

Annual Report July 2016 – June 2017



Commonwealth of Pennsylvania
Thomas W. Wolf, Governor
Department of Environmental Protection
Patrick W. McDonnell, Secretary



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

A Message from MRAB Chairman David Osikowicz

On behalf of the Mining and Reclamation Advisory Board (Board) members, I am pleased to present for your review the Board's Annual Report, documenting the Board's activities from July 2016 through June 2017. The Board continues to address environmental problems related to past coal mining practices and to assist the Department of Environmental Protection (DEP) in ensuring that current industry practices represent an environmentally responsible approach to mining. This report fulfills the statutory obligations of the Surface Mining Conservation and Reclamation Act.

The Board holds four full board meetings per year, as outlined in the by-laws. For the 2016-2017 reporting period, full Board meetings were held on July 21, 2016, October 20, 2016, January 19, 2017, and April 6, 2017. The Regulation, Legislation and Technical Committee met on September 22, 2016, to discuss the Coal Fees Regulatory Package and on March 30, 2017, to discuss the Federal Office of Surface Mining (OSM) Program Consistency Regulatory Package. Agendas for these meetings can be found on the Board's website.

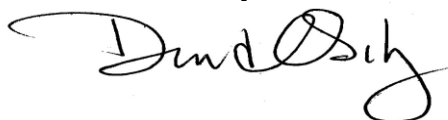
The July 21, 2016, meeting was held at the Cambria District Mining Office in conjunction with the annual field trip the previous day. The Board toured acid mine drainage (AMD) treatment facilities during the field trip including Big J Mining - Sorber Site, Shade Mining - No. 3 (Shaulis) Site, Fetterolf Mining - Stutzman Site, and the Flight 93 AMD Treatment Facility and Memorial.

During the time frame of this report, DEP staff provided the Board with regular updates on the status of Bond Rate Guidelines, Bureau of Abandoned Mine Reclamation Projects, and the Alternative Bonding System Legacy Sites. Information was presented to the Board on Land Reclamation Financial Guarantee, National Pollutant Discharge Elimination System permitting reviews, OSM Oversight Activities, and Permit Decision Guarantee policies.

The Board will continue to provide advice and technical input to DEP regarding expenditures and program administration of Abandoned Mine Lands Title IV monies, proposed regulatory rulemaking issues including Act 95, permit fees, financial guarantee and OSM issues, and other environmental issues as they arise.

The Board recognizes the dedication and support of all Board members and alternates and the ongoing contributions by both DEP staff and Board members. Furthermore, the Board remains highly committed to advising and working with the department in carrying out its mission, evaluating the rights and responsibilities of industry, and making responsible, calculated recommendations for the citizens of the Commonwealth.

Sincerely,

A handwritten signature in black ink, appearing to read "David Osikowicz". The signature is fluid and cursive, with a large, stylized initial "D".

David Osikowicz,
Chairman

EDITOR’S NOTE: All references in this report - including position titles held by individuals, legislative references and time references - are current for the period ending June 2017.

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Introduction

The Board was created in 1984 by Act 181 of the Pennsylvania General Assembly, which amended the Surface Mining Conservation and Reclamation Act (SMCRA). The Board's purpose is to assist the DEP Secretary in expending reclamation funds for the purposes provided by SMCRA and to advise the Secretary on all matters pertaining to mining and reclamation. The advisory role of the Board also covers Title IV of the federal Surface Mining Control and Reclamation Act, which relates to abandoned mine land reclamation issues.

The Board is comprised of the following members:

- Two licensed bituminous surface mine operators;
- One licensed anthracite surface mine operator;
- Four public members of the Citizens Advisory Council, elected by the Council;
- One anthracite or one bituminous licensed professional engineer;
- One county conservation district representative, appointed by the Pennsylvania State Conservation Commission;
- One majority party state senator, appointed by the president pro tempore of the Senate;
- One minority party state senator, appointed by the president pro tempore of the Senate;
- One majority party state representative, appointed by the speaker of the House of Representatives; and
- One minority party state representative, appointed by the speaker of the House of Representatives.

Board membership for the reporting period is as follows.

| Board Member | Position | Alternate(s) |
|----------------------|-----------------------------------------------------------------------------------|-------------------------------------------|
| David Osikowicz | Bituminous Surface Mine Operator | Rachel Gleason |
| Mark Snyder | Bituminous Surface Mine Operator | Darrel Lewis |
| Jack Chamberlin | Licensed Professional Engineer | Rachel Gleason |
| Robert Burns | Anthracite Surface Mine Operator | Duane Feagley |
| Sen. Patrick Stefano | General Assembly | Benjamin Wren |
| Sen. John Yudichak | General Assembly | Joanne Manganello |
| Rep. Jeffrey Pyle | General Assembly | Jonathan Lutz |
| Rep. Pamela Snyder | General Assembly | Tara Hazelwood, Daniel Coleman |
| John St. Clair | Citizens Advisory Council | Katie Hetherington-Cunfer, Lee Ann Murray |
| Mark Killar | Citizens Advisory Council | Katie Hetherington-Cunfer, Lee Ann Murray |
| Cynthia Carrow | Citizens Advisory Council | Katie Hetherington-Cunfer, Lee Ann Murray |
| Terry Dayton | Citizens Advisory Council | Katie Hetherington-Cunfer, Lee Ann Murray |
| Robert Hughes | State Conservation Commission/Eastern PA Coalition for Abandoned Mine Reclamation | Andy McAllister |

Board officers for the reporting period are as follows.

| | |
|-------------------------------------------------------------|-----------------|
| Board Chairperson | David Osikowicz |
| Board Vice Chairperson | Robert Burns |
| Annual Report Committee Chairperson | Darrel Lewis |
| Policy Committee Chairperson | Mark Snyder |
| Reclamation Committee Chairperson | Duane Feagley |
| Regulation, Legislation and Technical Committee Chairperson | Jack Chamberlin |

The Board operates under bylaws adopted in January 1989 and amended in October 1993 and December 1996. The bylaws establish a committee structure and other operational procedures, including a minimum of four meetings per year, held in January, April, July and October, as required by SMCRA. The bylaws for the period covered by this report are found in Appendix A.

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The Board's Committees

Annual Report Committee

As mandated by Section 18(g)(5) of SMCRA, "The Board shall prepare an annual report on its activities and submit the report to the Senate Environmental Resources and Energy Committee and the House Conservation Committee." Throughout the reporting period, the committee compiles and summarizes information for inclusion in the Annual Report.

Members of the committee:

Darrel K. Lewis, Chairperson
Duane Feagley
Tara Hazelwood
Rachel Gleason

Policy Committee

The Policy Committee was formed in October 1993 under the name of Policy and General Issues Committee. Its mission is to consider mining and reclamation policies identified as integral to the timely and efficient administration and operation of DEP's mining regulatory and abandoned mine reclamation programs.

Members of the committee:

Mark A. Snyder, Chairperson

Reclamation Committee

The Committee on Reclamation Issues was originally formed at the July 1997 Board meeting in response to concerns regarding the Bark Camp Mine Reclamation Laboratory in Clearfield County, the Reed and Strattanville sites in Clarion County and, a package of reclamation initiatives being developed under DEP's "Reclaim PA" program. In October 1999, the Board voted unanimously to change the name to the Reclamation Committee to reflect the committee's ongoing work.

The committee addresses reclamation issues, initiatives, and activities.

Members of the committee:

Duane Feagley, Chairperson
Robert E. Hughes
Andy McAllister

Regulation, Legislation and Technical Committee

The Regulation, Legislation and Technical Committee reviews all major regulatory packages coming before the Board during the reporting period and reports back to the full Board.

Members of the committee:

Jack R. Chamberlin, Chairperson
The Honorable Jeffrey P. Pyle
The Honorable Pamela Snyder
The Honorable Patrick J. Stefano
The Honorable John Yudichak
Duane Feagley
Rachel Gleason
Darrel K. Lewis
David D. Osikowicz

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Main Agenda Topics (Presented Alphabetically)

The following sections provide a summary of the activities of the full Board during the reporting period. For a complete list of meeting dates and locations, see Appendix B. For more details on these meetings, refer to the Board's website and meeting minutes.

Abandoned Mine Lands Grant Funding

DEP provided information on the status of Abandoned Mine Land (AML) grants, including the AML Pilot Program Grant for 2016 (\$30 million) and the regular AML Grant for 2017 (\$33.6 million). Additionally, it was reported the Bureau of Abandoned Mine Reclamation plans to award \$5,500,000 in AML Economic Development Pilot Program funds for 2 specific projects: the Powderly Creek Northeast UMF – Lackawanna County (\$2,000,000) and the Ehrenfield project – Cambria County (\$3,500,000) and, that an additional \$640,000 in funds from this program would be included among the 98 contracts for future reclamation projects.

Alternative Bonding System Trust Legacy Accounts

DEP staff routinely provided details on Alternative Bonding System Trust Legacy Accounts and other related bonds and trusts in terms of the number of total agreements (i.e., bonds, fully-funded trusts and partially-funded trusts) and the value of these agreements. During this reporting period, there were 139 total agreements (76 bonds valued at \$230,000,000; 46 fully-funded trusts valued at \$92,300,000; and 17 partially-funded trusts including 3 alternative bonding sites valued at \$87,300,000).

Bond Rate Guidelines

DEP staff provided the Board with its updated projection of the 2017 bond rates based on the average costs of recent reclamation projects. At the January 2017 meeting, the proposed Land Reclamation Bond Rate Guidelines for 2017 were presented, indicating increases in some of the tasks and decreases in others. The 2017 bond rates went into effect on April 1, 2017.

Bureau of Abandoned Mines Reclamation Projects

Updates on reclamation projects were supplied by Bureau of Abandoned Mine Reclamation staff. In the 2016 calendar year, there were 21 projects that reclaimed 239.1 acres at a cost of \$10,082,436. In the 2017 calendar year, one project has been completed to date reclaiming 0.0 acres at a cost of \$5,397. For future completions, there are 42 contracts to reclaim 1,582.1 acres, at a cost of \$70,428,706. For future awards, there are 90 contracts to reclaim 2,225.6 acres at a cost of \$101,389,918.

Coal Fees Regulatory Package

DEP proposed a regulatory package that included increases to the current fee structure and the addition of new fees for surface and underground coal mining operations. Several Regulation, Legislation and Technical Committee meetings were held to discuss the proposed fees and

recommendations were made. Changes to what was initially proposed for surface fees were approved by the Board while changes to the underground fee structure remains under consideration.

Fee Revenues

DEP staff provided regular updates on coal fee revenues from SMCRA and the Clean Water Fund during this reporting period. The SMCRA coal fees revenue through February 2017 amounted to \$63,950 and the Clean Water Fund fee revenue through February 2017 amounted to \$240,830.

Field Trip

The field trip for this reporting period was held on July 20, 2016. AMD treatment facilities visited during the field trip included: Big J Mining - Sorber Site; Shade Mining - No. 3 (Shaulis) Site; Fetterolf Mining – Stutzman Site; and the Flight 93 AMD Treatment Facility and Memorial.

Land Reclamation Financial Guarantees

DEP staff provided regular updates on the Land Reclamation Financial Guarantees. To date, over \$40 million in Land Reclamation Financial Guarantees have been underwritten. The Board has discussed raising the Land Reclamation Financial Guarantee limit pending further information.

National Pollution Discharge Elimination System Permitting

DEP staff provided regular updates on the National Pollution Discharge Elimination System (NPDES) draft mining permits sent to the United States Environmental Protection Agency (EPA) for review. This is because the EPA currently has oversight of the development of these permits. DEP is working to develop a guidance document and a permit template, all to address EPA concerns. Once these items are completed, EPA may end its oversight of the Department's NPDES permitting program for mining permits. As of April 15, 2017, 746 draft NPDES permits have been sent to the EPA. Of this total, 335 were issued without comment and 359 were issued with minor comments. There was another group of permits (43) that could be issued with comment (14) and without (29). Of the 9 pending permits, 4 were identified as having minor comments and 5 had a 30-day wait designation.

Office of Surface Mining Program Consistency

DEP staff discussed several issues for an OSM consistency rulemaking with the Board and the Regulation, Legislation and Technical Committee. The issues included whether Department regulations should reflect what is in the Federal OSM language for consistency regarding defining the term "surface mining activities", the assessment of penalties, remining financial guarantees, and effluent limits. The Board voted to recommend the adoption of the Federal language with the understanding that further guidance will be forthcoming to clarify what activities qualify as surface mining activities. The Board also recommended DEP proceed with the proposed rulemaking process for the regulatory package.

Permit Decision Guarantee

DEP staff provided regular updates on this program in response to the Permit Decision Guarantee operations, development of Standard Operating Procedures and checklists, and concerns regarding the backlog of permits in the system. DEP compiled a historical snapshot of permit decision guarantee success rates at the request of Board members and shared at the April 2017 meeting.

Reclamation and Remining Incentives Report

DEP staff updated the Board on Pennsylvania's reclamation and remining incentives programs which have been very successful. Specific details can be found on the Board's website of DEP presentations throughout the report period.

Reclamation Fee O&M Trust Account

DEP staff provided regular updates on the Reclamation Fee O&M Trust Account. An amount of \$500,000 that had been collected from civil penalties is to be moved to the O&M Trust Account at the Board's recommendation. This was done for the fiscal year to maintain the legislatively required \$3,000,000 balance and to prevent a reclamation fee increase. Additional transfers will be made as needed to maintain the required minimum balance.

Remining Financial Guarantees

DEP staff regularly provided a historical overview of bond forfeitures, anticipated forfeitures, and their impacts on the Remining Financial Assurance Fund.

Regulatory Updates

DEP staff provided regular updates on various mining-related regulatory packages. The first of these was the Revisions to the Blasting and Explosives Regulations, 25 PA Code, Chapters 210 (Blaster's Licenses) and 211 (Storage, Handling and Use of Explosives). The regulatory package was approved by the Board, published as proposed in the PA Bulletin, and routed for final approval by the Environmental Quality Board.

The revisions to the remining regulations were reviewed and recommended by the Board on October 23, 2014, and were published as final in the October 22, 2016, *Pennsylvania Bulletin*. The rulemaking allows for the additional reclamation of abandoned mine lands by providing two different methods for determining the baseline for setting effluent limitation guidelines. The rulemaking resulted from EPA's pilot program Project XL.

In the future, DEP will continue to provide updates to the Board on the Water Supply Replacement Regulations (25 PA Code, Chapters 87 and 88) regulatory package.

Surface Mining Engineering Manual

Updates to the Surface Mining Engineering Manual are under review internally by DEP staff.

Technical Deficiency Letter Reviews

DEP provided an assessment regarding the review of technical deficiency letters from among the six District Mining Offices. The purpose of this assessment was to determine issues contributing to delays of permit approvals, to evaluate whether deficiencies were serious, significant or insignificant, and to determine consistency and appropriateness of comments across District Mining Offices.

Visit from PA DEP Secretary Patrick McDonnell

DEP Secretary Patrick McDonnell (who was then in “Acting” capacity) visited the Board during the meeting on January 19, 2017. He thanked the Board for their continued work with DEP to facilitate working on coal mining issues. He reported the DEP Policy Office would be reviewing procedures regarding public participation, including advisory boards. In conclusion, the Secretary stressed the value of the e-permitting process to DEP and to those who utilize it.

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Appendix A

Bylaws of The Mining and Reclamation Advisory Board

As Amended December 12, 1996

ARTICLE I

Authorization

The Mining and Reclamation Advisory Board is authorized and organized pursuant to Section 18(g) of the Pennsylvania Surface Mining Conservation and Reclamation Act (Act 181 of 1984) as amended by Act 173 of 1992.

ARTICLE II

Purpose

The advisory Board is charged to assist the secretary to expend the funds for the purposes provided by this act and to advise the secretary on all matters pertaining to surface coal mining and reclamation which shall include, but not be limited to, experimental practices, alternate methods of backfilling, selection of reclamation projects, alternate reclamation methods, obligations for pre-existing pollution liability, alteration of reclamation loans, reclamation fees and bonding rates and methods.

ARTICLE III

Membership

The Board shall be comprised of three coal operators, two of whom shall be licensed bituminous surface mine operators and one of whom shall be a licensed anthracite surface mine operator; four public members from the Citizens Advisory Council, who shall be appointed by the council; two members, one from the Anthracite and Bituminous Licensed Professional Engineers, and one from the County Conservation Districts, who shall be appointed by the State Conservation District Commission; four members of the General Assembly, two from the Senate, one member from the majority party and one member from the minority party, who shall be appointed by the president pro tempore; and two from the House of Representatives, one from the majority party and one from the minority party, who shall be appointed by the speaker of the House of Representatives.

- A. Board members shall designate an alternate. The chairperson shall be notified, in writing, of such alternate.
- B. The Board may recommend to the appointing authority removal of any member not attending, or not represented by a designee, at two Board meetings in a year.

ARTICLE IV

Voting

Members, or designated alternates, shall be entitled to one vote, in person, on all matters that shall come before the Board. No voting shall be done without a quorum, unless otherwise indicated in these bylaws. A majority of the membership of the Board shall constitute a quorum.

ARTICLE V
Officers

The officers of the Board shall be a chairperson and a vice-chairperson.

The chairperson and vice chairperson shall be elected from the membership of the Board, as defined in the Pennsylvania Surface Mining Conservation and Reclamation Act, as amended, and may not be the secretary of the Department of Environmental Protection, or his designee. They shall hold office for a term of one year, or until a successor is elected.

It shall be the duty of the chairperson to preside at all meetings of the Board, call special meetings, prepare and distribute the meeting agenda and perform such other duties as pertain to the office.

It shall be the duty of the vice-chairperson to perform the duties of the chairperson in his/her absence.

ARTICLE VI
Administration

Administrative and clerical duties shall be performed by the Office of Mineral Resources Management, Department of Environmental Protection. A department staff person shall function as a recording and corresponding secretary. Included among these administrative duties shall be:

- A. To give timely notice of meetings of the Board and committees.
- B. To record full Board and committee meeting minutes and keep a permanent file. Board and committee meeting minutes shall be distributed to the full membership. Minutes should be reviewed by the chairperson or vice-chairperson prior to distribution.
- C. To conduct both outgoing and incoming correspondence and maintain a permanent file of such correspondence, and
- D. To perform such other duties as may be requested by the Board, including, but not limited to, travel arrangements, conference calls, etc.

In addition, staff representatives from the Office of Mineral Resources Management shall serve as staff liaison to the Board.

ARTICLE VII
Committees

The Board may establish committees to assist in performing its advisory duties.

- A. Committees shall be established by a majority vote of those members attending a regular or special meeting of the Board.

- B. The Board chairperson shall appoint committee members. The committee chairperson shall be selected by its members. The committee chairperson will be responsible for calling committee meetings, requesting needed assistance from DEP, and reporting to the Board, and shall receive necessary administrative and clerical support from DEP.
- C. Each committee shall develop and adopt a statement of purpose or objective of the committee at a meeting of that committee after its creation.
- D. The chairperson of the Board shall appoint a committee to prepare the Annual Report, as mandated by Section 18(g) of the Pennsylvania Surface Mining Conservation and Reclamation Act.
- E. A listing of the committees and their statements of purpose shall be maintained as an appendix to these bylaws. Changes to the appendix shall not constitute a change to the bylaws.

ARTICLE VIII
Meetings

The Board shall meet on the first Thursday of the months of January and July and the fourth Thursday of the months of April and October, unless changed by a majority of the members. Alternate meeting dates and special meetings shall be called by the chairperson, in consultation with the vice-chairperson. Committee meetings shall be called by committee chairpersons, who shall also notify the full Board.

ARTICLE IX
Participation by Non-Board Members

A. Formal Presentation

Any person may ask the Board for time on the formal agenda to present policy, regulatory or legislative concerns for the Board to consider. The request shall be made in writing to the chairperson and include a summary of the presentation. The chairperson shall determine the interest of the Board in the subject and decide if the presentation will be allowed during the formal agenda. Requests shall be submitted at least one month prior to a Board meeting.

B. Informal Discussion

At the discretion of the chairperson, any person present at the meeting shall be afforded the opportunity to speak to the Board or ask questions of Board members.

ARTICLE X
Amendments

The bylaws may be amended, repealed or suspended at any meeting of the Board by a two-thirds vote of the members of the Board, provided that written notice of such amendment, repeal or suspension shall have been sent to each member at least one week prior to said meeting.

ARTICLE XI
Board Representation

The Board shall act as a body in all matters before it and only the chairperson, or his or her designee, the vice-chairperson or the Board's designee shall speak on behalf of the Board.

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Appendix B

Meeting Dates During the Reporting Period July 2016 – June 2017

| Date | Pennsylvania Location | Meeting |
|--------------------|-----------------------------------------------|-------------------------------------------------|
| April 6, 2017 | Harrisburg | Full Board |
| March 30, 2017 | Harrisburg | Regulation, Legislation and Technical Committee |
| January 19, 2017 | Harrisburg | Full Board |
| October 20, 2016 | Harrisburg | Full Board |
| September 22, 2016 | Harrisburg | Regulation, Legislation and Technical Committee |
| July 21, 2016 | Ebensburg (Cambria District Mining Office) | Full Board (Annual Field Trip Meeting) |

Note: All meetings were offered in both in-person and conference call formats.

Appendix C

Board Committees for the Reporting Period July 2016 – June 2017

Annual Report Committee

| | |
|----------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| Darrel K. Lewis, Chairperson State Industries, Inc. P.O. Box 1022 Kittanning, PA 16201 Tel: 724-548-8101 | Duane Feagley PA Anthracite Council PO Box 138 Pottsville, PA 17901 Tel: 717-737-9825 |
| Rachel Gleason Pennsylvania Coal Alliance 212 North Third Street Suite 203 Harrisburg, PA 17101 Tel: 717-233-7900 | Tara L. Hazelwood PA House of Representatives 104A East Wing PO Box 202052 Harrisburg, PA 17120-2052 Tel: 717-783-0411 |

Policy Committee

Mark A. Snyder, Chairperson
State Industries, Inc.
P.O. Box 1022
Kittanning, PA 16201
Tel: 724-548-8101
Fax: 724-545-2989

Reclamation Committee

Duane Feagley, Chairperson
PA Anthracite Council
PO Box 138
Pottsville, PA 17901
Tel: 717-737-9825

Robert E. Hughes
EPCAMR
101 South Main Street
Ashley, PA 18706
Tel/Fax: 570-371-3522

Andy McAllister (Alternate)
WPCAMR
Green Forge Building
226 Donohoe Road, Suite 110
Greensburg, PA 15601
Tel/Fax: 724-832-3625

Appendix C (Continued)

**Board Committees for The Reporting Period
July 2016 – June 2017**

Regulation, Legislation and Technical Committee

| | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Jack R. Chamberlin, Chairperson 702 Chamberlin Road Brookville, PA 15825 Tel: 814-849-4181 Fax: 814-849-7166 | The Honorable Jeffrey P. Pyle Pennsylvania House of Representatives House Post Office Box 202060 Harrisburg, PA 17120-2060 Tel: 717-783-5327 Fax: 717-260-6511 |
| Duane Feagley (Alternate) PA Anthracite Council PO Box 138 Pottsville, PA 17901 Tel: 717-737-9825 | The Honorable Pamela Snyder PA House of Representatives 112 Irvis Office Building PO Box 202050 Harrisburg, PA 17120-2050 Tel: 717-783-3797 Fax: 717-772-3605 |
| Rachel Gleason (Alternate) Pennsylvania Coal Alliance 212 North Third Street, Suite 102 Harrisburg, PA 17101 Tel: 717-233-7900, ext. 24 | The Honorable Patrick J. Stefano Senate of Pennsylvania 183 Main Capitol Senate Box 203032 Harrisburg, PA 17120-3032 Tel: 717-787-7175 |
| Darrel K. Lewis (Alternate) State Industries, Inc. P.O. Box 1022 Kittanning, PA 16201 Tel: 724-548-8101 | The Honorable John Yudichak Senate of Pennsylvania 458 Main Capitol Senate Box 203014 Harrisburg, PA 17120-3014 Tel: 717-787-7105 Fax: 717-783-4141 |
| David D. Osikowicz Original Fuels, Inc. P.O. Box 343 Punxsutawney, PA 15767 Tel: 814-938-5171 Fax: 814-938-5008 | |