

Commonwealth of Pennsylvania
Sewage Advisory Committee
Minutes and Notes on Discussions of the
Meeting of March 15, 2006

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.

For purposes of quorum, there were seventeen (17) organizations with voting members/alternates recorded as Present. Fifteen (15) organization's members/alternates were Not Present. There are three (3) member organizations having no current appointed member or alternate, including one Inactive statutory member organization. Minimum quorum is one third of 32 appointed members/alternates able to cast votes; for this meeting quorum was 11. Organizations and members and/or alternates present are indicated as marked (▶)

	Member Alternate	Representing
▶	▶ Barbara L. Brown [chairperson] Ralph M. Houck	Pennsylvania Association of Sewage Enforcement Officers
▶	▶ Mourice G. Waltz (no alternate)	American Planning Association
▶	▶ John F. Wagman David L. Sheridan	American Society of Civil Engineers
	Brian S. Funkhouser Scott E. Russell	American Water Works Association
▶	▶ James Elliott Andrew Hilt	American Council of Engineering Companies of Pennsylvania
▶	▶ Ralph DeFazio Doug Range	Local Health Agencies
	Organization internal policy no longer allows participation	US Department of Housing and Urban Development

Minutes and Notes on Discussions of the Meeting of March 15, 2006

▶	▶ John R. Williams Peter Fleszer	USDA Rural Economic and Community Development Service
	James Adair John D. Wanner	General Contractors Association of Pennsylvania
	Joanne R. Denworth (No alternate)	Governor's Policy Office
	John J. Amrhein (no alternate)	Mortgage Bankers Association
▶	▶ Richard Svindland David Kaufman	National Association of Water Companies
	Al Ruscito (no alternate)	Pennsylvania Assoc. of Plumbing, Heating & Cooling Contractors
▶	▶ Robert T. Wood Linda A. Peters	Pennsylvania Association of Realtors
	Eugene E. Dice (No alternate)	Pennsylvania Bar Association
▶	▶ Carl D'Amico ▶ Keith Ashley	Pennsylvania Builders Association
	[Donald Berman resigned 12/7/05, successor unnamed as of this meeting.] John Walliser	Pennsylvania Environmental Council, Inc.
	Organization currently no longer functioning	Pennsylvania Environmental Health Association
	Keith Klingler (no alternate)	Pennsylvania Land Owners Association, Inc.
	(No member) (No alternate)	Pennsylvania League of Cities and Municipalities
▶	▶ Anita Stabile Peter Slack	Pennsylvania Municipal Authorities Association
▶	▶ Muscoe Martin Caroline E. Boyce	American Institute of Architects--Pennsylvania
▶	▶ Brian L. Book, P.E. Ernest U. Gingrich, P.E., P.L.S.	Pennsylvania Society of Professional Engineers

Minutes and Notes on Discussions of the Meeting of March 15, 2006

▶	▶ Dan O’Connell Thomas Klaum	Pennsylvania State Association of Boroughs
▶	▶ Tom Ceraso Douglas Hill	Pennsylvania State Association of County Commissioners
	Frank Linn Lloyd Bucher	Pennsylvania Association of Township Commissioners
▶	▶ Lester O. Houck ▶ James Wheeler	Pennsylvania State Association of Township Supervisors
	Dr. Henry Lin Dr. Gary Petersen	The Pennsylvania State University
▶	▶ Duane E. Mowery ▶ Alison J. Shuler	Pennsylvania Water Environment Association
	Randall R. Myers, P.L.S. Allison M. Bradbury, P.L.S.	Pennsylvania Society of Land Surveyors
	Philip E. Robbins (no alternate)	Pennsylvania Department of Community & Economic Development
	Sam D’Alessandro, P.E., P.L.S. Charles B. Zwally, Esquire	Pennsylvania Vacation Land Developers Association
▶	▶ Bruce P. Willman, CPSSc. ▶ Joseph A. Valentine. CPSSc.	Pennsylvania Association of Professional Soil Scientists
	Bruce E. Fox Rusty Luzell	Pennsylvania Septage Management Association
	Charles R. Waddy David V. Linahan	Pennsylvania Onsite Wastewater Recycling Association, Inc.
	Other attendees:	
	Patricia Grimm Governor’s Policy Office representative	(not appointed to Committee as of date of meeting)
	Mark Brown PA House Committee on Environmental Resources and Energy representative	

Minutes and Notes on Discussions of the Meeting of March 15, 2006

	Tom Ashley	American Manufacturing
	Brad Hengst	Pennsylvania Association of Sewage Enforcement Officers
	Mandy Eisenhower	Lebanon County Planning Commission
	Larry Hepner	Delaware Valley College
	Karen Atkinson	Pennsylvania State Association of Township Supervisors
	Gordon Sheetz	Lebanon County Planning Department
	Lorrie Butts	Delegated Agency, Lebanon County
	Gail Kohr	Pennsylvania State Association of Township Supervisors
	DEP representatives	
	Jay C. Africa	Chief, Act 537 Management Section, Div of Planning and Permits, Bureau of Water Standards and Facilities Regulation, DEP (Act 537 Management)
	John J. McHale, Jr.	SPS, Act 537 Management
	John Borland	SPS, Act 537 Management
	Darryl Scott	AA1, Program and Act 537 Grant Administration Section, Div. Of Bureau Business Management, Bureau of Water Standards and Facilities Regulation, DEP

1. Meeting Opening

- a. Barbara Brown, chairperson, called the meeting to order at 10:38 a.m. in Room 105 of the Rachel Carson State Office Building, Harrisburg, Pennsylvania. Meeting sign-in sheets were circulated.

Minutes and Notes on Discussions of the Meeting of March 15, 2006

- b. Ms. Brown introduced a newly appointed member of the Committee, Muscoe Martin, who represents the American Institute of Architects—Pennsylvania Chapter. Mr. Martin is an architect whose practice is in Philadelphia. For the last ten years he has concentrated on “green” building design.
- c. All present introduced themselves to the meeting by name and organization.

2. New Business:

- a. An election of Committee officers was conducted. Barbara Brown was elected as Chairperson; Bruce Willman was elected as Vice Chairperson.
- b. Two nominees were selected from which the Secretary of DEP will select a replacement for Donald Berman, who has resigned his position, representing the Sewage Advisory Committee, on the State Board for Certification of Sewage Enforcement Officers. The two nominees were Sam D’Alessandro and Joseph A. Valentine. Motion by Carl D’Amico, second by John Wagman to nominate Sam D’Alessandro, vote unanimous. Motion by Carl D’Amico, second by Ralph DeFazio to nominate Joe Valentine, vote unanimous.
- c. Mr. Wheeler suggested that the Chairperson send a letter, on behalf of the members of the Committee, to Mr. Donald Berman thanking him for his past service on this Committee. The Chairperson accepted the suggestion without significant additional debate.

3. Phase II, Alternate On-Lot Technology Research

Mr. Larry Hepner presented information concerning the results of Phase II, Alternate On-lot Technology Research conducted at Delaware Valley College. The report of this research was available to Committee members for this presentation. The report is a publication of Delaware Valley College. [A copy will be maintained with these minutes in the files maintained by the Act 537 Management Section.]

4. Omitted item of Business, Corrective Actions

After a recess for lunch, the Chairperson announced that consideration of the minutes of the previous meeting had been omitted from the meeting agenda. The minutes were considered, and with a minor correction as to the required quorum for that meeting being 11 rather than 16 “present”, the minutes were approved. Motion by Carl D’Amico, second by Bruce Willman to approve the minutes, vote unanimous.

5. Status of proposed drafts of revisions to 25 Pa. Code Chapters 71, 72 and 73

Minutes and Notes on Discussions of the Meeting of March 15, 2006

Mr. Africa updated the Committee as to the current progress within the DEP pre-proposal process of the possible revisions to 25 Pa. Code Chapters 71, 72, and 73. The Executive Staff briefing is projected concerning these proposals to occur early in April 2006. Currently, it is projected that drafts shall be available for discussion by the Committee's processes possibly in late summer 2006. This does allow time for the presentations concerning the IRRC and the EQB consideration of regulation to be presented to the Committee at its next meeting in June 2006. This might allow the proposals to reach the Environmental Quality Board for consideration well into 2007.

- a. Mr. Elliot inquired as to the effect of the Chesapeake Bay Strategy on Chapter 71 planning requirements. The answer was that there should not be significant impacts on these planning requirements. In the discussion, Mr. Wheeler observed that DEP permitted large volume systems might be subject to a "zero net discharge" criteria. Mr. Africa indicated that there has not been any Bay Strategy element implemented concerning onlot systems at this point. There may be in the future, and maybe only affecting these systems at that point.
- b. Based on Mr. Africa's comments, the consensus, expressed by Mr. Willman, is that scheduling of future meetings of the Regulatory subcommittee prior to the June 2006 Committee meeting seemed premature.

6. Relationship Work Group report

- a. Alison Schuler reported concerning the Relationship/Partnership Work Group. The Work Group met on November 15, 2005 and January 3 2006. The Work Group membership includes Andrew Hilt, Bruce Fox, Ralph DeFazio, Richard Svindland, Barbara Brown, Ralph Houck and Alison Schuler. At these meetings Jay Africa, John McHale, and James Novinger represented DEP.
- b. The first meeting considered the DEP-CAC report "Increasing The Effectiveness Of DEP's Advisory Groups And Other Public Engagement". The meeting ended after the group had selected some target items felt needing more detailed exploration in the future
- c. The second meeting included more in depth in its discussion of collaboration of DEP and SAC. An issue was raised concerning guidance manuals that DEP had released that SAC had not been made aware. Opinion was expressed that these releases impacted DEP-SAC collaboration. There was discussion of SAC's purview, and its interplay with the fact that other DEP programs than the Act 537 programs also independently impacted wastewater related subjects.
- d. More questions arose. At the end there were two fundamental questions: "What advice does DEP want from us (SAC)?" and "How will DEP deal with that advice?"

Minutes and Notes on Discussions of the Meeting of March 15, 2006

- e. Other group discussions concerned specific relationship issues:
 - i. Presentations describing and informing members of SAC concerning the regulatory approval process – the group continues to support the suggestion of presentations concerning the EQB, IRRC, DEP Policy Office, and various DEP representatives that work on regulations.
 - ii. There was discussion of the difference between the original SAC membership and how membership make-up has evolved. There was a strong feeling that some standardized information should be provided members, especially those who are new and recently appointed, concerning the roles the SAC plays and background on the organizations represented.
 - iii. There was discussion concerning increasing the number of SAC meetings, including starting quarterly meetings. This may be particularly needed, especially when we get into considering future regulatory change proposals. There is concern that one issue would overwhelm SAC. As there are many issues that SAC needs to look at, SAC should want to avoid having its meetings get bogged down just with regulations.
 - iv. At the first meeting, the work group discussed the restructuring the seating arrangement of the SAC meeting including placement of Jay Africa beside Chairperson, alternates to not be seated at the main table until all members have seats at the main table; allowing that once the meeting started, then the alternates might fill in as seats are available.
 - v. The work group discussed having organizations do a short introduction of themselves, particularly concerning the organization's views relating to the business of SAC. Organizations should identify their future priorities in the wastewater field that they hope SAC might pursue. At second meeting, we went further than that, to the creation of a collection of one page brochures so that these might be provided to all member and especially the newly appointed members. It was hoped that SAC would approve these innovations. The work group recommends that all organizations create this one page brochure to DEP, so that we can have something for the June SAC meeting, Alison will develop a template to ease the process.
 - vi. Group discussion highlighted the need to focus on SAC mission. Additional emphasis is needed to make sure SAC knows what SAC is doing on an immediate basis, and what SAC expects to accomplish, longer term. SAC needs to define what each subcommittee is and should be doing, what goals should each subcommittee accomplish, and avoid the creation of situations in which a subcommittee stops meeting regularly because there is no special issue to be put before it.

Minutes and Notes on Discussions of the Meeting of March 15, 2006

- vii. The work group talked about possible different meeting structures for the general SAC meeting. An example was the use of breakout sessions. In that way, subcommittees and workgroups might meet around Room 105. The work group did talk about use of emails and subcommittee member communication using email in an information gathering process.
- viii. There were discussions concerning the no longer operating DEP-SEO work group. DEP no longer uses this forum, and the function has been transferred to SAC. It appears to have provided a fairly good line of communication between DEP and people out in the field. SAC might want to expand membership in a sponsored work group to possibly include County health officers, other officials in the municipalities, the septage haulers and installers. A second recommendation is that the SAC set up a work group concerning the conduct of the local Act 537 programs, so that there is feedback available from a representation of people routinely engaged in day-to-day aspects of Act 537 administration and enforcement.

7. Questions and comments regarding the above:

- a. Barbara Brown, discussing ideas presented, observed that to become more timely and responsive to issues it might be necessary for the members representing the member organizations to be able to contact the subcommittee chairman or the chairman directly concerning an issue, and have an inquiry delegated for actions between meetings.
- b. SAC does not always have to meet together and sit around the room to start gathering information; otherwise SAC may not be aware of anything for months and would not have timely investigation, information and background of issues of its concern
- c. Committee discussion touched on the issues of certifying onlot system installers. It was felt this was an either have it or don't proposition. It was noted that in its presentation of the previous SAC meeting, DEP presented some information, but had made clear that without a change in statute there could be no state certification or licensing.
- d. Meeting discussion expressed concerns on use of subcommittees to investigate issues and gather information and facts between meetings. There appeared to be no clearly expressed consensus. The work group proposal for one page brochure should be due May 14, 2006, to Alison Schuler, not DEP. There was further discussion of DEP-SEO workgroup, including possible use to channel issues to DEP, potential classes of participants, etc. See item in Motions at the end of this document.

Minutes and Notes on Discussions of the Meeting of March 15, 2006

- e. Ms. Brown observed that, if needed to facilitate SAC member communications between meetings, a private communications mode might have to be tested.

8. Orientation to represented member organizations of the Sewage Advisory Committee:

- a. Members from four member organizations gave a verbal orientation to their organizations and the organization's history and goals. They were Barbara Brown, of the Pennsylvania Association of Sewage Enforcement Officers; Ralph DeFazio, representing the County Health Departments and Local Health Agencies; Richard Svindland of the National Association of Water Companies; and Dwayne Mowery of the Pennsylvania Water Environment Association.
- b. Four representatives will verbally present similar information at the June 2006 meeting. Presenting next meeting— James Elliott, American Council of Engineering Companies of Pennsylvania; James Wheeler, Pennsylvania State Association of Township Supervisors, Carl D'Amico Pennsylvania Builder's Association, and Bruce E. Fox, Pennsylvania Septage Management Association

9. Discussion of the status of Soil Fracturing

- a. After an introduction by the Chair, the Committee discussed the status of soil fracturing and related concerns about the use of these devices for maintenance and apparent repair of onlot systems.
- b. Brad Hengst, PASEO President was invited to make his remarks. Mr. Hengst indicated that this equipment has been used in Pennsylvania for a dozen years, and experience indicates that it probably should not be used. Mr. Hengst reported that, during observation of an application of soil fracturing, he had observed crushed stone aggregate blown out of holes remaining from a previous application of soil fracturing. He pointed to the confusion based on previous DEP letters on the use of soil fracturing. He alleged confusion, on the part of some of those applying soil fracturing improperly, on the part of those who consider that if there has been no notice of violation concerning the functioning of an onlot system, then it can be claimed that there is no malfunction of the system present, regardless of the operational behavior of the system. He claimed to have observed damage to distribution box flow adjustment devices blown out of place by the effects of soil fracturing. As president of PASEO, he asked for support from SAC for some type of effective regulation, including possibly prohibition, to control the use of soil fracturing so that soil based onlot sewage disposal systems are not damaged and continue to operate in the manner intended.
- c. Ralph DeFazio reported, anecdotally, that in his experience soil fracturing seemed not to correct malfunctions. He agreed with Mr. Hengst.

Minutes and Notes on Discussions of the Meeting of March 15, 2006

- d. Mr. Africa, commenting regarding Secretary McGinty's response to a letter already sent by PASEO, indicated that the Secretary requests a recommendation from SAC on this issue.
- e. Committee discussion explored the understandings within SAC as to how soil fracturing might be construed as a maintenance measure, and discussed group understanding of the use of air pressure to break up the biomat by placing probe so that the biomat is disturbed but the soil and aggregate are not. This was considered almost impossible. It was reported that currently these machines are being used inside the boundaries of the absorption area, and by placing the air delivery probes in lower soils, below the absorption area aggregate.
- f. Committee discussion concluded that soil fracturing remains a "not demonstrated" technology. Nonetheless, these machines seem to be used in process of real estate transaction septic certification. The SAC needs hard information as to whether soil fracturing actually works or doesn't work. It also needs to know what is meant when one says soil fracturing "works". Allowing effluent to enter the groundwater without retention and soil based treatment may end the surface malfunction, but defeats the primary public health and environmental purpose of requiring these systems. The group acknowledged that one significant stumbling point is the existence of the DEP policies allowing the use of soil fracturing for onlot system maintenance.
- g. On current information, should DEP end maintenance use of soil fracturing? Maintenance originally was, by group memory, a procedure to correct compaction of soil during construction. Of the systems proposed as this type of use of this technology, Mr. Hengst's recollections seemed to be that he had seen not one situation where the system absorption area had been initially installed in an appropriate soil.
- h. See motion concerning this subject at the end of this document.

10. Time for questions and comments from the public and other sources

- a. Concerning a matter of SAC interests in review of documents.
 - i. Ms. Brown observed that the small flows treatment systems manual has been published for comment. Her question was: Is the SAC concerned that SAC had no opportunity to comment? The same situation is true concerning the DEP wastewater reuse manual. Both documents indicate that they were issued under authority of Act 537.

Minutes and Notes on Discussions of the Meeting of March 15, 2006

- ii. Duane Mowery asked, concerning this: Is it possible for DEP to delay the issuance of the small flows treatment system manual pending the review by the SAC. Response by Mr. Africa indicated that such a delay was possible but not probable.
 - iii. The point was made that these publications concern NPDES permitted systems and uses of wastewater occurring after both after Act 537 planning decisions are made and after treatment of the wastewater is factually accomplished. DEP's classification of these subjects places these documents under the purview of the Water Resources Advisory Committee. It may be that DEP must clarify the boundaries between these advisory committees.
 - iv. Members of the SAC expressed disagreement. See motion at the end of this document.
- b. Concerning impacts of Chesapeake Bay Strategy and nutrient trading related considerations.
- i. Mr. Wood raised his concerns about connection moratoria in the central regions of Pennsylvania due to Chesapeake Bay Strategy effects. These effects appear related to rescinding of letters to existing sewage treatment plants affecting their allowed discharge limits. Related to this are concerns about the DEP nutrient trading program that right now has no mechanism through which trading is accomplished. Is there a separation of treatment affecting new development as opposed to existing development?
 - ii. In response, Mr. Africa indicated that the Chesapeake Bay steering Committee has taken a pause to allow five workgroups to work through numerous issues
 - iii. Continuing, Mr. Wood observed that currently, funding appears unavailable to rural areas to upgrade treatment plants, and the trading program is not yet functioning. If there is no availability of funding, then user rates are going to rise drastically,
 - iv. In the proposed trading program, malfunctioning onlot systems that are eliminated by connection to centralized treatment carry a nutrient trading credit. Is this nutrient trading credit also to be available for suspected malfunctions as well as those that are confirmed. The problem is a practical one: If, in planning a property is identified as having a confirmed malfunction, then, in the event that sewers are not installed, the Sewage Enforcement Officer must require corrective actions up to and including use of a holding tank. Thus, in planning, properties where malfunctions are suspected are left in that status without further attempts to confirm these malfunctions. If sewers are not installed in a timely manner, suspected malfunctions are not required to have forced corrective actions. Corrective actions impose significant costs

Minutes and Notes on Discussions of the Meeting of March 15, 2006

on the property owner, who then may be required to abandon these improvements and incur further costs when sewer is ultimately installed. Thus, as a matter of economics, it seems more equitable in planning to only document obvious confirmed malfunctions.

- v. PENNVEST apparent recent loan consideration behavior demanded the re-examination of the option to sell public infrastructure into private hands before consideration of PENNVEST loans. It was alleged that when a nutrient trading credit trading mechanism is available, then, if it were more cost effective, funding would be available only for purchase of credits, regardless of the decisions of the municipality concerned.

11. Motions passed during this meeting of the Committee:

- a. On motion of Mr. D'Amico, seconded by Mr. DeFazio and passed by voice vote, the SAC requests that each member submit a the one page "biography of each member organization for inclusion in information to inform the members of the Committee about the member organizations. This should be submitted by May 14 to Alison Schuler.
- b. On motion by Mr. Willman, seconded by Mr. D'Amico and passed by voice vote: Use of soil fracturing, including use for maintenance, should require an experimental permit. This would mean that the experimental protocols, i.e., the Technical Evaluation Process, are to be followed. It is the recommendation of SAC that the DEP letters on this subject be rescinded. SAC requests that this be disseminated through member organizations as well as the all SEO letter.
- c. On motion by Mr. Mowery, seconded by DeFazio and passed by voice vote, the Chairperson shall send a letter to Secretary McGinty asking that SAC have opportunity to comment on revisions of the small flows treatment systems manual and other documents that the Sewage advisory committee has interest in, particularly those that are issued under purview of Act 537.

There being no more business to conduct, the meeting adjourned at 3:03 p.m.