



pennsylvania
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Policy Office

DEP Regulatory Review and Development Process Overview

Small Business Compliance Advisory Committee
October 24, 2018

Tom Wolf, Governor

Patrick McDonnell, Secretary

▶ DEP's Regulatory Review Process

- Complex process with several layers of internal and external review
- Public participation and outreach are essential components of the regulatory process
- Process is guided by:
 - [Administrative Code of 1929](#)
 - [Executive Order 1996-1](#)
 - [Regulatory Review Act \(RRA\)](#)
 - [Commonwealth Documents Law](#)
 - [Commonwealth Attorneys Act](#)

▶ Key Steps in Regulatory Process

- Identify need for regulatory change
- Develop proposed rulemaking documents
- Obtain input from advisory committees
- Proposed rulemaking process
- Prepare final rulemaking documents in response to public comments
- Final rulemaking process

Overview – Regulatory Process

Regulations are reviewed by several bodies – both internal and external to DEP:

- Advisory Committees
- Environmental Quality Board (primary rulemaking body)
- Governor’s Policy Office (GPO), Office of General Counsel (OGC), Governor’s Budget Office, Office of Attorney General (OAG)
- Pennsylvania House and Senate Environmental Resources and Energy Committees (ERE Committees)
- Independent Regulatory Review Commission (IRRC)

Overview – Regulatory Process

- Authorization to begin development of a Rulemaking
- Draft Proposed Rulemaking Prepared
- Advisory Committees
- Draft Proposed Rulemaking – internal and external review
- Proposed Rulemaking to EQB, OGC, Budget, OAG, Committees, IRRC, LRB
- Public Comment Period
- Draft Final Rulemaking Prepared
- Advisory Committees
- Draft Final Rulemaking Prepared – internal and external review
- Final rulemaking to EQB, Committees, IRRC, OAG
- Final Rulemaking Published as Final

▶ Development of Proposed Regulation

- Authorization given by Secretary to move forward with development of regulation
- Program drafts regulation (Annex A)
- Regulation presented to Advisory Committees
- DEP staff develop proposed rulemaking documents:
 - Regulatory changes (Annex A)
 - Narrative explanation (Preamble)
 - Regulatory Analysis Form (RAF)

Preliminary Review

- Draft proposed rulemaking reviewed by DEP Program Staff, DEP Policy Office, DEP Regulatory Counsel, DEP Office of Chief Counsel, DEP Secretary, OGC, and GPO.

▶ Post-EQB External Review

1. Upon EQB adoption, draft proposed rulemaking becomes a proposed rulemaking
2. Proposed rulemaking sent to OGC and Office of Budget (form and legality review and issuance of a fiscal note, respectively)
3. Proposed rulemaking sent to the OAG
4. OAG review (30 days)

▶ Post-EQB External Review Continued

- Proposed rulemaking package distributed to ERE Committees and to IRRC
- Package sent to the Legislative Reference Bureau (LRB) on the same day

Public Comments

- Online Comment System (eComment):
 - <http://www.ahs.dep.pa.gov/eComment/>
- Email:
 - Regcomments@pa.gov
- USPS Mail:
 - Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477.
 - Express mail: Environmental Quality Board, Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301.

Public Comment Period

- Public provides comments within time frame allotted (published in Bulletin in preamble section)
- IRRC provides comments (30 days after the close of the comment period)

Draft Final Rulemaking

- Program reviews comments
- Draft final regulation (Annex A) prepared
- Draft final regulation discussed with Advisory Committees
- DEP prepares final rulemaking documents:
 - Comment and Response Document
 - Revised Annex A, Preamble, RAF
- Preliminary review (same as proposed review process)

Draft Final Rulemaking – Post EQB

1. Upon EQB adoption, draft final rulemaking becomes a final rulemaking
2. Final rulemaking sent to OGC and Budget
3. Final rulemaking submitted to House and Senate ERE Committees and IRRC
4. If IRRC approves, final rulemaking is submitted to OAG's Office (30 days)
5. Final Rulemaking published in the PA Bulletin

▶ Regulatory Agendas

- Six-Month Regulatory Agenda for all Commonwealth agencies:
 - Governor's Office publishes in the PA Bulletin twice per year (February/March and July/August)
 - Most recent agenda was published August 4, 2018
- DEP's Rolling Regulatory Agenda:
 - Provides a snapshot of regulations both active and complete
 - Available on DEP website



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