

EXECUTIVE SUMMARY
25 Pa. Code, Chapters 87, 88 and 90
Remining Requirements

This final-form rulemaking updates the coal mining remining requirements for pre-existing discharges to incorporate the federal effluent limit guidelines. The regulations are authorized under the Surface Mining Conservation and Reclamation Act, The Clean Streams Law, and the Administrative Code of 1929.

The final-form rulemaking makes Pennsylvania's regulations consistent with the federal regulations. The rulemaking will be subject to approval by the Office of Surface Mining Reclamation and Enforcement. The comparable federal regulations were developed based primarily on a pilot program conducted in Pennsylvania. The final-form rulemaking adopts the two statistical methods included in the federal regulations. One of the methods is the same as that currently used. The other method is included to be adopted to provide a maximum degree of flexibility.

This final-form rule will allow for additional reclamation of abandoned mine lands by providing protection to mine operators from potential long-term treatment liability associated with post-mining discharge. Also, conducting remining is a business decision for applicants as to whether they want to undertake a project which entails remining. Further, the provisions of the rulemaking that allow for remining in circumstances where calculating the baseline pollution load of discharges is not feasible have the potential to open up areas to remining where it was not previously possible. Remining typically results in substantial improvements in water quality in addition to the land reclamation.

Provisions are included in this final-form rule that incorporate requirements which have been included in remining permit documents. The rulemaking will require revisions to existing application forms and guidance documents. Compliance assistance for this rulemaking will be achieved through routine consultation with trade groups, citizens, and individual applicants. Approximately 500 licensed coal surface mine operators in Pennsylvania will be subject to this rulemaking, most of which are small businesses. It is not anticipated that the rulemaking will increase costs.

The Environmental Quality Board (EQB) approved the proposed regulations at its May 20, 2015 meeting. The proposed rulemaking was published in the *Pennsylvania Bulletin* on October 3, 2015, opening a 30-day public comment period. Comments were received from one public commentator and the Independent Regulatory Review Commission (IRRC). The final regulation was revised to address these comments. Two changes were the result of drafting errors. One change was made to improve clarity. IRRC also provided comments relating to the preamble and regulatory analysis form. Both documents were amended to address IRRC's comments.

This rulemaking is the result of extensive interaction with the Mining and Reclamation Advisory Board (MRAB)'s Regulation, Legislation and Technical Committee. The full MRAB reviewed the final regulation at its January 21, 2016 meeting and recommended that the final rule move forward for consideration by the EQB.