

**Commonwealth of Pennsylvania
Sewage Advisory Committee
Minutes of the Meeting
March 6, 2013**

Membership and function of this committee is established by 35 P.S. § 750.4. Successors to the entities listed in the statute retain the right to representation of the original organization named in the statute, but are not entitled to more than one member, if they have merged.

Sixteen (16) organizations with voting members/alternates were recorded as present. Fourteen (14) organizations' members/alternates were Not Present. Three (3) member organizations have no current appointed member or alternate. The minimum quorum is one third of 30 appointed members/alternates able to cast votes. For this meeting, sixteen (16) organizations were present which exceeds the minimum ten (10) for a quorum.

Members are shown in boldface. Organizations and members and/or alternates present are indicated by mark (▶).

Member Alternate Member	Organization
▶ Samuel M. D'Alessandro, P.E., P.P., P.L.S. [chairperson] Charles B. Zwally, Esq.	Pennsylvania Vacation Land Developers Association
▶ Jacqueline A. Peleschak, P.E. Mark A. Malarich, P.E.	American Council of Engineering Companies of Pennsylvania
Arthur Hall Adams, AIA Caroline E. Boyce, CAE	American Institute of Architects--Pennsylvania
▶ John F. Wagman Gregory F. Scott	American Society of Civil Engineers
Scott E. Russell, P.E. ▶ Michael A. Schober, P.E.	American Water Works Association (PA Section)
Commissioner Jeff Wheeland Douglas Hill	County Commissioners Association of Pennsylvania
Ralph DeFazio Kyle Schmeck	County Departments of Health, Local Health Agencies
Sandra Orth Mary J. Smith	Department of Community & Economic Development
(No member) Andrew Paris	Governor's Policy Office

Jonathan R. Beers, P.E. Steven E. Douglas	League of Cities and Municipalities
(No member) (No alternate)	Mortgage Bankers Association of Pennsylvania
(Member vacant) David R. Kauffman, P.E.	National Association of Water Companies
Michael McGraw (No alternate)	Pennsylvania Association of Plumbing, Heating & Cooling Contractors
Bruce Willman Catherine L. Sorace	Pennsylvania Association of Professional Soil Scientists
▶ Robert T. Wood William McLaughlin	Pennsylvania Association of Realtors
▶ Chris Wood Kevin Bitz	Pennsylvania Association of Sewage Enforcement Officers
Eugene E. Dice, Esq. ▶ Andrew T. Bockis	Pennsylvania Bar Association
John Gigliotti ▶ Grant Gulibon	Pennsylvania Builders Association
Eric R. Conrad, P.G. John Walliser, Esq.	Pennsylvania Environmental Council, Inc.
Keith Klingler (no alternate)	Pennsylvania Land Owners Association, Inc.
▶ Anita Stabile Steven Hann	Pennsylvania Municipal Authorities Association
Charles R. Waddy ▶ Gregory A. Marshall	Pennsylvania Onsite Wastewater Recycling Association
Mourice G. Waltz Eugene Briggs, AICP	Pennsylvania Planning Association
Bruce E. Fox ▶ Jeff Rachlin	Pennsylvania Septage Management Association
Brian L. Book, P.E. John G. Fuehrer, II, P.E.	Pennsylvania Society of Professional Engineers
▶ Dan O'Connell Thomas Klaum	Pennsylvania State Association of Boroughs
Comm. Ginnie Anderson Kane Comm. Frank Linn	Pennsylvania Association of Township Commissioners

Andrew J. Boni ▶ James Wheeler	Pennsylvania State Association of Township Supervisors
▶ Duane E. Mowery Alison J. Shuler	Pennsylvania Water Environment Association
▶ Dr. Patrick Drohan Dr. Henry Lin	The Pennsylvania State University
▶ John Williams Susanne Gantz	USDA Rural Development Mission Area
Organization internal policy no longer allows participation	US Department of Housing and Urban Development
Organization currently no longer functioning	Pennsylvania Environmental Health Association
Other attendees:	
Sue Ahern	Evans Mill Environmental
Scott Armbrust	Hazen and Sawyer
Katie Blansett	PHRC, Penn State
Lori Books	Lebanon County Planning
Brad Hengst	POWRA
Jeff Kazlavskas	Governor's Policy Office
Mark Maloney	HMLC, LLC
Mark Mills	Soil Resources, Ltd.
Gordie Sheetz	Lebanon County Planning
Joseph Valentine	PSMA
DEP Representatives:	
Duke Adams	Executive Assistant
Doug Brennan	Director, Regulatory Counsel
Kim Childe	Attorney, Regulatory Counsel
John Diehl	Chief, Act 537 Management Section, Division of Planning and Permits, Bureau of Point and Non-Point Source Management (BPNPSM)
Keith Dudley	Planning and Finance Chief, DEP SERO

Ron Furlan	Environmental Program Manager, BPNPSM
Sean Gimbel	Executive Policy Specialist, DEP Office of Policy and Communication
Nick Hong	EES, Act 537 Management Section, BPNPSM
Jason Oyler	Attorney, Regulatory Counsel
Thomas Starosta	Environmental Engineer Consultant, BPNPSM
Lee McDonnell	Director, BPNPSM
Janice Vollero	WPS, Act 537 Management Section, BPNPSM

Call to Order

The meeting was called to order by Chairperson Samuel D'Alessandro at 10:31 am in Room 105 of the Rachel Carson State Office Building. Meeting sign-in sheets were circulated and a quorum was present.

Old Business

Approval of the minutes of the Meeting of February 8, 2013

The Committee approved the minutes of the Meeting of February 8, 2013 without changes.

New Business

Nominations for 2013- 2015

In accordance with Section 4 of the Pennsylvania Sewage Facilities Act, members of the Sewage Advisory Committee must be appointed by the Secretary of the Department of Environmental Protection every two (2) years. Typically, each organization has a total of two representatives comprised of one member and one alternate.

The roster of nominations for the term beginning April 1, 2013 to March 31, 2015 is currently being reviewed by the Secretary of DEP. To provide equal opportunity for all the members/alternates appointed to the next term to be elected an officer, Samuel D'Alessandro recommended that the nominations for Chairperson and Vice-Chairperson be placed on hold until the Secretary has officially made his appointments.

As of March 6, 2013, the following organizations have not submitted nominations for the April 1, 2013 to March 31, 2015 term:

- PA Builders Association
- PA Environmental Council

The representative of the Pennsylvania Builders Association indicated that their organization's nomination is in the process of being submitted.

A committee member indicated that they will contact the PA Environmental Council to seek a nomination for their organization.

Discussion of Chapter 102 Regulations Relative to “Application for an Onlot Sewage Disposal System Permit.”

When a permit for earth disturbance activities is required under the Chapter 102 Erosion and Sediment Control regulations (typically when more than one acre will be disturbed), Section 102.43 requires that the earth disturbance permit be obtained before other local permits or approvals for the activity are issued. Under this provision, an applicant for an onlot sewage disposal system who is required to obtain a Chapter 102 earth disturbance permit would need to obtain the earth disturbance permit before submitting an application to a sewage enforcement officer (SEO) for an onlot sewage disposal system.

The *Application for an Onlot Sewage Disposal System Permit* has been amended to include the following two check boxes:

- Permit or coverage under Chapter 102 Erosion and Sedimentation Control required
- Permit or coverage under Chapter 102 Erosion and Sedimentation Control obtained

The reverse side of the *Application for an Onlot Sewage Disposal System Permit* has brief instructions on the checkboxes.

The applicant is responsible for marking these checkboxes when permit coverage under Chapter 102 applies. No additional responsibility regarding Chapter 102 is placed on the SEO.

Questions and Comments from the Committee

Question #1: If the “Permit or coverage under Chapter 102 Erosion and Sedimentation Control required” is checked but the “Permit or coverage under Chapter 102 Erosion and Sedimentation Control obtained” is unchecked should the permit be issued?

DEP Response: No. The permit applicant should be advised that the permit is incomplete because a Chapter 102 individual permit or coverage under a Chapter 102 general permit has not been obtained.

Question #2: Is the Department requiring proof if “Permit or coverage under Chapter 102 Erosion and Sedimentation Control obtained” is checked?

DEP Response: No. The Department is not requiring proof. However, the local agency may require additional proof.

A member of the Committee indicated that at the PASEO conference held on March 4-5, 2013, SEOs would prefer to have “Yes/No” checkboxes on the application form.

A member of the Committee forwarded additional comments on amending the Application for an Onlot Sewage Disposal System Permit. The comments are primarily to update the form to include additional checkboxes relating to conventional and alternate technologies that are not on the current application form.

A member of the Committee indicated that the bottom of the form has two copies being sent to the local agency.

A member of the Committee recommended that SEOs have a list of contacts for applicants with questions about regulatory requirements beyond Chapters 71-73. It was suggested that the local Conservation District or DEP Regional Office be used as contacts for Chapter 102 requirements.

The Department intends to notify the SEOs through a letter to all SEOs or through an announcement on the Department’s website regarding the changes to the application form relating to Chapter 102.

Discussion of Draft Technical Guidance: “Sewage Facilities Planning Module Review for Onlot Sewage Systems Proposed in High Quality and Exceptional Value Watersheds”. Herein referred to as the “guidance document.”

The guidance document addresses siting onlot systems in special protection watersheds. The objective of the guidance document is to assure compliance with Chapter 93 antidegradation regulations which require that water quality in special protection watersheds be protected and maintained. The guidance document recommends cost-effective and reasonable best management practices (BMPs) to maintain and protect water quality when reviewing sewage facilities planning modules for proposed individual or community onlot sewage systems in high quality (HQ) and exceptional value (EV) watersheds.

The Department advised that the proposed guidance document was published in the PA Bulletin on March 2, 2013 for a 60-day public comment period that ends on May 1, 2013. The Department requests that SAC submit their comments within the 60-day comment period. The Department will then finalize the guidance document, as appropriate, in response to public comments and publish a notice of the final guidance in the PA Bulletin.

The Chairperson recommended that individuals interested in providing further comment on the guidance document be on a subcommittee to discuss the guidance document. The Department agreed to make DEP representatives available at the subcommittee meeting. The subcommittee meeting was scheduled for March 18, 2013 at the Rachel Carson State Office Building.

A member of the Committee recommended that the Committee provide general comments/questions on the proposed guidance at this meeting and reserve the more detailed comments/questions for the subcommittee meeting.

Questions from the Committee on the Guidance Document.

Question #1:

Are the BMPs provided in the guidance document scientifically acceptable in the community?

DEP Response:

The Department believes the BMPs provided in the proposed guidance will protect and maintain water quality in high quality (HQ) and exceptional value (EV) watershed as required by the Chapter 93 regulations.

Question #2:

In the Pine Creek Valley Watershed Association, Inc. Environmental Hearing Board (EHB) decision, the EHB noted that "...The Department's reliance on this buffer as a vehicle for denitrification is somewhat of a mystery to us. Sigouin calculated the nitrate concentrations that are likely to be in the plumes after they cross the buffer zone and just as they enter the wetland ... Therefore, what will happen in the plumes before they cross into the wetlands is meaningless in this appeal...There also is no evidence of record to credibly support Sigouin's assertion that denominating a non-wetland area as a "riparian buffer" magically renders it a denitrification zone. We very recently and in great detail upheld the Department's conclusion that very little denitrification occurs in non-wetland environments." Based upon the transcript of the EHB decision, a committee member indicated that there may be insufficient science to justify that nitrogen removal will occur through riparian buffers. And yet the Department is placing this BMP as the one with the most potential to remove nitrates.

DEP Response:

The Department has evaluated peer-reviewed studies and literature on the ability for riparian buffers to reduce nitrates. The research confirms the ability of riparian buffers to effectively reduce nitrates.

Question #3:

A committee member reported that both the guidance manual will have a large economic impact on developer's ability to develop the land and the guidance manual will have an impact on the possibility for the developer's ability to develop the land given the restrictions of the guidance manual. The committee member indicated that no data exists to show that nitrates are a problem and, if nitrates are a problem, onlot sewage treatment systems are not the cause of the problem.

A committee member indicated that even with increased housing there isn't evidence of a problem with nitrates. The committee member questioned the rationale for the Department to promulgate a new policy when there is insufficient evidence of there being a nitrate problem.

DEP Response:

The Northeast portion of the state is able to be protect EV/HQ watersheds with natural riparian buffers that exist near the stream. The guidance manual would effectively allow developers to take credit for those natural riparian buffers. Essentially, developers would not need to finance the riparian buffers other than the price of the land and the land near the stream would not be able to be developed as the land would need to be protected from the flood plain.

In the *Pine Creek* case, the Department was unable to demonstrate through the point source plume analysis that the watersheds would be protected and maintained. The EHB did not focus on whether nitrates were a problem but on protecting and maintaining water quality. As a result of the EHB decision, the Department has reviewed the type of analysis needed to meet the Chapter 93 requirements to protect and maintain water quality in EV/HQ watersheds. The Department has chosen to utilize the nonpoint source BMP approach consistent with the Chapter 93 requirement to implement reasonable and cost-effective BMPs for non-point sources of pollutants.

The guidance document was intended to be flexible to allow for credits where permissible. Possible credits include but are not limited to the following:

- (1) When the potential for nitrates to reach the stream are reduced when lots are larger than one acre;
- (2) When lots are further away from a stream, or
- (3) When other BMPs enumerated in the guidance document are used.

Question #4: For those parcels that have already been approved through planning modules prior to the guidance document being finalized, will the developer be required to re-submit their planning module to conform to the requirements of the guidance document should the housing be immediately adjacent to an EV/HQ stream?

DEP Response: No. The developer will not be required to re-submit a planning module unless the development changes or some other reason triggers the need for new planning. For an onlot system already approved in a planning module, permitting of the onlot system is completed at the local agency level and not at the state level. For larger onlot systems with approved planning

modules, DEP will issue the permits and will need to evaluate on a case-by-case basis whether any additional BMPs would be appropriate.

Question #5: A committee member inquired whether alternatives other than those included in the guidance manual were considered to comply with the Chapter 93 requirement to protect and maintain water quality in EV/HQ watersheds?

DEP Response: The Department considered different modeling techniques based on its experience with evaluating point source discharges to streams. However, for onlot systems that involve flow through soils and groundwater, this modeling would have involved introducing new aeration constants, plume plots, and/or mass balances. In considering alternative solutions, the Department was guided by the requirements of Chapter 93 that (1) water quality be maintained and protected, and that (2) nonpoint sources be controlled by cost-effective and reasonable best management practices. The Department believes the best approach is through the use of BMPs described in the guidance document.

Question #6: A committee member inquired whether the Department would consider any other alternative proposed that is not outlined in the guidance document. The committee member noted that proposing an alternative not in the guidance document would pose to be a financial challenge for the developer to prove that the alternative is viable. The developer may be forced to use what is in the guidance document or leave the property and develop elsewhere.

DEP Response: Alternatives to meet the Chapter 93 requirements can deviate from the guidance document. Other alternatives would need to be evaluated by the municipality and the Department on a case-by-case basis. The developer would be responsible for demonstrating that the water quality would be protected and maintained in the EV/HQ stream.

Question #7: A committee member inquired for the rationale for the Model Deed Language shown in Appendix C of the guidance manual.

DEP Response: The Model Declaration of Environmental Covenant provided in the guidance is intended to provide language that can be included in planning modules which the Department would accept as assurances that the land will be used as planned. For example, the Covenant could be used to ensure that riparian buffer approved during planning will be set-aside on a permanent basis. The Covenant would provide a mechanism to enforce the practices approved as part of the planning module. The sewage enforcement officer (SEO) would be responsible for confirming that the Covenant and the practices required within the Covenant are being addressed prior to issuing an onlot sewage treatment system permit.

Question #8: Is the Department willing to consider revising the guidance document if the comments submitted justify amending the guidance document?

DEP Response: Yes. The Department will review all the comments received during the public comment period and include amendments to the guidance documents as necessary.

Question #9: Prior to preparation of this guidance document, planning modules involving onlot treatment systems in EV/HQ watersheds were not treated consistently in different Regional Offices. The Southcentral and Southeast Regional Offices were utilizing point source plume analyses for approving planning modules while the Northeast Regional Office was utilizing a regional watershed approach. The Committee recommends that the guidance document be used consistently by all the regional offices. The Committee also recommended that accommodation be permitted to utilize the regional watershed approach being used in the Northeast Regional Office.

DEP Response: The Department is aware that inconsistencies may exist in planning module approval across the Regional Offices. The objective of the guidance document has been to establish BMPs that can be applied across the Regional Offices. Planning modules that are submitted to the Department utilizing the guidance document will be supported by the Department.

With regard to the watershed approach, this methodology would require about a decade of nitrate data to justify that the plume will not reach the stream. Monitoring would be required for a significant time period before the watershed approach is implemented and a significant time period would be required subsequent to the implementation of the watershed approach. The Department has reviewed data from the watershed approach as long term ammonia-nitrogen. The watershed approach has been scientifically defensible in other situations given the long-term data that has been available to support it. However, in more recent years, the standard for reviewing data has been in terms of total nitrogen or nitrate.

Question #10: Does the guidance document provide language that would require a more active sewage management plan when a nitrogen reduction treatment system is being used?

DEP Response: The guidance document recommends effective operation and maintenance of the BMP, but does not impose any new requirements for sewage management programs.

Comments and Questions from the Public

Question #11: Does the guidance document include the ability for use of individual residential spray irrigation systems (IRSIS) as a BMP?

DEP Response: No. The guidance document provides BMPs to reduce nitrate-nitrogen from onlot systems with absorption areas and does not address the use of IRSIS. However, the Department will consider including a discussion of IRSIS in the guidance.

Question #12: A member of the public has concerns that SEOs are now responsible for completing Chapter 102 requirements when they have not had the proper instructions on handling this particular issue. SEOs are only certified and responsible for Chapter 71-73. Requiring Chapter 102 would create additional responsibility and liabilities for the SEOs.

DEP Response: The Department's objective is to hold the applicant responsible for completing the Chapter 102 requirements, not to impose any additional responsibility on the SEO. The SEO should inform the applicant to contact the agency responsible for regulating the Chapter 102 if the applicant has questions. The Department intends to notify the SEOs through a letter to all SEOs or through an announcement on the Department's website under SEO News of how to handle Chapter 102 requirements.

DEP Comment on the Guidance Document: The regulatory requirements in Chapters 71-73 are intended to treat pollutants from onlot sewage systems and limit migration to groundwater to protect drinking water. The guidance document recommends BMPs to prevent pollutants that have migrated to the groundwater, particularly nitrate-nitrogen, from reaching surface water.

Meeting Ending

The meeting was adjourned at 11:55 pm.