

# ENVIRONMENTAL SYNOPSIS

## The Chairman's Corner

Rep. Scott E. Hutchinson, Chairman

There is some good news to share in a time when there is precious little good news coming out of Harrisburg.

On July 14, the governor signed into law House Bill 262, a bill regulating prescribed burning practices in Pennsylvania. With a stroke of the governor's pen, HB 262 became law as Act 17 of 2009 - the Prescribed Burning Practices Act.

The bill signing concludes a process that began more than two years ago, when in March 2007 a group called the Pennsylvania Prescribed Fire Council Steering Committee met to pursue formation of a formal prescribed fire council. That council met initially at a statewide conference in February 2008 in State College, PA, calling itself the Pennsylvania Prescribed Fire Council (PPFC), and putting forth a mission statement, reading in part "...to promote the exchange of information, techniques and experiences of the Pennsylvania prescribed fire community, and to promote public understanding of the importance and benefits of prescribed fire."

The Joint Legislative Air and Water Pollution Control and Conservation Committee's (Committee) Forestry Task Force recommended development of legislation like Act 17 in its December 2007 report. The Committee and task force engaged in collaborative research, discussion and hands-on experience with the PPFC and a number of other well-respected and knowledgeable parties to draft the legislation and prepare for its introduction.

Among the partners who have worked with the Committee, the Forestry Task Force and the PPFC in that effort are the U. S. Forest Service, PA Department of Conservation and Natural Resources (DCNR) Bureau of Forestry, The Nature Conservancy, PA Game Commission, Natural Lands Trust, Inc., PA Department of Military and Veterans Affairs, USDA Natural Resources Conservation Service, and the Penn State University School of Forest Resources. Other interested organizations included PA Private Forestry and the Ruffed Grouse Association. Thanks to all those who helped make Act 17 a reality.

The legislation was introduced by State Representative Gary Haluska (D-Cambria), who is a long-time member of the Forestry Task Force. I am a proud cosponsor of the legislation, and there were 14 other bipartisan cosponsors. I am pleased to note that the legislation passed both the House and Senate unanimously.

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Joint Legislative  
Air and Water  
Pollution Control and  
Conservation  
Committee

# NOTES FROM THE DIRECTOR

**CRAIG D. BROOKS, EXECUTIVE DIRECTOR**

A federal forest planning rule issued in 2008 by the U.S. Department of Agriculture was recently vacated by a federal judge who agreed with environmental organizations that the rule violated the National Environmental Policy Act and the Endangered Species Act.

The land management plans for national forests and grasslands were launched by the U.S. Forest Service, the first plans to be developed under a new planning framework. The court ruling said that the Forest Service must conduct a detailed analysis of the regulation's environmental impacts and must have written concurrence from the U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration Fisheries Service before the planning rule can be implemented.

The Forest Service argued unsuccessfully that the planning rule is a procedural regulation establishing a framework for forest management and not a specific forest plan having an impact on the environmental organizations. The Forest Service is currently revising dozens of land management plans for the nation's 155 national forests and grasslands.

National forests go through cycles of planning updates, but all previous forest plans were guided by a 1982 planning rule. As described by the Forest Service, decades of uncertainty and second thoughts by federal officials and opposition at times by environmental and industry groups stalled revisions of that planning rule until last year. The Forest Service must balance competing interests for wildlife protection, timber harvesting, recreation and other uses, but that balancing act has not been working recently.

This new planning rule from the Forest Service went into effect April 21, 2008. Several environmental organizations challenged it in U.S. District Court for the Northern District of California, much as they challenged previous forestry planning rules.

Two lawsuits were consolidated as Citizens for Better Forestry v. USDA (N.D. Cal., No.4:08-cv-1927, 4/29/09). A number of the same groups were involved in successful lawsuits that stopped the last attempt at a planning rule issued in 2007.

The judge in that case ruled that the planning rule violated the National Environmental Policy Act, the Endangered Species Act, and the Administrative Procedure Act. The 2008 rule was issued to address those concerns, however the judge ruled that it also violated the specific acts.

The American Forest Resource Council and other industry associations support the new rule, and have often argued that the 1982 planning rule sometimes took eight years or more to complete and cost millions. Arguments over the new rule were heard in April, 2009 but there has been no ruling.

Litigation has so frequently involved the Forest Service that the Government Accountability Office is reviewing, for the second time, the number and disposition of administrative appeals and lawsuits against the service. Forest Service officials have admitted that litigation has created a strain on personnel resources which are often diverted to preparing and defending the Forest Service on litigation.

However, Forest Service officials are reluctant to blame lawsuits for the slow work of the Forest Service in California and other states, where timber cutting is sometimes the chosen management tool to thin forests and create fire breaks for "fuel breaks" to inhibit the spread of wildfires. Timber companies are often blocked from harvesting timber even where thickly overgrown forests pose a threat of catastrophic wildfires.

Information on the system of forest management is available at <http://www.fs.fed.us/emc/nfma/index.htm>.

The court decision is available at [http://www.earthjustice.org/library/legal\\_docs/nfma-order-09-06-30.pdf](http://www.earthjustice.org/library/legal_docs/nfma-order-09-06-30.pdf).

**Litigation – no stranger to the Forest Service – has vacated a federal forest planning rule**

# RESEARCH BRIEFS

Each month, the committee's staff researches and prepares a number of "briefs" on several topics relevant to the Joint Conservation Committee's mission. Very often, these briefs include references to reports and further research on the topics so that readers may pursue issues on their own.

## Plastics, Cigarettes, Food Packaging Are Littering the World's Shorelines

-- Tony M. Guerrieri, Research Analyst

Cigarettes are the main source of American marine debris, according to a report from the Ocean Conservancy (formerly the Center for Marine Conservation). The report, *"A Rising Tide of Ocean Debris and What We Can Do About It"*, reveals the amounts, types and harmful impacts of trash collected during the 2008 International Coastal Cleanup (ICC) – a worldwide annual effort to collect trash from shorelines and ocean floors.

During the 23rd annual cleanup in September 2008, nearly 400,000 volunteers from 104 countries scoured 17,000 miles of shoreline worldwide and found more than 6.8 million pounds and 11.4 million items of debris or about 17 pounds of trash for every participant, and 400 pounds per mile of shoreline.

They collected more than 1.3 million cigarette butts in the United States alone, about 19,500 fishing nets in the United Kingdom, more than 11,000 diapers in the Philippines, and 26,585 tires worldwide.

Of the 43 items tracked during the ICC, smokers take the dubious "honor" of being society's worst litterbugs. Cigarettes and cigarette filters were the most prevalent items found during the ICC, with 3.2 million (28 percent) removed, accounting for more than twice the number of any of the other items tracked.

Second on the list were plastic bags (1.3 million or 12 percent). The rest of the top ten, which have remained the same over the past five years, were: food wrappers/containers (942,000); bottle caps and lids (937,000); plastic beverage bottles (714,000); paper bags (530,000); straws (509,000); utensils (441,000); glass beverage bottles (434,000); and beverage cans (401,000).

Where does all this trash in the ocean and inland waterways and on beaches originate? According to the report, the largest overall source of debris was shoreline and recreational activities, which accounted for 61 percent of all debris items and included beverage bottles and cans along with food wrappers and containers. Globally, debris from smoking-related activities made up 31 percent of the debris collected, while ocean and waterway activities represented five percent.

The most extensive clean up was in the United States where 183,000 volunteers covered over 9,000 miles and picked up 3.6 million pounds of debris.

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**Marine debris pollution by the numbers:  
6.8 million pounds of debris cleaned up  
from 17,000 miles of shoreline by nearly  
400,000 volunteers**

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Within the United States, the biggest haul came from California, where over 73,000 volunteers collected 1.6 million pounds of marine debris. The quantity of trash collected in California is likely explained by the state's vast coastline. Following California, states that yielded the most coastal trash collected in the 2008 ICC include: North Carolina (528,026 pounds); Florida (416,279 pounds); Virginia (254,046 pounds); Texas (209,025 pounds); and Pennsylvania (96,328 pounds).

In Pennsylvania, 2,662 volunteers covered 111 miles, picking up 101,277 debris items that weighed over 96,000 pounds. Among the ICC participants in Pennsylvania were 100 divers, who removed 4,940 pounds of debris from below the water's surface.

Overall, 57 percent of the debris found in Pennsylvania originated from shoreline and recreational activities. Litter washed from streets, parking lots, and storm drains also contributed to this category of debris. Smoking-related activities accounted for 36 percent of the debris found in Pennsylvania.

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Debris items from waterway activities – activities that originated off-shore – accounted for just over three percent.

The report focused on the effects of marine debris on wildlife, which can become entangled in plastic or eat it and choke. During the 2008 clean-up, volunteers found 443 animals entangled. Of those, 268 were still alive and were released.

The information collected at the cleanups is analyzed and used to find solutions for reducing marine debris. The report makes a strong recommendation that individuals recycle, reuse or properly dispose of trash to keep these items out of the waterways and off of the beaches. Also included are technological solutions, such as photodegradable six-pack rings that weaken when exposed to sunlight, allowing ensnared animals to break free.

A copy of the report can be downloaded at: [http://www.oceanconservancy.org/pdf/A\\_Rising\\_Tide\\_full\\_hires.pdf](http://www.oceanconservancy.org/pdf/A_Rising_Tide_full_hires.pdf).

## Rapid International Growth in Wind, Hydropower, Emissions Predicted by 2030

-- Craig D. Brooks, Executive Director

World energy related carbon dioxide emissions will rise 39 percent, from 29 billion metric tons in 2006 to 40 billion tons in 2030, under current policies, the U.S. Energy Information Administration (EIA) predicted in its long-term international outlook issued May 2009.

In addition, EIA suggests that renewable energy, mostly hydropower and wind, will be the fastest growing source of electricity generation worldwide, increasing from 19 percent in 2006 to 21 percent in 2030. Coal and natural gas will continue to fuel nearly two-thirds of the total power generation, EIA said in its report, *"International Energy Outlook 2009"*.

This latest report examines the worldwide potential for petroleum and biofuels, natural gas, coal and nuclear energy, in addition to forecasting world industrial carbon emissions.

According to the report, developing countries outside of the Organization for Economic Cooperation and Development, referred to as "BRIC" (an acronym for Brazil, Russia, India and China), will account for 82 percent of the increase in global energy use by 2030, and world oil prices will climb steadily to

\$130 per barrel by 2030 as the global economy recovers. The "BRIC" countries will account for 63 percent of the increase in world industrial energy use by 2030.

The report predicts that worldwide energy demand will grow 44 percent by 2030, driven largely by strong economic growth in developing countries, especially China and India. EIA assumes a growth rate in world energy demand of 1.5 percent per year. This means the world will need to find an additional 22 million barrels of oil per day above the current production level of 85 million barrels per day to meet petroleum demands in 2030. And, as predicted in previous reports, EIA suggests that fossil fuels will still play a large role in meeting future energy demands.

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**EIA has dramatically raised its global oil price forecast to \$130 a barrel by 2030, with big price hikes predicted between 2015 and 2030**

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In a major shift from the international outlook report released in 2008, EIA has significantly raised their global oil price forecasts for the long-term. The change was prompted largely by the record prices seen in mid-July 2008 that soared to \$147 per barrel and led to a \$4.11 per gallon price for gasoline at the pump. EIA's 2008 long-term forecast predicted \$72 per barrel by 2030, in contrast to the new forecast of \$130 per barrel.

The agency came under fire last year from Congress for its low price estimates, especially after the mid-2008 price spikes. EIA now predicts \$110 per barrel in 2015, compared with \$61 per barrel in the 2008 report.

EIA suggests that the agency will no longer assume high prices will dampen demand in the long-term as much as it did in previous forecasts and sees big jumps in oil prices from 2015 to 2030.

In future releases, EIA will examine the impact of climate change on energy demand and generation. EIA bases its energy forecasts on current law and policies in effect at the time of the report, but does analyze legislative proposals and administrative actions that may affect the energy outlook.

The EIA outlook is available at <http://www.eia.doe.gov/oiaf/ieo/index.html>.

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## Gaping Holes in Government Bottled Water Regulations

-- Tony M. Guerrieri, Research Analyst

In 2007, the average American consumed 29.3 gallons of bottled water – more than double the amount of a decade ago (13.4 gallons). With this increase have come concerns over bottled water's quality and safety. For example, water quality testing has shown that bottled water does not necessarily have lower levels of contamination than tap water. Furthermore, there are concerns about a low recycling rate for plastic water bottles, and the amount of energy used to manufacture and transport the product.

A U.S. Government Accountability Office (GAO) report of recent testimony to Congress by John Stephenson, director of GAO's Natural Resources and Environment section, examines three bottled water related issues: (1) the extent to which authorities regulate the quality of bottled water to ensure its safety; (2) the extent to which authorities regulate the accuracy of labels or claims regarding the purity and source of bottled water; and (3) the environmental impacts of bottled water.

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### **The GAO says the Food and Drug Administration's regulation of bottled water is leaking badly**

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For many years, under the Federal Food, Drug and Cosmetic Act (FDCA), the U.S. Food and Drug Administration (FDA) was supposed to adopt and apply to bottled water all U.S. Environmental Protection Agency (EPA) tap water standards. At the same time, the FDA was authorized to refuse to apply the EPA tap water standards to bottled water in certain circumstances where it determined, and published reasons explaining why, they were inappropriate for bottled water.

Historically, however, the FDA has lagged in its obligation to apply the EPA standards to bottled water. For example, the EPA has set standards of acceptable levels of the plasticizer DEHP, a chemical widely used in the manufacture of polyvinyl chloride plastics. The FDA, on the other hand, still has not set a standard for DEHP in bottled water. "Specifically, FDA deferred action on DEHP in a final rule published in 1996 and has yet to either adopt the standard or publish a reason for not doing so...", the GAO said.

The GAO's review indicates that, with few exceptions, federal bottled water regulation is weaker

than municipal tap water regulations. The report delineates key shortcomings in the FDA's authority to require bottles to use certified labs for water quality tests and to require bottlers to provide consumers the same level of water quality information required of public water suppliers.

The Safe Drinking Water Act empowers the EPA to require water testing by certified laboratories and that violations be reported within a specified time frame. Municipal water systems have been required to distribute an annual report, called the consumer-confidence report (CCR), to consumers since 1999. The CCR summarizes local drinking water quality, information about the water source, levels of detected contaminants, whether any of the detected contaminants exceed federal levels, as well as information on the potential health effects of certain contaminants.

In contrast, the FDA regulates bottled water as a food and cannot require certified lab testing or violation reporting, even if the contaminants exceed federal standards. Furthermore, the FDA does not require bottled water companies to disclose to consumers where the water comes from, how it has been treated or what contaminants it contains. Rather, as in the case of other foods, bottled water labels are required to list ingredients and nutritional information.

The GAO suggests that consumers may benefit from the same types of information provided to consumers of tap water. The GAO found that information comparable to what public water systems are required to provide to consumers of tap water was available for only a small percentage of the 83 bottled water labels reviewed, companies contacted, or company websites visited.

Among the environmental impacts of bottled water are its effects on U.S. municipal landfill capacity and U.S. energy demands. The report indicates that three-quarters of the plastic water bottles produced in the U.S. in 2006 were discarded and not recycled. The production and consumption of bottled water is much more energy-intensive than the production of public drinking water.

The GAO report makes the following recommendations for improving bottled water safety precautions:

- the FDA should deal with DEHP by issuing a standard or explaining why it won't; and
- water bottlers should be required to improve labeling so that, at a minimum, labels tell consumers how to obtain comprehensive information about the water in the bottle.

The GAO report is available at: <http://www.gao.gov/new.items/d09861t.pdf>.

## Report Finds Green Jobs, Energy Efficiency Outpace Other Sectors

-- Craig D. Brooks, Executive Director

Looking to establish a baseline from which success can be measured in creating "green jobs", the Pew Charitable Trusts published a report recently that suggests that the clean energy economy has grown considerably from 1998 to 2007. The report, "*The Clean Energy Economy: Repowering Jobs, Businesses and Investments Across America*", found that job growth in clean energy and related sectors was higher over those 10 years than in the overall economy. Over that period, according to the report, overall job growth was 3.7 percent while growth in clean energy was 9.1 percent. In 2007, the report found that there were 777,385 jobs within the clean energy economy in the United States, up from 706,151 in 1998.

The clean energy economy as defined by the report includes alternative and renewable energy, energy efficiency, environmentally friendly production of products such as packaging, fuel and transportation, conservation and pollution mitigation, and training and support.

Compared to other sectors such as biotechnology and traditional energy, the clean energy economy has grown enormously, and across the country state lawmakers are pursuing the dual goals of economic growth and environmental sustainability. A growing number of states are implementing policies to capitalize on the clean energy economy, from renewable portfolio and energy efficiency standards to financial incentives for public/private innovation and investment.

At the federal level, the American Recovery and Reinvestment Act provides tens of billions of dollars to help these efforts. But to realize the clean energy economy's full potential, the report suggests that federal leaders must do more. The report proposes that the nation needs a comprehensive, economy-wide energy plan, a market-based system that will significantly reduce emissions that cause global warming and derive more of America's energy supply from

clean, renewable resources. Strong federal policies, the report says, will accelerate growth by generating more jobs and businesses that develop clean energy and increase energy efficiency.

Innovation and investment, for example, would include Recyclebank, which operates in 18 states and 100 cities and towns, and encourages recycling while helping consumers and local governments save money. The company collects recyclables in bins equipped with computer chips that record the amount recycled. At the Recyclebank website, it is converted into points for the bin owner's account, which the customer can convert to coupons for stores such as Target and brands such as Kraft.

### Solar and wind energy lead the way in clean energy job creation, and PA has clean energy success stories

As a result of these incentives, areas that use the program have seen recycling increase 50 percent or more along with significant savings at landfills. Wilmington, Delaware, for instance, cut its \$2.1 million annual waste removal tab by 40 percent.

According to the report, six out of 10 jobs in the category of "Clean Energy" are responsible for the generation of clean and renewable energy. Jobs in solar energy generation account for 62.5 percent of all energy generation jobs. Jobs in wind energy generation are second overall, making up 9.7 percent. A clean energy firm, Gamesa (a Spanish-owned wind turbine manufacturer), arrived in Pennsylvania in early 2005. Its first plant was a former U.S. Steel factory in Ebensburg, PA, outside Pittsburgh – and some of its first hires were former steel workers from the old plant. Gamesa has expanded significantly and has opened a second manufacturing facility and a development office. The company currently employs about 1,000 Pennsylvanians.

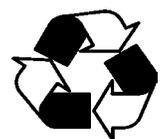
More information on clean energy and green jobs may be found in the Pew report at [http://www.pewtrusts.org/our\\_work\\_detail.aspx?id=690](http://www.pewtrusts.org/our_work_detail.aspx?id=690)

## News to Use in the Environmental Synopsis... share it with a friend

The *Environmental Synopsis* is issued monthly.

The newsletter examines timely issues concerning environmental protection and natural resources.

If someone you know would like to receive a copy of the *Synopsis* each month, please contact the Committee office at 717-787-7570.



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# ON THE HORIZON . . .

A LOOK AT UPCOMING EVENTS

✓ September 21-25 – “Show Me the Money” Grant Workshop, sponsored by Community Partnerships Resource Conservation and Development Council (RC & D), Greater Susquehanna Valley Chamber of Commerce HQ, Shamokin Dam. Call RC & D at 717-248-4901 or e-mail [cpartnerships@cpartnerships.com](mailto:cpartnerships@cpartnerships.com).

✓ September 27-29 – 2009 PA Greenways and Trails Summit, “Connecting Communities Through Recreation and Heritage”, presented by the PA Recreation and Park Society and PA Department of Conservation and Natural Resources (DCNR), Blair County Convention Center in Altoona. Visit [www.prps.org](http://www.prps.org).

✓  Celebrating the Story - Progress from Petroleum. For more information on the Oil 150 celebration, visit [www.oil150.com](http://www.oil150.com).

## Committee Chronicles . . .

REVIEW OF SOME MEMORABLE COMMITTEE EVENTS



*In ceremonies in the office of Gov. Ed Rendell (seated in photo at left), the governor signed Act 17 of 2009 into law, as the act's prime sponsor, Rep. Gary Haluska (left, standing) looked on. The Joint Legislative Air and Water Pollution Control and Conservation Committee's (Committee) Forestry Task Force, of which Rep. Haluska is a long-time member, helped to craft the legislation, known as the Prescribed Burning Practices Act.*

*In the photo at right, a number of the supporters of the legislation, who also helped to draft the bill, joined the governor, Haluska and Committee staff in a commemorative bill-signing photo. Pictured (l. to r.) are: Committee Executive Director Craig D. Brooks; Shannon Henry with the PA Department of Conservation and Natural Resources (DCNR) Bureau of Forestry; Jim Thorne with the Natural Lands Trust; Gov. Rendell; Rep. Haluska; John Miller, Brad Elison and John Bearer, all with the Bureau of Forestry; and Tony M. Guerrieri with the Committee staff.*



Before speaking more about Act 17, it would be wise to describe more about what prescribed burning is. Prescribed burning is the skilled application of fire to existing vegetative fuels under planned and controlled conditions. Prescribed fire is used to reduce hazardous vegetative fuel buildups, maintain and provide wildlife habitats, control forest diseases and pests, preserve endangered plant and animal species, manage range and grasslands, prepare sites for planting, and maintain and restore fire dependent ecosystems.

The need for prescribed burning is made clear when one considers that it is estimated that 39 million acres of Forest Service land across the nation carry potentially dangerous fuel loads. Wildfire suppression has created a logjam of fuels just waiting to burn, and when it burns, it usually takes everything, unlike prescribed burns.

Fire costs can vary by habitat type, but it is clear that prescribed burning can be a cost saver. The cost of prescribed fire is estimated at \$12 to \$344 per acre. Mechanical thinning costs as much as \$1,200 per acre. And, fighting an uncontrolled wildfire can cost \$2,100 an acre.

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**For photos of the signing of Act 17, see  
"Committee Chronicles" on page 7**

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The legislation seeks to accomplish a number of goals. It would encourage the continued use of prescribed burning for fuel reduction, and for ecological, forest, wildlife and grassland management purposes. It would establish standards for the safe use of prescribed burning and the training of prescribed burn managers and prescribed burn workers, provide for the content of written prescribed burn plans, and establish a training program.

Further, the legislation addresses a shortcoming in Pennsylvania law by providing for limited liability exposure for those individuals contracting for a prescribed burn, and for the prescribed burn manager and those under the manager's supervision, provided such individuals meet several rigorous standards. The standards are established in the legislation, by regulation and under the training, equipment and operational requirements established by the National Wildfire Coordinating Group.

Fire has always played an active role in Pennsylvania's natural environment, but often that fire was unplanned, uncontrolled and unwanted. The value of prescribed burns has long been recognized by DCNR's Bureau of Forestry in its wildland fire management plan and as part of its State Forest Resource Management Plan. The lack of a state statute to govern the use of prescribed burning and concerns about liability have inhibited prescribed burning's continued use in Pennsylvania.

Rep. Haluska spoke eloquently about the importance of prescribed burning and the need for Act 17. He said, "Controlled burning is used widely as an effective land and habitat management tool in many states already. It is effective because it is based on the way nature itself manages habitat and land. Unfortunately, Pennsylvania is way behind in this area. The new law puts the full potential of this important land management tool at the state's disposal, while still ensuring the safety and protection of property and lives."

## **How to Contact The Joint Conservation Committee**

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