

**February 2023 Report to the Citizens Advisory Council**  
*(New and updated information in italics)*

**DEP Highlights**

**DEP PFAS Update**

In 2018, Governor Wolf announced several actions to address growing concerns about perfluoroalkyl and polyfluoroalkyl substance (PFAS) contamination. Through an Executive Order, the Governor established a multi-agency PFAS Action Team. The team, led by DEP, is responsible for developing a comprehensive response to identify and eliminate the sources of PFAS contamination, address strategies to deliver safe drinking water, manage environmental contamination, explore funding for remediation efforts, and increase public education. In 2019, the Action Team released a comprehensive [report](#) outlining the challenges associated with PFAS and the Team’s efforts to address those challenges in Pennsylvania. The Governor also sent a letter to the United States Environmental Protection Agency (EPA) to again urge the EPA to move forward with establishing maximum contaminant levels (MCLs) for PFOA and PFOS. DEP believes that the EPA must take a leadership role and work with other states and federal agencies to address PFAS holistically. More information can be found on DEP’s PFAS website: [www.dep.pa.gov/pfas](http://www.dep.pa.gov/pfas).

**PFAS Cleanup Standards**

On September 23, 2021, the Independent Regulatory Review Commission (IRRC) approved the final-form regulatory amendments to Chapter 250: Administration of the Land Recycling Program. This regulation establishes the first ever cleanup standards for three PFAS – PFOA, PFOS, and PFBS. The final rule was published in the Pennsylvania Bulletin on November 20, 2021.

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

The PFAS MCL proposed rulemaking was published in the Pennsylvania Bulletin on February 26, 2022, for a 60-day public comment period that closed on April 27, 2022. Five virtual public hearings were held the week of March 21, 2022. The final-form rulemaking was presented to the Environmental Quality Board at its October 12, 2022 meeting; the EQB voted 15-3 to approve the final-form rulemaking. The final-form rulemaking is available on DEP’s [EQB webpage](#). The final-form rulemaking was presented to IRRC on November 17, 2022; IRRC voted 5-0 to approve the final-form rulemaking. The final regulation *was* published in the January 14, 2023 issue of the Pennsylvania Bulletin.

The purpose of the rulemaking is to set maximum contaminant levels (MCLs) and maximum contaminant level goals (MCLGs) for PFOA and PFOS, two contaminants that are part of a larger group of PFAS, to be protective of adverse developmental and immune system effects. The MCLG and MCL values are as follows:

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

In addition, the rule: establishes monitoring requirements for PFOA and PFOS for community, nontransient noncommunity, and bottled, vended, retail, and bulk water systems in order to demonstrate compliance with the

MCLs; establishes sampling and analytical requirements and acceptable treatment technologies for achieving compliance with the proposed MCLs for PFOA and PFOS; and provides for the increased protection of public health through implementation of the MCLs, routine compliance monitoring, and other provisions including public notification for MCL violations.

#### PFAS Data Collection

In late 2019, the U.S. Geologic Survey (USGS), DEP, and Susquehanna River Basin Commission staff collected raw surface water PFAS samples to quantify the extent of PFAS contamination at all of Pennsylvania's 178 surface water quality network (WQN) stations. Additionally, passive water PFAS samples were collected at 18 sites, most of which overlapped with the WQN sites. This data is available on the [DEP website](#) and the [USGS website](#). DEP and USGS will continue to collect PFAS surface water samples at approximately 20 locations throughout Pennsylvania based on the results of the data collection effort. The additional data collection will be performed as part of the Department's Surface WQN. Ongoing data collection will be used in the development of PFAS water quality criteria and implementation of surface water assessments.

On March 23, 2021, Pennsylvania's Interagency Fish Consumption Advisory Technical Workgroup voted to adopt the 2019 Great Lakes Best Practices, which includes tiered meal advice for perfluorooctane sulfonate (PFOS). This workgroup is responsible for reviewing data and developing fish consumption advisories for Pennsylvania surface waters. Fish consumption advisories are posted on the [DEP website](#) and are included in the Pennsylvania Fish and Boat Commission's Regulation Booklet that is provided to licensed anglers.

Subsequent to the adoption of tiered meal advice for PFOS, Pennsylvania analyzed tissue samples collected from surface waters throughout the Commonwealth. Samples from locations on Neshaminy Creek and Little Neshaminy Creek had results that exceeded Do Not Eat advisory thresholds. In response to the sample results, the Interagency Fish Consumption Advisory Technical Workgroup voted to issue a Do Not Eat advisory for the entire Neshaminy Creek basin. Additional data collection throughout the Commonwealth and the Neshaminy Creek basin will be conducted in 2022 in an effort to evaluate the need for additional fish consumption advisories and to refine the delineation of fish consumption advisories throughout the Neshaminy Creek basin. *Data collected in 2022 will be analyzed and evaluated in 2023.*

#### **Chesapeake Bay Phase 3 Watershed Implementation Plan (WIP)**

In an effort to expand public transparency of Pennsylvania's progress toward meeting our Phase 3 WIP goals, DEP's Chesapeake Bay Office has instituted an electronic monthly newsletter. Previous newsletters and the link to subscribe can be found [here](#).

The Phase 3 WIP describes how Pennsylvania intends to move forward and accelerate progress towards meeting the nutrient reduction targets established by the Chesapeake Bay Program Partnership for the improvement of local water quality and the restoration of the Chesapeake Bay with the goal of having all practices in place by 2025. On December 31, 2021, DEP submitted an amended Phase 3 WIP to the U.S. Environmental Protection Agency (EPA) that outlines how Pennsylvania will fully meet its nutrient and sediment reduction goals in the Chesapeake Bay watershed by 2025, provided adequate funding support and provided that EPA modeling is updated to accurately reflect pollution reduction measures already on the ground.

On April 18, 2022, EPA published their evaluation of Pennsylvania's amended Phase 3 WIP. EPA determined, using Chesapeake Bay Partnership approved tools, that Pennsylvania is still short of meeting the nitrogen and phosphorus planning targets. EPA did not account for Pennsylvania's expired best management practices (BMPs), BMPs considered "cutoff" in the model, or BMPs that are currently unreported. EPA provided a list of "enhancements" for DEP to consider and requested a revised WIP and response within 90 days. DEP met with

EPA on April 27, May 18, and May 26 to further discuss their evaluation and asked clarifying questions, as well as to discuss the status of EPA's Animal Agriculture Programs Assessment report and evaluation of Pennsylvania's Milestone commitments and progress.

EPA published the final 2021 annual numeric progress for all jurisdictions in June. DEP met with EPA multiple times earlier this calendar year, and then with a final meeting on May 26, 2022, to review and discuss Pennsylvania's submitted progress. Pennsylvania's final credited reductions for 2021 annual progress were 2.48 million pounds of nitrogen, 40,000 pounds of phosphorus, and 61 million pounds of sediment.

The amended Phase 3 WIP highlights that the \$324.2 million annual funding need identified in Pennsylvania's original Phase 3 WIP remains. The proposed U.S. Department of Agriculture Chesapeake Resilient Farms Initiative (CRFI), supported by the Wolf Administration, would provide a new investment of \$737 million across the Chesapeake Bay watershed for clean water and climate resiliency. State investments are being proposed in the Pennsylvania legislature, with proposed Clean Streams Fund and Growing Greener III funding that would provide \$750 million statewide for watershed restoration and water quality improvements, with a focus in the Chesapeake Bay watershed and Susquehanna River basin. On January 14, 2022, DEP submitted Pennsylvania's Draft 2021 Programmatic Progress report, Draft 2022-2023 Programmatic Milestone Commitments, and Draft 2022-2023 Numeric Milestone Commitments to EPA, per the Chesapeake Bay Program Partnership-approved Two-year Milestone schedule. EPA will be releasing their evaluation of the Draft Milestone documents in mid-June. The Programmatic Progress and Milestone Commitments are combined into one document, as there are many ongoing efforts that have and will take place throughout the prior two-year period and through the next two-year cycle. These documents are published to the DEP [Tracking Pennsylvania's Progress](#) website.

The Phase 3 WIP includes Countywide Action Plans (CAPs) developed by the counties with support from DEP. All 34 Pennsylvania counties in the Chesapeake Bay watershed that were asked to complete CAPs have now done so, and county teams and partners have begun carrying out the best management practices (BMPs) specified in their plans. To support this crucial work, on December 16, 2021, Governor Tom Wolf announced \$17.4 million in grant funding for projects in 33 counties across the Chesapeake Bay watershed, highlighting their path-breaking work to improve the health of local streams, rivers, and lakes by reducing nutrient and sediment pollution.

DEP's Bureau of Watershed Restoration and Nonpoint Source Management (BWRNSM), formerly known as the Chesapeake Bay Office, recently awarded the counties with CAPs \$12.2 million total, of which approximately \$9.3 million is from the state Environmental Stewardship Funds and \$2.9 million from EPA. From the federal funds, \$1.6 million was from the Chesapeake Bay Infrastructure Investment and Jobs Act (CB IJA), awarded to DEP beginning October 1, 2022. [This press release](#) lists the counties receiving funds and their allocation.

The BWRNSM and its partners continue to evaluate the near- and long-term impact that COVID-19 has on outreach, engagement, and implementation of the initiatives as set forth within the WIP and CAP strategies.

The Phase 3 WIP is accessible at [www.dep.pa.gov/chesapeakebay/phase3](http://www.dep.pa.gov/chesapeakebay/phase3). Questions on the Phase 3 WIP and Pennsylvania's Chesapeake Bay Program can be submitted to [RA-EPChesBay@pa.gov](mailto:RA-EPChesBay@pa.gov).

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

The Bureau of Watershed Restoration and Nonpoint Source Management published the 2021 Healthy Waters Healthy Communities Annual Report in October 2022. The report can be found at [https://files.dep.state.pa.us/Water/ChesapeakeBayOffice/WIPIII/2022/PADEP\\_Annual\\_Report\\_10-04-2022\\_Single\\_Pages\\_FINAL.pdf](https://files.dep.state.pa.us/Water/ChesapeakeBayOffice/WIPIII/2022/PADEP_Annual_Report_10-04-2022_Single_Pages_FINAL.pdf).

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

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

### **Pennsylvania's Anti-Litter Campaign**

DEP, in conjunction with other Commonwealth agencies (PDE, PSP, PFBC, DCNR, DOH, and PennDOT) continues to promote Pennsylvania's anti-litter campaign, "PA Fights Dirty." As part of this effort the EE&IC staff are also promoting this initiative through various environmental education networks and in "Teaching Green".

The Keep Pennsylvania Beautiful (KPB) also features the state's Young Ambassadors Program, a new partnership with PennDOT and KPB. This initiative was recommended in the Litter Action Plan and invited Pennsylvania rising 10th- through 12th-grade students to help keep the Commonwealth clean.

The students were chosen through a competitive process – participants have committed to nine months of service in representing and upholding the mission and values of KPB. Other responsibilities include attending a virtual orientation, four virtual education and training workshops, and up to two virtual networking events, organizing and participating in at least one community cleanup event through Pick Up Pennsylvania, conducting one community education event targeting youth in the student's community and promoting participation on social media.

From September 2022 through May 2023, Young Ambassadors will build community stewardship by inspiring, engaging, and empowering Pennsylvanians to keep their communities clean and develop civic leadership to advocate for clean and beautiful communities across Pennsylvania.

More information and the application for the Young Ambassadors Program can be found on the [KPB website](#).

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### **Regulatory Update (Detailed summaries included in respective program sections)**

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

- **Proposed Rulemaking – Administration of the Land Recycling Program Vanadium MSC Rule (#7-572):** The rule was adopted by the EQB on May 18, 2022. This rule was published in Pennsylvania Bulletin on July 30, 2022, with a 30-day public comment period that closed on August 29, 2022. IRRC had no comments on the rulemaking.
- **Proposed Rulemaking – Dam Safety and Waterway Management (#7-556):** The rule was adopted by the EQB on July 21, 2020. The rule was published on December 5, 2020, for a 60-day public comment period ending on February 3, 2021. On February 24, 2021, the House Environmental Resources and Energy Committee voted to send a letter to the Independent Regulatory Review Commission (IRRC) expressing the committee's disapproval of the proposed rulemaking. IRRC's comments were received on March 5, 2021.
- **Draft Final Rulemaking – Radiological Health Fees (#7-574):** The rule was adopted by the EQB on June 14, 2022. This rule was published in Pennsylvania Bulletin on August 27, 2022, with a 30-day public comment period that closed on September 26, 2022. IRRC's comments were received on October 26, 2022. The draft final Annex A was presented to the Radiation Protection Advisory Committee on December 9, 2022.

- Draft Final Rulemaking – Exclusion for Identification and Listing Hazardous Waste at MAX Environmental Technologies, Inc. Bulger and Yukon Facilities (#7-566): The rule was adopted by the EQB on September 21, 2021. The proposed rule was published in the Pennsylvania Bulletin on January 8, 2022, with a 45-day public comment period that closed on February 22, 2022. Three virtual public hearings were held on January 19, 20, and 26, 2022. IRRC’s comments were received on March 24, 2022. The draft final Annex A was presented to the Solid Waste Advisory Committee on December 15, 2022.
- Draft Final Rulemaking – Water Quality Standards – Dunbar Creek et al. Stream Redesignations (#7-557): The rule was adopted by the EQB on April 15, 2021. The proposed rule was published in the Pennsylvania Bulletin on July 31, 2021, with a 45-day public comment period that closed on September 14, 2021. Three witnesses provided testimony at a public hearing held on August 30, 2021. IRRC had no comments on the rulemaking. The draft final Annex A was presented to the Agricultural Advisory Board on October 20, 2022.
- Draft Final Rulemaking – Noncoal Mining Clarifications and Corrections (#7-554): The rule was adopted by the EQB on November 17, 2020. The proposed rule was published in the Pennsylvania Bulletin on March 20, 2021, with a 45-day public comment period that closed on May 4, 2021. IRRC’s comments were received on June 3, 2021. The draft final Annex A was presented to the Aggregate Advisory Board on November 3, 2021 *and February 1, 2023*.
- Final Rulemaking – Radiation Safety Requirements for Non-Healing Arts Radiation Generating Devices (#7-555): The rule was adopted by the EQB on May 19, 2021. The proposed rule was published in the Pennsylvania Bulletin on August 14, 2021, with a 30-day public comment period that closed on September 13, 2021. IRRC’s comments were received on October 13, 2021. The draft final Annex A was presented to the Radiation Protection Advisory Committee on March 3, 2022. The EQB adopted the final rule on November 15, 2022.
- Final Rulemaking – National Pollutant Discharge Elimination System (NPDES) Schedules of Compliance (#7-563): The rule was adopted by the EQB on October 19, 2021. The proposed rule was published in the Pennsylvania Bulletin on January 15, 2022, with a 45-day public comment period that closed on March 1, 2022. One virtual public hearing was held on February 16, 2022, but no one provided testimony. IRRC had no comments on the rulemaking. The draft final Annex A was presented to the Water Resources Advisory Committee on July 21, 2022. The EQB adopted the final rule on November 15, 2022.
- Final Rulemaking – PFAS Maximum Contaminant Level (MCL) (#7-569): The rule was adopted by the EQB on November 16, 2021. The proposed rule was published in the Pennsylvania Bulletin on February 26, 2022, with a 60-day public comment period that closed on April 27, 2022. Five virtual public hearings were held on March 21, 22, 23, 24 and 25, 2022. The House Environmental Resources and Energy Committee submitted comments on May 24, 2022. IRRC submitted comments on May 27, 2022. The draft final Annex A was presented to the Public Water Systems Technical Advisory Center Board on July 14, 2022. The EQB adopted the final rule on October 12, 2022. IRRC approved the final rule on November 17, 2022. *The final rule was published in the Pennsylvania Bulletin on January 14, 2023.*
- Final Rulemaking – VOC RACT Requirements for Shipbuilding and Ship Repair Surface Coating Operations, SOCM Processes, and Large Petroleum Dry Cleaners for the 2015 Ozone NAAQS (#7-568): The rule was adopted by the EQB on September 21, 2021. The proposed rule was published in the Pennsylvania Bulletin on January 29, 2022, with a 66-day public comment period that closed on April 4, 2022. Three public hearings were held on March 1, 3, and 4, 2022. IRRC’s comments were received on May 4, 2022. The draft final Annex A was presented to AQTAC on August 18, 2022, SBCAC on August 24, 2022, and the CAC on July 19, 2022. The EQB adopted the final rule on October 12, 2022. IRRC approved the final rule on November 17, 2022. *The final rule was published in the Pennsylvania Bulletin on January 21, 2023.*

- Final Rulemaking – Control of VOC Emissions from Unconventional Oil and Natural Gas Sources (#7-544): The rule was published on May 23, 2020, opening a 66-day public comment period. Three virtual public hearings were held on June 23, 24, and 25. The comment period closed on July 27, 2020. IRRC’s comments were received on August 26, 2020. The draft final Annex A was presented to the AQTAC on December 9, 2021, CAC on January 18, 2022, and SBCAC on January 27, 2022. The EQB adopted the final rule on March 15, 2022. On May 4, 2022, the EQB withdrew the final-form rulemaking from consideration by the Independent Regulatory Review Commission (IRRC). The EQB adopted the revised final rule applicable to only unconventional oil and natural gas sources of VOC emissions on June 14, 2022. IRRC approved the final rule on July 21, 2022. On August 2, 2022, the House Environmental Resources and Energy Committee voted to report a concurrent regulatory review resolution to the General Assembly to disapprove the final rule. The 10-legislative day consideration period ended on November 16, 2022. *The final rule was published in Pennsylvania Bulletin on December 10, 2022.*

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## **Public Comment Periods**

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To see the latest DEP and EQB public comment periods, visit DEP’s [eComment website](#).

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

- *Draft Technical Guidance: Pennsylvania Post-Construction Stormwater Management (PCSM) Manual (386-0300-001) (opened 1/28, closes 4/28)*

### **Recently Closed Comment Periods**

- *Coastal Zone Management federal consistency: United States Army Corps of Engineers - 2023 Maintenance Dredging of the Delaware River Federal Navigation Channel (Closed 2/13)*
- *Environmental Assessment Approvals for PENNVEST Funding Consideration (Closed 1/10)*
- *Draft Technical Guidance: Small Flow Treatment Facility Manual (381-2188-005) (Closed 1/3)*
- *Draft Technical Guidance: Closure Requirements for Underground Storage Tank Systems (263-4500-601) (Closed 12/27)*

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## **Communications Monthly Press Releases**

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To see the latest DEP press releases, visit DEP’s [news releases webpage](#).

### **Press Releases Issued**

**December 1** - DEP Launches \$12.7 Million Initiative to Electrify Truck Fleets for Cleaner Air

**December 2** - DEP Announces Effective Date of Volatile Organic Compound Regulations for Conventional Oil and Gas Industry

**December 8** - Drought Watch Remains for Five Counties, Lifted for 15 Counties (Map Included)

**December 9** - DEP Issues Three Orders to Equitrans in Wake of Rager Mountain Storage Reservoir Natural Gas Release

**December 14** - DEP Awards \$12.2 Million to Support Counties’ Progress in Restoring Chesapeake Bay Watershed

**December 14** - DEP Issues Notice of Violation to Shell Chemicals Appalachia, LLC for Air Emissions Exceedances

**December 15** - DEP Assesses \$600,000 Civil Penalty for Waste Management Violations in Fayette County

**December 21** - Wolf Administration Announces Funding to Protect Delaware Estuary Coastal Zone

**December 21** - Wolf Administration Announces Funding to Protect Lake Erie

*December 28* - DEP Declares Air Quality Action Day for Susquehanna Valley and Liberty Clairton Areas

*December 29* - DEP's 2021 Oil and Gas Annual Report Details Production Increase

*December 29* - DEP Declares Air Quality Action Day for Liberty-Clairton Area

**January 6** - ADVISORY – HARRISBURG – MONDAY – Lung Cancer Survivor to Join DEP and Department of Health in Encouraging Pennsylvanians to Test Their Homes for Radon Gas

**January 8** - ADVISORY – HARRISBURG – MONDAY – Lung Cancer Survivor to Join DEP and Department of Health in Encouraging Pennsylvanians to Test Their Homes for Radon Gas

**January 9** - DEP and Department of Health Joined by Lung Cancer Survivor to Encourage Home Radon Testing

**January 10** - DEP Declares Code Orange Air Quality Action Day for Fine Particulate Matter for Wednesday, January 11, 2023, in the Susquehanna Valley Area

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## **Active and Abandoned Mine Operations**

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

25 Pa. Code Chapter 77 was finalized in 1990 to implement the Noncoal Surface Mining Conservation and Reclamation Act. A proposed rulemaking seeks to address clarifications and corrections, many of which are administrative in nature. Beginning in October 2018, the Aggregate Advisory Board (AggAB) began reviewing and discussing concepts for the proposed rulemaking. Interaction with the AggAB continued with several meetings of its Regulatory, Legislative, and Technical (RLT) Committee throughout 2019 and 2020. On May 6, 2020, the Board voted to concur with the Department's recommendation that the proposed rulemaking proceed in the regulatory process. The EQB unanimously voted to adopt the draft rulemaking on November 17, 2020. The proposed rule was published in the Pennsylvania Bulletin on March 20, 2021, with a 45-day public comment period that closed on May 4, 2021. *Some changes were made to the regulation from proposed to final based on the comments received. The changes will be discussed with the AggAB at the Board meeting on February 1, 2023.* DEP is currently preparing the final rulemaking package for an EQB meeting likely in early 2023.

### **Act 54 Effects of Underground Mining 6<sup>th</sup> Report**

*DEP has designated calendar years 2018-2022 to be 5-year period for the 6th "Act 54" report. Through January 2023, DEP's Bureau of Mining Programs (BMP) and California District Mining Office are completing the data records update of claims, compliance actions, stream effects and wetland effects related to underground bituminous mining. Then, they will arrange and package the data for submittal to the federal Office of Surface Mining Reclamation and Enforcement (OSMRE) by March 30 for their review. OSMRE and*

*DEP will cooperate on the analysis and findings. OSMRE will also make recommendations to DEP based on the findings of the report at the end of Summer 2023. The recommendations will be incorporated into a final report by November 2023 when it will be routed for approval to publish. It is estimated that the final report will be publicly available, and specifically provided to the CAC, in January 2024.*

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

*On December 22, 2022, the Department of the Interior, Office of Surface Mining Reclamation and Enforcement (DOI-OSMRE) had revised the \$244.9 million FY 2022 BIL Grant Notice of Award to implement a “Special Term and Condition for Pennsylvania” of the FY 2022 BIL grant that was agreeable to DEP. The effective date of the FY 2022 BIL Grant is November 1, 2022 and it is effective until October 31, 2027. On December 29, the STREAM (Safeguarding Treatment for the Restoration of Ecosystems from Abandoned Mines) Act was signed into law by President Biden under the Federal FY 2023 Omnibus Appropriations Bill that allows states to set aside up to 30% of BIL Program funds for long-term Acid Mine Drainage (AMD) treatment costs and/or mine fires and mine subsidence. There has been no follow up and or direction from DOI-OSMRE concerning how states can amend their FY 2022 BIL grant to apply the STREAM Act. The Pennsylvania AML Program will elect to set aside the full 30% of all annual BIL Program grants for long-term AMD treatment costs.*

*Additionally, the Federal FY 2023 Omnibus Appropriations Bill included funding another AML Economic Revitalization (AMLER) grant opportunity. Under the AMLER program, Pennsylvania will be able to apply for \$29.3 Million of federal funding once a notice of funding opportunity is announced by DOI-OSMRE. To date, DOI-OSMRE has not advertised a notice of funding opportunity for FY 2023 AMLER.*

*The first round of the new [AML/AMD grant program](#) through DEP’s Grants Center to issue grants to eligible applicants for AML reclamation and AMD treatment or abatement closed on January 13, 2023. Non-governmental organizations (NGOs) and watershed groups are encouraged to submit AML, AMD, and AMLER projects to apply for reclamation grants funded by the AMLER program and AML and AMD funds authorized under the BIL. DEP Bureau of Abandoned Mine Reclamation (BAMR) staff and Grant Center staff are currently collecting and assigning submitted applications to be reviewed and scored appropriately to determine if a grant application proposal can be processed further. Three new rounds of the grant program are tentatively schedule for the calendar year 2023 starting in the Spring that will run until the end of the year.*

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## **Air Quality**

### **Control of Existing Sources of VOC Emissions from the Oil and Natural Gas Industry**

*In 2016, EPA published Control Techniques Guidelines for the Oil and Natural Gas Industry (O&G CTG). DEP proposed a rulemaking *establishing* reasonably available control technology (RACT) requirements for volatile organic compounds (VOC) from existing conventional and unconventional oil and natural gas production facilities, compressor stations, processing plants, and transmission stations. In December 2019, the EQB voted to publish the proposed rulemaking for public comment. DEP held three virtual *hearings* and received 121 oral testimonies and approximately 4,500 comment letters. Including the multiple signatories to individual letters and petitions, the total number of individuals and organizations expressing an opinion on the proposed rulemaking was over 36,000.*

*In November 2020, EPA issued a finding that five states – California, Connecticut, New York, Pennsylvania, and Texas – failed to submit the O&G CTG required State Implementation Plan (SIP) revisions for the 2008 Ozone National Ambient Air Quality Standards (NAAQS). On December 16, 2021, the EPA issued a *similar finding* for the 2015 Ozone NAAQS. These findings triggered Clean Air Act deadlines for EPA to impose sanctions if a state *did* not submit a complete SIP revision for the O&G CTG and promulgate a Federal Implementation Plan if it *did* not approve a state’s SIP revision. On June 16, 2022, a 2-to-1 offset ratio for the Nonattainment New Source Review permitting program went into effect. DEP *estimated* that four facilities*



would be subject to offsets sanction upon start-up at an estimated total additional cost of \$1.9 million. On December 16, 2022, six months after the date of offset sanctions, *EPA would impose federal highway funding sanctions.*

DEP presented the draft final-form rulemaking to the *Air Quality Technical Advisory Committee (AQTAC)*, *CAC*, and *Small Business Compliance Advisory Committee (SBCAC)* on December 9, 2021, January 18, 2022, and January 27, 2022, respectively. The *CAC* voted unanimously, with one abstention, to send a letter of support to the *EQB*. On March 15, 2022, the *EQB* approved the final-form rulemaking. On May 4, 2022, the *EQB* withdrew the final-form rulemaking from consideration by the *Independent Regulatory Review Commission (IRRC)*. On May 23, 2022, *EPA Region 3 Administrator Adam Ortiz* sent a letter to *DEP* and the legislature reiterating the *sanction deadlines*. The non-discretionary highway funding sanctions would go into effect December 16, 2022, and approximately \$475 million of funding was identified that would be withheld by the *Federal Highway Administration* for projects already approved for funding in 2023. Sanctions would remain in effect until a complete *SIP revision, including both conventional and unconventional O&G operations*, was submitted to *EPA*.

On June 14, the *EQB* voted 15-3-1 to adopt the *Control of VOC Emissions from Unconventional Oil and Natural Gas Sources* final-form rulemaking. On July 21, *IRRC* voted unanimously to approve the rulemaking. On August 2, the *House Environmental Resources and Energy Committee (ERE)* voted to report a concurrent regulatory review resolution to the *General Assembly* to disapprove the final rule. On October 12, the *EQB* voted 15-3-1 to adopt the *Control of VOC Emissions from Conventional Oil and Natural Gas Sources* final-omitted rulemaking. On November 14, the *House ERE Committee* sent a letter to *IRRC* disapproving of the final-omitted rulemaking. On November 17, *IRRC* voted 4-1 to approve the rulemaking. On November 30, the *EQB* voted 16-2 to adopt an emergency-certified *Control of VOC Emissions from Conventional Oil and Natural Gas Sources* final-omitted rulemaking, and *Governor Wolf* signed the certification of need for emergency regulation to ensure completion of the regulation by December 16, 2022. On December 10, the rulemakings covering both *unconventional and conventional O&G sources* were published in the *Pennsylvania Bulletin*. On December 12, *DEP* submitted a *State Implementation Plan (SIP) revision* to *EPA* including both rulemakings. On December 14, *EPA* determined the *SIP revision* to be administratively complete, rescinding the offset sanctions that took effect on June 16. *EPA's* determination also stopped the *federal highway* sanctions clock triggered by *EPA's* December 16, 2021, *Finding of Failure to Submit*.

### RACT III Major Sources of NO<sub>x</sub> and VOC for the 2015 Ozone NAAQS

In 2015, *EPA* revised the primary and secondary *National Ambient Air Quality Standards (NAAQS)* for the *ozone criteria pollutant*. A reevaluation of *reasonably available control technology (RACT)* is required each time a revised *ozone NAAQS* is promulgated for both *nonattainment* and *Ozone Transport Region* areas for major sources of *nitrogen oxides (NO<sub>x</sub>)* or *VOC*. *DEP* presented draft proposed *RACT III major sources* rulemaking language to *AQTAC*, *SBCAC* and *CAC* in April and May of 2020. On May 19, 2021, the *EQB* voted to adopt the proposed rulemaking, which was published in the *Pennsylvania Bulletin* on August 7, 2021, with a 67-day public comment period that closed on October 12, 2021. Three public hearings were held in *September 2021*, with no attendees. *DEP* received comments from 24 commentators and prepared a *Comment and Response Document*. *DEP* presented the draft final-form rulemaking to *AQTAC*, *CAC*, and *SBCAC* in April 2022. At its May 18, 2022, meeting, the *CAC* voted to provide a letter on the rulemaking to the *Bureau of Air Quality* regarding their input on the final-form regulation. The *EQB* adopted the final rule on August 9, 2020, by a 17-2 vote. *IRRC* unanimously approved the rulemaking on September 15, 2022. The rulemaking was published in the *Pennsylvania Bulletin* on November 12, 2022. The Federally mandated deadline for compliance by regulated facilities was January 1, 2023. A *SIP revision* was submitted to *EPA* on January 13, 2023.

## Large Petroleum Dry Cleaners, Shipbuilding and Repair Coatings Operations, and SOCMCI Reactors, Distillation, and Air Oxidation Processes

*This RACT rulemaking is based on the EPA's Control Technique Guidelines (CTG) for large petroleum dry cleaners, shipbuilding and repair coatings operations, and Synthetic Organic Chemical Manufacturing Industry (SOCMI) reactors. The proposed rulemaking would control VOC emissions from certain existing sources to meet requirements under the Clean Air Act and the U.S. Environmental Protection Agency's (EPA) 2015 NAAQS Ozone Implementation Rule. DEP presented the draft proposed rulemaking to AQTAC, SBCAC, CAC PRO, and CAC in the Fall of 2020. DEP presented the proposed rulemaking to the EQB on September 21, 2021, and the EQB unanimously adopted the proposed rulemaking. The proposed rulemaking was published in the Pennsylvania Bulletin on January 29, 2022, for a 66-day public comment period that closed on April 4, 2022. One commentor submitted comments. Three public hearings were held on March 1, 3, and 4, 2022 with no testimony received. IRRC submitted comments to the EQB on May 4, 2022.*

DEP presented the draft final-form regulation to CAC PRO, CAC, AQTAC, SBCAC and EQB on June 27, July 19, August 18, August 24, and October 12, 2022, respectively. IRRC unanimously approved the rulemaking on November 17, 2022, and it was published in the Pennsylvania Bulletin on January 21, 2023.

## Regulatory State Implementation Plan (SIP) Revisions

### Reasonably Available Control Technology (RACT II)

In May 2019, EPA conditionally approved Pennsylvania's RACT II SIP revision based on DEP's commitment to submit all remaining case-by-case RACT revisions no later than May 9, 2020. DEP successfully submitted all case-by-case SIP revisions to the EPA before May 9, 2020.

In July 2019, the Sierra Club and Earthjustice filed a petition in the US Court of Appeals for the Third Circuit challenging EPA's Conditional Approval. In August 2020, the Court vacated and remanded three aspects of EPA's approval of DEP's RACT II Rule: 1) Emission limits for coal-fired boilers equipped with selective catalytic reduction (SCR) control devices; 2) SCR operating temperature-based exemptions; and 3) the SCR temperature reporting requirement.

In late November 2020, DEP and the Allegheny County Health Department issued letters to the owners and operators of facilities with coal-fired boilers equipped with SCR requiring that they submit case-by-case RACT evaluations no later than April 1, 2021. DEP received and reviewed case-by-case analyses from the owners or operators of four affected facilities. DEP has issued the final permits to the owners or operators of the four facilities.

On May 25, 2022, the EPA issued a proposed notice for a Federal Implementation Plan (FIP) *setting* emission limits for NO<sub>x</sub> emitted from coal-fired electric generating units (EGUs) equipped with SCR controls. The FIP was proposed to ensure that EPA *could*, if necessary, meet a court-ordered deadline requiring EPA to approve an amended SIP or issue a FIP by August 27, 2022. The Department submitted comments in opposition to the FIP.

On May 26, 2022, DEP submitted a RACT II SIP revision for Homer City, Keystone, and Conemaugh EGUs. On June 6, 2022, DEP submitted a RACT II SIP revision for Montour EGU. All four facilities have filed appeals to the Environmental Hearing Board regarding the terms and conditions of their RACT II permits.

On August 31, 2022, EPA published the final FIP *setting* emission limits for nitrogen oxides (NO<sub>x</sub>) at Conemaugh, Homer City, Keystone, and Montour EGUs. In the final rule, EPA adjusted its rate calculation for facilities with more than one unit and made additional changes in response to technical information received. The final lb/MMBtu emission limit for Conemaugh EGU was lowered, while the emission limits for Homer

City and Montour EGUs were raised. Keystone's emission limit remained roughly the same. Conemaugh, Keystone and Homer City have filed petitions to review in the 3<sup>rd</sup> Circuit Court.

### VOC RACT SIP Revisions for the 2008 Ozone NAAQS

In August 2018, DEP submitted two SIP revisions to EPA to address reasonably available control technology (RACT) requirements related to control technique guidelines (CTGs) for volatile organic compounds (VOC) and the addition of regulations controlling VOC emissions from industrial cleaning solvents. EPA published approval of these SIP revisions on December 14, 2020. On February 12, 2021, the Center for Biological Diversity filed a petition for review in the US District 3<sup>rd</sup> Circuit Court challenging EPA's approval.

On August 2, 2021, the U.S. Department of Justice (DOJ), on EPA's behalf, filed a motion in the U.S. Court of Appeals for the Third Circuit requesting the court to remand without vacatur EPA's December 14, 2020, approval of Pennsylvania's attainment demonstration. Pennsylvania, as an intervenor in the case, took no position on the DOJ's motion.

### Non-Regulatory SIP Revisions

#### 2010 Sulfur Dioxide (SO<sub>2</sub>) NAAQS Attainment Demonstration SIP Revisions

DEP submitted to EPA the required SIP revision for Indiana and Armstrong Counties in October 2017. EPA published its intent to approve the SIP in July 2018. EPA received seven comments. In response to these comments, DEP submitted supplemental SIP information to the EPA in January 2020. On October 19, 2020, EPA published its approval of the attainment demonstration.

On December 18, 2020, Sierra Club, Clean Air Council, and Citizens for Pennsylvania's Future sued EPA in the Third Circuit regarding EPA's approval of the attainment plan. On April 5, 2021, the U.S. Department of Justice on EPA's behalf filed a motion in the U.S. Court of Appeals for the Third Circuit requesting the court to remand without vacatur EPA's October 19, 2020, approval of Pennsylvania's attainment demonstration. Pennsylvania, as an intervenor in the case, took no position on the DOJ's motion.

On August 17, 2021, the Third Circuit granted EPA's motion to remand without vacatur. The order states that the remand proceedings shall be concluded within 12 months of the date of the order and directs the parties to file a status report 11 months from the date of the order.

On March 17, 2022, EPA published a proposed partial approval/partial disapproval of Pennsylvania's SIP revision for the Indiana 2010 SO<sub>2</sub> 1-Hour NAAQS Nonattainment Area. The partial disapproval focuses on the calculation of the SO<sub>2</sub> permit limit averaging periods. The public comment period closed on April 18, 2022. On August 18, EPA published a Final Partial Approval/Partial Disapproval of the Department's SIP revision. DEP must submit and EPA must approve a SIP revision within 18 months (by March 2024) or sanctions will apply.

#### 2015 Ozone National Ambient Air Quality Standards

On October 7, 2022, EPA published a final rule: Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Areas Classified as Marginal for the 2015 Ozone National Ambient Air Quality Standard (NAAQS). This rule became effective on November 7, 2022. Action was taken on 28 nonattainment areas classified as marginal for the 2015 Ozone NAAQS. *Of these 28* nonattainment areas, five areas attained the standard, 22 failed to attain it, and one area received an extension. Areas were required to attain the standards by August 3, 2021. The Philadelphia-Wilmington-Atlantic City (PA-NJ-MD-DE) Area was reclassified to moderate nonattainment. The "bumped up" area includes Bucks, Chester, Delaware, Montgomery, and Philadelphia counties and is now required to attain the standards by August 3, 2024.

## **Air Quality Technical Advisory Committee**

The next scheduled meeting is March 9, 2023.

## **Small Business Compliance Advisory Committee**

The next scheduled meeting is April 12, 2023.

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## **Energy Programs Office**

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### **Energy Security**

EPO's contractor, ProtoGen, will complete a second round of initial feasibility studies for another five participants. EPO will continue assisting round one participants to look at options to fund projects. EPO has selected several participants for the second round *including* the City of Philadelphia, City of Meadville, Erie County Emergency Operations Center, and Allegheny County and Eldred Township Volunteer Fire Company.

EPO is also participating in *the U.S. Department of Energy's* (DOE) Technology Action Group, which facilitates partnerships with other states and the National Renewable Energy Lab (NREL) related to onsite generation and energy storage at critical facilities. EPO staff have been participating in monthly meetings and learning to use the ReOpt tool to help critical facilities determine suitability for onsite generation and energy storage. EPO plans to work with East Norriton-Plymouth-Whitpain Joint Sewer Authority to run a REopt analysis. Results from the analysis will be shared with DOE and NREL.

EPO and DEP's Director of Emergency Response have coordinated monthly Fuels Sector Calls with *the Pennsylvania Emergency Management Agency* (PEMA) to provide situational awareness regarding supply concerns related to heating and transportation fuels. The next meeting is scheduled for February 10, 2023. EPO is currently monitoring the liquid fuel supply due to limited supply of heating oil, kerosene, and diesel fuels.

### **Local Climate Action Program**

The Local Climate Action Plan (LCAP) Program assists local governments with creating their own greenhouse gas (GHG) inventories and climate action plans to reduce the emissions identified. *The LCAP cohort, managed by the Penn State Sustainability Institute, completed the first half of the program in December. All 11 local governments that participated have completed at least a draft greenhouse gas inventory as of December 31, 2022. Many of the cohort members have presented the completed inventories to either their environmental advisory councils (EAC) or the city council/township supervisory boards on the following dates:*

1. Bucks County – December 7, 2022
2. Doylestown Borough – December 20, 2022 (EAC)
3. Doylestown Township – December 13, 2022 (EAC)
4. Erie – upcoming January 18, 2022
5. Lower Macungie – presentation expected in late January 2023
6. Lower Merion – given as a poster presentation in December 2022
7. Reading – upcoming January 17, 2023
8. Scranton – December 2, 2022
9. Uwchlan – December 15, 2022
10. Wormleysburg – January 10, 2023

*The current cohort has begun working on their climate action plans with the Penn State Sustainability Institute and the International Council for Local Environmental Initiatives (ICLEI) providing technical support.*

### **Commonwealth-University Capstone Partnership**

The EPO CAPstone Program pairs local government participants of the LCAP Program with university partners to implement aspects of their climate action plans. *The City of Shamokin has agreed to participate in the CAPstone Program for the spring semester of the 2022-2023 academic calendar year. Shamokin will be partnering with East Stroudsburg University and focusing on energy inventories and benchmarking their municipal facilities/operations efforts which they were able to begin after participating in EPO's Shared Energy Manager Program. EPO is working with multiple colleges and universities to expand the number of local governments participating in both the CAPstone and Shared Energy Manager programs. EPO is also currently working to pair Carnegie Mellon University with a former LCAP participant in the Pittsburgh area.*

### **Sustainable Building Training Modules**

On October 7, DEP EPO, Pennsylvania GreenGov Council, and Penn State University held a kickoff meeting for the new Sustainable Building Training Modules project. Monthly progress meetings were held on November 8, December 16 and January 17. The goal is to develop a series of training modules focused on sustainable buildings, integrative design, and green leasing for Department of General Service (DGS) client agencies, DGS Public Works staff, and the design and construction community. By June 30, 2023, the training modules will be posted on the Pennsylvania GreenGov Council website and promoted to the target audience to educate on the principles of sustainable buildings and green leasing.

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

On October 1, 2022, EPO launched the new Cooking in Healthy Electrified Commercial Kitchens (CHECK) education and rebate program. The goal of the overall CHECK program is to assist commercial kitchens in PA with modernizing via electrification and energy efficiency. Rebates of up to \$5,000 will be issued for a range of energy efficient and induction cooking equipment. All K-12 schools, higher education institutions, and nonprofits whose missions are geared toward health care or community services, such as soup kitchens, shelters, and food banks, are eligible to participate. On October 21, EPO and its contractor, Forward Dining Solutions LLC, hosted the first of three educational webinars on the basics of induction cooking and debunking associated myths, as well as energy efficiency in commercial kitchens. The two remaining webinars were held on November 18 and December 9. A total of 120 people from K-12 schools, higher education institutions, and nonprofits attended these three webinars. The next educational component of this project consists of three in-person induction cooking workshops, the first of which was held on January 25, 2023, at RE Farm Café in State College.

### **U.S. DOE Infrastructure Investment and Jobs Act State Energy Program (IIJA SEP)**

On December 1, 2022, DEP's Fiscal Office submitted the IIJA SEP application to the U.S. Department of Energy (DOE). The \$14 million application covers a five-year period and includes funding for administration and several projects. The projects include developing a strategy for Pennsylvania's energy security that includes forward-thinking, continuous updates to the existing energy security plan, education and technical assistance for critical facilities, including local governments and other sectors, and a DOE-mandated emphasis on transmission and distribution (T&D) planning. Other projects include energy assessments and energy management planning for the local government and industrial sectors, as well as other sectors identified by EPO staff and the selected contractors. Lastly, funds will be allocated for a sustainable, comprehensive financing mechanism to support clean energy and energy efficiency deployment projects. All projects will emphasize serving disadvantaged communities (includes Environmental Justice (EJ)). DOE's start date for the period of performance is February 2023. *EPO Staff are beginning to prepare their scopes of work and paperwork to submit for procurement of services.*

### **Climate Action for Disadvantaged Communities**

EPO hired a contractor, Preservation Design Partnership (PDP), to develop a guide for implementing climate strategies to maximally benefit disadvantaged communities (DAC). The program will include *developing* a plan

for community engagement, *facilitating* engagement to solicit and synthesize input from DAC and experts on diversity, equity and inclusion (DEI), and *developing* a plan for measuring success. This guide will be useful as EPO prepares the 2024 Climate Impacts Assessment and Climate Action Plan and as DEP develops programs to deploy federal funding from *Infrastructure Investment and Jobs Act (IIJA)* and the *Inflation Reduction Act (IRA)*. Initial kickoff meetings were held in December 2022 to discuss the scope of the project and begin developing an engagement plan and draft strategies. Engagement with disadvantaged communities and experts is expected to begin in the spring of 2023. *DEP and PDP are developing an outreach plan that details how and where to conduct meetings, a draft of climate actions to be presented to communities, and stakeholders for feedback.*

### **Alternative Fuel Incentive Grant (AFIG)**

The AFIG Program offers grant funding for clean, alternative fuel projects in Pennsylvania and investment in Pennsylvania's energy sector. Approximately \$3 million in grants is available for school districts, municipal authorities, political subdivisions, nonprofit entities, corporations, limited liability companies or partnerships incorporated or registered in the commonwealth.

On June 24, 2022, DEP opened the AFIG program to accept applications for fiscal year 2022 via the Department of Economic and Community Development's (DCED) Electronic Single Application (ESA) system. Awards for the first application acceptance period, which closed at 4 p.m. on August 26, 2022, will be announced soon. The second application acceptance period will end at 4 p.m. on December 16, 2022. EPO staff will review and score all submitted applications and develop recommendations for funding.

### **Solar on Previously Impacted Mine Lands Assessment**

*EPO has hired contractor support to develop a Solar on Previously Impacted Mine Lands Assessment. The project team consists of LaBella Associates, a full-service engineering firm which was selected through a competitive bid to research and develop the assessment report, as well as the Eastern Pennsylvania Coalition of Abandoned Mine Reclamation (EPCAMR), which will assist with stakeholder outreach, subject matter expertise, and data collection. The purpose of this assessment is to explore in-depth the different challenges associated with siting grid-scale solar development on previously mined lands, gain a better understanding of the roles and responsibilities of the different stakeholders involved in the development process, identify factors leading to successful deployments of grid-scale solar project projects in Pennsylvania on previously mined lands, and develop actionable recommendations to improve the processes and other factors involved in siting grid-scale solar projects on previously minded lands. To inform the assessment, three focus group sessions will be conducted to gather feedback from stakeholders, and following the completion of the project, a one-day summit will be conducted to disseminate findings and recommendations. The project is being funded through DEP's State Energy Program funds from DOE.*

### **Agriculture Sector Energy Efficiency Rebate**

*DEP's agriculture energy efficiency rebate program was published in the Pennsylvania Bulletin and opened for applications on September 17, 2022. DEP is offering rebates up to \$5,000 (50% of equipment costs, including 50% of installation costs up to \$500) for energy efficiency measures for agricultural producers. Eligible equipment includes LED lighting, efficient ventilation equipment, and efficient dairy equipment, including well water pre-chillers, scroll compressors, and refrigeration heat recovery (RHR). Applications are being accepted on a first-come, first-served basis. The maximum rebate award per applicant is \$5,000, and applicants will be issued a voucher that is valid for 120 days during which they will purchase and install the equipment before submitting for reimbursement. As of December 31, 2022, DEP has received 10 rebate applications, of which 8 were issued rebate vouchers and 2 were denied because the equipment included in the applications was ineligible for funding.*

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

DEP's Energy Programs Office expects to receive approximately \$60.8 million in formula funding:

- Preventing Outages and Enhancing the Resilience of the Electric Grid (\$40.5 million) - Pennsylvania's year one allocation is \$8.1 million. EPO submitted an application November 22, 2022, and will amend its application to apply for the second year's allocation by March 31, 2023.
- State Energy Program (\$14 million) – Application was submitted December 1, 2022. DOE's start date for the period of performance is February 2023.
- Energy Efficiency and Conservation Block Grant Program (\$3.0 million) – Guidance is not yet available.
- Energy Efficiency Revolving Loan Fund (\$3.3 million) – DOE released funding guidance and application documents on November 15, 2022. The application is due April 21, 2023.

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## **Environmental Cleanup and Brownfields**

### **Environmental Cleanup and Brownfields Rulemakings**

#### **Proposed Rulemaking: Administration of Land Recycling Program - Vanadium MSC Rule**

The Land Recycling Program developed a proposed rulemaking to update the Statewide health standard medium-specific concentrations (MSCs) for vanadium listed in Appendix A of Chapter 250 in June 2021. The proposed rulemaking addresses the vanadium toxicity value and the corresponding changes to the soil and groundwater numeric values. The EQB adopted this proposed rule on May 18, 2022. The proposed rulemaking was published in the Pennsylvania Bulletin on July 30, with a 30-day public comment period which ended on August 29, 2022. One comment was received during the public comment period. The Independent Regulatory Review Commission's (IRRC) comment period ended on September 28, 2022. IRRC had no comments on the proposed rulemaking. *DEP has evaluated and responded to one public comment received which will be provided in the Comment & Response Document as part of the final-form rulemaking process.*

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

DEP is preparing a draft proposed rulemaking to address Statewide health standard MSCs including *the soil lead values and Polycyclic Aromatic Hydrocarbons (PAHs)*. At the June 30, 2022, and August 11, 2022, CSSAB meetings, the lead and PAH workgroups presented their conclusions and recommendations to DEP on the issues of lead and PAH toxicity. The PAH workgroup recommended that DEP use the 1993 relative potency factors from EPA that were referenced in the development of the benzo[a]pyrene IRIS toxicological values. The lead workgroup recommended that DEP adopt 5 µg/dL as the target blood lead level for the calculation of the soil direct contact values and also recommended that DEP allow for the use of averaging attainment data for the *demonstration of attainment* of the lead direct contact statewide health standard. DEP presented the draft proposed Annex to the Cleanup Standards Scientific Advisory Committee on October 20, 2022 and January 23, 2023.

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

The CSSAB held a meeting on January 23, 2023, where DEP presented the draft Chapter 250 Administration of the Land Recycling Program proposed annex to the Board. The CSSAB identified several minor revisions to the annex to correct errors and provide clarity. Land Recycling Program staff will make the proposed revisions as needed and will provide a revised proposed annex to the CSSAB for their review. CSSAB meeting dates for 2023 have been scheduled for January 23, May 31, and November 9, 2023. Information about the meetings can be found through the Public Participation tab on the DEP web site at [www.dep.pa.gov](http://www.dep.pa.gov) (select "Public Participation," then "Advisory Committees," then "Cleanup and Brownfields Advisory Committees," then "Cleanup Standards Scientific Advisory Board").

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

The Storage Tank Advisory Committee (STAC) met on December 6, 2022. Participants could also join the meeting through Microsoft Teams. Richard Burgan, Director, Bureau of Special Funds for the PA Department of Insurance, provided an update regarding the Underground Storage Tank Indemnification Fund. DEP updates included an overview of compliance statistics since the 2018 rulemaking changes to Chapter 245, and a discussion with members of current and future trends within the storage tank industry. Election of officers was also held and meeting dates for STAC in 2023 were approved as follows: March 21, June 7, September 6, and December 13.

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## **Environmental Education**

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

The 2023 Environmental Education Grant round closed on December 9. The Environmental Education and Information Center (EE&IC) staff received applications to fund 152 projects, with approximately 60 percent addressing Environmental Justice, 85 percent water quality, and 62 percent climate change, including some projects that address more than one of these priority topics. We anticipate announcing funding awards in the spring. Thank you to all who applied!

### **2022 Environmental Ed Grant Shout-Outs**

#### **Allegheny College: Educational interface for new permaculture food forest**

With their DEP Environmental Education Grant, Allegheny College's Sustainable Design Team constructed a non-formal educational interface for their new permaculture food forest. The forest offers an environmental education space that fosters community development and addresses climate change by promoting local food systems in the Meadville area, including Environmental Justice areas. The food forest increases awareness of more sustainable food production and consumption habits. It promotes engagement and action on campus and beyond, as students move on from their undergraduate experience; throughout the neighborhoods adjacent to campus; and throughout the Meadville area as young students grow and carry lessons of sustainable food production with them throughout their lives.

#### **Juniata County Conservation District: Outdoor classroom on climate-resilient landscapes**

In collaboration with Juniata High School, the Juniata County Conservation District used its DEP Environmental Education Grant to build a new outdoor classroom for students to establish and study a climate-resilient and connective landscape for pollinators. Students identify ecosystem response to human disturbances, develop prevention strategies and remediation efforts to human disturbances, and apply biological keystone standards through hands-on application. The project fosters a direct relationship between students and the environment to positively influence environmental stewardship and advocacy.

#### **Pike County Conservation District: Leaf Pack Network workshop**

The Pike County Conservation District used a DEP Environmental Education Grant to hold its first Leaf Pack Network workshop at Promised Land State Park, along the East Branch of the Wallenpaupack Creek in fall 2022. In collaboration with the Stroud Water Research Center, the District enabled the public to study stream quality, discuss the effects of non-point source pollution, and get hands-on macroinvertebrate experience. Attendees included several members of a local community association. Many community groups can make changes to reduce local non-point source pollutants, for example, by reducing application of salts, fertilizers, etc. The District hopes to continue to do these programs for community associations and Pike County residents into the future.

The Environmental Education Grant guidelines and application instructions are available on the Department's web site at [Environmental Education Grants Program](#). Questions concerning the 2023 Environmental education grants Program should be directed to the DEP EE&IC at [RA-epEEgrants@pa.gov](mailto:RA-epEEgrants@pa.gov).



Penn State University and Stroud Water Research Center have also received Growing Greener Water Protection Grants to fund their water quality improvement projects.

- **The Penn State University - Pennsylvania Sea Grant Program** received \$589,886 to complete the final design, permitting, and construction activities to restore a severely degraded section of Cascade Creek in Erie. This heavily urbanized watershed drains to Presque Isle Bay, formerly designated as an EPA Area of Concern.
- **Stroud Water Research Center** received \$386,118 to fund this project to provide support to Berks County farmers' adoption of cover crop and no-till practices to improve soil health and productivity while reducing erosion, nutrient loss, and stormwater from ag lands.

<https://www.dep.pa.gov/Citizens/GrantsLoansRebates/Growing-Greener/Pages/default.aspx>

The National Oceanic and Atmospheric Administration (NOAA) Chesapeake Bay Office is excited to announce the availability of approximately \$900,000 in new NOAA Chesapeake Bay-Watershed Education and Training (B-WET) grants.

Pennsylvania schools located within the Chesapeake Bay watershed are eligible. Projects supported by these funding opportunities will support school districts efforts to deliver meaningful watershed educational experiences (MWEEs) to students and help school districts increase their capacity to facilitate environmental education. NOAA supports environmental education because students who take part in inquiry-based, hands-on learning about their environment are better equipped to care for our ecosystem now and in the future.

[School District MWEE Programming](#): Funding will support projects to help school districts deliver MWEEs to students or to increase school districts' capacity to deliver environmental education. Funding is anticipated to support 9-14 new projects. Applications are due February 10, 2023.

More information about the NOAA B-WET program and previous awards can be found at:

- [Chesapeake B-WET program](#)
- [Recently funded education partnerships](#)

Contact [Elise Trelegan](#) with any questions or to discuss project ideas.

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

To further serve the Commonwealth's Environmental Education community the PA ELIT Steering Committee has developed the new [Pennsylvania Gateway to Green](#) website, which is a new online hub for Pennsylvania educators (formal and nonformal) to access environmental education resources from government agencies, non-profits, and other partners to improve environmental literacy among Pennsylvania residents.

Instead of searching for individual agency or organization websites, educators can use Gateway to Green to find:

- Links to state and federal agencies and nonformal and other environmental education organizations that provide environmental education resources, information on what environmental literacy means in Pennsylvania, and resources for creating environmental literacy plans.
- Ways to identify and reach environmental justice communities.
- Highlights of issues and education resources about Pennsylvania watersheds.
- Programs and resources about careers in environmental-based science, technology, engineering, and mathematics.

Gateway to Green is supported by the Pennsylvania Department of Education, the U.S. Environmental Protection Agency, and other organizations.

In a related effort, two 2022 DEP EE Grant recipients were nominated for the MWEE Partner of Excellence Award to be awarded at the PA Association of Environmental Educators (PAEE) Conference (March 2023).

1. Lancaster-Lebanon Intermediate Unit #13
2. Friends of Heinz, Philly Nature Kids program

### **Environment and Ecology Standards Update**

The newly adopted Pennsylvania Integrated Standards for Science, Technology & Engineering, and Environmental Literacy and Sustainability (STEELS) and Pennsylvania Technology and Engineering Standards were developed jointly to ensure consistency, coherence, and a cohesive K-12 integrated approach to science education in the Commonwealth. The *Pennsylvania Bulletin* published the new standards on July 16, 2022, and they go into implementation on July 1, 2025.

The [Pennsylvania Department of Education STEELS Hub](#) provides educators with resources to implement and support the new standards. An implementation plan, developed by the Department of Education, aims to ensure that all students have access to an education that prepares them to succeed and become life-long learners.

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

### **Falcons**

The 2023 breeding season will begin with peregrine falcon mating rituals. The female banded 09/BS, and the male, banded 85/AK, typically paired for life, will renew their bond during late winter and early spring. Courtship is marked by special flight displays and the male bringing the female food. A peregrine clutch is three to five eggs laid at two- to three-day intervals. Eggs are incubated about 31 days by both adults, will renew their bond with courtship rituals such as male food offerings and displays featuring special flight patterns. These activities will be followed by the arrival of eggs sometime in mid- to late-March.

DEP, Department of Conservation and Natural Resources (DCNR), Department of General Services (DGS) are discussing how to address falcon strikes on RCSOB. They are investigating potential window treatments that will reduce or eliminate falcon strikes. At this time a Request for Information has been filed to begin the solicitation of potential vendors to address this situation.

DEP, in collaboration with Shavers Creek Environmental Center and Hawk Mountain, will be offering an in-person professional development workshop for environmental educators. Entitled “PA Raptors: Successes and Challenges”, this workshop will be held at Shavers Creek in June of 2023.

### **2023 PA Farm Show**

The EE&IC staff managed the exhibit space and DEP volunteers during the Pennsylvania Farm Show, January 7 - January 14, 2023. The 2023 Farm Show theme was “Harvesting More”. The new DEP exhibit featured information on climate change and promoted the PA Climate Action Plan. DEP employees fielded numerous questions on radon, solar power and electric vehicles, and distributed pollinator seeds to Farm Show attendees.

### **2023 Chesapeake Bay Environmental Literacy Forum**

The DEP Environmental Education and Information Center (EE&IC) staff represented DEP at the 2023 Chesapeake Bay Environmental Literacy Forum held on January 18-19, 2023 at the National Conservation Training Center in Shepherdstown, West Virginia.

The Forum provided an opportunity to bring together teams of school districts/divisions and their partners to learn, share, and strategize about how to advance systemic, equitable, and sustainable environmental literacy throughout the Chesapeake Bay watershed states (Pennsylvania, Maryland, Virginia, Delaware, West Virginia). The goals of this year's Forum were:

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

Juan Serrat, DEP Office of Environmental Justice, was a panelist during the session, "Planning for Environmental Literacy: Ensuring Community Engagement" which featured strategies for ensuring community engagement, equity and justice in programming and planning by learning from leaders working at both the state and grassroots levels.

### **Environmental Justice**

The DEP Office of Environmental Justice (OEJ) has an opening for an intern in its Southeast Regional Office. High school, college, and graduate students are invited to apply. The [internship position](#) is posted on the Commonwealth's employment website at [www.employment.pa.gov](http://www.employment.pa.gov). Find more news from OEJ online in the [January issue](#) of EJ News: Your Environment, Your Voice.

The EE&IC continues to support the efforts of the DEP Office of Environmental Justice by promoting the DEP newsletter "EJ Update: Your Environment, Your Voice". To sign up for the OEJ newsletter go to: ["EJ News: Your Environment, Your Voice"](#).

In September of 2022, EPA announced that it established a new national office charged with advancing environmental and civil rights. There are more than 200 dedicated staff in EPA headquarters and across 10 regions to solving environmental challenges in communities that have been underserved far too long. The office aims to better infuse EPA's equity, civil rights, and environmental principles and priorities into the agency's practices, policies, and programs. For more information, please visit EPA's new [Office of Environmental Justice and External Civil Rights website](#).

### **Teaching Green Newsletter**

The next edition of the DEP "Teaching Green" environmental education newsletter was released in early January 2023. This issue provides updates on DEP "in the news", the DEP Environmental Education Grant Program including updates on projects previously funded, continue to provide information on the PA Litter Action Plan, the RCSOB falcons, and professional development opportunities for formal and non-formal educators. This newsletter is produced quarterly by EE&IC staff to keep the environmental education community up to date on the work of DEP and to share information on new environmental education opportunities and programs designed to strengthen environmental literacy within the Commonwealth. Teaching Green can be accessed at: <https://www.dep.pa.gov/Citizens/EnvironmentalEducation/Pages/Teaching-Green.aspx>.

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## **Environmental Justice**

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### **Environmental Justice Executive Order**

Governor Wolf signed an Environmental Justice Executive Order 2021-07 in October 2021 making permanent the Office of Environmental Justice and Environmental Justice Advisory Board and creating the Environmental Justice Interagency Council (EJIC). DEP held the fourth meeting of the EJIC on Friday, November 18. Under the terms of the Executive Order, DEP will develop an agency EJ Strategic Plan and may also revise the EJ Policy and create EJ mapping tools.

### **Environmental Justice Planning**

The draft EJ Policy was released for public comment on March 12, 2022, for a 60-day public comment period that ended on May 11. OEJ scheduled several virtual and in person meetings and events throughout April and May to inform the public about the opportunity to comment on the updated Environmental Justice Policy. OEJ hosted four virtual public hearings on April 5, April 12, April 28, and May 4. The OEJ presented to the CAC about the policy at the April 19 CAC meeting. OEJ is now reviewing the comments received and preparing the comment-response document.

OEJ is working to update the Environmental Justice Areas through a new more comprehensive mapping and data effort. Work has been occurring with the help of interns from Temple University who are working on data analysis and the creation of code to allow for regular updates. The team has consulted with other states *as well as other* Commonwealth departments on available data sources. Two sessions were held with key community group stakeholders to get *initial* feedback on factors to consider.

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

### **Environmental Justice Advisory Board (EJAB)**

EJAB met jointly with the Citizens Advisory Council on Tuesday, November 15. The meeting included DEP updates on the Office of Environmental Justice, Chesapeake Bay Program, EJ area mapping, and brownfields program. *The next EJAB meeting is scheduled for Tuesday, February 14.*

### **OEJ Initiatives**

Language Access Services OEJ worked with the Office of Administration, Communications, and other programs to finalize and internally publicize a translation and interpretation process for DEP. OEJ developed an outline of the process for obtaining language access services and assisted the Policy Office with their translation of RGGI materials and Spanish language interpretation for RGGI hearings. OEJ worked with the Office of Administration to get billing and contracting in place for phone-based interpretation services. OEJ convened meetings with several DEP offices to discuss the roll out process for all DEP staff and available language access services have been shared internally with DEP staff. A Language Access Coordinator was identified from the Communications Office. The Language Access Coordinator is being included in commonwealth-wide language access coordinator calls arranged by the Office of Administration and are starting the process of creating a Language Access Plan for DEP.

### **Brownfields Technical Assistance Grant**

EPA has awarded DEP a Small Communities Assistance pilot grant for the past three years to assist a small, disadvantaged community on providing training, research and technical assistance for addressing brownfields redevelopment. DEP was awarded the Small Communities Assistance grant again for the 2022 fiscal year and is working with Oil City in Northwest Pennsylvania. The Oil City report was finalized, and the project concluded

in June 2022. OEJ assisted in getting application support materials for the 2023 fiscal year applicant, Mahanoy City Borough in Schuylkill County. This program is set to receive an infusion of funding that may allow it to work with more and different types of communities but will keep a focus on communities facing EJ issues.

### **Alternative Fuel Vehicle Rebate Information Sheet**

OEJ worked with the Energy Programs Office (EPO) and Office of Communications to develop a sheet that highlights the available resources that can make an electric or plug-in hybrid vehicle purchase more affordable. In particular, the sheet was developed to address the lack of awareness around the rebate's applicability to the purchase of a one-time pre-owned vehicles, and the availability of additional funds for low-income households. In addition, the sheet describes available federal and electric distribution company incentives. The Alternative Fuel Vehicle Rebate guidelines have been recently revamped to add income caps to aid low to moderate income families in purchasing alternative fuel vehicles. OEJ is working with EPO on a revamp of the sheet, it will soon be found on the EPO webpage.

### **Grants**

OEJ is working with DEP's Grants Center and individual programs to track grant participation in EJ Areas and incorporate EJ consideration into program area grants. OEJ is supporting the Grants Office and other offices in developing outreach materials about the DEP grantmaking process. OEJ is also participating in an interagency group assessing overarching principles for advancing equity in Commonwealth grantmaking.

### **Outreach on Key DEP Initiatives**

OEJ is working with the Policy and Energy Programs Offices (EPO) to support outreach and engagement around the Regional Greenhouse Gas Initiative (RGGI) proposed rulemaking with EJ partners. Several presentations on RGGI have been delivered to EJ partners. OEJ has worked with RGGI staff and engaged with EJ community stakeholders to develop draft equity principles supporting the initiative and discuss investments in EJ communities.

OEJ worked with EPO regarding inclusion and evaluation of equity and EJ considerations in the development of the 2021 Pennsylvania Climate Action Plan. OEJ will now work with EPO and community partners on outreach and engagement for the Pennsylvania Climate Action Plan 2024.

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## **Oil and Gas**

### **Oil and Gas Rulemakings**

#### **Proposed Environmental Protection Performance Standards for Conventional Oil and Gas Operators Rulemaking**

In 2016, the General Assembly passed Act 52, which abrogated the ongoing rulemaking process regarding conventional oil and gas wells and established the Pennsylvania Grade Crude Oil Development Advisory Council (CDAC). Act 52 directed DEP to work with CDAC to "examine and make recommendations regarding existing technical regulations promulgated under 58 Pa.C.S. (relating to oil and gas) ... that impact the conventional oil and gas industry of this Commonwealth and explore the development of a regulatory scheme that provides for environmental oversight and enforcement specifically applicable to the conventional oil and gas industry." From 2016 to the present, the Office of Oil and Gas Management (OOGM) has worked with CDAC to develop potential legislation and proposed regulations relating to conventional oil and gas wells.

Because discussions *did* not result in viable legislation, DEP proceeded with the development of a draft proposed conventional oil and gas rulemaking and advanced the regulatory concepts via two rulemaking packages during 2020. The first rulemaking relates primarily to the proper management of waste generated at

conventional oil and gas well sites; the second rulemaking addresses other critical environmental protection performance standards at such sites.

On August 6, 2020, the OOGM *first* presented these two draft proposed rulemakings to CDAC. On September 17, 2020, DEP also informed the Oil and Gas Technical Advisory Board (TAB) of discussions *with CDAC regarding* the draft proposed rulemakings and shared copies of both draft proposed rulemakings. *During a series of meetings from December 3, 2020, through September 9, 2021, OOGM staff, CDAC, and TAB continued to discuss and review the draft proposed rulemakings.* At its regularly scheduled meeting on December 16, 2021, OOGM staff shared the final version of the Environmental Protection Performance Standards for Conventional Oil and Gas Operators draft proposed Annex with CDAC members. This provided CDAC with an opportunity to adopt written comments to the Environmental Quality Board (EQB) in accordance with section 5 of Act 52 of 2016 (58 P.S. § 1205). The CDAC Regulatory Subcommittee prepared formal comments in February 2022 and March 2022, and presented them to the full council on April 21, 2022. CDAC voted *to* accept the comments and will submit them *to DEP* to accompany the rulemaking when it is submitted to the EQB.

DEP was scheduled to discuss the Chapter 78 Waste Management rulemaking with members of CDAC on Thursday, December 15 at the Pennsylvania Western University (PWU), Clarion. Due to poor winter weather conditions, PWU closed the campus facilities, so the meeting was cancelled. *The Department of Community and Economic Development is currently making arrangements to reschedule this meeting to Thursday, February 16 at the same location.*

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

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

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

DEP expects to plug *approximately* 236 orphan and abandoned wells using \$22.5 million of the Initial Grant funding and will allocate the remaining 10 percent (\$2.5 million) toward administrative costs to implement the program.

In the first round, DEP published five separate invitations to bid in the Commonwealth’s electronic bid solicitation tool called “Bid Express” ([www.bidexpress.com](http://www.bidexpress.com)). This round will result in the plugging of 79 abandoned wells. DEP opened all bids on November 3, 2022. The bids received for these five projects originally amounted to *approximately* \$5.8 million; however, since the apparent low bidder for a project to plug 24 wells in Butler County decided not to enter into a contract with DEP, this contract will be awarded to the next apparent low bidder. The anticipated amount of funding to be awarded to all projects in the first round of contracts is *approximately* \$7.5 million.

DEP is finalizing nine additional invitation-to-bid packages. Based on the bids that were received in the first round, the bid estimates for this second round are expected to cost *approximately* \$15 million to plug 157 additional abandoned wells. *All invitations to bid are currently scheduled to be published on or before January*

31, 2023, with anticipated bid opening dates in January through March 2023. All “Notices to Proceed” are expected to be issued to the successful bidders by no later than May 2023.

If the wells plugged in the first two rounds come in under budget, DEP is in discussions with the Department of Conservation and Natural Resources about plugging up to 38 orphan wells in Cornplanter State Forest at an estimated cost of *approximately* \$2.8 million. As an alternative, there are several additional projects that have been developed and can be advanced as part of the Initial Grant round, if necessary, or during subsequent IJA Formula Grant rounds.

### **Erosion and Sediment Control General Permit (ESCGP-3) Prioritized Review Workgroup**

Innovative approaches through design and implementation of environmentally enhanced Best Management Practices (BMPs) and superior construction practices reduce environmental impacts from oil and gas operations. To incentivize these technologies and practices, DEP intends to replace the *Erosion and Sediment Control General Permit* (ESCGP) Expedited Review process with a Prioritized Review process that will allow for voluntary participation by industry. Permit applications submitted as Prioritized Review will be given a score based on *proposed* BMPs and environmentally superior construction practices. *High-scoring* projects will be given priority, *and will be* reviewed before projects that are not submitted as Prioritized Review.

DEP presented revised documents to TAB at its December 16, 2020, meeting. This technical guidance document (TGD) was published as draft for public comment in the Pennsylvania Bulletin on August 28, 2021, *initiating* a 30-day public comment period that closed on September 27, 2021. DEP received 194 comments and is continuing *to review* the comments and prepare responses.

### **Pressure Barrier Policy Technical Guidance Document (TGD)**

OOGM has completed all updates to the Pressure Barrier Policy TGD and *has* introduced further improvements concerning blowout prevention (BOP) testing due to recent changes to the American Petroleum Institute’s (API) Recommended Practice 53, which the regulations directly reference. An additional update has also been introduced respective of a well control emergency and subsurface blowout incident in Pennsylvania that occurred at a Utica shale well in 2019. The document was discussed at *the* TAB meeting on May 20, 2020. OOGM received comments from TAB members on June 26, 2020. The *draft* Pressure Barrier Policy TGD was published on August 29, 2020, in the Pennsylvania Bulletin with a 30-day public comment period that ended on September 28, 2020. A total of 91 comments were submitted from five commenters. *DEP* has completed its review of the comments received and made updates to the TGD as needed. The updated guidance was discussed with TAB at the May 5, 2021, meeting. The guidance document is expected to be published as final in the Pennsylvania Bulletin in the first quarter of 2023.

### **Outreach - Act 96 of 2022 (Implementation of Conventional Oil and Gas Well Bonding Increase)**

On July 19, 2022, [House Bill 2644](#) (Causer-R-Cameron) became law (Act 96) without the governor’s signature. In addition to establishing an Orphan Well Plugging Grant program using 20% of all funds “received” by Pennsylvania from IJA, this Act also amends the bonding requirements for conventional wells and conventional well operators as follows:

- *Precludes the Environmental Quality Board and DEP from adjusting the current \$2,500 per conventional well bond amount for 10 years following the enactment of this law and continues to exempt pre-1985 wells from bonding requirements;*
- *For every new well drilled after six months of the enactment of Act 96 (i.e., January 19, 2023), the bond amount for an operator’s conventional \$25,000 blanket bond increases by \$1,000 but shall not exceed \$100,000 in total; and*

- *This \$1,000 increase to the conventional blanket bond must be waived by DEP if the operator provides evidence that the operator plugged an orphan well at the operator’s expense in the prior year for which it was not responsible.*

*On January 12, 2023, OOGM notified conventional well operators who have been issued a well drilling permit after the enactment of Act 96 but have not yet drilled the well (in case the permitted well is drilled after January 19, 2023) of this new bonding requirement. There are 24 such operators, and they were informed of these new bonding requirements via a direct e-mail notice. OOGM is also updating the transmittal letter used to inform operators of the issuance of a conventional well permit to include information about these new bonding requirements.*

*In response to the “waiver provision” referenced above, DEP is preparing a Bond Waiver Request Form that will be published in DEP’s eLibrary and available for use by conventional oil and gas operators. The aforementioned notice to the 24 conventional operators will inform them where to access the Bond Waiver Request Form. Until the Bond Waiver Request Form is published, operators will be directed by way of the e-mail notice to contact OOGM via the oil and gas resource e-mail account, and the Department will assist them on a case-by-case basis.*

*Moving forward, OOGM will run monthly reports to identify operators that have not complied with the conventional well bonding requirements and will conduct compliance assistance by informing them of this new requirement.*

#### **Home Use Gas Well Operators Informational Webpage**

*OOGM’s Division of Compliance and Data Management (Division) identified a need to provide easily accessible information on the regulatory requirements and other responsibilities of gas well ownership to prospective and current home use natural gas well operators. To address this need, the Division developed an informational webpage – [Home Use Gas Wells](#) – on DEP’s Oil & Gas website for home use gas well operators. This web page intends to offer a one-stop-shop of information to current and prospective home use well owners, including information on permitting, reporting requirements, bonding, plugging, safety.*

*To better understand this need, the Division elicited OOGM staff input by conducting surveys regarding the common inquires, issues, and complaints received by District Offices regarding home use gas wells. Additionally, interviews were conducted with District Office operations staff and key individuals with experience and expertise with home use gas wells and their operators.*

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## **Radiation Protection**

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### **Radiation Protection Rulemakings**

#### **Chapter 227**

The Radiation Protection Act directs DEP to develop and conduct comprehensive programs for the registration, licensing, control, management, regulation and inspection of radiation-producing devices and users of such devices. The areas in need of review and update relate to non-medical X-ray equipment. There have been important advances in technology and use of X-rays and other ionizing radiation particles for industrial radiography, non-contact level monitoring, foreign body detection, chemical purification, melting, welding, polymerization, sterilization, and security screening. The proposed package was discussed with the Radiation Protection Advisory Committee (RPAC) and a subcommittee in 2019 and 2020. At the July 9, 2020 meeting, RPAC discussed the revisions and concurred with the Department’s recommendation to proceed with the proposed rulemaking. The proposed rulemaking was adopted by the Environmental Quality Board (EQB) at the May 19, 2021 meeting and was published for public comment on August 14, 2021, with a 30-day public



comment period that closed on September 13, 2021. One commentator and IRRC submitted comments. The Bureau of Radiation Protection presented the draft final-form Annex to the Radiation Protection Advisory Committee (RPAC) on March 3, 2022, and RPAC expressed support for the Department moving forward with the final-form rulemaking. *The EQB unanimously adopted the final rulemaking on November 15, 2022. The final-form rulemaking will be delivered to IRRC for consideration in early 2023.*

#### Three-Year Fee Report and Radiological Fees Rulemaking

The Radiation Protection Act directs the Department to set annual fees in an amount at least sufficient to cover the Department's costs of administering its programs. Accordingly, the Bureau of Radiation Protection reviews its fees every three years and prepares a fee report with an evaluation of fees collected. The Department presented the report to the EQB on February 15, 2022. The Department has concluded a proposed rulemaking for a fee increase is necessary and has developed a proposed Annex, which was presented to RPAC on March 3, 2022. RPAC expressed support for the proposed rulemaking. The EQB adopted the proposed rule on June 14, 2022. The proposed rulemaking was published in the Pennsylvania Bulletin for public comment on August 27, 2022. The comment period closed on September 26, 2022. *Two commentators and IRRC submitted comments. The Bureau of Radiation Protection presented the draft final-form Annex to the Radiation Protection Advisory Committee (RPAC) on December 9, 2022, and RPAC expressed continued support for the Department moving forward. DEP expects to present the final rulemaking to EQB in Spring of 2023.*

#### Radiation Protection Technical Guidance Documents

The Department has revised the Pennsylvania Radon Mitigation Standards technical guidance document (TGD). This TGD has not been updated since 1997 and new standards and best practices related to radon mitigation have been implemented since then. A draft of the updated technical guidance was shared with RPAC on March 3, 2022. The TGD was published in the Pennsylvania Bulletin on October 29, 2022, for public comment. The public comment period closes on November 28, 2022. *No comments were received.*

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### **Waste Management**

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#### MAX Environmental Technologies, Inc. Delisting – Bulger Facility and Yukon Facility Rulemaking

On May 2, 2019, DEP received two petitions from MAX Environmental Technologies, Inc. (MAX) to delist certain hazardous waste at their Bulger and Yukon facilities. DEP reviewed the petitions in accordance with the Environmental Quality Board's Petition Policy in 25 Pa. Code Chapter 23 and determined the petitions meet the conditions in Section 23.2 for further review. The Department notified MAX on June 3, 2019, that the petitions would be submitted to the Environmental Quality Board (EQB) for consideration at its next meeting. At the EQB meeting held on Tuesday, June 18, 2019, DEP summarized the petitions for the EQB and recommended that the EQB accept the petitions for further study. The EQB adopted a motion to accept the petitions. DEP completed its evaluation of the petitions and prepared a report that summarized the evaluation and made a recommendation that the delisting petitions be accepted for rulemaking; the EQB adopted a motion to accept the delisting petitions and advance them for rulemaking at its June 16, 2020, meeting.

The EQB adopted the proposed rulemaking on September 21, 2021. A copy of the proposed rulemaking as adopted is available on the Board's webpage. The proposed rulemaking was published in the Pennsylvania Bulletin on January 8, 2022, opening a 45-day public comment period that concluded on February 22, 2022. The Board also held three public hearings on the proposed rulemaking on January 19, 20, and 26, 2022. DEP presented the draft final rule to SWAC at its December 15, 2022, meeting, where the Committee voted unanimously to support moving the rule to EQB for consideration.

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

DEP received an application from MAX Environmental Technologies, Inc. (MAX) for a proposed hazardous waste landfill to be located at their Yukon Facility in South Huntingdon Township, Westmoreland

County. DEP's Siting Team has conducted an administrative completeness review of the Phase I Exclusionary Siting Criteria Application received on July 14, 2022, and additional information received on August 17, 2022. Based upon that review, DEP has determined that the application package contains sufficient detail to conduct a technical review and has accepted the application.

The acceptance of the application as administratively complete began a 5-month technical review of the application. The technical review includes a public informational meeting and public hearing, which took place on Thursday, December 1, 2022, at 6:00 p.m. at the Yukon Volunteer Fire Department, 124 Highway Street, Yukon, PA. During the meeting, DEP described the application review process, siting criteria, and opportunities for public participation. DEP staff also answered questions from the public. DEP then conducted a public hearing and received public testimony for consideration during DEP's review. Written comments were accepted until 4:00 p.m. on Friday, January 20, 2023.

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

The next regular SWAC meeting is scheduled for Thursday, March 30, 2023. Additional information is available on the [SWAC website](#).

### **Recycling Fund Advisory Committee (RFAC)**

The 2023 annual RFAC meeting will be held on Thursday, October 19, 2023. The meeting will be held jointly with SWAC. Additional information is available on the [SWAC website](#).

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## **Water Programs**

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### **Water Programs Rulemakings**

#### **Chapter 105 Dam Safety and Waterway Management Rulemaking**

DEP's Bureau of Waterways Engineering and Wetlands drafted a proposed rulemaking to revise several portions of Chapter 105 to: clarify existing requirements; delete or update obsolete and antiquated requirements; incorporate new or revised sections and definitions; and correct previous minor errors discovered in certain sections since the previous rulemaking. The draft proposed annex was presented to the Agricultural Advisory Board on January 27, 2020, and the Water Resources Advisory Committee on January 30, 2020. Both committees concurred with DEP's recommendation to present the proposed rulemaking to the Environmental Quality Board. The draft proposed annex was also presented to the State Conservation Commission on February 11, 2020, and the Citizens Advisory Council on February 18, 2020. The proposed regulation was adopted by the Environmental Quality Board on July 21, 2020. The proposed rulemaking was published in the Pennsylvania Bulletin on December 5, 2020, for a 60-day public comment period that ended on February 3, 2021.

The Department received comments from nearly 1,700 unique public commenters and received comments from the Independent Regulatory Review Commission (IRRC) on March 5, 2021. On February 24, 2021, the House Environmental Resources and Energy Committee voted to send a letter to IRRC expressing the committee's disapproval of the proposed rulemaking.

DEP is currently reevaluating this rulemaking.

#### **Manganese Water Quality Standard Rulemaking**

On October 30, 2017, subsection (j) (known as Act 40) was added to The Administrative Code of 1929. Act 40 directed the Environmental Quality Board (Board or EQB) to propose regulations requiring that the water quality criteria for manganese, established under 25 Pa. Code Chapter 93, be met consistent with the exception in 25 Pa. Code § 96.3(d). Act 40 directed the Board to propose a regulation that moves the point of compliance

for manganese from the point of discharge to any downstream drinking water intake. The Bureau of Clean Water presented a rulemaking to revise the water quality standards for manganese to the Board on December 17, 2019. This proposed rulemaking includes the following updates to 25 Pa. Code Chapter 93: (1) deleting the Potable Water Supply criterion of 1.0 mg/L from § 93.7, Table 3 and (2) adding a Human Health criterion of 0.3 mg/L to § 93.8c, Table 5. In addition, the proposed rulemaking includes language in 25 Pa. Code Chapter 96 describing two alternative points of compliance for meeting the manganese criterion. The first alternative, consistent with Act 40, is to move the point of compliance from all surface waters (i.e., at the point of discharge) to the point of all existing or planned surface potable water supply withdrawals. The second alternative, consistent with the Clean Streams Law and mindful of the responsibilities of drinking water suppliers' obligations under the Pennsylvania Safe Drinking Water Act, is to maintain the existing point of compliance in all surface waters (i.e., at the point of discharge). The Department recommended the Board receive comments on both alternatives to assist the Board in its determination of the appropriate point of compliance. The Board voted to adopt the proposed rulemaking with both alternatives.

The proposed rulemaking was published in the Pennsylvania Bulletin on Saturday, July 25, 2020, opening a public comment period that closed on September 25, 2020. The Board has also held three virtual public hearings on September 8, 9 and 10, 2020. During the comment period and public hearings, 950 individuals provided comments or testimony on the rulemaking. On September 30, 2020 the House Environmental Resources and Energy Committee voted to send a letter to IRRC expressing the Committee's disapproval of the proposed rulemaking. IRRC's comments were received on October 26, 2020. As suggested in IRRC's comments, staff discussed the rulemaking with the Mining and Reclamation Advisory Board on January 21, 2021 and with the Aggregate Advisory Board on May 5, 2021.

The draft final-form rulemaking was provided to the Water Resources Advisory Committee on November 18, 2021, and the Committee recommended the Department advance the rulemaking to the EQB. The draft final-form rulemaking was also provided to: the Agricultural Advisory Board on December 9, 2021; the Mining and Reclamation Advisory Board on January 20, 2022; the Aggregate Advisory Board on February 2, 2022; and the Public Water Systems Technical Assistance Center on February 8, 2022.

The final-form rulemaking was presented to and adopted by the EQB on August 9, 2022. The final-form rulemaking was delivered to the Independent Regulatory Review Commission (IRRC) for consideration at the September 15, 2022 IRRC public meeting. IRRC voted not to approve the regulation during that meeting. The rulemaking was withdrawn on November 18, 2022.

#### Dunbar Creek et al. Stream Redesignations

Section 303(c)(1) of the Federal Clean Water Act (33 U.S.C.A. § 1313(c)) requires states to periodically review and revise, as necessary, water quality standards. The water quality standards evaluated in this rulemaking are the designated uses of surface waters. The regulatory changes in this proposed rulemaking are the result of stream evaluations conducted by the Department. The proposed rulemaking includes redesignation recommendations for seven streams in response to stream evaluations conducted by the Department. Stream evaluations were conducted in response to three rulemaking petitions that were previously accepted by the EQB, requests by the DEP Regional Programs and the Pennsylvania Fish and Boat Commission, ongoing statewide monitoring activities, and an error identified in Chapter 93. Redesignation recommendations include more restrictive use and less restrictive use recommendations. The proposed rulemaking was adopted by the EQB on April 20, 2021. The proposed rule was published in the Pennsylvania Bulletin on July 31, 2021, with a 45-day public comment period that closed on September 14, 2021. A public hearing was held on August 30, 2021, where three witnesses provided testimony. The Department is now reviewing the comments received and preparing the draft final-form rulemaking documents. The Department anticipates advancing the final-form rulemaking to the EQB in early 2023.

### Site-Specific Water Quality Criteria Rulemaking

This proposed rulemaking will recommend updates and revisions to § 93.8d which outlines the site-specific water quality criteria process. The proposed amendments include the addition of language that clarifies when site-specific water quality criteria may be requested and specifies the conditions under which site-specific water quality criteria may not be requested. The proposed amendments will update language throughout §93.8d to identify the data and information that must be submitted with each request for a site-specific water quality criterion and the actions to be taken by the Department as part of the site-specific water quality criterion development and regulatory processes. These proposed amendments are consistent with federal regulations and requirements.

In addition, this proposed rulemaking proposes to delete the statewide total mercury water quality criterion of 0.05 µg/L for Ebaughs Creek located in York County; and to add a site-specific methylmercury water quality criterion of 0.00004 µg/L for Ebaughs Creek in § 93.9o (relating to Drainage List O). The York County Solid Waste Regional Authority (YCSWRA) owns and operates the York County Sanitary Landfill, which is a 306-acre site located in Hopewell Township, York County, PA. Between 1974 and 1997, the landfill received municipal and industrial waste, which was placed into lined and unlined cells. The site contains approximately 135 acres of unlined landfill. Detection of volatile organic compounds (VOCs) in several groundwater wells was discovered in 1983 and was associated with the unlined cells. A treatment system was installed to remove the VOCs and began operation in 1985. The system consisted of 17 extraction wells and air stripping towers. The air stripping towers discharge the treated groundwater under NPDES permit number PA0081744. Mercury was later identified through the Department's permit application review process as a potential pollutant of concern. YCSWRA has requested the Department delete the statewide total mercury water quality criterion of 0.05 µg/L for Ebaughs Creek and develop a site-specific methylmercury water quality criterion for Ebaughs Creek to inform their NPDES permit effluent limitations for Outfall 002. Since the Department does not currently have statewide numeric water quality criteria for methylmercury, YCOWRA's request satisfies § 93.8d(a)(3).

The Department anticipates presenting the proposed rulemaking to the EQB early 2023.

### Triennial Review of Water Quality Standards

Water quality standards are in-stream water quality goals that are implemented by imposing specific regulatory requirements and permit conditions (such as treatment requirements, effluent limits, and best management practices) on individual sources of pollution. This proposed rulemaking fulfills the Commonwealth's obligation to periodically review and revise its water quality standards and updates Pennsylvania's water quality standards such that the surface waters of this Commonwealth are afforded the appropriate level of protection.

This rulemaking proposes to:

- Add or revise aquatic life and human health water quality criteria for 17 substances,
- Clarify duration periods for aquatic life criteria, and
- Reaffirm the removal of Water Contact Sports use from the Outer Erie Harbor/Presque Isle Bay and portions of the Delaware Estuary and removal of portions of the Warm Water Fishes (WWF) and Migratory Fishes (MF) aquatic life uses for portions of the Delaware Estuary.

The Department anticipates presenting the proposed rulemaking to the EQB in early 2023.

### NPDES Schedules of Compliance

This rulemaking will amend § 92a.51(a) for NPDES permit schedules of compliance to allow the Department to approve permits for combined sewer overflow (CSO) dischargers with compliance schedules beyond the 5-year period currently established in the regulations, but not longer than the implementation period in the discharger's approved long-term control plan (LTCP). The draft proposed annex was presented to the Water Resources

Advisory Committee (WRAC) on July 28, 2021, which concurred with DEP's recommendation to present the proposed rulemaking to the Environmental Quality Board (EQB). The proposed regulation was adopted by the EQB on October 19, 2021. The proposed rulemaking was published in the Pennsylvania Bulletin on January 15, 2022, for a 45-day public comment period that ended on March 1, 2022. One virtual public hearing was held on February 16, 2022 although nobody provided testimony. Three public comments were received on the proposed rulemaking and comments were also submitted by EPA. IRRC had no comments or questions on the proposed rulemaking. The draft final-form rulemaking was presented to WRAC at its July 21, 2022 meeting and WRAC voted unanimously to support the rulemaking. The EQB adopted the final-form rulemaking on November 15, 2022. Presentation to IRRC is planned for Spring 2023.

### **Draft Chapter 105 Alternatives Analysis Technical Guidance Document (310-2100-002)**

This TGD provides guidance on the preparation of a Chapter 105 alternatives analysis. This TGD consolidates existing guidance and expands upon that guidance as follows: Clarifies the appropriate level of analysis required for evaluating alternatives for projects requiring an Individual Water Obstruction and Encroachment Permit under 25 Pa. Code Chapter 105 (relating to dam safety and waterway management); Provides guidelines for determining if an alternative should be considered practicable; and Establishes a common, complete and consistent level of understanding of the information needed by the Department to adequately review alternatives analyses for Water Obstruction and Encroachment Permit applications proposing impacts to aquatic resources. Notice of availability of this draft technical guidance document was published in the Pennsylvania Bulletin on September 4, 2021 [[51 Pa.B. 5757](#)]. The public comment period ended on October 4, 2021, and DEP received 4 comment letters. Next steps will include reviewing the comments received, preparing a comment and response document, and making any necessary changes to the guidance document.

### **Draft Trenchless Technologies Guidance (310-2100-003)**

This draft TGD outlines the steps and options to consider, and implement as appropriate, when proposing to use a trenchless technology installation method on any portion of a project. This draft TGD has been prepared to provide information to project proponents that may help to prevent environmental issues, improve project planning, permitting and compliance with applicable regulatory requirements. It is important to note, this is recommended guidance that does not require a new permit. Notice of availability of this draft technical guidance document was published in the Pennsylvania Bulletin on March 19, 2022 [[52 Pa.B. 1693](#)]. The 60-day public comment period ended on May 18, 2022. DEP received 150 letters; 144 form letters in support and 6 letters with constructive comments and edits. Next steps will include reviewing the comments received, preparing a comment and response document, and making any necessary changes to the guidance document.

### **Act 34 of 2020**

The planning provisions of the Pennsylvania Sewage Facilities Act (SFA), Act 537 of 1965, aim to ensure that adequate sewage disposal methods are available for a lot(s) prior to the development of those lands and that long-term sewage disposal is provided by the proposed sewage facilities. Specifically, Section 5 of the SFA requires each municipality to submit to DEP an officially adopted plan for sewage services for areas within its jurisdiction, and it establishes the framework for review and approval of these official plans by both the municipality and DEP. These official plans are essentially revised and updated as each sewage planning proposal for subdivision is approved. Sewage planning approval is required for subdivisions with few exceptions.

Act 34 of 2020 amended sections of the SFA that were previously amended by Act 26 of 2017, specifically sections 5(c.1) and 5(c.2). Amendments to Section 5(c.1) seek to provide for the use of alternate (or conventional) systems in planning for new land development. The amendment changed the types of system that could be considered for new land development planning proposals. An integral part of the sewage planning process, when on-lot sewage disposal is being considered, is to demonstrate that the land proposed for development meets general site suitability criteria.

Although Act 34 of 2020 provides the mechanism for the use of alternates in new land development, the existing regulations provide general site suitability criteria requirements for conventional systems which includes absorption areas and spray fields; these systems have standards in regulations. The Department understands that the intent of Act 34 of 2020 is to expand the use of alternate systems to allow for development of lots that are currently unavailable for new land development. More specifically, there is a desire to be able to develop lots with soil depths less than 20 inches to a limiting zone where a spray field may be the only option or on a lot with shallow soils that is too small for a spray field to be sited. The current regulations prohibit the issuance of permits for sites that do not meet the general site suitability requirements.

In order to provide additional opportunities for new development of land in a manner that provides safe, effective long-term sewage disposal and that implements the goals of Act 34 of 2020, a rulemaking is needed to add site suitability provisions for the use of alternate systems on sites that do not meet the current general site suitability requirements. The Department discussed these issues and implementation strategy with the Sewage Advisory Committee on February 23, 2021. On April 27, 2021, the Department testified on implementation of the SFA as amended by Act 34 of 2020 during a joint public hearing convened by the House and Senate Environmental Resources and Energy committees. The Department will be continuing to work in consultation with the Sewage Advisory Committee and other stakeholders towards implementation of the SFA as amended by Act 34 of 2020 in coming months. The Department has developed an Act 34 Implementation Frequently Asked Questions (FAQ) document to provide information to those with questions on how Act 34 impacts sewage facilities planning and permitting. A link to the Act 34 FAQ can be found at the Bureau of Clean Water's Act 537 Sewage Enforcement Officer's [website](#).

### **General Permits for Beneficial Use of Sewage Sludge (a.k.a. Biosolids)**

The Department issues general permits for the beneficial use of biosolids (a.k.a. sewage sludge) and residential septage. In the context of these permits, beneficial use is the use or reuse of biosolids or residential septage for any purpose, where the use does not harm or threaten public health, safety, welfare, or the environment. These permits apply to a person who prepares biosolids that will be sold or given away in a bag or other container or biosolids that will be land applied, and to a person who applies biosolids or residential septage to the land. The Department issues these permits under the authority of Pennsylvania's Solid Waste Management Act and Clean Streams Law.

There are three general permits for the beneficial use of biosolids and residential septage in Pennsylvania: PAG-07 allows for the Beneficial Use of Exceptional Quality (EQ) Biosolids; PAG-08 allows for the Beneficial Use of Non-Exceptional Quality (Non-EQ) Biosolids; and PAG-09 allows for the Beneficial Use of Residential Septage.

The Department has administratively extended these general permits for several years. The Department had preliminary discussions on reissuance of these general permits with the Water Resources Advisory Committee (WRAC) and the Agricultural Advisory Board (AAB) in March 2021. Both committees decided to form workgroups to better understand the proposed changes and to provide input on the impact of those proposed changes to their respective stakeholders. To date, the AAB workgroup has had two meetings and dates for an April 2022 meeting are being coordinated. The WRAC workgroup has not yet had a meeting.

The Bureau of Clean Water has also organized a workgroup to gather input on the proposed changes to the general permits. The group includes biosolids generators, land applicators, farmers, consultants, and interested third parties (including the Chesapeake Bay Foundation and the Delaware Riverkeeper Network). The first meeting of the workgroup organized by DEP occurred on September 28, 2021, and focused on the biosolids land application program, the proposed changes to the permit, and PFAS in biosolids. The next meeting was held on for November 3, 2021. The primary point of discussion was managing biosolids considering the

phosphorus content of the biosolids and the soil phosphorus level. The third meeting with stakeholders was held on Tuesday, December 7, 2021. The main topic of discussion was addressing Department concerns associated with the impacts of hauled-in residual waste into the biosolids treatment process. A fourth meeting occurred on January 5, 2022. The discussion on the hauled-in-waste concerns continued. The topic of the proposed changes to field storage of biosolids on land application sites was also discussed. The workgroup members decided to provide formal written comments to the Department. Following receiving those comments, a fifth and final meeting will be scheduled to clarify any of the stakeholder concerns. DEP will then develop use the information gathered during the outreach process to draft any revisions to the permit documents prior to issuing draft permits for public comment. The Department has received written comments from several workgroup members and is considering those comments in the development of draft permit documents. *Draft permits are currently under internal review.*

### **Federal Infrastructure Funding - Bipartisan Infrastructure Investment and Jobs Act (IIJA)**

The Bipartisan Infrastructure Law (BIL) provides funding to the Clean Water State Revolving Fund (CWSRF) and the Drinking Water State Revolving Fund (DWSRF). These programs will see increases to base program funding as well as new supplemental program funding programs.

The BIL reauthorizes the base DWSRF program funding and establishes new supplemental DWSRF pots for general infrastructure projects, emerging contaminants projects, and lead service line replacement projects. Base and general supplemental DWSRF money will be used for projects that will improve water system infrastructure (e.g. replacing aging water lines, upgrading treatment plant components, finished water storage tanks.) DWSRF BIL funding will provide funding to eligible water systems via PENNVEST for these infrastructure projects. Additionally, the BIL will provide money for technical assistance to water systems, as well as money to cover the cost of administration of the DWSRF program for both the Bureau of Safe Drinking Water (BSDW) and the Bureau of Clean Water (BCW).

BIL reauthorizes the base CWSRF program funding and also establishes new CWSRF supplemental pots for general infrastructure projects and emerging contaminants projects. In addition, it establishes a new set-aside that will enable DEP to provide technical assistance to small, rural Publicly Owned Treatment Works (POTW). Similar to the DWSRF program, the CWSRF base program provides funding to infrastructure projects to improve non-point source pollution, stormwater infrastructure, and wastewater infrastructure. CWSRF funding will provide funding to eligible project applicants via PENNVEST for infrastructure projects. The BIL CWSRF funding will also support technical assistance to systems and includes a means to cover the cost of administration of the CWSRF program.

DEP staff manage EPA applications for both the DWSRF and CWSRF capitalization grants awarded to PENNVEST. DEP staff also oversee DEP's role in the managing potential and funded projects from pre-application through project closeout. DEP staff coordinate to prepare the SRF Intended Use Plans including and budgets on an annual basis. DEP staff coordinate review, ranking and management of PENNVEST project applications.

On March 8, 2022, EPA released a 56-page memo titled "[Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law](#)", which was signed by Radhika Fox, EPA Assistant Administrator. This memo provides the guidance from EPA regarding implementation of CWSRF and DWSRF BIL funding. DEP and PENNVEST staff have been working through this guidance to understand the requirements and EPA expectations. Among other things, EPA commits to providing additional clarification via Q&A documents. The BIL will provide a significant infusion of money into the SRF program.

A Final Intend Use Plans (IUPs) for the DWSRF and CWSRF are available for review on the Department's website at [www.dep.pa.gov/Business/Water/CleanWater/InfrastructureFinance/Pages/State-Revolving-Fund.aspx](http://www.dep.pa.gov/Business/Water/CleanWater/InfrastructureFinance/Pages/State-Revolving-Fund.aspx).

The IUPs describe the plan for use of the SRF dollars. The draft IUPs were noticed for public comment. Responses to public comments were developed prior to finalization of the IUPs. The comment/response documents can be found at the web address listed above.

DEP and PENNVEST coordinated on an effort to develop and submit applications for the State Revolving Fund (SRF) program. DEP submits the applications on behalf of PENNVEST annually. BIL/IIJA provided a significant increase in both the funding amounts and total grants available to the states through the SRF Program for both the DWSRF and CWSRF. Seven (7) grants application were available and submitted to EPA on behalf of PA. PENNVEST and DEP were notified of the awards for all seven (7) SRF Grants. The following amounts include the state match where state match is required. The awarded grants include the following:

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

An eligible use of the SRF funds is Technical Assistance. The goal of Technical Assistance under the BIL funding is to help small, rural, and disadvantaged communities move projects through the planning and development phases to design/implementation and completion. DEP and PENNVEST are working to soon have a contractor in place to provide Technical Assistance to small, rural, and disadvantage systems. The work under this contract will help to move projects into the funding pipeline. Details on the funding and technical assistance eligibility can be found in the IUPs.

Additionally, DEP is in the process of hiring additional staff to support the implementation of the BIL funding. New staff will provide support for technical assistance, projection management, and project permitting.

The BIL also provides additional funding programs that appear to fall outside of the SRF umbrella. To date, EPA has provided very little if any information to states on this additional funding outside of the SRF umbrella. DEP BSDW staff will continue to push EPA for this guidance and provide additional details in future weekly articles as more information becomes available. While specific state funding allotments are not yet available, these programs include funding for the following:

- Assistance for Small and Disadvantaged Communities (Sec. 50104) – Preliminary EPA documents indicate that PA’s share may be ~\$28 million annually. Funding may be provided through Small, Underserved, and Disadvantaged Communities Grants (not SRF); can be used to remediate PFAS in drinking water.
- Several Lead Programs – Reducing Lead in Drinking Water (Sec. 50105) and Lead Contamination in School Drinking Water (Sec. 50110). Note: These lead programs may be under the Water Infrastructure Improvements for the Nation (WIIN) Grant umbrella.
- Operational Sustainability Grants to Small PWSs (Sec. 50106) and Midsize and Large Drinking Water System Infrastructure Resilience and Sustainability Program (Sec. 50107).

### **Chesapeake Bay Restoration IIJA/BIL**

On May 2, 2022 EPA announced the allocation of \$40 million in first-year funds from the IIJA at an event in Baltimore. The funding includes the \$15 million allocation to jurisdictions for the Most Effective Basins as well as funding through the National Fish and Wildlife Foundation’s Small Watershed Grants and Innovative Nutrient and Sediment Reductions grants program. This will use nearly 85% of the designated infrastructure funding for FY2022 and make important strides toward attaining targets set before us in the 2014 Chesapeake



Watershed Agreement. Pennsylvania has been allocated \$5,598,333 for the initial year. DEP was notified on May 19, 2022 that our allocation will be \$1.8 million to implement projects in the Pilot and Tiers 2-4 counties within Pennsylvania's Chesapeake Bay watershed. The rest of the funding coming to Pennsylvania will be directed to DCNR and SCC for the initial year. DEP received the federal award in September 2022 *and awarded the funds through the Countywide Action Plan (CAP) Implementation Grant in December 2022.*

*DEP, State Conservation Commission, and Pennsylvania Fish and Boat Commission staff met with EPA on January 9, 2023 to discuss the FY2023 Chesapeake Bay IJA allocation. Discussions are ongoing and recommendations for the allocation have been provided by DEP to EPA for their consideration.*

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

On Saturday, September 24, 2022, DEP published notice in the Pennsylvania Bulletin ([52 Pa.B. 6107](#)) of a 2-year extension to the PAG-13 National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges to Small Municipal Separate Storm Sewer Systems (MS4s). By this action the availability of the general permit has been extended to March 15, 2025. The notice also solicited interested participants for a workgroup that DEP to discuss the requirements for the next PAG-13 term. DEP received nearly 60 requests to participate and has selected approximately 20 members. A series of meetings has been scheduled starting in November 2022. The first *five* workgroup meetings *have been held*. A total of eight workgroup meetings are anticipated.

### **Chapter 102 ePermitting**

ePermitting is being used by multiple DEP programs for the management of electronic permit applications. Since 2018 DEP has been working toward implementing ePermitting for Chapter 102 NPDES permits for earth disturbance activities. The launch of ePermitting for PAG-02 General NPDES Permit Notices of Intent (NOIs) was scheduled for Summer 2020 but was postponed. DEP is currently coordinating Chapter 102 improvements to the ePermitting system with improvements for Chapter 105 permits. The Chapter 105 program has been utilizing ePermitting for the past two years. The new system successfully launched and became available for use on January 25, 2021 for PAG-02 General Permit NOIs; on April 21, 2021 for Individual NPDES Permits for stormwater discharges associated with construction activities; and on August 4, 2021 for Erosion and Sedimentation Control individual permit applications. ESCGP-3 NOIs were released on March 16, 2022. A [Chapter 102 ePermit Training Center](#) was developed in DEP's Clean Water Academy and is available for public use.

### **Nonpoint Source (NPS) Management Section 319**

The Section 319 NPS Management grant funds are provided by the U.S. Environmental Protection Agency (EPA) and authorized through Section 319(h) of the federal Clean Water Act. The program's primary purpose is to implement Section 319 Program Watershed Implementation Plans (WIP) to improve and protect Pennsylvania's waters from nonpoint source pollution.

Federal Fiscal Year (FFY) 2022 EPA Section 319 NPS Management Grant awards were [announced](#) on October 7, 2022.

DEP opened the Federal Fiscal Year (FFY) 2023 EPA Section 319 NPS Management Grant round on April 22, 2022. The deadline to apply was June 24, 2022. New this year is a focus on Watershed Implementation Plan (WIP) development in Environmental Justice (EJ) areas. Staff submitted the draft workplans to EPA for their review by the EPA / DEP Action Plan deadline of November 30, 2022.

### **Growing Greener Plus Program**

DEP opened the 2022 Growing Greener Plus grant round on April 22, 2022. The deadline to apply was June 24, 2022. The 2022 Growing Greener Plus grant round includes some new features, including: (1) a reinvigorated

Growing Greener Watershed Renaissance Initiative (GGWRI) focused on the complete implementation of existing watershed restoration or implementation plans on small catchment areas in Centre, Huntingdon, Lancaster, Snyder, and Union counties; and (2) a priority to implement projects in support of the Pennsylvania 2021 Climate Action Plan. *The 2022 Growing Greener Plus awards were announced on January 12, 2023. The full list of 2022 Growing Greener projects can be found at [www.dep.pa.gov/Citizens/GrantsLoansRebates/Growing-Greener/Pages/default.aspx](http://www.dep.pa.gov/Citizens/GrantsLoansRebates/Growing-Greener/Pages/default.aspx).*

### **State Water Plan**

*The 2022 State Water Plan Update Report (“Update Report”) is now complete and available to all Pennsylvanians!*

*The State Water Plan’s 2022 meeting schedule concluded with a successful vote to approve the Update Report on December 14. Since then the document has followed the process prescribed by Act 220 of 2002 and, after formatting and grammar edits, was sent to the Secretary’s office for approval, which it has now acquired. A press release has been written which includes details about the Update Report. This report is focused on items such as water resources strategies outlined in the Pennsylvania Climate Action Plan and updated regional watershed priorities.*

*The meeting schedule for all seven committees has been established for 2023 and will include two rounds of meetings, one in April and one in October. The April meetings will be focused on reinvigorating committee membership, reviewing committee bylaws, outreach considerations, and establishing a work plan for the coming years. Following Act 220 of 2002’s requirements a new update will be needed in 2027.*

Find more information at DEP’s [State Water Plan website](#).

## Attachment 1

### 2023 Events Calendar

Please consult the [DEP Calendar of Events](#) for a comprehensive listing of upcoming events and information on how to attend. The Calendar can be accessed in the Public Participation tab on the DEP website; click on “Public Participation” then “Calendar of Events.” Unless otherwise indicated below or on the DEP Calendar of Events, there will be virtual and in-person attendance options for each event.

<b>February</b>	
14	Environmental Quality Board (EQB) meeting, 9:00 a.m.
14	Environmental Justice Advisory Board (EJAB) meeting, 9:00 a.m.
14	Citizens Advisory Council (CAC) meeting, 12:30 p.m.
16	<i>PA Grade Crude Development Advisory Committee (CDAC) meeting, 10:00 a.m.</i>
17	Public Water System Technical Assistance Center (TAC) Board meeting, 9:00 a.m.
21	Climate Change Advisory Committee (CCAC) meeting, 9:00 a.m.
22	State Board for Certification of Sewage Enforcement Officers meeting, 10:00 a.m.
<b>March</b>	
9	Air Quality Technical Advisory Committee (AQTAC) meeting, 9:15 a.m.
13	Oil and Gas Technical Advisory Board (TAB) meeting, 10:00 a.m.
15	Agricultural Advisory Board meeting, 9:00 a.m.
15	Citizens Advisory Council (CAC) meeting, 12:30 p.m.
16	Water Resources Advisory Committee (WRAC) meeting, 9:30 a.m.
16	Board of Coal Mine Safety meeting, 10:00 a.m.
21	Storage Tank Advisory Committee (STAC) meeting, 10:00 a.m.
29	Sewage Advisory Committee (SAC) meeting, 10:00 a.m.
30	Solid Waste Advisory Committee (SWAC) meeting, 10:00 a.m.

This report was prepared by Amanda Rodriguez, Assistant Regulatory Coordinator, DEP Policy Office. For questions or requests, please email [amarodrigu@pa.gov](mailto:amarodrigu@pa.gov).