

March 2014 Report to the Citizens Advisory Council
(new and updated information in italics)

DEP Highlights

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

DEP presented the proposed Chapter 78, Subchapter C regulations to the Environmental Quality Board on Aug. 27, 2013, who adopted the proposal for public comment. The proposed rulemaking was then reviewed by the Office of General Counsel and was forwarded to the Attorney General on Sept. 26. After DEP responded to a tolling memo, the proposed rule was published in the Pennsylvania Bulletin for the 60-day public comment period.

The department hosted webinars on Dec. 19, 2013 and Jan. 3, 2014 to brief the public on the key provisions of the proposed rulemaking and inform the public how comments can be submitted. The webinars are available on the DEP website at: www.dep.state.pa.us, select Public Participation Center, Be Informed, Webinars, Oil and Gas, Proposed Regulations for Oil and Gas Surface Activities Webinar.

The public comment period opened on Dec. 14, 2013 and was initially scheduled to close on Feb. 12, 2014. The EQB intended to host 7 public hearings throughout each of the regions of Pennsylvania between Jan. 9- 27, 2014. However, as a result of comments received during the initial public hearings, and to promote an even greater level of public participation, the EQB and DEP jointly announced on Jan. 22, 2014 that the public comment period and series of public hearings on the proposed oil and gas surface activities regulation will be extended.

The public comment period, originally scheduled to end on Feb. 12 is now extended for 30 days to March 14. This extension now provides for a total of 90 days for public comment and nine public hearings.

Two additional public hearings were *held* at the following locations:

- Feb. 10: Troy High School, 150 High St., Troy, PA 16947
- Feb. 12: Warren County Courthouse, 204 4th Ave., Warren, PA 16365

Approximately 350 commentators provided comment during the series of public hearings and the Department has received over 12,000 comments electronically and in hard copy, to date. The department will consider all comments received as it proceeds with the development of the final rulemaking.

Finalization of the Policy on Public Participation in the Permit Review Process (PPP)

The PPP document was substantially revised in response to the development of the Permit Review Process (PRP) and Permit Decision Guarantee (PDG). The draft revised policy was published in the Pennsylvania Bulletin on Jun. 22, 2013, with a 30-day public comment. DEP hosted a webinar on the revisions July 15, 2013. The public comment period was extended on Aug. 3, 2013, and ended on Aug. 27, 2013. A total of 1,803 commentators submitted comments; the Comment-Response (C-R) document groups their comments into 125 total comments. The Policy Office addressed all comments in the C-R document and revised the policy where necessary. The PPP policy has been published as final in the Mar. 1, 2014, edition of the Pennsylvania Bulletin. In the coming months, DEP will be engaging Council in formulation of a 2-pronged rollout plan for both internal and external stakeholders. As part of the rollout plan, DEP will be visiting all 6 Regional Offices and the Cambria District Mining Office in spring of 2014 to offer training on the revised policy, will offer training for Central Office staff, and will be holding another webinar for external stakeholders. Going forward, DEP will continue to evaluate and make improvements to its public participation program to further address public comments received.

Community Environmental Project Policy

The Community Environmental Project (CEP) policy provides guidance on the process department staff will follow for considering a CEP, which allows a portion of the amount of a civil penalty that would be part of a settlement with DEP to be used by a person or regulated entity to conduct an environmental project. The proposed revisions to the document would update the current version, drafted in 1999. The 30-day public comment period was announced in the Pennsylvania Bulletin on Oct. 26 and ended on Nov. 25, 2013. A comment response document is currently being prepared and the final policy is anticipated to be issued the *second* quarter of 2014. The draft policy is available for viewing at: www.dep.state.pa.us , select Tools, eLibrary and in the Search/Keyword enter: Community Environmental Project.

Environmental Education Grants Program

DEP awards grants to colleges and universities, K-12 schools *and school districts*, county conservation districts, *municipalities and municipal authorities*, businesses and *incorporated* NGOs to do professional development, curriculum *revision and* integration, *outdoor learning resources, environmental literacy planning and programming*, hands-on lessons as well as covering materials and transportation costs associated with watershed, energy, air, sustainability and other topics. For the 2013 grant round, awards were made to 92 organizations for \$329,000.

The 2014 grant round opened *on Nov. 4, 2013*. Applications were due to DEP by Jan. 6, 2014. *DEP received a total of 173 Environmental Education (EE) grant applications for the 2014 grant round totaling \$472,800. Grants will be awarded on or around Earth Day in April (Apr. 22nd). Awarded projects will begin on Jul. 1, 2014, and must be completed by Jun. 30, 2015.*

PA Falcon Cam Program

On Friday, Feb. 14, 2014, the live streaming PA Falcon Cam went live on DEP's website. The Falcon Cam chronicles the resident pair of Peregrine Falcons with four cameras on the 15th floor ledge of the Rachel Carson State Office Building (RCSOB). As part of this program DEP will be hosting an educator's workshop on Tuesday, Apr. 8, 2014, in the RCSOB's Auditorium in partnership with the PA Game Commission and ZooAmerica.

Pennsylvania Energy Development Authority

DEP is currently considering dates to hold a Pennsylvania Energy Development Authority (PEDA) board meeting in late March or early April. The purpose of the board meeting would be to discuss PEDA offering a new financial assistance opportunity to be open to eligible applicants for response during late spring/early summer 2014. Approximately \$12.5 million is currently available for awards. Pending approval by the board of a new assistance opportunity and approval of awards, a potential target date for award announcements would be early fall 2014.

Energy Initiatives

Natural Gas Vehicles

The 2nd round of the Natural Gas Energy Development Program (Act 13) application deadline was Jan. 10, 2014. The Natural Gas Energy Development Program (Act 13) offered over \$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 included 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 Fiscal Year 2013-14, Act 13 stipulated 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. In accordance with Act 13, this was the last round for which an exclusive allocation for local transportation organizations will be made. Thirty-seven (37) applications were received in the egrants system *requesting over \$11 million in support. Scoring has been completed and the awards will be announced in the coming month. Only \$1.7 million in requests were received to support local transportation organization. This may result in a roll forward of the funds not awarded to local transportation organizations until the round 3 solicitation anticipated to be available in late summer to early fall of 2014.*

Alternative Fuel Incentive Grant Program

Beginning Mar. 1, 2014, DEP is seeking applications for innovative, advanced fuel and vehicle technology projects resulting in cleaner advanced alternative transportation within this Commonwealth. Approximately \$8 million in grants will be available for school districts, municipal authorities, political subdivisions, nonprofit entities, corporations, limited liability companies or partnerships incorporated or registered in the Commonwealth to retrofit vehicles to operate on alternative fuels, or support next-phase advanced research, development and training related to alternative fuels and alternative fuel vehicles.

The grant funds available will include an opportunity to propose projects which will convert or purchase natural gas vehicles weighing 26,000 pounds or less, as well as, convert or purchase electric, propane, or other alternative fuel vehicles of any vehicle weight. Applicants interested in purchasing or converting one (1) or two (2) alternative fuel vehicles will be encouraged to join forces and aggregate into a single application to satisfy the five (5) vehicle minimum required for application.

The program guidelines and application instructions are available on the DEP website at <http://www.dep.state.pa.us> (click on "DEP Programs" and then "Alternative Fuels"). Applications will be accepted online through the eGrants system. Visit www.grants.dcnr.state.pa.us (click on "Find a Grant." scroll down to "AFIG" and click "Apply for this grant"). The application period will open on Saturday, Mar. 1, 2014. Applications must be submitted no later than 4 p.m. on Friday, May 30, 2014.

Keystone Energy Education Program (KEEP)

As a component of the department's Energy Education Report for the State Energy Plan, a vendor, Gove Group, in cooperation with DEP's Energy Office and Environmental Education staff have developed an energy education workshop series. Twelve workshops were scheduled, two in each DEP region. Five workshops have been conducted to date. Seven more will take place in the spring of 2014. For each workshop, school teams consisting of teachers, administrators and facilities managers work together to enhance curriculum and learn how to implement benchmarking through Energy Star Portfolio Manager. Dates for the workshops are available in Attachment 1.

Alternative Fuel Vehicle Rebate Program (AFIG)

As of Dec. 31, 2013, the alternative fuel vehicle rebate program began offering rebates for EVs and PHEVs at \$2,000. This new commitment of 500 rebates at \$2,000 results in another \$1 million commitment in support of AFV purchased and registered by PA residents. *Rebates at \$2,000 will be available until Jun. 30, 2015, or until 500 rebates are issued, whichever occurs first. The program and the rebate amounts offered will be reassessed at that time.*

PA Sunshine Program

The PA Sunshine program has closed and staff has processed the final applications for payment. *In the coming month the PA Sunshine program will be creating a comprehensive final report and placing informational data resultant of the Program on the PA Sunshine Website for use by the public.* Since May of 2009, the department has awarded nearly \$113 million to help fund the deployment of Solar Photovoltaic and Solar Hot Water Systems throughout Pennsylvania. Approximately 85% of all systems funded were solar photovoltaic systems, resulting in distributed renewable energy generation capacity of nearly 100 MW incentivized by the program has totaled. Through the information installers have provided, the department has estimated that the systems deployed have resulted in nearly \$500 million of economic activity. This mix of private funds with the PA Sunshine rebate incentive was used to design systems, purchase equipment, as well as install and interconnect solar energy systems across the state Pennsylvania. In 2008, Pennsylvania had less than 3 MW of solar installed. Pennsylvania is now ending 2013 with approximately 200 MW of solar installed in PA with an estimated 100 MW of that total a direct result of the small residential and small commercial systems installed utilizing the PA Sunshine Program incentive.

Promoting Energy Efficient Buildings

Keystone Home Energy Loan Program (HELP) and Geothermal Loan Program: DEP-supported Keystone HELP program has provided a total of 5669 consumer loans valued at \$49,535,621.89 to PA home-owners resulting in annual energy savings of 20,697,101.11 KWH of electricity; 139,516,506.52 kBTU reduction in heating fuel consumption; and 22,064,240.42 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 530 of those loans, totaling \$7,334,883.17. In addition, there have been 393 PHFA Renovate and Repair loans totaling

\$8,417,957.50. The program expects to run out of funding in approximately one year. DEP and the PA Treasury are currently considering options for continuation of funding for the Program. *Treasury sent a letter to DEP Feb. 25, 2014, requesting more funding for the future.*

Promoting an Energy Efficient Work Force

Due to the snowstorm that occurred on Feb. 13, 2014, the first session of a new round of Building Retuning (BRT) had to be rescheduled to Mar. 26, 2014. DEP has the committed participation of the following local governments: Middletown Township and Millbourne Borough in Delaware County. DEP is actively recruiting a third municipality. PennTAP will continue to serve as instructors for this training. The first session will consist of a four-hour classroom-based training, followed by a walk-down of the Middletown Township Municipal Center. Over the course of the next two months, a walk-down will be conducted at each of the other participating local government buildings.

Another round of BRT will be scheduled for City of Philadelphia facility managers before the end of the fiscal year. Staff from city health centers, police/fire stations, recreation centers & possibly libraries will be included in this training. Since all of our Building Operator Certification (BOC) and BRT trainings have been located in southeast PA thus far, we plan to bring these trainings to the south central (Harrisburg) and southwest (Pittsburgh) areas of the state. By Jun. 30, 2015, DEP plans to deliver BOC training to 40 government and K-12 school facility managers, as well as at least 3 BRT trainings to the same target sectors.

Energy Efficient Building Codes Training

Pennsylvania's acceptance of \$99.6 million dollars from the American Recovery and Reinvestment Act carries with it a number of obligations regarding enforcement of the 2009 International Energy Conservation Codes across the state. Specifically, DEP has provided assurance to the U.S. Department of Energy that it will develop and implement a program that will measure and ensure that DEP has achieved 90% statewide compliance with the codes by 2017. While this initiative is expected to be carried out over several years, this 3rd year budget will continue to leverage the initial budget covering program development, statewide benchmarking of current compliance status, education workshops targeted to local government policy makers, and supplemental energy code compliance training for design professionals, contractors and code officials.

A Letter of Understanding between DEP and Pennsylvania Department of Community and Economic Development was executed so that the contractor, the Pennsylvania State Association of Township Supervisors (PSATS), can commence work. The codes training work plan includes developing and offering a new online commercial IECC training, a hands-on commercial IECC plan review and inspection program, webinars on focused issues of critical details for a code official audience, six training programs in various locations across the commonwealth, and home builder training sessions throughout the Commonwealth with a goal of training 150 persons. *There were 16 attendees at the residential 2009 International Energy Conservation Code (IECC) training on Feb. 20, 2014, at Penn State. Fifteen of the sixteen attendees were code officials and one attendee was a PA DEP Office of Pollution Prevention and Energy Assistance Regional Manager. An online 2009 IECC commercial sector webinar was also conducted.*

Oil and Gas

Well Site Emergency Response

On Feb. 11, 2014, a fire ignited on a well pad operated by Chevron Appalachia in Dunkard Township, Greene County and continued to burn for over a week. The fire was fueled by natural gas that escaped from a couple of well heads located on the well pad. Multiple program staff from DEP including oil and gas, air quality, water management, and radiation protection staff responded to this emergency event along with the Pennsylvania State Police and other local emergency responders. A company called Wild Well Control based in Houston, TX that is an internationally recognized expert in responding to well fires was utilized to respond to this emergency event. The primary well head involved in the fire was capped by Sunday, Feb. 23 and the second well head is also being capped. One employee who was a contractor to Chevron was mortally wounded during the event. An investigation is ongoing.

Final 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 unconventional wells and by \$1,300 per well for vertical unconventional wells.

The department consulted with the Oil and Gas Technical Advisory Board (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 Sept. 14 and closed on Oct. 15, 2013. The department received comments from 6 commenters and prepared responses to all comments that were received.

On Tuesday, Jan. 21, 2014, DEP presented the final rulemaking package to the EQB. The EQB adopted the final rulemaking as presented.

The Department submitted the final rulemaking to the Office of General Counsel and the Office of Budget for review. After this review is completed, the final rulemaking will be submitted to the Independent Regulatory Review Committee (IRRC) and the House and Senate standing environmental committees.

After approval, the final rulemaking will be published in the Pennsylvania Bulletin.

Oil and Gas Workload Report

Please see Attachment 2.

Water Management

Chesapeake Bay Program

The Chesapeake Bay Program state and federal partnership released a draft of a new Chesapeake Bay Agreement on Jan. 29, 2014, for a 45 day public comment period. *The comment period will close on Mar. 17, 2014.* EPA will assist the Program Partnership in the collection of comments. *There are three opportunities available for submitting comments: Submitting in-person at the Mar. 13, 2014 meeting of the Management Board, in Annapolis, MD; submitting an online comment at www.chesapeakebay.net/chesapeakebaywatershedagreement/page ; and submitting an email to agreement@chesapeakebay.net.* Additional information is available at www.chesapeakebay.net .

DEP Regional Agricultural Watershed Assessments

In Sept. 2012, DEP began a pilot project to achieve watershed-wide regulatory compliance. Soft Run, a small watershed in Mifflin County, was selected. Soft Run is part of the larger Kishacoquillas watershed and has poor water quality due to agricultural pollution.

- *Inspected all 19 working farms in this watershed.*
- *Identified significant water quality compliance issues at only six of these farms.*
- *Achieved voluntary compliance at five of these six farms.*
- *Issued one Consent Order and Agreement, along with a \$500 fine, to achieve compliance at the last farm.*

Compliance with water quality requirements at this last farm was confirmed in Dec. 2013. Water quality monitoring has not been completed, but the Best Management Practices (BMPs) and planning efforts undertaken will improve this

stream's water quality. The pilot project was discussed with the Agricultural Advisory Board at their Feb. and Oct. 2013 meetings. This successful effort to improve water quality in a small watershed encouraged DEP to take this approach across the state.

2013 Assessment Methodologies

DEP will soon publish as final the Assessment and Listing Methodology (methodology) used to assess the quality of Pennsylvania's waters pursuant to Sections 303(d) and 305(b) of the Federal Clean Water Act, which requires states to report on the condition of all of their waters in the biennial Integrated Report (report).

Stream and lake evaluations presented in the report must be supported by assessment methodologies based on sound science and technical procedures that are clear and complete. The methodology is a compilation of the protocols being used to assess waters that may appear in the 2014 Pennsylvania Integrated Water Quality Monitoring and Assessment Report.

The protocols comprising the methodology describe the field data collection procedures and data analysis methods used to obtain and evaluate water quality data. The individual protocols apply to a wide range of water resource types, data sources and environmental indicators.

DEP made the following documents available for public comment:

1. Streambed Sediment Collection Protocol;
2. Continuous Instream Monitoring Field Methods;
3. Wadeable Semi-quantitative Fish Sampling Protocol for Streams;
4. Periphyton Standing Crop and Species Assemblages, Habitat Assessment;
5. Benthic Macroinvertebrates;
6. Fish Community Sampling Methods;
7. Surface Water Collection; and
8. Taxonomy Reference List.

The Department also accepted comments on the following amended assessment methods from the 2009 Assessment Methodology:

1. An Index of Biotic Integrity for Benthic Macroinvertebrate Communities in Pennsylvania's Wadeable, Freestone Riffle/Run Streams;
2. Water Use Assessment Decision-Making Based on Physicochemical and Bacteriological Sampling; and
3. Impairment Cause Definitions and Impairment Source Definitions.

Comments were received from three commenters during the 60-day public comment period that concluded on Nov. 27, 2013.

In-Lieu Fee Program

DEP is establishing a new in-lieu fee (ILF) program called the Pennsylvania Integrated Ecological Services, Capacity Enhancement and Support Program (PIESCES). PIESCES will allow applicants that are required to offset their aquatic resource impacts for both state and federal permit requirements to contribute monies to a program that meets the federal requirements for such activities instead of trying to restore or enhance aquatic resources through costly and ineffective independent efforts. This program will meet stringent federal requirements established in 2008 (2008 Joint EPA and ACOE Mitigation Rules) and will provide a mechanism for permittees to meet their state and federal mitigation obligations until mitigation banking establishes a strong presence in Pennsylvania.

The public will have several opportunities to participate in the development of this program through both state and federal public comment periods. DEP has submitted a prospectus to the Army Corps of Engineers (ACOE) and is on file with ACOE Baltimore, Philadelphia, and Pittsburgh Districts. The public may comment on the prospectus to ACOE through the Federal Register. DEP also published for public comment four draft technical guidance documents related to compensatory mitigation. The public is encouraged to submit comments on these guidance documents by May 7, 2014, as

per the Mar. 8, 2014, Pa Bulletin notice. During a later stage of the federal process, DEP will publish the draft policy for establishing PIESCES in the Pa Bulletin for public comment as well.

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. DEP representatives met with the Independent Regulatory Review Commission (IRRC) on Oct. 9, 2013, to discuss the IRRC's questions on the rulemaking prior to submitting their formal comments, which were due to the EQB by Oct. 23, 2013. The Bureau of Waste Management (BWM) is currently reviewing all comments received, preparing the comment/response document and amending the proposed rulemaking where necessary. BWM will present a summary of the comments received on the proposed rulemaking at the next meeting of the Solid Waste Advisory Committee (SWAC), currently scheduled for Mar. 6, 2014.

General Permits

The following residual waste GPs were modified by the Bureau of Waste Management (BWM):

- General Permit Number WMGR081 (Processing and beneficial use of electronic equipment and components by sorting, disassembling or mechanical processing) – BWM published notice of a six-month administrative extension of the permit term in the *Pennsylvania Bulletin* on Oct. 26, 2013. The new expiration date for the permit is Apr. 21, 2014. The comment/response document is being drafted and the permit is being amended where necessary. *BWM expects to issue the amended permit prior to its expiration date. There are currently 36 operations permitted under WMGR081.*
- General Permit Number WMGR097 (Research & development of the beneficial uses of residual and municipal wastes) – The permit was published as final in the *Pennsylvania Bulletin* and issued on Nov. 23, 2013. After publication, an inconsistency in the recordkeeping requirements was noted. BWM therefore revised the record retention requirements for consistency throughout the permit. The corrected permit was published in the *Pennsylvania Bulletin* on Feb. 1 and is effective on Mar. 1, 2014. *To date, BWM has received two applications for renewal under WMGR097.*

Radiation Protection

Update on Comprehensive Oil and Gas Development Radiation (TENORM) Study

As indicated in previous reports to the CAC, DEP is currently engaged in the most extensive and comprehensive study ever undertaken to examine the levels of naturally occurring radiation in a variety of equipment, materials and media associated with the development of oil and gas resources, as well as the potential environmental impact and exposure to the public and workers. The Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM) study has been ongoing with field activities including sample collection, radiation surveys, and data analysis since mid-Apr. 2013.

Field work continues. In February, DEP sampled an impoundment where flowback and produced waters are stored from drilling operations; collected drill cuttings from both vertical and horizontal bore holes for laboratory radiological analysis; and obtained various samples from five production wells and from one well during flowback. By the end of February, DEP anticipates having samples from five more production sites. South-west Regional Radiation Protection staff will visit a natural gas-fired power plant in Fayette County where gas samples will be taken and a general radiation survey will be performed. The final report is planned for release in 2014.

Environmental Cleanup and Brownfields

Land Recycling Cleanup Standards Regulation Revisions

DEP presented the proposed Chapter 250, Administration of the Land Recycling Program, regulation revisions to the Environmental Quality Board on Feb. 18, 2014, who voted unanimously to approve the proposed rulemaking. The revisions are currently under review by the Office of General Counsel and the Governor's Budget Office. Following approvals, the proposed revisions will be forwarded to the Office of Attorney General. DEP is required to update the

Medium-Specific Concentrations every three years. DEP's Cleanup Standards Scientific Advisory Board (CSSAB) and Storage Tank Advisory Committee (STAC) had previously reviewed the draft regulation revisions and voted unanimously to endorse the package with comments.

Air Quality

Climate Change Advisory Committee

The Climate Change Advisory Committee (CCAC) met on Feb. 11, 2014, to discuss the development of the climate change action plan that is due by Oct. 9, 2015. The CCAC will review the work plans contained in the 2013 Climate Change Action Plan Update to determine areas on which to focus for the next Update. The CCAC recommends that the next plan clearly identify implementation steps for each recommended work plan. The CCAC is reviewing its by-laws and may consider revisions at the next meeting. There are a number of vacancies on the CCAC. DEP will reach out to the legislative appointing authorities to encourage that the vacancies be filled expeditiously.

PM 2.5 Designation Recommendations

On Nov. 2, 2013, the Department published a notice concerning an opportunity for public review and comment on the draft attainment designation recommendations for the 2012 annual PM 2.5 National Ambient Air Quality Standard (NAAQS). The EPA revised the NAAQS in Dec. 2012, setting a new annual standard of 12 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). As required by Section 107(d)(1) of the federal Clean Air Act, Pennsylvania's recommendations for designations of areas of the commonwealth as attainment, nonattainment or unclassifiable/attainment areas were due to EPA by Dec. 13, 2013. The designation recommendations are based primarily on air quality ambient monitoring (2010-2012), as well as emissions data, meteorology, geography/topography and jurisdictional boundaries.

DEP's final PM 2.5 designation recommendations were submitted to EPA on Dec. 10, 2013. The Department recommended that EPA designate as "nonattainment" areas the Greater Philadelphia Area (Chester, Delaware and Philadelphia counties), Northampton County, Lancaster County, Cambria County, the Greater Pittsburgh Area (Allegheny and Westmoreland counties) and a partial county nonattainment designation for the Liberty/Clairton Area. All other areas were recommended to be designated as "attainment" (monitored areas achieving the 2012 standard) or "unclassifiable/attainment" areas. EPA is expected to promulgate final designations in Dec. 2014.

EPA Issues Failure to Submit Finding for Lead NAAQS Attainment Demonstrations

On Feb. 25, 2014, the EPA published in the Federal Register a final rule concerning its "failure to submit" finding for revisions to the State Implementation Plan that were due to EPA by June 2012 for three nonattainment areas for the 2008 lead National Ambient Air Quality Standard. . During Phase I of EPA's designation process, the following partial county "nonattainment" areas in Pennsylvania were designated by the EPA on Nov. 22, 2010: (1) North Reading Area (Alsace, Laureldale and Muhlenberg) in Berks County; (2) Lyons Area (Kutztown, Lyons, Maxatawny and Richmond) in Berks County; and (3) Lower Beaver Valley Area (Potter and Vanport). In 2011, EPA expanded the Lower Beaver Valley Area lead nonattainment area to include Centre Township.

EPA's "failure to submit" finding triggers a mandatory sanctions clock under Section 179 of the Clean Air Act. Mandatory sanctions include the imposition of 2-to-1 emission offsets for the construction of major new or modified stationary sources and loss of federal highway funds. The first mandatory sanction would be imposed by EPA 18 months after the finding, if the attainment demonstrations are not submitted to the agency for approval. The SIP revisions for the partial county lead NAAQS nonattainment areas in the Berks County and Lower Beaver Valley areas are currently under development. The highway funding sanction would be imposed six months later if the submitted SIP revisions have not been determined or deemed to be administratively complete. Secretary Abruzzo has notified the EPA Region III Administrator, Shawn Garvin, of the DEP's intent to expeditiously finalize the SIP revisions.

Proposed New Source Performance Standards to Reduce Carbon Pollution from Electric Generating Units

On Jan. 8, 2014, the U.S. Environmental Protection Agency (EPA) published a proposed rule concerning Standards of Performance for Greenhouse Gas Emissions from New Stationary Sources: Electric Utility Generating Units (79 FR 1430). EPA proposes to establish standards of performance for new fossil fuel-fired electric utility steam generating units (utility boilers and Integrated Gasification Combined Cycle Units) and natural gas-fired stationary combustion turbines. The proposed rulemaking includes carbon dioxide emission standards, compliance schedules, notification, recordkeeping and reporting requirements. The proposed rule would not establish standards for other greenhouse gases. Additionally,

EPA's proposal addresses permitting fees under Title V of the Clean Air Act, and Mandatory Greenhouse Gas Reporting requirements. A public hearing on the proposed standards was held in Washington, DC on Feb. 6, 2014. Comments on the proposed rule are due to EPA by Mar. 10, 2014.

Section 111(d) Listening Sessions and Public Comment

The EPA was directed to address carbon pollution from existing power plants under Section 111(d) of the federal Clean Air Act. The department decided to convene two "listening sessions" to receive input from the public prior to discussions with EPA. On Dec. 9 and 16, 2013, the department held listening sessions to collect information to be used in discussions with EPA in the event they move forward with a proposal for existing power plants. Attendees included environmental and industrial organizations, unions, individual electrical generating companies and the general public. The Dec. 9 meeting was held with the environmental and local government organizations and the Dec. 16 meeting with industry-related organizations. Attendees at both meetings were appreciative of the opportunity to provide input to the department. The public was invited to submit written information to the DEP; Krishnan Ramamurthy is the main contact. The department will consider the comments prior to submitting recommended principles to EPA for consideration in the event federal emissions guidelines for existing power plants are proposed. *EPA has indicated that the proposed rule to reduce carbon pollution from electric generating units will be submitted to the White House Office of Management and Budget in March 2014 for a 90-day review period.* By June 2014, EPA intends to issue the proposed rule for public review and comment.

Pennsylvania Joins Petition Requesting Expansion of the Ozone Transport Region

On Dec. 9, 2013, eight Northeast and mid-Atlantic states submitted to EPA a petition, filed under Clean Air Act (CAA) section 176A, requesting that the agency add nine upwind states to the Ozone Transport Region (OTR) established under section 184 of the CAA Amendments of 1990. The eight petitioning states (all of which are members of the OTR) are Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New York, Rhode Island and Vermont. Pennsylvania signed the petition on Dec. 10. The petitioners have requested that the OTR be expanded to include the States of Illinois, Indiana, Kentucky, Michigan, North Carolina, Ohio, Tennessee, Virginia and West Virginia. EPA is required to respond to petitions filed under CAA section 176A within 18 months.

The petitioning states are not requesting that they be relieved of any of their OTR responsibilities. Instead, they are asking EPA to hold the upwind states accountable and to impose the OTR requirements on them as well. Additional requirements in the upwind states would include implementation of stationary source Reasonably Available Control Technology, increased preconstruction permit application reviews under the New Source Review program and implementation of motor vehicle Inspection and Maintenance programs. *The upwind states identified in the petition have requested that EPA deny the Dec. 2013 petition.*

Air Quality Regulatory Packages

Fiberglass Boat Manufacturing - At its Dec. 12, 2014, meeting, the Air Quality Technical Advisory Committee (AQTAC) unanimously concurred with DEP's recommendation to move the draft proposed rulemaking for fiberglass boat manufacturing materials to the Environmental Quality Board (EQB) for consideration. Several AQTAC members asked questions or offered suggestions for the rule, but the discussion was not controversial. *The proposed rulemaking is expected to be considered by the EQB in May 2014.*

Flexible Package Printing and Offset Lithographic and Letterpress Printing - AQTAC expressed appreciation to DEP for including a discussion of changes made after AQTAC's review of the final-form rulemaking for flexible package printing and offset lithographic and letterpress printing. Some members of the committee were concerned with the number of changes and DEP's consideration of comments from stakeholders outside the formal comment period. DEP explained that the changes made were within the scope of the rulemaking and furthered DEP's goal of the best possible regulation. During a teleconference with the CAC's Policy and Regulatory Oversight Committee on Jan. 8, 2014, DEP provided an update on the changes made to the final-form rulemaking. The Committee will recommend that the CAC support EQB consideration of the final rulemaking. The same information was provided to the Small Business Compliance Advisory Committee for its Jan. 22, 2014, meeting; however, the meeting was cancelled. *The final-form rulemaking was approved by the EQB at its Feb. 18, 2014, meeting and must be delivered to the Independent Regulatory Review Committee (IRRC) and the PA House and Senate Environmental Resources & Energy Committees by Apr. 16, 2014, in order to continue the regulatory review process. The regulation will be deemed withdrawn if it is not delivered to IRRC and the Standing Committees within two years following the close of public comment period.*

Miscellaneous Metal Parts and Plastic Products – At the Feb. 20, 2014, meeting, the AQTAC concurred with the Department to submit the proposed Miscellaneous Metal Parts Surface Coating Processes, Miscellaneous Plastic Parts Coating Processes and Pleasure Craft Surface Coatings rulemaking to the EQB for consideration. The proposed rulemaking would establish reasonably available control technology (RACT) as recommended in EPA Control Technique Guideline (CTG) documents. It is anticipated that the EQB will consider the proposed rulemaking in summer 2014. Discussions with the Citizens Advisory Council and the Small Business Compliance Advisory Committee will be scheduled promptly.

Control of VOC Emissions from Industrial Cleaning Solvents – At the Feb. 20, 2014, meeting, the AQTAC concurred with the Department's recommendation to submit the proposed Control of VOC Emissions from Industrial Cleaning Solvents rulemaking to the EQB for consideration. The proposed rulemaking would establish RACT requirements for industrial cleaning solvents as recommended in the EPA CTG documents. It is anticipated that the EQB will consider the proposed rulemaking in summer 2014. Discussions with the Citizens Advisory Council and the Small Business Compliance Advisory Committee will be scheduled promptly.

Active and Abandoned Mine Operations

Meeting Between PA Coal Alliance and Marcellus Shale Coalition

A meeting was held Jan. 31, 2013 at DEP's Cambria field office between members of the Marcellus Shale Coalition (MSC) and the PA Coal Alliance (PCA). The purpose of the meeting was to facilitate a discussion on coordinating the drilling of unconventional gas wells through workable coal seams. The Coal and Gas Coordination Act, which requires gas wells to be spaced 1000 feet from all other wells, was amended in 2010 to accommodate multi-well pad development, but certain spacing requirements remain. However, deep gas wells subject to the Oil and Gas Conservation Law are not required to comply with the well spacing requirements of the Coordination Act. As such, some gas well drillers elect to drill their wells in a manner that subjects them to the Conservation Law to avoid spacing requirements. The coal alliance requested DEP's presence at this meeting, which was intended to better coordinate well drilling and coal mining. The meeting was well-attended, and frank discussion brought clarity to the issue. Both MSC and PCA agreed to meet again without DEP to further discuss the issue and develop a proposed solution that will be provided to DEP. *As of the end of February*, the meeting date has not yet been communicated to DEP.

Alternative Bond System Bond Forfeiture - 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 was reviewed by the MRAB on Oct. 24, 2013. The MRAB recommended that the department proceed to the EQB with the rulemaking package. The rulemaking package has been assembled and is in the process of internal routing.

Coal Mining Program Rulemaking

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. Staff met with the Mining Reclamation Advisory Board (MRAB), Regulation, Legislative and Technical Committee *in February*. *During this meeting broad concepts for the remining program were covered. Staff has since proceeded with completing draft regulations that will be shared and discussed with committee members in early March.* The water supply replacement rulemaking will be deferred until the remining and program improvement packages are completed due to priorities identified by the MRAB.

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. Industry outreach has been scheduled for the last week of February.

Guidance Document Revisions

As a result of the implementation of the Permit Decision Guarantee a few Technical Guidance Documents need to be updated. For example, Pre-applications have taken on a more prominent role under the PDG. Therefore, the mining program's guidance, Coal Surface Mining Activity Permit Pre-application Review (563-2112-214), requires substantial revision. The Bureau of Mining Programs is systematically reviewing the library of Technical Guidance Documents to identify all of the documents which require changes.

2014 Abandoned Mine Land (AML) Program Grant

On Feb. 24, 2014, the Office of Surface Mining (OSM) announced that \$52.3 million will be awarded to Pennsylvania under the 2014 AML Program Grant which is scheduled to become effective Apr. 1, 2014. Compared to the 2013 funding level the 2014 AML distribution is a reduction of \$9.4 million or 15.2%. The drop in funding is attributable to a reduction of the AML fee that coal mine operators pay, a decline in coal production, and sequestration of mandatory Federal budgetary resources. PA's total Title IV Grant Distribution is \$56.4 million; however the FY 2014 sequestration of mandatory Federal budgetary resources withheld 7.2% of the AML grant funds equaling \$4.1 million. Last year, the impact of sequestration was a cut of 5.1%, the loss of \$3.3 million. The 2014 grant was originally to have become effective on Jan. 1, 2014 but was pushed back, at the request of OSM, due to delays with the Federal budget and sequestration. A gap in funding was avoided by extending the 2013 AML grant performance period 3 additional months.

Attachment 1

2014 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 Center on the DEP website. Click on "Get Informed!" and "Calendar of Events."

| March | |
|--------------|---|
| March 4 | Storage Tank Advisory Committee: 10 am, 14 th Floor Conference Room, RCSOB |
| March 5 | KEEP Workshop (Northeast Region): Wilkes University, Wilkes-Barre |
| March 5 | Sewage Advisory Committee: 10:30 am, Room 105, RCSOB (<i>CANCELLED</i>) |
| March 6 | Solid Waste Advisory Committee: 10 am, Room 105, RCSOB |
| March 6 | Radiation Protection Advisory Committee: 9 am, 12 th Floor Conference Room, RCSOB |
| March 6 | KEEP Workshop (North-central Region): Penn State University, State College |
| March 11 | Board of Coal Mine Safety: 10 am, DEP Cambria District Mining Office, Ebensburg |
| March 17 | South-central Regional Roundtable: 10 am, South-central Regional Office, Susquehanna Room A, Harrisburg |
| March 18 | Environmental Quality Board: 9 am, Room 105, RCSOB |
| March 18 | Citizens Advisory Council: 10 am, Room 105, RCSOB |
| March 19 | Water Resources Advisory Committee: 9:30 am, Room 105, RCSOB |
| March 19 | State Board for Certification of Sewage Enforcement Operators: 10 am, 11 th Floor Conference Room B, RCSOB |
| March 19 | Cleanup Standards Scientific Advisory Board: 9 am, 14 th Floor Conference Room, RCSOB |
| March 19 | KEEP Workshop (Northwest Region): Asbury Woods Nature Center, Erie |
| March 20 | KEEP Workshop (South-central Region): Juniata College, Huntingdon |
| March 25 | KEEP Workshop (Southeast Region): Montgomery County Intermediate Unit, Norristown |
| March 27 | Oil and Gas Technical Advisory Board: 10 am, Room 105, RCSOB |
| April | |
| April 2 | <i>Rescheduled Sewage Advisory Committee: 10:30 am, Room 105, RCSOB</i> |
| April 3 | Air Quality Technical Advisory Committee: 9:15 am, Room 105, RCSOB |
| April 8 | Climate Change Advisory Committee: 10 am, Room 105, RCSOB |
| April 9 | Small Water Systems Technical Assistance Center Board: 10 am, Room 105, RCSOB |
| April 9 | Technical Advisory Committee on Diesel-Powered Equipment: 10 am, Fayette County Health Center, Uniontown |
| April 10 | Northwest Regional Roundtable: 10 am, location TBA |
| April 15 | Environmental Quality Board: 9 am, Room 105, RCSOB |
| April 15 | Citizens Advisory Council: 10 am, Room 105, RCSOB |
| April 16 | Agricultural Advisory Board Committee: 10 am, South-central Regional Office, Harrisburg |
| April 16 | State Board for Certification of Water and Wastewater Systems Operators: 10 am, 10 th Floor Conference Room, RCSOB |
| April 17 | Southwest Regional Roundtable: 10:30 am, Southwest Regional Office, Waterfront A&B, Pittsburgh |
| April 23 | Small Business Compliance Advisory Committee: 10 am, 12 th Floor Conference Room, RCSOB |
| April 24 | Radiation Protection Advisory Committee: 9 am, 12 th Floor Conference Room, RCSOB |
| April 24 | Mining and Reclamation Advisory Board: 10 am, Room 105, RCSOB |

| May | |
|---------------|---|
| May 14 | Water Resources Advisory Committee: 9:30 am, Room 105, RCSOB |
| May 21 | Environmental Quality Board: 9 am, Room 105, RCSOB |
| May 21 | Citizens Advisory Council: 10 am, Room 105, RCSOB |
| June | |
| June 3 | Storage Tank Advisory Committee: 10 am, 14 th Floor Conference Room, RCSOB |
| June 4 | Coastal Zone Advisory Committee Meeting: 9:30 am, 10 th Floor Conference Room, RCSOB |
| June 5 | Solid Waste Advisory Committee: 10 am, Room 105, RCSOB |
| June 10 | Board of Coal Mine Safety: 10 am, DEP Cambria District Mining Office, Ebensburg |
| June 12 | Air Quality Technical Advisory Committee: 9:15 am, Room 105, RCSOB |
| June 12 | Northwest Regional Roundtable: 10 am, location TBA |
| June 16 | South-central Regional Roundtable: 10 am, South-central Regional Office, Susquehanna A, Harrisburg |
| June 17 | Environmental Quality Board: 9 am, Room 105, RCSOB |
| June 17 | Citizens Advisory Council: 10 am, Room 105, RCSOB |
| June 18 | Agricultural Advisory Board Committee: 10 am, South-central Regional Office, Harrisburg |
| June 18 | Small Water Systems Technical Assistance Center Board: 10 am, Room 105, RCSOB |
| June 18 | State Board for Certification of Water and Wastewater Systems Operators: 10 am, 10 th Floor Conference Room, RCSOB |
| June 24 | Climate Change Advisory Committee: 10 am, Rm. 105, RCSOB |
| June 25 | State Board for Certification of Sewage Enforcement Operators: 10 am, 11 th Floor Conference Room B, RCSOB |
| June 26 | Oil and Gas Technical Advisory Board: 10 am, Room 105, RCSOB |
| July | |
| July 9 | Sewage Advisory Committee: 10:30 am, Room 105, RCSOB |
| July 9 | Technical Advisory Committee on Diesel-Powered Equipment: 10 am, Fayette County Health Center, Uniontown |
| July 15 | Environmental Quality Board: 9 am, Room 105, RCSOB |
| July 15 | Citizens Advisory Council: 10 am, Room 105, RCSOB |
| July 16 | Water Resources Advisory Committee: 9:30 am, Room 105, RCSOB |
| July 23 | Small Business Compliance Advisory Committee: 10 am, 12 th Floor Conference Room, RCSOB |
| August | |
| Aug. 5 | Environmental Justice Advisory Board, 16 th Floor Delaware Room, RCSOB |
| Aug. 7 | Air Quality Technical Advisory Committee, Rm. 105, RCSOB |
| Aug 12 | Climate Change Advisory Committee, Rm. 105, RCSOB |
| Aug. 13 | State Board for Certification of Water and Wastewater Systems Operators, 10 th Floor Conference Room, RCSOB |
| Aug. 19 | Environmental Quality Board, Room 105, RCSOB |
| Aug. 20 | Agricultural Advisory Board Committee, South-central Regional Office |

Attachment 2

Oil and Gas Workload Report – Ending 1/17/2014

| YTD WELL PERMIT APPLICATIONS - 1/1/2014 to 2/14/2014 | | | | | | |
|--|------------|--------------|------------|----------------|-----------------|--------------------|
| | RECEIVED | UNDER REVIEW | PROCESSED | PERMITS ISSUED | WELLS PERMITTED | OTHER DISPOSITIONS |
| CONVENTIONAL | 119 | 96 | 163 | 163 | 163 | 0 |
| UNCONVENTIONAL | 381 | 317 | 352 | 345 | 345 | 7 |
| Sub Total | 500 | 413 | 515 | 508 | 508 | 7 |
| AUTHORIZATIONS | 56 | 33 | 68 | 58 | N/A | 10 |
| Total | 556 | 446 | 583 | 566 | 558 | 17 |

| WEEKLY WELL PERMIT APPLICATIONS - 2/8/2014 to 2/14/2014 | | | | | | |
|---|----------|--------------|-----------|----------------|-----------------|--------------------|
| | RECEIVED | UNDER REVIEW | PROCESSED | PERMITS ISSUED | WELLS PERMITTED | OTHER DISPOSITIONS |
| CONVENTIONAL | 1 | 1 | 6 | 6 | 6 | 0 |
| UNCONVENTIONAL | 5 | 5 | 41 | 40 | 40 | 1 |
| Sub Total | 6 | 6 | 47 | 46 | 46 | 1 |
| AUTHORIZATIONS | 1 | 1 | 3 | 3 | N/A | 0 |
| Total | 7 | 7 | 50 | 49 | 49 | 1 |

| HISTORICAL WELL PERMIT APPLICATIONS AS OF 2/14/2014 | | | | | | |
|---|----------------|----------------|----------------|-----------------|--------------------|----------------|
| | RECEIVED | PROCESSED | PERMITS ISSUED | WELLS PERMITTED | OTHER DISPOSITIONS | ACTIVE PERMITS |
| CONVENTIONAL | 195,770 | 195,603 | 194,402 | 188,598 | 1,201 | 108,260 |
| UNCONVENTIONAL | 16,474 | 16,113 | 15,751 | 13,702 | 362 | 10,250 |
| Sub Total | 212,244 | 211,716 | 210,153 | 202,300 | 1,563 | 118,510 |
| AUTHORIZATIONS | 40,294 | 40,190 | 39,979 | N/A | 211 | 18,660 |
| Total | 252,538 | 251,906 | 250,132 | 242,015 | 1,774 | 137,170 |

| YTD INSPECTIONS - 1/1/2014 to 2/14/2014 | | | | |
|---|--------------|----------------------|------------|--------------|
| | INSPECTIONS | FACILITIES INSPECTED | VIOLATIONS | ENFORCEMENTS |
| CONVENTIONAL | 1,320 | 1,045 | 117 | 38 |
| UNCONVENTIONAL | 1,287 | 1,028 | 72 | 24 |
| CLIENT/SITE | 257 | 0 | 42 | 21 |
| Total | 2,864 | 2,073 | 231 | 83 |

WEEKLY INSPECTIONS - 2/8/2014 to 2/14/2014

| | INSPECTIONS | FACILITIES INSPECTED | VIOLATIONS | ENFORCEMENTS |
|----------------|--------------------|-----------------------------|-------------------|---------------------|
| CONVENTIONAL | 124 | 108 | 7 | 3 |
| UNCONVENTIONAL | 136 | 132 | 6 | 1 |
| CLIENT/SITE | 29 | 0 | 5 | 0 |
| Total | 289 | 240 | 18 | 4 |

WELLS DRILLED

| | Two Years Prior 1/1/2012 to 2/14/2012 | One Year Prior 1/1/2013 to 2/14/2013 | Year To Date 1/1/2014 to 2/14/2014 | Week of 2/8/2014 to 2/14/2014 | As of 2/14/2014 |
|----------------|--|---|---|--|----------------------------|
| CONVENTIONAL | 150 | 106 | 80 | 12 | 195,125 |
| UNCONVENTIONAL | 220 | 162 | 163 | 22 | 7,614 |
| Total | 370 | 268 | 243 | 34 | 202,739 |

This report has been prepared by Laura Henry, Executive Policy Specialist, DEP Policy Office. For questions or requests, please email lahenry@pa.gov or call 717-705-3769.