

Annual Report July 2023 – June 2024



**Commonwealth of Pennsylvania
Josh Shapiro, Governor
Department of Environmental Protection
Jessica Shirley, Acting Secretary**



**Pennsylvania
Department of
Environmental Protection**

EDITOR'S NOTE: All references in this report - including position titles held by individuals, legislative references and time references - are current for the time period ending June 2024.

A Message from MRAB Chairman David Osikowicz

On behalf of the Mining and Reclamation Advisory Board (MRAB) members, I am pleased to present for your review the Board's Annual Report, documenting the Board's activities from July 2023 through June 2024. The Board continues to address environmental problems related to past coal mining practices and to assist the Department 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 (SMCRA).

The Board holds four full board meetings per year, as outlined in the by-laws. For the 2023-2024 reporting period, full Board meetings were held on September 14, 2023; November 9, 2023; January 4, 2024; and April 25, 2024.

During the time frame of this report, Pennsylvania Department of Environmental Protection (PA DEP) staff provided the Board with regular updates on the status of Bond Rate Guidelines, Bureau of Abandoned Mine Reclamation (BAMR) Projects, Bureau of District Mining Operations (BDMO) activities and, the Alternative Bonding System (ABS) Legacy Sites.

The Board will continue to provide advice and technical input to the Department regarding expenditures and program administration of Abandoned Mine Lands (AML) 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 PA 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", with a stylized, flowing script.

David Osikowicz,
Chairman

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Introduction

The Mining and Reclamation Advisory Board (MRAB) 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 Secretary of the Pennsylvania Department of Environmental Protection (PA DEP or DEP), through the Bureau of Mining Programs (BMP), 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 SMCRA, 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.

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 current for the time period covered by this report are found in Appendix A.*

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:

Duane Feagley, Chairperson
Kenneth King
James Schmid
David Osikowicz

- **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 PA DEP's mining regulatory and abandoned mine reclamation programs.

Members of the committee:

Mark A. Snyder, Chairperson

- **Reclamation Committee**

The Ad Hoc 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 PA DEP's "Reclaim PA" program.

At the October 22, 1999 MRAB quarterly meeting, 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 Carl Walker Metzgar
The Honorable Patrick J. Stefano
The Honorable Carolyn Comitta
The Honorable James Haddock
Duane Feagley
Rachel Gleason
Kenneth L. King
David D. Osikowicz

FULL BOARD

SMCRA mandates that the MRAB meet four times per year. Throughout the reporting period, the full Board met four times. The following sections provide a summary of the activities of the full Board. For a complete list of meeting dates and locations, see **Appendix D**. Also, for more details on these meetings, refer to the MRAB web site at these links: [2023 \(pa.gov\)](#) and [2024 \(pa.gov\)](#) and, the MRAB meeting minutes.

2023-2024 MAIN AGENDA TOPICS (Presented Alphabetically)

Annual Production Reports

This reporting process will receive updates for next year.

Applications

PA DEP provided the Board with a detailed breakdown of application data at each meeting during this reporting period, including the number of applications by each District Mining Office (DMO) and application type. All figures are available through the MRAB meeting materials shown on the PA DEP website (under “MRAB”).

Application Fee Revenues

PA DEP provided the Board with revenue figures for the Surface Mining Conservation and Reclamation Act (SMCRA) and Clean Water Fund (CWF) during this reporting period. The time span covered included fiscal year 2018-2019 through the third quarter of fiscal year 2023-2024 (ending on March 31, 2024).

Bonding and Bond Rate Guidelines

During this reporting period, specifically, at the January 4, 2024 meeting, PA DEP provided the Board with the upcoming Coal Bond Rates for 2024. The 2024 rates went into effect on April 1, 2024.

Bureau of Abandoned Mines Reclamation (BAMR) Projects/Status Report

Updates on reclamation projects were supplied by PA DEP’s Bureau of Abandoned Mine Reclamation (BAMR) at each of the meetings during this reporting period. In 2022, there were 162 projects completed that reclaimed 391 acres, at a cost of about \$50 million. For 2023, there were 112 projects completed that reclaimed 341 acres, at a cost of \$26.8 million. For 2024 (as of the April 2024 meeting), there were 15 projects completed that reclaimed 3 acres, at a cost of \$627,000. For future completions, there are 27 projects to reclaim 787 acres, at a cost of \$97.8 million. Lastly, there are projects that are currently in 100 planned projects in the design or construction phases, that will reclaim over 4,252 acres, at a cost of \$365 million.

There were 63 emergency projects completed, at a cost of \$8.2 million in 2023; for 2022 there were 86 emergency projects completed, at a cost of \$3.7 million cost. At the April 2024 meeting, it was

reported that there were three 3 emergency contracts advertised, totaling \$450,000 and, 3 non-emergency contracts advertised, totaling nearly \$2 million.

During this reporting period, PA DEP BAMR also shared details on Federal funding:

- Bipartisan Infrastructure Law (BIL): The first annual award of \$244.9 million was provided to Pennsylvania in 2022 (under the BIL, there will be 15 such annual awards). As of the January 2024 meeting, the BIL award for 2023 was not yet received due to the need to justify the implementation of the STREAM (Safeguarding Treatment for the Restoration of Ecosystems from Abandoned Mines) Act for BIL projects. Thirty percent of the \$244.9 million would be placed in STREAM Act program. At the January meeting, it was reported that the federal Office of Surface Mining (OSM) had directed DEP BAMR to submit a legal opinion to prove its use of 30% its BIL monies to address long-term Abandoned Mine Reclamation funding. The 2022 grant application had been amended with this legal opinion letter and, the 2023 application was submitted with this information. At the end of 2023, seven non-emergency projects had been awarded, at a total of \$11.5 million, and once 1 additional project is awarded, a total of \$5.3 million of BIL monies have been obligated for projects. The main challenge for some projects involves getting property owner consent. As for the 63 emergency projects, 13 of these utilized BIL monies, at a cost of \$7 million.
- Abandoned Mine Lands (AML) Grant Program: In 2022 (only one round of funding), 16 subawards were granted for \$7.8 million. In 2023, they recommended in Round 1, 6 subawards totaling \$38.7 million, Round 2, 16 subawards totaling \$101 million, and Round 3, 22 applications were under review. In 2024, Round 1 opened on February 19, with 10 applications filed; Round 2 was opened June 3 and, Round 3 will open on September 23.
- DES-22 Request for Proposals (RFP): As per the April 2024 meeting, there are 20 executed agreements totaling \$3.8 million.
- Staffing: As of the September 2023 meeting, 71 new positions were added to BAMR and as of the April 2024 meeting, 35 of these positions were filled.

Changes in Meeting Dates

The July 20, 2023 and October 19, 2023 Board meeting dates were moved to September 14, 2023 and November 9, 2023 respectively, due to conflicts with accessing the large DEP conference room for the original meeting dates.

Deliverables

No deliverables were requested during the four meetings.

District Mining Offices (DMOs) Update

PA DEP provided the Board with updates on the activities of the DMOs (e.g., vacancies, workloads, processing of permit applications, management of overdue permit application

approvals) during this reporting period. A new Bureau Director, Randy Shustak, was introduced at the September 2023 meeting. Additionally, at the April 2024 meeting, it was announced that a new position was created and called the Treatment Trust Manager. This position will supervise the five Watershed Managers. Wendy Knauf, P.G. accepted the position and will be working out of the California Office. It was also reported that the permitting workload is currently being managed by the current staff, but an idea is being explored to share the responsibilities of permit application reviews among the District Mining Offices.

E-Initiatives

PA DEP provided the Board with updates on e-Initiatives, including electronic hydrologic monitoring reports (eHMRs), and a new public upload with a payment option, during this reporting period. There is a new tab on the Bureau of Mining Programs home page of the DEP website where individuals can access recent developments regarding the program. It was encouraged that Mine Employment and Production Reports be submitted by public upload or e-permitting. Coal mining permit applications are being updated to match the bituminous e-permitting application. The Transfer Application is being updated and a Revisions Application is in creation. DEP also reported that the public uploading is going well and, reminded the Board to check the BMP Program Updates page regularly for new or revised information. The new permit renewal form also has had no major issues.

Environmental Justice (EJ) Policy

During this reporting period, specifically, at the September 2023 meeting, the PA DEP Office of Environmental Justice (OEJ) gave a presentation on the DEP's Environmental Justice (EJ) policy. The presentation consisted of a history of the policy and the EJ mapping tools and how the calculations were made for the tools. The PennEnviroScreen tool for locating areas was demonstrated. Questions from the Board were then answered.

Federal Funding Reductions

During this reporting period, specifically at the September 2023 meeting, PA DEP reported to the Board that the Federal Office of Surface Mining (OSM) was reducing funding for the Title V programs to the States by \$1.2 million. It was noted that this amount had been decreasing over the last three years, even though costs have been increasing. PA DEP also reported that it was working with the Interstate Mining Compact Commission to better understand the distribution of funding. At the April 25, 2024 meeting, DEP again mentioned the funding issues to the Board.

Field Trip

The October 2023 field trip to several AMD treatment facilities and mine reclamation projects in western PA was canceled.

Importing Material to Mine Sites Presentation:

During this reporting period, specifically, at the April 25, 2024 meeting, PA DEP shared a presentation about the mining regulations governing mine sites and material that is imported and

which is authorized by a mining permit. She reminded everyone that the permits may require a major or minor revision which could result in additional monitoring and reporting.

Land Reclamation Financial Guarantees (LRFG)

During this reporting period, PA DEP provided details on the increase of LRFG permits and amount underwritten. The Board was shown the current information at each meeting for the LRFG Account including operators at the operator limit of \$3 million. It was also reported that the interest seems to be rebounding to previous levels (prior to 2021). These interest monies will be transferred into the Rec Fee O&M Account at the end of the year.

Licensing Section Chief

During this reporting period, a new Section Chief, Christopher Stewart, was hired in the PA DEP BMP's Licensing Section (his contact information was also shared). This section is now fully staffed and, insurance information can be submitted to Mr. Stewart's attention, via the BMP email.

National Pollutant Discharge Elimination System (NPDES) Permitting

There was no discussion concerning NPDES during this reporting period.

Postmining Discharge Operations and Maintenance (O & M) Bonds and Financial Trust Agreements

PA DEP provided regular updates regarding the status of Postmining Discharge O & M Trust Agreements during this reporting period. These arrangements included bonds, fully-funded trusts and partially-funded trusts.

Reclamation Fee Operations and Maintenance (O & M) Trust Account

PA DEP provided regular updates on the status of the Reclamation Fee Account during this reporting period, in terms of: 1) coal civil penalties collected and interest earned; 2) additional revenue transactions; and 3) LRFG premiums and interest. At the November 9, 2023 meeting, PA DEP presented the draft 2023 Reclamation Fee O & M Trust Account Report to the Board. The finalized report and reclamation fee of \$100/acre was published in the PA Bulletin in January 2024.

Revenues

During this reporting period, PA DEP provided regular status reports on application fee revenues from two main sources: 1) the Surface Mining Conservation and Reclamation Act (SMCRA); and 2) the Clean Water Fund (CWF).

Standard Operating Procedure (SOP) for Non-Discharge Alternatives

During this reporting period, PA DEP noted that a new SOP for Non-Discharge Alternatives was on the BMP's main web page.

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.

Appendix B

OFFICERS OF THE BOARD FOR THE REPORTING PERIOD July 2023 – June 2024

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

Appendix C

BOARD MEMBERSHIP FOR THE REPORTING PERIOD

July 2023– June 2024

Board Member	Position	Alternate
David Osikowicz	Bituminous Surface Mine Operator	Rachel Gleason
Mark Snyder	Bituminous Surface Mine Operator	Kenneth King
Jack Chamberlin	Licensed Professional Engineer	Rachel Gleason
Robert Burns	Anthracite Surface Mine Operator	Duane Feagley
Sen. Patrick Stefano	General Assembly	Mark Fetzko
Sen. Carolyn Comitta	General Assembly	Emily Eyster
Rep. Carl Walker Metzgar	General Assembly	Glendon King
Rep. James Haddock	General Assembly	None Named
John St. Clair	Citizens Advisory Council	Will Dando
James A. Schmid	Citizens Advisory Council	None Named
Cynthia Carrow	Citizens Advisory Council	None Named
Terry Dayton	Citizens Advisory Council	None Named
Robert Hughes	State Conservation Commission/Eastern PA Coalition for Abandoned Mine Reclamation (EPCAMR)	Andy McAllister

Appendix D

MEETING DATES DURING THE REPORTING PERIOD July 2023– June 2024

Date	Location	Meeting
September 14, 2023	Harrisburg/Microsoft Teams	Full Board
November 9, 2023	Harrisburg/Microsoft Teams	Full Board
January 4, 2024	Harrisburg/Microsoft Teams	Full Board
April 15, 2024	Harrisburg/Microsoft Teams	Full Board

All meetings were offered in conference call/Microsoft Teams formats, except where noted

Appendix E

MRAB COMMITTEES FOR THE REPORTING PERIOD

July 2023 – June 2024

Annual Report Committee

Duane Feagley, Chairperson PA Anthracite Council PO Box 138 Pottsville, PA 17901 Tel: 717-737-9825	David D. Osikowicz Original Fuels, Inc. P.O. Box 343 Punxsutawney, PA 15767 Tel: 814-938-5171
Kenneth L. King State Industries, Inc. P.O. Box 1022 Kittanning, PA 16201 Tel: 724-548-8101	James A. Schmid Schmid & Co., Inc., Consulting Ecologists 1201 Cedar Grove Road Media, PA 19063-1044 Tel: 610-356-1416

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

Regulation, Legislation and Technical Committee

<p>Jack R. Chamberlin, Chairperson 702 Chamberlin Road Brookville, PA 15825 Tel: 814-849-4181 Fax: 814-849-7166</p>	<p>The Honorable Carl Walker Metzgar PA House of Representatives 111 Ryan Office Building PO Box 202069 Harrisburg, PA 17120-2069 Tel: 717-783-8756 Fax: 717-782-2911</p>
<p>The Honorable Carolyn T. Comitta Senate of Pennsylvania Room 457, Main Capitol Building PO Box 203019 Harrisburg, PA 17120 Tel: 717- 787-5709 Fax: 610-436-1721</p>	<p>David D. Osikowicz Original Fuels, Inc. P.O. Box 343 Punxsutawney, PA 15767 Tel: 814-938-5171 Fax: 814-938-5008</p>
<p>Duane Feagley (Alternate) PA Anthracite Council PO Box 138 Pottsville, PA 17901 Tel: 717-737-9825</p>	<p>The Honorable James Haddock PA House of Representatives 101A East Wing P.O. Box 202118 Harrisburg, PA 17120-2118 Tel: 717-787-3589 Fax: 717-780-4763</p>
<p>Rachel Gleason (Alternate) Pennsylvania Coal Alliance 212 North Third Street Suite 102 Harrisburg, PA 17101 Tel: 717-233-7900, ext. 24</p>	<p>The Honorable Patrick J. Stefano Senate of Pennsylvania 183 Main Capitol Senate Box 203032 Harrisburg, PA 17120-3032 Tel: 717-787-7175 Fax: 724-626-1611 or 814-443-2057</p>
<p>Kenneth L. King (Alternate) State Industries, Inc. P.O. Box 1022 Kittanning, PA 16201 Tel: 724-545-7447 Fax: 724-545-2989</p>	