

December 2016 Report to the Citizens Advisory Council
(New and updated information in italics)

DEP Highlights

Federal Regulations

Recently Submitted DEP Comments

Nothing to report.

Regulations Planned for DEP Comment

Nothing to report.

Regulatory Update (detailed summaries included in respective program sections)

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

Proposals Open for Public Comment

- Environmental Assessment Approval for PENNVEST Funding Consideration (Opened 11/26/2016, Closes 12/26/2016)

Recently Closed Comment Periods

- Federal Consistency under the Coastal Zone Management Act; Delaware River Pipeline Relocation Project (Opened 10/8/2016, Closed 12/5/2016)
- Interim Final –Policy for the Replacement or Restoration of Private Water Supplies Impacted by Unconventional Operations (Opened 10/8/2016, Closed 12/7/2016)
- Interim Final – Guidelines for Implementing Area of Review (AOR) Regulatory Requirement for Unconventional Wells (Opened 10/8/2016, Closed 12/7/2016)
- Nutrient Credit Trading Program; Certification Request: EnergyWorks Group (Adams County) Gettysburg Energy and Nutrient Recovery Facility (Opened 10/29/2016, Closed 11/28/2016)
- Nutrient Credit Trading Program Certification Request: LASA Farm Property Lancaster Area Sewer Authority (Lancaster County) (Opened 10/29/2016, Closed 11/14/2016)
- Pennsylvania Abandoned Mine Reclamation Plan Amendment (Opened 10/15/2016, Closed 11/14/2016)

Communications Monthly Press Releases (All New, not Italicized)

Press Releases Issued

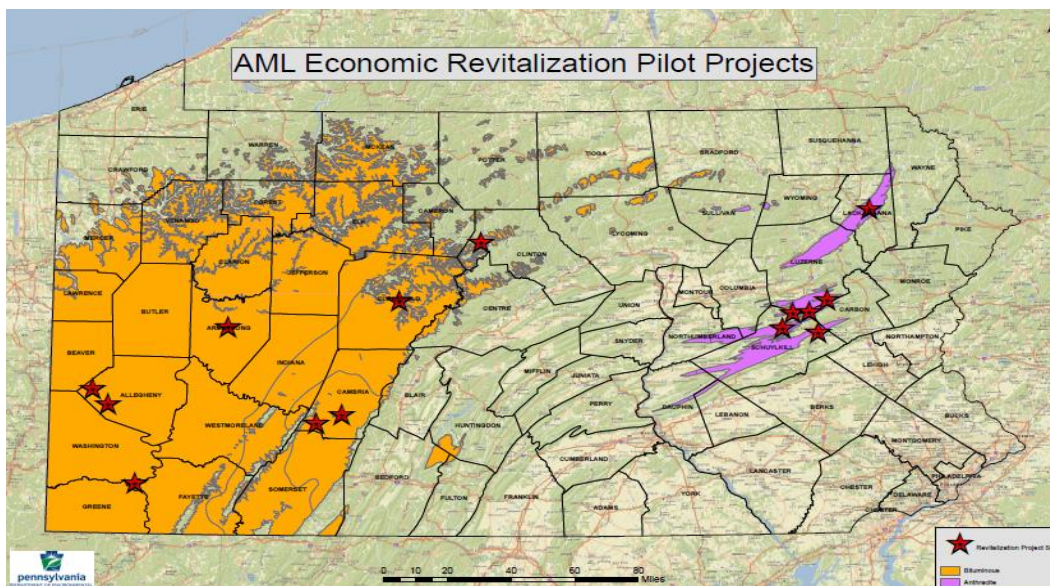
- November 04** – Growing Greener Plus Program Now Accepting Grant Applications for Water Quality Improvement Projects
- November 04** – Hazleton Area Partners Look to Increase Recreation and Cultural Tourism with Help from \$2 Million DEP Coal Mine Cleanup
- November 07** – Seventeen Projects in Delaware Estuary and Lake Erie Coastal Zones Awarded \$700,000 by DEP for Coastal Protection and Restoration
- November 09** – DEP to Hold Public Hearing on Use of Emission Reduction Credits for Proposed Soybean Plant in Lancaster County
- November 15** – Governor Wolf Joins EDF, Google and People’s to Launch Methane Mapping in Pittsburgh
- November 16** – DEP Accepting Applications for Pennsylvania State Clean Diesel Grants
- November 16** – DEP to Host Public Hearing on Prompt Interim Response Actions in Montgomery County
- November 17** – DEP Finds Record Radon Level in Home, Encourages All Pennsylvania Residents to Test for This Radioactive Gas
- November 17** – State DEP to Investigate PFC Contamination on Ridge Run Road, Bucks County
- November 21** – DEP to Host Public Meeting and Hearing on Shell Chemical Appalachia Petrochemicals Complex Air and Water Discharge Permit Amendments
- November 21** – New Interactive Map Makes Municipal Separate Storm Sewer System Permit Process Easier for Local Governments
- November 22** – DEP Suspends Stage II Vapor Recovery Requirements for New and Modified Gasoline Dispensing Equipment
- November 28** – Pennsylvania Environmental Stewards: Apply for 2017 Governor’s Awards for Environmental Excellence
- November 29** – ADVISORY – CHESWICK - THURSDAY - DEP to Hold Public Hearing on Keystone Metals Building Site Remediation

Active and Abandoned Mine Operations

Abandoned Mine Lands (AML) Pilot Program

The AML Economic Revitalization Pilot Program was authorized by Congress under the Consolidated Appropriations Act (signed by President Obama on December 18, 2015) and provides an additional \$30 million of US Treasury Funds to Pennsylvania’s AML Program. At OSMRE’s request this February, DEP developed a preliminary list of projects. Since this is a pilot program, DEP selected a wide variety of project types with a variety of possible economic or community development benefits and partners. DEP has targeted 14 AML Pilot

Projects (8 Bituminous and 6 Anthracite) which are located in 10 coal field counties as shown in the map below. Additional Pilot Projects may be considered. An initial list of projects was sent to OSMRE in March resulting in questions and subsequent information sent to OSMRE in April. The AML Pilot Program Grant Application was approved by OSMRE on June 6 (effective June 1). Media events featuring several of the projects receiving some pilot project funding are being scheduled for different areas of the state. *Four* events have been completed; August 4, featuring the Ehrenfeld Coal Refuse Pile in Cambria County; September 7, for the Powderly Creek Underground Mine Fire just outside of Carbondale in Lackawanna County; October 24, the Pittsburgh Botanical Gardens in Allegheny County; and November 4, for the Eckley-Hazleton Rail Trail in Luzerne County.



E-Permitting Project

Earlier this year the Department launched an e-permitting project for the mining program starting with the bituminous surface permit. Future projects will move to other mining permits as well serve as the foundation for expanding to other areas of the Department. After considering leveraging other e-solutions - both DEP and other agencies - it was decided the best strategy for expanding the effort to other permits would be to develop the application in house from the ground up. A project manager was brought in and a work group was formed from staff from IT and the mining program. Once the project was formalized, requirements gathering began in late March. *Development was completed at the end of November and testing will start in December.* The project plan provides for a live application by February 2017.

Federal Proposed Stream Protection Rulemaking

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

of the comments made. *The final Environmental Impact Statement was posted on OSM's webpage in mid-November.*

Act 54 Report Review

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

Noncoal and Coal Mining Fees

The 3-year reports for noncoal mining fees in Chapter 77 and coal mining fees in Chapter 86 are due in October and November of this year. The draft report for coal mining fees was reviewed with the Mining and Reclamation Advisory Board (MRAB) on April 23, 2015, and the draft report for the noncoal mining fees was reviewed with the Aggregate Advisory Board (AAB) on May 13, 2015. The fee reports were presented to the EQB at its May 20 meeting. The Department met with the AAB Regulation, Technical and Legislation committee on September 22 and October 23, 2015, to review information that had been requested by the PA Aggregate and Concrete Association. A preliminary draft rule was provided to the AAB in February. The AAB recommended that the Department proceed with the rulemaking process at their August 2016 meeting. Their recommendation was linked to several initiatives they would like to explore through work groups. Similarly, a preliminary draft was presented to the MRAB in January, followed by a revised draft presented at the April MRAB meeting. A revised proposal has been prepared to present to the MRAB RLT committee. This proposal was discussed at the October 20 meeting of the MRAB where members passed a motion to approve the surface mining fee package. Because the underground coal industry is not represented on the MRAB, Bureau of Mining Program staff will work with underground coal mine trade groups to obtain input and comments to include with the fee package.

Final Rulemaking

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

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

Other Coal Mining Program Rulemakings

Preliminary discussion is underway for rulemaking packages relating to surface coal mining water supply replacement, remining and water quality, and general coal mining program improvements. Staff met with the MRAB's Regulation, Legislative and Technical Committee on November 25, 2014, to discuss the coal mining program improvements rulemaking. The MRAB committee expressed the concern that it may be premature to proceed, specifically relating to the definition of surface mining activities, since there is litigation related to this underway in the federal system. The proposed remining rulemaking was reviewed by the MRAB at their meeting on October 23, 2014. The MRAB recommended that DEP proceed with the rulemaking process for the

remining regulations. The EQB adopted the proposed remining rulemaking at its meeting on May 20, 2015. This proposed rulemaking was published with a 30-day comment period on October 3, 2015. The water supply replacement rulemaking will be deferred until the remining and program improvement packages are completed due to priorities identified by MRAB. One comment was received from the Pennsylvania Coal Alliance. IRRC comments were received on December 2, 2015. Program staff developed a final regulation which was presented at the January 21, 2016, meeting of the MRAB. The remining rulemaking was approved by the EQB in May. IRRC approved the rulemaking at its August 18 meeting. The rulemaking was delivered to the OGC on August 18 who tolled the regulation on September 3. The tolling response and edits were approved by OGC on September 12. The regulation *was published in the Pennsylvania Bulletin* on October 22.

The proposed rulemaking for the explosives program was reviewed with the MRAB and the Aggregate Advisory Board. Each recommended that the Department proceed with the rulemaking process. The EQB approved the package on September 15, 2015, but the Attorney General's Office tolled the regulation on November 10, 2015. Program staff and Regulatory Counsel developed a response which was submitted to the Attorney General's Office on December 29, 2015. This was published in the Pennsylvania Bulletin on February 27, 2016, opening the public comment period. Several comments were received by the close of the comment period on March 28 which are currently under review. The final form rulemaking was presented to the MRAB at their July meeting, resulting in a recommendation to proceed. This rulemaking *was presented to the Aggregate Advisory Board at their November meeting which also resulted in a recommendation to proceed. It has been routed for approval for presentation to the EQB.*

Proposed Rulemaking

NPDES Permitting for Mine Sites

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

Guidance Document Revisions

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

Beneficial Use of Coal Ash at Coal Mine Sites (563-2112-228)

This guidance outlines the acceptable methods to comply with Chapter 290. It describes procedures for water monitoring, ash quality monitoring, and certification of coal ash sources. The draft guidance went out for a 30 day public comment period on December 13, 2014. One individual submitted comments requesting added clarity. Industry supports this policy because it addresses common questions and prevents unnecessary testing costs. This guidance is expected to be published as final in the Pennsylvania Bulletin in January 2017.

Board of Coal Mine Safety (BCMS)

Proposed Rulemaking: Proximity Detection Systems for Continuous Mining Machines

The Mine Safety and Health Administration (MSHA) issued a final rule on proximity detection systems for continuous mining machines in underground coal mines on January 15, 2015. The MSHA rule excludes full-face continuous mining machines. Miners working in the vicinity of continuous mining machines are at risk of pinning, crushing, and striking hazards. This rule provides for greater protection for miners regarding these hazards. The rule was distributed to the BCMS for review prior to their June meeting. At the June meeting the Board directed DEP to draft initial regulatory language to incorporate the MSHA rule on proximity detection systems for continuous mining machines in underground coal mines into PA mine safety regulations. The package was approved by the Board of Coal Mine Safety on December 8, 2015, and sent to Office of General Counsel and Budget for review. The rulemaking was signed off by the Office of General Counsel, the Governor's Budget Office, and the Office of Attorney General. This was published on March 19, 2016, opening the 30-day public comment period. No comments were received. On May 18, 2016, a no comments letter was received from IRRC. If a final-form regulation is delivered without revisions and if the House and Senate Environmental Resources and Energy Committees do not take any action, it will be deemed approved. While implementation is proceeding, an issue has emerged concerning instances where a miner wearing a proximity pad is close to a source interfering with radio frequencies (RFI) (e.g., dust sampler, radio, energized cable), the proximity pad may be rendered inoperable. MSHA and equipment manufacturers are working on solutions including carriers that will keep the proximity pad separated from the RFI and developing software for the pads that will give the miner an audible and visual warning if RFI interference is causing a malfunction. This regulation is tentatively planned to be discussed at the December 13 meeting of the Board of Coal Mine Safety. *Future regulatory issues that will be taken up by the Board include a better way to define what is considered to be a reportable accident and consolidating required ventilation plans into one package to simplify the entire plan approval process.*

Pre-Draft Proposed Rulemaking: Performance Based Cable Safety

The Board undertook the issue of performance based cable standards to address both shielded cables and sensitive ground fault. Typical low and medium voltage systems use a 15 ampere grounding resistor with a ground fault relay that trips at no more than 50% of the resistor value. It was determined that sensitive ground fault protection, set at an appropriate level, would not only decrease the potential hazard of handling a damaged cable, thereby increasing cable safety, it would also afford protection from inadvertent contact with energized circuits while troubleshooting or performing maintenance. Since the 1980's some components, such as the shearer and face motors, of the high-voltage longwall systems have used a ground fault relay which trips at no more than 0.125 amperes. A similar protection scheme can be used on low- and medium-voltage systems and can increase the protection of miners. This has been under development for several years. Draft language was presented and discussed at the March 23, 2016, meeting of the Board. Based on the Board's review, final language was developed by Department staff and presented to the Board at their July 7 meeting. The draft was reviewed by the Board at their September 13 meeting where it was approved with some minor changes brought up by the Pennsylvania Coal Alliance. This will now continue with the regulatory review process.

Air Quality

Climate Change Advisory Committee (CCAC)

The next CCAC meeting is scheduled for *January 10, 2017*, at 10:00 a.m. in Room 105, RCSOB.

Air Quality Technical Advisory Committee (AQTAC)

The next AQTAC meeting is scheduled for *February 23, 2017*, at 9:15 a.m. in Room 105, RCSOB.

Small Business Compliance Advisory Committee (SBCAC)

The next SBCAC meeting is scheduled for Jan. 25, 2017, at 10:00 a.m. in the 12th Floor Conference Room, RCSOB.

Pennsylvania's Methane Reduction Strategy for the Oil and Natural Gas Industry

Methane is the primary component of natural gas and it has been identified by the EPA as the second most prevalent greenhouse gas emitted in this nation from human activities. Pennsylvania is the second largest producer of natural gas in the United States. On Jan. 19, 2016, Governor Tom Wolf announced a four-point methane emission reduction strategy for unconventional natural gas operations in Pennsylvania. This strategy includes the development of a general permit for new unconventional well pad operations and modifications to the existing general permit (GP-5) for compressors and natural gas processing facilities by Oct. 2016. DEP will also develop a regulatory proposal to implement EPA's final Control Technique Guidelines for the Oil and Gas Industry. This rulemaking will be submitted to EPA as a SIP revision within two years following the issuance of the final guidelines. Additionally, DEP will also develop best management practices, including leak detection and repair programs to reduce methane emissions along production, gathering, transmission and distribution lines. The proposed general permits, including the new GP for well pads and GP-5 modifications, *will be presented at the Dec. 8, 2016, AQTAC meeting.*

Ozone Designations

On Oct. 26, 2015, EPA reduced the ozone National Ambient Air Quality Standard (NAAQS) from 75 ppb to 70 ppb. Following promulgation of a new or revised air standard, states are given the opportunity to submit recommendations for the designation of attainment, unclassifiable and nonattainment areas. Using 2013, 2014, and 2015 ozone season data and EPA guidance, DEP proposed the following ozone nonattainment areas in the Aug. 20, 2016, Pa. Bulletin:

- A 7-county Pittsburgh-Beaver Valley Area;
- A 5-county Philadelphia Area;
- Indiana County; and
- Lebanon County.

The Department held public meetings in Harrisburg, Pittsburgh and Norristown on Aug. 24, 25, and 26, respectively. Twenty-four comments were received from five commentators. The Department submitted its final recommendations to EPA on Oct. 3, 2016. EPA will perform its own analysis to determine nonattainment areas, while taking the Commonwealth's recommendations into account. EPA will send a "120-day letter" (120 days before the final designations are due to be published by Oct. 1, 2017) to Pennsylvania by June 3, 2017, that will state whether EPA intends to modify the Commonwealth's recommendations. EPA will open a 30-day public comment period on approximately July 3, 2017. Under Section 107(d)(1)(B) of the CAA, Pennsylvania will have until Aug. 2, 2017, to submit additional information to EPA, including certified 2016 data, for EPA to consider in making final designations. EPA intends to publish the final designations on Oct. 1, 2017.

2010 SO₂ NAAQS Attainment Demonstration SIP Revisions

On March 18, 2016, effective April 18, 2016, the EPA published a final action to find that several states, including Pennsylvania, failed to submit SIPs to satisfy nonattainment area planning requirements of the Clean Air Act (CAA) for the 2010 1-Hour Primary SO₂ NAAQS. The four areas in Pennsylvania are Beaver, Indiana/Armstrong, Warren, and Allegheny Counties. The Pennsylvania SIPs, which were due by April 4, 2015, must describe how the areas will meet the SO₂ standard by the statutory attainment date of Oct. 4, 2018. EPA's findings of "failure to submit" triggered mandatory deadlines for EPA to impose sanctions if Pennsylvania does not submit SIPs addressing those requirements and for the EPA to promulgate a Federal Implementation Plan (FIP) to address any outstanding SIP requirements. EPA is obligated to apply offset sanctions within 18 months (Oct. 18, 2017) from the effective date of the findings and highway funding sanctions in 24 months (April 18, 2018) from the effective date of the findings if the state has not submitted the SIPs and EPA has not found them to be complete by the respective deadlines. The findings also trigger an obligation under the CAA

for EPA to promulgate a FIP no later than 2 years from the finding of failure to submit, if the state has not submitted, and the EPA has not approved, the SIP. Work is in progress to deliver the attainment demonstration SIPs for the four Pennsylvania nonattainment areas prior to the sanction deadline. The Allegheny County SIP will be completed by the Allegheny County Health Department.

Air Quality Rulemaking Packages

Control of VOC Emissions from Miscellaneous Metal Parts Surface Coating Processes, Miscellaneous Plastic Parts Surface Coating Processes and Pleasure Craft Surface Coatings

The rulemaking will establish RACT as recommended in EPA's 2008 Control Technique Guidelines for Miscellaneous Metal Parts Surface Coating Processes. The EQB approved the proposed rulemaking for public review and comment at its Oct. 21, 2014, meeting. The proposed rulemaking was published in the Pa. Bulletin on Aug. 8, 2015, starting a 60-day public comment period (45 Pa. B. 4366). The EQB held public hearings on Sept. 8, 9, and 10, 2015, in Norristown, Harrisburg, and Pittsburgh, respectively. No testimony was presented at the hearings. The public comment period closed on Oct. 13, 2015. Written comments were received on the proposed rulemaking from James Verderese, Environmental Manager for GE Transportation. IRRC also submitted comments on Nov. 12, 2015. The draft final-form Annex A was presented to AQTAC and CAC on Feb. 11 and March 15, 2016, respectively. Both committees unanimously concurred with DEP's recommendation to submit the final rulemaking to the EQB for consideration. On April 27, 2016, the SBCAC also concurred unanimously with DEP's recommendation to present the final rulemaking to the EQB for action. The EQB unanimously approved the final rulemaking on June 21, 2016; the Independent Regulatory Review Commission also unanimously approved the final rulemaking on Aug. 18, 2016. The final rulemaking was published in the *Pennsylvania Bulletin* on Oct. 22, 2016, and was effective upon publication. DEP submitted the final rulemaking to EPA as a SIP revision on Nov. 18, 2016. The compliance date is January 1, 2017.

Control of VOC Emissions from Automobile and Light-Duty Truck Assembly Coating Operations and Heavier Vehicle Coating Operations

The rulemaking will establish RACT requirements consistent with EPA's 2008 CTG for Automobile and Light-Duty Truck Assembly Coatings. The EQB approved unanimously the proposed rulemaking for public comment and review at its April 21, 2015, meeting. The proposed rulemaking was published in Pa. Bulletin on Aug. 8, 2015, starting a 60-day public comment period (45 Pa. B. 4351). EQB held public hearings on Sept. 8, 9, and 10, 2015, in Norristown, Harrisburg, and Pittsburgh, respectively. No testimony was presented at the hearings. The public comment period closed on Oct. 13, 2015. The EQB did not receive public comments on the proposal, but IRRC submitted comments on Nov. 12, 2015. The draft final-form Annex A was presented to AQTAC and CAC on Feb. 11 and March 15, 2016, respectively. Both committees concurred with DEP's recommendation to submit the final rulemaking to the EQB. On April 27, 2016, the SBCAC also concurred unanimously with DEP's recommendation to present the final rulemaking to the EQB for action. The EQB unanimously approved the final rulemaking on June 21, 2016; on Aug. 18, 2016, the Independent Regulatory Review Commission also unanimously approved the final rulemaking. The rulemaking was published in the *Pennsylvania Bulletin* on Oct. 22, 2016, and was effective upon publication. DEP submitted the final rulemaking to EPA as a SIP revision on Nov. 18, 2016. The compliance date is January 1, 2017.

Control of VOC Emissions from Industrial Cleaning Solvents

The proposed rulemaking would establish RACT requirements for industrial cleaning solvents as recommended in EPA's 2006 CTG for Industrial Cleaning Solvents. At its Feb. 20, 2014 meeting, the AQTAC concurred with DEP's recommendation to submit the proposed Control of VOC Emissions from Industrial Cleaning Solvents rulemaking to the EQB for consideration. The SBCAC was briefed on the proposed rulemaking on April 23, 2014, and voted unanimously to concur with DEP's recommendation to forward the proposed rulemaking to the EQB for consideration with a recommendation that DEP consider flexibility for small businesses during the development of the proposed rulemaking. The CAC Policy and Regulatory Oversight Committee discussed this rulemaking during a conference call on May 6, 2014. On the recommendation of the

Policy and Regulatory Oversight Committee, on June 17, 2014, the CAC concurred with DEP's recommendation to forward the proposed rulemaking to the EQB. However, in response to comments heard at the various committee meetings, substantive changes were made to the proposed rulemaking. A revised draft Annex A was presented to AQTAC and CAC on Feb. 11 and March 15, 2016, respectively. Both committees concurred with DEP's recommendation to submit the final rulemaking to the EQB for consideration. The proposed rulemaking was presented to the SBCAC on April 27, 2016. The SBCAC also concurred unanimously with DEP's recommendation to submit the proposed rulemaking to EQB for consideration. The proposed rulemaking is tentatively scheduled for EQB consideration *in early 2017*.

Additional RACT Requirements for Major Sources of NOx and VOCs

The Reasonably Available Control Technology (RACT) final rulemaking was approved by the EQB on Nov. 17, 2015. The final-form RACT regulation was unanimously approved by IRRC on March 10, 2016, and subsequently delivered, the same day, to the Attorney General's Office for approval as to "form and legality." The final-form RACT regulation was published in the *Pennsylvania Bulletin* on April 23, 2016 (46 Pa.B. 2036). The SIP revision was submitted to EPA for approval on May 16, 2016. Conditional approval is anticipated pending DEP submission of RACT case-by-case determinations.

Low Reid Vapor Pressure (RVP) Gasoline Repeal

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

In May 2014, the Pennsylvania General Assembly enacted legislation requiring DEP to develop a SIP revision for the removal of the low RVP fuel provisions from the SIP. The law also directs the EQB to promulgate regulation repealing the low RVP regulation (Act of May 14, 2014, P.L. 674, No. 50). On Dec. 10, 2015, the majority of AQTAC members concurred with DEP's recommendation to submit the proposed rulemaking to the EQB for consideration. The proposed repeal of this regulation was presented to the SBCAC and the CAC on Feb. 17 and March 15, 2016, respectively. Both committees unanimously concurred with the DEP's recommendation to submit the proposed rulemaking to the EQB for approval. *On Oct. 18, 2016, the EQB voted 15-5-0 on DEP's recommendation to move the proposed rulemaking forward to be published in the Pennsylvania Bulletin for public comment. The Department will hold a 60-day public comment period on the proposed rulemaking and three public hearings at DEP regional offices in Norristown, Harrisburg, and Pittsburgh.*

Air Program Fee Schedule for Emission, Plan Approval and Operating Permit Fees

A proposed rulemaking is under development that would amend existing requirements and fee schedules codified in 25 Pa. Code Chapter 127, Subchapter I (relating to plan approval and operating permit fees) to ensure that fees are sufficient to cover the costs of administering the air program, as required by Section 502(b) of the Clean Air Act (CAA) and Section 6.3 of the Air Pollution Control Act (APCA). Existing fees for plan approval applications and operating permits would be increased and fees would be established for requests for determination (RFD) of whether a plan approval is required, risk assessment reviews, and asbestos notifications. The proposed rulemaking would also set a dollar-per-ton fee to be paid by the owner or operator of a Title V facility for up to 4,000 tons of carbon dioxide (CO₂) emissions if EPA's "Standards of Performance for Greenhouse Gas Emissions from New Stationary Sources: Electric Utility Generating Units" and Clean Power

Plan regulating CO₂ under Section 111 of the CAA are upheld by federal courts including the U.S. Supreme Court.

Energy Initiatives

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

On Nov. 2, Governor Tom Wolf announced that a statewide planning project led by the Pennsylvania Department of Environmental Protection (DEP) called “Finding Pennsylvania’s Solar Future,” was selected for a [\\$550,000 grant from the U.S. Department of Energy](#). The project will help to equip Pennsylvania to produce more solar energy and increase solar-generated in-state electricity sales to at least 10 percent by 2030. The project is scheduled to begin in January 2017 with a kickoff meeting composed of experts from local and state government, the solar industry, the utilities and transmission sector, environmental organizations, low-income advocacy groups, consumer organizations, and the business and academic communities as well as others interested in solar development and deployment. The working groups will meet regularly throughout 2017 to envision, debate, and hammer out possible scenarios for solar development and deployment in the Commonwealth. The nonprofit organization [PennFuture](#) is partnering with the DEP [Office of Pollution Prevention and Energy Assistance](#) to coordinate the process. Results of the meetings will be publicly available on the DEP web site. The result will be Pennsylvania’s Solar Future Plan, presented in draft form for public comment in January 2018 and published in final form six months later for use by policy makers, regulators, industry, investors, and consumers. A cooperative agreement to be executed with DOE is still being developed and the project cannot start without both a cooperative agreements and agreements with DEP’s intended subcontractors.

2016 Alternative Fuel Incentive Grant (AFIG): *Award announcement for the 1st submission period was occurred on September 8, 2016. During the first submission period, a total of 30 applications were submitted via the DEP Environmental eGrants system. DEP awarded more than \$1.6 million to 10 applicants including Pennsylvania schools and businesses for projects using alternative fuels and infrastructure. The winning projects are estimated to eliminate from use an estimated 980,000 gallons of gasoline. The AFIG Program offers grant funding for clean, alternative fuel projects in Pennsylvania, and investment in Pennsylvania’s energy sector. The second submission period for the 2016 AFIG Grant closed on 4 PM on Friday, September 9th. 29 Applications were received requesting a combined total of \$4.8 million. The selection process for awards is currently under way and the next application due date is December 30, 2016.*

Alternative Fuel Fleet Vehicles

Since 2012, the Act 13 Natural Gas Energy Development Program has awarded \$20 million to 62 companies and organizations. To date, DEP has reimbursed grantees for the purchase or conversion of 624 heavy duty vehicles under the Act 13 program totaling more than \$12.5 million in program funds disbursed. The 624 vehicles supported to date with grant funds are estimated to be displacing over 8.1 million gasoline gallon equivalents per year. Over \$33.1 million in actual incremental costs have been expended on alternative fuel vehicles due to this program.

Since 2013, the Alternative Fuel Incentive Grant Program has provided \$7 million to 66 awardees to support the purchase or conversion for light and medium duty natural gas vehicles as well as propane and electric fleet vehicles of any size. So far, DEP has reimbursed grantees for the purchase or conversion of 453 vehicles totaling over \$2.6 million in program funds disbursed. The 453 vehicles are estimated to be displacing over 1.1 million gasoline gallon equivalents per year. Over \$5.3 million in actual incremental costs have been expended on alternative fuel vehicles due to this program.

Alternative Fuel Vehicle Rebate Program

The alternative fuel vehicle rebate program provides rebates to PA residents for large battery EVs and PHEVs at \$2,000 and small battery EV and PHEVs at \$1,000. DEP committed to provide 250 rebates at \$2,000 resulting in \$500,000 of pledged support to the purchase of large battery storage alternative fueled vehicles. *The \$2,000 rebate level will remain available until December 30, 2016, or until 250 rebates are issued, whichever occurs first. As of November 1, 2016, 100 rebates remain at \$2,000.*

PA Turnpike Electric Vehicle Charging

DEP has been working with the PA Turnpike on the deployment of direct current (DC) fast charging stations on the PA Turnpike. As of May 31st, Car Charging Group, Inc. (CCGI), the technology provider for the Turnpike project, has installed one level III DC fast charging station and one Level II charging station each at 5 service plazas along the Main Line of the PA Turnpike. DEP anticipates construction at the North & South Somerset in the fall of 2016. North & South Midway plazas will be installed in the winter of 2016/2017. Eventually, Sideling Hill, Blue Mountain, Cumberland Valley, Highspire, Lawn, and Valley Forge will have Level II chargers as well as Level III DC fast chargers installed capable of fully charging an electric vehicle in 30 minutes. *CCGI is attempting to resolve issues which have caused delays in the project. A call will be held in November to determine whether this project will continue to move forward.*

Green Energy Revolving Loan Fund (GELF)

Since inception of the loan program in 2010, As of June 30, 2016, GELF has closed a total of \$14,827,001 of loans supporting the deployment of energy efficiency and alternative energy measures in Pennsylvania. These loans have leveraged nearly \$283 million in total project activities in Pennsylvania. GELF currently has available for lending \$2,523,880, consisting of \$1,137,841 revolved ARRA funding and \$1,386,039 additional State Energy Program (SEP) funding provided in 2015. *GELF's loan program has expanded since inception as the program has transferred a total of \$1,167,767 of income, interest and fees into the capital available for lending. GELF has identified two additional potential candidates that focus solely on energy, one at a school in Montgomery County and another at multiple health care facilities in Philadelphia and Bucks counties. DEP and GELF are working to further develop the marketing of successes of completed projects by developing outreach tools designed to attract projects which can utilize the funds revolving back in to the loan fund.*

Combined Heat and Power (CHP)-Enabled Renewable, Distributed Energy Technology via Leveraged Use of Pennsylvania Marcellus Shale Gas

The Climate Change Action Plan Update contains a work plan that recommends increasing deployment of CHP systems in PA and recently the PUC has proposed a policy statement intended to promote CHP investments; encourage electric distribution companies (EDCs) and natural gas distribution companies (NGDCs) to make CHP an integral part of their energy efficiency and resiliency plans.

The project is to demonstrate the use of natural gas and solar energy in a hybrid, CHP-Enabled Renewable Energy distributed energy configuration at the newly constructed Building 7R facility at the microgrid within the Philadelphia Navy Yard. This demonstration will establish a path to a more pervasive use of renewable energy technology by the application of hybrid (CHP + Solar Photovoltaic + Electric and Thermal Energy Storage combinations) systems that enable a resilient, low carbon footprint path that rationally incorporates cost-effective advances in solar cells, energy storage and distributed energy based electric grid designs. The project will provide the data and system operation experience for a transferrable design guide to enable interested municipal, industrial and rural co-op organizations to assess implementation feasibility for particular applications.

PA DEP hosted a meeting between DEP and representatives of the US DOE Mid-Atlantic CHP Applications Center, DOE NETL, Penn State, PUC, and DCED on October 12 to discuss opportunities for collaboration to advance microgrid projects which include CHP, renewables, and storage in PA. The benefits to PA were discussed: use of indigenous shale gas and renewables for economic development, environmental improvement, and increased

resiliency. There are several sites that are currently planning or considering microgrids with solar PV and energy storage, including the Philadelphia Navy Yard, Reading Airport, a municipal electric utility grid cluster in SE PA, and Pittsburgh. *The group is collaborating on a document that includes definitions and a set of recommendations for next steps to encourage these systems. The group is planning to hold a meeting in January for all potential state project partners, state and federal government agencies, and industry actors with the interest in and capacity to advance these projects.*

Industrial Energy Efficiency Assistance

The Climate Change Action Plan Update contains a work plan that calls for greatly increasing the number of energy assessments for the manufacturing sector and this proposal directly coincides with that recommendation. DEP contracts with the Pennsylvania State University's Technical Assistance Program (PennTAP) to help Pennsylvania companies improve their competitiveness by providing technical assistance and information. DEP and PennTAP entered into a new contract for FY 2016 – 2017 to provide 70-75 energy efficiency assessments for small to mid-sized manufacturers. The project will also educate the next generation of engineering students at Penn State University by including them in site visits and writing assessment reports. Funding is provided by EPA's Pollution Prevention Incentives for States and the DOE's State Energy Program.

PennTAP's technical staff provided two energy assessments for metals and metal fabrication manufacturing companies in Clearfield and Lancaster County during October.

Energy Assessments and Retrofits for Restaurants and Corner Stores

DEP contracted with the Energy Outreach and Assessment Center (EOAC) at the Philadelphia Navy Yard to design and demonstrate a scalable approach to facilitating building energy assessments that will lead to energy retrofits in small and medium sized facilities. This demonstration will focus initially on the Philadelphia PA region as a model for broader statewide applications and specifically on convenience stores and restaurants which are the most energy intensive type of commercial building (3 to 5 times higher than office buildings). These types of facilities have also been targeted by the Philadelphia Energy Authority, who will be a key partner in this project.

This initiative will draw from recent investments by Penn State, the U.S. Department of Energy (DOE) and the DEP in Building Operator Certification and Building Retuning Training designed to engage entry-level workers in building energy assessments. It will also include market partners that will execute retrofit implementations through innovative methods that overcome many barriers currently impeding progress in building energy efficiency. Key innovations include:

- (1) **Lowering the cost of energy retrofit customer acquisition** through low cost energy assessment conducted by education and training program integration and community outreach,
- (2) **Supply chain integration** of retrofit design, pricing, product procurement, and construction, and
- (3) **Aggregation of small projects** into portfolios

In Q1, a total of 30 businesses had a walk-through energy assessment conducted. Three were in State College and 27 were in Philadelphia. A standard assessment report template and format was in development during this period. As of September 30, 2016, three retrofit proposals were developed by PEP and submitted to the business owner. Several more proposals are in development.

Building Operator Certification (BOC) Outreach and BOC/Building Re-tuning (BRT) Workshop

DEP has contracted with PennTAP to create and deliver a well-structured statewide workshop to showcase DEP's Building Construction Technology Extension Program and to provide BRT training and BOC required maintenance points for re-certification. The workshop will highlight DEP's Scope of Work on the BRT projects that have been implemented over the past several years. Program participants will discuss BRT at their facilities and lessons learned of executing projects. BRT training will be provided to participants at the workshop

interested in the hands-on training. BOC training modules will be provided to past participants of the Building Operator Certification Program to provide them an opportunity to obtain their required re-certification BOC maintenance points. PennTAP Technical Advisors and instructors from the Penn College National Sustainable Structures Center (NSSC) will present training sessions that are competency-based and offer facility personnel the improved job skills and knowledge needed to transform their workplaces to be more energy-efficient and environmentally friendly. In addition PennTAP is subcontracting with Penn College's National Sustainable Structures Center will deliver BOC training to 20 government, community colleges and K-12 school participants in 1 or 2 sessions (Statewide).

BOC/BRT Workshop;

The BOC/BRT Facility Operations Workshop date has been set for March 14, 2017. This date was chosen to avoid potential conflicts with other events and also to occur prior to a BOC certification expiry deadline at the end of March. The event will be held at the Penn Stater Conference Hotel Center. Continuing education credits (CEU) certificates will serve as the proof of participation required to qualify for BOC points. Targeted enrollment is 100. The workshop will consist of two parallel tracks that focus on a) BRT principles and the practical application in building walkthroughs, and b) a variety of BOC topics (earning certification points).

BOC Q1 Activities

The location, subjects, dates, and logistics for the BOC training sessions have been determined and are being promoted through Penn College. An initiative to align the BOC program with the international ISO standard will be incorporated in these new training sessions. The activity to date has primarily been planning. NSSC staff will conduct outreach at the upcoming Pennsylvania Association of School Business Officials (PASBO) Facilities Management and Transportation Conference.

Energy Efficient Building Codes Outreach and Education

OPPEA staff has been preparing for the upcoming voting sessions for the 2018 International Energy Construction Code (2018 IECC, the national model code). This year is particularly important after various energy efficiency professionals did an analysis of the proposed codes and found that the 2018 IECC, as proposed, will roll back energy efficiency requirements pre-dating 2009 IECC. The National Association of State Energy Officials and Institute for Market Transformation are providing webinars to State Energy Offices and local governments across the country to educate them about the voting process and the technical issues involved the proposed 2018 IECC.

OPPEA staff will complete online voting on the 2018 International Energy Construction Code (the national model code) the month of November. These votes are crucial to advancing energy efficiency in buildings. The goal is to see about a 5% increase in energy efficiency improvements when triennial energy codes are proposed.

Energy Financing Gap Analysis

DEP issued a Notice to Proceed to Harcourt, Brown & Carey (HBC), a consultant who provides advisory services to various state entities on constructing innovative energy financing programs. HBC will be reviewing all of the alternative energy financing programs provided by PA Commonwealth agencies, and will conduct a gap analysis to determine who and what types of projects are not being adequately served by these programs. The outcome of this analysis will give us information to help determine whether PA should establish new energy funding programs, such as developing a Green Bank, or establishing loan loss reserves, buy-downs, or other credit enhancement mechanisms to accomplish deployment of energy projects. We expect to use this information to inform our annual State Energy Plan submission to DOE, the Pennsylvania Climate Change Action Plan and PEDAs' 2017 Energy Development Plan. The analysis, funded by the 2016/17 DOE State Energy Program, should be completed by the first quarter of 2017.

EV Everywhere

On September 22, 2016, DEP's Energy Office held a meeting with representatives from various state agencies, the Governor's Office, USDOE's Clean Cities, and the Georgetown Climate Center to discuss "statewide" planning and strategy for electric vehicles (EVs) and electric vehicle Infrastructure. A general outcome of the meeting was to continue efforts around creating a statewide planning effort for further adoption of EVs. DEP is convening three meetings, each held at the Pennsylvania Turnpike Commission Headquarters:

An EV Statewide Education & Outreach Committee met on Wednesday, December 7, 2016 from 10-12P to focus on Statewide consumer engagement and education, comprehensive web resources and marketing plan, and incentives and taxation. An EV Statewide Procurement Committee met on Wednesday, December 14, 2016 from 10-12P to focus on state and local government vehicle procurement, regional and national commitments to procure EVs, procurement evaluation tools and resources for PA businesses and residents. An EV Charging Infrastructure Committee on Wednesday, December 21, 2016 from 10-12P to focus on EV Charging types, user fees, and refueling payment options, deployment of public charging along highway corridors, employer and workplace charging and discussion of electric grid opportunities and challenges.

Alternative Fuels Technical Assistance (AFTA)

The AFTA Program was recently designed and developed by OPPEA to provide professional consulting assistance to PA municipalities and school districts interested in adopting alternative fuel strategies for their fleet vehicles. The AFTA Program is being planned to be formally announced in early 2017. Once fully available, the plan is for eligible entities to apply for technical assistance through OPPEA, and, if accepted into the program, OPPEA would then assign a contracted service provider with relevant experience and expertise. The contractor will work with the eligible organization to evaluate alternative fueling alternatives, vehicle options, and operational strategies, and then provide with a final report with recommendations based on economic and operational considerations specific to the entities involved. OPPEA is currently in the process of soliciting for the services of a qualified alternative fuels consultant for AFTA. AFTA is to be funded through use of a limited portion of funds (max \$50k), from the Alternative Fuels Incentive Fund.

National Energy Efficiency Registry

OPPEA has been partnering with six states along with The Climate Registry and the National Association of State Energy Officials (NASEO) to develop a strategy to help create a NEER. Tennessee is the prime recipient of a competitive grant from the Department of Energy for this project. NEER will allow states to track initiatives within their own programs as well as demonstrate progress towards energy goals and potential compliance with existing and future state and federal environmental regulations. NEER will also allow the public and private sectors to transparently track attributes associated with energy efficiency initiatives. This will help states reduce emissions cost-effectively and will support using energy efficiency investments to improve economic competitiveness and environmental quality. OPPEA held a planning call with the Keystone Energy Efficiency Alliance (KEEA) and NEER partners to plan a webinar for Pennsylvania stakeholders to inform them of NEER progress and invite them to participate in development of the NEER. The webinar, led by KEEA, will be held December 13.

Environmental Cleanup and Brownfields

The Land Recycling Program Technical Guidance Manual for Vapor Intrusion into Buildings from Groundwater and Soil under Act 2, Document No. 261-0300-101 (VI Guidance), was published in the Pennsylvania Bulletin on Saturday, Nov. 19, 2016. The new VI Guidance has a 60-day implementation period resulting in an effective date of Jan. 18, 2017.

The VI Guidance has been substantially revised to update scientific deficiencies of the previous guidance. Screening values and the way they are calculated have been updated, and there are multiple clarifications that have been made to language, definitions, and procedures. The purpose of these revisions is to eliminate

confusion for remediators and regional office staff on how to address the VI pathway under the Statewide health standard and the site-specific standard.

Reports received by DEP prior to the effective date will be reviewed using the screening values, procedures, and concepts in the 2004 VI guidance. Reports received after the effective date will be reviewed using the new VI Guidance. Projects that have remedial investigation reports, site characterization reports or remedial action plans approved under the old guidance but have not yet submitted their Final Reports (FR) or Remedial Action Completion Reports (RACRs) by the effective date should incorporate the scientific concepts and procedures of the new VI Guidance into their future submissions. Prior approved reports will not need to be resubmitted. Questions regarding this technical guidance document should be directed to Carolyn Fair, Land Recycling Program, (717) 425-7514 or cfair@pa.gov

Cleanup Standards Scientific Advisory Board (CSSAB)

The next CSSAB meeting is scheduled for March 15, 2017, at 9 a.m. in Room 105 in RCSOB, 400 Market Street, Harrisburg.

Storage Tank Advisory Committee (STAC)

The next STAC meeting is scheduled for Dec. 6, 2016, at 10 a.m. in Room 105 in RCSOB, 400 Market Street, Harrisburg. The proposed agenda will include a discussion of draft substantive revisions to both the “Closure Requirements for Aboveground Storage Tank Systems” and “Closure Requirements for Underground Storage Tank Systems” technical guidance documents. In addition, a draft proposed rulemaking to amend Chapter 245 (Administration of the Storage Tank and Spill Prevention Program) will also be presented and discussed.

Environmental Education

Environmental Education Grants Program (EEGP)

Applications for the 2017 Environmental Education Grants Program are now available. The grants provide funding to public and incorporated private schools, colleges and universities, county conservation districts, incorporated nonprofit organizations, along with incorporated conservation and education organizations and institutions, businesses, municipalities and municipal authorities to create or develop projects that support environmental education in the state. This program is funded through a portion of fines and penalties collected by DEP.

For the 2017 grant round, organizations may apply for mini-grants of up to \$3,000 or general grants up to \$50,000. General grants will be awarded to organizations implementing large scale regional or statewide environmental education projects. Mini-grant applicants may apply for local environmental education projects. All applicants are encouraged to undertake projects that address DEP’s priority topics of climate change, water education and environmental justice.

Applications must be submitted electronically at dep.pa.gov/EE_Grants by Dec. 16, 2016.

PA Falcon Reintroduction Program

The peregrine falcon fledglings have become completely independent and have dispersed from the area. The adults will remain in the area, defending the nest site. The 2017 breeding season will begin in late January when the adults are expected to renew their pair-bond.

Ongoing, active components of this program include: email interaction with web viewers, Falcon Wire and Twitter postings and school/youth programming on endangered species and adaptations.

Oil and Gas

Oil and Gas Technical Advisory Board (TAB) Meeting

On November 22, TAB met with DEP at their final board meeting scheduled in 2016. The meeting agenda included a number of topics such as a discussion of two oil and gas related technical guidance documents that are currently open for public comment. The board also received a verbal report and update from the coal-gas coordination subcommittee. Discussion topics also included updates on underground injection control well permits, seismic issues related to oil and gas activities, and the recently enacted Chapter 78a subsurface activities rulemaking. This meeting was held at 10:00 a.m. at the Rachel Carson State Office Building (Conference Room 105), 400 Market Street, Harrisburg, PA 17105. DEP made this meeting available to the public via a webinar format. Meeting materials are available on the DEP website (at the TAB web page).

Draft Technical Guidance Documents (Environmental Protection Performance Standards at Oil and Gas Well Sites)

Notice of availability of two guidance documents was published as interim final with a 60-day comment period on October 8, 2016. The two technical guidance documents [Guidelines for Implementing “Area of Review Regulatory Requirement” (AOR Guidelines) and the “Policy for the Replacement or Restoration of Private Water Supplies” (Water Supply Policy)] have been developed to assist DEP and industry in implementing the final-form rulemaking. Both guidance documents have been the subject of workgroup meetings dating back to last November with a wide range of stakeholders as well as formal consideration by the Oil and Gas Technical Advisory Board (TAB) and the Conventional Oil and Gas Advisory Committee (COGAC). Edits have been made in the wake of Act 52 to remove all references in the documents to the conventional oil and gas industry.

Commonwealth Financing Authority (CFA), Orphan or Abandoned Well Plugging Program (OAWP)

The CFA announced Act 13 Marcellus Legacy Fund grant awards on Monday, October 17. Of \$13,999,900 awarded under various programs, \$130,000 was awarded under the OAWP program grants for the 2016 grant application period. Western PA Conservancy won a grant to plug two wells in Toms Run, Allegheny County, PA. Bureau of Oil and Gas Planning and Program Management and District oil and gas staff reviewed 11 grant applications targeting 50 wells, many of which are contributing to ongoing environmental or human health risks. The submitted applications were for projects in western Pennsylvania, namely Allegheny, Washington, Venango, Clarion, Armstrong, McKean, Elk, and Potter counties. The grants represented over \$2,435,000 of potential funding to address oil and gas well plugging in 2017. Plugging abandoned wells benefits communities impacted by legacy oil and gas development and grant programs such as this are particularly critical at a time when the budget has hampered DEP from developing and executing plugging contracts. Bureau staff plans to follow up with the Pennsylvania Department of Community and Economic Development (DCED) prior to the next grant cycle to facilitate an exchange of information, provide feedback to grant applicants who were unsuccessful, and explore ways to best utilize this important resource.

Oil and Gas Workload Report

Please see Attachment 2.

Radiation Protection

Radiation Protection Advisory Committee (RPAC)

The next RPAC meeting is scheduled for April 6, 2017, at 9:00 a.m. in the 14th Floor Conference Room, RCSOB.

Radiation Protection Rulemaking Packages

Radiation Protection Program Fees

This proposed rulemaking will amend Chapters 218 and 240 relating to fees. DEP must review the adequacy of established fees every three years, and the current fee review indicates the need for a fee increase in two program areas. The fees for Radioactive Materials and Decommissioning Program and the Radon Program are insufficient to cover program costs. This information was presented in a 3-year Fee Report to the RPAC and EQB in 2014 meetings of these bodies. RPAC has endorsed the increases. The proposed rulemaking was approved by the EQB on April 19, 2016, and published in the *Pennsylvania Bulletin* on July 2, with a 60-day public comment period that closed Aug. 30, 2016. A comment/response document and final rulemaking package are in development. *The draft final annex was reviewed and endorsed by the RPAC on Nov. 17, 2016.*

Radiological Health

This proposed rulemaking is diverse in scope and will amend 25 Pa. Code Chapters 215-240 to establish and maintain adequate radiation protection standards and oversight due to significant technological advances in the use of radiation sources. The revisions will delete Agreement State transitional language and outdated requirements as well as add definitions for clarity of new and existing regulatory provisions. The amendments also contain comprehensive amendments for radon testing, mitigation, and laboratory analysis that largely reflect current practice. This rulemaking has been reviewed at length with RPAC at its meetings in 2014 and 2015. DEP received the Committee's endorsement of the package in July 2015. The proposed rulemaking was presented to and unanimously approved by the EQB on Oct. 18, 2016, with *Pennsylvania Bulletin* publication anticipated in *Jan. 2017* with a 45-day public comment period.

Waste Management

Solid Waste Advisory Committee (SWAC)

The annual meeting of the SWAC and Recycling Fund Advisory Committee (RFAC) was held on Thursday, Sept. 22, at 10:00 a.m. in Room 105, RCSOB. The 2017 meetings *have been scheduled for March 16, June 29, jointly with RFAC Sept. 21, and Dec. 6. All meetings will be held beginning at 10 a.m. in Room 105 of the RCSOB.* The process of re-appointing and appointing members and convening a nominating committee for election of officers (Chair and Vice-Chair) is ongoing. Current members' terms expire Dec. 31, 2016, and election of officers will take place at the *March 16, 2017, meeting.*

Water Programs

New Chapter 102 and 105 Delegation Agreements

The Department of Environmental Protection has revised the delegation agreements with county conservation districts for both the Water Obstruction and Encroachments Permitting Program (WEOP Program, Chapter 105) and the Erosion and Sediment Pollution Control (E&S) and National Pollutant Discharge Elimination System (NPDES) Permitting Program for the discharge of stormwater from construction activities (Chapter 102). The key changes to the delegation agreements include the following:

- Permit Decision Guarantee/Permit Review Process (PDG/PRP) SOPs have been developed for each permit type and the timeframes in those SOPs are reflected in the delegation agreements and required output measures (ROMs).
- Post Construction Stormwater Management (PCSM) delegation has been developed in a stand-alone agreement, along with associated ROMs.
- The PCSM delegation provides for both completeness and engineering review of the PCSM plans; what was previously known as the "technical review" will be terminated. Districts who do not assume the PCSM delegation will still remain required to execute completeness reviews of PCSM plans and to make note of PCSM practices during site inspections.
- Agriculture E&S is specifically identified in the base and PCSM delegation agreements and ROMs.

Key Changes to the Chapter 105 Agreement:

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

The revised delegation agreements were approved by the State Conservation Commission at its September 19, 2015 meeting, and were sent to all conservation districts for review and signature. The districts could opt to maintain their current levels and programs of delegation agreement, add a new level or agreement, or drop a level or agreement. A letter of Intent was requested from each conservation district by February 26, 2016 indicating their choice. It is anticipated that full execution of all revised delegation agreements will take place by or before January 2017.

Technical Guidance Documents

The Bureau of Waterways Engineering and Wetlands is in the process of finalizing three technical guidance documents previously published for public comment. The technical guidance documents set to be finalized are the Pennsylvania Wetland Condition Level 2 Rapid Assessment (Doc Id: 310-2137-002), Pennsylvania Riverine Condition Level 2 Rapid Assessment (Doc Id: 310-2137-003), and Pennsylvania Lacustrine Condition Level 2 Rapid Assessment (Doc Id: 310-2137-004). These technical guidance documents provide standard guidelines for evaluating the condition of palustrine wetlands, riverine and lacustrine aquatic resources for the purposes of meeting regulatory requirements contained in 25 Pa. Code Chapter 105. The technical guidance outlines how to conduct assessments, the factors to consider when doing so and establishes a scoring system based upon condition categories. Program staff presented an overview of the three proposed Aquatic Resource Condition Level 2 Rapid Assessment final technical guidance documents to the Water Resources Advisory Committee at their September 21, 2016 meeting. The WRAC members approved these technical guidance documents with a unanimous vote. The final technical guidance documents will be published in the PA Bulletin in *early 2017* with an effective implementation date of January 1, 2017. Bureau staff is also currently developing a roll out plan for these technical guidance documents.

NPDES Permitting

On May 30, 2015, DEP published a draft NPDES General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) (PAG-13), and provided a 60 day comment period. DEP subsequently decided to extend the comment period for an additional 15 days based on several public requests. As a result, the comment period ended on August 31, 2015. DEP received 609 comments from 64 individuals/groups. Bureau of Clean Water (BCW) staff prepared a comment-response document, and the final PAG-13 General Permit was published in the Pennsylvania Bulletin on June 4, 2016. The General Permit will not become effective until March 2018. DEP reissued the General Permit well in advance of the expiration date because significant work may be required by MS4s to prepare for renewal of coverage, including the possibility of developing a Pollutant Reduction Plan for stormwater discharges to waters in the Chesapeake Bay watershed and to locally impaired waters.

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

NPDES discharge permit. BCW staff are currently reviewing comments and preparing responses before final issuance of the new NPDES PAG-03 permit.

Sewage Sludge Land Application Permitting

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

Stormwater BMP Grant Program Applications Received

DEP announced a new grant program, using EPA money, which will be used by municipalities to construct stormwater Best Management Practices (BMPs) in the Chesapeake Bay Watershed in August. The deadline for applications closed on October 9, 2015. DEP received 42 applications. The most common types of BMPs requested in the applications are raingardens, trees (urban planting and riparian buffers), and stormwater management basin retrofits. Applications came from municipalities and municipal authorities in the southcentral, northeast and northcentral DEP regional offices. Details on the program are available on the DEP stormwater website. Scoring and recommendation for final selection has been completed and submitted for approval. Nineteen projects were recommended for funding, totaling \$2.28 million. Notice of successful applicants has been announced.

Triennial Review of Water Quality Standards

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

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

The triennial review of water quality standards proposed rulemaking (TR17) was presented to the Water Resources Advisory Committee at the March 24, 2016 meeting. The final rulemaking is anticipated in 2017, which will be submitted to the U.S. Environmental Protection Agency for formal review and approval in accordance with the Federal Clean Water Act.

Stream Redesignations – Sobers Run, et al. Proposed Rulemaking

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

Section 303(c)(1) of the federal Clean Water Act requires states to periodically review and revise, as necessary, water quality standards. This proposed rulemaking contains waterbodies that are candidates for redesignation.

Stream evaluations were conducted by DEP to determine the appropriate designated use of the candidate waterbodies. The streams in this proposed rulemaking were all evaluated in response to petitions as follows:

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

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

Final Rulemaking

Nothing to report.

Proposed Requirements Rule

Disinfection Requirements Rule

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

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

The proposed rulemaking was approved by EQB on Nov 17, 2015 and was published in the PA Bulletin on February 20, 2016. Three hearings were held on March 28 (Harrisburg), April 5 (Norristown), and April 7 (Pittsburgh). The public comment period closed on April 19, 2016. IRRCs comment period closed on May 19, 2016. The draft final rulemaking should be presented to the TAC Board in mid-2017.

Safe Drinking Water General Update

There are three main purposes for this rulemaking. The first is to incorporate the remaining general update provisions that were separated from the proposed RTCR as directed by the EQB on April 21, 2015. These general updates are intended to:

- Clarify the source water assessment, source water protection area, and source water protection program elements and requirements.

- Revise the treatment technique requirements for pathogenic bacteria, viruses and protozoan cysts by adding specific turbidity performance requirements for membrane filtration.
- Revise the disinfection profiling and benchmarking requirements to clarify that public water systems that did not previously conduct these activities must now conduct them.
- Revise the permit requirements to clarify the components that must be included in a permit application for a new source, including a source water assessment, pre-drilling plan, evaluation of water quantity and quality, and hydrogeologic report.
- Revise the design and construction standards to require public water systems (PWS) using surface water or groundwater under the direct influence of surface water (GUDI) sources to be equipped with alarm and shutdown capabilities. These provisions would be required for plants that are not staffed continuously while the plant is in operation.
- Update the system management requirements for community water systems (CWSs) to strengthen system service and resiliency by requiring auxiliary power or an alternate provision such as finished water storage or interconnections.
- Revise the corrective action timeframes in response to a significant deficiency for PWSs using groundwater and surface water sources to be consistent.
- Delete the provision that allows a PWS to avoid the requirement for a corrective action by collecting five additional source water samples after an E. coli-positive triggered source water sample.

The second purpose is to include additional general update provisions that will:

- Establish the regulatory basis for the issuance of general permits for high volume, low risk modifications or activities to streamline the permitting process.
- Clarify that noncommunity water systems (NCWS) require a permit or approval from the Department of Environmental Protection (DEP) prior to construction and operation.
- Address concerns related to gaps in the monitoring, reporting and tracking of back-up water sources and entry points. As per state and federal regulations, all sources and entry points must be included in routine compliance monitoring to ensure water quality meets safe drinking water standards. Sources and entry points that do not provide water continuously are required to be monitored when used. However, monitoring requirements for back-up sources are not currently tracked, which means there are no verifiable controls in place to ensure that all sources and entry points meet safe drinking water standards.

The third purpose is to add new annual fees and amend (update) permit fees. Pennsylvania is ranked 4th in the nation in terms of the number of PWSs, with nearly 9,000 water systems across the Commonwealth. The DEP is responsible for regulating all PWSs and ensuring that safe and potable drinking water is continuously supplied to the 10.7 million customers they serve. In order to carry out these responsibilities, the DEP must ensure adequate funding for the Safe Drinking Water Program. The proposed rulemaking is necessary in order to fulfill the DEP's fiscal responsibility to cover most, if not all, of its state program costs. Program costs are directly tied to the resources needed to meet federal and state mandates for minimum program elements and for the administration of an effective State Drinking Water Program. Failure to meet minimum program elements may result in increased risk to public health as well as the loss of primacy for the Safe Drinking Water Program.

The proposed rulemaking will be presented to the Small Water Systems Technical Assistance Center (TAC) Advisory Board in December. It is anticipated that the proposed rulemaking will be presented to the EQB in 2017.

Draft 2016 Pennsylvania Integrated Water Quality Monitoring and Assessment Report (Integrated Report)

The Department published the Draft 2016 Pennsylvania Integrated Report in the Pennsylvania Bulletin on July 30, 2016 for a 45-day comment period. The comment period closes September 12, 2016. The Integrated Report satisfies the federal Clean Water Act (CWA) Section 303(d) requirement that every two years on even numbered years submit the list of waters (flowing and lakes) that will not meet water standards following the application of technology due to a pollutant and require the development of a Total Maximum Daily Load (TMDL) to USEPA. The report also satisfies the CWA Section 305(b) requirement that states report the water quality status of all surface waters from time to time to USEPA. The list is composed of surface waters assessed for at least one of the four protected uses of aquatic life, fish consumption, potable water supply and recreation. The report is available on the Department's website at:

<http://www.dep.pa.gov/Business/Water/PointNonPointMgmt/WaterQuality/Pages/Integrated-Water-Quality-Report---2016.aspx>. The report consists of five categories, waters that are attaining all four uses, waters attaining at least one use, waters not assessed, waters impaired but don't require a TMDL and waters impaired by a pollutant that require a TMDL. In addition, the report identifies the waters selected as high priorities for TMDL development and those waters that will be restored through an alternative to a TMDL, waters restored to water quality standards since the previous integrated report and other details and statistics of the water quality management program.

Chesapeake Bay Initial Ag Inspection Training

DEP staff completed four training sessions for the Chesapeake Bay Initial Ag Inspection program. As part of the January 2016 Chesapeake Bay Restoration Strategy, DEP and County Conservation District staff will be conducting several thousand inspections of farm operations to ensure compliance with existing Pennsylvania regulatory requirements. The first element of the "reboot" is addressing pollutant reduction deficiencies by meeting the EPA goals of inspecting 10 percent of farms in the Bay watershed annually, with increased inspection and compliance efforts in the agriculture sector using existing DEP and Conservation District staff, and with continued DEP outreach and program development for urban stormwater systems. This inspection training was conducted for conservation district staff that will be conducting these initial inspections. On July 29th, the last of these four sessions was held in Shippensburg. The training focused on basic Chesapeake Bay information and instruction on implementation of the Initial Ag Inspection Standard Operating Procedures. More than 75 conservation district staff were trained to conduct these initial ag inspections. Conservation districts in 29 Pennsylvania counties will be conducting these inspections in the Chesapeake Bay Watershed; nine conservation districts declined to participate in these farm inspections. DEP and conservation districts have begun conducting inspections, with a majority of these inspections to be conducted in the fall through next spring.

Water Resources Planning

Ocean Planning Milestone, Mid-Atlantic Regional Planning Body – On October 31, 2016, the Mid-Atlantic Regional Planning Body (MA-RPB) submitted its Ocean Action Plan to the National Ocean Council (NOC) for certification. The main goals of the Plan include: healthy ocean ecosystems, sustainable ocean uses, and Improved inter-jurisdictional coordination. After NOC certifies the plan, all participating state and federal agencies will be approved to provide signatures. MA-RPB will provide more detail on the finalization process. DEP's Compacts and Commissions staff remain involved and continue to monitor all final MA-RPB developments.

Attachment 1

2016 Events Calendar

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

| December | |
|-----------------|---|
| 6 | Storage Tank Advisory Committee, 10:00 a.m., Room 105, RSCOB |
| 8 | Air Quality Technical Advisory Committee, 9:15 a.m., Room 105, RCSOB |
| 13 | Board of Coal Mine Safety, 10:00 a.m., Conference Room 1A and 1B, Cambria Office, 286 Industrial Park Road, Ebensburg |
| 14 | State Board for Certification of Water and Wastewater Systems Operators meeting |
| 14 | Environmental Justice Advisory Board |
| 21 | State Board for Certification of Sewage Enforcement Officers meeting |
| January | |
| 10 | Climate Change Advisory Committee, 10:00 a.m., Room 105, RCSOB |
| 25 | Small Business Compliance Advisory Committee, 10:00 a.m., 12 th floor conference room, RCSOB |
| February | |
| 8 | State Board for Certification of Water and Wastewater Operators Meeting |
| 16 | Oil and Gas Technical Advisory Board (TAB) meeting; RCSOB, Rm 105, 10:00 am – 3:30 pm. |
| 23 | Air Quality Technical Advisory Committee, 9:15 a.m., Room 105, RCSOB |

Attachment 2

Oil and Gas Workload Report

| YTD WELL PERMIT APPLICATIONS - 1/1/2016 to 11/18/2016 | | | | | | |
|--|-----------------|---------------------|------------------|-----------------------|------------------------|---------------------------|
| | RECEIVED | UNDER REVIEW | PROCESSED | PERMITS ISSUED | WELLS PERMITTED | OTHER DISPOSITIONS |
| CONVENTIONAL | 194 | 44 | 158 | 158 | 158 | 0 |
| UNCONVENTIONAL | 1,220 | 259 | 1,173 | 1,153 | 1,114 | 20 |
| Sub Total | 1,414 | 303 | 1,331 | 1,331 | 1,272 | 20 |
| AUTHORIZATIONS | 682 | 247 | 677 | 621 | N/A | 56 |
| Total | 2,096 | 550 | 2,008 | 1,932 | 1,836 | 76 |

WEEKLY WELL PERMIT APPLICATIONS – 11/12/2016 to 11/18/2016

| | RECEIVED | UNDER REVIEW | PROCESSED | PERMITS ISSUED | WELLS PERMITTED | OTHER DISPOSITIONS |
|------------------|----------|--------------|-----------|----------------|-----------------|--------------------|
| CONVENTIONAL | 0 | 0 | 3 | 3 | 3 | 0 |
| UNCONVENTIONAL | 7 | 7 | 64 | 59 | 59 | 5 |
| Sub Total | 7 | 7 | 67 | 62 | 62 | 5 |
| AUTHORIZATIONS | 0 | 0 | 4 | 4 | N/A | 0 |
| Total | 7 | 7 | 71 | 66 | 66 | 5 |

HISTORICAL WELL PERMIT APPLICATIONS AS OF 11/18/2016

| | RECEIVED | PROCESSED | PERMITS ISSUED | WELLS PERMITTED | OTHER DISPOSITIONS | ACTIVE PERMITS |
|------------------|----------------|----------------|----------------|-----------------|--------------------|----------------|
| CONVENTIONAL | 197,372 | 197,321 | 196,099 | 189,987 | 1,222 | 103,443 |
| UNCONVENTIONAL | 22,582 | 22,279 | 21,823 | 17,851 | 456 | 10,214 |
| Sub Total | 219,954 | 219,600 | 217,922 | 207,838 | 1,678 | 113,657 |
| AUTHORIZATIONS | 42,310 | 41,938 | 41,578 | N/A | 360 | 18,654 |
| Total | 262,264 | 261,538 | 259,500 | 248,784 | 2,038 | 132,311 |

YTD INSPECTIONS - 1/1/2016 to 11/18/2016

| | INSPECTIONS | FACILITIES INSPECTED | VIOLATIONS | ENFORCEMENTS |
|----------------|---------------|----------------------|--------------|--------------|
| CONVENTIONAL | 14,313 | 11,065 | 1,685 | 347 |
| UNCONVENTIONAL | 13,411 | 6,097 | 319 | 92 |
| CLIENT/SITE | 3,838 | 0 | 721 | 211 |
| Total | 31,562 | 17,162 | 2,725 | 650 |

WEEKLY INSPECTIONS - 11/12/2016 to 11/18/2016

| | INSPECTIONS | FACILITIES INSPECTED | VIOLATIONS | ENFORCEMENTS |
|----------------|-------------|----------------------|------------|--------------|
| CONVENTIONAL | 247 | 241 | 14 | 3 |
| UNCONVENTIONAL | 164 | 157 | 6 | 7 |

| | | | | |
|--------------|------------|------------|-----------|-----------|
| CLIENT/SITE | 68 | 0 | 12 | 8 |
| Total | 479 | 398 | 32 | 18 |

| WELLS DRILLED | | | | | |
|----------------------|---|--|--|---|-------------------------|
| | Two Years Prior 1/1/2014 to 11/18/2014 | One Year Prior 1/1/2015 to 11/18/2015 | Year To Date 1/1/2016 to 11/18/2016 | Week of 11/12/2016 to 11/18/2016 | As of 11/18/2016 |
| CONVENTIONAL | 746 | 268 | 86 | 2 | 193,649 |
| UNCONVENTIONAL | 1,229 | 714 | 422 | 17 | 10,031 |
| Total | 1,975 | 982 | 508 | 19 | 203,680 |

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