

— PA — Environment Digest

*An Update on
Environmental
Issues in
Pennsylvania*

Edited By David E. Hess, Holston & Crisci

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*Happy Holidays!
and have a
Healthy New Year!*

**David E. Hess, Editor
and everyone at
Holston & Crisci**



Photo: Wildwood Lake Sanctuary, Dauphin County

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On the Hill

Senate Leaders Respond to Administration Claims on Hazardous Sites Funding

Senate Republicans responded this week to comments made by Department of Environmental Protection Secretary Kathleen McGinty regarding DEP’s reported inability to clean up contaminated sites across Pennsylvania. ([PEDigest 12/13/04](#))

Secretary [McGinty’s latest remarks](#) came during a visit last week to Montgomery County. Pennsylvania’s top environmental official announced that DEP would not fulfill its responsibility to assist local residents impacted by a recent public health advisory warning of dangerous groundwater contamination to some residents of East Norriton Township, Montgomery County. The Secretary blamed her actions on what she described to be the near-bankrupt status of the Hazardous Sites Cleanup Fund (HSCA), which funds such projects.

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“DEP has an obligation to protect the citizens of Montgomery County and the Commonwealth. Moreover, they have the means available to do so,” said Robert J. Thompson (R-Chester/Montgomery), chairman of the Senate Appropriations Committee.

Under existing law (Act 89 of 2002), the Governor has the power to transfer up to ¼ mill of the revenue generated from the Capital Stock-Franchise Tax (¼ mill equals approximately \$34 million) if the expected ending balance of the HSCA Fund is less than \$5 million. Secretary McGinty has said the HSCA Fund faces a \$14 million deficit before the end of the fiscal year. “Callously disregarding the citizens of this Commonwealth - and then falsely laying responsibility at the feet of the legislature - is reprehensible,” said Senator Thompson.

Senate Republicans have recognized the need to address long-term funding for the HSCA Fund, and early last year pledged to work with Gov. Rendell to address short-term funding needs so as to avoid any crisis. In addition to the ‘trigger’ language contained in Act 89, the Senate-passed version of the state budget contained a \$10 million infusion for the HSCA Fund for the current fiscal year. However, during budget negotiations, the Rendell Administration rejected adding any new funds to the HSCA Fund and insisted this proposed appropriation be removed. “It’s perfectly clear any shortfall in funding at this time is a direct result of the Administration’s negligence, not any action of the General Assembly,” said Thompson.

Republicans also took issue with Secretary McGinty’s statement that Pennsylvania’s award-winning land recycling program will most likely be eliminated.

“The hallmark of the Land Recycling Program is encouraging voluntary cleanups, establishing clear standards and providing liability relief to developers,” said Senator David J. Brightbill, Senate Majority Leader. “To suggest to Pennsylvania communities and businesses that this comes to a grinding halt is outrageous.” Senator Brightbill was the prime sponsor of this landmark legislation, and led its successful passage in 1995 under the administration of Republican Governor Tom Ridge.

Senator Brightbill also disputed Secretary McGinty’s remarks that the General Assembly has failed the people of Pennsylvania by not passing an environmental bond question for the spring primary. Noting the irony that, despite Secretary McGinty’s claims, none of the \$800 million bond proposed by the Governor would actually go to the Hazardous Sites Cleanup Fund, Senator Brightbill said legislative leaders had in fact honored their commitment to work on a ballot question for the spring primary – a commitment that was reiterated during a mid-November meeting with the Governor.

“Secretary McGinty should know that Republicans were preparing to advance a ballot question, but that this plan fell through only because the Governor changed his mind – again – and insisted on adopting over \$120 million in new taxes on households and businesses,” said Senator Mary Jo White (R-Venango), chair of the Senate Environmental Resources & Energy Committee. “The agreement was for a ballot question. The Governor changed his mind in less than 24 hours. To suggest the effort was sabotaged by the General Assembly is uninformed, partisan and simply wrong.”

The Senator noted the Governor’s own comments during a November 18th PCN-TV call-in show, when he stated “whether we enact the enabling legislation now or in February or March, it doesn’t matter in a way, because – I’m hoping we do it now – because it can’t go on the ballot any earlier than the May primary.”

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Governor Rendell has proposed expanding Growing Greener, a 13-year, \$1.24 billion initiative first adopted under Governor Ridge and later expanded under Governor Schweiker. Nearly \$88 million remains to be spent from Growing Greener each year through 2012. Senate and House Republicans remain wary of the Governor's proposed \$150 million in new annual taxes to pay for the expansion, all of which he proposed remain in place permanently after the \$800 million has been spent in four years.

NewsClip: [Op-Ed: Hazardous Sites Funding Shortfall](#)

Mid-Year Budget Briefing for Legislators Outlines Challenges for Next Year

Gov. Rendell's Budget Secretary Michael Masch gave legislators their [mid-year briefing on the state budget](#) this week. Although General Fund revenues are about 2.1 percent ahead of projections, the Secretary outlined some budget "challenges" ahead.

Right now there is likely to be a \$1.5 billion "challenge" (hole) to fill in next year's budget, along with the need for about \$164 million in supplemental funding this year for increased welfare and unanticipated flood recovery costs.

State budget writers will have to find a way to plug several "challenges:"

- \$450 million in Department of Public Welfare (DPW) medical assistance
- \$400 million in fee income not implemented by DPW
- \$378 million in non-recurring federal aid
- \$166 million in Temporary Assistance for Needy Families (according to one group)
- \$50 million in county welfare payments

Add to these "challenges" the need for up to \$250 million more to fund mass transit, an expected multi-million "human capital" development initiative next year; \$60-\$80 million to bring Community College funding back up to previous levels; \$20 to \$40 million to make the Hazardous Sites Cleanup Fund whole and whatever the General Assembly and Administration settle on for the Growing Greener II environmental spending initiative.

This is the budget landscape that will face the Governor and General Assembly when they return to work in January.

NewsClips: [PA Budget Warning Issued](#)
[National Perspective on State Budgets](#)

Rendell Holds Another Signing of Advanced Energy Portfolio Standards Bill

Gov. Rendell went to BJ's Wholesale Outlet in Montgomery County this week to hold a third bill signing for the Advanced Energy Portfolio Standard legislation – [Senate Bill 1030](#) sponsored by Sen. Erickson (R-Delaware) in the Senate and Rep. Ross (R-Chester) in the House.

The BJ's Outlet has one of the largest solar energy installations in the Commonwealth. The company teamed up with Green Mountain Energy and Sun Power Electric to install 1,400 solar panels on the roof of its warehouse.

The 60-kilowatt array will generate 65,526 kilowatt hours of clean electricity each year for 20 years for the club, which provides members with a variety of wholesale merchandise. Over its lifetime, this installation will prevent approximately 4,603 pounds

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of smog-producing nitrogen oxide; 14,760 pounds of sulfur dioxide, which creates acid rain; and 1.96 million pounds of carbon dioxide.

The Erickson-Ross bill establishes a two-tiered portfolio standard that ensures in 15 years, 18 percent of all of the energy generated in Pennsylvania comes from clean, efficient sources. Act 213 of 2004 makes the Commonwealth the 18th state to adopt a renewable and advanced energy production provision.

Tier I requires 8 percent of electricity sold at retail in the state to come from traditional renewable sources such as solar photovoltaic energy, wind power, low-impact hydropower, geothermal energy, biologically derived methane gas, fuel cells, biomass energy or coal-mine methane. Notably, at least 0.5 percent of Tier I electricity must come from solar power --- a requirement that is at least three times more ambitious than anything any neighboring states have put in place and one that enhances the state's reputation as a clean energy leader.

Tier II requires 10 percent of the electricity to be generated from waste coal, distributed generation systems, demand-side management, large-scale hydropower, municipal solid waste, generation from pulping and wood manufacturing byproducts, and integrated combined coal gasification technology.

NewsClips: [Rendell Inks Advanced Energy Bill at Green Mountain Facility](#)
[Rendell Signs Advanced Energy Portfolio Bill](#)
[Approval of Landfill Gas Project Pending](#)

Senate Republicans Change Fish & Game, Law & Justice, Health Other Chairs

The Senate Republicans announced their line-up of committee chairs for the next session. The changes were:

Communications & Technology – Sen. Rob Wonderling (Montgomery)
was Sen. Corman

Fish & Game – Sen. Joe Conti (Bucks) was Sen. Rafferty

Law & Justice – Sen. John Rafferty (Montgomery, Berks, Chester) - was Sen. Conti

Public Health & Welfare – Sen. Jake Corman (Centre) - was retiring Sen. Mowery

Urban Affairs & Housing – Sen. Dominic Pileggi (Chester, Delaware)
was retiring Sen. Dent

In Other News

Supreme Court Decision on Superfund May Impact Voluntary Cleanups

This week the United States Supreme Court decided the case of Cooper Industries, Inc. v. Aviall Services, Inc. In a decision that reversed nearly 20 years of judicial precedent the Court held that Section 113(f) of CERCLA (commonly referred to as Superfund) did not allow a responsible party performing a “voluntary” cleanup to sue another responsible party for contribution. The Court decided that unless the remediating party had itself been subject to a “civil action” by the United States it could not sue another responsible party for a share of the cleanup costs. In other words, unless the government is taking action against you to force remediation you may not file a claim against another party.

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This decision will likely have a significant impact on how and whether voluntary cleanups are carried out. Often, parties are willing to undertake voluntary remediation, whether at their own property or at another site because they have the potential of recovering contribution from another responsible party. It now appears that such recovery will not be possible using CERCLA, especially if the party has some responsibility for the contamination. The prevailing view among the federal Courts of Appeal is that a responsible party may not use Section 107 of CERCLA to recover contribution. Thus a responsible party proceeding voluntarily may be at great risk of having to shoulder the entire cost of remediation.

It is also unclear what impact the decision will have on Brownfield projects. Many Brownfield projects are undertaken without any real anticipation of recovering costs from another party. However, the purchaser of the Brownfield property may become a responsible party under CERCLA by reason of ownership and lose the ability to use either section 107 or 113 to seek contribution if such should become necessary. The Court's decision does make it clear that under Section 113(f)(3) a party that has entered into an administrative or judicial settlement with the United States or the state may seek contribution. Therefore, it is likely that remediation that has previously been "voluntary" will more likely be performed under a consent order or consent decree in the future.

The Supreme Court's decision is an interpretation of the federal Superfund law and does not directly affect actions brought under the Pennsylvania Hazardous Sites Cleanup Act ("HSCA"). However, Section 705 of HSCA is nearly identical to the language in Section 113 of CERCLA. Therefore, the Supreme Court's interpretation of Section 113 may influence courts construing Section 705 of HSCA.

It appears that the rights and liabilities of parties involved in remediation have been changed significantly by the Supreme Court's decision. Parties contemplating voluntary remediation and/or Brownfield's projects should proceed cautiously and reevaluate their legal options in light of this important decision. (*Contributed by Terry R. Bossert, Stevens & Lee, 717-561-5274*)

NewsClip: [Supreme Court Says Pollution Cleanups Limited](#)

Philadelphia First PA Municipality to Adopt ENERGY STAR Guidelines

The U.S. Environmental Protection Agency this week recognized the City of Philadelphia for its expanding its commitment to environmental protection through energy efficiency in affordable housing construction projects.

By expanding its partnership in EPA's [ENERGY STAR](#) program, the city continues to ensure that residents of new low and moderate-income housing will pay \$200 to \$400 a year less for utility bills because energy-efficient furnaces, water heaters, air conditioners, insulation, high-performance windows, and programmable thermostats will be installed. Affordable housing in Philadelphia will meet EPA's strict guidelines for energy efficiency and earn the ENERGY STAR designation.

A home buyer or prospective tenant should look for the ENERGY STAR label to be prominently displayed on the circuit breaker box. The label indicates that the homes have been independently verified to earn the ENERGY STAR designation.

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In addition to the financial savings for residents, Arnold added, the city is also helping to reduce air pollution associated with the burning of fossil fuels to operate homes.

Last year alone, Americans, with the help of ENERGY STAR, saved enough energy to power 20 million homes and reduced greenhouse gas emissions equivalent to those from 19 million cars, while saving \$8 billion in energy costs.

The City of Philadelphia is no stranger to the ENERGY STAR program and actually joined the program in 1992 when it was known as Green Lights. In 1995 the City of Philadelphia won an ENERGY STAR national award as the City Partner of the Year.

And late last year, the city joined the ENERGY STAR Million Monitor Drive, which places computers into low-power sleep mode when not in use. The city's new ENERGY STAR standards will affect all new low and moderate-income housing construction that involves city funding

NewsClip: [Philadelphia Honored for Energy Leadership](#)

Children's Health Protection Information Now Available

The study design for the [Children's Environmental Exposure Research Study](#) (CHEERS) has been reviewed for scientific merit and ethical standards. CHEERS intends to better understand how young people come into contact with pesticides and other chemicals in their homes. The review should be completed and forwarded to the EPA Administrator in Spring 2005.

Online Image Project Paints Picture of Sustainable World

What is sustainability? The usual definition is something that meets the needs of the present, yet doesn't hurt future generations' ability to meet their needs. We're more likely to create a sustainable future if we can imagine what it would look like, but few have tried to paint a visual picture of this goal. Until now.

A new project by the Northeast Sustainable Energy Association (NESEA), called "[Images of Sustainability](#)," is being assembled as part of the upcoming Building Energy conference in March of 2005.

NESEA is inviting anyone interested to submit photos that give living examples of their view of sustainability to the [conference website](#). The photos will be displayed as a continuously running slide show in a special room at the conference in March.

Visions of Sustainability will be an open source project. The website will remain live after the conference, and NESEA will encourage people to continue submitting photos that help flesh out the vision.

The project will also reinforce the conference's title theme: The Practice of Sustainability: Art, Science, Business.

Pennsylvania Preserves 23 More Farms

The Department of Agriculture announced this week that an additional 23 farms, totaling 2,322 acres were preserved during the [State Farmland Preservation](#) Board Meeting in

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Harrisburg. These farms join more than 2,500 others already preserved in perpetuity through the program.

Pennsylvania leads the nation in the total number of farms and total acres preserved for agriculture. Wolff explained that the statewide program works in cooperation with county farmland preservation boards. County programs recommend individual farms to ensure the most effective use of program resources.

Grant Applications Due April 7 for Solid Waste Resource Recovery Projects

The Department of Environmental Protection will accept [grant applications for Solid Waste Resource Recovery Demonstration Grants](#) from counties, municipalities and authorities now through April 7.

Priority in selecting successful applicants during this application solicitation will be given to unique and innovative resource recovery projects designed to produce energy or recover materials from waste (except sewage sludge).

The maximum amount of the grant is \$100,000 with a 25 percent minimum local share.

Priority in selecting successful applicants during this application solicitation will also be given to unique and innovative resource recovery demonstration projects involving regional cooperative projects that involve more than one county or municipality. Other types of resource recovery projects may also be considered. All projects must be capable of being replicated in other areas of this Commonwealth.

Applicants must provide a business plan and market commitments for energy or materials produced by the demonstration project. Projects should be capable of reaching full scale production within 12 months of notice of a grant award.

Information is available online on the [Recycling Grants webpage](#).

Reminder: Reimbursement Forms Due for Host Municipal Landfill Inspectors

The Department of Environmental Protection will accept 2004 [Host Municipality Inspector Program Reimbursements](#) applications through March 31.

Reimbursements are available to any municipality that has a municipal waste landfill, resource recovery, or commercial hazardous waste storage, treatment and disposal facilities located within its geographic borders.

The Department will award reimbursements for authorized costs incurred for the salary and expenses of up to two certified Host Municipality Inspectors. The reimbursement shall not exceed 50 percent of the approved costs of salaries and expenses. Reimbursement is available only for Host Municipality Inspectors trained and certified by the Department.

Students Celebrate 30th Anniversary of Safe Drinking Water Act

Students at St. Denis Elementary School, Montgomery County, helped the U.S. Environmental Protection Agency celebrate the 30th anniversary of the federal Safe Drinking Water Act.

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This anniversary is an opportunity for Americans to celebrate 30 years of safe drinking water. Most Americans take healthy drinking water for granted. Yet, there are many threats to drinking water supply including: improperly disposed of chemicals; animal wastes; pesticides; human wastes; and even naturally occurring substances.

The Safe Drinking Water Act originally focused primarily on treatment as a means of providing safe drinking water at the tap. Greater efforts are now underway to improve water quality at its source - rivers, lakes, reservoirs, springs, and ground water.

To protect water sources, local emergency responders include water safety in their planning. Townships throughout the region are working to reduce non-point source run-off that can carry sediment and pollutants into our rivers and streams. Citizen watershed organizations organize stream clean-ups and help to restore stream banks by adding plants that will reduce flooding and support healthier streams. We have a multi-state program to monitor the Delaware Estuary and there is a river keeper whose daily work is to look out for the Delaware River.

One of the drinking water sources where EPA has placed a renewed focus is the Schuylkill River watershed. In the spring of 2003, a new program began to improve water resources and drinking water quality. It's called the [Schuylkill Action Network](#). The Schuylkill River watershed covers parts of 11 counties in southeastern Pennsylvania.

The network is focusing on four key problems the Schuylkill and many other watersheds face: threats from agricultural run-off, storm water run-off, acid mine drainage, and pathogen releases. This effort is significant because watershed has 58 separate locations along that river that take in water for community drinking water.

The network has many partners including EPA, the Pennsylvania Department of Environmental Protection, the [Philadelphia Water Department](#), the [Delaware River Basin Commission](#), conservation districts, locally elected officials, and citizen watershed organizations.

Most people, if they think about it, know where their water comes from. If you are not sure, check out the consumer confidence report from your water supplier, which is posted on their website. Also, most drinking water systems link this information to [EPA's website](#).

Test yourself with these questions:

1. What are the sources of drinking water for center city Philadelphia?
2. What are some the characteristics of the Schuylkill River watershed?
3. How many drinking water intakes are on the Schuylkill River?
4. What are some of the major pollutants in the Schuylkill watershed?

Looking out for our watersheds and working together we can ensure that the Safe Drinking Water Act will be celebrating a successful legacy of clean, healthy water today and in future generations.

Here are the answers:

1. The Schuylkill and Delaware Rivers.
2. It is 130 miles long. The watershed includes 2,000 square miles of area and is home to the approximately three million people in Pennsylvania, and is currently: 47 percent forest, 36 percent agricultural, and 13 percent developed.
3. Fifty-eight surface water intakes
4. Pathogens, such as Giardia and Cryptosporidium, are contained in sewage, livestock and wildlife wastes; nutrients from sewage, agriculture, lawncare, and golf courses;

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metals created by acid mine drainage; chloride and sodium from highways and road salt; MtBE (a gasoline additive) leaked from underground storage tanks and watercraft; and natural elements in the river such as bromide that can chemically react with other elements to create potentially cancer-causing compounds.

352 Miles of Migratory Fish Spawning Habitat Opened in Chesapeake Bay

The [Chesapeake Bay Program reopened 352 miles of spawning habitat](#) in the tributary states of Maryland, Pennsylvania, Virginia and District of Columbia this year to migratory fish - surpassing the Chesapeake Bay Program's five-year goal of 1,357-miles. Fish passages helped migratory fish, like shad, reach freshwater spawning habitat over more than 1,000 miles of tributaries currently blocked by dams, culverts and other obstructions.

SRBC Summarizes Hydrologic Conditions and Flooding in 2004

The [Susquehanna River Basin Commission](#) (SRBC) this week reported that for the second year in a row, near record-setting precipitation amounts resulted in streamflow and soil moisture levels being much above normal. Groundwater levels also were above normal. SRBC presented this hydrologic summary during its quarterly business meeting in North East, Maryland.

SRBC compared 2004 precipitation and streamflow conditions with those in 2003, 2002 and 2001 to show how they have varied in the last four years – 2002 and 2001 were drought years.

Here's a chart showing precipitation in inches for January 1–November 30 in 2004, 2003, 2002, 2001. Below is the average precipitation for the New York and Pennsylvania (above Harrisburg) portions of the Susquehanna basin.

Normal for this 11-month period	2004	2003	2002	2001
37.4	47.27	46.73	37.37	29.65

During the weekend of September 18 and 19, Tropical Storm Ivan dumped anywhere from 1.5 to 9.5 inches of rain on the Susquehanna River Basin over a brief period. Early estimates had the damages in the Susquehanna basin ranging from \$200 to \$300 million, and 37-38 counties in the Pennsylvania portion of the basin were declared disaster areas by the state and federal governments. The damages would have been much worse in the basin were it not for the nonstructural flood protection programs, namely the Susquehanna Flood Forecasting and Warning System, combined with the structural flood control projects, including dams, levees and channels.

The Baltimore District of the U.S. Army Corps of Engineers (USACE) operates 14 flood control reservoirs in the Susquehanna basin. Those 14 reservoirs along with the 21 USACE-built and locally maintained flood control projects held back an estimated 135 billion gallons of floodwater. This prevented more than \$1.6 billion in additional flood damage.

Leading up to Tropical Storm Ivan, the data provided by the Susquehanna Flood Forecasting and Warning System allowed the National Weather Service to issue near-perfect flood predictions and warnings, reducing millions in damages.

Early flood warnings help save lives and reduce annual average flood damages by \$32 million in the Susquehanna basin. The enhanced Susquehanna System was initiated by SRBC in 1985 because the Susquehanna basin is one of the most flood-prone areas in the country. For more information on the Susquehanna Flood Forecasting and Warning System, and for photos and news articles on Tropical Storm Ivan, go to [SRBC's Flood Warning website](#)

SRBC is the governing agency established under a 100-year compact signed on December 24, 1970 by the federal government and the states of New York, Pennsylvania and Maryland to protect and wisely manage the water resources of the Susquehanna River Basin. The Susquehanna River starts in Cooperstown, N.Y., and flows 444 miles to Havre de Grace, Md., where the river meets the Chesapeake Bay.

Penn State Expert Says Climate Change Likely Benefit to PA agriculture



To date, most research associated with global climate change has focused on determining whether it really is happening, and trying to gauge how much -- and how fast -- average temperatures and precipitation levels will change.

But a researcher in Penn State's College of Agricultural Sciences, in a study funded by the U.S. Environmental Protection Agency during the last five years, has taken a different tact. His work assumes global warming is occurring and accepts the tendency of models that predict Pennsylvania will grow slightly warmer and wetter in the not-so-distant future. His research focuses on the effect of global climate change on Pennsylvania's agriculture, water resources and economy.

"My interest is primarily in the adaptation to climate change," says [James Shortle](#), distinguished professor of agricultural and environmental economics. "There are a lot of people who are worrying about modeling climate change, trying to determine to what extent it is happening and looking at influencing climate change through pollution control, but my research is much more about how we should be adjusting to what we expect is happening."

Shortle doesn't think there is much doubt left about global climate change. "The evidence only continues to accumulate," he says. "Even the more credible skeptics are being converted. I had colleagues who said this is not happening, but I have seen those opinions change. People are having a hard time maintaining their skepticism of global climate change. The large societal risks cannot be ignored."

But the effects for Pennsylvania won't be all bad, according to research done by Shortle and his colleagues. "Climate change is likely to benefit our state's agriculture," he explains. "Higher levels of carbon dioxide in the atmosphere should stimulate photosynthesis and raise crop yields, while crops may also benefit from additional spring and summer rainfall and warmer temperatures."

Experts are uncertain whether climate change will enhance the Keystone State's position in the national and international agricultural markets. If Pennsylvania's growing

conditions improve while those in other regions deteriorate, the state's production of crops and livestock could bring higher prices.

"There are clearly a number of factors that are going to influence agriculture in Pennsylvania," Shortle says. "My guess is that climate change will be the least significant. We need to distinguish between what's good for farmers and what's just good for crop production. Markets will change, and competition will affect farm profits, so we really must look at agricultural changes across the globe to determine what changes might mean to Pennsylvania."

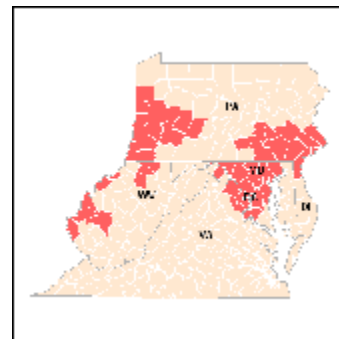
Factors such as environmental regulations, new agricultural technology, nutrient and water resources management, and farmland preservation are important. "Of course, if we don't save enough farmland in Pennsylvania, future market demands won't matter much," Shortle says. "And pests are a wildcard in this kind of prognostication, because it may be that the same warmer, wetter weather that will boost crops also will benefit pests, and we may be dealing with more and different invasive pests than we do now."

If, as predicted, ocean levels rise, storm surges increase and the state sees more -- and more-severe -- hurricanes and other storms in coming decades, Pennsylvania's neighbors with shoreline and coastal plains, such as New Jersey and Maryland, likely will have to deal with inundation of wetlands and drastically increased beach erosion. "But the Keystone State won't get off unscathed, and we will have to deal with much less obvious changes in our ecosystem," Shortle says. "That's why we are involved in risk assessment now. Pennsylvania will have to adjust to the impacts of global climate change too, but it's harder to say what they will be.

"Changes are not likely to be radical, but we have to look simultaneously at human systems and physical systems -- they cannot be separated," Shortle adds. "Global climate change will have an impact on Pennsylvania's economic and social systems over time."

EPA Makes Final Nonattainment Designations for Particulate Matter

This week the U.S. Environmental Protection Agency notified twenty of the final [nonattainment area designations for fine particle \(PM2.5\) air quality standards](#). While the great majority of the nation's counties meet the new health-based standards, all or part of 225 counties nationwide, as well as the District of Columbia, are not in attainment with the standards.



For Pennsylvania, EPA kept the same number of counties in its designation—22 (the state had recommended 13), but reduced the area designated within five counties – Allegheny, Armstrong, Greene, Indiana and Lawrence.

In July the [Department of Environmental Protection submitted comments](#) to EPA saying they were opposed to designations EPA suggested because they were based on an “arbitrary scoring process.”

“These partial county designations, which DEP requested, represent a significant victory that will enable us to target air quality improvements without unnecessarily burdening the region,” Secretary McGinty said. “Previously, EPA applied a ‘one size fits

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all approach' that was not appropriate and put Pennsylvania at a disadvantage in terms of economic competitiveness in areas that do not violate the standards.”

EPA also concurred with the DEP's recommendation to create a sub-county area within Allegheny County. This separate nonattainment area, which comprises Clairton, Glassport, Liberty, Lincoln and Port Vue, will allow the state and local agencies and area stakeholders to address attainment timing issues and the unique air quality problems that exist in the area.

However, the state remains concerned that EPA's decision to include the area surrounding the North Braddock monitor in the more extensive Pittsburgh-Beaver Valley nonattainment area, which suffers from upwind pollution, will adversely affect efforts to develop a cost-effective plan expeditiously to attain the fine particulate health-based standard and hamper economic vitality by requiring disproportionate emission reduction measures.

“We firmly believe that air pollution from large industrial sources must be addressed on a national or regional basis to reduce the interstate transport of air pollution and ensure equitable emission reduction programs that do not unfairly give one region an advantage over another in terms of public health and economic growth,” Secretary McGinty said.

DEP also maintains that Butler, Mercer, Bucks, Montgomery and Lebanon counties should be designated as attainment areas, contrary to EPA's final decision. Secretary McGinty said the department intends promptly to verify the fine particulate matter monitoring data for 2004 to determine if these or other areas in the Commonwealth should be attainment areas.

States with nonattainment areas must submit plans by early 2008 that outline how they will meet the PM_{2.5} standards. They are expected to attain clean air as soon as possible and not later than 2010. EPA can grant one five-year extension for areas with more severe problems. The attainment date for those areas would be 2015.

Thirty states and their 2,909 counties received the good news that they meet PM_{2.5} air quality standards. These states will need to continue their progress by sustaining clean air. “[The Particle Pollution Report: Current Understanding of Air Quality and Emissions through 2003](#),” issued earlier this week reported that 2003 PM levels were the lowest since monitoring began.

NewsClip: [EPA Designates 18 Counties, Parts of Four Others on PM 2.5 EPA Says Soot Pollution in Region Still Too High](#)

New Energy and Technology Chief Named in Southwest DEP Office

Margaret M. Hall was named Chief of the Office of Energy and Technology Development for the Southwestern Regional Office. Her goals include forming partnerships between DEP and businesses in the southwest region and highlighting the importance of energy in our economy and assisting sectors, such as manufacturing, in saving money through energy management.

Maggie recognizes the value both of alternative renewable resources and our traditional energy resources, such as coal.

Maggie has made numerous contributions to the Department, most recently she served as the Compliance Manager in the Greensburg District Mining Office. She also is co-founder of the Ohio River Watershed Celebration.

Maggie and her staff look forward to visiting your business to assist with pollution prevention and energy efficiency and are available to make presentations.

Op-Ed: Advancing Renewable and Alternative Energy in Pennsylvania
By Senator Ray Musto

Energy is essential for modern economies. It is the basis for technological and economic development. It has also become an integral component of our national security.

Dwindling and costly energy supplies have placed a substantial demand on our natural resources and prompted us to explore ways to stretch our current resources to meet our energy needs. Fortunately, there are alternatives.

Renewable energy provides about 6 percent of the total energy supply in the United States. About half of that amount (45 percent) is hydroelectric power. According to the most recent report of the U.S. Energy Information Administration, renewable energy consumption in the United States last year was essentially the same level it was in 1989.

Furthermore, the report says that while energy production through wind and solar photovoltaics (solar power) have expanded rapidly in recent years, their share of the total is so small that this growth has not significantly affected the renewable industry. In Pennsylvania, renewable energy contributes even less to our state's total energy supply. Pennsylvania's energy mix currently includes only about 2 percent renewable energy--including hydropower.

The bulk of Pennsylvania's energy still comes from coal and nuclear power. Recognizing that our energy choices have many implications for economic growth, environmental protection and national security, Pennsylvania has just taken a momentous step in fostering the use of renewable and alternative energy sources with the recent enactment of the "Alternative Energy Portfolio Standards Act" (Act 213 of 2004). This new legislation will advance the use of renewable and alternative sources of energy by requiring that 18 percent of Pennsylvania's energy supply come from alternative energy sources by 2020.

Pennsylvania now joins a growing list of states that have programs to encourage the development of renewable energy for electricity generation. As Democratic chairman of the Senate Environmental Resources and Energy Committee, I am proud of this accomplishment. My committee held three public hearings and heard from a variety of agencies, interest groups and utility companies. Through this process we were able to develop innovative legislation that is uniquely suited to Pennsylvania and will best utilize our resources.

For instance, the use of waste coal is included in the legislation--an alternative energy source that few other states possess. The reuse of this material results in a number



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of economic and environmental rewards including energy production, elimination of coal refuse piles, and the reclamation of abandoned mine land.

The new law divides the alternative energy sources into two tiers. Tier I features sources such as solar energy, wind power, fuel cells, biomass energy (plant materials and animal waste used as fuel), low-impact hydropower, and coal mine methane. In Tier II various alternatives are available including waste coal, distributed generation systems, demand-side management, large-scale hydropower, municipal solid waste, the generation of electricity using wood waste, and coal gasification technology.

The new law mandates that within the next two years at least 1.5 percent of the electric energy sold by an electric distribution company or generation supplier to retail customers must be produced by Tier I alternative energy sources. This percentage will increase gradually each year until 2019, when at least 8 percent of the electric energy sold in Pennsylvania is generated by Tier I sources. Within the next 15 years, at least 10 percent of electric energy must be made by Tier II energy sources.

Pennsylvania also took important steps to increase the use of solar energy and promote solar technologies in the state. The Alternative Energy Portfolio Standards Act includes a "solar share." This means that of the electric energy required to be sold from Tier I sources, a certain portion must come from solar energy. The solar share will gradually increase so that by 2019, the percentage that must be sold from photovoltaic technologies is 0.5 percent.

The act also provides flexibility in the form of alternative energy credits. The law makes an alternative energy credit tradable. Thus, one credit is equal to one-megawatt hour of electricity from a qualified alternative energy source. And, if an electric distribution company or generation supplier has an abundance of alternative energy, it may bank alternative energy credits produced in one reporting year for compliance in the two subsequent reporting years.

If an electric distribution company or generation supplier fails to comply with alternative energy program requirements, it will have to pay a penalty in the form of an alternative compliance payment. The payment will be \$45 multiplied by the number of additional alternative energy credits needed to comply.

Moreover, if a company does not comply with solar energy requirements, the payment will be 200 percent of the average market value of solar renewable energy credits sold during the reporting period. The compliance payments are to be paid into Pennsylvania's Sustainable Energy Funds and used for projects that increase the amount of electric energy generated from alternative energy sources.

By advancing the use of renewable and alternative energy, Pennsylvania is paving the way for a cleaner, healthier environment. Through the efforts of the Senate Environmental Resources and Energy Committee, Pennsylvania is helping to make our state and our country more energy self-sufficient and strong.

[Senator Raphael Musto](#) is Democratic Chairman of the Senate Environmental Resources and Energy Committee and represents the 14th Senatorial District in Luzerne, Carbon and Monroe counties.

Quick Clips

[Validating Carbon Sequestration Technologies by DOE, Partners](#)

[Editorial: Future Hunting](#)

[Hybrid-Engines Project Set](#)

[Group Hopes to Lasso 200 Windmills for Cambria](#)

[Governor Has Gobs of Plans for Energy](#)

[Editorial: Coupons for Recycling](#)

[Delaware College Planning Windmill](#)

[Editorial: New Energy Report a Brighter Idea](#)

[Hunters Give PA Economy Shot in Arm](#)

[Slowing Urban Sprawl](#)

Taking Positive Action

More Than 200 Food Lion Stores Have Earned the ENERGY STAR Label

More than 200 Food Lion stores in eight states, including Pennsylvania, have earned the prestigious [ENERGY STAR](#) designation from the U.S. Environmental Protection Agency (EPA).

The ENERGY STAR label signifies these Food Lion stores are among the most energy efficient retail facilities in the United States.

The EPA has established criteria for grocery stores based on benchmarking energy performance on a scale of 1-to-100. Supermarkets among the top 25 percent nationwide in terms of energy performance, earning a score of 75 or greater and maintaining an indoor environment that conforms to industry standards, can earn the ENERGY STAR designation.

With 205 ENERGY STAR stores, Food Lion has more than any other supermarket chain and possesses a significant percentage of all ENERGY STAR grocery stores nationwide. Food Lion's ENERGY STAR stores are located in Florida, Georgia, Maryland, North Carolina, Pennsylvania, South Carolina, Virginia and West Virginia.

Since 2000, Food Lion has reduced its energy use by more than 1.62 trillion Btu. In 2004, Food Lion will save 415 billion Btu and cut its natural gas consumption by nearly 18 percent. The company is reducing its water use by more than 5 percent.

The environmental impact of Food Lion's efforts is significant. Based on EPA calculations, each of Food Lion's ENERGY STAR stores saves as much as 86,000 kWh per year -- enough to power nine American homes for an entire year.

The energy savings at each store also prevent 190,920 pounds of CO₂ emissions per year, equal to removing the pollution of 19 cars or planting nearly 26 acres of trees.

Applying these EPA calculations to Food Lion's 2004 energy reductions of 415 billion Btu, Food Lion achieved energy savings equivalent to preventing 270 million pounds of carbon dioxide, taking 27,700 cars off the road, planting 37,000 acres of trees and powering 12,159 American homes. The last three years, Food Lion alone has reduced CO₂ emissions by more than 940 million pounds.

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A partner in the ENERGY STAR program since 1998, Food Lion received "Partner of the Year" awards in 2002 and 2003 for adopting and applying energy management practices and technology throughout its store operations. In both years, Food Lion was the only supermarket company to receive the honor. In 2004, Food Lion earned the ENERGY STAR Sustained Excellence Award.

Watershed NewsClips

[Otter Run Pollution Targetted - Waterville](#)

[Proposed Power Plant Will Take Care of Waste Coal Pollution](#)

[Catawissa Creek Getting Cleaner](#)

[Signs Point to Waynesboro Waterways](#)

[Winter is No Time to Stay Indoors](#)

[Keystone Water Monitoring Network to Receive Heinz Grant](#)

[Wyoming Valley Watershed Coalition accepting nominations for cleanups](#)

[New signs call attention to streams](#)

[Purchase guarantees safety of watershed](#)

[Swattie storytellers](#)

Regulations

Independent Regulatory Review Commission published a notice of comments on proposed Environmental Quality Board regulations [covering Concentrated Animal Feeding Operations and State Conservation Commission regulations on Nutrient Management](#).

Delaware River Basin Commission proposed [changes to Comprehensive Plan and Water Code](#) relating to lower basin and hydroelectric reservoirs during drought conditions. Hearing January 19. Comments due January 19.

Delaware River Basin Commission [proposed a new fee schedule for renewal of projects](#). Comments due January 19.

NewsClip: [State Explosive Rules to be Changed](#)

[Pennsylvania Bulletin – December 18, 2004](#)

[Comment Deadlines Open](#)

[Copies of Proposed Regulations](#)

[Status of Regulations, 6-Month Calendar](#)

Technical Guidance & Permits

Pennsylvania Fish & Boat Commission notice of proposed [change to policy on notifying public on trout stocking](#).

Pennsylvania Fish & Boat Commission notice of changes to [2005 Class A Wild Trout Waters](#).

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The Department of Environmental Protection will publish notice rescinding these policy documents on December 25—

DEP ID: 363-3000-013 Title: Inspection of Earth Disturbance Sites. DEP established an identification number for this guidance in anticipation of developing guidelines for the inspection of earth disturbance sites. Subsequent changes required by the federal Phase II NPDES permit and implementation of the post-construction stormwater management requirements has made the development and finalization of this guidance no longer necessary.

DEP ID: 363-2191-014 Title: NPDES Permit: Discharge of Stormwater from Construction Activities. This policy is obsolete due to the changes required by the federal Phase II NPDES permit and implementation of the post-construction stormwater management requirements. Information contained in revised permit application guidance, department fact sheets, and technical guidance #392-0300-002: Comprehensive Stormwater Management Policy replace this obsolete guidance.

[For copies of Draft Technical Guidance](#) [For copies of Final Technical Guidance](#)

Calendar of Upcoming Events

- **March 2, 2005** – Senate Appropriations Budget Hearing for the Department of Conservation and Natural Resources. 2:45
- **March 9, 2005** – Senate Appropriations Budget Hearing for the Department of Environmental Protection. 2:45
- **April 19-20, 2005** [Environmental Laws & Regulations Conference and Trade Show](#), Harrisburg.

[DEP Calendar of Events](#) [Watershed Events](#)

Helpful Web Links

[Daily NewsClips](#) [Weekly DEP Update](#) [GreenTreks Network](#) [Watershed Weekly](#)

[DEP Press Releases](#) [DEP Advisory Committee Meetings & Agendas](#)

Contributions Invited

Send your stories about environmental issues, programs and positive actions to **PA Environment Digest** - DHess@HolstonCrisci.com or go to www.PaEnvironmentDigest.com .

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