



**Minutes of the
October 30, 2019 Meeting of the
Water Resources Advisory Committee (WRAC)**

Call to Order, Introductions and Attendance –John Jackson called the meeting to order at 9:40 am on Wednesday, October 30, 2019, 2019 in Room 105 of the Rachel Carson State Office Building, Harrisburg, PA. Participation in this meeting of 15 members represents a quorum.

The following committee members were present:

Shirley Clark, Pennsylvania State University
Kent Crawford
Matthew Genchur, White Township
Jeff Hines, York Water Company
John Jackson, Stroud Water Research Center
Gary Merritt, NSG
Dean Miller, Pennsylvania Water Environment Association
Stephen Rhoads
Jeff Shanks, Waste Management
Steve Tambini, Delaware River Basin Commission
Sara Whitney, Pennsylvania Sea Grant
Charles Wunz, Wunz Associates

The following committee members were present (via phone):

Myron Arnowitz, PA Clean Water Action
Harry Campbell, Chesapeake Bay Foundation
Jenifer Christman, Western Pennsylvania Conservancy

The following committee members were not present:

Andrew Dehoff, Susquehanna River Basin Commission
Theo Light, Shippensburg University
Cory Miller, UAJA/PDMA

The following DEP staff members were present:

Roger Adams, Bureau of Waterways, Engineering and Wetlands
Rebecca Albert, Regional Permit Coordination Office
Elsa Ault, Regional Permit Coordination Office
Brian Chalfant, Policy Office
Nathan Crawford, Bureau of Clean Water
Adam Duh, Office of Chief Counsel
Rebecca Dunlap, Regional Permit Coordination Office
Andrew Foley, Regional Permit Coordination Office
Sidney Freyermuth, Bureau of Waterways, Engineering and Wetlands
Robert Haines, Bureau of Clean Water
Tiffany Landis, Regional Permit Coordination Office
Andrew McDonald, Bureau of Waterways, Engineering and Wetlands
Ken Murin, Bureau of Waterways, Engineering and Wetlands



Nicholas Rossi, Regional Permit Coordination Office
Steve Taglang, Bureau of Clean Water
Diane Wilson, Bureau of Clean Water

The following guests were also present:

David Anderson, Rettew Associates
Aaron Maurer, WM

Review and Approval of Minutes from July 25, 2019 Meeting –Gary Merritt made a motion to approve the minutes. Stephen Rhoads seconded the motion. The motion was approved by unanimous vote.

Small Flow Treatment Facility Manual Update – Jay Patel - Bureau of Clean Water- presented information about updates to DEP’s Small Flow Treatment Facility (SFTF) Manual which provides design guidance for systems with design flows of less than 2,000 gpd. There are approximately 915 SFTFs operating under Water Quality General Permit (WQG)-01. The proposed WQG-01 allows for new proprietary technologies to be eligible for coverage if they meet certain criteria. Updates to the manual include:

- Definitions
- Organic design criteria
- PennDOT specifications for coarse aggregate
- Specifications for installation of building sewer
- Dosing frequencies
- Revised Sand Specifications
- Deletion of CO-OP RFS-III sand filter
- Addition of monitoring ports
- Addition of Advanced Alternate Technologies
- O&M for sand filters and disinfection.

The proposed SFTF Manual and WQG-01 allow for the use of proprietary treatment technologies that have been evaluated under the TVP and meet the standards for advanced secondary treatment standard and a fecal coliform standard of 200 counts / 100mL. This allows the proprietary technologies to be covered under WQG-01 rather an individual permit and lessens the time for approval of these technologies.

Chapter 102 Fee Report– Nathan Crawford – Bureau of Clean Water – explained that the current Chapter 102 regulations, which govern erosion and sediment control, became effective on November 19, 2010. As part of the Chapter 102 regulations, DEP reviews the adequacy of the fees established in the regulations, once every three years, and provides a written report to the Environmental Quality Board. The current fees under Chapter 102 include a base administrative filing fee of \$500 for General Permit applications and \$1500 for Individual Permit applications. In addition, the disturbed acreage fee is \$100 per disturbed acre.



The fees included in the report are only the additional administrative filing fee or the disturbed acreage fee, which are always paid to the Commonwealth of Pennsylvania. The base administrative filing fee was not included in the report, as that fee is paid to the entity that performs the completeness review of any permit application. For chapter 102 permit applications, that fee is usually paid to the County Conservation Districts.

The fee report looked at fiscal years, 2013 – 2014, 2014 – 2015, 2015 – 2016, 2016 – 2017, and 2017 – 2018. Five years were analyzed because the last fee analysis was done for fiscal year 2012 – 2013. DEP operated at a surplus in fiscal year 2013 – 2014, but then operated at a slight loss in fiscal year 2014 – 2015. In fiscal year 2015 – 2016, DEP operated the Chapter 102 program at an even level. However, DEP has operated the Chapter 102 program at a significant loss for fiscal years 2016 – 2017 and 2017 – 2018.

The program costs are the DEP staff costs, from the DEP central and regional offices, based upon time coded from timesheets. The fees collected are the disturbed acreage fees collected paid to the Commonwealth. These were collected from the accounting of deposits made into the Clean Water Fund which were coded to Chapter 102 disturbed acreage fees. The next step of DEP's fee analysis was to look at future operating costs and fees collected during fiscal years 2018 – 2019, 2019 – 2020, and 2020 – 2021.

To account for general increases to staffing costs, an estimated increase of 4% was assumed. In order to account for future projected growth in earth disturbance projects, the fees collected were estimated to grow by 4.4% in the first fiscal year and then by only 2.4% for each of the last 2 fiscal years.

Based upon the estimated program cost growth being larger than the estimated fees collected for the final 2 fiscal years, it analyzed that DEP will operate the Chapter 102 program at a loss of almost one million dollars in fiscal year 2020 – 2021.

Draft Technical Guidance: Environmental Considerations for the Construction and Operation of Trenchless Technology – Andrew Foley, Regional Permit Coordination Office indicated that he is presenting this draft technical guidance document (TGD) on behalf of the Bureau of Waterways Engineering and Wetlands. The Regional Permit Coordination Office (RPCO) plans to present it again next year after it has been developed further. DEP reached a settlement of litigation on July 26, 2018 with the Clean Air Council, the Delaware Riverkeeper Network, and Mountain Watershed Association with regard to the Mariner East II Pipeline Project. As part of that settlement, DEP committed to establishing workgroup(s) consisting of appropriate stakeholders to reflect the interests of representatives from the Appellants, DEP, and a select number of representatives chosen by DEP to represent the interests of proponents regarding the potential development of draft policy, procedure, and/or guidance documents.

The workgroup changed the title of the TGD from the Horizontal Directional Drilling (HDD) TGD to the Trenchless Technology (TT) TGD because HDD is only one type of Trenchless Technology. The workgroup wanted this TGD to encompass all types of TT, not just HDD. In this TGD the user will find:

- policies, procedures, and best practices to aid in the prevention of adverse environmental impacts from construction in Pennsylvania utilizing TT.
- a road map for project proponents

- the steps and options to be considered when a project proponent, for any project (e.g., fiber optic, pipeline, etc.) proposes the use of a TT construction method)
- a suitability and feasibility analysis, as well as Environmental Considerations, a design and permitting section, and a construction and compliance section.

Draft Technical Guidance: Methods to Consider to Complete Alternative Analysis –

Rebecca Dunlap - Regional Permit Coordination Office- indicated that she is presenting this draft TGD on behalf of BWEW. The impetus for this TGD is the same as the one for TT – part of a settlement agreement with appellants regarding the Mariner East II Pipeline Project. The alternatives analysis (AA) is the project applicant’s written documentation of efforts to avoid or minimize environmental impacts and to demonstrate to DEP that impacts from the proposed water obstruction(s) and encroachment(s) have been avoided and minimized to the greatest extent practicable. In most circumstances, an AA will be expected to include an off-site or location component, an on-site or design component, be project-specific, and be commensurate with project scope.

Other project-specific regulatory considerations could include: public safety; aviation issues; maritime, navigation, and shipping lane issues; public land trusts such as public access and submerged lands license agreements. It is strongly encouraged that applicants reach out to DEP during the preapplication process regarding other considerations: Aquatic Resource Impact; Cost; Existing Technology; Environmental Policies and Best Management Practices.

Four work groups met to develop details related to specific types of development: residential; commercial; industrial and institutional/educational.

Four work groups met to discuss details related to specific projects types such as: linear projects; transportation projects; restoration and abatement projects.

The TGD also includes the following recommendations about the AA:

- Is expected to be commensurate to project type and scope.
- Requires a complete and accurate identification of the aquatic resources on and near the project site.
- Allows the applicant to document the necessity of aquatic resource impacts and document that those impacts cannot be further avoided and minimized.
- Process should begin during the initial project planning phase.
- Applicant is expected to prepare and present a thoroughly vetted and defensible AA to DEP.

Chapter 105 Update – Roger Adams and Ken Murin– Bureau of Waterways Engineering and Wetlands- updated WRAC on efforts and plans to revise parts of 25 Pa. Code Chapter 105 as a follow-up to their presentation at the July 25, 2019 WRAC meeting. This is proposed rulemaking would amend the Chapter 105 regulations by: clarifying existing requirements; deleting or updating obsolete and antiquated requirements; incorporating new or revised sections and definitions; and correcting previous typographical errors discovered in certain sections since previous rulemaking efforts were finalized.



Mr. Adams expressed a goal of getting a proposed rulemaking package revising Chapter 105 to the Environmental Quality Board in the first or second quarter of 2020. A draft Annex should be available towards the end of 2019 and is not ready for prime time yet.

General Discussion – None

Action Items

1. DEP presentations requested by WRAC members:
 - a. Impairment of the Susquehanna River **-presented at 5/23/19 meeting.**
 - b. The Science of Manganese – **presented at 5/23/19 meeting.**
 - c. Integration of the modifications to the Stormwater Management Control Manual and Chapter 102 into Mining and Reclamation for Coal/Non-Coal and Waste Management
 - d. ePermitting for Chapter 102 during beta-testing
 - e. Ongoing measures of adaptive management using Alternative Restoration Plans
 - f. Agricultural Operations Inspections - **presented at 3/28/19 meeting.**

2. 6-9 month look ahead on potential regulatory and non-regulatory topics to WRAC for comment:
 - a. Chesapeake Bay Update
 - b. Water Allocation Permit Applications
 - c. Act 162 of 2014 Implementation Plan
 - d. Design Standards for Wastewater Facilities
 - e. Small Flow Treatment Facilities
 - f. Draft Technical Guidance: Methods to Consider to Complete Alternative Analysis
 - g. Draft Technical Guidance: Environmental Considerations for the Construction and Operation of Trenchless Technology
 - h. Per- and polyfluoroalkyl substances (PFAS)

Public Comment – None

A motion was made for the meeting to adjourn by Steve Tambini and was seconded by Jeff Shanks. The meeting adjourned at 11:40 a.m.