

**November 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.

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

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 final-form rulemaking was presented to the Environmental Quality Board at its October 12, 2022 meeting; the EQB voted 15-3 to approve the final-form rulemaking. The final-form rulemaking is scheduled for consideration at IRRC’s November 17, 2022 public meeting.* The final-form rulemaking is available on the [EQB webpage](#).

The purpose of the 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 MCLG and MCL values are as follows:*

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

In addition, the 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 *violations*.

### 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. Additional, 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.

Following 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 *Bureau of Watershed Restoration and Nonpoint Source Management (BWRNSM)*, formerly known as the Chesapeake Bay Office, 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 *BWRNSM* to support this effort. The county CAP coordinators and lead partners are having regular meetings with the DEP Region Support Teams and the *BWRNSM*. These meetings serve as trainings for the coordinators, provide opportunities for regular updates from the *BWRNSM*, and a chance for the coordinators to ask questions and network with other coordinators.

The *BWRNSM* 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).

## **2021 Healthy Waters Healthy Communities Annual Report**

The Bureau of Watershed Restoration and Nonpoint Source Management published the 2021 Healthy Waters Healthy Communities Annual Report in October 2022. The report can be found here:

[https://files.dep.state.pa.us/Water/ChesapeakeBayOffice/WIPIII/2022/PADEP\\_Annual\\_Report\\_10-04-2022\\_Single\\_Pages\\_FINAL.pdf](https://files.dep.state.pa.us/Water/ChesapeakeBayOffice/WIPIII/2022/PADEP_Annual_Report_10-04-2022_Single_Pages_FINAL.pdf).

## **Bureau of Watershed Restoration and Nonpoint Source Management 2022 Chesapeake Bay Annual Progress reporting update**

DEP is currently working with 35+ different data reporters, comprised of local, state, and federal agencies and programs, to compile and report BMP annual progress toward the Chesapeake Bay TMDL goals and planning targets. The Nonpoint Source Quality Assurance Project Plan (QAPP) was submitted to EPA by the September 1, 2022 deadline. The annual progress data is due to EPA by December 1, 2022.

## **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, DEP is also promoting this initiative through various outreach efforts.

Litter Free School Zone - Schools in Pennsylvania can keep their school grounds litter free with Keep Pennsylvania Beautiful's Litter Free School Zone Program. The program encourages hands-on activities to teach environmental stewardship and responsibility and can be combined with a lesson on how litter affects animals, people, water quality or economics. Responsibilities include planning two projects per school year and can include litter cleanups and beautification events, like creating and caring for pollinator and rain gardens. Supplies of gloves and bags are available. Applications are accepted on a rolling basis.

Fall Pick Up Pennsylvania – September 1 through November 30. To prevent litter from ending up in our waterways, Keep Pennsylvania Beautiful invites Pennsylvania residents to participate in Pick Up Pennsylvania, in support of the Ocean Conservancy's International Coastal Cleanup. This annual event is an opportunity for students, clubs, organized groups, families, and friends to improve Pennsylvania's neighborhoods and waterways by coordinating or participating in a litter cleanup. For more information, visit [keeppabeautiful.org](http://keeppabeautiful.org) and choose Programs/Pick Up PA. Registration is now open.

Litter Hawk Youth Award Program - Keep Pennsylvania Beautiful is announcing the Litter Hawk Youth Award Program, a recognition program for students in Kindergarten through 6th Grade to share how they keep Pennsylvania beautiful through art, words, or video. Gift cards will be awarded to two entries in each grade level. All participants will be recognized with certificates. Winners will be announced in April in time for Earth Day celebrations. Program opens in October.

2022 Litter Summit - Keep Pennsylvania Beautiful, in partnership with DEP and PennDOT, hosted the 2022 Litter Summit on November 1-2 in Lancaster. The Summit included agency panel presentations on the progress made since the publication of the Litter Action Plan and several Working Group Break Outs where attendees will learn about litter enforcement, infrastructure, education, and case studies.

Young Ambassadors of Pennsylvania – Keep Pennsylvania Beautiful recently announced its first class of 35 Young Ambassadors. The Young Ambassadors of Pennsylvania (YAP) Program seeks to build community stewards and civic leaders by inspiring, engaging, and empowering young Pennsylvanians to not only keep their communities clean and beautiful but also to become ambassadors in their community. Over nine months, the program will engage students in the 10<sup>th</sup> through 12<sup>th</sup> grades from diverse socio-economic, racial, and ethnic backgrounds across Pennsylvania. The YAP Program is sponsored by PennDOT; for more information, visit [keeppabeautiful.org](http://keeppabeautiful.org) and choose Programs/Education/Young Ambassadors of Pennsylvania.

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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 closed on September 26, 2022. *IRRC’s comments were received on October 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. IRRC had no comments on the rulemaking.
- 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 – 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 – 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. *The draft final Annex A was presented to the Agricultural Advisory Board on October 20, 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. *The final rule is scheduled for EQB consideration on November 15, 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. *The final rule is scheduled for EQB consideration on November 15, 2022.*
- 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. *The EQB adopted the final rule on October 12, 2022. The final rule is scheduled for IRRC consideration on November 17, 2022.*

- Final Rulemaking – VOC RACT Requirements for Shipbuilding and Ship Repair Surface Coating Operations, SOCFI 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. *The EQB adopted the final rule on October 12, 2022. The final rule is scheduled for IRRC consideration on November 17, 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. IRRC disapproved the final rule on September 15, 2022. *IRRC's disapproval order was received October 11, 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.*
- 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. IRRC approved the final rule on September 15, 2022. *The final rule is scheduled to be published in Pennsylvania Bulletin on November 12, 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. IRRC approved the final rule on September 15, 2022. *The final rule was published in Pennsylvania Bulletin on October 29, 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.

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## **Public Comment Periods**

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

- *Stream Redesignation Evaluation: Unnamed Tributary (UNT) to North Fork Dunkard Fork (Greene), UNT to Big Cove Creek (Fulton), UNT to West Branch Conococheague Creek (Franklin), and Lick Run (Columbia) (Closes 11/28)*
- *Draft Pennsylvania Radon Mitigation Standards (294-2309-002) (Closes 11/28)*

### **Recently Closed Comment Periods**

- *Draft National Pollutant Discharge Elimination System (NPDES) General Permit for Operation of Concentrated Animal Feeding Operations (CAFOs) (PAG-12) (Closed 10/31)*
- *Environmental Assessment Approvals for PENNVEST Funding Consideration (Closed 10/11)*
- *Draft Fiscal-Year Report for the Reclamation Fee O&M Trust Account (Closed 10/10)*
- *Coastal Zone Management federal consistency: Maintenance Dredging of the North East Marina (Erie County) (Closed 10/3)*
- *Radiological Health Fees Proposed Rulemaking (Closed 9/28)*
- *State Water Plan 2022 Draft Report (Closed 9/19)*
- *Re-Drafted National Pollutant Discharge Elimination System General Permit for Discharges of Stormwater Associated with Industrial Activity (PAG-03) (Closed 9/19)*

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## **Communications**

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### **Press Releases Issued**

**September 30** - DEP Provides \$2.9 Million to Replace Old Diesel Vehicles with Clean-Energy Models

**October 6** - DEP Collects \$147,250 from Rice Drilling B LLC for Violations in Greene County

**October 6** - DEP and Partners Host Litter Pick-Up at Toby Creek

**October 7** - DEP Awards \$3 Million to Restore Watersheds Statewide by Reducing Water Pollution

**October 7** - DEP and Partners Join in Litter Cleanup in Luzerne, Call on All Pennsylvanians to Help “Pick Up Pennsylvania” This Fall

**October 10** - DEP Declares Code Orange Air Quality Action Day for Fine Particulate Matter for Tuesday, October 11, 2022, in the Liberty-Clairton Area of Allegheny County

**October 13** –DEP and Local Officials to Kick Off 2022-23 Local Climate Action Program

**October 13** - DEP Reaches Settlement with Shell Pipeline Company and Minnesota Limited for Falcon Pipeline Construction Violations

**October 14** - DEP and Local Officials Kick Off 2022-23 Local Climate Action Program

**October 17** - Drought Watch Remains for 20 Counties, Lifted for 16 Counties

**October 18** - Wolf Administration Invites Applicants for 2023 Governor's Awards for Environmental Excellence

**October 21** - DEP and Local Businesses Promote Recycling Household Goods and Clothing

**October 22** - DEP Declares Code Orange Air Quality Action Day for Fine Particulate Matter for Sunday, October 23, 2022, in the Susquehanna Valley Area and Liberty-Clairton Area of Allegheny County

**October 24** - DEP Urges Residents to Recycle Household Goods and Clothing

**October 24** - DEP to Tour Kettle Creek Stream Restoration Project, Highlight Countywide Action Plan Progress

**October 25** - DEP Declares Code Orange Air Quality Action Day for Fine Particulate Matter for Tuesday, October 25, 2022, in the Liberty-Clairton Area of Allegheny County

**October 25** - DEP Tours Kettle Creek Stream Restoration Project, Highlights Countywide Action Plan Progress

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## **Active and Abandoned Mine Operations**

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

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 early 2023.



## **Mining Permits Engineering Information**

*Bureau of Mining Programs (BMP) has decided not to reissue a revised version of the Engineering Manual for Surface Mining Operations Technical Guidance No. 563-0300-101, and, instead, will prioritize specific engineering topics and work on them individually as part of a workgroup in conjunction with the Mining and Reclamation Advisory Board (MRAB) and Aggregate Advisory Board. BMP and District Mining Operations (DMO) staff have sent their priorities to the workgroup organizers for each board. A kickoff meeting will occur before the end of the calendar year.*

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

The Department of the Interior, Office of Surface Mining Reclamation and Enforcement (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 DEP’s grant application for the \$244.9M FY2022 BIL AML funding was submitted to OSMRE on September 2. On October 20, OSMRE issued the Notice of Award for the BIL AML Grant with an effective date of November 1.*

*On October 24, the DEP opened the first round of the new AML/Acid Mine Drainage (AMD) grant program through DEP’s Grants Center to issue grants to eligible applicants for AML reclamation and AMD treatment or abatement. The program will be accepting applications for projects that reclaim abandoned coal mines or address mine drainage from abandoned coal mines. The first round for grant applications will remain open through January 13, 2023. The next grant round is expected to open shortly after the first-round closes. NGOs and watershed groups are encouraged to submit AML, 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.*

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## **Air Quality**

### **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 established 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).

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, the House Environmental Resources and Energy Committee voted to report a concurrent

regulatory review resolution to the General Assembly to disapprove the final rule. *On October 12, the EQB voted 15-3-1 to adopt the Control of VOC Emissions from Conventional Oil and Natural Gas Sources final-omitted rulemaking. The rulemaking is on the agenda for the November 17 IRRC meeting.*

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. 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 four facilities are subject to offsets sanction upon start-up at an estimated total additional cost of \$1.9 million.* 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. The non-discretionary highway funding sanctions are effective December 16, 2022, and approximately \$475MM of funding has been identified and will be withheld by the Federal Highway Administration for projects already approved for funding in 2023. Sanctions will be in effect until a complete SIP revision is submitted to EPA. The complete SIP package must include both conventional and unconventional O&G operations.

#### 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. IRRC unanimously approved the rulemaking on September 15, 2022. *The final rule is scheduled to be published in the Pennsylvania Bulletin on November 12, 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, respectively. *The EQB adopted the final rule on October 12, 2022. The rulemaking is on the agenda for the November 17 IRRC meeting.*

## **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 submitted a RACT II SIP revision for Montour EGU. All four facilities have filed appeals to the Environmental Hearing Board regarding the terms and conditions of their RACT II permits.

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. The FIP was subsequently published in the Federal Register, and it is unclear as to what, if any, legal challenges will be brought against the FIP.

### **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 within 18 months (by March 2024) or sanctions will apply.

#### Air Quality Technical Advisory Committee

*The next scheduled meeting is December 8, 2022.*

#### Small Business Compliance Advisory Committee

*The next scheduled meeting will be in 2023.*

**Climate Change Advisory Committee**

*Several new members were appointed to the committee by Governor Wolf on Friday, October 21, 2022. These appointees include Flora Cardoni of PennEnvironment, Christopher Sandvig of Mobility, Jenny Greenberg of Neighborhood Gardens Trust, and Elizabeth Marx, Esq. of Pennsylvania Utility Law Project. Chair Steve Krug and Lindsay Baxter were also reappointed by Governor Wolf. Senator Costa reappointed Marc Mondor and Senate Majority Leader Kim Ward reappointed Patrick Henderson to the committee. Senate Majority Leader Ward also appointed Jason Kelso of Reading Anthracite Company. The most recent Climate Change Advisory Committee (CCAC) meeting was conducted on October 25, 2022. The theme of the meeting was industrial decarbonization and featured presentations by Matt Fry of the Great Plains Institute on the deployment of carbon management and hydrogen projects in the commonwealth, Rich Bohan of the Portland Cement Association on decarbonizing cement manufacturing, and Dr. Jim Freihaut of the Pennsylvania State University on combined heat and power systems. The next CCAC meeting will be held on December 13, 2022, and will feature presentations and discussions on climate change adaptation.*

**Energy Security**

EPO's contractor, ProtoGen, *will complete* a second round of initial feasibility studies for another five participants. EPO will continue assisting round-one participants with developing applications to fund projects. EPO is seeking candidates for the second round. Information will be sent to previous microgrid webinar participants, local government associations, and other critical stakeholders.

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 have been participating in monthly meetings as part of the Technology Action Group. EPO has been in contact with Pennsylvania Department of Health, which is helping to select facilities that will be assisted by NREL. EPO staff will be trained on the ReOpt tool in *November*. The ReOpt tool will be used to assist critical facilities determine suitability for onsite generation and energy storage.

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 *November 18th*. *EPO is currently monitoring the liquid fuel supply due to limited supply of heating oil, kerosene, and diesel fuels.*

**Local Climate Action Program**

*The Local Climate Action Plan (LCAP) program assists local governments with creating their own greenhouse gas inventories and climate action plans to reduce the emissions identified. On October 14, DEP held a press conference with Wormleysburg Borough and Cumberland County at Redding Park in Wormleysburg to announce the kick-off of the current cohort of the LCAP program. Wormleysburg is one of the current participating 11 local governments in the 2022-2023 class. Executive Deputy Secretary of DEP Joe Adams, Cumberland County Commissioner Jean Foschi, and Councilwoman Margi Stuski all provided remarks on the program and the current cohort being conducted by DEP and the Penn State Sustainability Institute. On October 21, EPO staff participated in an event organized by the Congress of Neighboring Communities of Allegheny County on climate action programs and transportation. Finally, Energy Program Specialist Christopher Nafe discussed the LCAP program on a Climate Change panel to open the International Symposium on Climate Change at Dickinson College on October 24.*

**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 City of Shamokin has agreed to participate in the*

CAPstone program in the next available cohort, which has been postponed to the spring semester of the 2022-2023 academic calendar year. Shamokin is focusing on their energy inventory and benchmarking their municipal facilities and operations, efforts which they were able to begin through participating in the EPO's Shared Energy Manager Program. EPO intends to expand the number of local governments participating in both the CAPstone and Shared Energy Manager Programs starting in the spring of 2023.

### **Sustainable Building Training Modules**

On October 7, EPO, PA GreenGov Council, and Penn State University held a kickoff meeting for the new Sustainable Building Training Modules project. The goal is to develop a series of training modules focused on sustainable buildings, integrative design, and green leasing for Department of General Services (DGS) client agencies, DGS Public Works staff, and the design and construction community. By June 30, 2023, the training modules will be posted on the PA GreenGov Council website and promoted to the target audience to educate on the principles of sustainable buildings and green leasing.

### **Cooking in Healthy Electrified Commercial Kitchens**

On October 1, EPO launched the new Cooking in Healthy Electrified Commercial Kitchens (CHECK) education and rebate program. The goal of the CHECK program is to assist commercial kitchens in PA in modernizing via electrification and energy efficiency. On October 21, EPO and its contractor, Forward Dining Solutions LLC, hosted the first of three educational webinars on the basics of induction cooking and debunking associated myths, as well as energy efficiency in commercial kitchens. The two remaining webinars will be held on November 18 and December 9. Rebates of up to \$5,000 will be issued for a range of energy efficient and induction cooking equipment. All K-12 schools, higher education institutions, and nonprofits whose missions are geared toward health care or community services, such as soup kitchens, shelters, and food banks, are eligible to participate.

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

EPO expects to receive approximately \$62 million in formula funding through IIJA:

- Preventing Outages and Enhancing the Resilience of the Electric Grid (\$40.5 M) – PA's year one allocation is \$8.1 million. EPO plans to submit its application in November.
- State Energy Program (\$14 M) – Application due December 5.
- Energy Efficiency and Conservation Block Grant Program (\$4.7 M) – Guidance not yet available.
- Energy Efficiency Revolving Loan Fund (\$3.7 M) – Guidance not yet available.

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## **Environmental Cleanup and Brownfields**

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### **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, 2022. One comment was received during the public comment period. The Independent Regulatory Review Commission's (IRRC) comment period ended on September 28, 2022. IRRC had no comments on the proposed rulemaking. DEP will evaluate the one public comment received and will respond accordingly as part of the final-form rulemaking process.



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

*DEP is preparing a draft proposed rulemaking to address Statewide health standard MSCs including lead and Polycyclic Aromatic Hydrocarbons (PAHs), and the use of averaging for demonstration of attainment of the direct contact statewide health standard. DEP presented the draft proposed Annex to the Cleanup Standards Scientific Advisory Committee on October 20, 2022.*

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

*The CSSAB met on October 20, 2022, where DEP presented the draft Chapter 250 proposed rulemaking annex to the Board. The CSSAB identified several minor revisions to the annex to correct errors and provide clarity. Land Recycling Program staff will consider the proposed revisions as needed. The next CSSAB meeting is scheduled for December 14, 2022. 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”).*

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

The next Storage Tank Advisory Committee 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**

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

The application period for the DEP Environmental Education (EE) Grant program remains open until December 9, 2022. The Environmental Education and Information Center (EE&IC) staff's objective is 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 \$5000 (\$3000) and General Grant Funding Level I to \$30,000 (\$20,000)
- Expanded Eligible Expenses
  - People Costs: Up to 50% (30%) of grant funds
  - Travel Costs: Lodging is now an eligible expense
  - Resource Costs: General Grant Level I and II: No more than 30% (10%) 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)
- A social media campaign is underway and will continue throughout the Grant Application period
- On September 27, 2022 the DEP EE&IC Staff hosted a live webinar for prospective EE Grant Program applicants. This webinar was recorded and will be posted on the DEP EE webpage: [Click here to access the webinar recording.](#)

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. Previously funded

projects have established successful community partnerships and reached audiences through a variety of activities ranging from tours and workshops to hands-on field experiences and action projects while addressing topics such as stream and air quality monitoring, wetlands restoration, watershed stewardship, energy conservation, and solar and other renewable resources.

Currently, the EE&IC staff has scheduled rater training to evaluate DEP EE Grant applications which is scheduled for Thursday, January 5, 2023.

The Environmental Education Grant 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 EE&IC at [RA-epEEgrants@pa.gov](mailto:RA-epEEgrants@pa.gov).

### **Update from the PA Environmental Literacy (ELIT) Steering Committee**

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 program's 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

The EE&IC continues to support the efforts of the DEP Office of Environmental Justice through outreach, promoting EJ efforts throughout the EE Community. This includes promoting the DEP Office of Environmental Justice's newsletter "EJ Update: Your Environment, Your Voice".

To sign up for the OEJ newsletter go to: ["EJ News: Your Environment, Your Voice"](#)

## **Environment and Ecology Standards Update**

On December 1, 2021, the Academic Standards/Chapter 4 Committee held a special meeting to receive [recommendations from the Content and Steering Committees](#) on stakeholder concerns related to the academic content of the new proposed standards.

On January 13, 2022, the Board adopted final-form amendments to Chapter 4. These final-form amendments include updates to the new science standards to address stakeholder concerns, including the addition of a new domain for "Environmental Literacy and Sustainability" across all grade levels. This fifth domain incorporates essential principles of environmental education organized under the following three core ideas: 1) Agricultural and Environmental Systems and Resources; 2) Environmental Literacy Skills; and 3) Sustainability and Stewardship.

On July 16, 2022, the *Pennsylvania Bulletin* published the [final-form amendments to Chapter 4](#), following review and approval by the Independent Regulatory Review Commission and the Attorney General. These final-form amendments took effect upon publication.

To support schools' implementation of the new integrated standards for science, environment & ecology, and technology & engineering, there will be a three-year implementation window. Effective June 30, 2025, the academic standards for *Science and Technology (2002)* and *Environment and Ecology (2002)* will be sunset. The following three new sets of standards will be fully integrated into classroom instruction by the 2025-26 school year:

- [Pennsylvania Integrated Standards for Science, Environment, Ecology, Technology and Engineering \(Grades K–5\)](#)
- [Pennsylvania Integrated Standards for Science, Environment and Ecology \(Grades 6–12\)](#)

## **Falcons**

DEP, Department of Conservation and Natural Resources (DCNR), Department of General Services (DGS) are in discussion to address falcon strikes on the Rachel Carson State Office Building (RCSOB). While still early in the process, this discussion is investigating potential window treatments that will reduce or eliminate falcon strikes. At this time a Request for Information (RFI) will be filed to beginning the solicitation of potential vendors to address this situation.

## **2023 PA Farm Show**

The EE&IC staff is currently preparing for DEP participation in the 2023 PA Farm Show. The 107th Pennsylvania Farm Show will be held Saturday, January 7 through Saturday January 14, 2023. The theme for 2023 is "Harvesting More". EE&IC staff is recruiting DEP employees to volunteer for shifts throughout Farm Show week.

At this year's show DEP will be unveiling a new exhibit at Exhibit Booth #1100 located within the Main Hall.

## **2023 Environmental Literacy Forum**

The DEP Environmental Education and Information Center (EE&IC) staff will represent DEP at the 2023 Environmental Literacy Summit scheduled for January 18-19, 2023 at the National Conservation Training Center in Shepherdstown, West Virginia.

The Forum provides an opportunity to bring together teams of school districts/divisions and their partners to learn, share, and strategize about how to advance systemic, equitable, and sustainable environmental literacy. The goals of this year's Forum are to:

- Demonstrate the value and characteristics of systemic, equitable, and sustainable environmental literacy programs and plans.
- Share examples of successful and emerging district-level environmental literacy planning efforts, including those that center sustainable schools, climate, and workforce development.
- Uncover new strategies that can uplift and advance environmental literacy planning in school districts.
- Connect school district/division work to state strategies and identify ways to scale best practices from school district exemplars.

### **Radon Poster Contest**

DEP has announced the 2023 Radon Poster Contest for students. Students ages 9-14 years old are encouraged to combine science and art by creating an educational poster that shows the physical aspects of radon, the harmful effects of indoor radon gas, or the importance of testing for radon in the home.

The U.S. Surgeon General lists radon exposure as the second leading cause of lung cancer. Radon is a colorless, odorless, and tasteless gas that enters homes through cracks in the foundation, becoming part of the air indoors. It's estimated that 40 percent of homes in Pennsylvania have elevated levels of radon and conducting a simple radon test is the only way to detect the amount of radon present.

For additional information and submission forms for the 2023 Radon Poster Contest, please go to [dep.pa.gov/radonschoolpostercontest](https://dep.pa.gov/radonschoolpostercontest).

DEP will submit Pennsylvania's first-place poster to the 2023 National Radon Poster Contest, sponsored by the Conference of Radiation Control Program Directors.

Please help us spread awareness by educating the children in your care this year! If you have any questions, please feel free to contact me at [jruminski@pa.gov](mailto:jruminski@pa.gov).

### **Teaching Green Newsletter**

The latest edition of the DEP "Teaching Green" environmental education newsletter was released 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. Teaching Green can be accessed at:

<https://www.dep.pa.gov/Citizens/EnvironmentalEducation/Pages/Teaching-Green.aspx>

### **Outreach**

On November 3, an EE&IC staffer will be representing DEP while attending the Shippensburg University Geography-Earth Science Career Day. During the morning session DEP will present "DEP: Working to Protect our Environment" with Samantha Burton; DEP will participate in the Networking Session during the afternoon.

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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 third meeting of the EJIC on Friday, September 16. 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.

### **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 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. 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.

OEJ continues to convene the Environmental Justice Internal Work Group to inform and educate DEP staff and solicit feedback on critical environmental justice initiatives within DEP, such as the EJ Policy. OEJ has also been tracking and publishing permits subject to the current Environmental Justice Public Participation Policy on the DEP website.

### **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. The Alternative Fuel Vehicle Rebate guidelines have been recently revamped to add income caps to aid low to moderate income families in purchasing alternative fuel vehicles. OEJ is working with EPO on a revamp of the sheet, it will soon 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 early 2023.

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

*The U.S. Department of the Interior (DOI) approved the application as submitted for the full \$25 million Initial Grant on August 25, 2022, with an effective “date of receipt” of October 1, 2022. The award allows for \$2.5 million to be allocated to DEP to cover administrative costs associated with administering the Initial Grant. Based on DEP’s Initial Grant application, all Initial Grant funding will be used for well plugging contracts or administrative costs.*

*There are two deadlines related to the Initial Grant. First, Pennsylvania has 90 days from October 1, 2022, to “use” 90% of the Initial Grant to “issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work...” DOI has interpreted this language to mean that \$22.5 million must be “obligated” by December 30, 2022. Second, any Initial Grant funds not “obligated” within one year from the date of receipt must be returned to the federal government.*

*In total, DEP expects to plug about 300 orphan and abandoned wells using \$22.5 million of the Initial Grant funding and will allocate the remaining 10 percent (or \$2.5 million) to administrative costs to run this program.*

*DEP plans to allocate the following Initial Grant funding:*

*DEP developed five separate bid solicitations that were published in the commonwealth’s electronic bid tool called “Bid Express” ([www.bidexpress.com](http://www.bidexpress.com)). The contract vehicle to be used is an Invitation for Bid (IFB) and will fund the plugging of 79 abandoned wells. During the week of October 10 and October 17, the DEP hosted pre-bid meetings for each of the five bid packages listed below:*

- 24 wells – Concord Township, Butler County
- 22 wells – Eldred Township and Eldred Borough, McKean County
- 15 wells – Otto Township, McKean County
- 10 wells – Moon Township, Ohio Township and Sewickley Heights Borough, Allegheny County
- 8 wells – Eulalia Township and Abbott Township, Potter County

*These five IFB contracts are expected to allocate approximately \$7.5 million of the anticipated \$25 million Initial Grant federal funding; however, the bid openings are scheduled on October 27 and November 3, so actual amounts will be available after all bids are opened. DEP is also finalizing five additional IFB packages that will allocate an additional \$12 million to plug about 176 additional abandoned wells.*

*In addition to these 10 IFB packages, DEP has developed a Statement of Work necessary to develop “Invitation to Qualify” (ITQ) packages for the balance of the Initial Grant funding. The ITQ process allows additional flexibility to DEP to issue purchase orders for services from pre-qualified well plugging contractors for up to \$1 million per order.*

*DEP plans to allocate the remaining \$3 million in Initial Grant funding to ITQ purchase orders. Based on the DEP’s current average cost estimate of \$68,000 to plug each abandoned well, an additional 44 wells could be plugged using the ITQ contracting process. DEP anticipates having those initial ITQs in place and purchase orders issued for the remaining Initial Grant funding by December 30, 2022.*

*All approved ITQ Statements of Work are published on the Department of General Services’ webpage, along with significant resources to assist contractors in qualifying to submit quotes. The abandoned well plugging ITQs will also be posted there once approved.*

### **Orphan Well Plugging Task Force Meeting**

*As part of the Interstate Oil and Gas Compact Commission (IOGCC) annual meeting on October 16 - 18, the members of the Orphan Well Plugging Task Force (Task Force) met with staff from the United States Department of the Interior (DOI). Significant topics for discussion with DOI staff included implementation of the Initial Grant, including reporting requirements, along with significant new information regarding the IJA Formula Grants.*

*DOI indicated that the draft Formula Grant guidance was expected to be released in early November, to be followed by discussions with individual states concerning the requirements in that guidance at the end of the month. It appears that due dates have not been finalized yet, but applications for Formula Grants will likely be accepted over the winter (3-month period in which the applications will be accepted), processed in the spring, and awards granted in late spring/early summer. Pennsylvania was allocated almost \$80,000,000 in the first Formula Grant allocation on January 31, 2022, second only to Texas.*

*DOI provided additional details:*

- *Their current preferred approach to allocating the Formula Grant funds (almost \$2 billion nationally) will be to allocate \$500,000,000 or 25% each year for the next four years (2023, 2024, 2025, 2026). Formula Grant funds must be obligated within five years of allocation or be returned to DOI, meaning that the program will be funded through 2031.*
- *The formula upon which allocation is based will not change (1/3 oil and gas industry job losses from March 2020 through November 15, 2021; 1/3 number of documented orphan wells in the state; and 1/3 the projected cost to plug those documented orphan wells). However, DOI stated that they would continue accepting new information on the formula elements and use the updated numbers to make future year allocations.*
- *Only orphan wells with latitude and longitude locational data will be considered “documented” orphan wells.*
- *For wells with split estate federal ownership, the party holding the mineral estate will drive which plugging standards DOI will require. If the federal government owns the mineral estate, the Bureau of*

*Land Management standards apply. If the federal government only owns the surface rights, the state plugging standards will apply.*

- *Methane emissions quantification is a significant topic for discussion at the federal level. New guidance was released in April 2022. Some questions were asked about whether sampling and estimation would be allowable since federal agencies are seeing high-cost bids for methane testing.*
- *Reporting under the Formula Grant will be semi-annual rather than quarterly, as it is for the Initial Grant.*

### **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 *has* introduced further improvements concerning blowout prevention (BOP) testing *due to* 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.

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## **Radiation Protection**

### **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 final rulemaking is scheduled for EQB consideration on November 15, 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 public comment period closed on September 26, 2022, and the Department received IRRC's comments on October 28. The Department will consider the comments and revise the rulemaking as appropriate.*

### 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. *The TGD was published in the Pennsylvania Bulletin on October 29, 2022, for public comment. The public comment period closes on November 28, 2022.*

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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 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 formally approved the final rulemaking at its September 15, 2022, meeting. The final rule *was published in the Pennsylvania Bulletin on October 29.*

### **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 recommended 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 drafting the final rulemaking package to present to SWAC.*

### **MAX Environmental Technologies, Inc. Yukon Facility – Hazardous Waste Landfill #7**

DEP received an application from MAX Environmental Technologies, Inc. (MAX) for a proposed hazardous waste landfill to be located at their Yukon Facility in South Huntingdon Township, Westmoreland County. DEP's Siting Team has conducted an administrative completeness review of the Phase I Exclusionary Siting Criteria Application received on July 14, 2022, and additional information received on August 17, 2022. Based upon that review, DEP has determined that the application package contains sufficient detail to conduct a technical review and has accepted the application.

The acceptance of the application as administratively complete begins a 5-month technical review of the application. The technical review will include a public informational meeting and public hearing. The meeting is intended to inform the public of the siting process, entertain discussion of the application, and answer questions regarding the review and permit process. The hearing affords members of the public the ability to provide formal oral and written testimony on the permit to DEP. These events have not yet been scheduled.

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

The next regular meeting is scheduled for *December 15, 2022, at 10:00 a.m.*, 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)**

*Next year's annual RFAC meeting has not yet been scheduled.* 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 was delivered to the Independent Regulatory Review Commission (IRRC) for consideration at the September 15, 2022 IRRC public meeting. IRRC voted not to approve the regulation during that meeting. *IRRC's disapproval order was received October 11, 2022.*

#### 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 draft final annex was discussed with the Agricultural Advisory Board on October 20, 2022.* The Department anticipates advancing the final-form rulemaking to the EQB in 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 final-form rulemaking *is scheduled for EQB consideration on November 15, 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 (a.k.a. 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 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). Like 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 coordinated on an effort to develop and submit applications for the State Revolving Fund (SRF) program. DEP submits the applications on behalf of PENNVEST annually. BIL/IIJA provided a significant increase in both the funding amounts and total grants available to the states through the SRF Program for both the DWSRF and CWSRF. Seven (7) grants application were available and submitted to EPA on behalf of PA. PENNVEST and DEP were notified of the awards for all seven (7) SRF Grants. The following amounts include the state match where state match is required. The awarded grants include the following:

- FY22 DWSRF Base - \$25,892,400
- FY22 DWSRF General Supplemental - \$60,943,300
- FY22 DWSRF Lead Service Line Replacement - \$87,296,000
- FY22 DWSRF Emerging Contaminant - \$23,264,000
- FY22 CWSRF Base - \$54,999,600
- FY22 CWSRF General Supplemental - \$77,550,000
- FY22 CWSRF Emerging Contaminant - \$3,704,000



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 disadvantaged 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 IIJA/BIL**

On May 2, 2022 EPA announced the allocation of \$40 million in first-year funds from the IIJA 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. DEP received the federal award in September 2022 and will incorporate it into the 2023 CAP Implementation Grant round.

### **PAG-13 General Permit**

On Saturday, September 24, 2022, DEP published notice in the Pennsylvania Bulletin ([52 Pa.B. 6107](#)) of a 2-year extension to the PAG-13 National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges to Small Municipal Separate Storm Sewer Systems (MS4s). By this action the availability of the general permit has been extended to March 15, 2025. The notice also solicited interested participants for a workgroup that DEP is planning to convene to discuss the requirements for the next PAG-13 term. *DEP received nearly 60 requests to participate and is in the process of selecting workgroup members.*

### **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 *were announced on October 7, 2022. The announcement can be found here:*

<https://www.ahs.dep.pa.gov/NewsRoomPublic/articleviewer.aspx?id=22197&typeid=1>

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 *and will be submitting the draft workplans to EPA by November 30, 2022 for their review.*

### **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, *with a goal to announce the awards by December 31, 2022.*

### **State Water Plan**

*The Delaware (October 11), Lower Susquehanna (October 12) and Potomac (October 13) regional committees met to debrief on the State Water Plan process, learn about the Digital Water Atlas, receive an overview of the Final Report and discuss next steps. The Ohio (October 25), Great Lakes (October 26) and Upper/Middle Susquehanna (October 27) regional committees will meet with the same agenda topics.*

*The State Water Plan's thirteenth statewide committee meeting was held on October 19. The focus of this meeting was to learn about the Digital Water Atlas and hear from the Final Report Workgroup that had been created to review the draft State Water Plan Final Report (final report) document. The meeting also featured discussion on the public comments received. The Final report will be returned to the statewide committee with edits in time for their November 16 meeting when the committee will submit their final edits and comments, before later voting on its formal approval and recommendation to the Secretary during their December 14 meeting. This final report is focused on items such as water resources strategies outlined in the Pennsylvania Climate Action Plan and updated regional watershed priorities.*

The Great Lakes (June 23), Delaware (July 12), and Ohio (July 14) regional committees met to finalize their regional components after receiving public testimony earlier in the year. They successfully voted to recommend their regional components to the statewide committee. In addition, the Ohio Regional Committee

held a combined public meeting and hearing to discuss the Back Creek Critical Area Resource Plan and receive testimony from interested persons. This testimony was returned to the Critical Area Advisory Committee for discussion, the plan has now been edited in response to this commentary and is currently being reviewed by DEP staff. All six regional committees plan to meet in October.

The State Water Plan's twelfth statewide committee meeting was held on August 17. The primary focus of this meeting was to review the draft State Water Plan Final Report (final report) document and vote to recommend it for public review as required by Act 220 of 2002. The vote passed successfully contingent on further committee review of the document. This public review process began on August 20, 2022 and completed on September 19, 2022 (see [52 Pa.B. 5204](#)). The final report will be returned to the statewide committee with edits in time for their November 16 meeting when the committee will submit their final edits and comments, before later voting on its formal approval and recommendation to the Secretary during their December 14 meeting. The thirteenth meeting is currently scheduled for October 19 and will feature discussion around the public comment period and reports from committee members about the final report document. This final report is focused on items such as water resources strategies outlined in the Pennsylvania Climate Action Plan and updated regional watershed priorities.

Find more information at DEP's [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” then “Calendar of Events”)

<b>November</b>	
2	Aggregate Advisory Board meeting, 10:00 a.m., Virtual and in-person attendance options
15	Environmental Quality Board (EQB) meeting, 9:00 a.m., Virtual and in-person attendance options
15	Environmental Justice Advisory Board (EJAB) meeting, 9:00 a.m., Virtual and in-person attendance options
15	<i>Laboratory Accreditation Advisory Committee meeting, 9:00 a.m., Virtual and in-person attendance options</i>
15	Citizens Advisory Council (CAC) meeting, 12:30 p.m., Virtual and in-person attendance options
16	State Water Plan Statewide Water Resources Committee meeting, 9:00 a.m., Virtual and in-person attendance options
16	<i>Mining and Reclamation Advisory Board meeting, 10:00 a.m., Virtual and in-person attendance options</i>
17	Water Resources Advisory Committee (WRAC) meeting, 9:30 a.m., Virtual and in-person attendance options
30	State Board for Certification of Sewage Enforcement Officers meeting, 10:00 a.m., Virtual and in-person attendance options
<b>December</b>	
1	<i>Oil and Gas Technical Advisory Board meeting, 10:00 a.m., Virtual and in-person attendance options</i>
6	<i>Storage Tank Advisory Committee (STAC) meeting, 10:00 a.m., Virtual and in-person attendance options</i>
7	Board of Coal Mine Safety (BCMS) meeting, 10:00 a.m., Virtual and in-person attendance options
7	State Board for Certification of Water and Wastewater System Operators meeting, 10:00 a.m., Virtual and in-person attendance options
8	Air Quality Technical Advisory Committee (AQTAC) meeting, 9:15 a.m., Virtual and in-person attendance options
9	<i>Radiation Protection Advisory Committee (RPAC) meeting, 9:00 a.m., Virtual and in-person attendance options</i>
13	Climate Change Advisory Committee (CCAC) meeting, 9:00 a.m., Virtual and in-person attendance options
14	<i>Cleanup Standards Scientific Advisory Board (CSSAB) meeting, 9:30 a.m.; Virtual and in-person attendance options</i>
15	<i>Solid Waste Advisory Committee (SWAC) meeting, 10:00 a.m.; Virtual and in-person attendance options</i>
15	<i>PA Grade Crude Development Advisory Committee meeting, 10:00 a.m., Virtual and in-person attendance options</i>

For questions or comments about this report, please email Amanda Rodriguez, Executive Policy Specialist, DEP Policy Office, at [amarodrigu@pa.gov](mailto:amarodrigu@pa.gov).