

**September 2022 Report to the Citizens Advisory Council**  
(New and updated information in italics)

**DEP Highlights**

**DEP PFAS Update**

In 2018, Governor Wolf announced several actions to address growing concerns about perfluoroalkyl and polyfluoroalkyl substance (PFAS) contamination. Through an Executive Order, the Governor established a multi-agency PFAS Action Team. The team, led by DEP, is responsible for developing a comprehensive response to identify and eliminate the sources of PFAS contamination, address strategies to deliver safe drinking water, manage environmental contamination, explore funding for remediation efforts, and increase public education. In 2019, the Action Team released a comprehensive [report](#) outlining the challenges associated with PFAS and the Team’s efforts to address those challenges in Pennsylvania. The Governor also sent a letter to the United States Environmental Protection Agency (EPA) to again urge the EPA to move forward with establishing maximum contaminant levels (MCLs) for PFOA and PFOS. DEP believes that the EPA must take a leadership role and work with other states and federal agencies to address PFAS holistically. More information can be found on DEP’s PFAS website: [www.dep.pa.gov/pfas](http://www.dep.pa.gov/pfas).

**PFAS Cleanup Standards**

On September 23, 2021, the Independent Regulatory Review Commission (IRRC) approved the final-form regulatory amendments to Chapter 250: Administration of the Land Recycling Program. This regulation establishes the first ever cleanup standards for three PFAS – PFOA, PFOS, and PFBS. The final rule was published in the Pennsylvania Bulletin on November 20, 2021.

**Proposed Rulemaking – PFAS Maximum Contaminant Levels in Drinking Water**

The PFAS MCL proposed rulemaking was published in the Pennsylvania Bulletin on February 26, 2022, for a 60-day public comment period that closed on April 27, 2022. Five virtual public hearings were held the week of March 21, 2022. The proposed rulemaking is available on DEP’s PFAS webpage here: [DEP Involvement \(pa.gov\)](#).

The purpose of the proposed rulemaking is to set maximum contaminant levels (MCLs) and maximum contaminant level goals (MCLGs) for PFOA and PFOS, two contaminants that are part of a larger group of PFAS, to be protective of adverse developmental and immune system effects. The proposed levels are as follows:

Contaminant	MCLG (ng/L or ppt)	MCL (ng/L or ppt)
PFOA	8	14
PFOS	14	18

In addition, the proposed rule will: establish monitoring requirements for PFOA and PFOS for community, nontransient noncommunity, and bottled, vended, retail, and bulk water systems in order to demonstrate

compliance with the MCLs; establish sampling and analytical requirements and acceptable treatment technologies for achieving compliance with the proposed MCLs for PFOA and PFOS; and provide for the increased protection of public health through implementation of the MCLs, routine compliance monitoring, and other provisions including public notification for MCL exceedances.

### PFAS Data Collection

In late 2019, the U.S. Geologic Survey (USGS), DEP, and Susquehanna River Basin Commission staff collected raw surface water PFAS samples to quantify the extent of PFAS contamination at all of Pennsylvania's 178 surface water quality network (WQN) stations. Additionally, passive water PFAS samples were collected at 18 sites, most of which overlapped with the WQN sites. This data is available on the [DEP website](#) and the [USGS website](#). DEP and USGS will continue to collect PFAS surface water samples at approximately 20 locations throughout Pennsylvania based on the results of the data collection effort. The additional data collection will be performed as part of the Department's Surface WQN. Ongoing data collection will be used in the development of PFAS water quality criteria and implementation of surface water assessments.

On March 23, 2021, Pennsylvania's Interagency Fish Consumption Advisory Technical Workgroup voted to adopt the 2019 Great Lakes Best Practices, which includes tiered meal advice for perfluorooctane sulfonate (PFOS). This workgroup is responsible for reviewing data and developing fish consumption advisories for Pennsylvania surface waters. Fish consumption advisories are posted on the [DEP website](#) and are included in the Pennsylvania Fish and Boat Commission's Regulation Booklet that is provided to licensed anglers.

Subsequent to the adoption of tiered meal advice for PFOS, Pennsylvania analyzed tissue samples collected from surface waters throughout the Commonwealth. Samples from locations on Neshaminy Creek and Little Neshaminy Creek had results that exceeded Do Not Eat advisory thresholds. In response to the sample results, the Interagency Fish Consumption Advisory Technical Workgroup voted to issue a Do Not Eat advisory for the entire Neshaminy Creek basin. Additional data collection throughout the Commonwealth and the Neshaminy Creek basin will be conducted in 2022 in an effort to evaluate the need for additional fish consumption advisories and to refine the delineation of fish consumption advisories throughout the Neshaminy Creek basin.

### Chesapeake Bay Phase 3 Watershed Implementation Plan (WIP)

In an effort to expand public transparency of Pennsylvania's progress toward meeting our Phase 3 WIP goals, DEP's Chesapeake Bay Office has instituted an electronic monthly newsletter. Previous newsletters and the link to subscribe can be found [here](#).

The Phase 3 WIP describes how Pennsylvania intends to move forward and accelerate progress towards meeting the nutrient reduction targets established by the Chesapeake Bay Program Partnership for the improvement of local water quality and the restoration of the Chesapeake Bay with the goal of having all practices in place by 2025. On December 31, 2021, DEP submitted an amended Phase 3 WIP to the U.S. Environmental Protection Agency (EPA) that outlines how Pennsylvania will fully meet its nutrient and sediment reduction goals in the Chesapeake Bay watershed by 2025, provided adequate funding support and provided that EPA modeling is updated to accurately reflect pollution reduction measures already on the ground.

On April 18, 2022, EPA published their evaluation of Pennsylvania's amended Phase 3 WIP. EPA determined, using Chesapeake Bay Partnership approved tools, that Pennsylvania is still short of meeting the nitrogen and phosphorus planning targets. EPA did not account for Pennsylvania's expired best management practices (BMPs), BMPs considered "cutoff" in the model, or BMPs that are currently unreported. EPA provided a list of "enhancements" for DEP to consider and requested a revised WIP and response within 90 days. DEP met with EPA on April 27, May 18, and May 26 to further discuss their evaluation and asked clarifying questions, as well

as to discuss the status of EPA's Animal Agriculture Programs Assessment report and evaluation of Pennsylvania's Milestone commitments and progress.

EPA *published the* final 2021 annual numeric progress for all jurisdictions in June. DEP met with EPA multiple times earlier this calendar year, and then with a final meeting on May 26, 2022, to review and discuss Pennsylvania's submitted progress. *Pennsylvania's final credited reductions for 2021 annual progress were 2.48 million pounds of nitrogen, 40,000 pounds of phosphorus, and 61 million pounds of sediment.*

The amended Phase 3 WIP highlights that the \$324.2 million annual funding need identified in Pennsylvania's original Phase 3 WIP remains. The proposed U.S. Department of Agriculture Chesapeake Resilient Farms Initiative (CRFI), supported by the Wolf Administration, would provide a new investment of \$737 million across the Chesapeake Bay watershed for clean water and climate resiliency. State investments are being proposed in the Pennsylvania legislature, with proposed Clean Streams Fund and Growing Greener III funding that would provide \$750 million statewide for watershed restoration and water quality improvements, with a focus in the Chesapeake Bay watershed and Susquehanna River basin. On January 14, 2022, DEP submitted Pennsylvania's Draft 2021 Programmatic Progress report, Draft 2022-2023 Programmatic Milestone Commitments, and Draft 2022-2023 Numeric Milestone Commitments to EPA, per the Chesapeake Bay Program Partnership-approved Two-year Milestone schedule. EPA will be releasing their evaluation of the Draft Milestone documents in mid-June. The Programmatic Progress and Milestone Commitments are combined into one document, as there are many ongoing efforts that have and will take place throughout the prior two-year period and through the next two-year cycle. These documents are published to the DEP [Tracking Pennsylvania's Progress](#) website.

The Phase 3 WIP includes Countywide Action Plans (CAPs) developed by the counties with support from DEP. All 34 Pennsylvania counties in the Chesapeake Bay watershed that were asked to complete CAPs have now done so, and county teams and partners have begun carrying out the best management practices (BMPs) specified in their plans. To support this crucial work, on December 16, 2021, Governor Tom Wolf announced \$17.4 million in grant funding for projects in 33 counties across the Chesapeake Bay watershed, highlighting their path-breaking work to improve the health of local streams, rivers, and lakes by reducing nutrient and sediment pollution.

DEP's Chesapeake Bay Office (CBO) has also awarded \$800,000 in state grant funds to continue supporting the eight Tier 1 and 2 county coordinators in the implementation of their CAPs to improve local water quality. The grants are funded through the Environmental Stewardship Fund to support and coordinate local CAP implementation to reduce nutrient pollution. In October 2021, the Community Clean Water Coordinator and the CAP Implementation Grants were opened for all eligible Chesapeake Bay counties (those that have completed their CAPs). DEP has awarded approximately \$1 million in state grant funds to support the 26 Tier 3 and 4 counties in the development of their CAPs to improve local water quality. The grants are also funded through the Environmental Stewardship Fund to support local development of planning teams and coordination of CAPs. DEP's Regional Offices have created teams that are working with the counties and CBO to support this effort. The county CAP coordinators and lead partners are having regular meetings with the DEP Region Support Teams and the CBO. These meetings serve as trainings for the coordinators, provide opportunities for regular updates from the CBO, and a chance for the coordinators to ask questions and network with other coordinators.

The Chesapeake Bay Program Office and its partners continue to evaluate the near- and long-term impact that COVID-19 has on outreach, engagement, and implementation of the initiatives as set forth within the WIP and CAP strategies.

The Phase 3 WIP is accessible here: [www.dep.pa.gov/chesapeakebay/phase3](http://www.dep.pa.gov/chesapeakebay/phase3) Questions on the WIP and Pennsylvania's Chesapeake Bay Program can be submitted to [RA-EPChesBay@pa.gov](mailto:RA-EPChesBay@pa.gov).

### **Chesapeake Bay Office 2021 Progress reporting update**

DEP's Chesapeake Bay Office submitted its Phase 3 WIP 2021 Progress Run data and updated 2021 Quality Assurance Project Plan (QAPP) that documented the sources of these records to U.S. EPA on December 6, 2021.

In June, EPA completed its review of the numeric progress data and its associated QAPP document. Pennsylvania's 2021 Progress run documented the reduction of 2,480,000 pounds per year of nitrogen, 60,000 pounds per year of phosphorus, and 61,000,000 pounds per year of sediment.

EPA did not allow Pennsylvania's alternative approach for reporting Commodity Cover Crops or its reporting of unused Wetland Mitigation Bank BMPs because the reporting of these methods and practices has not been officially approved by the Chesapeake Bay Program Partnership. DEP staff is working within the Partnership's Agriculture and Wetlands workgroups to get the reporting of these practices approved for future progress runs so that Pennsylvania can get appropriate credit for these BMPs in the future.

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### **Regulatory Update (Detailed summaries included in respective program sections)**

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Please refer to the [DEP Rolling Regulatory Agenda](#) for the full Regulatory Update.

- **Proposed Rulemaking – Radiological Health Fees (#7-574)**: The rule was adopted by the EQB on June 14, 2022. *This rule was published in Pennsylvania Bulletin on August 27, 2022, with a 30-day public comment period that closes on September 26, 2022.*
- **Proposed Rulemaking – Administration of the Land Recycling Program Vanadium MSC Rule (#7-572)**: The rule was adopted by the EQB on May 18, 2022. *This rule was published in Pennsylvania Bulletin on July 30, 2022, with a 30-day public comment period that closed on August 29, 2022.*
- **Proposed Rulemaking – Exclusion for Identification and Listing Hazardous Waste at MAX Environmental Technologies, Inc. Bulger and Yukon Facilities (#7-566)**: The rule was adopted by the EQB on September 21, 2021. The proposed rule was published in the Pennsylvania Bulletin on January 8, 2022, with a 45-day public comment period that closed on February 22, 2022. Three virtual public hearings were held on January 19, 20, and 26, 2022. IRRC's comments were received on March 24, 2022.
- **Proposed Rulemaking – Water Quality Standards – Dunbar Creek et al. Stream Redesignations (#7-557)**: The rule was adopted by the EQB on April 15, 2021. The proposed rule was published in the Pennsylvania Bulletin on July 31, 2021, with a 45-day public comment period that closed on September 14, 2021. Three witnesses provided testimony at a public hearing held on August 30, 2021. IRRC had no comments on the rulemaking.
- **Proposed Rulemaking – Dam Safety and Waterway Management (#7-556)**: The rule was adopted by the EQB on July 21, 2020. The rule was published on December 5, 2020, for a 60-day public comment period ending on February 3, 2021. On February 24, 2021, the House Environmental Resources and Energy Committee voted to send a letter to the Independent Regulatory Review Commission (IRRC) expressing the committee's disapproval of the proposed rulemaking. IRRC's comments were received on March 5, 2021.
- **Draft Final Rulemaking – PFAS Maximum Contaminant Level (MCL) (#7-569)**: The rule was adopted by the EQB on November 16, 2021. The proposed rule was published in the Pennsylvania Bulletin on February 26, 2022, with a 60-day public comment period that closed on April 27, 2022. Five virtual public hearings were held on March 21, 22, 23, 24 and 25, 2022. The House Environmental Resources and Energy Committee submitted comments on May 24, 2022. IRRC submitted comments on May 27,

2022. *The draft final Annex A was presented to the Public Water Systems Technical Advisory Center Board on July 14, 2022.*

- *Draft Final Rulemaking – National Pollutant Discharge Elimination System (NPDES) Schedules of Compliance (#7-563)*: The rule was adopted by the EQB on October 19, 2021. The proposed rule was published in the Pennsylvania Bulletin on January 15, 2022, with a 45-day public comment period that closed on March 1, 2022. One virtual public hearing was held on February 16, 2022, but no one provided testimony. IRRC had no comments on the rulemaking. *The draft final Annex A was presented to the Water Resources Advisory Committee on July 21, 2022.*
- *Draft Final Rulemaking – VOC RACT Requirements for Shipbuilding and Ship Repair Surface Coating Operations, SOCM Processes, and Large Petroleum Dry Cleaners for the 2015 Ozone NAAQS (#7-568)*: The rule was adopted by the EQB on September 21, 2021. The proposed rule was published in the Pennsylvania Bulletin on January 29, 2022, with a 66-day public comment period that closed on April 4, 2022. Three public hearings were held on March 1, 3, and 4, 2022. IRRC's comments were received on May 4, 2022. *The draft final Annex A was presented to AQTAC on August 18, 2022, SBCAC on August 24, 2022, and the CAC on July 19, 2022.*
- *Draft Final Rulemaking – Noncoal Mining Clarifications and Corrections (#7-554)*: The rule was adopted by the EQB on November 17, 2020. The proposed rule was published in the Pennsylvania Bulletin on March 20, 2021, with a 45-day public comment period that closed on May 4, 2021. IRRC's comments were received on June 3, 2021. The draft final Annex A was presented to the Aggregate Advisory Board on November 3, 2021.
- *Draft Final Rulemaking – Radiation Safety Requirements for Non-Healing Arts Radiation Generating Devices (#7-555)*: The rule was adopted by the EQB on May 19, 2021. The proposed rule was published in the Pennsylvania Bulletin on August 14, 2021, with a 30-day public comment period that closed on September 13, 2021. IRRC's comments were received on October 13, 2021. The draft final Annex A was presented to the Radiation Protection Advisory Committee on March 3, 2022.
- *Final Rulemaking – Municipal Waste Rural Transfer Facility Permit-By-Rule (#7-564)*: The rule was adopted by the EQB on November 16, 2021. The proposed rule was published in the Pennsylvania Bulletin on January 15, 2022, with a 30-day public comment period that closed on February 14, 2022. IRRC had no comments on the rulemaking. The draft final rule was presented to WRAC on June 14, 2022. *The EQB adopted the final rule on July 12, 2022.*
- *Final Rulemaking – Additional RACT Requirements for Major Sources of NOx and VOCs for the 2015 Ozone NAAQS (RACT III Major Sources) (#7-561)*: The rule was adopted by the EQB on May 19, 2021. The proposed rule was published in the Pennsylvania Bulletin on August 7, 2021, with a 66-day public comment period that closed on October 12, 2021. Three public hearings were held on September 7, 8, and 9, 2021, with no attendees. IRRC's comments were received on November 12, 2021. The draft final Annex A was presented to AQTAC on April 7, 2022, SBCAC on April 27, 2022, and the CAC on April 19, 2022. At its May 18, 2022, meeting, the CAC voted to provide a letter on the rulemaking to the Bureau of Air Quality regarding their input on the final-form regulation. *The EQB adopted the final rule on August 9, 2022.*
- *Final Rulemaking – Water Quality Standards for Manganese and Implementation (#7-553)*: The rule was published on July 25, 2020 for a 64-day public comment period. Three virtual public hearings were held on September 8, 9, and 10, 2020. The public comment period closed September 25, 2020. During the comment period and public hearings, 950 individuals provided comments or testimony on the rulemaking. On September 30, 2020, the House Environmental Resources and Energy Committee voted to send a letter to the Independent Regulatory Review Commission (IRRC) expressing the committee's disapproval of the proposed rulemaking. IRRC's comments were received on October 26, 2020. The draft final Annex A was presented to the Water Resources Advisory Committee on November 18, 2021, the Agricultural Advisory Board on December 9, 2021, the Mining and Reclamation Advisory Board on January 20, 2022, the Aggregate Advisory Board on February 2, 2022, and the Public Water System

Technical Assistance Center Board on February 8, 2022. *The EQB adopted the final rule on August 9, 2022.*

- Final Rulemaking – Prohibiting Electronic Liquid Vaporizing Devices at Underground Bituminous Coal Mines (#7-558): The rule was adopted by the Board of Coal Mine Safety on September 1, 2020. The proposed rule was published in the Pennsylvania Bulletin on March 13, 2021, with a 30-day public comment period that closed on April 12, 2021. The Board received one public comment on the proposed rule. IRRC’s comments were received on May 12, 2021. The Board of Coal Mine Safety adopted the final rule on June 15, 2022. *IRRC approved the final rule on July 21, 2022. The final rule was published in Pennsylvania Bulletin on September 10, 2022.*
- Final Rulemaking – Coal Refuse Disposal Revisions (#7-565): The rule was adopted by the EQB on June 15, 2021. The proposed rule was published in the Pennsylvania Bulletin on November 6, 2021, with a 30-day public comment period that closed on December 6, 2021. IRRC had no comments on the rulemaking. The draft final Annex A was presented to the Mining and Reclamation Advisory Board on January 20, 2022. The EQB adopted the final rule on May 18, 2022. *IRRC approved the final rule on July 21, 2022. The final rule was published in Pennsylvania Bulletin on September 10, 2022.*
- Final Rulemaking – Control of VOC Emissions from Unconventional Oil and Natural Gas Sources (#7-544): The rule was published on May 23, 2020, opening a 66-day public comment period. Three virtual public hearings were held on June 23, 24, and 25. The comment period closed on July 27, 2020. IRRC’s comments were received on August 26, 2020. The draft final Annex A was presented to the AQTAC on December 9, 2021, CAC on January 18, 2022, and SBCAC on January 27, 2022. The EQB adopted the final rule on March 15, 2022. On May 4, 2022, the EQB withdrew the final-form rulemaking from consideration by the Independent Regulatory Review Commission (IRRC). The EQB adopted the revised final rule applicable to only unconventional oil and natural gas sources of VOC emissions on June 14, 2022. *IRRC approved the final rule on July 21, 2022. On August 2, 2022, the House Environmental Resources and Energy Committee voted to report a concurrent regulatory review resolution to the General Assembly to disapprove the final rule.*

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## **Public Comment Periods**

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### **Proposals Open for Public Comment**

- *Radiological Health Fees Proposed Rulemaking (Closes 9/28)*

### **Recently Closed Comment Periods**

- *Administration of the Land Recycling Program Vanadium MSC Rule Proposed Rulemaking (Closed 8/29)*
- *Air Quality Network Monitoring Plan (Closed 8/29)*
- *Draft Technical Guidance: Pennsylvania's Public Water System Capability Enhancement Strategy (391-0400-001) (Closed 8/15)*
- *Coastal Zone Management federal consistency: CSX Transportation, Inc. - Rail Abandonment (Erie County)(Closed 8/1)*
- *Coastal Zone Management federal consistency: Energy Transfer, Inc. - Maintenance Dredging of the Marcus Hook Terminal (Delaware County) (Closed 8/1)*
- *Environmental Assessment Approval for PENNVEST Funding Consideration (Closed 7/18)*
- *Clean Water and Drinking Water State Revolving Fund Programs: Federal Fiscal Year 2022 Intended Use Plans (Closed 7/5)*



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## Communications Monthly Press Releases

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### Press Releases Issued

**June 29** - DEP Declares Code Orange Air Quality Action Day for Ozone for Thursday, June 30, 2022, in Philadelphia Area

**June 30** - Pennsylvania Department of Environmental Protection Statement on *WV v. EPA Supreme Court of the United States Decision*

**June 30** - DEP Declares Code Orange Air Quality Action Day for Ozone for Friday, July 1, 2022, in Philadelphia Area

**July 6** - ADVISORY – HARRISBURG – TOMORROW – DEP, Professional Recyclers of Pennsylvania Highlight Young Environmentalist Winners of Poster, Video Contest

**July 7** - DEP, Recyclers Group Highlight Student Winners of Earth Week Poster and Video Contest

**July 13** - ADVISORY – BERWICK – THURSDAY – DEP to Demonstrate Oil Recovery System at Berwick Seep HSCA Site

**July 14** - DEP Demonstrates Oil Recovery System that Reduces Pollution to the Susquehanna River

**July 18** - ADVISORY – Center Township, Indiana County – DEP to Have Informal Public Conference on Rosebud Mining Company Major Modification Applications

**July 19** - DEP Submits Final Pennsylvania Chesapeake Bay Watershed Plan with New State Funds Supporting Partners' Progress

**July 19** - DEP Declares Code Orange Air Quality Action Day for Ozone for Wednesday, July 20, 2022, in Philadelphia Area

**July 20** - DEP to Host Public Hearing Regarding Proposed Store Construction in Antis Township

**July 22** - DEP Notices Draft Air Quality Plan Approval for Leachate Evaporation System at Westmoreland Sanitary Landfill

**July 22** - DEP Declares Code Orange Air Quality Action Day for Ozone for Saturday, July 23, 2022, in Philadelphia Area

**July 23** - DEP Declares Code Orange Air Quality Action Day for Ozone for Sunday, July 24, 2022, in the Philadelphia Area

**July 25** - ADVISORY – TUESDAY – DEP Reminds Pennsylvanians to Fight the Bite and Protect Themselves from Mosquitoes

**July 26** - Pennsylvanians Encouraged to Fight the Bite and Protect Themselves from Mosquitoes

**July 28** - Wolf Administration Highlights Commitment to Clean Transportation

**July 29** - ADVISORY – MONDAY – HARRISBURG – Wolf Administration Kicks Off Anti-Litter Campaign

**August 1** - Wolf Administration Calls on Pennsylvanians to 'Fight Dirty' in New Anti-Litter Campaign

**August 2** - DEP Assesses \$100,000 Civil Penalty for Waste Management Violations in Armstrong County

*August 3 - Nearly a Million Dollars in Grant Funding Available for Environmental Educational Projects*

*August 3 - ADVISORY – ALTOONA – TOMORROW – DEP to Host Public Hearing for Proposed Store Construction in Antis Township*

*August 3 - DEP Declares Code Orange Air Quality Action Day for Ozone for Thursday, August 4, 2022, in Philadelphia Area and Susquehanna Valley Area*

*August 17 - DEP to Hold Virtual Informal Public Conferences on Mining Permit Applications for Facilities in Greene County*

*August 22 - DEP Invites Public Comment on Draft 2022 State Water Plan, Identifying Priorities for Management and Protection*

*August 22 - ADVISORY – ARMSTRONG TOWNSHIP – TUESDAY – DEP to Tour Williamsport Municipal Water Authority, Discuss Importance of Proactive Source Water Protection Efforts*

*August 22 - September Webinar to Discuss Application Process for Environmental Education Grant Funding*

*August 23 - DEP Tours Williamsport Municipal Water Authority, Discusses Importance of Proactive Source Water Protection Efforts*

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## **Active and Abandoned Mine Operations**

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### **Active and Abandoned Mine Operations Rulemakings**

#### **Noncoal Mining Clarifications and Corrections**

25 Pa. Code Chapter 77 was finalized in 1990 to implement the Noncoal Surface Mining Conservation and Reclamation Act. A proposed rulemaking seeks to address clarifications and corrections, many of which are administrative in nature. Beginning in October 2018, the Aggregate Advisory Board began reviewing and discussing concepts for the proposed rulemaking. Interaction with the Aggregate Advisory Board continued with several meetings of its RLT Committee throughout 2019 and 2020. On May 6, 2020, the Aggregate Advisory Board voted to concur with the Department’s recommendation that the proposed rulemaking proceed in the regulatory process. The EQB unanimously voted to adopt the draft rulemaking on November 17, 2020. The proposed rule was published in the Pennsylvania Bulletin on March 20, 2021, with a 45-day public comment period that closed on May 4, 2021. After considering the comments, no changes were made to the rulemaking. DEP is currently preparing the final rulemaking package for an EQB meeting likely *in the 4<sup>th</sup> quarter of 2022*.

#### **Coal Refuse Disposal**

This proposed rulemaking will reflect the changes set forth in Act 74 of 2019. The Mining and Reclamation Advisory Board’s (MRAB) Regulatory, Legislative and Technical (RLT) Committee met virtually on March 16, 2020, to discuss the initial draft and again on May 18, 2020, where they approved moving ahead with the rulemaking. The proposed rulemaking was presented to the full MRAB on July 16, 2020. The MRAB objected to the use of “will” instead of “may” in one section and ultimately did not hold a vote on how to proceed with the proposed rulemaking. Further discussions on the proposed rulemaking took place with the MRAB’s RLT Committee on October 15, 2020. The proposed rulemaking was then taken back to the full MRAB on October 22, 2020, where they voted to concur with the Department’s recommendation that the proposed rulemaking proceed in the regulatory process. The EQB adopted the proposed rulemaking at their June 15, 2021, meeting. The proposed rulemaking was published on November 6, 2021, for a 30-day public comment period that closed on December 6, 2021. At the MRAB meeting of January 20, 2022, the Department reviewed the public comments received with the Board who unanimously voted to recommend that the Department proceed with the



final-form rulemaking. This final-form rulemaking was adopted by the EQB on May 18, 2022 and was approved at IRRC's public meeting on July 21, 2022. The final rule was published in Pennsylvania Bulletin on September 10, 2022.

### **Abandoned Mine Land (AML) Bipartisan Infrastructure Law (BIL) Funding**

*The Department of the Interior, Office of Surface Mining Reclamation and Enforcement (DOI-OSMRE) issued the final "Guidance on the Bipartisan Infrastructure Law Abandoned Mine Land Grant Implementation" on July 21 and issued the Notice of Funding Opportunity (NOFO) for the Bipartisan Infrastructure Law Abandoned Mine Lands (AML) grant program on August 3. The final guidance and NOFO are available at <https://www.osmre.gov/bil>.*

*The Bureau of Abandoned Mine Reclamation is working on multiple fronts to implement the BIL AML program and advance reclamation projects to be funded including: preparing DEP's grant application for the BIL AML FY2022 funding; developing a new grant program through the DEP Grants Center for an initial grant round later this year; executing agreements with 15 engineering firms to explore opportunities to accelerate reclamation projects; and, monitoring progress of the STREAM Act in the US Congress.*

*DEP's grant application for the BIL AML FY2022 funding, totaling \$244.9M, is under internal review for submission to DOI-OSMRE and requests an effective date of November 1.*

*The new grant program will allow NGOs and watershed groups to submit AML, abandoned mine drainage (AMD), and AML Economic Revitalization (AMLER) projects to apply for reclamation grants funded by the AMLER program and AML and AMD funds authorized under the BIL.*

*The Safeguarding Treatment for the Restoration of Ecosystems from Abandoned Mines (STREAM) Act, an amendment to the AML section of the BIL, was approved by the US House on July 29. There has not been any action on the bill in the US Senate. The STREAM Act (H.R. 7283 co-sponsored by Rep. Cartwright, and S.3957 co-sponsored by Sen. Casey) clarifies that states with acid mine drainage (AMD) set-aside programs, like PA, can deposit a portion of the BIL grant funds into AMD set-aside accounts. The STREAM Act will allow PA to deposit up to 30% annually from the BIL grants into PA's existing AMD Abatement and Treatment Fund to cover the future costs to operate, maintain and rehabilitate existing AMD treatment system and systems that will be built in the future.*

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## **Air Quality**

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### **Final Rulemakings**

#### **Control of Existing Sources of VOC Emissions from the Oil and Natural Gas Industry**

On October 27, 2016, EPA published Control Techniques Guidelines for the Oil and Natural Gas Industry (O&G CTG). The proposed rulemaking establishes reasonably available control technology (RACT) requirements for volatile organic compounds (VOCs) from existing oil and natural gas production facilities, compressor stations, processing plants, and transmission stations. In December 2019, the EQB voted to publish the proposed rulemaking for public comment. The rulemaking was published, three virtual hearing were held, and the comment period ended in July 2020. The Department received about 4,500 letters of comments and 121 oral testimonies at the public hearings. When the multiple signatories to individual letters and petitions are included, the total number of individuals and organizations expressing an opinion on the proposed rulemaking is over 36,000. DEP presented the draft final-form rulemaking to AQTAC, the CAC and Small Business Compliance Advisory Committee on December 9, 2021, January 18, 2022, and January 27, 2022, respectively. The CAC voted unanimously with one abstention to send a letter of support to the EQB. On March 15, 2022,

the EQB approved the final-form rulemaking. On May 4, 2022, the EQB withdrew the final-form rulemaking from consideration by the Independent Regulatory Review Commission (IRRC).

In November 2020, EPA issued a finding that five states – California, Connecticut, New York, Pennsylvania, and Texas – failed to submit the O&G CTG required State Implementation Plan (SIP) revisions for the 2008 ozone standard. On December 16, 2021, the EPA issued a notice of “Findings of Failure to Submit SIP Revisions for the 2016 Oil and Natural Gas Industry CTG for the 2015 Ozone NAAQS and for States in the OTR,” with an effective date of January 18, 2022. See 86 FR 71385 (December 16, 2021). The findings trigger Clean Air Act deadlines for EPA to impose sanctions if a state does not make a complete SIP submission for the CTG and for EPA to promulgate a Federal Implementation Plan if it does not approve a state’s SIP revision. Specifically, on June 16, 2022 (18 months after the effective date of EPA’s finding), a 2-to-1 offset ratio for the nonattainment New Source Review permitting program went into effect. DEP estimates two facilities are subject to the NO<sub>x</sub> sanction upon start-up at an estimated cost of \$1.2 million for each facility; one facility is subject to the VOC sanction at minimal cost; and a fourth facility that is going through the permitting process will be subject to the NO<sub>x</sub> sanction, but the amount cannot be estimated until permit (with emission limit) is issued. On December 16, 2022, six months after the date of offset sanctions, highway funding sanctions will be imposed. On May 23, 2022, EPA Region 3 Administrator Adam Ortiz sent a letter to the Department and the legislature reiterating these sanctions.

On June 14, the EQB voted 15-3-1 to adopt the Control of VOC Emissions from Unconventional Oil and Natural Gas Sources final-form rulemaking. *On July 21, IRRC voted unanimously to approve the rulemaking. On August 2, 2022, the House Environmental Resources and Energy Committee voted to report a concurrent regulatory review resolution to the General Assembly to disapprove the final rule.* A separate rulemaking for conventional sources of VOC emissions is forthcoming.

#### RACT III Major Sources of NO<sub>x</sub> and VOC for the 2015 Ozone NAAQS

In 2015 EPA revised the primary and secondary National Ambient Air Quality Standards (NAAQS) for ozone. A re-evaluation of RACT is required each time a revised ozone NAAQS is promulgated for both nonattainment and Ozone Transport Region areas for major sources of nitrogen oxides (NO<sub>x</sub>) or VOCs, or both, statewide. DEP presented draft proposed RACT III major sources rulemaking language to AQTAC, SBCAC and CAC in April and May 2020. On May 19, 2021, the EQB voted to adopt the proposed rulemaking. The proposed rulemaking was published in the Pennsylvania Bulletin on August 7, 2021, with a 67-day public comment period that closed on October 12, 2021. Three public hearings were held on September 7, 8, and 9, 2021, with no attendees. DEP received comments from 24 commentators and has prepared a Comment and Response Document. DEP presented the draft final-form rulemaking to AQTAC, CAC, and SBCAC on April 7, 19, and 27, 2022, respectively. At its May 18, 2022, meeting, the CAC voted to provide a letter on the rulemaking to the Bureau of Air Quality regarding their input on the final-form regulation. *The EQB adopted the final rule on August 9, 2020, by a 17-2 vote. The rulemaking will go before IRRC on September 15, 2022.* The Federally mandated deadline for compliance by regulated facilities is January 1, 2023.

#### Large Petroleum Dry Cleaners, Shipbuilding and Repair Coatings Operations, and SOCMR Reactors, Distillation, and Air Oxidation Processes

The proposed RACT rulemaking is based on the EPA’s Control Technique Guidelines (CTG) for these three industries. The proposed rulemaking would control VOC emissions from certain existing sources to meet requirements under the Clean Air Act and the U.S. Environmental Protection Agency’s (EPA) 2015 Ozone Implementation Rule. The Department presented the draft proposed rulemaking to AQTAC, SBCAC, CAC PRO, and CAC on October 15, October 28, November 11, and November 17, 2020, respectively. DEP presented the proposed rulemaking to the EQB on September 21, 2021, and the EQB voted unanimously to adopt the proposed rulemaking. The proposed rulemaking was published in the Pennsylvania Bulletin on January 29, 2022, for a 66-day public comment period that closed on April 4, 2022. See 52 Pa.B. 689. Written

comments were received from one commentator. Three public hearings were held on March 1, 3, and 4, 2022. No testimony was received. IRRC's comment period closed on May 4, 2022, and IRRC submitted comments to the EQB on May 4, 2022.

*DEP presented the draft final-form rulemaking to CAC PRO, CAC, AQTAC and SBCAC on June 27, July 19, August 18, and August 24, 2022, respectively. DEP anticipates presenting the final-form rulemaking package to the EQB in the fourth quarter of 2022 and promulgation in the same quarter.*

## **Regulatory State Implementation Plan (SIP) Revisions**

### **Reasonably Available Control Technology (RACT II)**

In May 2019, EPA conditionally approved Pennsylvania's RACT II SIP revision based on DEP's commitment to submit all remaining case-by-case RACT revisions no later than May 9, 2020. DEP successfully submitted all case-by-case SIP revisions to the EPA before May 9, 2020.

In July 2019, the Sierra Club and Earthjustice filed a petition in the US Court of Appeals for the Third Circuit challenging EPA's Conditional Approval. In August 2020, the Court vacated and remanded three aspects of EPA's approval of DEP's RACT II Rule: 1) Emission limits for coal-fired boilers equipped with selective catalytic reduction (SCR) control devices; 2) SCR operating temperature-based exemptions; and 3) the SCR temperature reporting requirement.

In late November 2020, DEP and the Allegheny County Health Department issued letters to the owners and operators of facilities with coal-fired boilers equipped with SCR requiring that they submit case-by-case RACT evaluations no later than April 1, 2021. DEP received and reviewed case-by-case analyses from the owners or operators of four affected facilities. DEP has issued the final permits to the owners or operators of the four facilities.

On May 25, 2022, the EPA issued a proposed notice for a Federal Implementation Plan (FIP) addressing RACT requirements for certain sources in Pennsylvania. See 87 FR 31798 (May 25, 2022). This FIP proposes to set emission limits for NO<sub>x</sub> emitted from coal-fired electric generating units (EGUs) equipped with SCR controls to meet the RACT requirements for the 1997 and 2008 ozone NAAQS. The FIP is being proposed to ensure that the EPA can, if necessary, meet a court-ordered deadline requiring the EPA to approve an amended SIP or issue a FIP by August 27, 2022. The Department submitted comments in opposition to the FIP.

On May 26, 2022, DEP submitted a RACT II SIP revision for Homer City, Keystone, and Conemaugh EGUs. On June 6, 2022, DEP a submitted RACT II SIP revision for Montour EGU.

*On August 26, 2022, the U.S. Department of Justice filed a pre-publication version of EPA's final RACT II FIP with the Third Circuit Court of Appeals in Sierra Club v. EPA case. The final NO<sub>x</sub> lb/MMBtu emission limit for Conemaugh EGU was lowered while the emission limits for Homer City and Montour EGUs were raised. Keystone's emission limit remained roughly the same.*

### **Stage II Vapor Recovery Revision**

The final-form rulemaking was published in the Pennsylvania Bulletin on March 26, 2022. A SIP revision submittal is being prepared. *Subsequent to the publication and after review by the Bureaus of Air Quality and Environmental Cleanup, Storage Tanks Division, on August 20, 2022, the Department issued a [Notice of Suspension of Enforcement](#) of the requirement in §129.61a(g)(1)(iii) with regard to the inspection of the gasoline storage tank automatic tank gauge cap. The Department has determined that the likelihood that the automatic tank gauge would be compromised during a gasoline tank truck delivery is low and verifying the*

*status of the automatic tank gauge cap after each gasoline tank truck delivery is problematic. Many of these gauges are only accessible beneath a heavy sump lid, some of which require special tools to open, or can be otherwise difficult to access. A Federal requirement to check this equipment annually is found at 40 CFR 280.36 and the corresponding Commonwealth annual inspection requirement is found in 25 Pa. Code § 245.438. This exercise of enforcement discretion does not affect owner or operator compliance with other existing requirements.*

#### VOC RACT SIP Revisions for the 2008 Ozone NAAQS

In August 2018, DEP submitted two SIP revisions to EPA to address reasonably available control technology (RACT) requirements related to control technique guidelines (CTGs) for volatile organic compounds (VOCs) and the addition of regulations controlling VOC emissions from industrial cleaning solvents. EPA published approval of these SIP revisions on December 14, 2020. On February 12, 2021, the Center for Biological Diversity filed a petition for review in the US District 3<sup>rd</sup> Circuit Court challenging EPA's approval.

On August 2, 2021, the U.S. Department of Justice (DOJ), on EPA's behalf, filed a motion in the U.S. Court of Appeals for the Third Circuit requesting the court to remand without vacatur EPA's December 14, 2020, approval of Pennsylvania's attainment demonstration. Pennsylvania, as an intervenor in the case, took no position on the DOJ's motion.

#### Non-Regulatory SIP Revisions

##### 2010 Sulfur Dioxide (SO<sub>2</sub>) NAAQS Attainment Demonstration SIP Revisions

DEP submitted to EPA the required SIP revision for Indiana and Armstrong Counties in October 2017. EPA published its intent to approve the SIP in July 2018. EPA received seven comments. In response to these comments, DEP submitted supplemental SIP information to the EPA in January 2020. On October 19, 2020, EPA published its approval of the attainment demonstration.

On December 18, 2020, Sierra Club, Clean Air Council, and Citizens for Pennsylvania's Future sued EPA in the Third Circuit regarding the agency's approval of the attainment plan. On April 5, 2021, the U.S. Department of Justice on EPA's behalf filed a motion in the U.S. Court of Appeals for the Third Circuit requesting the court to remand without vacatur EPA's October 19, 2020, approval of Pennsylvania's attainment demonstration. Pennsylvania, as an intervenor in the case, took no position on the DOJ's motion.

On August 17, 2021, the Third Circuit granted EPA's motion to remand without vacatur. The order states that the remand proceedings shall be concluded within 12 months of the date of the order and directs the parties to file a status report 11 months from the date of the order.

On March 17, 2022, EPA published a proposed partial approval/partial disapproval of Pennsylvania's SIP revision for the Indiana 2010 SO<sub>2</sub> 1-Hour NAAQS Nonattainment Area. The partial disapproval focuses on the calculation of the SO<sub>2</sub> permit limit averaging periods. The public comment period closed on April 18, 2022. *On August 18, EPA published a Final Partial Approval/Partial Disapproval of the Department's SIP revision. DEP must submit and EPA must approve a SIP revision.*

#### Air Quality Technical Advisory Committee

The next scheduled meeting is *October 13, 2022*.

#### Small Business Compliance Advisory Committee

The next scheduled meeting is *October 26, 2022*.

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#### **Energy Programs Office**

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### **Climate Change Advisory Committee**

The most recent Climate Change Advisory Committee (CCAC) meeting was conducted on August 23, 2022. *The theme of the meeting was electricity generation, and featured presentations by Dr. Melissa Lott of Columbia University on achieving net-zero electricity generation, and Marilyn Kray from Constellation on advancements in nuclear energy generation. Additionally, Energy Programs Office staff presented the DRAFT 2022 Pennsylvania Greenhouse Gas Inventory report. CCAC officer elections were held, and A. Stevens Krug was reelected committee chair, while Marc Mondor was reelected vice-chair. The next CCAC meeting will be held on October 25, 2022, and will feature additional presentations and discussions on clean electricity generation and industrial decarbonization.*

### **Industrial Energy Efficiency Technical Assistance**

For state fiscal year (SFY) 2021-22, DEP has been working with the Pennsylvania Technical Assistance Program at the Pennsylvania State University (PennTAP) and the Emerging Technology Applications Center (ETAC) to provide energy efficiency technical assistance targeting the Industrial sector. To date, ETAC and PennTAP have completed twenty-seven site assessments this fiscal year for companies throughout Pennsylvania representing the advanced materials, health care, textile and apparel, lumber, wood and paper, metal fabrication, and agricultural industries. Ten of the sites were in Environmental Justice areas.

### **Energy Security**

*EPO, in coordination with DEP Emergency Response and Pennsylvania Utility Commission (PUC), is developing a State Energy Security Plan (SESP) in response to requirements laid out in the Infrastructure Investment and Jobs Act (IIJA). The SESP incorporated EPO's Energy Assurance Plan and Petroleum Shortage Response Plan, the PA Hazard Mitigation Plan, Pennsylvania Climate Impacts Assessment 2021, and other resources to address risks to Pennsylvania's energy sector. An updated SESP will be delivered to the US DOE by September 30.*

*DEP, in coordination with the PUC, is preparing to respond to a US DOE grant solicitation funded by IIJA section 40101(d) – Preventing Outages and Enhancing the Resilience of the Electric Grid. The grant program makes \$2.5 billion available to states and American Indian tribes for grid-hardening projects to lessen risks and impacts to the electrical grid. EPO and DEP's IIJA Coordinator hosted a public meeting on August 31 to share DEP's objectives for utilizing the DOE funds and solicit public input.*

EPO contractor, ProtoGen, *has developed* five no-cost preliminary microgrid feasibility studies for selected local government participants. Desk audits have occurred for the five participants which include: Perry County Emergency Operations Center, Sharpsburg Borough (Allegheny County), Tremont Borough (Schuylkill County), Lehigh County Water Authority, and Montgomeryville Wastewater Treatment Plant. *The final reports are complete for the first round. EPO is offering a second round of initial feasibility studies for another five participants. EPO will continue assisting round 1 participants with developing application to fund projects.*

EPO is also participating in US DOE's Technology Action Group that facilitates partnership with other states and the National Renewable Energy Lab (NREL) related to onsite generation and energy storage at critical facilities. EPO staff has been participating in monthly meetings as part of the Technology Action Group. *EPO has received a map with prioritization criteria from NREL for critical facilities within the state. EPO has been in contact with Pennsylvania Department of Health, who is helping to select facilities that will be assisted by NREL.*

EPO and DEP's Director of Emergency Response have coordinated monthly Fuels Sector Calls with PEMA to provide situational awareness regarding supply concerns related to heating and transportation fuels. The next meeting is scheduled for *September 9th*.

### **US Department of Energy (DOE) State Energy Program State Fiscal Year (SFY) 2022 Application**

EPO and Fiscal staff submitted the FY 2022 application on April 28, 2022, for U.S. DOE State Energy Program (SEP) Formula funds of \$2,097,530. Programs include EV infrastructure planning, local government climate action plan assistance, energy efficiency education and technical assistance programs for agriculture, commercial kitchens, and manufacturers; clean energy workforce development; energy assurance and resiliency planning and training activities; energy storage outreach; and building energy code trainings. *The funding award notice has been received from the US DOE, and they are awaiting PA DEP's acceptance of the award.*

EPO *received* the first tranche of SEP funds from the Bipartisan Infrastructure Law (BIL), specifically to update the State Energy Security Plan, which is required to receive additional BIL SEP funds. EPO staff are currently preparing project descriptions for the next tranche of the BIL SEP Funds.

### **PA Climate Change Mitigation and Resilience Network**

EPO will be putting management and implementation of the Academy out to bid *soon* and proposing a new title for the initiative, the PA Climate Change Mitigation & Resilience Network (Network).

### **Pennsylvania Partnership for Energy Efficiency in Wastewater Treatment Plants (WWTP)**

DEP's Energy Programs Office is participating in US DOE's Sustainable Wastewater Infrastructure of the Future (SWIFt). In 2021 DEP started the PA Partnership for Energy Efficiency in WWTP (PEW2) with the main goal of helping municipal WWTP across the Commonwealth find the best ways to reduce their energy usage and costs. Participants will receive guidance in their energy efforts and provide EPO input in developing a longer-term plan for WWTP energy efficiency to be implemented over the next few years. Eight municipal authorities operating nine WWTP have signed on to receive SWIFt Toolkit Training from US DOE, an energy data analysis of their operations by EPO, an assessment of their facilities by a third-party EPO-funded contractor, an opportunity to participate in networking and peer exchanges, and the opportunity to inform the EPO long-term plan for WWTP energy outreach. DOE and EPO have completed five training sessions and all nine facilities will have been presented with their final energy audit reports by the end of August. The next step for the plants is to continue tracking their energy usage and write energy management plans based on their audit findings and overall organizational goals

### **Grid-Scale Solar Development Outreach to Local Government Officials**

As part of on-going efforts to educate local government officials about the potential impacts of grid-scale solar development across the Commonwealth, EPO contracted with Penn State Extension for a second phase of a project to conduct outreach and technical assistance sessions to address common questions raised by community members and other types of stakeholders about this type of development. This outreach is conducted in two formats: general sessions open to local government officials from across Pennsylvania that provide a broad overview of the development process and resources available, and targeted sessions for focused geographic areas where specific challenges are addressed.

General sessions conducted under this phase of the contract have been held monthly on the third Tuesday of each month since December 2021 and will continue through *September 2022*. Targeted outreach sessions have been conducted in Mercer County on February 17, 2022, *and joint sessions for Adams/Franklin Counties on May 10, 2022, Lehigh/Northampton Counties on August 2, 2022, Bradford/Susquehanna Counties on August 17, 2022, and Crawford/Venango Counties on August 24, 2022. These sessions typically attracted 20-35 local officials, including township supervisors, engineers, and zoning officers as well as county planning officials.*



*One additional session is planned by the end of September 2022. Extension's outreach is being funded through DEP's State Energy Program funds from the U.S. Department of Energy.*

### **Local Climate Action Program**

*The Local Climate Action Plan (LCAP) program assists local governments to create greenhouse gas inventories and subsequent climate action plans. The current cohort for 2021-2022 concluded August 31st. All participating communities have completed drafts of their greenhouse gas inventories, at least 4 have completed draft climate action plans, and 2 participating communities (the Boroughs of Millersville & Carnegie) have finalized the climate action plans produced as a part of their LCAP participation. At this point, 18 local governments have finalized and adopted the climate plans produced through the LCAP program.*

*For this fourth year of LCAP, DEP has transitioned program management to Penn State University's Sustainability Institute. The application has been completed for the 2022-2023 LCAP cohort with 12 total participants. The 11 local governments that will participate in the full year program to develop greenhouse gas inventories and climate action plans are: Bucks County, Doylestown Borough and Township, East Fallowfield Township, City of Erie, Lower Macungie Township, Lower Merion Township, City of Reading, City of Scranton, Uwchlan Township, and the Borough of Wormleysburg. The Delaware Valley Regional Planning Commission will also participate in the spring to produce a climate action plan.*

### **Shared Energy Manager**

*The Shared Energy Manager (SEM) program assists local governments that have participated in the Local Climate Action Plan program with implementing their climate plans through actions such as energy inventories, assessments, benchmarking and management plans. Wilson Engineering Services is the current contracted energy manager. Work has been completed for Abington Township and Ben Avon Borough energy inventories, assessments, and benchmarking. A light-duty vehicle fleet electrification study has been completed for Cumberland County, and a feasibility analysis solar PV array deployment on warehouses draft is being reviewed. The energy management plan for the City of Easton has been finalized. Finally, the energy inventory and benchmarking has been completed for the City of Shamokin. Work is being completed on final projects/reports for the current SEM cohort which ended on August 31<sup>st</sup>. Recruitment of local governments for the 2022-2023 cohort has started with interest from many LCAP participants which have produced climate action plans.*

### **Commonwealth-University Capstone Partnership**

*The EPO CAPstone program pairs local government participants of the LCAP program with University partners to implement aspects of their climate action plans. The Fall 2022 CAPstone has been set with the Governor's Office of Performance through Excellence with East Stroudsburg University. Initial meetings have been conducted with East Stroudsburg University regarding the student cohort that will work with local communities for this next cohort and recruitment has begun for local government participants for the Fall 2022 semester.*

### **Pennsylvania Energy Development Authority**

*Pennsylvania Energy Development Authority (PEDA) had previously selected a third-party administrator to finance and implement a clean energy financing product in Pennsylvania. The administrator was to design and implement a program that partners \$1,000,000 in PEDA funds with private capital to develop clean energy projects. Clean energy includes many technologies, including renewable energy, energy efficiency, low carbon transportation, etc. and is detailed in PEDA's 2020 Energy Development Plan. The Clean Energy Financing Product Administrator was expected to begin work in July, however there was an issue with the procurement process. As such PEDA's Request for Proposal (RFP) must be reposted and respondents reevaluated before it can be moved forward.*

## **Building Energy Code Trainings**

Using funding through the U.S. Department of Energy's (DOE) SEP, DEP has sponsored energy code trainings for building code officials, contractors, design professionals and builders for over 10 years. On February 14, 2022, the 2018 International Energy Conservation Code (IECC) went into effect for all new construction and major renovations for residential and commercial buildings. DEP has selected a contractor with extensive experience in building energy codes trainings for this year's trainings who will also provide specialized training for duct and envelope training (DET) and remote virtual inspections (RVI). Contractor Performance Systems Development completed a total of 4 residential (2) and commercial building energy code (2) trainings in May with a total of 158 attendees, and a total of 8 residential (3), commercial (3) and duct and envelope testing (2) trainings in June with a total of 170 attendees. *There was an online training for on energy code and virtual inspections and DET testing in July with 10 and 18 attendees, respectively.*

## **Alternative Fuel Incentive Grant (AFIG)**

The AFIG Program offers grant funding for clean, alternative fuel projects in Pennsylvania and investment in Pennsylvania's energy sector. Approximately \$3 million in grants is available for school districts, municipal authorities, political subdivisions, nonprofit entities, corporations, limited liability companies or partnerships incorporated or registered in the Commonwealth.

On June 24, 2022, DEP opened the AFIG program to accept applications for 2022 via the DCED Electronic Single Application system. *The first application acceptance period ended at 4 PM on August 26, 2022. A total of 28 applications were submitted requesting \$4 million in funding. The applications included 18 vehicle purchase applications, eight refueling infrastructure applications, and two innovative technology applications. EPO staff will review and score all submitted applications and develop recommendations for funding. The program's second application acceptance period will end on December 16, 2022.*

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## **Environmental Cleanup and Brownfields**

### **Environmental Cleanup and Brownfields Rulemakings**

#### **Proposed Rulemaking: Administration of Land Recycling Program - Vanadium MSC Rule**

The Land Recycling Program developed a proposed rulemaking to update the Statewide health standard medium-specific concentrations (MSCs) for vanadium listed in Appendix A of Chapter 250 in June 2021. The proposed rulemaking addresses the vanadium toxicity value and the corresponding changes to the soil and groundwater numeric values. The EQB adopted this proposed rule on May 18, 2022. *The proposed rulemaking was published in the Pennsylvania Bulletin on July 30, with a 30-day public comment period which ended on August 29.*

#### **Proposed Rulemaking: Administration of Land Recycling Program - Chapter 250 Update**

DEP will develop a separate proposed rulemaking to address other Statewide health standard MSCs including lead and possibly Polycyclic Aromatic Hydrocarbons (PAHs) in Fall of 2022. At the *June 30, 2022 and August 11, 2022, CSSAB meetings, the lead and PAH workgroups presented their conclusions and recommendations to DEP on the issues of lead and PAH toxicity. The PAH workgroup recommended that DEP use the 1993 relative potency factors from EPA that were referenced in the development of the Benzo[A]Pyrene IRIS toxicological values. The lead workgroup recommended that DEP adopt 5 µg/dL as the target blood lead level for the calculation of the soil direct contact values and also recommended that DEP allow for the use of averaging attainment data for the attainment of the lead direct contact statewide health standard.*

### **Cleanup Standards Scientific Advisory Board (CSSAB)**

A CSSAB meeting is scheduled for *October 20, 2022*, to allow DEP to present the draft Chapter 250 proposed rulemaking annex to the board. CSSAB meeting dates for 2023 will be established at the end of 2022.

Information about the meetings can be found through the Public Participation tab on the DEP web site at [www.dep.pa.gov](http://www.dep.pa.gov) (select “Public Participation,” then “Advisory Committees,” then “Cleanup and Brownfields Advisory Committees,” then “Cleanup Standards Scientific Advisory Board”).

### **Land Recycling Program Technical Guidance Manual (TGM) Addendum**

The final revised Land Recycling Program TGM was published on January 19, 2019. DEP plans to add information as an appendix to the TGM regarding the use of vertical soil mixing as a remediation technology to address historic pesticide contamination on agricultural lands. DEP is currently evaluating aspects of this proposed TGM addendum using a DEP workgroup made up of technical and legal staff from both Central Office and the Regional Offices. The technical concepts that will form the foundation of this proposed guidance addendum will be provided to the CSSAB for discussion at a future meeting.

The next comprehensive revision to the TGM is planned to begin in 2023. Proposed revisions will be presented to the CSSAB for discussion.

### **Storage Tank Advisory Committee (STAC)**

*The September 7, 2022 meeting of the Storage Tank Advisory Committee (STAC) has been cancelled. The next meeting is scheduled for Tuesday, December 6, 2022, at 10 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg PA 17105. Individuals may attend the meeting in person or remotely. Individuals interested in providing public comments during the meeting are encouraged to sign up in advance by contacting Kris A. Shiffer at [kshiffer@pa.gov](mailto:kshiffer@pa.gov) or (717) 772-5809.*

*Information on how to join the meeting remotely, as well as agenda and meeting materials, will be available on the Committee's webpage, found through the Public Participation tab on the Department's web site at [www.dep.pa.gov](http://www.dep.pa.gov) (select “Public Participation,” then “Advisory Committees,” then “Cleanup and Brownfields,” then “Storage Tank Advisory Committee”).*

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## **Environmental Education**

### **DEP Environmental Education Grants Program**

The DEP Environmental Education (EE) Grants Program was established by the Environmental Education Act of 1993, which mandates setting aside 5 percent of the pollution fines and penalties DEP collects annually for environmental education in Pennsylvania. In its 29-year history, the program has funded more than \$12 million in environmental education projects. Awardees include schools, non-profit organizations, colleges and universities, county conservation districts, and businesses.

The Environmental Education and Information Center (EE&IC) staff is looking to increase the number of applicants for 2023. As part of this effort, significant changes have been implemented for the 2023 DEP EE Grant Round including:

- Increased Mini-Grant funding to \$5,000 and General Grant Funding Level I to \$30,000
- Expanded Eligible Expenses:
  - People Costs: Up to 50% of grant funds;
  - Travel Costs: Lodging is now an eligible expense;
  - Resource Costs: General Grant Level I and II - No more than 30% of the total grant funds requested may be used to purchase program-specific technology
  - Other Costs: Boat, kayak, canoe, and paddle boat rentals are eligible expenses (purchases are not eligible)
- DEP will host a live webinar in September to discuss the application process for its nearly \$900,000 in available grant funding for environmental education projects (see press release [here](#)). The webinar, which is scheduled for 12:00 PM to 1:30 PM Tuesday, September 27, 2022, is free but [registration](#) is required.

The application period for the EE Grants Program is open until December 9, 2022. Funding is provided for environmental education projects that address program priorities include water, climate change and/or engage persons living and/or working within Environmental Justice areas. Full EE Grants Program guidelines and application instructions are available on the Department's web site at [Environmental Education Grants Program](#).

Questions concerning the 2023 Environmental education grants Program should be directed to the DEP Environmental Education and Information Center at [RA-epEEgrants@pa.gov](mailto:RA-epEEgrants@pa.gov).

### **Update from the PA Environmental Literacy (ELIT) Steering Committee [formerly referred to as Pennsylvania Environmental Literacy Task Force]**

DEP continues to support the and serve on the PA ELIT Steering Committee. Other committee participants represent the PA Department of Education (PDE), Department of Conservation and Natural Resources (DCNR), Stroud Water Research Center, Millersville University, PA Sea Grant program and Penn State Extension. The goal of this grant project is to build sustainable and equitable capacity support systems towards environmental literacy for all K-12 audiences across Pennsylvania.

Funded through a B-WET grant from the National Oceanic and Atmospheric Administration (NOAA), three key objectives are outlined:

- Coordinate, plan, implement, and evaluate Environmental Literacy (ELIT) and Meaningful Watershed Educational Experience (MWEE) professional development opportunities to help K-12 schools integrate environmental literacy, sustainability, and MWEEs into curricula.
- Provide capacity reinforcements to state-wide and regional networks, partnerships, and target audiences to promote equitable access to ELIT and MWEEs.
- Create and implement a communications strategy to reach key statewide and school district decision-makers.

### **Environmental Justice**

For the 2023 DEP Environmental Education Grant program Environmental Justice remains one of the primary priorities. In 2022 the Environmental Education Grants awarded more than 90% of grant funds to support projects that engage youth and adults living and/or working within Environmental Justice (EJ) areas. The 2023 Environmental Education Grant program looks to improve on this level of EJ community engagement.

The PA ELIT Steering Committee's Diversity, Engagement/Inclusion (DEI) objectives include:

- Increase diversity and capacity of local and regional networks to better include underserved communities.
- A specific goal is to increase diversity and capacity of local and regional networks to better include underserved communities.
- Offer training events to establish a community of practice development support for shared vision and goals based on the North American Association of Environmental Educator's (NAAEE's) Community Engagement: Guidelines for Excellence

### **Environment and Ecology Standards Update**

On July 16, 2022 the final-form amendments to the [Chapter 4 regulation](#) were published electronically in the *Pennsylvania Bulletin*. The publication is live on the Pennsylvania Code and Bulletin website here: [Pennsylvania Bulletin \(pacodeandbulletin.gov\)](#). These amendments establish three new sets of academic standards as follows: *Pennsylvania Integrated Standards for Science, Environment, Ecology, Technology, and Engineering (grades K-5)*, *Pennsylvania Integrated Standards for Science, Environment and Ecology (grades 6-12)*, and *Pennsylvania Technology and Engineering Standards (grades 6-12)*. The regulations provide a three-

year window for implementation of the new standards and establish a July 1, 2025, effective date for the new standards. These new academic standards will replace the existing academic standards for *Science and Technology* and *Environment and Ecology*, and those existing standards will be sunset on June 30, 2024.

### **Pennsylvania's Anti-Litter Campaign**

DEP, in conjunction with other Commonwealth agencies, continues to promote Pennsylvania's new anti-litter campaign, "PA Fights Dirty." As part of this effort the EE&IC staff are also promoting this initiative through various environmental education networks and in "Teaching Green".

The Keep Pennsylvania Beautiful (KPB) also features the state's Young Ambassadors Program, a new partnership with PennDOT and KPB. The program – which has begun accepting applications – was recommended in the Litter Action Plan and invites Pennsylvania rising 10th- through 12th-grade students to help keep the Commonwealth clean. The students – chosen through a competitive process – will commit to nine months of service in representing and upholding the mission and values of KPB. Other responsibilities include attending a virtual orientation, four virtual education and training workshops, and up to two virtual networking events, organizing and participating in at least one community cleanup event through Pick Up Pennsylvania, conducting one community education event targeting youth in the student's community and promoting participation on social media.

From September 2022 through May 2023, Young Ambassadors will build community stewardship by inspiring, engaging, and empowering Pennsylvanians to keep their communities clean and develop civic leadership to advocate for clean and beautiful communities across Pennsylvania.

More information and the application for the Young Ambassadors Program can be found [on the KPB website](#).

### **Ag Progress Days**

The DEP Environmental Education and Information Center (EE&IC) staff represented DEP at the 2022 Ag Progress Days held August 8<sup>th</sup> through 11<sup>th</sup>. Located at The Pennsylvania State University's - Russell E. Larson Agricultural Research Center outside of State College, PA., the show's host is Penn State's College of Agricultural Sciences and showcases educational programs, current research, and the latest innovations in agricultural equipment and technology. DEP promoted and distributed the Energy Saving on the Farm Series which consists of 6 separate Fact Sheets.

- DEP Ag Energy Efficiency Rebate Program
- Energy Efficiency of the Dairy Farm (new)
- Finding Hidden Opportunities for Energy Savings
- Funding for Your Energy Projects
- Solar Power on the Farm
- Understanding Energy Efficiency

### **Teaching Green Newsletter**

The latest edition of the DEP "Teaching Green" environmental education newsletter is scheduled for release in early October. This issue will provide updates on the DEP Environmental Education Grant Program, projects previously funded by the Environmental Education Grant program (including testimonials), more information on the PA Litter Action Plan, the RCSOB falcons, and MWEE professional development opportunities for formal and non-formal educators. This newsletter is produced quarterly by EE&IC staff to keep the environmental education community up to date on the work of DEP and to share information on new environmental education opportunities and programs designed to strengthen environmental literacy within the Commonwealth.

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## **Environmental Justice**

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### **Environmental Justice Advisory Board (EJAB)**

*EJAB's most recent meeting was on Thursday, August 18 in Johnstown, and included updates from community groups in Southwestern Pennsylvania including the Breathe Project, Center for Coalfield Justice, and Urban Kind Institute. It also included DEP updates on the Office of Environmental Justice, PFAS Minimum Control Level regulation, and RGGI. The next EJAB meeting will be held on Tuesday, November 15 in conjunction with the CAC meeting.*

### **Environmental Justice Executive Order**

Governor Wolf signed an Environmental Justice Executive Order 2021-07 in October 2021 making permanent the Office of Environmental Justice and Environmental Justice Advisory Board and creating the Environmental Justice Interagency Council (EJIC). DEP held the second meeting of the EJIC on Tuesday, May 24. Under the terms of the Executive Order, DEP will develop an agency EJ Strategic Plan and may also revise the EJ Policy and create EJ mapping tools.

### **Community and Stakeholder Engagement**

Public Meetings & Stakeholder Engagement OEJ scheduled several virtual and in person meetings and events throughout April and May to inform the public about the opportunity to comment on the updated Environmental Justice Policy. This included meetings with community organizations and various workgroups and committees including: the American Planning Association Pennsylvania Chapter, US Climate Alliance Just Transition Work Group, Healthy Communities in PA, COVID-19 Health Equity Response Team, Pennsylvania Interagency Health Equity Team, Faith Alliance for Revitalization, Future Forces Workgroup, Chesapeake Bay Program Diversity, Equity, Inclusion and Justice (DEIJ) Action Team, Chester Environmental Partnership, Chesapeake Bay Program Diversity Workgroup, Shamokin Creek Restoration Alliance, Internal Lead Workgroup, Superfund Community Advisory Groups (CAG), Chesapeake Bay County Wide Action Plan Team, and others.

### **Project-Related Meetings**

OEJ staff led a virtual public information meeting related to proposed SMT East Mine in Derry Township, Westmoreland County on Tuesday, June 28 from 6-8pm. The proposed mine is within ½ mile of an environmental justice area. The applicant, Ligonier Stone & Lime Company, participated in the Q&A portion of the meeting. SWRO staff developed a website for the proposed project. *Since June, the New Stanton District Mining Office staff have prepared a second Technical Deficiency Letter (TDL) to the applicant and on August 15, received a response. Communications staff have updated the project to show the second TDL and its response.*

### **Environmental Justice Planning**

The draft EJ Policy was released for public comment on March 12, 2022, for a 60-day public comment period that ended on May 11. OEJ hosted four virtual public hearings on April 5, April 12, April 28, and May 4. The OEJ presented to the CAC about the policy at the April 19 CAC meeting. OEJ is now reviewing the comments received and preparing the comment-response document.

*OEJ is working to update the Environmental Justice Areas through a new more comprehensive mapping and data effort. Work has been occurring with the help of interns from Temple University who are working on data analysis and the creation of code to allow for regular updates. The team has consulted with other states as well as other Commonwealth departments on available data sources. Two sessions were held with key community group stakeholders to get initial feedback on factors to consider on August 1 and 12, 2022.*



OEJ continues to convene the Environmental Justice Internal Work Group (EJ IWG) to inform and educate DEP staff and solicit feedback on critical environmental justice initiatives within DEP, such as the EJ Policy.

As of October 2021, OEJ has been tracking and publishing permits subject to the current Environmental Justice Public Participation Policy on the DEP website.

OEJ collaborated with the EPA and other PA agencies, including DOH and DCNR, to develop and deliver training concerning Environmental Justice and community engagement for DEP, other state agencies and community organizations. In December 2020, OEJ led six (6) internal trainings on environmental justice with over 1,500 DEP employees participating in the trainings. OEJ delivered the training with DOH staff to the DOH's Division of Environmental Health Epidemiology on December 14, 2021.

### **OEJ Initiatives**

Language Access Services OEJ worked with the Office of Administration, Communications, and other programs to finalize and internally publicize a translation and interpretation process for DEP. OEJ developed an outline of the process for obtaining language access services and assisted the Policy Office with their translation of RGGI materials and Spanish language interpretation for RGGI hearings. OEJ worked with the Office of Administration to get billing and contracting in place for phone-based interpretation services. OEJ convened meetings with several DEP offices to discuss the roll out process for all DEP staff and available language access services have been shared internally with DEP staff. Language Access Coordinators were identified from the Communications and Policy Offices. The Language Access Coordinators are being included in commonwealth-wide language access coordinator calls arranged by the Office of Administration and are starting the process of creating a Language Access Plan for DEP.

### **Brownfields Technical Assistance Grant**

EPA has awarded DEP a Small Communities Assistance pilot grant for the past three years to assist a small, disadvantaged community on providing training, research and technical assistance for addressing brownfields redevelopment. DEP was awarded the Small Communities Assistance grant again for the 2022 fiscal year and is working with Oil City in Northwest Pennsylvania. The Oil City report was finalized and the project concluded in June 2022. OEJ assisted in getting application support materials for the 2023 fiscal year applicant, Mahanoy City Borough in Schuylkill County. *This program is set to receive an infusion of funding that may allow it to work with more and different types of communities but will keep a focus on communities facing EJ issues.*

### **Alternative Fuel Vehicle Rebate Information Sheet**

OEJ worked with the Energy Programs Office (EPO) and Office of Communications to develop a sheet that highlights the available resources that can make an electric or plug-in hybrid vehicle purchase more affordable. In particular, the sheet was developed to address the lack of awareness around the rebate's applicability to the purchase of a one-time pre-owned vehicles, and the availability of additional funds for low-income households. In addition, the sheet describes available federal and electric distribution company incentives. It can be found on the EPO webpage.

### **Grants**

OEJ is working with DEP's Grants Center and individual programs to track grant participation in EJ Areas and incorporate EJ consideration into program area grants. OEJ is supporting the Grants Office and other offices in developing outreach materials about the DEP grantmaking process. OEJ is also participating in an interagency group assessing overarching principles for advancing equity in Commonwealth grantmaking.

### **Outreach on Key DEP Initiatives**

OEJ is working with the Policy and Energy Programs Offices (EPO) to support outreach and engagement around the Regional Greenhouse Gas Initiative (RGGI) proposed rulemaking with EJ partners. Several

presentations on RGGI have been delivered to EJ partners. OEJ has worked with RGGI staff and engaged with EJ community stakeholders to develop draft equity principles supporting the initiative and discuss investments in EJ communities.

OEJ worked with EPO regarding inclusion and evaluation of equity and EJ considerations in the development of the 2021 Pennsylvania Climate Action Plan. OEJ will now work with EPO and community partners on outreach and engagement for the Pennsylvania Climate Action Plan 2024.

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## **Oil and Gas**

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### **Oil and Gas Rulemakings**

#### **Proposed Environmental Protection Performance Standards for Conventional Oil and Gas Operators Rulemaking**

In 2016, the General Assembly passed Act 52, which abrogated the ongoing rulemaking process regarding conventional oil and gas wells and established the Pennsylvania Grade Crude Oil Development Advisory Council (CDAC). Act 52 directed the Department to work with CDAC to “examine and make recommendations regarding existing technical regulations promulgated under 58 Pa.C.S. (relating to oil and gas) ... that impact the conventional oil and gas industry of this Commonwealth and explore the development of a regulatory scheme that provides for environmental oversight and enforcement specifically applicable to the conventional oil and gas industry.” From 2016 to the present, the Office of Oil and Gas Management (OOGM) has worked with CDAC to develop potential legislation and proposed regulations relating to conventional oil and gas wells.

Because discussions had not resulted in viable legislation, DEP proceeded with the development of a draft proposed conventional oil and gas rulemaking and advanced the regulatory concepts via two rulemaking packages during 2020. The first rulemaking relates primarily to the proper management of waste generated at conventional oil and gas well sites; the second rulemaking addresses other critical environmental protection performance standards at such sites.

On August 6, 2020, the Office of Oil and Gas Management presented these two draft proposed rulemakings to CDAC. On September 17, 2020, DEP also informed the Oil and Gas Technical Advisory Board (TAB) of the discussion of the draft proposed rulemakings that occurred with CDAC and shared copies of both draft proposed rulemakings with TAB. At its December 3, 2020, meeting, CDAC and OOGM staff continued discussion and initial review of the draft proposed rulemakings. On December 16, 2020, DEP updated TAB regarding the discussion and actions taken at the CDAC meeting that occurred on December 3, 2020. The draft proposed rulemakings were again discussed with CDAC at its meeting on April 22, 2021; however, due to time constraints, DEP was only able to fully discuss the draft proposed rulemaking that pertains to environmental protection performance standards. On May 5, 2021, the Department fully discussed the draft proposed rulemaking pertaining to environmental protection performance standards with TAB. DEP fully discussed the draft proposed rulemaking that pertains to waste management issues with CDAC on August 19, 2021, and then with TAB on September 9, 2021.

At its regularly scheduled meeting on December 16, 2021, Department staff shared the final version of the Environmental Protection Performance Standards for Conventional Oil and Gas Operators draft proposed Annex with CDAC members. This was shared to provide CDAC with an opportunity to adopt written comments to the Environmental Quality Board (EQB) in accordance with section 5 of Act 52 of 2016 (58 P.S. § 1205). The CDAC Regulatory Subcommittee prepared formal comments during the months of February and March and presented them to the full council on April 21, 2022. CDAC voted in support of accepting the comments and will submit the comments to the Department to accompany the rulemaking when it is submitted

to the EQB. DEP anticipates bringing this rulemaking to the EQB for consideration as proposed in the *fourth* quarter of 2022.

### **Infrastructure Investment and Jobs Act (IIJA)**

On Monday, November 15, President Biden signed the federal infrastructure bill into law that allocates more than \$1 trillion to advance various infrastructure projects across the nation. Among other things, this legislation potentially provides significant funds to Pennsylvania to plug abandoned oil and gas wells across the commonwealth. There are several key deadlines that require DEP to take immediate action in order to enable Pennsylvania to be eligible to receive its share of federal funding. The Department met the first major milestone by submitting the Notice of Intent to apply for the Formula Grant to the U.S. Department of Interior (DOI) by the December 30, 2021, deadline.

On March 17, the DOI released a draft Initial Grant Guidance under the IIJA to the public hosted two public comment webinars on the guidance on March 23 and 24. The Department submitted written comments on the draft Initial Grant Guidance to DOI on March 30. On April 12, the DOI released final Initial Grant Guidance under the IIJA to the public.

On April 28, the Office of Oil and Gas Management (OOGM) gave an hour-long public information session on the Department's plans for implementing IIJA. A series of follow-up discussions on specific substantive topics will be scheduled soon. In addition, OOGM collaborated with the Bureau of Fiscal Management to develop a federal budget and application materials for Initial Grant funding under IIJA. The Department successfully submitted the Initial Grant application to the DOI on Thursday, May 12 in advance of the May 13 deadline and received an electronic notice verifying receipt of the application.

*On August 24, 2022 the U.S. Department of Interior (DOI) transmitted the official notice of award to DEP to acknowledge the allocation of \$25 million to be used to implement the provisions of the IIJA Initial Grant. The award allows for \$2.5 million to be allocated to DEP to cover administrative costs associated with administering the Initial Grant.*

*To inform the development of the Invitation to Quote (ITQ) Statements of Work and gather information to assist the Department in implementing the IIJA program, DEP is hosting a series of workshops via Teams on the topics listed below. These workshops are intended to spur discussion among interested parties and provide information to the Department on what should be included in the ITQs. The sessions are open to the public, but targeted outreach was conducted with entities who previously filled out an interest survey or attended an IIJA information session earlier this year, as well as industry associations.*

*The Department has hosted the following Workgroup Sessions:*

*August 23: Well Plugging Under the Formula Grant*

*August 24: Due Diligence and Documenting Undocumented Abandoned Wells*

*August 30: Engineering Services (Quantification of Methane Emissions and Permitting/Planning)*

*September 1: Waste Management/Site Remediation*

*September 6: Project Prioritization and Workforce Development*

*The Department received good feedback from workgroup participants that will assist DEP as it proceeds in contracting for IIJA-related services and is scheduled to host three additional Workgroup sessions on the following dates:*

*September 9: Data Development and Documenting Undocumented Orphan Wells Through Data Mining*

### **Erosion and Sediment Control General Permit (ESCGP-3) Prioritized Review Workgroup**

Innovative approaches through design and implementation of environmentally enhanced Best Management Practices (BMPs) and superior construction practices reduce environmental impacts from oil and gas operations. To incentivize these technologies and practices, the Department intends to replace the ESCGP Expedited Review process with a Prioritized Review process that will allow for voluntary participation by industry. Permit applications submitted as Prioritized Review will be given a score based on the BMPs and environmentally superior construction practices proposed for a project. Projects that score well will be given priority to be reviewed before projects that are not submitted as Prioritized Review.

The Department presented revised documents to the Oil and Gas TAB at its December 16, 2020, meeting. This TGD was published as draft for public comment in the Pennsylvania Bulletin on August 28, 2021, kicking off a 30-day public comment period that closed on September 27, 2021. The Department received 194 comments and is continuing the process of reviewing the comments and preparing responses.

### **Pressure Barrier Policy Technical Guidance Document (TGD)**

OOGM has completed all updates to the Pressure Barrier Policy TGD and have introduced further improvements concerning blowout prevention (BOP) testing in light of recent changes to the American Petroleum Institute's (API) Recommended Practice 53, which is directly referenced in the regulations. An additional update has also been introduced respective of a well control emergency and subsurface blowout incident in Pennsylvania that occurred at a Utica shale well in 2019. The document was discussed at the Oil and Gas TAB meeting on May 20, 2020. OOGM received comments from TAB members on June 26, 2020. The Pressure Barrier Policy TGD was published on August 29, 2020, as draft in the Pennsylvania Bulletin with a 30-day public comment period that ended on September 28, 2020. A total of 91 comments were submitted from five commenters. The Department has completed its review of the comments received and made updates to the TGD as needed. The updated guidance was discussed with TAB at the May 5, 2021 meeting. The guidance document is expected to be published as final in the Pennsylvania Bulletin in the *fourth* quarter of 2022.

### **Pennsylvania State University Brine Study**

On May 26, the Pennsylvania State University (PSU) published a report titled "Evaluation of Environmental Impacts from Dust Suppressants Used on Gravel Roads" that was funded, in part, by the Department to evaluate the impacts of the use of brine as a dust suppressant on Pennsylvania roads. The results of the study found that the use of brine as a dust suppressant is about as effective at controlling dust as rainwater; however, the sodium in the brine wastewater can also destabilize the road, leading to more dust, as well as increased long-term maintenance costs. The PSU press release announcing the availability of this report to the public can be viewed here:

<https://www.psu.edu/news/engineering/story/oil-and-gas-brine-no-better-controlling-dust-rainwater-researchers-find/>

*On July 25, 2022, Dr. William Burgos presented research methods and report findings to the Oil and Gas Technical Advisory Board (TAB). Dr. Burgos gave a similar presentation to the Pennsylvania Grade Crude Oil Development Council (CDAC) on August 18, 2022.*

### **Oil and Gas Workload Report**

Please see Attachment 2.

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### **Radiation Protection**

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## **Radiation Protection Rulemakings**

### **Chapter 227**

The Radiation Protection Act directs DEP to develop and conduct comprehensive programs for the registration, licensing, control, management, regulation and inspection of radiation-producing devices and users of such devices. The areas in need of review and update relate to non-medical X-ray equipment. There have been important advances in technology and use of X-rays and other ionizing radiation particles for industrial radiography, non-contact level monitoring, foreign body detection, chemical purification, melting, welding, polymerization, sterilization, and security screening. The proposed package was discussed with the Radiation Protection Advisory Committee (RPAC) and a subcommittee in 2019 and 2020. At the July 9, 2020 meeting, RPAC discussed the revisions and concurred with the Department's recommendation to proceed with the proposed rulemaking. The proposed rulemaking was adopted by the Environmental Quality Board (EQB) at the May 19, 2021 meeting and was published for public comment on August 14, 2021, with a 30-day public comment period that closed on September 13, 2021. One commentator and IRRC submitted comments. The Bureau of Radiation Protection presented the draft final-form Annex to the Radiation Protection Advisory Committee (RPAC) on March 3, 2022, and RPAC expressed support for the Department moving forward with the final-form rulemaking. The Bureau of Radiation Protection is preparing to present a final rulemaking package for EQB in the *fourth* quarter of 2022.

### **Three Year Fee Report and Radiological Fees Rulemaking**

The Radiation Protection Act directs the Department to set annual fees in an amount at least sufficient to cover the Department's costs of administering its programs. Accordingly, the Bureau of Radiation Protection reviews its fees every three years and prepares a fee report with an evaluation of fees collected. The Department presented the report to the EQB on February 15, 2022. The Department has concluded a proposed rulemaking for a fee increase is necessary and has developed a proposed Annex, which was presented to RPAC on March 3, 2022. RPAC expressed support for the proposed rulemaking. The EQB adopted the proposed rule on June 14, 2022. *The proposed rulemaking was published in the Pennsylvania Bulletin for public comment on August 27, 2022. The comment period will close on September 26, 2022.*

### **Radiation Protection Technical Guidance Documents**

The Department has revised the Pennsylvania Radon Mitigation Standards technical guidance document (TGD). This TGD has not been updated since 1997 and new standards and best practices related to radon mitigation have been implemented since then. A draft of the updated technical guidance was shared with RPAC on March 3, 2022, and the Department is now preparing the draft document to be published in the Pennsylvania Bulletin for public comment.

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## **Waste Management**

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### **Waste Management Rulemakings**

#### **Final Rulemaking: Municipal Waste Permit-by-Rule for Rural Transfer Facilities**

The Bureau of Waste Management (BWM) received approval to develop a rulemaking for Rural Transfer Facilities (RTF) in December 2019. DEP has been working with stakeholders since 2015 on the "Convenience Center" model and exploration of ways to implement rural transfer facilities, including formation of an ad hoc subcommittee on its Solid Waste Advisory Committee (SWAC). This draft proposed rulemaking is the culmination of that effort; it is being developed to create waste management and recycling opportunities for more citizens and in communities that are currently underserved or without collection infrastructure. The draft proposed rulemaking amends the municipal waste regulations at 25 Pa. Code § 271.103 to add a new municipal waste processing permit-by-rule (PBR) for RTFs.

The draft proposed rulemaking was scheduled to be presented to SWAC at their March 12, 2020 meeting; however, the meeting had to be cancelled due to social distancing requirements. The rulemaking was presented at the June 3, 2020 virtual SWAC meeting, and the Committee unanimously recommended that the draft proposed rulemaking be moved forward to the EQB for consideration for publication.

The proposed rulemaking was presented to the EQB for consideration at its November 16, 2021, meeting, where the Board unanimously adopted a motion to accept the proposed rulemaking. A copy of the proposed rulemaking as adopted is available on the Board's webpage.

The proposed rulemaking was published in the Pennsylvania Bulletin on January 15, 2022, opening a 30-day public comment period that closed on February 14, 2022. No public comments were received. IRRC completed its review mid-March and also had no comments/questions. DEP is proceeding with preparation of the final rulemaking package. SWAC reviewed the final rulemaking at its June 14, 2022 meeting and adopted a motion concurring with the Department's recommendation to present the final-form rulemaking to the EQB. The final rulemaking *was adopted by the Environmental Quality Board at its July 12, 2022 meeting. IRRC will formally approve the final rulemaking at its September 15, 2022, meeting; DEP anticipates publication of the final rule in November 2022.*

### **Proposed Rulemaking: MAX Environmental Technologies, Inc. Delisting – Bulger Facility and Yukon Facility**

On May 2, 2019, DEP received two petitions from MAX Environmental Technologies, Inc. (MAX) to delist certain hazardous waste at their Bulger and Yukon facilities. DEP reviewed the petitions in accordance with the Environmental Quality Board's Petition Policy in 25 Pa. Code Chapter 23 and determined the petitions meet the conditions in Section 23.2 for further review. The Department notified MAX on June 3, 2019, that the petitions would be submitted to the Environmental Quality Board (EQB) for consideration at its next meeting. At the EQB meeting held on Tuesday, June 18, 2019, DEP summarized the petitions for the EQB and recommended that the EQB accept the petitions for further study. The EQB adopted a motion to accept the petitions. DEP completed its evaluation of the petitions and prepared a report that summarized the evaluation and made a recommendation that the delisting petitions be accepted for rulemaking; the EQB adopted a motion to accept the delisting petitions and advance them for rulemaking at its June 16, 2020 meeting.

The proposed rulemaking was presented to the EQB for consideration at its September 21, 2021, meeting, where the Board adopted a motion to accept the proposed rulemaking. A copy of the proposed rulemaking as adopted is available on the Board's webpage.

The proposed rulemaking was published in the Pennsylvania Bulletin on January 8, 2022, opening a 45-day public comment period that concluded on February 22, 2022. The Board also held three public hearings on the proposed rulemaking on January 19, 20, and 26, 2022. DEP is currently drafting the Comment/Response document.

### **Solid Waste Advisory Committee (SWAC)**

The *next* regular SWAC meeting *will be held on Friday, September 16, 2022*, in Room 105 of the Rachel Carson State Office Building. A virtual participation option *will also be available through WebEx. This meeting will be held jointly with the Recycling Fund Advisory Committee.* The next regular meeting is scheduled for Thursday, December 15, 2022, in Room 105 of the Rachel Carson State Office Building; a virtual participation option will also be offered. Additional information is available on the [SWAC website](#).

### **Recycling Fund Advisory Committee (RFAC)**

The annual RFAC meeting *will be held on Friday, September 16, 2022*, in Room 105 of the Rachel Carson



State Office Building. A virtual participation option will also be available. The meeting will be held jointly with SWAC. Additional information is available on the [SWAC website](#).

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## **Water Programs**

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### **Water Programs Rulemakings**

#### **Chapter 105 Dam Safety and Waterway Management Rulemaking**

DEP's Bureau of Waterways Engineering and Wetlands drafted a proposed rulemaking to revise several portions of Chapter 105 to: clarify existing requirements; delete or update obsolete and antiquated requirements; incorporate new or revised sections and definitions; and correct previous minor errors discovered in certain sections since the previous rulemaking. The draft proposed annex was presented to the Agricultural Advisory Board on January 27, 2020, and the Water Resources Advisory Committee on January 30, 2020. Both committees concurred with DEP's recommendation to present the proposed rulemaking to the Environmental Quality Board. The draft proposed annex was also presented to the State Conservation Commission on February 11, 2020, and the Citizens Advisory Council on February 18, 2020. The proposed regulation was adopted by the Environmental Quality Board on July 21, 2020. The proposed rulemaking was published in the Pennsylvania Bulletin on December 5, 2020, for a 60-day public comment period that ended on February 3, 2021.

The Department received comments from nearly 1,700 unique public commenters and received comments from the Independent Regulatory Review Commission (IRRC) on March 5, 2021. On February 24, 2021, the House Environmental Resources and Energy Committee voted to send a letter to IRRC expressing the committee's disapproval of the proposed rulemaking.

*DEP is currently reevaluating this rulemaking.*

#### **Manganese Water Quality Standard Rulemaking**

On October 30, 2017, subsection (j) (known as Act 40) was added to The Administrative Code of 1929. Act 40 directed the Environmental Quality Board (Board or EQB) to propose regulations requiring that the water quality criteria for manganese, established under 25 Pa. Code Chapter 93, be met consistent with the exception in 25 Pa. Code § 96.3(d). Act 40 directed the Board to propose a regulation that moves the point of compliance for manganese from the point of discharge to any downstream drinking water intake. The Bureau of Clean Water presented a rulemaking to revise the water quality standards for manganese to the Board on December 17, 2019. This proposed rulemaking includes the following updates to 25 Pa. Code Chapter 93: (1) deleting the Potable Water Supply criterion of 1.0 mg/L from § 93.7, Table 3 and (2) adding a Human Health criterion of 0.3 mg/L to § 93.8c, Table 5. In addition, the proposed rulemaking includes language in 25 Pa. Code Chapter 96 describing two alternative points of compliance for meeting the manganese criterion. The first alternative, consistent with Act 40, is to move the point of compliance from all surface waters (i.e., at the point of discharge) to the point of all existing or planned surface potable water supply withdrawals. The second alternative, consistent with the Clean Streams Law and mindful of the responsibilities of drinking water suppliers' obligations under the Pennsylvania Safe Drinking Water Act, is to maintain the existing point of compliance in all surface waters (i.e., at the point of discharge). The Department recommended the Board receive comments on both alternatives to assist the Board in its determination of the appropriate point of compliance. The Board voted to adopt the proposed rulemaking with both alternatives.

The proposed rulemaking was published in the Pennsylvania Bulletin on Saturday, July 25, 2020, opening a public comment period that closed on September 25, 2020. The Board has also held three virtual public hearings on September 8, 9 and 10, 2020. During the comment period and public hearings, 950 individuals provided comments or testimony on the rulemaking. On September 30, 2020 the House Environmental

Resources and Energy Committee voted to send a letter to IRRC expressing the Committee's disapproval of the proposed rulemaking. IRRC's comments were received on October 26, 2020. As suggested in IRRC's comments, staff discussed the rulemaking with the Mining and Reclamation Advisory Board on January 21, 2021 and with the Aggregate Advisory Board on May 5, 2021.

The draft final-form rulemaking was provided to the Water Resources Advisory Committee on November 18, 2021, and the Committee recommended the Department advance the rulemaking to the EQB. The draft final-form rulemaking was also provided to: the Agricultural Advisory Board on December 9, 2021; the Mining and Reclamation Advisory Board on January 20, 2022; the Aggregate Advisory Board on February 2, 2022; and the Public Water Systems Technical Assistance Center on February 8, 2022.

*The final-form rulemaking was presented to and adopted by the EQB on August 9, 2022. The final-form rulemaking has been delivered to the Independent Regulatory Review Commission (IRRC) and is on the agenda for the September 15, 2022 IRRC public meeting.*

#### Dunbar Creek et al. Stream Redesignations

Section 303(c)(1) of the Federal Clean Water Act (33 U.S.C.A. § 1313(c)) requires states to periodically review and revise, as necessary, water quality standards. The water quality standards evaluated in this rulemaking are the designated uses of surface waters. The regulatory changes in this proposed rulemaking are the result of stream evaluations conducted by the Department. The proposed rulemaking includes redesignation recommendations for seven streams in response to stream evaluations conducted by the Department. Stream evaluations were conducted in response to three rulemaking petitions that were previously accepted by the EQB, requests by the DEP Regional Programs and the Pennsylvania Fish and Boat Commission, ongoing statewide monitoring activities, and an error identified in Chapter 93. Redesignation recommendations include more restrictive use and less restrictive use recommendations. The proposed rulemaking was adopted by the EQB on April 20, 2021. The proposed rule was published in the Pennsylvania Bulletin on July 31, 2021, with a 45-day public comment period that closed on September 14, 2021. A public hearing was held on August 30, 2021, where three witnesses provided testimony. The Department is now reviewing the comments received and preparing the draft final-form rulemaking documents. The Department anticipates advancing the final-form rulemaking to the EQB in the fourth quarter of 2022 or early 2023.

#### Site-Specific Water Quality Criteria Rulemaking

This proposed rulemaking will recommend updates and revisions to § 93.8d which outlines the site-specific water quality criteria process. The proposed amendments include the addition of language that clarifies when site-specific water quality criteria may be requested and specifies the conditions under which site-specific water quality criteria may not be requested. The proposed amendments will update language throughout §93.8d to identify the data and information that must be submitted with each request for a site-specific water quality criterion and the actions to be taken by the Department as part of the site-specific water quality criterion development and regulatory processes. These proposed amendments are consistent with federal regulations and requirements.

In addition, this proposed rulemaking proposes to delete the statewide total mercury water quality criterion of 0.05 ug/L for Ebaughs Creek located in York County; and to add a site-specific methylmercury water quality criterion of 0.00004 ug/L for Ebaughs Creek in § 93.9o (relating to Drainage List O). The York County Solid Waste Regional Authority (YCSWRA) owns and operates the York County Sanitary Landfill, which is a 306-acre site located in Hopewell Township, York County, PA. Between 1974 and 1997, the landfill received municipal and industrial waste, which was placed into lined and unlined cells. The site contains approximately 135 acres of unlined landfill. Detection of volatile organic compounds (VOCs) in several groundwater wells was discovered in 1983 and was associated with the unlined cells. A treatment system was installed to remove the VOCs and began operation in 1985. The system consisted of 17 extraction wells and air stripping towers.

The air stripping towers discharge the treated groundwater under NPDES permit number PA0081744. Mercury was later identified through the Department's permit application review process as a potential pollutant of concern. YCSWRA has requested the Department delete the statewide total mercury water quality criterion of 0.05 ug/L for Ebaughs Creek and develop a site-specific methylmercury water quality criterion for Ebaughs Creek to inform their NPDES permit effluent limitations for Outfall 002. Since the Department does not currently have statewide numeric water quality criteria for methylmercury, YCWRA's request satisfies § 93.8d(a)(3).

The Department anticipates presenting the proposed rulemaking to the EQB early 2023.

#### Triennial Review of Water Quality Standards

*Water quality standards are in-stream water quality goals that are implemented by imposing specific regulatory requirements and permit conditions (such as treatment requirements, effluent limits, and best management practices) on individual sources of pollution. This proposed rulemaking fulfills the Commonwealth's obligation to periodically review and revise its water quality standards and updates Pennsylvania's water quality standards such that the surface waters of this Commonwealth are afforded the appropriate level of protection.*

*This rulemaking proposes to:*

- *Add or revise aquatic life and human health water quality criteria for 17 substances,*
- *Clarify duration periods for aquatic life criteria, and*
- *Reaffirm the removal of Water Contact Sports use from the Outer Erie Harbor/Presque Isle Bay and portions of the Delaware Estuary and removal of portions of the Warm Water Fishes (WWF) and Migratory Fishes (MF) aquatic life uses for portions of the Delaware Estuary.*

*The Department anticipates presenting the proposed rulemaking to the EQB in early 2023.*

#### NPDES Schedules of Compliance

This rulemaking would amend § 92a.51(a) for NPDES permit schedules of compliance to allow the Department to approve permits for combined sewer overflow (CSO) dischargers with compliance schedules beyond the 5-year period currently established in the regulations, but not longer than the implementation period in the discharger's approved long-term control plan (LTCP). The draft proposed annex was presented to the Water Resources Advisory Committee (WRAC) on July 28, 2021, which concurred with DEP's recommendation to present the proposed rulemaking to the Environmental Quality Board (EQB). The proposed regulation was adopted by the EQB on October 19, 2021. The proposed rulemaking was published in the Pennsylvania Bulletin on January 15, 2022, for a 45-day public comment period that ended on March 1, 2022. One virtual public hearing was held on February 16, 2022 although nobody provided testimony. Three public comments were received on the proposed rulemaking and comments were also submitted by EPA. IRRC had no comments or questions on the proposed rulemaking. DEP is reviewing the comments received and preparing the final-form rulemaking documents for EQB consideration. *The draft final-form rulemaking was presented to WRAC at its July 21, 2022 meeting and WRAC voted unanimously to support the rulemaking. The rulemaking will be presented to the EQB in the fourth quarter of 2022.*

#### Draft Chapter 105 Alternatives Analysis Technical Guidance Document (310-2100-002)

This TGD provides guidance on the preparation of a Chapter 105 alternatives analysis. This TGD consolidates existing guidance and expands upon that guidance as follows: Clarifies the appropriate level of analysis required for evaluating alternatives for projects requiring an Individual Water Obstruction and Encroachment Permit under 25 Pa. Code Chapter 105 (relating to dam safety and waterway management); Provides guidelines for determining if an alternative should be considered practicable; and Establishes a common, complete and consistent level of understanding of the information needed by the Department to adequately review alternatives analyses for Water Obstruction and Encroachment Permit applications proposing impacts to aquatic resources.

Notice of availability of this draft technical guidance document was published in the Pennsylvania Bulletin on September 4, 2021 [[51 Pa.B. 5757](#)]. The public comment period ended on October 4, 2021, and DEP received 4 comment letters. Next steps will include reviewing the comments received, preparing a comment and response document, and making any necessary changes to the guidance document.

### **Draft Trenchless Technologies Guidance (310-2100-003)**

This draft TGD outlines the steps and options to consider, and implement as appropriate, when proposing to use a trenchless technology installation method on any portion of a project. This draft TGD has been prepared to provide information to project proponents that may help to prevent environmental issues, improve project planning, permitting and compliance with applicable regulatory requirements. It is important to note, this is recommended guidance that does not require a new permit. Notice of availability of this draft technical guidance document was published in the Pennsylvania Bulletin on March 19, 2022 [[52 Pa.B. 1693](#)]. The 60-day public comment period ended on May 18, 2022. DEP received 150 letters; 144 form letters in support and 6 letters with constructive comments and edits. Next steps will include reviewing the comments received, preparing a comment and response document, and making any necessary changes to the guidance document.

### **Act 34 of 2020**

The planning provisions of the Pennsylvania Sewage Facilities Act (SFA), Act 537 of 1965, aim to ensure that adequate sewage disposal methods are available for a lot(s) prior to the development of those lands and that long-term sewage disposal is provided by the proposed sewage facilities. Specifically, Section 5 of the SFA requires each municipality to submit to DEP an officially adopted plan for sewage services for areas within its jurisdiction, and it establishes the framework for review and approval of these official plans by both the municipality and DEP. These official plans are essentially revised and updated as each sewage planning proposal for subdivision is approved. Sewage planning approval is required for subdivisions with few exceptions.

Act 34 of 2020 amended sections of the SFA that were previously amended by Act 26 of 2017, specifically sections 5(c.1) and 5(c.2). Amendments to Section 5(c.1) seek to provide for the use of alternate (or conventional) systems in planning for new land development. The amendment changed the types of system that could be considered for new land development planning proposals. An integral part of the sewage planning process, when on-lot sewage disposal is being considered, is to demonstrate that the land proposed for development meets general site suitability criteria.

Although Act 34 of 2020 provides the mechanism for the use of alternates in new land development, the existing regulations provide general site suitability criteria requirements for conventional systems which includes absorption areas and spray fields; these systems have standards in regulations. The Department understands that the intent of Act 34 of 2020 is to expand the use of alternate systems to allow for development of lots that are currently unavailable for new land development. More specifically, there is a desire to be able to develop lots with soil depths less than 20 inches to a limiting zone where a spray field may be the only option or on a lot with shallow soils that is too small for a spray field to be sited. The current regulations prohibit the issuance of permits for sites that do not meet the general site suitability requirements.

In order to provide additional opportunities for new development of land in a manner that provides safe, effective long-term sewage disposal and that implements the goals of Act 34 of 2020, a rulemaking is needed to add site suitability provisions for the use of alternate systems on sites that do not meet the current general site suitability requirements. The Department discussed these issues and implementation strategy with the Sewage Advisory Committee on February 23, 2021. On April 27, 2021, the Department testified on implementation of the SFA as amended by Act 34 of 2020 during a joint public hearing convened by the House and Senate Environmental Resources and Energy committees. The Department will be continuing to work in consultation with the Sewage Advisory Committee and other stakeholders towards implementation of the SFA as amended

by Act 34 of 2020 in coming months. The Department has developed an Act 34 Implementation Frequently Asked Questions (FAQ) document to provide information to those with questions on how Act 34 impacts sewage facilities planning and permitting. A link to the Act 34 FAQ can be found at the Bureau of Clean Water's Act 537 Sewage Enforcement Officer's [website](#).

### **General Permits for Beneficial Use of Sewage Sludge (AKA Biosolids)**

The Department issues general permits for the beneficial use of biosolids (a.k.a. sewage sludge) and residential septage. In the context of these permits, beneficial use is the use or reuse of biosolids or residential septage for any purpose, where the use does not harm or threaten public health, safety, welfare, or the environment. These permits apply to a person who prepares biosolids that will be sold or given away in a bag or other container or biosolids that will be land applied, and to a person who applies biosolids or residential septage to the land. The Department issues these permits under the authority of Pennsylvania's Solid Waste Management Act and Clean Streams Law.

There are three general permits for the beneficial use of biosolids and residential septage in Pennsylvania: PAG-07 allows for the Beneficial Use of Exceptional Quality (EQ) Biosolids; PAG-08 allows for the Beneficial Use of Non-Exceptional Quality (Non-EQ) Biosolids; and PAG-09 allows for the Beneficial Use of Residential Septage.

The Department has administratively extended these general permits for several years. The Department had preliminary discussions on reissuance of these general permits with the Water Resources Advisory Committee (WRAC) and the Agricultural Advisory Board (AAB) in March 2021. Both committees decided to form workgroups to better understand the proposed changes and to provide input on the impact of those proposed changes to their respective stakeholders. To date, the AAB workgroup has had two meetings and dates for an April 2022 meeting are being coordinated. The WRAC workgroup has not yet had a meeting.

The Bureau of Clean Water has also organized a workgroup to gather input on the proposed changes to the general permits. The group includes biosolids generators, land applicators, farmers, consultants, and interested third parties (including the Chesapeake Bay Foundation and the Delaware Riverkeeper Network). The first meeting of the workgroup organized by DEP occurred on September 28, 2021, and focused on the biosolids land application program, the proposed changes to the permit, and PFAS in biosolids. The next meeting was held on for November 3, 2021. The primary point of discussion was managing biosolids considering the phosphorus content of the biosolids and the soil phosphorus level. The third meeting with stakeholders was held on Tuesday, December 7, 2021. The main topic of discussion was addressing Department concerns associated with the impacts of hauled-in residual waste into the biosolids treatment process. A fourth meeting occurred on January 5, 2022. The discussion on the hauled-in-waste concerns continued. The topic of the proposed changes to field storage of biosolids on land application sites was also discussed. The workgroup members decided to provide formal written comments to the Department. Following receiving those comments, a fifth and final meeting will be scheduled to clarify any of the stakeholder concerns. DEP will then develop use the information gathered during the outreach process to draft any revisions to the permit documents prior to issuing draft permits for public comment. The Department has received written comments from several workgroup members and is considering those comments in the development of draft permit documents.

### **Federal Infrastructure Funding - Bipartisan Infrastructure Investment and Jobs Act (IIJA)**

The Bipartisan Infrastructure Law (BIL) provides funding to the Clean Water State Revolving Fund (CWSRF) and the Drinking Water State Revolving Fund (DWSRF). These programs will see increases to base program funding as well as new supplemental program funding programs.

The BIL reauthorizes the base DWSRF program funding and establishes new supplemental DWSRF pots for general infrastructure projects, emerging contaminants projects, and lead service line replacement projects. Base and general supplemental DWSRF money will be used for projects that will improve water system



infrastructure (e.g. replacing aging water lines, upgrading treatment plant components, finished water storage tanks.) DWSRF BIL funding will provide funding to eligible water systems via PENNVEST for these infrastructure projects. Additionally, the BIL will provide money for technical assistance to water systems, as well as money to cover the cost of administration of the DWSRF program for both the Bureau of Safe Drinking Water (BSDW) and the Bureau of Clean Water (BCW).

BIL reauthorizes the base CWSRF program funding and also establishes new CWSRF supplemental pots for general infrastructure projects and emerging contaminants projects. In addition, it establishes a new set-aside that will enable DEP to provide technical assistance to small, rural Publicly Owned Treatment Works (POTW). Similar to the DWSRF program, the CWSRF base program provides funding to infrastructure projects to improve non-point source pollution, stormwater infrastructure, and wastewater infrastructure. CWSRF funding will provide funding to eligible project applicants via PENNVEST for infrastructure projects. The BIL CWSRF funding will also support technical assistance to systems and includes a means to cover the cost of administration of the CWSRF program.

DEP staff manage EPA applications for both the DWSRF and CWSRF capitalization grants awarded to PENNVEST. DEP staff also oversee DEP's role in the managing potential and funded projects from pre-application through project closeout. DEP staff coordinate to prepare the SRF Intended Use Plans including and budgets on an annual basis. DEP staff coordinate review, ranking and management of PENNVEST project applications.

On March 8, 2022, EPA released a 56-page memo titled "[Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law](#)", which was signed by Radhika Fox, EPA Assistant Administrator. This memo provides the guidance from EPA regarding implementation of CWSRF and DWSRF BIL funding. DEP and PENNVEST staff have been working through this guidance to understand the requirements and EPA expectations. Among other things, EPA commits to providing additional clarification via Q&A documents. The BIL will provide a significant infusion of money into the SRF program.

*A Final Intend Use Plans (IUPs) for the DWSRF and CWSRF are available for review on the Department's website at the following web address:*

<https://www.dep.pa.gov/Business/Water/CleanWater/InfrastructureFinance/Pages/State-Revolving-Fund.aspx>.

*The IUPs describe the plan for use of the SRF dollars. The draft IUPs were noticed for public comment. Responses to public comments were developed prior to finalization of the IUPs. The comment/response documents can be found at the web address listed above.*

*DEP and PENNVEST submitted the applications and have been working with EPA to move toward award of grants. The requested combined DWSRF and CWSRF Capitalization Grant amount for the upcoming FFY2022-2023 is \$333,649,200 which includes the required State match dollars.*

*An eligible use of the SRF funds is Technical Assistance. The goal of Technical Assistance under the BIL funding is to help small, rural, and disadvantaged communities move projects through the planning and development phases to design/implementation and completion. DEP and PENNVEST are working to soon have a contractor in place to provide Technical Assistance to small, rural, and disadvantage systems. The work under this contract will help to move projects into the funding pipeline. Details on the funding and technical assistance eligibility can be found in the IUPs.*

*Additionally, DEP is in the process of hiring additional staff to support the implementation of the BIL funding. New staff will provide support for technical assistance, projection management, and project permitting.*

The BIL also provides additional funding programs that appear to fall outside of the SRF umbrella. To date, EPA has provided very little if any information to states on this additional funding outside of the SRF umbrella.

DEP BSDW staff will continue to push EPA for this guidance and provide additional details in future weekly articles as more information becomes available. While specific state funding allotments are not yet available, these programs include funding for the following:

- Assistance for Small and Disadvantaged Communities (Sec. 50104) – Preliminary EPA documents indicate that PA’s share may be ~\$28 million annually. Funding may be provided through Small, Underserved, and Disadvantaged Communities Grants (not SRF); can be used to remediate PFAS in drinking water.
- Several Lead Programs – Reducing Lead in Drinking Water (Sec. 50105) and Lead Contamination in School Drinking Water (Sec. 50110). Note: These lead programs may be under the Water Infrastructure Improvements for the Nation (WIIN) Grant umbrella.
- Operational Sustainability Grants to Small PWSs (Sec. 50106) and Midsize and Large Drinking Water System Infrastructure Resilience and Sustainability Program (Sec. 50107).

### **Chesapeake Bay Restoration IJA/BIL**

On May 2, 2022 EPA announced the allocation of \$40 million in first-year funds from the IJA at an event in Baltimore. The funding includes the \$15 million allocation to jurisdictions for the Most Effective Basins as well as funding through the National Fish and Wildlife Foundation’s Small Watershed Grants and Innovative Nutrient and Sediment Reductions grants program. This will use nearly 85% of the designated infrastructure funding for FY2022 and make important strides toward attaining targets set before us in the 2014 Chesapeake Watershed Agreement. Pennsylvania has been allocated \$5,598,333 for the initial year. DEP was notified on May 19, 2022 that our allocation will be \$1.8 million to implement projects in the Pilot and Tiers 2-4 counties within Pennsylvania’s Chesapeake Bay watershed. The rest of the funding coming to Pennsylvania will be directed to DCNR and SCC for the initial year.

### **Chapter 102 ePermitting**

ePermitting is being used by multiple DEP programs for the management of electronic permit applications. Since 2018 DEP has been working toward implementing ePermitting for Chapter 102 NPDES permits for earth disturbance activities. The launch of ePermitting for PAG-02 General NPDES Permit Notices of Intent (NOIs) was scheduled for Summer 2020 but was postponed. DEP is currently coordinating Chapter 102 improvements to the ePermitting system with improvements for Chapter 105 permits. The Chapter 105 program has been utilizing ePermitting for the past two years. The new system successfully launched and became available for use on January 25, 2021 for PAG-02 General Permit NOIs; on April 21, 2021 for Individual NPDES Permits for stormwater discharges associated with construction activities; and on August 4, 2021 for Erosion and Sedimentation Control individual permit applications. ESCGP-3 NOIs were released on March 16, 2022. A [Chapter 102 ePermit Training Center](#) was developed in DEP’s Clean Water Academy and is available for public use.

### **Nonpoint Source (NPS) Management Section 319**

The Section 319 NPS Management grant funds are provided by the U.S. Environmental Protection Agency (EPA) and authorized through Section 319(h) of the federal Clean Water Act. The program’s primary purpose is to implement Section 319 Program Watershed Implementation Plans (WIP) to improve and protect Pennsylvania’s waters from nonpoint source pollution.

*Federal Fiscal Year (FFY) 2022 EPA Section 319 NPS Management Grant awards will be announced this fall, with the federal award to DEP forthcoming.*

DEP opened the Federal Fiscal Year (FFY) 2023 EPA Section 319 NPS Management Grant round on April 22, 2022. The deadline to apply was June 24, 2022. New this year is a focus on Watershed Implementation Plan



(WIP) development in Environmental Justice (EJ) areas. *Staff are currently reviewing the FFY2023 applications.*

### **Growing Greener Plus Program**

DEP opened the 2022 Growing Greener Plus grant round on April 22, 2022. The deadline to apply was June 24, 2022. The 2022 Growing Greener Plus grant round includes some new features, including: (1) a reinvigorated Growing Greener Watershed Renaissance Initiative (GGWRI) focused on the complete implementation of existing watershed restoration or implementation plans on small catchment areas in Centre, Huntingdon, Lancaster, Snyder, and Union counties; and (2) a priority to implement projects in support of the Pennsylvania 2021 Climate Action Plan. *Staff are currently reviewing the 2022 Growing Greener Plus grant applications.*

### **State Water Plan**

*The State Water Plan's three regional committees held meetings for the Ohio, Great Lakes, and Delaware regions. The focus of this round of meetings was to commit final edits and vote on approving their regional components to pass on to the Statewide Water Resources Committee (Statewide Committee). Additionally, the Ohio Water Resources Planning Committee held a hearing to collect testimony for the Back Creek Critical Area Resource Plan.*

*The State Water Plan's twelfth Statewide Committee meeting was held on August 17, 2022. The primary focus of this meeting was to review the Draft State Water Plan Update and to vote on whether to publish the draft document for public for comment. The Statewide Committee voted to publish the document for public comment with the committee reserving the right to amend the document further at their next meeting. This update focuses on items such as water resources strategies outlined in the Pennsylvania Climate Action Plan and updated regional watershed priorities.*

Find more information at the [State Water Plan Website](#).

## Attachment 1

### 2022 Events Calendar

Please consult the DEP Calendar of Events for a comprehensive listing of upcoming events and information on how to attend. The Calendar can be accessed in the Public Participation Tab on the DEP website. Click on “Public Participation;”  
“Calendar of Events.”

<b>September</b>	
7	State Board for Certification of Sewage Enforcement Officers (SEO Board) meeting, 10:00 a.m., Virtual and in-person attendance options
7	Informal Public Conference: Consol Enlow Fork Modification Application, 6:00 p.m., Virtual
8	Informal Public Conference: Consol Harvey Mine Modification Application, 6:00 p.m., Virtual
14	Sewage Advisory Committee (SAC) meeting, 10:00 a.m., Virtual and in-person attendance options
15	Water Resources Advisory Committee (WRAC) meeting, 9:30 a.m., Virtual and in-person attendance options
16	Joint Meeting with Solid Waste Advisory Committee (SWAC) and Recycling Fund Advisory Committee (RFAC), 10:00 a.m., Virtual and in-person attendance options
20	Citizens Advisory Council (CAC) meeting, 12:30 p.m., Virtual and in-person attendance options
30	Low-Level Radioactive Waste Advisory Committee (LLWAC) meeting, 10:00 a.m., Virtual and in-person attendance options
<b>October</b>	
5	State Board for Certification of Water and Wastewater System Operators meeting, 10:00 a.m., Virtual and in-person attendance options
11	Delaware Water Resources Regional Committee Meeting, 10:00 a.m., Virtual and in-person attendance options
12	Environmental Quality Board Meeting, 9:00 a.m., Virtual and in-person attendance options
12	Lower Susquehanna Water Resources Regional Meeting, 9:00 a.m., Virtual and in-person attendance options
12	Technical Advisory Committee on Diesel-Powered Equipment, 10:00 a.m., Virtual and in-person attendance options
12	State Board for Certification of Sewage Enforcement Officers (SEO Board) meeting, 10:00 a.m., Virtual and in-person attendance options
13	Air Quality Technical Advisory Committee meeting, 9:15 a.m., Virtual and in-person attendance options
13	Potomac Water Resources Regional Committee Meeting, 1:00 p.m., Virtual and in-person attendance options
18	Citizens Advisory Council (CAC) meeting, 12:30 p.m., Virtual and in-person attendance options
20	Agricultural Advisory Board meeting, 9:00 a.m., Virtual and in-person attendance options
20	<i>Cleanup Standards Scientific Advisory Board (CSSAB) meeting, 9:30 a.m., Virtual and in-</i>

	<i>person attendance options</i>
25	Climate Change Advisory Committee Meeting, 9:00 a.m., Virtual and in-person attendance options
25	Ohio Water Resources Regional Committee Meeting, 1:00 p.m., Virtual and in-person attendance options
26	Great Lakes Water Resources Regional Committee Meeting, 9:00 a.m. Virtual and in-person
26	Sewage Advisory Committee meeting, 10:00 a.m., Virtual and in-person attendance options
27	Upper/Middle Susquehanna Water Resources Regional Committee Meeting, 9:00 a.m. Virtual and in-person attendance options
27	Public Water System Technical Assistance Center Advisory Board meeting, 9:00 a.m., Virtual and in-person attendance options
28	Mine Families First Response & Communications Advisory Council Meeting, 10:00 a.m., Virtual and in-person attendance options

## Attachment 2

### Oil and Gas Workload Report (As of August 26, 2022)

YTD WELL PERMIT APPLICATIONS - 1/1/2022 to 8/26/2022						
	RECEIVED	UNDER REVIEW	PROCESSED	PERMITS ISSUED	WELLS PERMITTED	OTHER DISPOSITIONS
CONVENTIONAL	213	23	202	202	202	0
UNCONVENTIONAL	493	36	539	539	524	0
<b>Sub Total</b>	<b>706</b>	<b>59</b>	<b>741</b>	<b>741</b>	<b>726</b>	<b>0</b>
AUTHORIZATIONS	547	86	485	444	N/A	41
<b>Total</b>	<b>1,253</b>	<b>145</b>	<b>1,226</b>	<b>1,185</b>	<b>1,135</b>	<b>41</b>

WEEKLY WELL PERMIT APPLICATIONS - 8/20/2022 to 8/26/2022						
	RECEIVED	UNDER REVIEW	PROCESSED	PERMITS ISSUED	WELLS PERMITTED	OTHER DISPOSITIONS
CONVENTIONAL	0	0	17	17	17	0
UNCONVENTIONAL	5	5	10	10	10	0
<b>Sub Total</b>	<b>5</b>	<b>5</b>	<b>27</b>	<b>27</b>	<b>27</b>	<b>0</b>
AUTHORIZATIONS	2	2	14	14	N/A	0
<b>Total</b>	<b>7</b>	<b>7</b>	<b>41</b>	<b>41</b>	<b>41</b>	<b>0</b>

HISTORICAL WELL PERMIT APPLICATIONS AS OF 8/26/2022						
	RECEIVED	PROCESSED	PERMITS ISSUED	WELLS PERMITTED	OTHER DISPOSITIONS	ACTIVE PERMITS
CONVENTIONAL	198,599	198,576	197,320	191,027	1,256	91,025
UNCONVENTIONAL	30,264	30,224	29,606	22,945	618	12,964
<b>Sub Total</b>	<b>228,863</b>	<b>228,800</b>	<b>226,926</b>	<b>213,972</b>	<b>1,874</b>	<b>103,989</b>
AUTHORIZATIONS	47,164	47,078	45,886	44,000	1,192	18,268
<b>Total</b>	<b>276,027</b>	<b>275,878</b>	<b>272,812</b>	<b>257,972</b>	<b>3,066</b>	<b>122,257</b>

YTD INSPECTIONS - 1/1/2022 to 8/26/2022				
	INSPECTIONS	ENTITIES INSPECTED	VIOLATIONS	ENFORCEMENTS
CONVENTIONAL	6,836	4,728	2,835	181
UNCONVENTIONAL	12,795	6,564	749	68
SITE	2,681	1,571	695	82
CLIENT	16	13	33	13
<b>Total</b>	<b>22,328</b>	<b>12,876</b>	<b>4,312</b>	<b>344</b>

WEEKLY INSPECTIONS - 8/20/2022 to 8/26/2022				
	INSPECTIONS	ENTITIES INSPECTED	VIOLATIONS	ENFORCEMENTS
CONVENTIONAL	203	181	41	5
UNCONVENTIONAL	502	469	13	2
SITE	93	88	18	0
CLIENT	0	0	0	0
<b>Total</b>	<b>798</b>	<b>738</b>	<b>72</b>	<b>7</b>

WELLS DRILLED					
	Two Years Prior 1/1/2020 to 8/26/2020	One Year Prior 1/1/2021 to 8/26/2021	Year To Date 1/1/2022 to 8/26/2022	Week of 8/20/2022 to 8/26/2022	As of 8/26/2022
CONVENTIONAL	24	80	141	4	202,050
UNCONVENTIONAL	326	320	390	12	13,712
<b>Total</b>	<b>350</b>	<b>400</b>	<b>531</b>	<b>16</b>	<b>215,762</b>

This report was prepared by Sarah Pinter, Executive Policy Specialist, DEP Policy Office. For questions or requests, please email [spinter@pa.gov](mailto:spinter@pa.gov).