

**Commonwealth of Pennsylvania
Sewage Advisory Committee
Minutes of the Meeting
April 2, 2014**

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.

Fifteen (15) organizations with voting members/alternates were recorded as present. Fifteen (15) 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, fifteen (15) 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
▶ Jacqueline Peleschak, P.E. Mark Malarich, P.E.	American Council of Engineering Companies of Pennsylvania
Arthur Adams, AIA No alternate	American Institute of Architects--Pennsylvania
▶ John Wagman Bernard Telatovich	American Society of Civil Engineers
Scott Russell, P.E. Michael Schober, P.E.	American Water Works Association (PA Section)
Commissioner Jeff Wheeland Lisa Schaefer	County Commissioners Association of Pennsylvania
▶ Ralph DeFazio Kyle Schmeck	County Departments of Health, Local Health Agencies
Secretary Alan Walker ▶ Sandra Orth	Department of Community & Economic Development
▶ Jessica Shirley Andrew Paris	Governor's Policy Office
Charles Herr Andy Jantzer	PA Municipal League
(No member)	Mortgage Bankers Association of Pennsylvania

(No alternate)	
David R. Kauffman, P.E. J.T. Hand	National Association of Water Companies
Michael McGraw (No alternate)	Pennsylvania Association of Plumbing, Heating & Cooling Contractors
▶ Bruce Willman Mark Mills	Pennsylvania Association of Professional Soil Scientists (PAPSS)
▶ Robert Wood William McLaughlin	Pennsylvania Association of Realtors
▶ Chris Wood [Vice-Chairperson] Kevin Bitz	Pennsylvania Association of Sewage Enforcement Officers
Andrew Bockis ▶ Alexandra Chiaruttini	Pennsylvania Bar Association
John Gigliotti ▶ Sarah Miller	Pennsylvania Builders Association
Kevin Garber Paul King	Pennsylvania Environmental Council, Inc.
Keith Klingler (no alternate)	Pennsylvania Landowners Association, Inc.
Wayne Schutz Cory Miller	Pennsylvania Municipal Authorities Association
▶ Gregory Marshall Brad Hengst	Pennsylvania Onsite Wastewater Recycling Association
Mourice Waltz Eugene Briggs, AICP	Pennsylvania Planning Association
Joe Valentine ▶ Jeff Rachlin	Pennsylvania Septage Management Association
Brian Book, P.E. John Fuehrer, II, P.E.	Pennsylvania Society of Professional Engineers
▶ Dan O'Connell Ronald Grutza	Pennsylvania State Association of Boroughs
Comm. Ginnie Anderson Kane (No alternate)	Pennsylvania Association of Township Commissioners
Andrew J. Boni ▶ James Wheeler	Pennsylvania State Association of Township Supervisors

Dr. Patrick Drohan Dr. Henry Lin	The Pennsylvania State University
► Duane E. Mowery [Chairperson] Alison J. Shuler	Pennsylvania Water Environment Association
Samuel M. D'Alessandro, P.E., P.P., P.L.S. (No alternate)	Pennsylvania Vacation Land Developers Association
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
Katie Blansett	PA Housing Research Center
Lori Books	Lebanon County Planning Department
Mark Mills	Soil Resources Ltd.
Gordon Sheetz	Lebanon County Planning Department
Brad Hengst	POWRA
Melanie Horvath	PAWC
DEP Representatives:	
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)
Karen Fenchak	WPS, Act 537 Management Section, BPNPSM
Ronald Furlan	Environmental Program Manager, BPNPSM
Nick Hong	EES, Act 537 Management Section, BPNPSM
Lee McDonnell	Director, BPNPSM
Michelle Tate	PA CAC
Janice Vollero	WPS, Act 537 Management Section, BPNPSM

Call to Order

The meeting was called to order by Chairman Duane Mowery at 10:30 am in Room 105 of the Rachel Carson State Office Building. Meeting sign-in sheets were circulated and a quorum was present.

Action Items:***Seating arrangement for Members/Alternates***

Chairperson Mowery reminded organizations that only one representative from each organization may be seated at the table. The second representative from the organization may attend the meeting but must be seated in the area reserved for the public.

Approval of the Minutes of the Meeting of November 6, 2013

Duane Mowery inquired if the Committee had submitted recommended standards for non-concrete tanks. No persons from the Committee acknowledged developing a set of recommended standards for non-concrete tanks.

The meeting minutes from November 6, 2013 were subsequently unanimously approved by the Committee.

Administrative Items:***Rescission of Alternate Systems Guidance (ASG) Manual***

John Diehl stated that effective March 1, 2014 the ASG was rescinded and the majority of the contents were transitioned to the DEP website in the web listings format. The transition will defer listing at least three technologies during this initial transition. Those three technologies are the free access gravity sand filter, the CO-OP RFS, and the ABS (recirculating sand filter). The components of these three technologies are identical to those included in the *Small Flows Manual*, and the Department is working to standardize filter sizing and sand specifications for these technologies.

Alternate technologies available for permitting can be found on the DEP website using the keyword "onlot sewage technologies." An official notice of the rescission of the ASG was placed in the PA Bulletin on March 1, 2014.

Questions or comments regarding the listings can be directed to either John Diehl or Nick Hong.

Discussion / Information Items:

Overview of draft guidance: SEO Certification and Training Program Guidance

John Diehl presented an overview of the draft *SEO Certification and Training Program Guidance*, herein referred to as the guidance document. The purpose of the guidance document is to establish the framework for the requirements to become a certified SEO and to retain SEO certification through continuing education.

The draft guidance document is summarized on the presentation slides (See Attachment 1 of the April 2, 2014 minutes).

The following points were clarified during the presentation:

- Consistent with the *Training Provider Manual* (Document Number 385-2314-001), sponsors requesting SEO continuing education must submit an application and course material to DEP prior to the training event. Acceptable courses for SEO credit generally will require the course to have relevancy to onlot wastewater or SEO related topics. As part of the sponsor responsibilities, the sponsor should submit a roster of attendees who have successfully completed the course to the Department within 30 days.
- An itemization of approved sponsors and courses is available on the DEP website. The website can be located by using the keyword “sewage” from the DEP website and subsequently selecting *Sewage Enforcement Officers (SEO)* from the right hand side of the menu. The information is located under the heading *SEO Training Program*.
- SEOs who are requesting an update to contact information should contact the SEO Board Secretary. The preferred method of contacting the Board Secretary is via email at RA-seotrng@pa.gov.

Mr. Diehl stated that the draft guidance document will be published in the PA Bulletin on April 5, 2014 for a 30-day public comment period. The comment period will close on May 5, 2014.

Question #1: Bob Wood inquired about the status of the number of current active SEOs and the number of SEOs that have lapsed. He expressed concern of insufficient SEOs available since the legislature has diminished the appropriation for reimbursement for enforcement grants. He stressed that, in turn, this would provide less funding to municipalities to employ a SEO.

DEP Response to Question #1: The Department responded that there are approximately 900 active SEOs. The approximate number of new SEOs gaining certification from June 2012 to March 2014 is 60. The number of SEOs may be declining over the last few years due to suppressed housing development. The Department’s tabulation in January 2014 accounted for approximately 300 SEOs with zero accumulated credits for the current cycle. The Department attributes this to SEOs procrastinating to fulfill the 15 credit requirement. The Department

anticipates that there are sufficient courses available for SEOs to meet the minimum required continuing credits.

Comments and Recommendations:

Duane Mowery solicited the Committee on suggestions if there is an initiative to do something to retain or increase the number of active SEOs.

Chris Wood had the following comments on the draft guidance document.

- While mandatory training should be encouraged, the Department must consider the unintended consequences of making the requirements. In particular, Mr. Wood emphasized that the costs for the SEO to attend training and maintain certification should be considered. He suggested that there be a balance of training and economics to reduce the impacts of SEOs departing due to the unaffordability of an SEO paying for continuing education.
- The list of active SEO spreadsheet contains a column which indicates the number of credits a SEO has as of the effective date of the active SEO spreadsheet. Chris suggested that the number of credits on the sheet should indicate the actual number of credits and not a denotation of “>22 credits” if a SEO has more than 22 credits.
- The guidance document indicates that Department has the ability to waive or adjust the amount of minimum CE credits during each certification cycle when circumstances beyond the control of all participants warrant. Mr. Wood suggested that the language be adjusted to be sensitive to the “all participants warrant.” He also suggested that there be language included to address consideration of meeting the minimum number of credits in situations of extenuating circumstances.
- Mr. Wood was encouraged that there was a section addressing mandatory training. He indicated that he was in favor of requiring mandatory training for newly certified SEOs. Further, he suggested that the mandatory training should be outsourced so that there is a level playing field for providing the training. Specifically, the training should be made available to all sponsors and not a single source sponsor to avoid the potential of a monopoly. This will inherently make the cost of the training more competitive on the open market.
- Mr. Wood suggested that identical courses with different delivery methods be identifiable on the list of DEP approved courses.
- The guidance document requires that SEOs must present a photo ID and their pocket card at course registration. Mr. Wood suggested that the guidance document have a requirement for presenting a government issued photo ID only.

Duane Mowery had the following comments on the draft guidance document.

- The guidance document indicates that the Department has the ability to waive or adjust the amount of minimum CE credits during each certification cycle and that DEP will make this announcement no later than March 30th of the year a certification cycle is ending. Mr. Mowery suggested that the time frame for announcing waiving of credits should be done with more advanced notice than March 30th if possible.
- Mr. Mowery suggested that SAC make a formal recommendation to the Department on developing a curriculum of mandatory training for certified SEOs. He suggested and supported Chris Wood's earlier statement that the Department be cautious about proceeding with mandatory training as the potential with many unintended consequences may exist.

Bob Wood recommended that possible mandatory training could entail training SEOs on how to manage the Act 537 law and the regulations. These enforcement type situations would enable SEOs to better manage fines, penalties, Act 537, and the regulations.

Duane Mowery suggested that to better communicate with SEOs, it would be helpful to disseminate updated information via email. The Department responded that email addresses are being collected on the SEO renewal forms that were sent in March 2014. Future updates on the program will be emailed to the SEOs and also posted on the DEP website under the heading *SEO News Items*.

Use of alternate technologies after planning

In February 2014, Secretary Abruzzo responded to a letter from the Sewage Advisory Committee (SAC) where SAC had requested the use of alternate technologies during new land development planning for the creation of lots. The Secretary responded and Lee McDonnell reiterated that barring a regulatory change, new land development may only use conventional technologies for siting the primary absorption area while the secondary absorption area may utilize an alternate technology. Mr. McDonnell indicated that he anticipates that the permitting of onlot sewage treatment systems will be more streamlined with the transition from the ASG to the web listings.

Mr. McDonnell indicated that the Department had intended to make surgical changes to update the regulations to address the antidegradation issue raised by the Pine Creek Valley Watershed Association case. However, the State legislature and Governor passed into law Act 41 eliminating the momentum to amend the regulations.

At this time, the Department is searching for an alternative method other than a change to the law or a change to the regulations to address the use of alternates during planning. A regulatory change is complicated given the complex and interrelated nature of the regulations and the infrequency of proposed changes. The accumulation of many recommended changes subsequently makes the process to amend the regulations more difficult.

John Diehl clarified that the regulations do not require selection of the particular onlot sewage treatment system at the time of creation of lots during planning. However, the general site suitability requirements in the current regulations for planning approval were established for the siting of conventional onlot systems. Mr. Diehl indicated that amendments to general site suitability requirements in the regulations have and are being considered to allow for the use of alternate systems during planning.

Committee Comment #1:

Greg Marshall suggested that Central Office develop a state-wide policy which identifies the issue of using alternate technologies during planning. He emphasized that there are vast differences in how a planning module is approved in different regions and the differences in approval are inexcusable.

Response:

Lee McDonnell indicated that a clarification on the memo from NCRO regarding new development planning will be forthcoming. The policy will be developed by DEP Central Office and disseminated to the Regional Offices for regional consistency.

Committee Comment #2:

Duane Mowery solicited comment from the Committee if there were any instances of local agencies favoring issuing permits for conventional technologies and denying issuing permits for alternate technologies.

Response:

The Committee had varying responses for and against the question. The Committee indicated that it should not be the SEO's discretion to deny a permit simply because the technology is categorized as alternate. Specifically, the Committee indicated cases where only conventional technologies were used since the designer was only comfortable designing conventional systems.

Chris Wood suggested that alternate technologies are not being permitted by SEOs for the following reasons:

- (1) The SEO is not delegated the authority to independently review alternate technology designs.
- (2) Due to timing issues, the homeowner may prefer a conventional technology which can be issued in several days as opposed to an alternate technology which may take up to 45-days to both receive comments from the Department and have a permit issued.

Committee Comment #3:

Alexandra Chiaruttini inquired about the possibility of amending the regulations by limiting the changes to only what is required rather than a comprehensive overhaul of Chapters 71, 72, and 73. Chris Wood furthered by suggesting that promulgating the regulations could be done gradually for each amendment to the regulations rather than a single comprehensive overhaul of Chapters 71, 72, and 73.

Response:

Ron Furlan responded that the Department had intended to make surgical changes to update the regulations in response to the successful challenge by Pine Creek Valley Watershed Association, Inc. He emphasized that a small regulatory subset is complicated given the complex and interrelated nature of the regulations. Amending a section in one chapter affects a section in different chapter.

Committee Comment #4:

Duane Mowery solicited comment from the Committee if there would be an impact to property values based upon the appearance of the absorption area. In particular, he asked whether a large conventional sand mound in the front yard would be detrimental to the property value of a home compared to a more aesthetic drip irrigation in the front yard.

Response:

Bob Wood responded that he would anticipate that onlot treatment systems with more maintenance and inspection frequencies would have a larger impact on the property value of a home.

Given the aesthetics of the absorption area, Alexandra Chiaruttini suggested that market forces driven by wealthy people would have successfully amended the regulations to resolve the issue of using alternates during planning.

Although not aware of a specific instance, Ron Furlan suggested that municipalities could possibly direct their SEOs to permit onlot sewage treatment systems that have fewer operation and maintenance activities. This, in turn, would minimize the municipality cost to enforce operation and maintenance activity.

Committee Comment #5:

Bob Wood inquired if there was any progress in HB 1503- Amending Act 537 to provide for municipal concurrence on DEP planning waiver and non-building declaration forms.

A synopsis of the bill as described on the PA General Assembly website is shown below:

Under Act 537, a municipality is required to revise its official sewage plan whenever a subdivision of land occurs. To modify an official plan, an appropriate sewage facilities planning module or planning exemption request, completion of required soils testing where onlot disposal is proposed, and formal approval by both the municipality and DEP is required. However, where there is no present or future need for sewage disposal facilities on a particular site, individuals proposing strictly “non-building” subdivisions may complete and sign a waiver request and declaration form to preclude full-scale sewage planning when subdividing the property. This form may be applicable, for example, where subdivisions may occur for agriculture or mineral lease or for division of farmland to settle estates where no building or development is proposed.

Currently, there is no statutory requirement that DEP develop and provide a non-building waiver form; DEP has developed such a form but it is only pursuant to regulation. This legislation will require that DEP develop and provide a form that waives the requirement of a municipality to revise its official plan to accommodate non-building subdivisions if there is no present need for sewage disposal facilities on a given parcel of land. Further, if both the subdivider and the buyer or recipient sign the completed form and the proposed subdivision meet the requirements of the waiver and is in compliance with applicable zoning and subdivision and land development ordinances, the municipal secretary or chairperson of the municipality shall be required as a ministerial function to sign the request for planning waiver. The departmental form may only require a municipality to perform those functions within the scope of Act 537.

Response:

Ron Furlan stated that the last action on the bill was referral of the bill to the State Government committee in June 2013. He also noted that currently some municipality planning codes allow for the creation of lots without a sewage planning module. When this occurs, a subdivided lot could be subsequently determined to have unsuitable soils for the installation of an onlot sewage treatment system. He stated that an amendment to the municipality planning code to require compliance with Act 537 when subdividing lots would be needed to avoid this situation.

Committee Comment #6:

Greg Marshall inquired if the Department has changed its position on the review of sewage planning modules since the passage of Act 41. He also inquired if the Department received a new planning module for the subdivision that was the subject of the prior challenge by the Pine Creek Valley Watershed Association.

Response:

Lee McDonnell explained that since Act 41 was signed into law by Governor Corbett on July 2, 2013, the Department has been approving planning modules for onlot systems consistent with the requirements in the Chapter 71, 72, and 73 regulations.

Mr. McDonnell stated that the Pine Creek Valley Watershed Association, Raymond Proffitt Foundation, and Delaware Riverkeeper Network have filed a lawsuit against the U.S. Environmental Protection Agency (EPA) asserting that Act 41 revised Pennsylvania's antidegradation regulations. Mr. McDonnell noted that the Department is unaware of the intentions of EPA as the result of the suit action.

Mr. McDonnell stated that the Department has received the planning module for the subdivision that was previously appealed by the Pine Creek Valley Watershed Association. The planning module is now being reviewed by the Department.

Public Comments Concerning Committee Business

There were no comments from the public.

Meeting Adjournment

The meeting was adjourned at approximately 12:10 pm.

Attachment 1

Presentation slides for the SEO Certification and Training Program Guidance



Introduction:

Act 537 Guidance: Sewage Enforcement Officer Certification and Training Program

SEO Certification Process

- DEP scores exams
- Board receives list of candidates, pass/fail
- Board certifies each eligible candidate
- SEO receives certificate



Prerequisite Training

- Teach basic skills/knowledge
- There are minimum training requirements
- Provided by DEP-approved third party training



SEO Continuing Education/Training

- Two year certification cycle
- 15 CE credits/cycle
- Up to 7 credit rollover beginning 2014-16
- CE course options
- DEP-approved training course categories



SEO Certification Exam

- Consists of 100 multiple choice questions
- Scoring: 70% overall, \geq 50% in each category
- 3 time fail = complete a DEP-approved course
- Exam registration through Board



SEO Continuing Education/Training

- Onlot alternate technology training
- Duplicate course policy
- SEO responsibilities
- Posting of active SEO list



Certification Status

- Certification Renewal Process for:
 - Active Status
 - Lapsed Status



Summary – Key Points

- DEP has an established SEO certification/training program.
- There are SEO certification and training requirements
- The State Board for Certification of SEOs certifies SEOs and handles disciplinary appeals
- There are certification renewal and reinstatement procedures for SEOs



Certification Reinstatement

- Inactive Status
 - Must pass SEO certification exam
 - Reassigned original SEO certification number
 - Not required to take prerequisite training



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Certification Reinstatement, cont'd

- Suspended or Revoked Status
 - Must request certification reinstatement
 - There may be training requirements

