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Newsletter of the Township Engineers Association

June 2022

Latest News

Reminder: MS4 Annual Status Reports Are Due September 30

Townships with individual MS4 permits must submit a copy of an ordinance that is consistent with DEP's 2022 Model Stormwater Management Ordinance ([3800-PM-BCW0100j](#)) by **September 30** as follows:

- a) for existing permittees, as an attachment to their Annual MS4 Status Report ([3800-FM-BCW0491](#));
- b) for first-time permittees, as an attachment to their fourth Annual MS4 Status Report.

FYI: Due Date for Notices of Intent for General Permit Still to Come

For the limited number of townships that use the NPDES general permit for stormwater discharges from a small municipal separate storm sewer system (MS4), the Pa. Department of Environmental Protection (DEP) has not yet set a date for submitting a [notice of intent](#) (NOI) to remain under the general permit. When the department re-issues its statewide PAG-13 General Permit, these MS4s will automatically be covered by the new permit if they have submitted a timely NOI. Click [HERE](#) to visit the DEP Municipal Stormwater page for up-to-date information on when these NOIs will be due.

Federal 'Internet for All Initiative' Aims to Bring High-Speed Internet to Everyone

The U.S. Internet for All Initiative, part of the Bipartisan Infrastructure Law, will provide \$45 billion to provide affordable and reliable high-speed internet for everyone by the end of the decade. The initiative will be administered and implemented by the U.S. Department of Commerce's National Telecommunications and Information Administration (NTIA).

The initiative launched with three grant opportunities:

- Broadband Equity, Access, and Deployment Program (\$42.5 billion)

- Enabling Middle-Mile Broadband Infrastructure Program (\$1 billion)
- State Digital Equity Act Program (\$1.5 billion)

NTIA is conducting a series of webinars for all interested parties to learn more about these opportunities. [Click here](#) for more information on the webinars. [Click here](#) for more about these programs and any application deadlines.

Federal Flood Mitigation Funding Available

Pennsylvania will receive \$5 million through the federal Infrastructure Investment and Jobs Act to support mitigation against future damage from natural disasters. Properties covered by a National Flood Insurance Program policy that have sustained repetitive losses due to flooding are eligible for the new Swift Current initiative. The local government where such properties are located is considered the sub-applicant and should work with interested property owners to develop and submit a sub-application on their behalf. Applications are due **October 3, 2022**. [Click here](#) to learn more.

Grants Available for Municipal Recycling Programs

The state Department of Environmental Protection (DEP) is accepting applications for recycling performance grants under Section 904 of the [Municipal Waste Planning, Recycling and Waste Reduction Act of 1988](#). This application period is for eligible materials recycled and marketed in calendar year 2021. For more information on eligible materials, supporting documentation, and application instructions, visit DEP's Recycling Performance Grants [Questions and Answers page](#).

Grant funds will be awarded to municipalities based on the weight of source-separated recyclable materials recovered by municipal recycling programs and the population of the municipality as determined by the most recent decennial census. Applications are due **December 30**.

Legal Update

PennDOT Bridge Tolling Plan on Hold

Commonwealth Court Judge Ellen Ceisler granted a preliminary injunction halting PennDOT's plan to toll and rebuild nine major bridges under its "Major Bridge P3 Initiative" across the state until further court action occurs.

The injunction is due to a challenge by local governments against the tolling of the I-83 South Bridge in Dauphin County. The Court agreed that the decision by the Pennsylvania Public-Private Transportation Partnership Board did not identify the bridges to be tolled or consult with the affected parties prior to the board's approval of the plan in November 2020, which are requirements under the P3 law. The local governments argued that the P3 law requires that they, as affected municipalities, be consulted prior to the decision by the Board. [Click here](#) to read the opinion.

Failure to Timely Provide Documents after Final Determination Provides Grounds for Bad Faith

In *McFalls v. Municipality of Norristown*, No. 737 C.D. 2021, 2022 WL 1553720 (Pa.Cmwlth. May 17, 2022), the court ruled that an unexcused failure to produce records until after the Office of Open Records' production deadline may constitute bad faith worthy of sanction under Section 1305(a) of the Right-to-Know Law.

The Office of Open Records (OOR) ordered the municipality to produce records related to its policies on the custody and care of prisoners and restraint procedures for combative prisoners, certification and training of officers, and use of force policies. Neither the requester nor the municipality appealed, and more than 30 days later, the municipality provided the responsive documents.

The court held that the municipality's failure to timely produce records may be sanctionable and

stated that an *in camera* review may be appropriate to determine whether the redactions made by the municipality to the produced documents were unauthorized and in bad faith. The court vacated an order granting summary judgment to the municipality and remanded for a determination on whether a civil penalty under Section 1305(a) was warranted. The court also noted that the requester's motivation requesting records has no bearing on the decision of whether sanctions should be imposed.

Divided Supreme Court Leads to Loss of Dimensional Variance for Covered Deck

In *Kneebone v. Zoning Hearing Bd. of Twp. of Plainfield*, ___ A.3d ___, 2022 WL 1257380 (Pa. April 28, 2022), the Supreme Court was unable to reach a majority, thereby leading the court to affirm the reversal of a grant of a dimensional variance that would have allowed a covered deck to intrude well into a backyard setback area. To read more, [click here](#).

Legislative Report

Recently enacted legislation:

[Act 15 of 2022 \(HB 221\)](#) authorizes local governments to use up to 25% of revenue from their open space tax for maintenance and development of open space regardless of the method of acquisition or purchase. This act was signed by the governor on April 19, 2022, and takes effect June 18, 2022.

[Act 18 of 2022 \(SB 478\)](#) allows municipalities to enter into contracts for services when they advertise a bid for services twice but receive no bids. This act was signed by the governor on April 19, 2022, and takes effect June 18, 2022.

The following is a summary of legislation affecting townships that is under consideration by the General Assembly. Please note that the status of these bills may have changed.

Updating and Expanding Municipal Stormwater Planning Requirements

[HB 2567/PN 3081](#) would update and greatly expand the stormwater planning requirements to be undertaken by counties and municipalities, authorizing counties to regulate stormwater within a watershed-based planning area; authorizing the formation of water resources management authorities; enabling counties, municipalities, and water resources management authorities to develop integrated water resources management plans; and providing for financing.

Status: Referred to the House Environmental Resources and Energy Committee.

Public Meetings Prior to the Sale or Lease of a Municipal Asset

[HB 527/PN 2594](#) would amend Title 53 (*Municipalities Generally*) of the Pennsylvania Consolidated Statutes to provide for public notice, public meeting, and governing body consent requirements before the sale or lease of a municipal water or sewer system.

Status: In the House; laid on the table after second consideration.

Water and Wastewater Asset Management Plans

[SB 597/PN 1579](#) would amend Title 27 (*Environmental Resources*) of the Pennsylvania Consolidated Statutes to provide for water and wastewater asset management plans.

Status: In the Senate; was amended on third consideration.

Upcoming Educational Opportunities (many PDH eligible)

Calling All Subject Matter Experts!

PSATS continues to host numerous in-person and virtual educational events targeted at both township engineers and municipal officials as detailed below. If you are interested in sharing your expertise for an in-person or virtual presentation on any topic of interest to our audience, please contact Education Director Scott Coburn at scoburn@psats.org.

Virtual Classes

SAVE THE DATE! Fall 2022 Virtual Engineers Seminar – October 27, 2022

Save this date on your calendar for our fall educational event! If you are interested in making a virtual presentation at this seminar, please email the proposed title and description to engineers@psats.org by August 31, 2022.

Also, save the date of April 24-25, 2023, for the in-person Spring 2023 Engineers Seminar at the Hershey Lodge. We already have a very compelling presentation scheduled that will be of interest to any consulting engineer who has MS4 clients.

[Performing MS4 Outfall Inspections - Virtual Class - 6/23/22](#)

In this virtual class, attendees will learn a workable, effective framework for establishing a hierarchy for outfall inspections, a protocol for performing inspections in the field, and a method for inspecting, documenting, and addressing potential illicit discharges.

In-Person Classes

[Duties of a Zoning Hearing Board - 6/22/22 - Lehigh County](#)

From making decisions on contentious public issues to learning the ins and outs of the Municipalities Planning Code, being a member of a zoning hearing board can be a challenge. Topics to be covered include procedures for deciding variances and special exceptions, handling hearing-related questions, Ethics Act requirements, and much more. Attendees will also learn specific, practical tips that will leave them better prepared for their next meeting or hearing. While this course is geared toward newer zoning hearing board members, those looking for a refresher on their obligations will also benefit.

[PSATS SEO Precertification Academy - August 22-26, 2022](#)

The PSATS SEO Precertification Academy is designed to teach the basic skills a future sewage enforcement officer (SEO) needs to know to work for a local agency. Whether you work for a municipality in need of a good SEO or are considering the SEO field as a career, you should check out the benefits of sending someone or attending the academy yourself. Not only is the academy a prerequisite to taking the commonwealth's certification examination for SEOs but it will also leave you better prepared to enter the multi-faceted world of a local agency SEO.

PowerPass-Eligible Webinars

[Webinar - A Handbook for the Effective Administration of State and Local Broadband Programs- 6/22/22](#)

This webinar will help guide local governments at all levels to develop comprehensive strategies to build high-speed broadband networks in areas where they do not yet exist and help residents subscribe to broadband where it does exist while maintaining public confidence by spending funds wisely and optimally.

[Webinar - 2022 MS4 Stormwater Ordinance Updates - 6/28/22](#)

If your township has a NPDES MS4 permit, you are required to update your stormwater ordinance for consistency with the DEP's 2022 Model Stormwater Management Ordinance. This presentation will review the updates required and considerations for improving your stormwater ordinance and streamlining the process. MS4s with general permits must adopt the updated ordinance and submit it to DEP with an Annual MS4 Status Report by September 30, 2022.

[Webinar - Creating Advantages in Today's Difficult Bidding Environment - 6/29/22](#)

Supply chain issues and staffing shortages have created challenging conditions when bidding and awarding municipal projects. This thought-provoking session will provide strategies to help your township realize time and cost efficiencies during the bidding process, while putting in place practices that reduce headaches.

[Webinar - Backyard Stream Repair - 7/28/22](#)

This webinar will describe how townships and residents can use native vegetation to protect and restore streambanks that suffer from mild to moderate bank erosion. Topics will include how streambank erosion starts, how to identify suitable restoration sites, plant selection and installation, and maintenance.

[Webinar - FEMA Grant Funding Opportunities - 8/3/22](#)

Hear from PEMA's State Hazard Mitigation Officer about the numerous funding opportunities through FEMA, including the Building Resilient Infrastructure and Communities (BRIC) program, which assists with hazard mitigation projects. He will also address grants available through the Flood Mitigation Assistance program, which can be used for projects that reduce or eliminate the risk of repetitive flood damage to buildings insured by the National Flood Insurance Program.

[Webinar - Making Intermunicipal Stormwater Management Work for You - 8/25/22](#)

Municipal stormwater regulations can put pressure on limited administrative and financial resources. This webinar will provide an overview of intermunicipal collaborative arrangements that have been used in Pennsylvania and have yielded efficiencies and cost savings. Pros and cons of each will be discussed in terms of initial investment, cost of compliance, co-benefits, and suitability for different situations.



This monthly newsletter for members of the Pennsylvania State Association of Township Engineers focuses on news and matters of interest to municipal engineers and provides details on upcoming training opportunities. To access previous editions, log onto psats.org and look under the "Newsroom" tab. Email comments and suggestions to James Wheeler at jwheeler@psats.org.



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