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## Newsletter of the Township Engineers Association

October 2022

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### Latest News

#### **[Engineers Fall 2022 Virtual Seminar – October 27, 2022](#)**

Time is running out to register for this important educational event! Click on the link above to register for our virtual, full-day fall educational event eligible for six professional development hours (PDHs). Scheduled topics and speakers include:

8:30 a.m. National Roadway Safety Strategy and Road Safety Audits (1 PDH)

*Patrick Wright, Traffic Engineer, LTAP*

9:30 a.m. Safety-Related Issues with Emerging Backup Energy Storage Systems (1 PDH)

*Gabe Paoletti, P.E., Senior Consulting Engineer, Paoletti Engineering PLLC*

10:30 a.m. PFAS in Your POTW? Here Is How to Respond (1 PDH)

*Jamie Shambaugh, P.E., Manager, Water Process and Operations Group, Gannet Fleming, Inc.*

11:30 a.m. Combining Asphalt Pavement Preservation Efforts (1 PDH)

*Walter Percy IV, Regional Director of Sales and Marketing, Asphalt Paving Systems*

12:30 p.m. Lunch

1:00 p.m. Legislative and Legal Roundup (0.25 PDH)

*Joe Gerdes III, Director of Government Relations, PSATS*

1:15 p.m. Local Regulation of Grid-Scale Solar Projects (1 PDH)

*Tom Murphy, Director, Marcellus Center for Outreach and Research,*

## *Penn State University*

2:15 p.m. The Dirt and Gravel Road Program's Newest Stream-Crossing Standard and Technical Manual (0.75 PDH)

*Steve Bloser, Director, PSU Dirt and Gravel Road Center*

*Roy Richardson, Program Coordinator, Pa. State Conservation Commission*

3:00 p.m. Adjourn

### **Save the Dates for PSATS' 2023 Annual Educational Conference and Exhibit Show!**

PSATS invites all engineering firms to save the date and plan to exhibit at the PSATS 2023 conference. The exhibit show will run from 1 p.m. Sunday, April 23, until 1:30 p.m. Tuesday, April 25. Registration materials for the Exhibit Show will be sent out in early December or check our website.

### **DEP Extends NPDES PAG-13 General Permit**

On Saturday, September 24, DEP administratively extended for 24 months the availability of the current National Pollutant Discharge Elimination System (NPDES) General Permit (PAG-13) for stormwater discharges from small municipal separate storm sewer systems (MS4s). This notice does not extend any deadlines that are contained in the existing PAG-13, including the date by which implementation of Pollutant Reduction Plans and Pollutant Control Measures must be achieved.

**Please note:** Municipalities with individual MS4 permits must submit an application to renew their permit at least 180 days prior to the expiration of their current permit. If DEP is not able to reissue the individual permit by the expiration date, the current permit will be administratively continued until DEP is able to reissue it.

The existing PAG-13 in effect at this time will expire March 15, 2023. Persons who are operating under PAG-13 may continue to operate until March 15, 2025. The department is extending the availability of this permit to adequately address issues related to the renewal of PAG-13. During the period of administrative extension, the department may not authorize new coverage under PAG-13.

By extending the existing PAG-13, the department, existing permittees, and potential applicants will have additional time to consider and address the following:

- The 2020 "urbanized areas" defined by the U.S. Census Bureau have not yet been released. Without this information, it is unknown how the regulated planning area of existing PAG-13 permittees will change, or if additional MS4s will need PAG-13 coverage or waivers.
- This will allow the department to discuss the feasibility of pollutant reduction requirements in future permit terms, including consideration of the meaning of "maximum extent practicable" for MS4s, as specified under the Federal Clean Water Act, and the extent to which collaboration with other MS4s can be achieved.

### **PennDOT Is Accepting Multimodal Grant Applications**

The state Department of Transportation is now accepting applications for a new round of Multimodal Transportation Fund grants. **Applications are due November 14.** Townships and councils of governments may apply for these grants.

Submitted projects should coordinate local land use with transportation assets to enhance existing communities; improve streetscape, lighting, sidewalk facilities, and pedestrian safety; improve connectivity or use of existing transportation systems; or advance transit-oriented-development. Click here for [grant guidelines and instructions](#).

### **Act 13 Unconventional Gas Well Fund Grants Available**

The application period for the 2022 Act 13 Unconventional Gas Well Fund (UGWF) grant program is now open. **The deadline to apply is October 21.** Fire companies, rescue companies, and emergency medical services throughout the 40 counties in which unconventional gas wells are located, or counties that directly border those counties, are eligible to apply for the grants. [Click here](#) for detailed information about the program and instructions on how to apply

Eligible projects include:

- Obtaining professional national certification of members.
- Purchase of firefighting, emergency medical, rescue, or air monitoring equipment used at or related to an unconventional gas well pad incident on, or related to, an unconventional gas well pad. All equipment purchased through the program will also include training on the equipment provided by the PSFA at no additional costs to the grant recipient(s).
- Training classes and required educational materials to prepare for incidents at an unconventional gas well pad or related to the unconventional gas industry.

### **Deadline Approaching for Fire/EMS Grant Applications**

The Office of the State Fire Commissioner is now accepting applications for the Fire and EMS Grant Program until **October 21**. Written instructions and guidelines for the 2022-2023 program are now available at [www.osfc.pa.gov](http://www.osfc.pa.gov).

All fire companies, emergency medical services, and volunteer rescue squads may apply for these grants. Fire and rescue companies must be actively reporting to PennFIRS monthly. Funds may be used for such projects as construction and/or renovation of the fire company or EMS facilities, equipment, debt reduction, training, and recruitment and retention, including volunteer firefighter length-of-service award programs and programs for minors. Click here for [grant guidance and application information](#).

### **New Grant Round for Recycling Implementation Grants**

The state Department of Environmental Protection is opening a new grant round to support the development of municipal recycling programs under section 902 of the [Municipal Waste Planning, Recycling and Waste Reduction Act of 1988](#) (Act 101).

Applicants must complete the Sustainability Plan portion of the application that includes actions and strategies for program self-sufficiency. DEP's technical report on [Building Financially Sustainable Recycling Programs](#) can aid in developing methods and strategies. Only projects involving townships that have a mandatory trash collection program or projects seeking support for a residential recycling program that have a corresponding commercial recycling program will be considered for funding. Eligible and noneligible costs are listed in the grant application packet.

Applications must be submitted online through the [Commonwealth's Electronic Single Application](#) website **by October 28**. Questions should be directed to Mark Vottero, DEP Recycling Grants Coordinator, at [mvottero@pa.gov](mailto:mvottero@pa.gov) or (717) 772-5719. [Click here](#) for the Pennsylvania Bulletin notice.

### **Sovereign and Governmental Immunity Report Recently Released**

Pennsylvania's Joint Legislative Budget & Finance Committee (LBFC) recently released the report "Limitations on Liability under Pennsylvania's Sovereign and Governmental Immunity Laws." The report was prompted by recent court decisions that questioned whether the current damage caps on the commonwealth's and local governments' liability are sufficient and urged the General Assembly to consider changes.

The report found that the current local government liability cap of \$500,000 is sufficient for more than 99% of claims against local government entities reviewed by the committee. Only 1% of claims resulted in payouts from \$250,000 to \$500,000. The report makes several recommendations, including that the caps remain as they are for non-catastrophic claims and that the caps be increased only for catastrophic claims and medical expenses for non-economic damages based on the Consumer Price Index since 1978. In addition, the report recommends that local governments indicate their insurance carrier for property and liability coverage using

DCED's municipal statistics database. To read a one-page summary of the report, [click here](#). For the full report, [click here](#).

### **The 'Economic Reality' of What Constitutes 'Public Work'**

In a recent post, Robert T. Sing of Siana Law wrote about the "economic reality" test applicable to the Pennsylvania Prevailing Wage Act and the impact of the Commonwealth Court's decision in *Ursinus College v. Prevailing Wage Appeals Bd.* on that test. To learn more, access [Siana Law's post](#).

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## **Recent Decisions**

### **Court Upholds Forced Sale of Property with Continued Maintenance Problems**

In [North Coventry Twp. v. Tripodi](#), No. 1023 C.D. 2020, 2022 WL 4088309 (Pa.Cmwth. Sept. 7, 2022), the court affirmed a trial-court order compelling a sale of property with continued maintenance problems because the owner repeatedly ignored court orders aimed at addressing those problems.

The township first obtained injunctive relief against Tripodi, the property owner, in 2008 when the court entered an order with a settlement agreement whereby Tripodi agreed to sell the property and provide access to a master who would conduct inspections and oversee work on the property. The trial court later found Tripodi in contempt of many of its orders and ordered Tripodi to pay fees and place money into escrow for the master's use.

After additional contempt petitions, the trial court ordered Tripodi to pay more than \$60,000 to the master and almost \$35,000 in attorney's fees and costs to the township. It later noted that Tripodi's failure to comply might result in the sale of the property and that Tripodi must deliver the master a \$500,000 check or personal financial information. It finally ordered the sale of the property.

### **County Judge Rules Environmental Violations Can Inform How Townships Evaluate Land Use Permits**

An Allegheny County judge recently sided with West Deer Township and ruled that it had enough evidence to deny a fracking permit because the township found that granting the permit would cause harm beyond what would generally be expected from fracking. Access the *Pittsburgh Post-Gazette* article [here](#). There is no word on whether the ruling will be appealed.

### **Reducing Costs and Environmental Impacts of Winter Maintenance**

Listen to this podcast and hear host Steve Chizmar, director of PennDOT's Bureau of Innovations, interview Sam Gregory, technical expert for Pennsylvania's Local Technical Assistance Program (LTAP), and Karen Atkinson, LTAP program manager for PSATS. Both Sam and Karen have been involved with PennDOT's Salt and Snow Management Course since its creation — an innovation that has been providing training on efficient winter maintenance operations to local governments since 2015. [Check out the episode here!](#)

### **Replacing Bridges Faster and Easier with GRS-IBS**

In this podcast, host Steve Chizmar, director of PennDOT's Bureau of Innovations, interviews Kristin Langer, assistant chief bridge engineer in PennDOT's Bridge Office, and Randy Albert, Municipal Services supervisor for PennDOT District 2. Kristin and Randy were instrumental in bringing the Geosynthetic Reinforced Soil-Integrated Bridge Systems (GRS-IBS) innovation to Pennsylvania. GRS-IBS is an accelerated bridge construction technique that improves efficiency. [Check out the episode here!](#)

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## Legal Update

### **Non-Compliance with Specific Ordinance Language Dooms Modification of Steep-Slope Requirements**

In [The Concerned Citizens of Ross Twp. v. Ross Twp.](#), No. 1301 C.D. 2020, 2022 WL 4137365 (Pa.Cmwlth. Sept. 13, 2022), the Commonwealth Court reversed a decision granting a modification from a township's steep-slope regulations for the construction of additional cemetery plots because the township board ignored a specific ordinance requirement that modifications must involve the "minimum modification necessary." Instead, the board based its decision on its finding that the modification would be in the township's interest because the project would result in increased stabilization of the slopes.

The court did, however, reject the citizens group's argument that the cemetery was required to establish that it would suffer undue hardship in the absence of the modification. Instead, the standard was "undue hardship or unreasonableness."

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## Legislative Report

The Senate returns to session October 17 and has only six scheduled session days remaining in the 2022-2023 legislative session. The House returns October 24 and has only three session days remaining. Any bills that don't make it to the governor by the end of the current session will "die" and would need to be reintroduced in the 2023-2024 session, which begins in January. The following bills saw legislative action in September:

[HB 1341/PN 3503](#) would authorize municipal-owned three-axle motor vehicles to exceed the 58,400-pound maximum gross weight limits if each non-steering axle does not carry more than 24,000 pounds or an overall gross vehicle weight of 66,000 pounds.  
Status: Reported as amended from the Senate Transportation Committee.

[HR 130/PN 3517](#) would direct the Legislative Budget and Finance Committee to study the Department of Transportation's practices in maintaining and completing infrastructure projects.  
Status: Adopted by the House.

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## 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](mailto:scoburn@psats.org).

### **Virtual Class**

#### **[Engineers Fall 2022 Virtual Seminar – October 27, 2022](#)**

Click on the link above to register for our virtual, full day fall educational event eligible for six PDHs.

#### **PSATS 2022 Stormwater Conferences Now Virtual!**

Do you have municipal clients whose stormwater management program needs some help? Do they have problems complying with their current MS4 permit? Do they want to know more about the next MS4 permit? Are they interested in learning the latest best practices for stormwater management? If you answered "yes" to any of these questions, then you (and they!) will want to attend either the "2022 PSATS Virtual Stormwater Conference Technical Track" or the "2022

PSATS Virtual Stormwater Conference Policy Track” as appropriate.

Click on the appropriate link below to register for one of these tracks to learn effective ways to improve compliance with your MS4 NPDES permit and state-of-the-art practices for improving your overall stormwater management program from the best in the business. Please note that we are offering the “Technical” track on Nov. 9 and the “Policy” track on Nov. 10 for those who want to take advantage of both tracks.

[Virtual Technical Track on Nov. 9](#)

[Virtual Policy Track on Nov. 10](#)

Each event starts at 9 a.m. and concludes by 3:15 p.m. Registration is \$150 per person and includes certificate of attendance and all workshop presentation materials. If you are a consulting engineer or a member of a municipal stormwater operations staff, select the “Technical” track. If you have managerial and administrative stormwater responsibilities, select the “Policy” track.

### **In-Person Classes**

#### **SAVE THE DATE! Spring 2023 Engineers Seminar – April 24 & 25, 2023**

Save these dates for our in-person Spring 2023 Engineers Seminar the mornings of April 24 and 25 at the Hershey Lodge. We already have several very compelling presentations scheduled that will be of interest to any consulting engineer who has municipal clients with MS4s or roads and bridges.

#### **Register for Fall Certified Zoning Officer Training**

For engineering firms that have employees that provide zoning officer or building code services to municipalities, PSATS will be hosting the “Pa. Association of Zoning Officials (PAAZO) Fall Seminar” at two locations this fall:

- [November 17 at the Hilton Garden Inn Pittsburgh/Cranberry in Butler County](#)

Attendance at these events provides five continuing education credits for [Certified Zoning Officers \(CZOs\)](#), five PMGA planning/zoning points, and/or five CLE credits.

#### **Human Resources & Labor Management Institute**

This class is a must-attend for anyone who has responsibility for human resources and personnel management in your firm. In this seminar, the team from Eckert Seamans will explore common and emerging issues in human resources and labor relations. The event qualifies for five PMGA administrative Points and/or five CLE credits. Click on the appropriate link for the class nearest you:

- [Human Resources & Labor Management Institute - 10/27/22 - Allegheny County](#)
- [Human Resources & Labor Management Institute - 11/15/22 - Montgomery County](#)
- [Human Resources & Labor Management Institute - 12/5/22 - Lycoming County](#)

### **PowerPass-Eligible Webinars**

#### **[Webinar - Using Drones for Emergency Management - 11/2/22](#)**

Drones, or unmanned aerial systems (UAS), are becoming a large part of public safety operations. As this trend continues, township officials and emergency managers need to understand the capabilities and strategies for UAS use for emergencies. This presentation will provide the information needed when considering a new UAS program deployment.

#### **[Webinar - Streamlining Municipal Code Enforcement with GIS/Automation - 11/9/22](#)**

This webinar will demonstrate how municipalities are using simple, user-friendly GIS-based solutions to make municipal operations, such as code enforcement, more streamlined, automated, and efficient. Featured applications will include digitizing a municipal code enforcement inspection “smart form,” using a GIS-based dashboard to view spatial data and

search property records, creating event-driven digital notifications, and automating letter and report production.

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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 into your PSATS account at [www.psats.org](http://www.psats.org) and look under the "Newsroom" tab for the "Township Engineer" link. Email comments and suggestions to James Wheeler at [jwheeler@psats.org](mailto:jwheeler@psats.org).

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