil and gas exploration, production, processing, treatment operations or transmission facilities (oil and gas industry). The added protection gained through this permit will ensure that proper best management practices (BMPs) will be planned, implemented and maintained for erosion and sediment control and post construction stormwater runoff from these activities. In addition, this approach is an incentive for the operator to minimize the disturbed area and restore the area promptly after completion of the well or installation of the pipeline. The ESCGP was published in the PA Bulletin for public comments and the Department has addressed these comments, revised the permit, and anticipates availability of the permit early in 2008. The ESCGP-1 permit, application, and instructions were completed in early March. A notice of the availability of this permit will be published in the Pennsylvania Bulletin on Saturday, April 12. It will then be available on the Bureau of Oil and Gas Management and Bureau of Watershed Management web pages. This permit is effective immediately. Copies of the permit, permit application, and instructions have been sent to the DEP regional offices and county conservation districts statewide. The Division of Waterways, Wetlands, and Stormwater Management will be conducting training sessions for all districts and regions on the new ESCGP-1 permit application. These six regional sessions will be conducted in July and August in conjunction with Post Construction Stormwater Management technical plan review training. All six regional sessions have been completed on Post Construction Stormwater Management technical training and the new ESCGP-1 permit application for Oil and Gas Activities. In October and November, 2008, the Division conducted two technical erosion and sediment control plan development training sessions for the oil and gas industry. This training also included administrative training on the new ESCGP-1. Over 200 industry personnel attended these two sessions. Due to the overwhelming response from industry, another session is being planned for early spring, 2009. A few of the conservation districts in the southwest and northeast regions have reported some improvement in the quality of erosion and sediment control plan submittals from some of the consultants who attended the training. *Three oil and gas industry training session on Marcellus permitting were conducted in April, 2009. DEP staff provided this training on the following agenda items: erosion and sediment control overview of new permitting options, wastewater, water management plan to include water withdrawal and module overview and impoundments. DEP regional office staff involved in the permitting and inspection of gas wells were required to attend.*

General NPDES Construction Permit (PAG-2) Renewal The PAG-2 authorizing the discharge of stormwater during construction activities was extended until December, 2008. The Division of Waterways, Wetlands, and Stormwater Management has developed a draft of this permit and anticipate it being published in the Pennsylvania Bulletin for comment in September. On December 13, 2008, the PAG-2 six-month extension notice appeared in the Pennsylvania Bulletin, extending the current PAG-2 until June, 2009. Division staff will

be working on the draft final PAG-2 over the next few weeks in preparation for publication in the Pennsylvania Bulletin for comments. On February 27, the request for publication was sent to DEP's Policy Office. With other program priorities such as Chapter 102 revisions and permit by rule, a request was made to the DEP Policy Office the week of April 29 to grant a second extension to the PAG-2. The current PAG-2 is due to expire June, 2009. This second extension would move the expiration deadline to December, 2009. The extension for the PAG-2 was granted and notice was published in the Pennsylvania Bulletin that the PAG-2 was extended until December, 2009. *The revised PAG-2 was published in the Pennsylvania Bulletin in December, 2009. This authorization will be good thru December, 2011.*

General NPDES MS4 Permit (PAG-13) Renewal

The Department of Environmental Protection did extend the public comment period for the proposed revisions to General NPDES Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (PAG-13). Comments were accepted until July 6.

In addition to the public comment period extension, DEP did hold three public meetings to explain the proposed changes to PAG-13 and to respond to questions from the public. Following the conclusion of the public meetings, the department held public hearings to accept testimony on the proposed amendments to PAG-13. The public meetings were held from 3 p.m. – 4 p.m. and the public hearings began at 4 p.m. on the dates indicated below.

*June 16 – DEP Southwest Regional Office
Waterfront Conference Room A&B
400 Waterfront Dr.
Pittsburgh, PA 15222-4745*

*June 18 -- DEP Southeast Regional Office
Delaware and Schuylkill Conference Rooms
2 East Main St.
Norristown, PA 19401
484-250-5900*

*June 23 -- DEP Southcentral Regional Office
Susquehanna Conference Room
909 Elmerton Ave.
Harrisburg, PA 17110
717-705-4700*

A notice soliciting comments on the substantive revisions to PAG-13 was initially published in the Pennsylvania Bulletin on April 4, at 39 Pa.B. 1749. Revisions to PAG-13 include modifications to enhance clarity and to incorporate overall programmatic changes, including: changing the title of the protocol to the stormwater management program, modifying the field inspection of outfalls, and changing the inspection rate of outfalls for renewal permittees to once within the term of the permit. Other changes to PAG-13 include provisions to facilitate the compliance of stormwater ordinance requirements included in the 2003 MS4 permit and requirements for the development of a Stormwater TMDL Plan in impaired waters with a currently approved TMDL. The department is also proposing to increase the PAG-13 permit filing fee from \$100 to \$250, payable to the Commonwealth of Pennsylvania Clean Water Fund.

PAG-13 is issued under the authority of the Clean Water Act (33 U.S.C. § 1251 et seq.) and Pennsylvania's Clean Streams Law (35 P. S. §§ 691.1--691.1001). The current PAG-13 permit was extended by a notice published in the Pennsylvania Bulletin on Aug. 23, 2008, at 38 Pa.B. 4679 and is scheduled to expire on at

midnight March 9, 2010. The current PAG-13 permit will continue to be in force until formal revision of PAG-13 is published as final in the Pennsylvania Bulletin.

The proposed PAG-13 draft permit is available by contacting the department at 717-772-6827 or by e-mail to ep-pag13comments@state.pa.us. The proposed draft permit is also available on the department's Web site at www.depweb.state.pa.us (choose "Public Participation;" then scroll down to "Proposals Currently Open for Comment").

Persons with a disability may contact the department by using the AT&T Relay Service at 800 654 5984 (TDD users) or 800 654 5988 (voice users). Following the specified comment period, the Department will review all submitted comments and testimony and prepare a comment and response document and final General Permit documents package. Availability of the final permit documents will be announced in a future issue of the Pennsylvania Bulletin.

Waste Management

American Recovery and Reinvestment Act (ARRA).

Leaking Underground Storage Tank ARRA: Under the ARRA, \$200 million is provided for Leaking Underground Storage Tank (LUST) cleanups, nationwide. EPA has awarded a grant in the amount of \$6,163,000.00 to Pennsylvania to conduct cleanups at LUST sites where a private party is unable to perform the work or has abandoned the site. DEP has identified 71 eligible sites where properties owners have voluntarily agreed to provide DEP access and is working on initiating corrective actions under the Storage Tank laws and regulations at these sites. The grant term expires on September 30, 2011.

Superfund ARRA: Under the ARRA, \$600 million is provided to EPA for federal superfund projects. EPA has chosen to use ARRA funds at two Pennsylvania sites, the Havertown Pentachlorophenol (PCP) Site, located in Haverford Township, Delaware County and the Crossley Farms Site, located in Hereford Township, Berks County. EPA intends to use up to \$5 million in ARRA funds at each site. Pennsylvania is obligated to pay 10% of the cleanup costs at these sites according to the superfund statute and regulations (there is no exemption from this requirement under ARRA). The Commonwealth's share will come from the Hazardous Sites Cleanup Fund.

Beneficial Use of Coal Ash Regulations: At the March 19, 2009 SWAC meeting, the Department discussed and requested SWAC's position on the draft proposed rulemaking on the Beneficial Use of Coal Ash. The Committee voted to recommend that the rulemaking be presented to the Environmental Quality Board (EQB). The draft proposed rulemaking on the Beneficial Use of Coal Ash were presented at the July 2009 EQB meeting and approved for publication in the PA Bulletin with a 45 day public comment period. Chapter 290 Beneficial Use of Coal Ash regulations were published in the November 7 edition of the PA Bulletin. The public comment period ended December 22, 2009. The Department received 1,118 comments on the proposed regulations.

Recycling Fund and Solid Waste Advisory Committees: At the December 7th Recycling Fund Advisory Committee meeting, the Committee unanimously approved the 2010-2011 Recycling Fund Spending Plan. The spending plan includes the planned shutdown of the Recycling Grant Programs administered by the Department. The Recycling Fund Advisory Committee also agreed to draft a letter to the Legislature encouraging a timely action on extending the recycling fee.

At the December 7th meeting, The Solid Waste Advisory Committee reelected Tanya McCoy-Caretti as chairperson and David Strong as Vice-Chairperson. The Solid Waste Advisory Committee also unanimously approved moving the proposed Rulemaking Petition to the Hazardous Waste Regulations for Disposal of

Wastewater Treatment Sludge Filter Cake (Waste Management Disposal Services of PA). The next meeting is scheduled for February 11, 2010.

Land Recycling Program

"The Uniform Environmental Covenants Act (UECA) regulations were approved by the EQB on December 15th 2009. The EQB also approved the proposed revisions to Chapter 250 on December 15th 2009. Both packages will be open for a 30 day comment. The comment period should start mid to late February.

Energy Initiatives

PA Green Energy Works!: The Commonwealth is opening numerous grant rounds with funding made available by the American Recovery and Reinvestment Act (ARRA) as part of the PA Green Energy Works! program. The rounds are focusing on specific technologies, including biogas, combined heat and power, solar and wind projects. In addition, the Commonwealth has opened a grant round to attract a financial institution to administer a revolving loan fund for energy efficiency projects using ARRA funds, and will soon announce a grant round to attract an outside company to manage a home heating rebate program to provide rebates to consumers who purchase energy efficient furnaces and/or water heaters. The revolving loan application period closes Jan. 6. The following announcements have been made regarding grants awarded through the program:

- Dec. 22, Gov. Rendell announced the award of \$5 million in federal recovery money to eight innovative alternative energy biogas projects. These projects will use biological materials such as sewage, animal and food processing waste to generate enough energy to power more than 80,000 homes.
- Dec. 4, Gov. Rendell announced the award of \$12 million in Recovery Act funds to nine combined heat and power projects. These projects will have a capacity of 15 megawatts of power and will generate more than 1.8 million megawatt hours of electricity over their lifetimes, enough energy to power 180,000 homes for one year and slash carbon dioxide emissions equal to 180,000 passenger vehicles while creating jobs and stabilizing power distribution networks.

PA Conservation Works!: The Governor announced Nov. 17 the award of \$22 million in federal ARRA funds to 99 projects in 48 counties through the PA Conservation Works! program. These projects will save more than 570 million kilowatt hours of electricity, generate an additional 14.4 million kilowatt hours, and reduce natural gas use by 2.1 million thousand cubic feet over their lifetimes. Conservation Works! provides grants of up to \$250,000 to individual local government and non-profit entities and \$500,000 for combined government projects to conserve or reduce energy use. The program covers Pennsylvania boroughs, townships and cities with fewer than 35,000 residents and counties with fewer than 200,000 residents, municipalities not eligible for direct formula grants from the Energy Efficiency and Conservation Block Grant program. More than \$15.3 million will be distributed to local governments, with the remainder going to non-profit organizations. All projects must create jobs, be able to start work within six months and be completed prior to May 31, 2011.

Pennsylvania Energy Development Authority: The Governor announced Dec. 18 the investment of \$1.5 million in six projects that will conserve or generate enough electricity over their lifetimes to power more than 2,000 homes for one year. The grants were awarded through the Pennsylvania Energy Development Authority (PEDA) with funds made available through the settlement of a ratepayer case between Duquesne Light Company and the Public Utility Commission. The grants were available for non-residential entities such as business and industry, schools, non-profit organizations and local governments.

The Governor announced Aug. 10 the investment of \$20.7 million in 25 projects to generate and conserve enough energy to power more than 26,000 homes, reducing carbon emissions equivalent to removing more than

17,000 cars from our roadways. The projects will produce or save 2.2 billion kilowatt hours of electricity over their lifetimes, or 110 million kilowatt hours per year. These projects will create 430 permanent green jobs, 1,068 construction jobs and help to retain 4,110 manufacturing jobs by stabilizing energy costs with on-site renewable energy systems. Pennsylvania Energy Development Authority (PEDA) awarded \$20.7 million in grants, including \$10 million from the federal American Recovery and Reinvestment Act.

Climate Change Advisory Committee: On Dec. 18, the Climate Change Advisory Committee presented the Climate Change Action Plan to Gov. Rendell, which evaluated and recommended 52 work plans to mitigate the release of greenhouse gases in the Commonwealth. All of the work plans were developed, discussed and analyzed with full participation of the committee, representing a diversity of viewpoints. The plan was opened for public comment in October, and DEP accepted a record number of comments, approximately 23,000. About 99 percent of those who commented were strongly in favor of a public policy to address climate change. In combination with other state and federal environmental initiatives, the 52 recommendations could reduce emissions by more than 40 percent, while resulting in the net creation of 65,000 new full-time jobs and the addition of more than \$6 billion to the state's economy. The plan is available at www.dep.state.pa.us, keyword "Climate Change."

Mining/Reclamation/AMD Issues

Reclamation Fee: The final rulemaking was published in the Pennsylvania Bulletin on August 30, 2008. . <http://www.pabulletin.com/secure/data/vol38/38-35/1585.html> The regulation establishes an adjustable reclamation fee to provide for the on-going Operation and Maintenance (O & M) Costs for the (now defunct) Alternate Bonding System bond forfeiture discharge sites. On January 14, 2009 the federal Office of Surface Mining Reclamation and Enforcement announced in the Federal Register receipt of the formal program amendment Pennsylvania submitted in August, 2008. The public comment period on the rulemaking was extended by OSMRE from February 13, 2009 until February 27, 2009 in response to a citizen request for additional time. A public hearing was not requested nor held. Tracking has been established for revenue and expenses in order to calculate the reclamation fee going forward. The first such calculation is due in late summer 2009.

DEP continues its work on systematically providing operation and maintenance at existing treatment facilities and the construction of treatment facilities for the discharges that do not have treatment facilities. Progress is being made in the design and construction of treatment facilities as well as contracting for O & M. In addition, the Department has undertaken an Information Technology project that will result in more responsive tracking of the financial assurance vehicles for mine sites with post-mining discharges. This project will result in a conversion of the Trust Fund Tracking database (in Access) into eFACTS. Additional functionality (related to tracking costs and invoices as well as more detail about the treatment facilities and discharges) is included in this project. This data will be useful in the Reclamation Fee calculations. It is expected that the development will be completed during the winter with training and deployment in the spring and summer of 2009.

Deployment of the new system is underway. The new system is being populated with the necessary data. It is anticipated that the new system will be populated and operational later this year. The ABS Legacy Sites Trust Account and the Reclamation Fee O&M Trust Account have been established. The appropriate funds have been transferred into the Reclamation Fee O&M Trust Account. \$5,018,144.99 of forfeited bond money has been transferred into the new ABS Legacy Sites Trust Account. Work is underway to transfer the appropriate amount of interest into the ABS Legacy Sites Trust Account.

DEP provided an update to the MRAB at its October 23, 2008 quarterly meeting. In January, 2009 DEP provided an update to the MRAB, the federal Office of Surface Mining Reclamation and Enforcement, and the bonding lawsuit plaintiffs. The update report is also posted on the DEP website. The DEP Moshannon District Office provided the MRAB a summary of its work on ABS bond forfeitures. They also identified and sought advice on how to address ABS primacy bond forfeiture discharges for which there is no known way to treat and

for those small discharges that are adjacent to huge pre-law abandoned underground mine discharges for which there is no responsible operator. The Greensburg District Mining Office provided the MRAB a summary of its work on ABS bond forfeitures at the MRAB's April 23, 2009 meeting.

The MRAB 2009 third quarter meeting scheduled for July 23 in the Knox District Mining Office was cancelled. The scheduled topics will be covered at the October meeting, which will be held at the Knox District Mining Office. Knox DMO staff will provide information on their bond forfeiture reclamation work. The DEP will provide an update on the status of the ABS Primacy Bond Forfeiture treatment funding. The update will provide some insight in to what the likely recommendation and content of the formal reclamation fee report that will be provided to the MRAB at the October meeting. The October meeting will include visits to ABS bond forfeiture discharge sites that present challenges. The DEP is seeking the advice of the MRAB on how to address the discharges. In accordance with the regulations, the Reclamation Fee Fiscal Year Report will be reviewed with the MRAB at the October meeting.

Third 5 Year Report: *The University of Pittsburgh commenced work on report preparation in February 2009. University researchers have compiled most of the information needed for impact assessment from Department files and databases. Researchers have created a geographic information system (GIS) that is used in establishing relationships between study period mining and overlying properties, structures, streams, water supplies and other surface features. University biologists have also visited stream sites where mining related impacts were reported. In addition to the Department's data, researchers have reviewed reports prepared by the Center for Public Integrity as a means of gathering additional information on mining-related impacts and landowners' views regarding those impacts. The researchers are currently engaged in evaluating the data that has been gathered. Project work is proceeding in a timely manner and a final report is expected by May 2010.*

Beneficial Use of Coal Ash at Mine Sites: DEP published technical guidance document #s 563-2112-224 (Certification Guidelines for the Chemical and Physical Properties of Coal Ash Beneficially Used at Mines) and 563-2112-225 (Mine Site Approval for Beneficial Use of Ash) as interim final documents. These documents were prepared and published as required by the existing coal ash beneficial use regulations after obtaining public input. The guidance documents contain a number of improvements to address: new standards issued by EPA, recommendations made by the National Academy of Sciences, other identified concerns, and other program enhancements to keep pace with changing science and industry practices. DEP has assembled a stakeholder work group to obtain input specifically targeted at development of site assessment triggers and response triggers should monitoring detect increased levels of the specific parameter. *On July 8, 2009, the first stakeholder meeting was held. Participants included personnel from DEP's mining and waste programs, OSM, EPA, the electricity generation industry, consultants and environmental advocacy groups. The primary question discussed at this meeting was "What triggers the assessment?" In the meantime, coal ash certifications and qualifications under general permits continue to be processed. The improved review of coal ash generators has resulted in a realization that there are three categories of coal ash; these are coal ash where only coal is burned, mixed fuel ash-where other material is co-fired with coal and post-combustion mixing of ash with other materials. From a regulatory standpoint, each of the categories requires a different approach.*

Preliminary Proposed Rulemaking-Coal Permit Fees, Remining Financial Guarantees and OSM Program Deficiencies: *DEP expects to present a proposed rulemaking package to the MRAB at the October meeting. This package includes fees for coal mining permit applications. The fee amounts were calculated using workload analysis data to determine the cost to the Department to review the various authorizations. The fee schedule represents a substantial increase in the fee amounts. The remining financial guarantee section of these regulations is revised to reflect the full-cost bonding program. The current regulations tie the financial guarantees in to the remining acreage, where the current bonding program is not acreage-based. There are a number of places where Pennsylvania's Coal Mining Program does not meet the standards established in the*

Federal Mining Regulations. The proposed rulemaking addresses the deficiencies where a regulation change is required.

Office of Homeland Security

The Pa. Office of Homeland Security was recently moved to a Deputy Directorship under PEMA's Director. The move also former head of the office is no longer in charge of the daily operations. The new Deputy Director has not called a Homeland Security Steering Committee meeting since the change occurred. These meetings normally track the progress of homeland security protection initiatives within the Commonwealth from an all-hazards approach.

The 2009 DEP Emergency Operations Plan (EOP), signed by Secretary Hanger was distributed to the Regional Directors and Emergency Response Managers. Field Operations has also placed the EOP on the IntraDEP website for use by all DEP personnel.

Environmental Education

Environmental Education Grants Program (EEGP)

- *The grant round opened the first week in October.*
- *The deadline for application- December 18th*
- *Over 200 applications were submitted to the program.*
- *Applications are reviewed for administrative*

Outreach: Environmental Education outreach activities in July 2009 include the following:

- *August 18-20 Ag Progress Days- Rock Springs/State College*
- *August 21-23 Drake Well Museum Commemorative Event- Drake Well Museum*
- *September 18 Renewable Energy Festival- Kempton*
- *September 23 HBG Science and Technology High School program*
- *October 1 Ohio River Watershed Celebration- Pittsburgh*
- *October 15 Pittsburgh Regional Center for Science Teachers- Pittsburgh*
- *November 2&3 Chesapeake Bay Education Summit- Flintstone, MD*
- *November 16 Marcellus Shale Summit- State College*
- *December 9 HBG Science and Technology High School program*

Workshops Conferences and Board Meetings:

- *September 2 EE Grant Writing Workshop- Wildwood/Olewine Center*
- *October 5 EE Grant Writing Workshop- Tom Ridge Education Center*
- *October 20 PCEE Board Meeting- Slippery Rock*
- *October 21 Tour Alternative Energy Center- Saint Francis U.*
- *October 22 EE Grant Writing Workshop- Saint Vincent College*
- *October 30 PACD Meeting: EE Advisory Council Representation*

Upcoming Outreach Events:

None

Other EE Initiatives:

The EE Director is working with the Pa Department of Education (PDE) and the EE Advisory Council to revise Environment and Ecology Academic Standards and develop standards assessment content. The Standards Assessment System (SAS) is the new initiative under PDE to further refine concepts, competencies, essential questions and vocabulary within academic standard areas. The goal of SAS is to provide school districts with a common framework for continuous enhancement and improvement of formal curriculum.

The Director is working with other agencies and organizations to enhance career opportunities through the Governor's Science, Technology, Engineering and Math (STEM) initiative. Regional networks have been developed and a STEM Center will be established. The STEM initiative meshes well with DEP's alternative energy technologies related programs.

The Pennsylvania Center for Environmental Education (PCEE) Board has been reestablished as a provision of the new EE Act. DEP's Director of EE serves as Board Chair. PCEE is located in Slippery Rock, PA and is funded and administered by the State System of Higher Education. The center serves as a clearing house and resource tool for formal and non-formal educators throughout the state.

EP Draft Technical Guidance Documents

Draft Date	Document Title	Comment Deadline
None to report		

i. DEP Regulations and Policies: Proposals Open for Comment

PA Bulletin Publication Date	Proposal or Regulation	Comment Deadline
10/17/2009	Outdoor Wood-Fired Boilers (25 Pa Code, Chapters 121 and 123)	2/12/2010
11/7/2009	Wastewater Treatment Requirements	2/12/2010

DEP Regulations and Proposals Recently Finalized

PA Bulletin Publication Date	Proposals or Regulations
12/26/2009	<i>Administration of the Storage Tank and Spill Prevention Program</i>