

**May 2016 Report to the Citizens Advisory Council**  
(new and updated information in italics)

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**DEP Highlights**

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**Final Rulemaking – Chapter 78, Subchapter C (relating to oil and gas surface activities)**

DEP presented the proposed Chapter 78, Subchapter C regulations to the EQB on August 27, 2013, who DEP presented the proposed Chapter 78, Subchapter C regulations to the EQB on August 27, 2013, who adopted the proposal for public comment. The 90-day public comment period, including nine public hearings, closed on March 14, 2014; about 24,000 comments were received. Of those comments, over 1,100 represented individual comments and the balance were submitted to DEP as form letters. IRRC submitted a 19-page comment letter to DEP on April 14, 2014, formally closing the comment period. DEP presented a summary of the comments received at the June 26, 2014, Oil and Gas Technical Advisory Board (TAB) meeting.

On July 10, 2014, former Governor Corbett signed into law Act 126 of 2014 (relating to omnibus Fiscal Code amendments). Act 126 contained the following provision:

Section 1741.1-E. Environmental Quality Board.

- (a) Regulations.-- From funds appropriated to the Environmental Quality Board, the board shall promulgate proposed regulations and regulations under 58 Pa.C.S. (relating to oil and gas) or other laws of this Commonwealth relating to conventional oil and gas wells separately from proposed regulations and regulations relating to unconventional gas wells. All regulations under 58 Pa. C.S. shall differentiate between conventional oil and gas wells and unconventional gas wells. Regulations promulgated under this section shall apply to regulations promulgated on or after the effective date of this section.

As a result of this statutory change, DEP determined that the Subchapter C rulemaking process could continue, but that the regulations would be completely bifurcated on final rulemaking. The regulatory provisions applicable to conventional wells will be retained in the existing Chapter 78 and a new regulatory Chapter 78a will be created that is applicable to unconventional wells. No regulatory language outside of the scope of the proposed rulemaking will be altered as a result of this change (for example, the well drilling, operation and plugging requirements contained in Chapter 78, Subchapter D will be included, as appropriate, in both the conventional and unconventional Chapters).

On September 25, 2014, DEP presented the two individual chapters of the bifurcated proposed rulemaking to the members of TAB and discussed the pertinent aspects of the proposed rulemaking. The TAB meeting was conducted via a webinar in order to provide a greater opportunity for public participation; the webinar is available on DEP's webinar page. The bifurcated rulemaking was a first step toward placing the proposed regulatory language into a form that could be further adjusted to address public comments.

DEP determined it was necessary to utilize the Advanced Notice of Final Rulemaking (ANFR) process to take additional public comment on the draft changes included in the final rulemaking. DEP presented an overview of the proposed ANFR to TAB and the Conventional Oil and Gas Advisory Committee (COGAC) on March 20 and March 26, 2015, respectively.

On Saturday, April 4, DEP published notice of the Advance Notice of Final Rulemaking for revisions to the rulemaking in the Pennsylvania Bulletin, opening an additional 30-day public comment period.

On April 6, DEP announced extension of the public comment period by an additional 15 days to close on May 19, and the addition of three public hearings on April 29 (Washington), April 30 (Warren), and May 4 (Williamsport).

During the ANFR comment period, the Department received a total of 4,947 comments from 4,601 commentators. Of the comments received, 4,516 were form letters (10 different form letters), 129 were provided via testimony at public hearings, and 302 were unique comments. Department staff is in the process of preparing responses to all comments received for the proposed rulemaking and ANFR.

DEP presented an overview of the draft final rulemaking to COGAC and TAB on August 27 and September 2, 2015, respectively. Following these advisory committee meetings, DEP hosted a public webinar session on Friday, September 18 with members of COGAC and TAB to further discuss several issues that were raised during the most recent advisory board meetings. The draft final rulemaking was presented to TAB and COGAC on October 27 and October 29, respectively. At the close of the meeting, TAB adopted a written Resolution that stated it would incorporate comments that are developed by COGAC as part of its submittal to the Environmental Quality Board (EQB). On October 29, COGAC adopted a separate Resolution that was critical of the Department and rulemaking process and stated, in part, that the "...process of formulating new regulations for Pennsylvania's conventional oil and gas industry should be restarted in its entirety".

The 2012 Oil and Gas Act authorizes TAB to submit a report to the Environmental Quality Board (EQB) on the Department's final Chapter 78 and 78a regulation. On December 22, 2015, TAB convened a public WebEx meeting to discuss the report that it intended to develop for submittal to the EQB. On December 22, COGAC also convened a meeting to discuss the same matter. The TAB accepted public comment and prepared a report that was considered by EQB on February 3, 2016. A copy of this report is available on the EQB website.

*On January 6, 2016, DEP submitted the final form rulemaking to the EQB for consideration. On February 3, the EQB approved the final form rulemaking by a vote of 15-4. On April 12, the House and Senate standing committees voted to disapprove the final form rulemaking; however, on Thursday, April 21, the Independent Regulatory Review Commission (IRRC) approved revisions to Pennsylvania's oil and gas drilling regulations. The disapproval resolution would need to be advanced to the full senate and house for consideration before being sent to the Governor for action. The regulations will be reviewed by the Attorney General's office before being published as final in the Pennsylvania Bulletin.*

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## **Federal Regulations**

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### **Recently Submitted DEP Comments**

Nothing to report.

### **Regulations Planned for DEP Comment**

Nothing to report.

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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 Regulatory Update.

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## **Proposals Open for Public Comment**

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- *There are no open comment periods at this time.*

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## **Recently Closed Comment Periods**

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- Proposed Rulemaking: Underground Coal Mine Safety – Proximity Detection Systems (Opened 3/19/16; Closed 4/18/16)
- Proposed Rulemaking: Water Quality Standards; Class A Stream Redesignations (Opened 3/5/16; Closed 4/18/16)
- Disinfection Requirements Rule (Opened 2/20/16; Closed 4/19/16)

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## **Monthly Press Releases (All New, not Italicized)**

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### **Press Releases Issued**

**April 21** – Independent Regulatory Review Commission Approves Oil and Gas Regulations

**April 25** – DEP Cites Pittsburgh Water and Sewer Authority for Unapproved Water Treatment Change

**April 27** – DEP Expands Particulate Matter Air Monitoring Network

**April 29** – Media Advisory: Media Invited for Tour of Duryea Flood Control Project

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## **Active and Abandoned Mine Operations**

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### **E-Permitting Project**

*Earlier this year the Department launched an e-permitting project for the mining program starting with the bituminous surface permit. Future projects will move to other mining permits as well serve as the foundation for expanding to other areas of the Department. After considering leveraging other e-solutions - both DEP and other agencies - it was decided the best strategy for expanding the effort to other permits would be to develop the application in house from the ground up. A project manager was brought in and a work group was formed from staff from IT and the mining program. Once the project was formalized, requirements gathering began in late March. As of the end of April, about a quarter of the modules have been reviewed. It is expected development will begin by late spring. The project plan provides for a live application by February 2017.*

### **2016 Abandoned Mine Land Program Grant**

On January 14, the Office of Surface Mining (OSM) announced that \$43 million will be awarded to Pennsylvania under the 2016 AML Program Grant which became effective on January 1, 2016. Compared to the 2015, the funding level of the 2016 AML distribution is a reduction of \$1 million or 2.4%. The drop in funding is attributable to a decline in coal production. Pennsylvania's total Title IV Grant Distribution is \$46.1 million. However, the FY 2016 sequestration of mandatory Federal budgetary resources withheld 6.8% of the AML grant funds equaling \$3.1 million. Last year, the impact of sequestration was a cut of 7.3%, the loss of \$3.5 million. In addition, through the recent Omnibus bill, there is an additional \$30 million for grants available for Pennsylvania to address abandoned mine land projects in conjunction with economic and community development and refuse goals. Further details will be forthcoming from OSM about the program.

## **Federal Proposed Stream Protection Rulemaking**

On July 27, 2015 the federal Office of Surface Mining published a substantial revision to the coal mining regulations relating to the protection of streams. The scope of the rule is extensive. Many new additional requirements are proposed, including, for example, site-specific continuous precipitation data for every mine site. The comment period for the proposed rulemaking was originally scheduled to end September 25, but was extended to October 26. The Department completed its evaluation of the rule and submitted comments on October 23. The Department's 17 pages of comments included specific recommendations for alternative approaches or revised language for purposes of improving the proposed regulations. In other instances, there were sections that were not clear and requests were made for clarification. Overall, two specific requests were made: to expand the preamble to comprehensively address each aspect of the proposed rule and the supporting science and to clarify the proposed regulatory language based on feedback received during the initial comment period. *OSM has engaged with the states to discuss concerns about the rule. From this interaction it is clear that OSM is working to finalize the rule as quickly as it can. Indications are that the final rule will account for many of the comments made.*

## **Act 54 Report Review**

The Bureau of Mining Programs is working with the California District Mining Office to systematically review the Act 54 report. This process will involve review of the report and the comments relating to the report. The goal is to compile and evaluate all of the recommendations and identify action items. Discussions have identified a few categories of actions items. These include issues that have been addressed, but so recently that they could not be reflected in the Act 54 report, short-term actions, such as form revisions, and longer-term actions including database enhancements. The Department has received the CAC comments and will work with the Council to address their concerns. The TGD Surface Water Protection-Underground Bituminous Coal Mining Operations will be revised to address some of the issues raised in the Act 54 report and in response to recent litigation.

## **Noncoal and Coal Mining Fees**

The 3-year reports for noncoal mining fees in Chapter 77 and coal mining fees in Chapter 86 are due in October and November of this year. The draft report for coal mining fees was reviewed with the Mining and Reclamation Advisory Board (MRAB) on April 23, 2015, and the draft report for the noncoal mining fees was reviewed with the Aggregate Advisory Board (AAB) on May 13, 2015. The fee reports were presented to the EQB at its May 20 meeting. The Department met with the AAB Regulation, Technical and Legislation committee on September 22 and October 23, 2015, to review information that had been requested by the PA Aggregate and Concrete Association. *A preliminary draft rule was provided to the AAB in February. Similarly, a preliminary draft was presented to the MRAB in January, followed by a revised draft presented at the April MRAB meeting. A committee meeting has been scheduled for June to formulate the MRAB's recommendation to the Department regarding the coal mining fees.*

## **Final Rulemaking**

### **Proposed Rulemaking – Areas Unsuitable for Surface Mining, Big Run and Willholm Run Watersheds, Clearfield County**

Graham Township was the petitioner for the unsuitable for mining designation. As a result of the formal petition, a comprehensive technical evaluation of the area was done which yielded the result the area within the Big Run and Willholm drainage be designated as unsuitable for mining operations. The regulation proposes to amend 25 PA Code, Chapter 86, Section 86.130 to add paragraph (b) (19) to achieve the designation within the noted watersheds which includes the Mercer, Lower Kittanning, and Clarion #1, #2, and #3 coals. DEP does not anticipate any controversy or opposition with this proposal. This proposal was reviewed by the MRAB last April. It is expected to move forward to be presented to the EQB on *October 2, 2016*.

## **Other Coal Mining Program Rulemakings**

Preliminary discussion is underway for rulemaking packages relating to surface coal mining water supply replacement, remining and water quality, and general coal mining program improvements. Staff met with the MRAB's Regulation, Legislative and Technical Committee on November 25, 2014, to discuss the coal mining program improvements rulemaking. The MRAB committee expressed the concern that it may be premature to proceed, specifically relating to the definition of surface mining activities, since there is litigation related to this underway in the federal system. The proposed remining rulemaking was reviewed by the MRAB at their meeting on October 23, 2014. The MRAB recommended that DEP proceed with the rulemaking process for the remining regulations. The EQB adopted the proposed remining rulemaking at its meeting on May 20, 2015. This proposed rulemaking was published with a 30-day comment period on October 3, 2015. The water supply replacement rulemaking will be deferred until the remining and program improvement packages are completed due to priorities identified by MRAB. One comment was received from the Pennsylvania Coal Alliance. IRRC comments were received on December 2, 2015. Program staff developed a final regulation which was presented at the January 21, 2016, meeting of the MRAB. This is planned for EQB consideration at the May 17, 2016, meeting.

The proposed rulemaking for the explosives program was reviewed with the MRAB and the Aggregate Advisory Board. Each recommended that the Department proceed with the rulemaking process. The EQB approved the package on September 15, 2015, but the Attorney General's Office tolled the regulation on November 10, 2015. Program staff and Regulatory Counsel developed a response which was submitted to the Attorney General's Office on December 29, 2015. This was published in the Pennsylvania Bulletin on February 27, 2016, opening the public comment period. Several comments were received by the close of the comment period on March 28 which are currently under review. The IRRC comments were due by April 27.

## **Proposed Rulemaking**

### **NPDES Permitting for Mine Sites**

The Mining Program continues to work with EPA to implement NPDES permitting and compliance improvements. The focus has shifted from developing tools (e.g. TGD, SOP, Permit Document and Inspection Report) to deploying the tools. EPA is working with the Mining Program to identify the parameters of further interaction between the agencies. A two-year work plan has been drafted. A checklist that would eventually provide an alternative to submission of draft permits is under discussion; some progress has been made in identifying the content of the checklist, but a final draft has not yet been prepared. Monthly calls with EPA to discuss program issues have been reinstated. A number of workgroups are being established to address on-going issues. One of the workgroups will be evaluating the best way to integrate remining in TMDL watersheds. EPA has recently identified an example of a draft permit and fact sheet that provided them with the information they needed in a very clear and concise manner.

### **Guidance Document Revisions**

The Bureau of Mining Programs is systematically reviewing the library of Technical Guidance Documents (TGDs) to identify all of the documents which require changes. The following TGDs are under active development:

Blaster's License Suspension and Revocation Procedure (562-2402-501): This TGD describes the procedures for the suspension, modification or revocation of blaster's licenses and/or penalty assessment actions; it was substantially revised to be more transparent and provide new procedures for these actions. The substantive revisions were published in the Pennsylvania Bulletin on May 5, 2014 and DEP accepted comments until July 7, 2014. Comments are being reviewed, a comment response document is being developed, and changes will be made to the TGD where necessary.

## **Board of Coal Mine Safety (BCMS)**

**Proposed Rulemaking: Proximity Detection Systems for Continuous Mining Machines** – The Mine Safety and Health Administration (MSHA) issued a final rule on proximity detection systems for continuous mining machines in underground coal mines on January 15, 2015. The MSHA rule excludes full-face continuous mining machines. Miners working in the vicinity of continuous mining machines are at risk of pinning, crushing, and striking hazards. This rule provides for greater protection for miners regarding these hazards. The rule was distributed to the BCMS for review prior to their June meeting. At the June meeting the Board directed DEP to draft initial regulatory language to incorporate the MSHA rule on proximity detection systems for continuous mining machines in underground coal mines into PA mine safety regulations. The package was approved by the Board of Coal Mine Safety on December 8, 2015 and sent to Office of General Counsel and Budget for review. The rulemaking was signed off by the Office of General Counsel, the Governor’s Budget Office, and the Office of Attorney General. This was published on March 19, 2016, opening the 30-day public comment period. *No comments were received. It is anticipated IRRC’s review will be completed in the next month.*

**Pre-Draft Proposed Rulemaking: Performance Based Cable Safety** – The Board undertook the issue of performance based cable standards to address both shielded cables and sensitive ground fault. Typical low and medium voltage systems use a 15 ampere grounding resistor with a ground fault relay that trips at no more than 50% of the resistor value. It was determined that sensitive ground fault protection, set at an appropriate level, would not only decrease the potential hazard of handling a damaged cable, thereby increasing cable safety, it would also afford protection from inadvertent contact with energized circuits while troubleshooting or performing maintenance. Since the 1980’s some components, such as the shearer and face motors, of the high-voltage longwall systems have used a ground fault relay which trips at no more than 0.125 amperes. A similar protection scheme can be used on low- and medium-voltage systems and can increase the protection of miners. This has been under development for several years. *Draft language was presented and discussed at the March 23 meeting of the Board. Based on the Board’s review, final language is currently being developed by Department staff.*

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## **Air Quality**

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### **Climate Change Advisory Committee (CCAC)**

*The CCAC will meet on May 17, 2016, at 10:00 a.m. in the Delaware Room on the 16<sup>th</sup> Floor, RCSOB. The next CCAC meeting is scheduled for July 12, 2016, at 10:00 a.m. in Room 105, RCSOB.*

### **Air Quality Technical Advisory Committee (AQTAC)**

*The AQTAC will meet on June 9, 2016, at 9:15 a.m. in Room 105, RCSOB. The next AQTAC meeting is scheduled for August 4, 2016, at 9:15 a.m. in Room 105, RCSOB.*

### **Small Business Compliance Advisory Committee (SBCAC)**

*The SBCAC met on April 27, 2016, at 10:00 a.m. in the 12<sup>th</sup> Floor Conference Room, RCSOB. The next SBCAC meeting is scheduled for July 27, 2016, at 10:00 a.m. in the 12<sup>th</sup> Floor Conference Room, RCSOB.*

## **Air Quality Rulemaking Packages**

**Control of VOC Emissions from Fiberglass Boat Manufacturing Materials** –The final rulemaking for fiberglass boat manufacturing materials establishes RACT as recommended in the U.S. Environmental Protection Agency’s (EPA) 2008 Control Technique Guidelines (CTG) for Fiberglass Boat Manufacturing Materials. The EQB unanimously adopted the final-form rulemaking at its May 20, 2015, meeting. IRRC approved the final rulemaking on Nov. 12, 2015, and the final-form regulation was published in the Pa. Bulletin on Dec. 19, 2015. A SIP revision was submitted to EPA for approval on March 2, 2016.

Control of VOC Emissions from Miscellaneous Metal Parts Surface Coating Processes, Miscellaneous Plastic Parts Coating Processes and Pleasure Craft Surface Coatings – The proposed rulemaking would establish RACT as recommended in EPA’s 2008 Control Technique Guidelines for Miscellaneous Metal Parts Surface Coating Processes. The EQB approved the proposed rulemaking for public review and comment at its Oct. 21, 2014, meeting. The proposed rulemaking was published in the Pa. Bulletin on Aug. 8, 2015, starting a 60-day public comment period (45 Pa. B. 4366). The EQB held public hearings on Sept. 8, 9, and 10, 2015, in Norristown, Harrisburg, and Pittsburgh, respectively. No testimony was presented at the hearings. The public comment period closed on Oct. 13, 2015. Written comments were received on the proposed rulemaking from James Verderese, Environmental Manager for GE Transportation. IRRC also submitted comments on Nov. 12, 2015. The draft final-form Annex A was presented to AQTAC and CAC on Feb. 11 and March 15, 2016, respectively. Both committees unanimously concurred with DEP’s recommendation to submit the final rulemaking to the EQB for consideration. *On April 27, 2016, the SBCAC also concurred unanimously with DEP’s recommendation to present the final rulemaking to the EQB for action. The tentative date for EQB consideration is June 21, 2016.*

Control of VOC Emissions from Industrial Cleaning Solvents – The proposed rulemaking would establish RACT requirements for industrial cleaning solvents as recommended in EPA’s 2006 CTG for Industrial Cleaning Solvents. At its Feb. 20, 2014 meeting, the AQTAC concurred with DEP’s recommendation to submit the proposed Control of VOC Emissions from Industrial Cleaning Solvents rulemaking to the EQB for consideration. The SBCAC was briefed on the proposed rulemaking on April 23, 2014, and voted unanimously to concur with DEP’s recommendation to forward the proposed rulemaking to the EQB for consideration with a recommendation that DEP consider flexibility for small businesses during the development of the proposed rulemaking. The CAC Policy and Regulatory Oversight Committee discussed this rulemaking during a conference call on May 6, 2014. On the recommendation of the Policy and Regulatory Oversight Committee, on June 17, 2014, the CAC concurred with DEP’s recommendation to forward the proposed rulemaking to the EQB. However, in response to comments heard at the various committee meetings, substantive changes were made to the proposed rulemaking. A revised draft Annex A was presented to AQTAC and CAC on Feb. 11 and March 15, 2016, respectively. Both committees concurred with DEP’s recommendation to submit the final rulemaking to the EQB for consideration. *The proposed rulemaking was presented to the SBCAC on April 27, 2016. The SBCAC also concurred unanimously with DEP’s recommendation to submit the proposed rulemaking to EQB for consideration.*

Additional RACT Requirements for Major Sources of NO<sub>x</sub> and VOCs – The Reasonably Available Control Technology (RACT) final rulemaking was approved by the EQB on Nov. 17, 2015. The final-form RACT regulation was unanimously approved by IRRC on March 10, 2016, and subsequently delivered, the same day, to the Attorney General’s Office for approval as to “form and legality.” *The final-form RACT regulation was published in the Pennsylvania Bulletin on April 23, 2016 (46 Pa.B. 2036). The SIP revision will be submitted to EPA in May 2016.*

Control of VOC Emissions from Automobile and Light-Duty Truck Assembly Coating Operations and Heavier Vehicle Coating Operations – The proposed rulemaking would establish RACT requirements consistent with EPA’s 2008 CTG for Automobile and Light-Duty Truck Assembly Coatings. The EQB approved unanimously the proposed rulemaking for public comment and review at its April 21, 2015, meeting. The proposed rulemaking was published in Pa. Bulletin on Aug. 8, 2015, starting a 60-day public comment period (45 Pa. B. 4351). EQB held public hearings on Sept. 8, 9, and 10, 2015, in Norristown, Harrisburg, and Pittsburgh, respectively. No testimony was presented at the hearings. The public comment period closed on Oct. 13, 2015. The EQB did not receive any public comments on the proposal, but IRRC submitted comments on Nov. 12, 2015. The draft final-form Annex A was presented to AQTAC and CAC on Feb. 11 and March 15, 2016, respectively. Both committees concurred with DEP’s recommendation to submit the final rulemaking to the

EQB. *On April 27, 2016, the SBCAC also concurred unanimously with DEP's recommendation to present the final rulemaking to the EQB for action. The tentative date for EQB consideration is June 21, 2016.*

Low Reid Vapor Pressure (RVP) Gasoline Repeal – The gasoline volatility regulation codified in 25 Pa. Code Chapter 126, Subchapter C, requires that summertime gasoline with a Reid vapor pressure (RVP) limit of 7.8 pounds per square inch (psi) or less per gallon be sold at the retail level in the Pittsburgh-Beaver Valley Area (Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland counties) between May 1 and September 1 of each calendar year by all refiners, importers, distributors, resellers, terminal owners and operators and carriers. The restrictions apply between June 1 and September 15 of each year for all wholesale purchaser-consumers and retailers of gasoline. The EQB adopted the regulation in November 1997 to address a violation of the 1-hour ozone standard in the Pittsburgh-Beaver Valley Area; EPA approved the SIP revision on July 20, 1999. Given mandatory vapor recovery technology (carbon canister) requirements for all new vehicles since 2007, this regulation has had a diminishing effect on ozone precursor emissions.

In May 2014, the Pennsylvania General Assembly enacted legislation requiring DEP to develop a SIP revision for the removal of the low RVP fuel provisions from the SIP. The law also directs the EQB to promulgate regulation repealing the low RVP regulation (Act of May 14, 2014, P.L. 674, No. 50). On December 10, 2015, the majority of AQTAC concurred with DEP's recommendation to submit the proposed rulemaking to the EQB for consideration. The proposed repeal of this regulation was presented to the SBCAC and the CAC on Feb. 17 and March 15, 2016, respectively. Both committees unanimously concurred with the DEP's recommendation to submit the proposed rulemaking to the EQB for approval.

Pennsylvania's Methane Reduction Strategy for the Oil and Natural Gas Industry – Methane is the primary component of natural gas and it has been identified by the EPA as the second most prevalent greenhouse gas emitted in this nation from human activities. Pennsylvania is the second largest producer of natural gas in the United States. On Jan. 19, 2016, Governor Tom Wolf announced a four-point methane emission reduction strategy for unconventional natural gas operations in Pennsylvania. This strategy includes the development of a general permit for new unconventional well pad operations and modifications to the existing general permit (GP-5) for compressors and natural gas processing facilities by Oct. 2016. DEP will also develop a regulatory proposal to implement EPA's final Control Technique Guidelines for the Oil and Gas Industry. This rulemaking will be submitted to EPA as a SIP revision within two years following the issuance of the final guidelines. Additionally, DEP will also develop best management practices, including leak detection and repair programs to reduce methane emissions along production, gathering, transmission and distribution lines. The proposed general permits, including the new GP for well pads and GP-5 modifications, will be published for public review and comment this summer.

Air Program Fee Schedule for Emission, Plan Approval and Operating Permit Fees - The proposed rulemaking would amend existing requirements and fee schedules codified in 25 Pa. Code Chapter 127, Subchapter I (relating to plan approval and operating permit fees) to ensure that fees are sufficient to cover the costs of administering the air program, as required by Section 502(b) of the Clean Air Act (CAA) and Section 6.3 of the Air Pollution Control Act (APCA). Existing fees for plan approval applications and operating permits would be increased and fees would be established for requests for determination (RFD) of whether a plan approval is required, risk assessment reviews, and asbestos notifications. The proposed rulemaking would also set a dollar-per-ton fee to be paid by the owner or operator of a Title V facility for up to 4,000 tons of carbon dioxide (CO<sub>2</sub>) emissions, if EPA's "Standards of Performance for Greenhouse Gas Emissions from New Stationary Sources: Electric Utility Generating Units" and Clean Power Plan regulating CO<sub>2</sub> under Section 111 of the CAA are upheld by federal courts including the U.S. Supreme Court.

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## **Energy Initiatives**

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### **Alternative Fuel Fleet Vehicles**

Since 2012, the Act 13 Natural Gas Energy Development Program has awarded \$20 million to 62 companies and organizations. To date, DEP has reimbursed grantees for the purchase or conversion of 515 heavy duty vehicles under the Act 13 program totaling more than \$10.1 million in program funds disbursed. The 515 vehicles supported to date with grant funds are estimated to be displacing over 6.3 million gasoline gallon equivalents per year. Over \$27.3 million in actual incremental costs have been expended on alternative fuel vehicles due to this program.

Since 2013, the Alternative Fuel Incentive Grant Program has provided \$7 million to 66 awardees to support the purchase or conversion for light and medium duty natural gas vehicles as well as propane and electric fleet vehicles of any size. So far, DEP has reimbursed grantees for the purchase or conversion of 314 vehicles totaling just over \$1.75 million in program funds disbursed. The 314 vehicles are estimated to be displacing approximately 754,473 gasoline gallon equivalents per year. Over \$3.6 million in actual incremental costs have been expended on alternative fuel vehicles due to this program.

### **Alternative Fuel Vehicle Rebate Program**

The alternative fuel vehicle rebate program provides rebates to PA residents for large battery EVs and PHEVs at \$2,000 and small battery EV and PHEVs at \$1,000. DEP committed to provide 250 rebates at \$2,000 resulting in \$500,000 of pledged support to the purchase of large battery storage alternative fueled vehicles. The \$2,000 rebate level will remain available until June 30, 2016, or until 250 rebates are issued, whichever occurs first. As of April 20, 2016, 107 rebates remain at \$2,000.

### **PA Turnpike Electric Vehicle Charging**

DEP has been working with the PA Turnpike on the deployment of direct current (DC) fast charging stations on the PA Turnpike. As of March 29th, Car Charging Group, Inc. (CCGI), the technology provider for the Turnpike project, reported that the DC fast charging station construction is completed at the Oakmont Plaza and New Stanton, Plazas. This brings the Turnpike up to a total of 5 service plazas with full charging capabilities. DEP anticipates construction at the North & South Somerset Plazas to begin in 4 to 6 weeks. North & South Midway plazas will be next. Approved permits and construction time lines are prepared. In addition, CCGI has prepared the bids for the central plazas: Sideling Hill, Blue Mountain, Cumberland Valley, Highspire, and Lawn but has not yet distributed the bids. CCGI has also reported that cars charging at the installed plazas have increased each month, and in 2015, a total of 190 charges have been performed. Eventually, Sideling Hill, Blue Mountain, Cumberland Valley, Highspire, Lawn, and Valley Forge will have Level II chargers as well as Level III DC fast chargers installed capable of fully charging an electric vehicle in 30 minutes.

### **Plug in Pennsylvania Electric Vehicle Charging**

DEP has been working with Car Charging Group, Inc. (CCGI) on the deployment of level II and Level III direct current (DC) fast charging stations throughout Pennsylvania. *Harrisburg International Airport held a ribbon cutting ceremony on Tuesday, April 26, 2016 in celebration of Earth Week. HIA announced that they now have a fully operational Level 3 DC fast charger installed at the cell phone lot at HIA. The level 3 DC fast charger is capable of fully charging electric cars in 30 minutes. Car Charging Group Inc. (CCGI) /PAT,LLC, HIA and Clark Contracting are in negotiations to add another charging station in the short term parking garage at HIA.*

### **Pennsylvania Energy Development Authority Projects**

*Two Pennsylvania Energy Development Authority (PEDA) Projects hosted ribbon cutting ceremonies this past month. On Wednesday, April 29, Chatham University dedicated their new Commons Building on the Eden Hall Campus, officially marking the opening of the world's first carbon neutral campus and home to the Falk School of Sustainability. Chatham University received a \$250,000 PEDA grant for the HVAC/geothermal heating system of which the Commons Building is a part. There are currently 42 geothermal wells across campus that balances the heating and cooling needs of the buildings. Chatham University has been recognized worldwide as a leader in sustainability curriculum and sustainable campus living, and this was another huge*

*step forward for the University. Additionally on Earth Day April 22<sup>nd</sup> Elizabethtown College located in Lancaster County cut the ribbon on a 2.6-megawatt DC ground-mounted solar photovoltaic system installed by Community Energy, Inc. The project, the largest higher-education-sited solar array in Pennsylvania, was made possible by a \$500,000 Pennsylvania Energy Development Authority (PEDA) grant. The solar installation, situated on 10 acres owned by the college is capable of supplying more than 20 percent of the college's annual power, enough to power the equivalent of almost 300 homes.*

### **Promoting an Energy Efficient Work Force**

**Building Operator Certification (BOC)/Building Re-Tuning (BRT) Training:** BOC is a national, competency-based training program that empowers facilities personnel with the job skills and knowledge to transform workplaces into more comfortable and energy-efficient spaces. A variety of building management topics including lighting systems, heating ventilation & air conditioning (HVAC), indoor air quality, sustainability, and energy conservation are addressed. BRT trains facility managers in a systematic approach to finding low-to-no-cost energy efficiency improvements in a target building. DEP has entered into a contract with Penn State University to conduct BOC and BRT Training for facility managers from K-12 schools and local governments from July 1, 2015 through June 30, 2016. The first BOC course was offered in Allentown beginning on August 26<sup>th</sup> and ending on November 19<sup>th</sup>. Five of the participating facility managers were from K-12 schools, and three were from local governments. The first cohort of BRT began in northwest PA on November 12<sup>th</sup> at Penncrest School District. The final three building walkthroughs for BRT were conducted on December 10<sup>th</sup> at Union City Area School District, Erie County, and Greene Township. Another round of BOC began at DEP's Northwest Regional Office in Meadville on March 1<sup>st</sup> and will end on May 10<sup>th</sup>. Fifteen of the eighteen participants are from K-12 schools, and the remainder are from local governments. *Another cohort of BRT began at Bethlehem Area School District on April 25<sup>th</sup>. Two additional walkthroughs were conducted at Southern Lehigh School District and Carbon Lehigh Intermediate Unit (IU) on April 26<sup>th</sup>. A total of fourteen facility managers & HVAC technicians from four K-12 school districts and two IUs participated. The final walkthroughs will be conducted at Nazareth Area School District & Colonial IU on May 11<sup>th</sup>.* Funding is provided by the U.S. Department of Energy's (DOE) State Energy Program (SEP).

**Consortium for Building Energy Innovation (CBEI):** Throughout the fall semester 2014, a course entitled Leadership in Building Energy Efficiency was offered for the first time to 8 undergraduate and graduate students at Penn State's University Park campus. This course, focused on energy efficient building operations, was based on the training materials from Building Operator Certification (BOC) and Building Retuning (BRT) programs. Five building walk-downs/retunes of Penn State buildings were conducted by the students. In the spring semester 2015, three of the fall semester students continued on in an independent study course, during which they conducted four building retunes: College Township Municipal Building, two State College Area School District buildings, and one Penn State building. DEP has entered into a contract with Penn State University for FY 2015-2016 to further develop the course and expand the offering to other colleges and universities. On May 23<sup>rd</sup> – 25<sup>th</sup>, CBEI, led by Penn State University will be hosting a workshop at the Philadelphia Navy Yard to train professors from PA colleges and universities on how to teach the LBEE course at their own institutions. CBEI is also offering three 2-hour workshops on U. S. Department of Energy's (DOE) Building Energy Asset Score tool. The first workshop was held at DEP's Southeast Regional Office in Norristown on December 2<sup>nd</sup>. Phoenixville Area School District, Abington School District, and the School District of Philadelphia attended. Penn State engineering students will now provide technical assistance to two of these districts, so they can assess their buildings using the Asset Score tool. On January 20<sup>th</sup>, the second workshop was held at DEP's Southwest Regional Office in Pittsburgh. Twelve people attended, including four local governments and four K-12 school districts. The final workshop was held in Harrisburg on March 14<sup>th</sup> for facility managers from PA State Agencies. Twenty-one facility managers from DCNR, DGS, PFBC, and DMVA attended. Funding is provided by the U.S. DOE State Energy Program.

### **Industrial Energy Efficiency Assistance**

DEP contracts with the Pennsylvania State University's Technical Assistance Program (PennTAP) to help Pennsylvania companies improve their competitiveness by providing technical assistance and information. DEP and PennTAP entered into a new contract for FY 2015 – 2016 to provide 10 -12 energy efficiency assessments for small to mid-sized manufacturers. PennTAP will also provide ISO 5001 and DOE Superior Energy Performance technical assistance for several manufacturers. PennTAP's technical staff is in the outreach planning stages. Funding is provided by EPA's Pollution Prevention Incentives for States and the DOE's State Energy Program.

### **Energy Efficient Building Codes Training**

Pennsylvania's acceptance of \$99.6 million dollars from the American Recovery and Reinvestment Act (ARRA) carries with it a number of obligations regarding enforcement of the 2009 International Energy Conservation Code (IECC) across the state. Specifically, DEP has provided assurance to DOE that it will develop and implement a program that will measure and ensure that DEP has achieved 90 percent statewide compliance with the code by 2017. DEP entered into a SFY 2015 – 2016 sub-grant with Department of Community and Economic Development, who contracts with the Pennsylvania State Association of Township Supervisors to provide residential and commercial energy code trainings that will include guides and tools. The trainings, guides and tools will be developed as a result of the benchmarking study conducted by Performance System Developments.

*The Pennsylvania Association of Township Supervisors and the Pennsylvania Codes Construction Academy are planning to provide energy code trainings beginning this May and throughout June statewide. The trainings will include an update from Performance Systems Development's residential energy code field study in addition to energy code enforcement in buildings. For further information on the trainings go to:*

[www.paconstructioncodesacademy.org](http://www.paconstructioncodesacademy.org)

### **LED Street Lights Technical Assistance for Municipalities**

The LED Street Lights Technical Assistance project consists of two main strategies to guiding municipal officials towards a transition from HID lighting to higher efficient with LED street lights. The first approach involves individual analysis of street lighting bills from municipalities in order to assess the cost and energy reductions that can be expected based on the specific LED rates offered by the utility. DEP staff performed assessments for approximately 50 municipalities in the 4<sup>th</sup> quarter of 2015, bringing the total assessments completed to around 90. These assessments were completed for municipal street lighting customers of PPL and FirstEnergy (Met-Ed, Penelec, Penn Power, & West Penn Power). The results consistently show energy (kWh) reductions of 40-60% when converting from HPS to LED street lighting. The cost savings varies among the electric utilities. FirstEnergy customers are seeing 30% - 50% reductions in their bills, and PPL customers are seeing 0% - 15% reductions. The second approach under this project is the development of a series of workshops designed to educate municipal officials on the LED technology and the process of working with the utility to begin replacements. During the 4<sup>th</sup> quarter of 2015 and 1<sup>st</sup> quarter of 2016, four workshops were held in FirstEnergy territories with total attendance of approximately 290 municipal officials. The workshops were held in Erie (50 attendees), Pittsburgh (70), and State College (110) and Hamburg (60). Penn Power expects to have about 5,000 street lights in its system converted by the end of 2016, about half their total. By the end of the year, West Penn Power may have as many as 17,000 upgraded out of almost 70,000 in its system. If all 22,000 street lights are converted to LED roughly 700 MWh per month and about \$165,000 per month will be saved by their municipal customers.

### **Application to USDOE for Competitive Solar Energy Evolution and Diffusion Studies II – State Energy Strategies (SEEDSII-SES)**

*OPPEA submitted a Concept Paper entitled “Finding Pennsylvania’s Solar Future: Scenario Planning and Stakeholder Engagement to Identify Tomorrow’s Solar Development and Investment Strategies” on March 3 to the United States Department of Energy (DOE) in response to the SEEDS II – State Energy Strategies Solicitation. On April 1, after reviewing the Concept Paper, DOE encouraged DEP to submit a full*

proposal. OPPEA's proposal is to work in partnership with Citizens for Pennsylvania's Future (PennFuture), the Vermont Energy Investment Corporation (VEIC), and others to coordinate and conduct a scenario-based stakeholder engagement process to create a cogent statewide Solar Deployment Plan for Pennsylvania, reaching out five years and 10 years to facilitate achievement of in state solar generation representing 10 percent of Pennsylvania's electricity sales by 2030. The period of performance would be 30 months, pending the outcome of continuation reviews and availability of funding. Eleven PA entities have pledged time to participate in the project, including the Energy Association of PA, PUC, Office of Consumer Advocate, University of Pennsylvania, all of the Sustainable Energy Funds, Solar City and Community Energy. The full application was submitted on April 29, 2016.

### **State Energy Program Competitive Award for Energy Efficiency Registry**

DEP participated in the Energy Efficiency Registry Project Kick-Off Meeting held on February 9<sup>th</sup> in Washington DC. DEP's Energy Office is working with the Tennessee Department of Environment and Conservation, the National Association of State Energy Officials (NASEO), The Climate Registry (TCR), APX (a private sector provider of Renewable Energy Certificate registrations) and other partner states (GA, MI, MN, OR), to develop registry principles and operating rules for an energy efficiency registry through a USDOE grant. A national energy efficiency registry (NEER) would enable market-oriented energy efficiency programs to provide transparent outcomes and also provide a robust accounting tool for use in meeting voluntary or mandated goals. During the meeting, participants discussed a review of the project, partner roles and responsibilities, complementary efforts, steering/advisory committee composition, stakeholder engagement, and communications needs, and were given a registry primer presentation. The first phase of the project will involve primarily engagement of a steering/advisory committee to review existing registries and drafting of initial model registry principles and operating rules. Pending DOE approval, a second phase will involve stakeholder engagement to finalize the principles and rules and development of state roadmaps for adoption and implementation of the registry.

DOE has finalized the contract with Tennessee Department of Environment and Conservation (TDEC) in December 2015. While work has started on the project, TN is now working with all of the partners to execute grant agreements.

At the conclusion of this project, the team will deliver governance rules that enable the operation of a nationally accessible and user-friendly energy efficiency registry tool and a roadmap that enables states to understand its adoption and implementation. DEP plans to include DCED, PUC and other stakeholders in these discussions and planning as we move forward.

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## **Environmental Cleanup and Brownfields**

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### **Administration of Land Recycling Program**

*Amendments to the land recycling program regulations in 25 Pa. Code Chapter 250 were approved at the Environmental Quality Board meeting on April 19. This final-form rulemaking will amend 25 Pa. Code Chapter 250 to update the Medium-Specific Concentrations established under the Statewide health standard to protect human health by using current toxicological data and to provide clarification on administrative requirements.*

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

*The next CSSAB meeting is scheduled for July 13, 2016, at 9 a.m. in the 14<sup>th</sup> Floor Conference Room, RCSOB.*

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

*The next STAC meeting is scheduled for June 7, 2016, at 10 a.m. in Room 105, RCSOB.*

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## **Environmental Education**

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### **Environmental Education Grants Program (EEGP)**

DEP's Environmental Education and Information Center (EEIC) awards grants to colleges and universities, K-12 schools, county conservation districts, businesses, and non-profit organizations, municipalities to do professional development, curriculum integration, hands-on lessons as well as covering costs associated with a variety of environmental education topics. This program is funded through a portion of fines and penalties collected by DEP.

The 2016 grant round opened October 5, 2015 and closed December 18, 2015. DEP received 229 grant applications totaling \$651,000. The grant awards will be announced on or around April 22, 2016, in conjunction with Earth Day. Grants are awarded for up to \$3,000.

### **PA Falcon Reintroduction Program**

*Between March 7 – 14 the female peregrine falcon laid four eggs in the nest on the 15<sup>th</sup> floor ledge. The male increases his hunting efforts to provide food for both of them. In mid-April, three of the four eggs hatched which is normal. The three nestlings all seem to be feeding, growing and doing well.*

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## **Oil and Gas**

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### **Water Supply Restoration Guidance Workgroup**

Staff from the Bureau of Oil & Gas Planning and Program Management hosted the second of two workgroup meetings to discuss the first draft of the Water Supply Restoration Guidance document developed to implement requirements in the proposed revisions to Chapters 78 and 78a. The workgroup was composed of representatives from both conventional and unconventional operations, including members of both the Conventional Oil and Gas Advisory Committee (COGAC) and the Oil and Gas Technical Advisory Board (TAB). The workgroup also included individuals representing the public interest from the Pennsylvania Environmental Council and Connection for Oil, Gas and Environment in the Northern Tier. The workgroup provided significant feedback on the document that staff would consider prior to formal publication for public comment. The Water Supply Restoration Guidance document was discussed with COGAC and TAB at their meetings scheduled on March 30 and March 31, respectively.

### **Coal-Gas Industry Workgroup Meeting**

DEP's oil and gas program, mining program, and U.S. Mine Safety and Health Administration (MSHA) technical staff met with coal and gas industry representatives on March 22 in New Stanton, Westmoreland County as part of a newly established Coal-Gas Committee assembled to discuss critical matters related to coordination between the two industries. The committee was formed as a result of a recent motion of the Oil and Gas Technical Advisory Board (TAB) to create this committee. A number of topics were discussed including (1) development of an acceptable update to the current coal pillar study, (2) pipeline installation in areas of active longwall mining, (3) drilling gas wells in collapsed roof materials of sealed-off portions of active coal mines, (4) coordination in situations where gas wells will be prepared for mining through or where such incidents occur inadvertently, (5) tying in well deviation surveys to mine coordinate systems, (6) updates to DEP's coal module and pillar permitting processes, and (7) development of multiple shale plays from a single well pad location in areas underlain by workable coals. An overarching goal of the committee is to define process issues so all stakeholders have a clear understanding of the requirements and mechanisms available for coordinating resource development. Moving forward, committee members plan to prioritize the topics and form smaller subcommittees consisting of individuals with subject-matter expertise in order to develop solutions.

### **Legal Challenge to Chapter 78/78a, Subchapter C Final Form Rulemaking**

*On April 7, 2016, the Pennsylvania Independent Petroleum Producers Association (PIPPA) filed a Petition for Expedited Relief to the Pennsylvania Commonwealth Court seeking relief against DEP, the Environmental Quality Board (EQB) and the Independent Regulatory Review Commission (IRRC) with regard to the final form*

Chapter 78/78a, Subchapter C rulemaking that was approved by the EQB on February 3, 2016. Specifically, this petition sought a judgement by the Commonwealth Court to deem the final form rulemaking as null and void or in the alternative, to issue a preliminary injunction staying IRRC's consideration of the final form regulations. The Commonwealth Court ruled that this matter was not ripe for adjudication and denied the petition.

After the Commonwealth Court issued this decision, PIPPA subsequently filed an appeal to the PA Supreme Court on April 15 in the form of an Emergency Application for Injunction Pending Appeal for similar consideration. The PA Supreme Court denied the appeal on April 20.

### **Independent Regulatory Review Commission Approves Chapter 78/78a, Subchapter C Final Form Rulemaking**

On Thursday, April 21, 2016, the Independent Regulatory Review Council (IRRC) approved revisions to Pennsylvania's oil and gas drilling regulations, continuing on the process that modernizes and strengthens the "Environmental Protection Performance Standards at Oil and Gas Well Sites" (Chapters 78 and 78a) rulemaking. The regulations amend the environmental controls employed by both the conventional and unconventional industries to assure the protection of public health, safety, and the environment.

These regulations have been written with an unprecedented amount of public participation, including input from the conventional and unconventional drilling industries. The final form regulatory package will improve protection of water resources, add public resources considerations, protect public health and safety, address landowner concerns, enhance transparency, and improve data management.

Among other changes to the current regulations, the final form rulemaking will:

- *Improve protections of public resources: Operators must provide notice if drilling would be near school property and playgrounds, parks, forests, and other public resources.*
- *Strengthen water supply restoration standards: If oil and gas development degrades a water supply, the operator must restore or replace the supply with one that meets Safe Drinking Water Act standards or is as good as pre-drilling conditions if the water supply was better than the Drinking Water Act standards.*
- *Require electronic filing: In order to more efficiently track well development and operations, and to provide better public access to drilling data, operators will be required to submit electronic forms rather than paper.*

The regulatory package will now be reviewed by the Legislature. After that, the regulations will be reviewed by the Attorney General's office before being published in the Pennsylvania Bulletin.

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

Please see Attachment 2.

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## **Radiation Protection**

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### **Low-Level Waste Advisory Committee (LLWAC)**

The annual meeting of the LLWAC is scheduled for October 7, 2016, at 10:00 a.m. in Room 105, RCSOB.

### **Radiation Protection Advisory Committee (RPAC)**

The next RPAC meeting is scheduled for October 13, 2016, at 9:00 a.m. in 14<sup>th</sup> Floor Conference Room, RCSOB.

### **Radiation Protection Rulemaking Packages**

**Radiation Protection Program Fees** – This rulemaking amends Chapters 218 and 240 relating to fees. DEP must review the adequacy of established fees every three years, and the current fee review indicates the need for a fee

increase in two program areas. The fees for Radioactive Materials and Decommissioning Program and the Radon Program are insufficient to cover program costs. This information was presented in a 3-year Fee Report to the RPAC and EQB in 2014 meetings of these bodies. RPAC has endorsed the increases. The proposed rulemaking was presented to and approved by the EQB on April 19, 2016, with Pa. Bulletin publication anticipated in July with a 60-day public comment period.

**Radiological Health** – This draft proposed rulemaking will amend 25 Pa. Code Chapters 215-240 to update Computed Tomography and Fluoroscopic regulations; to address new X-ray technology that is not addressed in current regulations; and to include comprehensive updates to the radon regulations to incorporate procedures and protocols that are not addressed in the current regulations. Additional items of clarification are 45-day reporting and application requirements, specifying the number of mitigation firm employees, and numerous changes and additions to the definitions section. This rulemaking has been discussed at length with RPAC in its 2014 and 2015 meetings. DEP received the Committee’s endorsement of the package in July 2015. *Regulatory language is being finalized for anticipated EQB consideration in Summer 2016.*

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## **Waste Management**

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

*The SWAC last met on April 27, 2016. The agenda included an update on DEP’s Climate Change Action Plan; a roundtable discussion on Act 101 (past, present and future); a general discussion on CRT glass management and the Covered Device Recycling Act (CDRA) with representatives from the recycling and disposal industries; and a recap of the Joint Legislative Conservation Committee’s recent public hearing on the CDRA. The next SWAC meeting is scheduled for Thursday, June 30, 2016, at 10:00 a.m. in Room 105, RCSOB.*

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## **Water Programs**

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### **New Chapter 102 and 105 Delegation Agreements**

The State Conservation Commission (SCC) approved the Department’s revised Chapter 102, including the post construction stormwater delegation, and the 105 delegation agreements at its September 15, 2015, meeting in Harrisburg. The agreements will be distributed statewide to conservation districts for signature in late October 2015. New conservation district managers participated in a conference call meeting in late July and webinar training was held in early August for all conservation districts and their board members. Conservation districts will have the opportunity to examine the key changes to the approved agreements prior to deciding if they desire to maintain, change, or terminate their level of delegation with the program. It is likely to take six to nine months after distribution for the conservation districts to review, approve, and return the new, fully executed agreements to the Department. Existing delegation agreements will remain in effect until a new agreement is executed or if the conservation district no longer wishes to be delegated. For conservation districts to continue delegation in one or both of the delegated programs, they must sign on to the new agreements. A termination process is established in the current delegation agreements should a conservation district wish to be no longer delegated.

#### **Key Changes to the Chapter 102 Agreement:**

- Permit Decision Guarantee/Permit Review Process (PDG/PRP) SOPs have been developed for each permit type and the timeframes in those SOPs are reflected in the delegation agreements and required output measures (ROMs).
- Post Construction Stormwater Management (PCSM) delegation has been developed in a stand-alone agreement, along with associated ROMs.
- The PCSM delegation provides for both completeness and engineering review of the PCSM plans; what was previously known as the “technical review” will be terminated. Districts who do not assume the

PCSM delegation will still remain required to execute completeness reviews of PCSM plans and to make note of PCSM practices during site inspections.

- Agriculture E&S is specifically identified in the base and PCSM delegation agreements and ROMs.

#### Key Changes to the Chapter 105 Agreement:

- General Permit transfers and Submerged Lands License Agreement transfers will be added to the responsibilities of the delegated conservation districts.
- Customized agreements will no longer be issued. Every conservation district will be provided the same agreement with the same delegated responsibilities.
- Permit Decision Guarantee/Permit Review Process (PDG/PRP) SOPs have been developed for each permit type and the timeframes in those SOPs are reflected in the delegation agreements and ROMs.

#### **NPDES Permitting**

On May 30, DEP published a draft NPDES General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) (PAG-13). The PAG-13 General Permit currently in effect does not expire until March 2018. If the reissued PAG-13 General Permit is published as final prior to the existing PAG-13 expiration date, it will not become effective until March 2018. DEP is seeking input on the draft PAG-13 early due to the possibility of changes to the General Permit that may necessitate significant efforts on the part of MS4 permittees in preparing future Notices of Intent (NOIs) for General Permit coverage. The most significant proposed change involves the development of Pollutant Reduction Plans for stormwater discharges to waters draining to the Chesapeake Bay and to waters impaired for nutrients and sediment, with mandatory reductions in pollutant loadings. DEP provided a 60-day comment period in lieu of the standard 30-day comment period. DEP subsequently decided to extend the comment period for an additional 15 days based on several public requests. As a result, the comment period ended on August 31, 2015. DEP received 609 comments from 64 individuals/groups. Bureau of Clean Water (BCW) staff currently are reviewing the comments, preparing the responses and, where necessary, revising the general permit.

BCW staff is currently working on the re-issuance of the NPDES General Permit for Discharges of Stormwater Associated with Industrial Activities (PAG-03). The current PAG-03 expired on December 5, 2015. The proposed draft PAG-03 general permit revision was advertised in the Pa Bulletin on October 17, 2015. The draft PAG-03 is available for viewing on the Department's website. The public comment period was open for 30 days until November 16, 2015. BCW published an Administrative Extension to PAG-03 until December 5, 2016 so that the current authorization for existing general permitted discharges does not expire until a new permit can be issued. However, during the period of Administrative Extension, new NPDES PAG-03 general permits cannot be issued. Persons seeking authorizations to discharge would need to apply for an individual NPDES discharge permit. BCW staff are currently reviewing comments and preparing responses before final issuance of the new NPDES PAG-03 permit. Issuance is targeted within the next 3 months.

#### **Sewage Sludge Land Application Permitting**

The Bureau of Clean Water (BCW) is currently re-writing the three sewage sludge land application general permits numbers PAG-07, 08 and 09. These permits initially expired in April 2014. These general permits have been administratively extended since that time and will continue to be extended until new permits are issued on a statewide basis by the BCW staff. The draft revised permits will be published for public information and comment. Target timeframe for the publication of the draft permits is within the next 3 months.

#### **Stormwater BMP Grant Program Applications Received**

DEP announced a new grant program, using EPA money, which will be used by municipalities to construct stormwater Best Management Practices (BMPs) in the Chesapeake Bay Watershed in August. The deadline for applications closed on October 9, 2015. DEP received 42 applications. The most common types of BMPs requested in the applications are raingardens, trees (urban planting and riparian buffers), and stormwater management basin retrofits. Applications came from municipalities and municipal authorities in the

southcentral, northeast and northcentral DEP regional offices. Details on the program are available on the DEP stormwater website. Scoring and recommendation for final selection has been completed and submitted for approval. Nineteen projects were recommended for funding, totaling \$2.28 million. Announcement of successful applicants should happen within the next couple months.

### **Water Allocation Permit Application Technical Guidance**

DEP is working on a significant update to the 1992 guidance document entitled General Policy and Procedure for the Review of Water Allocation Permit Applications (DEP ID 392-2130-001) that will reflect current practices and outcomes of case law. The proposed revisions articulate the Department's expectations for permit application submittals and strengthen the relationship between the Water Rights Act and the Clean Streams Law for protection of water resources. In addition, the proposed revisions will incorporate six existing water allocation guidance documents that are to be rescinded upon finalization of this guidance document. The six existing water allocation policies that will be incorporated into this guidance document are:

- 392-2130-002 Subsidiary Water Allocation Permit Requirement- Current Version
- 392-2130-004 Rescission of Water Rights- Effective May 13, 1983
- 392-2130-005 Regulation of Interbasin Transfers- Current Version
- 392-2130-007 Constant Gallons per Capita per Day (GPCD)- Effective July 13, 1987
- 392-2130-008 Permit Life- Effective July 30, 1990
- 392-2130-0012 Policy for Recognizing Succession to Water Rights as a Result of Changes of Ownership- Effective Feb. 1996

DEP anticipates working with the applicable advisory committee later this year before publishing as draft guidance.

### **Municipal Separate Storm Sewer System (MS4) Training**

DEP is providing training for the public on the PAG-13 NPDES General Permit. The training will be broken out into two sessions, one geared towards new MS4s, Notice of Intent (NOI) preparation, and the second session focusing on Pollution Reduction Plans (PRPs) and Total Maximum Daily Load (TMDL) plans. The first session will consist of six, 50 person training events throughout the state, starting the week of June 13<sup>th</sup>; each event will have two to three, one day sessions, with the third day dependant upon public interest. The second session will consist of five, 100 person training events throughout the state, starting the week of August 1<sup>st</sup>; each event will have one to two, one day sessions, with the second day dependant upon public interest.

### **Triennial Review of Water Quality Standards**

Section 303(c)(1) of the Clean Water Act and Federal regulations at 40 CFR Section 131.20 require that states periodically, but at least once every 3 years, review and revise as necessary, their water quality standards. Pennsylvania's Water Quality Standards are set forth in 25 Pa Code Chapter 93 (Water Quality Standards) and Chapter 16 (Water Quality Toxics Management Strategy – Statement of Policy).

DEP is currently drafting proposed rulemaking and related documentation to support recommended revisions to Pennsylvania's Water Quality Standards (Chapter 93), for consideration by the Environmental Quality Board (EQB). In addition, DEP is recommending related amendments to the Water Quality Toxics Management Strategy – Statement of Policy (Chapter 16). Water quality standards include designated uses, numeric and narrative criteria and antidegradation requirements for surface waters. The regulatory changes in this proposed rulemaking are the result of on-going reviews and evaluations of the water quality standards conducted by DEP. This proposed rulemaking fulfills the federally required triennial review of water quality standards as mandated by the federal Clean Water Act.

The triennial review of water quality standards proposed rulemaking (TR17) was presented to the Water Resources Advisory Committee at the March 24, 2016 meeting. The final rulemaking is anticipated in 2017,

which will be submitted to the U.S. Environmental Protection Agency for formal review and approval in accordance with the Federal Clean Water Act.

**Stream Redesignations – Sobers Run, et al. Proposed Rulemaking**

As part of its continuing water quality management program and ongoing review of water quality standards, DEP is currently drafting proposed rulemaking and related documentation to support recommended revisions to stream redesignations in Pennsylvania’s Water Quality Standards (Chapter 93), for consideration by the Environmental Quality Board (EQB). The recommended amendments are to revise 25 Pa. Code Chapter 93, §§93.9c, 93.9f, and 93.9i.

Section 303(c)(1) of the federal Clean Water Act requires states to periodically review and revise, as necessary, water quality standards. This proposed rulemaking contains waterbodies that are candidates for redesignation. Stream evaluations were conducted by DEP to determine the appropriate designated use of the candidate waterbodies. The streams in this proposed rulemaking were all evaluated in response to petitions as follows:

Stream	County	Petitioner
Swiftwater Creek	Monroe	Brodhead Creek Watershed Association
Sobers Run	Northampton	Bushkill Township
Mill Creek	Berks, Chester	Delaware Riverkeeper Network
Silver Creek	Susquehanna	Silver Lake Association

Additionally, the Department is recommending corrections to some stream names as they appear in §93.9c. The United States Geologic Survey (USGS) maintains the National Hydrography Dataset (NHD) Flowline. These corrections are being proposed to maintain consistency between the Pennsylvania Code and the NHD Flowline. The proposed rulemaking was presented to the EQB at their April 19, 2016 meeting.

**2015 Assessment and Listing Methodology**

The Department published the 2015 Assessment Methodology as final in the Pennsylvania Bulletin on February 13, 2016. The Assessment Methodology is a compilation of sampling and analysis protocols used to assess the waters of the Commonwealth for purposes of the Integrated Monitoring and Assessment Report produce every two years as required by the federal Clean Water Act. The Methodology is available on the Department’s website at [http://www.dep.pa.gov/Business/Water/PointNonPointMgmt/WaterQuality/Pages/Draft-2015-Assessment-Methodology.aspx#.Vt2rXqMo6\\_4](http://www.dep.pa.gov/Business/Water/PointNonPointMgmt/WaterQuality/Pages/Draft-2015-Assessment-Methodology.aspx#.Vt2rXqMo6_4). The methodology consists of 19 protocols to monitor and assess biological and chemical data from rivers, streams and lakes and 8 support documents and appendices. All protocols published in the 2013 Assessment Methodology were retained with four lake protocols being revised and two new protocols added. The new protocols are the Cause and Effect survey and Bacteriological Sampling Protocol. The draft Nutrient Impact Assessment Protocol was not published as a final method as the Department decided that further development of the protocol was warranted following public comment period.

**Proposed Rulemaking:**

**Revised Total Coliform Rule**

The purpose of the proposed RTCR Chapter 109 rulemaking package is to incorporate necessary federal requirements needed to obtain primacy and to provide for the increased protection of public health. The proposal does the following:

- Strengthens public health protection by ensuring the integrity of drinking water distribution systems and monitoring for the presence of microbial contamination.
- Establishes a Maximum Contaminant Level (MCL) for E.coli.

- Creates a treatment technique for coliforms that requires public water supplies (PWSs) to assess their system and correct any problems that have been identified.

The RTCR was published in the PA Bulletin on October 3, 2015. Two public hearings were scheduled on November 3 (New Stanton) and November 5 (Norristown). The public comment period closed December 1, 2015. IRRC's comment period closed December 31, 2015. The draft final rulemaking was presented for review and comment at the March 16, 2016 Small Water Systems TAC Board meeting.

### **Disinfection Requirements Rule**

The purpose of the proposed Disinfection Requirements Rule Chapter 109 rulemaking package is to strengthen requirements relating to microbial protection and disinfection by ensuring the adequacy of treatment designed to inactivate microbial pathogens and by ensuring the integrity of drinking water distribution systems. The amendments include:

- New monitoring and reporting requirements to ensure compliance with existing treatment techniques regarding log inactivation and CT requirements. Without this data, there is no way to determine compliance with the existing requirement.
- Increasing the minimum disinfectant residual requirements in the distribution system to 0.2 mg/L free or total chlorine. The Department's existing disinfectant residual requirements for the distribution system have not been substantially updated since 1992 and require the maintenance of a detectable residual that is defined as 0.02 mg/L. This is not protective of public health because a residual of 0.02 mg/L does not represent a true detectable residual and the level is inadequate to protect against microbial growth within the distribution system.
- The amendments also include minor clarifications to the Stage 2 Disinfectants/Disinfection Byproducts Rule (Stage 2 DBPR), Long Term 2 Enhanced Surface Water Treatment Rule (LT2) and the Lead and Copper Rule Short-Term Revisions (LCRSTR) in order to obtain or maintain primacy.

The pre-draft proposed rulemaking was originally included in the Proposed Revised Total Coliform Rule (RTCR), which was presented to the Small Water Systems Technical Assistance Center (TAC) Board on June 18 and September 23, 2014 for review and comment. However, on April 21, 2015, the Environmental Quality Board approved the proposed RTCR with modifications. The modifications included splitting out the "Non-RTCR" provisions for additional stakeholder input. The motion was made with the expectation that the "Non-RTCR" provisions would be revisited in short order. On April 30, 2015, the TAC Board voted to recommend that the Department further split the "Non-RTCR" provisions to focus solely on the disinfection requirements and the minor corrections needed to obtain/maintain primacy.

In order to provide additional opportunity for stakeholder input on the disinfection requirements, TAC meetings were convened on May 18, May 26, June 16 and June 30, 2015. Two meetings were also held with large water systems on June 29 and July 16, 2015 to gather additional comments. During these meetings, 14 water systems and organizations delivered presentations to help inform the discussion.

The proposal was presented to the EQB for consideration on Nov 17, 2015 and was approved as a proposed rulemaking. On December 30, 2015, the Disinfections Requirements Rule (7-520) was transmitted to the Office of Attorney General commencing their 30-day review. The proposed rulemaking was published in the PA Bulletin on February 20, 2016, opening the public comment period. Three hearings are scheduled for March 28 (Harrisburg), April 5 (Norristown), and April 7 (Pittsburgh). The public comment period closes on April 19, 2016.

**Waukesha, WI Diversion Proposal – Meeting of the Great Lakes and St. Lawrence River Basin Regional Body, Chicago, IL**

*On April 21 & 22, the Regional Body consisting of the eight Great Lakes states and two Canadian provinces met at the University of Illinois to consider the Declaration of Findings surrounding the Waukesha, Wisconsin, proposal to divert Lake Michigan water. SDS Kelly Heffner, Timothy Bruno, and Trisha Salvia represented Governor Wolf and Pennsylvania. The Waukesha diversion proposal is for an exception to the prohibition on diverting Great Lakes water outside of the basin, specifically utilizing the Compact’s exception for a Community in a Straddling County. During the meeting, the states and provinces proposed and negotiated many amendments to the Declaration of Findings, notably: a reduced area that can receive diverted Lake Michigan water; a reduced daily maximum withdrawal volume; restrictions on permitting new groundwater wells in the aquifer that is currently contaminated; and, requirements for enhanced water accounting, metering, and conservation and efficiency. A conference call will be held for Regional Body members on May 2 to consider the amended draft language, then a follow-up meeting will be held in Chicago, IL on May 10 & 11 to vote on the final Declaration of Findings. The Compact Council consisting of the eight states will conduct a final vote on the proposal at a meeting in Chicago on June 13.*

**Attachment 1**

**2016 Events Calendar**

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

<b>May</b>	
4	<i>Aggregate Advisory Board, 10 a.m., Susquehanna Conference Room, South-central Regional Office, 909 Elmerton Avenue, Harrisburg</i>
17	<i>Environmental Quality Board, 9:00 a.m., Room 105 RCSOB</i>
17	<i>Climate Change Advisory Committee, 9:00 a.m. Room 105 RCSOB</i>
<b>June</b>	
7	<i>Storage Tank Advisory Committee, 10 a.m., Room 105 RCSOB</i>
8	<i>Coastal Zone Advisory Committee, 9:30 a.m., 10<sup>th</sup> Floor Conference Room RCSOB</i>
9	<i>Air Quality Technical Advisory Committee Meeting, 9:15 a.m., Room 105 RCSOB</i>
21	<i>Environmental Quality Board, 9:00 a.m., Room 105 RCSOB</i>
23	<i>Joint Oil and Gas Technical Advisory Board and Conventional Oil and Gas Advisory Committee Meeting, 10:00 am, 186 Enterprise Drive, Philipsburg, PA</i>
30	<i>Solid Waste Advisory Committee, 10 a.m., Room 105 RCSOB</i>
<b>July</b>	
12	<i>Climate Change Advisory Committee, 9:00 a.m., Room 105 RCSOB</i>
13	<i>Cleanup Standards Scientific Advisory Board, 9:00 a.m., 14<sup>th</sup> Floor Conference Room, RCSOB</i>
27	<i>Small Business Compliance Advisory Committee, 10 a.m., 12<sup>th</sup> Floor Conference Room, RCSOB</i>
<b>August</b>	
3	<i>Aggregate Advisory Board, 10 a.m., Room 105 RCSOB</i>

Attachment 2

**Oil and Gas Workload Report**

YTD WELL PERMIT APPLICATIONS - 1/1/2016 to 4/22/2016						
	RECEIVED	UNDER REVIEW	PROCESSED	PERMITS ISSUED	WELLS PERMITTED	OTHER DISPOSITIONS
CONVENTIONAL	79	33	54	54	54	0
UNCONVENTIONAL	419	165	475	474	473	1
<b>Sub Total</b>	<b>498</b>	<b>198</b>	<b>529</b>	<b>528</b>	<b>527</b>	<b>1</b>
AUTHORIZATIONS	227	154	237	229	N/A	8
<b>Total</b>	<b>725</b>	<b>352</b>	<b>766</b>	<b>757</b>	<b>752</b>	<b>9</b>

WEEKLY WELL PERMIT APPLICATIONS – 4/16/2016 to 4/22/2016						
	RECEIVED	UNDER REVIEW	PROCESSED	PERMITS ISSUED	WELLS PERMITTED	OTHER DISPOSITIONS
CONVENTIONAL	3	3	0	0	0	0
UNCONVENTIONAL	26	26	11	11	11	0
<b>Sub Total</b>	<b>29</b>	<b>29</b>	<b>11</b>	<b>11</b>	<b>11</b>	<b>0</b>
AUTHORIZATIONS	2	2	18	11	N/A	7
<b>Total</b>	<b>31</b>	<b>31</b>	<b>29</b>	<b>22</b>	<b>23</b>	<b>7</b>

HISTORICAL WELL PERMIT APPLICATIONS AS OF 4/22/2016						
	RECEIVED	PROCESSED	PERMITS ISSUED	WELLS PERMITTED	OTHER DISPOSITIONS	ACTIVE PERMITS
CONVENTIONAL	197,259	197,219	195,997	189,929	1,222	104,047
UNCONVENTIONAL	21,784	21,585	21,148	17,436	437	10,243
<b>Sub Total</b>	<b>219,043</b>	<b>218,804</b>	<b>217,145</b>	<b>207,365</b>	<b>1,659</b>	<b>114,290</b>
AUTHORIZATIONS	41,809	41,472	41,161	N/A	311	18,587

<b>Total</b>	<b>260,852</b>	<b>260,276</b>	<b>258,306</b>	<b>248,040</b>	<b>1,970</b>	<b>132,877</b>
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**YTD INSPECTIONS - 1/1/2016 to 4/22/2016**

	<b>INSPECTIONS</b>	<b>FACILITIES INSPECTED</b>	<b>VIOLATIONS</b>	<b>ENFORCEMENTS</b>
CONVENTIONAL	5,061	4,409	905	136
UNCONVENTIONAL	4,757	3,208	177	51
CLIENT/SITE	1,239	0	433	95
<b>Total</b>	<b>11,057</b>	<b>7,617</b>	<b>1,515</b>	<b>282</b>

**WEEKLY INSPECTIONS - 4/16/2016 to 4/22/2016**

	<b>INSPECTIONS</b>	<b>FACILITIES INSPECTED</b>	<b>VIOLATIONS</b>	<b>ENFORCEMENTS</b>
CONVENTIONAL	266	259	21	3
UNCONVENTIONAL	248	245	1	1
CLIENT/SITE	53	0	1	3
<b>Total</b>	<b>567</b>	<b>504</b>	<b>23</b>	<b>7</b>

**WELLS DRILLED**

	<b>Two Years Prior 1/1/2014 to 4/22/2014</b>	<b>One Year Prior 1/1/2015 to 4/22/2015</b>	<b>Year To Date 1/1/2016 to 4/22/2016</b>	<b>Week of 4/16/2016 to 4/22/2016</b>	<b>As of 4/22/2016</b>
CONVENTIONAL	221	99	18	1	193,862
UNCONVENTIONAL	380	278	123	9	9,737
<b>Total</b>	<b>601</b>	<b>377</b>	<b>141</b>	<b>10</b>	<b>203,599</b>

This report was prepared by Abbey Cadden, Policy Aide, DEP Policy Office. For questions or requests, please email [acadden@pa.gov](mailto:acadden@pa.gov) or call (717) 705-3769.