

**Draft Minutes of the  
February 25, 2009 Meeting of the  
Water Resources Advisory Committee (WRAC)**

The special meeting of the WRAC was called to order at 10:07 a.m. by Chairperson Stephen Rhoads on Wednesday, February 25, 2009 in the Susquehanna Room of the South Central Regional Office Building in Harrisburg, PA.

**The following committee members were present:**

David M. Anderson, P.G., Moody & Associates, Inc.  
Buddy Beach, P.E., CONSOL Energy (retired)  
Robert M. Cavett, Merck & Company, Inc.  
Matthew J. Ehrhart, Chesapeake Bay Foundation  
D. Ty Gourley, University of Pittsburgh  
Jeffrey Hines, York Water Company  
John K. Jackson, Stroud Water Research Center  
Gary Merritt, Inter Power Development Corp.  
Cory Miller, University Area Joint Authority  
Stephen Rhoads, Pennsylvania Oil & Gas Association; **Chairperson**  
Edith Stevens, League of Women Voters of PA  
Dr. Robert Traver, Villanova Urban Stormwater Partnership  
Bob Wendelgass, Clean Water Action  
E. Charles Wunz, P.E.; Herbert, Rowland & Grubic, Inc.

**The following committee members were not present:**

Donald C. Bluedorn II, Esquire; Babst, Calland, Clements & Zomnir  
Carol R. Collier, Delaware River Basin Commission  
Art Gazdik, P.E., Ross Township  
Nick J. Pinizzotto, Western Pennsylvania Conservancy

**The following DEP staff members were present:**

Dean Auchenbach, Bureau of Watershed Management (BWM)  
Barbara Beshore, BWM  
Jineen Boyle, South Central Regional Office (SCRO)  
Janis Dean, Citizen's Advisory Council  
Rick DeVore, SCRO  
Karen Ely, BWM  
Fred Fiscus, BWM  
Mary M. Golab, SCRO  
John Hines, BWM  
Joe Kelly, BWM  
Allyson McCollum, SCRO  
Ken Murin, BWM

Meg Murphy, Bureau of Regulatory Counsel  
Cathy Curran Myers, Office of Water Management  
Domenic Rocco, SCRO  
James Spontak, SCRO  
Scott Williamson, SCRO  
Ramez Ziadeh, SCRO

**The following guests were also present:**

Thomas Au, Sierra Club  
Mary Anna Babich, Regulatory Manager, EXCO-North Coast Energy  
Scott C. Blauvelt, MSC  
Karl Brown, PA State Conservation Commission  
Steve Dadio, PA Association of Professional Soil Scientists (PAPSS)-CMX  
Joe Dawley, EAT Corp.  
Tanya Dierolf, PennFuture  
Eric E. Ernst, Union County Conservation District  
James Fava, Brandywine Valley Association  
Grant Gullibon, PA Builders Association  
Rhonda Hakundy-Jones, P.G., PA Council of Professional Geologists  
Rich Hudis, TeamPA  
Rachelle King, MSC  
Russell Losco, PAPSS  
Roberet McHale, Tetra Tech Nuclear Utility Services  
Anne Misak, Clean Water Action  
Susan Marquardt, PA Association of Conservation Districts  
Deb Nardone, PA Trout Unlimited  
Bruce Pysner, Northampton County Conservation District  
Matt Royer, Chesapeake Bay Foundation  
Bruce Snyder, Range Resources  
Carla Suszkowski, Range Resources  
Steve Todd, P.E.  
Barry Travelko, Clearfield County Conservation District  
Adam Voorhees, Northumberland County Conservation District  
Paul White, PACPG -Brickhouse Environmental

**General WRAC Business**

Mr. Rhoads began the meeting by asking the WRAC members and the audience to introduce themselves. When this was completed, he announced that the purpose of this special meeting would be to review and discuss only one topic: the proposed NPDES Permit-by-Rule. He described the meeting format; then he introduced Mr. Hines of the DEP.

## Permit-by-Rule Overview

**John Hines**, Acting Director of the Bureau of Watershed Management, [johines@state.pa.us](mailto:johines@state.pa.us), began his presentation by stating that the draft of the proposal being discussed at this meeting would be its most basic form, and that it would not reflect all of the feedback received from the various groups who communicated with the DEP on this issue. Mr. Hines then presented a PowerPoint® overview entitled the “Streamside Improvement and Buffer Initiative.” He stated that the overall goals of this initiative are:

- to begin incorporating buffers into the permitting process
- to aid in the assessment of DEP programs in light of current economic conditions
- to begin matching permitting complexity with potential environmental risk.

He also emphasized that the Permit-by-Rule (PBR) would be an *additional* permitting option that would not replace any current permitting processes.

Mr. Hines listed and described the main components of the proposal, a draft of which has been posted as [Chapter 102 Permit by Rule](#) in the Agendas/Handouts section of the WRAC’s main website. He also announced that DEP staff are working on a guidance document for riparian buffers.

**Cathy Curran Myers**, Deputy Secretary for Water Management, [cathmyers@state.pa.us](mailto:cathmyers@state.pa.us), addressed specific issues and facts regarding the nature and purpose of PBRs. She said the main reason for their creation is to begin to encourage developers and the public to move toward low-impact “green” projects. She added that, as the number of permits continues to increase, PBRs would offer a better way of permitting low-risk projects to include a high degree of protection. Deputy Secretary Myers also announced that exceptional-value (EV) watersheds, though they cannot go through the PBR process, would still be required to have streamside buffers.

Deputy Secretary Myers; Mr. Hines; Ken Murin, Chief of the Waterways, Wetlands, and Stormwater Management Division; and Meg Murphy of the Bureau of Regulatory Counsel responded to questions and comments first from WRAC members, and then from the audience.

## Questions and Comments

Questions and comments from the WRAC members were on the following topics:

- whether this proposal meets the technical definition of a permit by rule
- how a general requirement can be applied to site-specific permits
- what extra restrictions are proposed for high-quality (HQ) watersheds
- why EV watersheds are excluded
- whether something updated more frequently would be a better guidance document than existing Best Management Practice (BMP) manuals for the proposed PBRs
- whether fifteen (15) days is a sufficient DEP review period for PBRs
- whether additional training should be required for professionals working on PBRs
- why pre-application meetings are not required for PBRs
- what the time-period should be for public comment

Audience questions and comments involved these topics:

- what percentage of land would fulfill PBR requirements (where could they be used)
- whether BMP manuals could be improved to include more specific soils information
- what the schedule is for the development of this rule
- what kinds of reviews would be performed during the 15-day review period
  - would conservation districts be involved in DEP review
  - would conservation districts perform anti-degradation reviews
  - would technical reviews be included

**Section-By-Section Review of the Draft Proposal:** (WRAC member questions and comments)

(b)

- 1) If non-discharge BMPs are used, why must EV watersheds be excluded?
- 2) Would susceptibility apply to temporary projects that return the land to its original contours?
- 5) How will adverse effects to endangered or threatened species be evaluated?

(c)

- 1) Buffers should be based on stream corridors versus stream banks, because streams move. How would current law apply if the registrant is not the owner of the property? What kind of time-scale will DEP use in assessing buffer compliance? The WRAC would like to see a draft of the Riparian Buffer Guidance document at its next meeting.
- 2) Could large parcels of land be developed as several one-at-a-time 25-acre projects?
- 3) The language is unclear about how 20% increase in impervious surfaces.
- 4) Stormwater Management Authorities should be listed in addition to municipalities.
- 6) Should sheet flow discharge rates be listed in addition to point discharge rates?
- 7) The critical stages should be listed and defined.
- 8) Who issues the Verification of Coverage?

(d) Subsection c should be rewritten to include subsection d.

(f)

- 7) What constitutes an “authorized local, state, or federal government official?”

(h)

- 3) Bio-retention practices should be listed in addition to infiltration practices.

(j) Is the review period to be fifteen (15) calendar days or business days?

(l) The wording of l1 and l2 are inconsistent with each other.

**Audience Questions and Comments:**

- Will people choose PBRs, if they are both more difficult and more expensive than existing permits?
- If they have so many exclusions, how much land will meet the criteria for PBRs?
- The requirements should include proper soil science for non-discharge BMPs.
- Streamside buffers are the best way to reduce runoff pollution and should be mandatory.
- Mandatory buffers would have a negative economic impact, and they are not the best solution to maintain stream quality.

**The chair adjourned the meeting at 1:49 p.m.**