

Department of Environmental Protection
Report to the Citizens Advisory Council
October 2013
(new information is in italics)

Overall DEP

Public Participation Rollout

DEP continues to move forward with its Enhanced Public Participation and Education Initiative with valuable feedback from the Citizens' Advisory Council. Suggested improvements to the website are under way, a citizens' guide to the regulatory process is under development and other avenues for improved dissemination of DEP news will be unveiled soon. DEP is finalizing comments received during the public comment period on the draft Public Participation in the Permit Review Policy and hopes to have a final policy available by the end of the fourth quarter.

State Energy Program (SEP) Energy Efficiency

Keystone HELP Program

The DEP-supported Keystone HELP program has provided a total of 4,727 consumer loans valued at \$40,649,457.98 to PA home-owners resulting in annual energy savings of 16,315,757.75 kwhs of electricity; 97,206,667.71 kBTU reduction in heating fuel consumption; and 20,258,300.72 lbs. reduction in CO₂e emissions through installed residential energy conservation and efficiency measures since the American Recovery and Reinvestment Act (ARRA) inception. The Geothermal Loan Program funded 473 of those loans, totaling \$6,173,200.63. In addition, there have been 368 Pennsylvania Housing Finance Authority (PHFA) Renovate and Repair loans totaling \$7,886,703.53.

The Keystone HELP program was recently recognized at the Alliance to Save Energy's 21st annual awards dinner, held in Washington, D.C. with the Alliance to Save Energy's Andromeda Star of Energy Efficiency Award. The Alliance to Save Energy is a nonprofit organization that promotes energy efficiency worldwide through research, education and advocacy. The Andromeda Star of Energy Efficiency Award recognizes outstanding achievements in Energy Efficiency for entities earning less than \$10 M in annual revenue. The Alliance encourages business, government, environmental and consumer leaders to use energy efficiency as a means to achieve a healthier economy, a cleaner environment and greater energy security. Pennsylvania was recognized for the Keystone HELP which provides low-cost financing to homeowners for ENERGY STAR home improvements. Projects include whole house energy improvements, such as upgrading an HVAC unit, adding insulation or installing a geothermal heat pump, among other improvements. As of December 2012, Keystone HELP has made more than 12,000 secured and unsecured loans totaling more than \$100 M. The Pennsylvania Treasury estimates that the completed home improvement projects are saving consumers \$2.5 M a year on energy bills. Keystone HELP receives interest rate and credit support from DEP and is administered by AFC First Financial Corporation. Funding has been provided from the United States Department of Energy's State Energy Program. It is also supported by the Pennsylvania Department of Treasury and the Pennsylvania Housing Finance Agency.

Building Re-tuning Training

On Sept. 10, 2013 and Sept. 11, 2013, government-only building re-tuning (BRT) training was held in Lower Merion Township. BRT is a systematic process to identify low/no cost strategies for reducing energy usage in commercial buildings. The training began with a four hour classroom session, during which participants learned how to conduct a walk-down of a building's envelope, as well as, HVAC & lighting systems. During the second half of Sept. 10, 2013, a building walk-down/re-tune was conducted at the Bryn Mawr Community Center. On Sept. 11, 2013, the same participants conducted a walk-down of Graterford Prison's Administration Building. Participants included facility managers from Lower Merion Township, the City of Philadelphia, Upper Makefield Township, and Graterford Prison. On Oct. 29, 2013, the same participants are to attend a re-tune of the municipal building at Upper Makefield Township. Finally, in Nov. 2013, a re-tune will be conducted at the City of Philadelphia's Police Administration Building. Funding for BRT training is made possible through the U.S. Department of Energy State Energy Program (SEP).

Building Operator Training

Building Operator Certification (BOC) training at Penn State Abington is completed. BOC is a program designed to assist those who operate buildings in understanding the whole-systems approach to energy and facilities management. A variety of building management topics including lighting systems, heating ventilation & air conditioning (HVAC), indoor air quality, sustainability, and energy conservation were addressed. Over the course of 4 months, a total of 8 classes were given to 20 facility managers from southeast PA municipalities and the following state agencies; Department of General Services, Department of Public Welfare, and Department of Corrections. BOC training costs for 20 students were paid for with U.S. Department of Energy State Energy Program (SEP) funds. Students gave mostly all positive comments on their final evaluation forms and the majority stated they were going to implement some of the energy efficient strategies they learned during the training.

Emergency Response

DEP subject matter experts continue to work with the PSP Intelligence Analysts at the Pa. Criminal Intelligence Center (PaCIC), the Commonwealth's Fusion Center performing intelligence analysis on information about energy supplies and environmental issues while looking for threat trends and preparing response strategies for the same.

DEP continues to participate with the PA Department of Agriculture's multi-disciplinary Food and Feed Rapid Response Team to survey food chain and the animal feed chain procedures for vulnerabilities which may exist. This gap analysis is not yet complete. Next steps will be to develop a Food and Feed Contamination Response Plan with DEP personnel assisting with issues concerning safe drinking water, groundwater contamination, waste disposal, etc. We anticipate that the end of this process will produce Memorandum of Understandings and Standard Operating Procedures for all agencies/departments which will provide a quick and effective response to contamination incident.

DEP partnered with the PA Department of Agriculture and the PA Game Commission to revise the commonwealth's Chronic Wasting Disease Response Plan. Chronic Wasting Disease or CWD is a prion disease of the Cervid Genus (deer, elk, and moose) which was discovered in the commonwealth in 2012. There is no known cure and there is no known vaccine for CWD. The plan will be reviewed and signed by the heads of all Agencies involved before being finalized.

DEP is assisting PEMA to update the commonwealth's Emergency Operations Plan by providing updates to Emergency Support Functions (ESFs) 10 and 12. The DEP is the Primary Agency responsible for both ESF 10 - Oil and Hazardous Material (includes radioactive materials) and ESF 12 – Energy.

Permit Application Consultation Tool (PACT)

DEP has developed an online tool that is a valuable resource to potential applicants who are considering siting a new project in Pennsylvania, or expanding or relocating an existing operation. This tool will allow potential applicants to quickly and easily determine which types of environmental permits, authorizations or notifications may be required for specific projects. The tool guides users through a series of simple questions and provides information on permits that may be required based on the user's responses. The results of the tool will then serve as a foundation for a Pre-Application Conference with DEP staff to discuss and verify tool results and permit coordination. This tool was released in mid-Sept. 2013 and is located along with additional information about PACT on the DEP website at <http://www.ahs.dep.pa.gov/PACT/>.

Permit Review Process and Permit Decision Guarantee

In the fall of 2013 DEP will initiate an annual review of the Permit Review Process and Permit Decision Guarantee policy. At this time, DEP staff will be asked to provide input on the effectiveness of the policy. DEP also plans to hold a 30-day public comment period on the Permit Review Process and Permit Decision Guarantee policy. This will allow stakeholders an opportunity to provide feedback on the effectiveness of the new policy. Following the 30-day public comment period, a comment response document will be developed. The fourth quarterly report will be available in Nov. 2013.

CEP Policy

The Community Environmental Project policy, a policy that allows a person or regulated entity to propose a community environmental project in lieu of a fine, will be available for public comment soon. The 30-day public comment period will be announced in the Pennsylvania Bulletin. Both the Citizens Advisory Council and Environmental Justice Advisory Board have reviewed the document and given comments prior to the public comment release.

Water Management

Water Quality Standards Triennial Review

Once every three years, the department is required by the Federal Clean Water Act to review and amend, as necessary, its water quality standards. This process is known as the Triennial Review. The department has conducted the review and identified needed additions, corrections, and updates to the water quality regulations. A number of new chemical parameter limits are proposed. At the regularly scheduled WRAC meeting in Jan. 2012, they voted to accept the Triennial as presented. The EQB approved the triennial review proposed rulemaking at the April 2012 meeting. The triennial review proposed rulemaking was published in the *Pennsylvania Bulletin* with a 45-day public comment period. Two public hearings were held on the proposal. Concurrently, the department also proposed revisions to Chapter 16 Water Quality Toxics Management Strategy – Statement of Policy that are consistent with, and accommodate the proposed revisions to the water quality standards regulations. The department’s Water Resources Advisory Committee (WRAC) held two Adhoc workgroup sessions in Aug. 2012 to discuss Molybdenum and Sulfates. The department presented the final rulemaking to WRAC in Nov. 2012. WRAC endorsed taking the final rulemaking to EQB. *The department presented the final rulemaking package to EQB on April 16, 2013. The EQB voted to approve the rulemaking. The rulemaking was submitted to the Legislative Standing Committees and the Independent Regulatory Review Commission (IRRC) who respectively approved the final rulemaking on June 19, 2013 and June 20, 2013. The rulemaking was approved for form and legality by the Attorney General’s Office and was published as final in the July 20, 2013, edition of the Pennsylvania Bulletin. The Triennial Review was submitted to EPA the week of Oct. 7, 2013.*

NPDES MS4 Permitting and Compliance

DEP has issued approximately 40% of the more than 900 MS4 NPDES permit applications and Notices of Intent (NOIs) that were submitted by regulated municipal separate storm sewer systems (MS4s) in 2012. DEP has proceeded to develop a compliance monitoring program for MS4 permittees over the past few months, including an inspection report, a standard operating procedure for compliance monitoring, an annual/progress reporting template, and a TMDL Plan/Chesapeake Bay Pollutant Reduction Plan reporting template. DEP’s Central Office trained three regional offices on the new procedures on Sept. 30, 2013 and will train the other three regional offices in the near future. DEP anticipates providing training to MS4 permittees in 2014.

Waste Management

Municipal and Residual Waste Regulation Revisions

The proposed *Regulated Medical and Chemotherapeutic Waste* rulemaking was published in the *Pennsylvania Bulletin* on Aug. 24, 2013, and the 30-day public comment period ended on Sept. 23, 2013. During the official public comment period, the EQB received comments from five commentators. IRRC’s comments are due to the EQB by Oct. 23, 2013. At that time, Bureau of Waste Management (BWM) will begin reviewing all the comments received, preparing the comment/response document, and amending the proposed rulemaking where necessary.

General Permits

The following residual waste GPs are currently being modified by BWM:

- General Permit Number WMGR081 – *The comment/response document is being drafted. BWM will be publishing notice of a six-month extension of the permit term in the Pennsylvania Bulletin on Oct. 19, 2013.*
- General Permit Number WMGR097 – *The final permit and associated documents are being reviewed for final publication in the Pennsylvania Bulletin; an update will be provided in the next monthly report.*

Radiation Protection

Comprehensive Oil and Gas Development Radiation [TENORM] Study

The TENORM study is now ongoing with field activities, such as sample collection, radiation surveys, and data analysis since mid-April 2013. As of the end of Sept. 2013, the first two rounds of sampling at the 25 Waste Water Treatment Plants have been completed, a third and final round of sampling will start shortly. With respect to landfills, 54 have been sampled for leachate to help determine if TENORM disposal is increasing the radioactivity in the landfills, and 9 landfills will be more extensively sampled and surveyed. Four natural gas underground storage formations have been sampled

for Radon-222 in the natural gas during the injection of the natural gas into these storage fields. Subsequent samples will be taken during withdrawal of the natural gas samples going to the customers. Finally, 13 well pads have been extensively sampled and surveyed for radiological analysis and contamination, during the 4 phases of drilling; vertical drilling, horizontal drilling, fracking, and flow back. At least at the well pads the sampling team has been challenged due to the variable conditions that exist at these types of facilities. Sample collection will continue into the fall and winter of 2013, and possibly into early 2014.

Environmental Cleanup and Brownfields

Land Recycling Cleanup Standards Regulation Revisions

DEP intends to update the statewide health standard Medium-Specific Concentrations (MSCs) based on new toxicological data published since the last revisions to the MSCs. DEP is required to update the MSCs every three years so the standards include the most current scientific data. DEP provided draft revisions to the CSSAB in May 2013 and received comments from the board. *DEP is revising the draft regulations based on the comments from the CSSAB and intends to present the regulations at the next CSSAB meeting on Oct. 23, 2013.*

Storage Tank Modification and Maintenance Guidance

Proposed updates to DEP's Storage Tank Modification and Maintenance Technical Guidance Document #263-0900-011 were published for public comment on Sept. 28, 2013. This technical guidance document assists certified tank installers in determining what constitutes modification and maintenance activities. The definitions section in the document was revised to be consistent with the regulatory language and edited for clarity. Several definitions contained in regulation were added to the document (Containment Structure or Facility, Emergency Containment and Excavation Zone). In the Technical Guidance section of the document, regulatory text was added for additional guidance on tank handling activity, conflict of interest, under dispenser containment, and report submission deadlines. Several recommended practice documents are now mentioned and specific examples of what are considered major modification, minor modification and maintenance activities were added and/or updated.

2013 Brownfields Conference

Registration is now open for the annual Pennsylvania Brownfields Conference to be held Dec. 9-11 at the Radisson Valley Forge Hotel, King of Prussia. The conference, hosted by the Pennsylvania Department of Environmental Protection (DEP), in partnership with the Engineers' Society of Western Pennsylvania, is the largest brownfields networking and education event in Pennsylvania. The theme of this year's conference, "Positioning for the Future," will highlight building community partnerships, incorporating sustainable design into projects, accessing financial assistance and keeping abreast of regulatory changes. There will also be mobile workshops at the Navy Yard and Conshohocken waterfront, a video showcase of success stories, technical updates on market trends and treatment options, and a tiered track of courses that will provide continuing education credits for professionals attending the conference. The popular Extreme Makeover competition will also take place.

Brownfields Focus Group Meetings

The Bureau has invited variety of program stakeholders (consultants, economic development agencies, and developers) with extensive experience with Pennsylvania's Land Recycling program to provide feedback on brownfields redevelopment challenges, the success of DEP's Brownfield Action Team and emerging trends. The Bureau scheduled meetings on October 4 and October 17 to receive informal feedback from those interested. DEP intends to update its fact sheets and publications on DEP services and programs designed to promote brownfield cleanup and redevelopment.

Air Quality

Proposed Revision to Title V Emission Fee

On Feb. 2, 2013, the Environmental Quality Board published, for *public review* and comment, the proposed *amendments* to the Title V emission fee provisions in 25 Pa. Code Chapter 127, Subchapter I (relating to plan approval and operating permit fees). The proposed rulemaking would amend 25 Pa. Code §127.705 (relating to emission fees) to establish a base Title V annual emission fee of \$85 per ton for up to 4,000 tons of each regulated pollutant, beginning with the fees due by Sept. 1, 2014, for emissions from Title V facilities in the 2013 calendar year. The initial base Title V annual emission fee, established at 24 Pa.B. 5899, Nov. 26, 1994, was \$37 per ton of regulated pollutant up to 4,000 tons of each regulated pollutant per Title V facility. As provided in § 127.705(e), the emission fee imposed under § 127.705(a) has been

increased in each year after Nov. 26, 1994, by the percentage, if any, by which the Consumer Price Index for the most recent calendar year exceeded the Consumer Price Index for the previous calendar year. Under the existing regulatory framework, the base Title V annual emission fee has not been revised since 1994. The Title V annual emission fee due Sept. 1, 2012, for emissions occurring in calendar year 2011 was \$56 per ton of regulated pollutant for up to 4,000 tons of each regulated pollutant; the 2013 emission fee for 2012 emissions is \$57.50 tons per year up to 4,000 tons of each regulated pollutant emitted from a Title V facility.

Minor clarifying amendments were also proposed for § 127.701 (relating to general provisions). The final rulemaking would revise § 127.701 to clarify that fees paid to the department are deposited into the Pennsylvania Clean Air Fund. The final rulemaking would also make additional editorial changes to this section.

Three public hearings were held in March 2013. The public comment period closed on April 8, 2013. No members of the public provided testimony at the public hearings. Written comments were received from four commentators during the public comment period. Comments from the Independent Regulatory Review Commission were received on May 8. The comments were reviewed and a final rulemaking package has been prepared. The draft final-form regulation was considered by the Air Quality Technical Advisory Committee during the June 13, 2013 meeting. The final draft rulemaking was discussed with the CAC Policy and Regulatory Oversight Committee on June 21, 2013. The CAC voted to support the department's recommendation to move the rulemaking package to the EQB for final consideration on July 16, 2013. The SBCAC voted to support the department's recommendation to move the rulemaking package to the EQB for final consideration on July 24, 2013. *The final rulemaking package was unanimously approved by the Environmental Quality Board at the Board's Sept. 17, 2013 meeting, and was submitted to the Independent Regulatory Review Commission (IRRC) and the Standing Environmental Resources and Energy Committees on October 3, 2013. IRRC has confirmed that it will consider the final rulemaking at its November 7, 2013, meeting.*

Climate Change

The department is required under Act 70 of 2008 to prepare a climate impacts assessment and action plan and update those reports every three years. The impacts assessment report has been prepared by researchers at the Pennsylvania State University. *The report has been posted on the DEP website. The Climate Change Advisory Committee (CCAC) is reviewing draft work plans that will be included in the department's Climate Change Action Plan report to Pennsylvania's General Assembly. During the CCAC meeting on Aug. 27, 2013, the committee endorsed action plans including the following: Coal Mine Methane; Manure Digesters; Sulfur Hexafluoride; Forest Protection Initiative (Easement); Forest Protection Initiative (Acquisition); Re-Roof Pennsylvania; and Increased Recycling Initiative. The Center for Climate Strategies provided the draft macroeconomic analysis of the Climate Change Action Plan for review and comment on Sept. 16, 2013.*

Barto Compressor Station Monitoring

On Jan. 24, 2013, the Clean Air Council (CAC) released a report alleging that the Barto Compressor Station near Hughesville (Penn Township), Lycoming County, caused modeled violations of the 2010 1-hour nitrogen dioxide (NO₂) NAAQS. In response to the CAC report, DEP conducted short-term ambient air sampling of NO₂ concentrations in the vicinity of the Barto Compressor Station during the week of July 22, 2013. NO₂ concentrations were measured for 24-hours-a-day over a three-day period. A summary report of the study's findings demonstrates that DEP did not detect ambient NO₂ average concentrations greater than the 1-hour NO₂ NAAQS. This is consistent with 1-hour NO₂ concentrations measured at the DEP Towanda air-monitoring site in neighboring Bradford County. The report was released to the public on Aug. 29, 2013.

Energy Initiatives

Natural Gas Vehicles

The 2nd round of the Natural Gas Energy Development Program (Act 13) is prepared and ready to be released. A release date has not yet been identified. The program should open this fall with an application deadline sometime around the holidays. The Natural Gas Energy Development Program (Act 13) will be offering an estimated \$11 M to help pay for the incremental purchase and conversion of compressed natural gas (CNG), liquefied natural gas (LNG) and bi-fuel vehicles weighing 14,000 pounds or more. Those eligible to apply for the grants include local transportation organizations, incorporated non-profit entities, for-profit companies, state owned or state related universities, Commonwealth or municipal authorities, and the Pennsylvania Turnpike Commission.

This round of funding for Fiscal Year 2013-14, Act 13 stipulates that 50% of the available funds be allocated exclusively for local transportation organizations, including non-profit agencies providing public transportation services and public transportation, port and redevelopment authorities, as well as school bus projects. Note that in accordance with Act 13, this is the last round for which an exclusive allocation for local transportation organizations will be made. Applicants interested in purchasing or converting one or two heavy-duty alternative fuel vehicles are encouraged to partner with other eligible applicants to aggregate their vehicles into a single application to satisfy the 5 vehicle minimum. Grant requests can be no more than 50% of the incremental purchase or retrofit cost per vehicle, with a maximum total of \$25,000 per vehicle.

Alternative Fuel Vehicles

The 2013 round of the Alternative Fuels Incentive Grant Program (AFIG) closed on Friday, July 26, 2013. Programmatic review of the applications has been completed and recommendations for awards have been made. An announcement of the awards should occur in Oct.

The PA Turnpike Commission (PTC) held a pre-bid, site visit meeting with representatives from Car Charging Group (CCGI) to discuss upcoming deployments of electric vehicle chargers funded, in part, by a DEP Alternative Fuels Incentive Grant. Representatives including: PA Contractors, PTC Electricians, Regional Facilities Managers, HMS Host Service Techs and Plaza Managers visited Turnpike rest stops at Oakmont and New Stanton on Monday, Aug. 19, 2013, and Bowmansville and King of Prussia on Tuesday, Aug. 20, 2013. CCGI's schedule required all contractor proposals' to be submitted by Sept. 2, 2013, and it is anticipated that the award for the install work will be released on Sept. 16, 2013. The estimated completion date for the initial four Level II installations at the aforementioned rest stops will be Oct. 31, 2013.

Two AFIG projects located in the Pittsburgh region were recently extended until June 30, 2014. Both projects, Western PA Operating Engineers and Fossil Free Fuels are retrofitting on-road and off-road vehicles to operate on high concentrations of biodiesel or in some cases straight waste vegetable oil. Both projects are using a biofuel injection technology retrofitted onto existing vehicles owned either by themselves or project partners located through-out the Pittsburgh area. This cutting edge technology biofuel injection technology is being developed and deployed by the Pittsburgh based company, Optimus Technologies. The two projects also involve the siting of biofuel dispensing tanks made by Steel City Fueling systems, another Pittsburgh company, at three locations throughout southwestern PA.

PA Sunshine Program

There is just over \$1.5 M left in the PA Sunshine program. We are on pace to offer the final rebate in the program around the end of the calendar year. Since 2009, the PA Sunshine Program, together with the DEP Grant Center, has processed for approval over 7,800 applications totaling nearly \$112 M in rebates.

Promoting Energy Efficient Buildings

International Energy Conservation Codes

DEP has committed to developing and implementing a program that will measure and ensure 90% statewide compliance with the 2009 International Energy Conservation Codes by 2017. DEP will continue to conduct statewide benchmarking of current compliance status, education workshops targeted to local government policy makers, and supplemental energy code compliance training.

ISA 5001 Compliance

Additionally ISO 5001 is an international standard, developed in June 2011, to assist organizations in implementing a management system approach to improving its energy performance, through reducing energy cost and improving and organization's control over energy usage. DEP has held 6 sessions, with 216 participants to introduce the concept of the new international standard and is currently planning a more in depth training program for entities interested in learning how to cut energy costs.

Building Operator Certification

DEP is currently training 20 facility managers from state government agencies and municipalities in Building Operator Certification (BOC), "a nationally recognized, competency-based training and certification program that offers facilities personnel the improved job skills and knowledge to transform workplaces to be more comfortable, energy-efficient and

environmentally friendly." Equipped with this knowledge, BOC graduates from past programs have saved \$12,000-\$20,000 in utility bills annually for their buildings.

Building re-tuning (BRT) training

BRT is a systematic process to identify and correct no/low cost building issues that lead to energy waste which consists of on-site technical assistance on what to look for during a building-walk down. Via our State Energy Program funds, DEP will train several facilities managers from three local governments and one state agency this fall. Early next year, DEP will pay for a second round of BRT training, in which several additional facility managers from state & local governments will be trained.

Licensed Professional Verification Program for Energy Star Certification of K-12 Schools

This proposal builds on an existing program whereby DEP assists K-12 schools in benchmarking and tracking their energy usage. This program would provide the funds to have a PE or RA conduct the required onsite visit for Energy Star certification and verify the energy data entered by the school district in Portfolio Manager. Funds would be provided on a first-come, first-serve basis.

Energy Management for Public Wastewater and Drinking Water Utilities

DEP's Technical Assistance program, in conjunction with EPA Region III, will provide the third and final "E2 -Energy Efficiency at Wastewater & Drinking Water Facilities" conference and training for water and wastewater professionals in the fall of 2013. These sessions will include performing up to 8 detailed energy audits at water/wastewater treatment facilities.

Oil and Gas

Draft Proposed Rulemaking – Chapter 78, Subchapter C

On August 27, 2013, the EQB adopted the Department's proposed rulemaking that updates 25 Pa Code Chapter 78 Subchapter C in order to strengthen environmental protection measures related to surface activities at oil and gas sites. The rulemaking includes measures to implement Act 13 of 2012 and also includes provisions that modify and update existing requirements, including those for the containment of regulated substances, waste disposal, site restoration and reporting releases. The proposed regulations also establish new provisions for borrow pits, oil and gas gathering pipelines, identification of abandoned wells and the road-spreading of brine. In addition, the proposed regulations add new provisions for unconventional gas wells regarding the identification of impacts to public resources, standards for freshwater and wastewater impoundments, well site containment systems, wastewater processing and water management plans. The rulemaking was developed with extensive input by the Department's Oil and Gas Technical Advisory Board (TAB) and other partners including local government organizations, environmental organizations and industry representatives.

The rulemaking is currently being reviewed for form and legality by the Attorney General's Office. Upon conclusion of that review, the rulemaking will be published in the Pennsylvania Bulletin, where a 60-day public comment period and at least 6 public hearings will be advertised. Details concerning the hearings, including dates, times and locations, will be announced in the Pennsylvania Bulletin notice for the proposed rulemaking.

Draft Proposed Rulemaking – Chapter 78, Subchapter B (relating to permits, transfers and objections)

Section 78.19(f) requires the department to provide the EQB with an evaluation of the fees in Chapter 78 and "recommend regulatory changes to the EQB to address any disparity between the program income generated by the fees and the department's cost of administering the program with the objective of ensuring fees meet all program costs and programs are self-sustaining." This evaluation is required at least once every three years. Because the prior fee regulation was effective in Oct. 2009, the department prepared the 3-Year Report and developed a proposed rulemaking to address the disparity between program income and costs as described below.

The purpose of the proposed regulation is to change the unconventional natural gas well permit fee structure from a sliding fee schedule based on well bore length to a fixed fee of \$5,000 for horizontal unconventional wells and \$4,200 for vertical unconventional wells. As a result of this change in structure, the permit fee for an average unconventional well will increase by approximately \$1,800 per well for horizontal wells and by \$2,200 per well for vertical unconventional wells.

Since 2010, the department has experienced a 22% decrease in the number of unconventional well permit applications received. The decline in permit applications is met with declining revenues but with the passage of Acts 9 and 13 of 2012, the overall responsibility of the Oil and Gas Program has increased. It is imperative that the department have the resources and technology necessary to ensure industry compliance and environmental protection as Office of Oil and Gas Management responsibilities in this area continue to expand.

This increase in workload coupled with declining permit revenues creates a situation where the incoming permit revenue is insufficient to cover the current operational costs of the program, not allowing any room for flexibility in terms of future staff and resource needs. As the Oil and Gas industry continues to expand in Pennsylvania, additional department staff and technology will be critical to ensure the department's proper oversight of the industry.

The department consulted with the TAB in the development of this proposed rulemaking. The department presented the draft proposed rulemaking to TAB at its April 23, 2013 meeting. Because the rulemaking does not address technical issues relating to oil and gas, TAB did not take a formal action relative to the proposed rule.

On July 16, 2013, DEP presented the proposed rulemaking package to the EQB and the board voted unanimously to proceed with publication for a 30-day public comment period.

The proposed rulemaking was published in the Pennsylvania Bulletin on Saturday, Sept. 14. Since Oct. 14 is a state holiday, the public comment period will close on Tuesday, Oct. 15, 2013.

STRONGER REPORT

On Sept. 27, DEP announced that an independent peer review of its Office of Oil and Gas Management found it to be proficient and ready to address the increase in oil and gas operations in Pennsylvania.

The peer review was conducted by a non-profit, multi-stakeholder organization called State Review of Oil and Natural Gas Environmental Regulations, Inc. (STRONGER). STRONGER is comprised of experts from government, industry and environmental organizations that conduct a state review process to evaluate program strengths and provide recommendations for program improvements of state oil and gas programs throughout the nation.

DEP's participation in the STRONGER review fulfills a recommendation put forth by Gov. Corbett's Marcellus Shale Advisory Commission.

In March 2013, DEP volunteered to have its program reviewed by STRONGER. Upon completion of the review, the team highlighted the strengths of the Office of Oil and Gas Management, particularly for:

- *Increasing its staff levels to address additional permitting, inspection and enforcement activities related to increased unconventional gas well development;*
- *Expanding the program's public participation activities associated with the abandoned well sites program;*
- *Initiating a comprehensive evaluation of radiation levels specifically associated with unconventional gas development, the first of its kind in the nation;*
- *Mandating that operators performing earth disturbance activities associated with oil and gas activities must develop and implement Erosion and Sedimentation Control Best Management Practices to minimize the potential for erosion and sedimentation; and*
- *Advancing its hydraulic fracturing program and requiring that well operators conducting well casing and cementing maintain control at all times, and prevent migration of gas or other fluids into sources of fresh groundwater.*

Along with identifying strengths, the review team also made recommendations for the office to consider. The recommendations included improvements, such as encouraging DEP to maintain consistent, standardized data for tracking violations and enforcement actions for the public; completing the TENORM study to ensure DEP is appropriately assessing production waste; considering developing a process to determine surface casing setting depths to protect fresh groundwater; and consider developing additional guidance for pre-drill sampling of water wells near potential well sites.

To view STRONGER's report, visit the review team's website at <http://www.strongerinc.org/>.

Oil and Gas Workload Report

Please the attachment.

Active and Abandoned Mine Operations

ABS BF Discharge Treatment

Progress is being made in systematically approaching the problem, with designs underway for many of the treatment facilities. Operation and maintenance continues for the facilities that are in place. Progress reports are being provided to the Office of Surface Mining to assist them in their oversight of the project. Act 157 of 2012 provides for additional funding sources to pay for the required operation and maintenance of the treatment facilities. The structural elements regarding site and operator eligibility regarding funding through Act 157 are being developed via a collaborative process with the Mining and Reclamation Advisory Board (MRAB). Approval to initiate the rulemaking process was received in April 2013. An initial draft of regulations has been prepared to review with the MRAB. A series of meetings with the Regulation, Legislative and Technical committee of the MRAB have been held. *The proposed rule is scheduled to be reviewed by the MRAB on Oct. 24, 2013.*

NPDES Permitting for Mine Sites

The mining program has focused its attention on improving the documentation for NPDES permit reviews. This is necessary due to recent initiatives by EPA and OSM. Efforts will focus on dealing with the conductivity/TDS requirements and reasonable assurance of meeting the state water quality standards. EPA has conducted a permit quality review for NPDES permits for mine sites. The department has engaged EPA in discussions intended to improve NPDES permitting for mining permits. New issues continue to be raised by EPA. The department has focused its attention on the regulatory requirements. Some of EPA's objections seem to go beyond the regulations. Comments have been received on about 167 of the 276 permits sent to EPA as of Jan. 2013. A new NPDES application form for mining activities has been developed and implemented. The draft guidance was published for comment in Nov. 2012. Comments were received from three commentators. The guidance has been finalized and notice of its availability published in the June 22, 2013, issue of the PA Bulletin. Outreach is planned in order to ensure implementation of the guidance. A SOP *has been* developed in order to implement the permit requirements and a fact sheet has been drafted specifying the requirements for permittees. *Industry outreach is planned with an emphasis on compliance with the NPDES monitoring requirements.*

Report of the Impacts of Underground Mining Act 54 Report

Act 54 is the rights and responsibilities associated with bituminous underground coal mining. It includes how impacts to water supplies, structures, wetlands, land and streams will be handled. The department has executed the documents with the contractor (University of Pittsburgh) to begin data collection in Sept. 2012 for the 2008-2013 reporting period. The contract period is two years. Data collection and evaluation is underway. Bureau of Mining Program and California District staff are meeting regularly with University of Pittsburgh personnel to manage the contract and provide guidance. *The evaluation period ended in Aug. 2013. Routine interaction with the contractor suggests that the progress is on target for completion of the report by Aug. 2014.*

Surface Coal Mine Water Supply Replacement

Preliminary drafting is underway for rulemaking packages relating to surface coal mining water supply replacement, remining and water quality, and general coal mining program improvements. Interaction with the MRAB, Regulation, Legislative and Technical Committee is expected to occur in the 3rd quarter of 2013. *Preliminary discussions have been held with the MRAB relating to the remining and program improvement regulation packages.*

Rosebud Mining Partner to Improve Little Conemaugh River Water Quality

DEP signed a Consent Order and Agreement with Rosebud Mining to treat the St. Michael discharge. The agreement enabled Rosebud to build and operate a mine drainage treatment facility for the St Michael's Discharge in Somerset County.

This is a significant agreement in that it has eliminated a major source of acid mine drainage into the Little Conemaugh River and will allow Rosebud to safely mine a significant coal reserves adjacent to the St. Michael discharge. The company estimates that the current St. Michael's discharge is responsible for as much as 44% of the total acid mine drainage load to the Little Conemaugh. By lowering the mine pool and treating the water in the St. Michael's shaft, Rosebud would be able to access the coal reserves which, the company estimates, would take up to 40 years to mine.

The Construction of the plant has been completed and the “Test Period” of operation commenced in mid-July of 2013. The initial impacts the treatment of the discharge has had on the received streams are very dramatic and already clearly visible. Under the terms of the agreement with DEP, Rosebud will be responsible for all costs to treat the mine pool water at the facility it will build, and will contribute to a special trust fund annually which will be used for operations, maintenance, and recapitalization costs for the discharge treatment facility once mining is completed.

It was a great partnership between government and industry with overwhelming support from legislators, watershed groups and the local community that allowed the project to happen.

Environmental Education

DEP at Home Exhibit

The exhibit will next be featured at the Suburban Fall Home Show in the Greater Philadelphia EXOP Center, Oaks, PA Oct. 18-20 2013.

EE staff, along with Energy Office staff, is working with the vendor- Purpose 1 to develop an alternative fuels component in the exhibit for the 2014 Farm Show. The living room will be converted to a garage. An electric vehicle will be parked outside the garage and visitors can plug it in to an actual EV charging station. There will also be a graphic mock-up of a CNG vehicle where visitors can also see and operate mock-up refueling devices. Watershed protection will be addressed through messaging that includes the proper disposal of used oil and handling of other chemicals used in vehicles and landscaping.

Environmental Education Grants Program

The grants program should open in the fourth quarter. For the 2014 grant round, the maximum award amount is \$3,000 with no match requirement and the option to receive upfront funding. This is being done in response projected declines in the EE Fund balances.

Keystone Energy Education Program (KEEP)

As a component of DEP’s State Energy Plan, KEEP is a 12 energy education workshop series. There will be two workshops conducted in each of the 6 DEP Regions.

The workshops will be held from 8:30 a.m. – 4:00 p.m. KEEP focuses on teaching about and tracking energy efficiency in school buildings and homes. Interested schools attend one workshop as a “school team.” Six teams will be registered for each workshop, with a total of 72 school teams trained statewide. Each building team will include:

- *Three teachers (grades 5-7 from one building)*
- *School administrator or designee*
- *Building maintenance or facility manager or designee*

Workshop participants will learn about and explore energy conservation, efficiency, energy basics, career development, student energy teams, benchmarking the school building using the free Energy Star Portfolio Manager program and more. Educators will receive background information, 7.0 Act 48 credit hours and standards-based curricular materials.

Upcoming workshops can be found on the DEP calendar of events:

<http://www.ahs.dep.pa.gov/CalendarOfEvents/EventCalendar.aspx>

Falcons

The juveniles have dispersed from the area. The adults should remain in the Harrisburg area throughout the fall and winter. They should return in early in Feb. 2014 when the new nesting will begin.

Office of Program Integration

Permit Review Process and Permit Decision Guarantee Quarterly Report

Implementation of the “Policy for Implementing the Department of Environmental Protection (department) Permit Review Process and Permit Decision Guarantee” began in Nov. 2012. The effectiveness of the new process and guarantee will be evaluated on at least a quarterly basis during the first year. On Aug. 15, 2013, DEP released the results of the third

of four quarterly reports detailing progress under the new Permit Review Process and Permit Decision Guarantee policy. Information pertaining to the department's Permit Review Process and Permit Decision Guarantee can be found on the department's web site at www.depweb.state.pa.us (DEP Search/Keyword: Permit Decision Guarantee).

The below information is an excerpt from the third quarterly report which provides cumulative statistics for the period Nov. 14, 2012 through July 31, 2013. This third quarterly report indicates continued success of the new policy. When Gov. Corbett signed Executive Order 2012-11, there were 9,982 applications that were awaiting decision. DEP has firmly committed to clearing the backlog of permits in the queue. As of Aug. 1, 2013, this number has been reduced by two-thirds, to a remarkable 3,377. Discounting pending authorizations where DEP is awaiting action by others, department staff has cleared 93% of the disposable queue. This is a tremendous accomplishment achieved by DEP staff.

DEP has also become more efficient in issuing protective and timely permits, bringing greater predictability to the permitting process.

Increased Predictability (measured in permits meeting target and/or guarantee timeframes)

- Permit Review Process – 96 percent
- Permit Decision Guarantee – 96 percent

With more available data, the cumulative statistics presented in this report indicate continued success with meeting target and guarantee timeframes and overall efficiency gains in the permitting process. Specifically, when compared to the previous permitting structure known as Money Back Guarantee, the following increases in efficiency have been measured for those permits included in the Permit Decision Guarantee:

Improved Efficiency (measured in fewer average days to process)

- Mining – 44 percent
- Oil and Gas – 4 percent
- Waste, Air, Radiation and Remediation (WARR) – 18 percent
- Water – 31 percent

Attachment 1

Advisory Committees

Oct. 2013	
4	Low-Level Waste Advisory Committee Meeting, Room 105, RCSOB (<i>see below for more information</i>)
8	Climate Change Advisory Committee Meeting, Room 105, RCSOB
9	Technical Advisory Committee on Diesel-Powered Equipment (TAC), Uniontown
10	Air Quality Technical Advisory Committee Meeting— <i>cancelled</i> (<i>see below for more information</i>)
15	Environmental Quality Board Meeting, <i>cancelled</i>
16	Ag Advisory Board Meeting, Harrisburg
17	Board of Coal Mine Safety Subcommittee Meeting, Ebensburg
23	Small Business Assistance Program Compliance Advisory Committee, 12 th Floor, RCSOB (<i>see below for more information</i>)
23	Cleanup Standards Scientific Advisory Committee Meeting, Room 105, RCSOB (<i>see below for more information</i>)
24	Mining and Reclamation Advisory Board Quarterly Meeting, Room 105, RCSOB
31	Mine Families First Response and Communications Advisory Council
Nov. 2013	
4	ACEC/PADEP Pilot Regional Roundtable, SCRO
7	Recycling Fund Advisory Committee Meeting, Room 105, RCSOB
7	Solid Waste Advisory Committee Meeting, Room 105, RCSOB (<i>see below for more information</i>)
12	State Conservation Commission Meeting, Harrisburg
13	Environmental Justice Advisory Board Meeting, Delaware Room, 16 th flr, RCSOB (<i>see below for more information</i>)
19	Environmental Quality Board Meeting, Rm 105, RCSOB
19	Citizens Advisory Council, Rm 105, RCSOB
Dec. 2013	
3	Storage Tank Advisory Committee Meeting, Room 105, RCSOB

10	Board of Coal Mine Safety, Ebensburg
11	Coal & Clay Mine Subsidence Insurance Fund Board Meeting, 10 th flr conference rm, RCSOB
12	Air Quality Technical Advisory Committee Meeting, Room 105, RCSOB (<i>see below for more information</i>)
12	Radiation Protection Advisory Committee Meeting, Room 105, RCSOB (<i>see below for more information</i>)
14	Oil and Gas TAB
16	Ag Advisory Board Meeting, Harrisburg
17	Radiation Protection Advisory Committee Meeting, 14 th Floor Conference Room, RCSOB
17	Environmental Quality Advisory Board Meeting, Rm 105, RCSOB

Low-Level Waste Advisory Committee

The Low-Level Waste Advisory Committee (LLWAC) held its annual meeting on Oct. 4, 2013, in Room 105 of the Rachel Carson State Office Building. The agenda included an overview of the existing commercial low-level radioactive waste (LLRW) disposal facilities, an update on the Nuclear Regulatory Commission (NRC) LLRW Program activities and an overview of PA DEP Radiation Study for Oil and Gas Operations (TENORM Study). The LLWAC set its next meeting for Thursday, Oct. 2, 2014.

Air Quality Technical Advisory Committee

At its Aug. 1, 2013, meeting, the Air Quality Technical Advisory Committee (AQTAC) concurred with DEP's recommendation to move the final-form rulemaking for flexible package printing and offset lithographic and letterpress printing to the Environmental Quality Board (EQB) for consideration. During the discussion of the draft final-form rulemaking, Steven Stankavage of the Graphic Arts Association (GAA) commented on the current version of the rule. The GAA's main concerns relate to the applicability threshold of the rule. Other points raised by Mr. Stankavage included: a request for another comment period, flexibility in estimating VOC emissions, concern that the requirement for continuous monitoring and 15-minute recording of control equipment differential pressure is burdensome and unnecessary, and a request that Method 25a and Method 18 be offered as independent testing methods.

DEP briefed AQTAC on EPA's final designations for Pennsylvania for the 2010 SO₂ National Ambient Air Quality Standard (NAAQS) and provided a summary of DEP's comments on the SO₂ NAAQS Designations Modeling Technical Assistance Document. Other agenda items included an update on the proposed plan approval and operating permit exemption for Category 38 (oil and gas exploration, development, production facilities and associated equipment) and an overview of the draft Reading Area maintenance plan and redesignation request for the 1997 PM_{2.5} NAAQS. Staff also provided an overview of EPA's proposed implementation rule for the 2008 ozone NAAQS and President Obama's Climate Action Plan. The Oct. 10, 2013, AQTAC meeting has been cancelled. The next meeting is scheduled for Dec. 12, 2013.

Cleanup Standards Scientific Advisory Board

The CSSAB is tentatively scheduled to meet on Oct. 23, 2013. The draft revisions to Chapter 250, the Land Recycling Cleanup Standards regulations are expected to be presented in addition to continuing discussions on vapor intrusion guidance and an update on DEP operations.

Small Business Assistance Program Compliance Advisory Committee

The Small Business Compliance Advisory Committee (SBCAC) held its quarterly meeting on July 24, 2013. The SBCAC heard a program update from the Small Business Ombudsman's Office and Ms. Nancy Crickman presented a program update from the Environmental Management Assistance Program (EMAP). The Bureau of Air Quality (BAQ) provided a summary of the comments that were received on the Title V Fee Amendment proposed rulemaking. The SBCAC also

discussed the final-form rulemaking Title V Fee Amendment Annex A, which amends the annual emission fee paid by the owner or operator of a Title V facility to \$85 per ton for up to 4,000 tons of each regulated pollutant and voted 4-3-1 to concur with the department's recommendation to present the final-form rulemaking to the Environmental Quality Board for consideration for adoption and publication as a final-form rulemaking. BAQ staff discussed the Reasonably Available Control Technology (RACT) proposed rulemaking Annex A which amends Chapter 129 (relating to standards for sources) to adopt RACT requirements and RACT emission limitations for major stationary sources of oxides of nitrogen (NOx) and volatile organic compound (VOC) emissions in existence on or before July 20, 2012. The SBCAC voted 8-0-0 to concur with the department's recommendation to present the proposed rulemaking amendments to the Environmental Quality Board for consideration for publication as a proposed rulemaking. BAQ staff discussed the draft final-form rulemaking for control of VOCs from flexible packaging printing presses and offset lithographic printing presses and letterpress printing presses. The SBCAC voted 6-2-0 to concur with the department's recommendation to present the final-form rulemaking to the Environmental Quality Board for consideration for adoption and publication as a final-form rulemaking. BAQ staff discussed the revisions to the Air Quality Operating Permit Protocol Policy and the comments that were received. This policy has been updated to reflect program procedures that have evolved since 1996. Citizens Advisory Council Executive Director discussed the efforts that the CAC is undertaking to improve public participation in developing environmental regulations and policies. CAC developed and submitted to the Secretary recommendations on public participation as the result of comments received from the public and CAC members. The next meeting of the SBCAC will be held on Oct. 23.

Solid Waste Advisory Committee

The most recent meeting of the Solid Waste Advisory Committee (SWAC) was held Thursday, Sept. 26, 2013 in conjunction with the Recycling Fund Advisory Committee (RFAC). During the RFAC portion of the meeting, representatives from PennDOT and DGS provided updates on the respective MOUs each agency holds with DEP, the Recycling Fund expenditures for FY 13/14 were reviewed, and RFAC approved the Recycling Fund Spending Plan for FY 14/15. During the SWAC portion of the meeting, DEP provided updates on the BRP's TENORM Study and the origin of TENORM-containing drill cuttings and treatment sludges disposed in the first 6 months of 2013, as well as the status of the Regulated Medical Waste rulemaking.

The next meeting of the Solid Waste Advisory Committee is scheduled for Thursday, Nov. 7, 2013, at 10:00 a.m. in room 105 of the Rachel Carson State Office Building. The agenda for this meeting has not yet been established. Please consult the SWAC web page for further updates.

Environmental Justice Advisory Board

EJAB met Sept. 17 to discuss a variety of items. A presentation of the community engagement opportunities by Manko, Gold, Katcher and Fox was provided relating to the Ardmore Plaza site, formerly AutoCar, as it undergoes the Act 2 process. Later, a community representative from Ardmore near the site presented how they would like negotiations for the remaining three homes that need tested for possible off-site migration. EJAB met with Acting Secretary Abruzzo and shared what they'd like to see from DEP in the future, which included, possibly holding another Environmental Justice (EJ) conference, more training for DEP staff on EJ issues, weighing in on CEP projects and Rx disposal initiatives. The group was offered a tour of the DEP lab. EJAB then held a combined meeting with CAC in the afternoon where they heard from the Dept. of Health's Director of Health Equity Office, Hector Ortiz about programs available and Dr. Jim Logue about the Environmental Public Health Tracking program. Lastly, EJAB voted to hold the listening session in Chester City to hear from community members about environmental concerns.

Radiation Protection Advisory Committee

The Oct. 17, 2013, meeting of the Radiation Protection Advisory Committee has been cancelled. The next meeting is scheduled for Dec. 12, 2013, at 9 a.m. in the 14th Floor Conference Room of the Rachel Carson State Office Building.

Attachment 2

Oil and Gas

The following is the Oil and Gas Workload Report for the week ending *Sept. 27, 2013*:

Weekly Workload Report - Week 9/21/2013 to 9/27/2013

YTD WELL PERMIT APPLICATIONS - 1/1/2013 to 9/27/2013						
	RECEIVED	UNDER REVIEW	PROCESSED	PERMITS ISSUED	WELLS PERMITTED	OTHER DISPOSITIONS
CONVENTIONAL	1,239	103	1,292	1,246	1,244	46
UNCONVENTIONAL	2,154	233	2,238	2,180	2,098	58
Sub Total	3,393	336	3,530	3,426	3,342	104
AUTHORIZATIONS	293	79	243	205	N/A	38
Total	3,686	415	3,773	3,631	3,528	142

WEEKLY WELL PERMIT APPLICATIONS - 9/21/2013 to 9/27/2013						
	RECEIVED	UNDER REVIEW	PROCESSED	PERMITS ISSUED	WELLS PERMITTED	OTHER DISPOSITIONS
CONVENTIONAL	31	26	51	51	51	0
UNCONVENTIONAL	26	25	72	71	71	1
Sub Total	57	51	123	122	122	1
AUTHORIZATIONS	2	2	2	2	N/A	0
Total	59	53	125	124	124	1

HISTORICAL WELL PERMIT APPLICATIONS AS OF 9/27/2013						
	RECEIVED	PROCESSED	PERMITS ISSUED	WELLS PERMITTED	OTHER DISPOSITIONS	ACTIVE PERMITS
CONVENTIONAL	195,154	195,037	193,841	188,059	1,196	107,960
UNCONVENTIONAL	15,202	14,956	14,620	12,805	336	9,695
Sub Total	210,356	209,993	208,461	200,864	1,532	117,655
AUTHORIZATIONS	39,996	39,909	39,719	N/A	190	18,538
Total	250,352	249,902	248,180	240,371	1,722	136,193

YTD INSPECTIONS - 1/1/2013 to 9/27/2013				
	INSPECTIONS	FACILITIES INSPECTED	VIOLATIONS	ENFORCEMENTS
CONVENTIONAL	7,750	5,315	973	275
UNCONVENTIONAL	9,666	4,824	391	149
CLIENT/SITE	1,984	0	422	189
Total	19,400	10,139	1,786	613

WEEKLY INSPECTIONS - 9/21/2013 to 9/27/2013				
	INSPECTIONS	FACILITIES INSPECTED	VIOLATIONS	ENFORCEMENTS
CONVENTIONAL	70	66	3	2
UNCONVENTIONAL	181	177	12	1

CLIENT/SITE	28	0	1	1
Total	279	243	16	4

WELLS DRILLED

	Two Years Prior 1/1/2011 to 9/27/2011	One Year Prior 1/1/2012 to 9/27/2012	Year To Date 1/1/2013 to 9/27/2013	Week of 9/21/2013 to 9/27/2013	As of 9/27/2013
CONVENTIONAL	950	835	718	33	196,389
UNCONVENTIONAL	1,418	1,028	906	12	7,151
Total	2,368	1,863	1,624	45	203,540