

DEP REGULATORY UPDATE

September 9, 2019

(This update is designed to provide a quick snapshot of the current status of regulations within DEP)

| Title of Regulation/ Statutory Authority | Summary of Regulation and Contact | Status |
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| <p>Additional Requirements for Control of Fine Particulate Matter in the Nonattainment New Source Review Program (#7-551) <i>Air Pollution Control Act</i> 25 Pa. Code Chapter 121 and 127</p> | <p>This rulemaking amends Chapter 127, Subchapter E to incorporate Federal requirements issued by the EPA on August 26, 2016, for the regulation of precursor emissions to the formation of particulate matter less than and equal to 2.5 micrometers in diameter (PM_{2.5}). The EPA's final rule requires states with nonattainment areas for PM_{2.5} to amend their new source review (NSR) regulations to include emissions of volatile organic compounds (VOC) and ammonia as PM_{2.5} precursors. The amendments would limit the emissions of VOC and ammonia as PM_{2.5} precursors for new major sources or major sources being modified in certain counties of this Commonwealth that are designated as nonattainment for the PM_{2.5} National Ambient Air Quality Standard. This proposed rulemaking would also add PM_{2.5} significant impact levels (SIL) to conform with the EPA guidance for SILs published on April 17, 2018.</p> <p>CONTACT: Susan Hoyle, 717-772-2329, shoyle@pa.gov</p> | <p>CURRENT STATUS: Final</p> <p>EQB adopted as final on August 20, 2019.</p> <p>Background:</p> <ul style="list-style-type: none"> • Draft final Annex A shared with Air Quality Technical Advisory Committee (AQTAC) on August 15, 2019 and with Citizens Advisory Council Policy Regulatory Oversight Committee on August 16, 2019. • IRRC no comment letter received on June 19, 2019. • Proposed rule published in the Pa. Bulletin on March 16, 2019, opening a 64-day public comment period. Public comment period closed on May 20, 2019. Public hearings held on April 16, 17, and 18, 2019. To view comments, visit eComment. • Delivered to House and Senate ERE Committees, IRRC, and the LRB on February 25, 2019. • EQB adopted proposed rule on December 18, 2018. |
| <p>Federal Office of Surface Mining (OSM) Program Consistency Rule (#7-532) <i>Surface Mining Conservation and Reclamation Act</i> 25 Pa. Code Chapters 86, 89, and 90</p> | <p>This rulemaking amends Chapter 86 to comply with Federal regulatory requirements; revises (Chapter 89) effluent limits for passive treatment systems to comply with Federal regulations, and updates (Chapter 90) coal refuse site selection regulations to comply with the revised Coal Refuse Disposal Control Act.</p> <p>CONTACT: Bill Allen, 717-783-9580, wallen@pa.gov</p> | <p>CURRENT STATUS: Draft Final</p> <p>Program drafting final-form rulemaking package.</p> <p>Background:</p> <ul style="list-style-type: none"> • Draft final Annex A shared with Mining and Reclamation Advisory Board (MRAB) on April 25, 2019. • IRRC comments received on December 24, 2018. • Proposed rule published in the Pa. Bulletin on October 27, 2018, opening a 30-day public comment period. Public comment period closed on November 26, 2018. To view comments, visit eComment. • EQB adopted proposed rule on May 16, 2018. |

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| <p>Triennial Review of Water Quality Standards & Updates to Toxics Management Strategy – Statement of Policy (#7-534) 40 CFR Section 131.20 25 Pa. Code Chapters 93 and 16</p> | <p>This rulemaking revises the Commonwealth’s water quality criteria and standards in Chapter 93 and updates Chapter 16 Statement of Policy to reflect the latest scientific information and Federal guidelines for criteria development, as required by the triennial review requirements in the Federal Clean Water Act.</p> <p>CONTACT: Tom Barron, 717-787-9637, tbarron@pa.gov</p> | <p>CURRENT STATUS: Draft Final</p> <p>Program drafting final-form rulemaking package.</p> <p>Background:</p> <ul style="list-style-type: none"> • Draft final Annex A shared with the Water Resources Advisory Committee (WRAC) on May 23, 2019. • IRRC comments received on March 19, 2018. • Proposed rulemaking published in the Pa. Bulletin on October 21, 2017, opening public comment period. Public comment period closed on February 16, 2018. Four public hearings were held on December 6, 8, and 14 (Wilkes Barre, Harrisburg, and Pittsburgh) and on January 30 in Norristown. To view public comments, access eComment. • EQB adopted proposed rule on April 18, 2017. |
| <p>Unconventional Well Permit Application Fees (#7-542) 2012 Oil and Gas Act 25 Pa. Code Chapter 78a</p> | <p>This rulemaking proposes amendments to 25 Pa. Code §§ 78a.1 (relating to definitions and 78a.19 (relating to permit application fee schedule). These amendments are necessary to increase fees to support the administration of 58 Pa.C.S. Chapter 32 (related to development) (2012 Oil and Gas Act) by the DEP’s Office of Oil and Gas Management. The proposed rulemaking increases the current well permit application fees from \$5,000 for nonvertical unconventional wells and \$4,200 for vertical unconventional wells, to \$12,500 for all unconventional well permit applications to administer the 2012 Oil and Gas Act.</p> <p>CONTACT: Kurt Klapkowski, 717-772-2199, kklapkowski@pa.gov</p> | <p>CURRENT STATUS: Draft Final</p> <p>Program drafting final-form rulemaking package.</p> <p>Background:</p> <ul style="list-style-type: none"> • IRRC Comments received on September 12, 2018. • Proposed rule published in the Pa. Bulletin on July 14, 2018, opening a 30-day public comment period. Public comment period closed on August 13, 2018. To view comments, visit eComment. • Delivered to House and Senate ERE Committees, IRRC, and the LRB on July 2, 2019. • EQB adopted as proposed on May 16, 2018. |
| <p>Air Quality Fee Schedule Amendments (#7-536) Air Pollution Control Act 25 Pa. Code Chapters 127 and 139</p> | <p>This rulemaking proposes to revise existing requirements and fee schedules codified in Chapter 127, Subchapter I to ensure that fees collected are sufficient to cover the costs of administering the air program as required under Section 6.3(a) of the Air Pollution Control (35 P. S. § 4006.3(a)). Upon promulgation, the final-form regulation will be submitted to the EPA for approval as a revision to the SIP or the Title V Program Approval, as appropriate.</p> <p>CONTACT: Susan Hoyle, 717-772-2329, shoyle@pa.gov</p> | <p>CURRENT STATUS: Draft Final</p> <p>IRRC comments received on July 17, 2019.</p> <p>Background:</p> <ul style="list-style-type: none"> • Proposed rule published in the Pa. Bulletin on April 13, 2019, opening a 66-day public comment period. Public hearings held on May 13, 15, and 16, 2019. Public comment period closed June 17, 2019. To view comments, visit eComment. • Delivered to House and Senate ERE Committees, IRRC, and the LRB on March 27, 2019. • EQB adopted proposed rule on December 18, 2018. |

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| <p>Water Quality Management and NPDES Permit Application Fee and Annual Fees (#7-533) <i>Pennsylvania Clean Streams Law</i> 25 Pa. Code Chapters 91 and 92a</p> | <p>This rulemaking proposes to amend fees related to water quality management permitting (Chapter 91) fee schedule for NPDES permit applications (Chapter 92a). Chapter 91 establishes, among other things, a water quality management (WQM) permitting program for the construction of sewage and industrial waste treatment facilities and for land application of sewage and industrial wastes. DEP began its Chapter 92a annual invoicing and fee collection program in December 2010. Chapter 92a updated the fee schedule for NPDES permit applications for persons to discharge pollutants from point sources into surface waters. Chapter 92a also introduced an annual fee for certain facilities authorized to discharge pollutants by individual NPDES permits. A fee analysis presented to the EQB in 2014 highlighted that, despite the 2010 fee increase, revenue continues to fall short of expenses, impeding the work of Programs to carry out necessary tasks for protecting water resources in the Commonwealth.</p> <p>CONTACT: Sean Furjanic, 717-787-2137, sefurjanic@pa.gov</p> | <p>CURRENT STATUS: Draft Final</p> <p>IRRC comments received on June 13, 2019.</p> <p>Background:</p> <ul style="list-style-type: none"> Proposed rule published in the Pa. Bulletin on March 30, 2019, opening a 45-day public comment period. Correction to table in § 91.22(a) published on April 6, 2019. Public comment period closed on May 14, 2019. One public hearing held May 1, 2019. To view comments, visit eComment. Delivered to House and Senate ERE Committees, IRRC, and the LRB on March 12, 2019. EQB adopted proposed rule on December 18, 2018. Regulatory fee reports presented to the EQB on August 21, 2018. |
| <p>Water Quality Standards – Class A Stream Redesignations (#7-548) <i>Clean Streams Law</i> 25 Pa. Code Chapter 93</p> | <p>The regulatory changes included in this rulemaking are the result of stream evaluations conducted by DEP in response to a submittal of data from the Pennsylvania Fish and Boat Commission (PFBC). In this rulemaking, redesignations rely on § 93.4b(a)(2)(ii) to qualify streams for High Quality (HQ) designations based upon their classifications as Class A wild trout streams. DEP staff conducted an independent review of the trout biomass data in the PFBC’s fisheries management reports for streams throughout the Commonwealth to ensure that the HQ criteria were met. Based on these data and appropriate regulatory criteria, DEP developed this package of stream redesignations.</p> <p>CONTACT: Steve Taglang, 717-787-5017, staglang@pa.gov</p> | <p>CURRENT STATUS: Draft Final</p> <p>IRRC comments received on June 6, 2019.</p> <p>Background:</p> <ul style="list-style-type: none"> Proposed rule published in the Pa. Bulletin on March 23, 2019, opening a 45-day public comment period. One public hearing held April 26, 2019. Public comment period closed on May 7, 2019. To view comments, visit eComment. Delivered to House and Senate ERE Committees, IRRC, and the LRB on March 4, 2019. EQB adopted proposed rule on December 18, 2018. |
| <p>Revision of Sulfur Limits in No. 2 and Lighter Commercial Fuel Oil (#7-546) <i>Air Pollution Control Act</i> 25 Pa. Code § 123.22</p> | <p>This rulemaking proposes to amend 25 Pa. Code § 123.22 to reduce the maximum allowable sulfur content in No. 2 and lighter commercial fuel oil, sold for and used in combustion units, from the current limit of 500 parts per million (ppm) of sulfur to 15 ppm. The rulemaking would require No. 2 fuel oil offered for sale, delivered for use, exchanged in trade or used in Pennsylvania to meet the new sulfur limit. Emissions of sulfur dioxide contribute to the formation of regional haze, which degrades visibility in urban and rural areas and contributes to fine particulate matter.</p> <p>CONTACT: Susan Hoyle, 717-772-2329, shoyle@pa.gov</p> | <p>CURRENT STATUS: Proposed</p> <p>Proposed rule published in the Pa. Bulletin on July 6, 2019, opening a 66-day public comment period. Public hearings held on August 6, 7, and 8, 2019. Public comment period closes September 9, 2019. To view comments, visit eComment.</p> <p>Background:</p> <ul style="list-style-type: none"> EQB adopted as proposed on April 16, 2019. DEP presented regulatory concepts to SBCAC on January 24, 2018, to AQTAC on February 8, 2018, and to CAC on February 20, 2018. |

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| <p>Water Supply Replacement for Surface Coal Mining (#7-545) <i>Surface Mining Conservation and Reclamation Act</i> 25 Pa. Code Chapters 87-90</p> | <p>This proposed rulemaking addresses inconsistencies between the Commonwealth’s surface coal mining program and Federal requirements relating to water supply replacement so that the Commonwealth may maintain primary regulatory authority over coal mining activities in Pennsylvania. This proposed rulemaking also aligns the language regarding water supply replacement for anthracite and bituminous surface mining with underground coal mining to the extent allowed by statute and ensures that the regulations are otherwise consistent with State law and DEP practice. These measures will provide clarity to mine owners and operators regarding compliance standards for water supply replacement and protect the rights of water supply owners and users.</p> <p>CONTACT: Sharon Hill, 717-787-6842, shill@pa.gov</p> | <p>CURRENT STATUS: Proposed</p> <p>EQB adopted as proposed on June 18, 2019.</p> <p>Background:</p> <ul style="list-style-type: none"> DEP presented draft regulatory language to the Mining and Reclamation Advisory Board’s Regulatory, Legislative, and Technical Committee on April 19, 2018. |
| <p>Administration of Land Recycling Program (#7-552) <i>Land Recycling Act</i> 25 Pa. Code Chapter 250</p> | <p>The rulemaking amends 25 Pa. Code Chapter 250 to update the MSCs established under the Statewide health standard based on the most recent published scientific information. MSCs are concentrations of contaminants in soil and groundwater that are protective of human health and the environment under various exposure scenarios. The regulations identify the formulas DEP must use to calculate MSCs and the sources of the toxicological information. Additional changes to the regulations may be needed to clarify regulatory language, update outdated information, and to make other corrections. DEP is required by § 250.11 to propose appropriate MSC changes based on current scientific information no more than 36 months after the effective date of the most recently promulgated MSCs.</p> <p>CONTACT: Troy Conrad, 717-783-9480, tconrad@pa.gov</p> | <p>CURRENT STATUS: Draft Proposed</p> <p>Draft Annex A discussed with the CSSAB on June 12, 2019.</p> <p>Background:</p> <ul style="list-style-type: none"> DEP presented draft proposed Annex A to the Cleanup Standards Scientific Advisory Board (CSSAB) on February 13, 2019. DEP presented regulatory concepts to the Cleanup Standards Scientific Advisory Board (CSSAB) on August 1, 2018. |
| <p>Water Quality Standard for Manganese (#7-553) <i>Administrative Code of 1929, Pennsylvania Clean Streams Law, Federal Clean Water Act</i> 25 Pa. Code Chapters 93 and 96</p> | <p>This rulemaking will propose to address a provision included in Act 40 of 2017.</p> <p>CONTACT: Tom Barron, 717-787-9637, tbarron@pa.gov</p> | <p>CURRENT STATUS: Draft Proposed</p> <p>Program developing proposed regulatory amendments.</p> <p>Background:</p> <ul style="list-style-type: none"> Draft Annex A presented to WRAC on July 25, 2019, Small Water TAC on August 8, 2019, and to the Agricultural Advisory Board on August 29, 2019. Science of Manganese presented to WRAC on May 23, 2019. Preliminary information presented to WRAC and Small Water TAC. DEP published an Advance Notice of Proposed Rulemaking on January 27, 2018, opening a 30-day public comment period. To view comments, visit eComment. |

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| <p>Control of Emissions from Oil and Natural Gas Sources (#7-544) <i>Air Pollution Control Act</i> 25 Pa. Code Chapter 129</p> | <p>This rulemaking proposes to establish emission limitations and other requirements codified in 25 Pa. Code Chapter 129 consistent with reasonably available control technology (RACT) recommendations of the Control Technique Guidelines for the Oil and Natural Gas Industry finalized by the EPA on October 27, 2016. The proposed rulemaking would establish RACT requirements for volatile organic compounds and other pollutants from existing oil and natural gas production facilities, compressor stations, processing plants, and transmission stations. Upon promulgation, the final-form regulation will be submitted to the EPA for approval as a SIP revision.</p> <p>CONTACT: Susan Hoyle, 717-772-2329, shoyle@pa.gov</p> | <p>CURRENT STATUS: Draft Proposed</p> <p>Draft proposed Annex A discussed with AQTAC on April 11, 2019 and with SBCAC on April 17, 2019.</p> |
| <p>Control of VOCs from Gasoline Dispensing Facilities (Stage I and Stage II) (#7-525) <i>Air Pollution Control Act</i> 25 Pa. Code § 129.82</p> | <p>This rulemaking proposes to remove the requirement to install new Stage II vapor recovery systems and establish procedures for the decommissioning of existing Stage II vapor recovery systems. Stage II systems that are not decommissioned will be required to still comply with existing Stage II regulatory maintenance requirements. Upon promulgation, the final-form regulation will be submitted to the EPA for approval as a SIP revision.</p> <p>CONTACT: Susan Hoyle, 717-772-2329, shoyle@pa.gov</p> | <p>CURRENT STATUS: Draft Proposed</p> <p>Draft proposed Annex A discussed with CAC on May 22, 2019, AQTAC on April 11, 2019 and with SBCAC on April 17, 2019.</p> |
| <p>Noncoal Mining Clarifications and Corrections (#7-554) <i>Noncoal Surface Mining Conservation and Reclamation Act, Clean Streams Law</i> 25 Pa. Code Chapter 77</p> | <p>This rulemaking proposes to clarify and correct existing regulatory requirements for noncoal mining. The rulemaking also proposes to update the blasting section to be consistent with the recently revised Chapter 211 and to reflect current technology.</p> <p>CONTACT: Bill Allen, 717-783-9580, wallen@pa.gov</p> | <p>CURRENT STATUS: Draft Proposed</p> <p>Draft proposed Annex A discussed with Regulatory, Legislative, and Technical Committee of the Aggregate Advisory Board on April 24, 2019.</p> |
| <p>Hazardous Waste Generator Improvements (#7-543) <i>Solid Waste Management Act, Hazardous Sites Cleanup Act</i> 25 Pa. Code Chapters 227 and 228</p> | <p>The rulemaking adopts final corrections to certain provisions in 25 Pa. Code Chapters 261a—270a (relating to hazardous waste management) consistent with recent changes to the federal regulations that are incorporated by reference into these chapters.</p> <p>CONTACT: Tom Mellott, 717-783-3390, mtmellott@pa.gov</p> | <p>CURRENT STATUS: Pre-Draft Final-Omitted</p> <p>Program developing regulatory amendments.</p> |

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| Radiation Safety Requirements for Non-Healing Arts Radiation Generating Devices (#7-555) <i>Radiation Protection Act</i> 25 Pa. Code Chapters 227 and 228 | This rulemaking proposes to update Chapter 227 to stay current with advances that have occurred in the uses of non-medical X-ray equipment. The revisions will ensure consistency with other government agencies that similarly regulate these devices. CONTACT: John Chipppo, 717-787-2480, jchippo@pa.gov | CURRENT STATUS: Pre-Draft Proposed Program developing proposed regulatory amendments. |
| Dam Safety and Waterway Management (#7-556) <i>Federal Clean Water Act, Pennsylvania Clean Streams Law, Dam safety and Encroachment Act</i> 25 Pa. Code Chapter 105 | This proposed rulemaking would amend Chapter 105; clarifying existing requirements; deleting or updating obsolete and antiquated requirements; incorporating new or revised sections and definitions; and correcting typographical errors. CONTACT: Sid Freyermuth, 717-772-5977, sfreyermuth@pa.gov | CURRENT STATUS: Pre-Draft Proposed Program developing proposed regulatory amendments. |
| Environmental Protection Performance Standards for Conventional Oil and Gas Operators (#7-539) <i>2012 Oil and Gas Act, Clean Streams Law, Solid Waste Management Act, Dam Safety Encroachment Act, Land Recycling and Environmental Remediation Standards Act, Radiation Protection Act, Unconventional Well Report Act, Act 126 of 2014</i> 25 Pa. Code Chapter 78 | This rulemaking proposes to amend the Oil and Gas regulations applicable to conventional operators (Chapter 78) to update the environmental protection performance standards related to oil and gas activities. CONTACT: Kurt Klapkowski, 717-772-2199, kklapkowski@pa.gov | CURRENT STATUS: Pre-Draft Proposed Program developing proposed regulatory amendments. |

COMPLETED REGULATIONS (2019)

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| <p>Noncoal Mining Program Fee Amendments (#7-523) <i>Noncoal Surface Mining and Conservation and Reclamation Act, Clean Streams Law</i> 25 Pa. Code Chapter 77</p> | <p>This rulemaking increases fees in order to provide the funding for the Noncoal Mining Program, which implements the Noncoal Surface Mining and Conservation and Reclamation Act (NSMCRA). The rulemaking provides additional revenue in order to implement the NSMCRA, which requires operators to apply for and maintain active permits and licenses to mine noncoal minerals in Pennsylvania. In administering the noncoal mining program, DEP reviews and issues permits and conducts inspections to assure compliance with the permits and performance standards.</p> <p>CONTACT: Bill Allen, 717-783-9580, wallen@pa.gov</p> | <p>Published as final in the <i>Pennsylvania Bulletin</i> on May 18, 2019. The new fee schedule will go into effect January 1, 2020.</p> <p>Background:</p> <ul style="list-style-type: none"> • IRRC approved final rulemaking, as amended, on March 21, 2019. • Amended rulemaking adopted by the EQB at its December 18, 2018 meeting. • Planned for IRRC consideration on October 18, 2018. Withdrawn from IRRC agenda on October 17, 2018. • Submitted to IRRC on September 14, 2018. • EQB adopted as final on August 21, 2018. • Draft Annex A presented to and discussed with the Aggregate Advisory Board on May 9, 2018. • IRRC comments received on April 4, 2018 • Proposed rulemaking published in the Pa. Bulletin on February 3, 2018, opening a 30-day public comment period. Public comment period closed on March 5, 2018. To view and submit public comments, access eComment. • EQB adopted proposed rule on October 17, 2017. |