

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY REVIEW COMMISSION

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency: Department of Environmental Protection

(2) Agency Number:

Identification Number: 7-523

IRRC Number:

(3) PA Code Cite: 25 Pa. Code Chapter 77

(4) Short Title: Noncoal Mining Program Fees

(5) Agency Contacts (List Telephone Number and Email Address):

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(6) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The proposed rulemaking revises current regulations to increase permit application and administrative fees. It is necessary to increase fees because the revenue from the current fees, finalized in 2012, does not adequately fund the implementation of the requirements of the Noncoal Surface Mining Conservation and Reclamation Act and the Clean Streams Law.

(8) State the statutory authority for the regulation. Include specific statutory citation.

This proposed rulemaking is promulgated under the authority of sections 7(a) and 11(a) of the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3307(a) (authorizing permit filing fee) and 3311(a) (authorizing rulemaking)); section 6 of the Clean Streams Law (35 P.S. § 691.6) (authorizing permit filing fee); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20) (authorizing rulemaking).

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

The rulemaking is not mandated by any federal or state law. However, it is necessary to adequately implement the Noncoal Surface Mining Conservation and Reclamation Act (Noncoal SMCRA) and the Clean Streams Law.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The Department needs the proposed regulation because sufficient money is not available for the Department to support the implementation of the Noncoal Surface Mining Conservation and Reclamation Act, the purpose of which is “to provide for the conservation and improvement of areas of land affected in the surface mining of noncoal minerals, to aid in the protection of birds and wildlife, to enhance the value of the land for taxation, to decrease soil erosion, to aid in the prevention of the pollution of rivers and streams, to protect and maintain water supply, to protect land, to enhance land use management and planning, to prevent and eliminate hazards to health and safety and generally to improve the use and enjoyment of the lands.” See 52 P.S. § 3302. The proposed rulemaking will provide additional funding to sustain the program, which at the current rate of expenditures will exhaust the reserves in the Noncoal Surface Mining Fund, resulting in inadequate funding and curtailment of the program. Without the stable funding realized through the imposition of the proposed increased fees, the Department will not be capable of timely issuance and administration and enforcement of permits as required by the Noncoal Surface Mining Conservation and Reclamation Act and the Clean Streams Law, risking not only the deleterious effects of unregulated noncoal mining the statute sought to remedy, but also a negative economic impact to the Commonwealth. Because Noncoal SMCRA prohibits noncoal mining without a permit issued by the Department, timely processing of noncoal operator permits (approximately 300 annually) is vital to support Pennsylvania’s economy as the noncoal industry is currently a \$20 billion dollar per year industry in the state and consistently ranks among the top ten noncoal mineral producers in the nation.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

No provisions are more stringent than federal standards because noncoal mining is not subject to federal standards.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania’s ability to compete with other states?

DEP assessed fees in this regulation based on the approach used in the 2012 rulemaking. This approach adjusts the fee amounts in two categories; permit application fees and administration fees. The permit application fee covers the cost of reviewing permits and the annual administration fee covers the cost of administering and enforcing the permits. These fees fund the cost to the Commonwealth for the implementation of Noncoal SMCRA. This approach is more direct than the alternatives implemented in other states.

Nearby states use various methods to assess fees and are therefore unable to be directly compared to Pennsylvania’s fee structure. However, an analysis of the various approaches used by nearby states suggests Pennsylvania operators will remain at a competitive advantage.

For example, a 50-acre mine producing minerals for 30 years, would pay the following estimated fees state-by-state.

State	Fee	Additional Tariffs
New York	\$120,000	+Additional disturbance fee per acre
Ohio	\$20,270	+ Severance tax
Maryland	\$31, 540	+Additional disturbance fee per acre
West Virginia	\$4,500	+ Severance tax
Virginia	\$24,750	+Additional disturbance fee per acre
Pennsylvania	\$57,000	No additional tax or fee

However, in addition to fees, for example, Ohio and West Virginia charge a severance tax based on the quantity of minerals extracted. In Ohio, operators pay an additional four cents per ton of salt, two cents per ton of limestone and gravel, and one cent per ton for sandstone, shale, and quartzite. West Virginia assesses a tax based on the value of the mineral at five cents per \$100.

New York assesses a substantial fee based on the acreage disturbed as follows:

- \$400 for minor projects
- \$700 for mines less than or equal to 5 acres
- \$900 for mines between 5 and 10 acres
- \$1,500 for mines between 10 and 20 acres
- \$4,000 for mines between 20 and 30 acres
- \$8,000 for mines greater than 30 acres

Maryland and Virginia assess an additional annual disturbance fee of \$12 and \$16 per acre, respectively.

It is important to note the market for noncoal minerals are localized and not driven by state-by-state markets. Mineral materials are a low-cost commodity and the transportation of the minerals represent a substantial portion of the cost to the consumer. It is unlikely out-of-state sources of noncoal minerals can compete within the Commonwealth due to increased transportation costs. Further, noncoal mines exist in every county of Pennsylvania (except for Philadelphia) allowing for materials to be readily available at a low cost throughout the state.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This regulation will not impact other regulations or state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. (“Small business” is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The Department reviewed the draft proposed rulemaking at multiple meetings with the Aggregate Advisory Board, which includes representation from the Pennsylvania House of Representatives, Pennsylvania Senate, Pennsylvania Aggregate and Concrete Association, Citizens Advisory Council, and private industry. This interaction, which ultimately resulted in a recommendation to move forward with presenting the proposed rulemaking to the Environmental Quality Board (EQB), took place over a

period of 15 months at six meetings of the full board and seven meetings of the Aggregate Advisory Board's Regulation, Legislation and Technical Committee.

The Department has presented revenue and cost data to the Pennsylvania Aggregate and Concrete Association periodically since the fee collections established in the 2012 final rulemaking began. In 2014, the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.31) was amended to create the Aggregate Advisory Board to advise the Department on matters pertaining to surface mining. 52 P.S. § 1396.18(g.1). The Aggregate Advisory Board reviewed the draft 2015 cost analysis at its initial meeting on May 13, 2015. In addition, the Department provided detailed data about the mining program's expenses and revenue at this meeting. The Aggregate Advisory Board conducted additional review of the cost and revenue data at its meeting on August 21, 2015.

By letter dated June 12, 2015, the Pennsylvania Concrete and Aggregate Association and the Pennsylvania Bluestone Association requested detailed information about the revenue and expenses for both the coal mining and noncoal mining programs, including information on the Federal grants provided the Department to implement Title V of the Federal Surface Mining Control and Reclamation Act (30 U.S.C. §§ 1251—1279). The Department posted data responding to this request on the Aggregate Advisory Board webpage and reviewed the data with the Aggregate Advisory Board's Regulatory, Legislative, and Technical (RLT) Committee on September 22, 2015, and October 23, 2015. The data included the Department's Title V grant applications for the previous five years, the Federal Financial Reports for closing out its Title V grant for five years and the five most recent annual reports related to the Department's administration of the Title V program. The Department also provided its workload analysis for the mining program, the total fees collected, the number and types of applications and inspections, and the hours worked by Department employees for the coal and noncoal mining programs. The Department also reviewed the data, including additional revenue data, with the Aggregate Advisory Board at its November 10, 2015, meeting.

The Department posted additional data on the Aggregate Advisory Board webpage and reviewed the data with the RLT Committee at its January 19, 2016, meeting. The data included the Department's spend plan, which analyzed existing and projected revenue and expenses for the noncoal mining program. At this meeting, the Department introduced the concept of phasing in fee increases and presented a preliminary draft of the proposed revisions to § 77.106, which included a proposed fee schedule.

On February 18, 2016, the RLT Committee met to review the preliminary draft revisions to § 77.106. At a meeting of the full Aggregate Advisory Board, also on February 18, 2016, the Board discussed recommendations, but did not vote on a final recommendation. On May 4, 2016, the Aggregate Advisory Board met and referred the draft fee revisions to the RLT Committee for further review, with the intention of preparing a recommendation. The RLT Committee met on June 9, June 30 and July 18, August 3 and provided its recommendation to the Aggregate Advisory Board at the November 2, 2016, meeting. The RLT Committee recommended that the rulemaking proceed with the draft fee schedule as presented in January 2016, which phased in the proposed fee increases over six years, and adjusted the fee schedule annually after the phased increases are implemented based on an index from the United States Bureau of Labor Statistics. Further, this recommendation would coincide with continued collaboration with the Department on programmatic issues identified by the Aggregate Advisory Board. These issues are outlined in a "Framework Document" presented at the Board's meeting on August 3, 2016. By letter dated October 3, 2016, the Secretary of the Department sent notice to the

Aggregate Advisory Board of the Department’s “commitment to fully collaborate with the Aggregate Advisory Board on prioritizing and resolving the issues identified in the Framework Document.”

As noted previously, on November 2, 2016, the Aggregate Advisory Board concurred with DEP’s recommendation to move the proposed rulemaking forward for Environmental Quality Board consideration. The data the Department provided to the Aggregate Advisory Board during the development of the noncoal fee rulemaking are available on the Aggregate Advisory Board’s webpage: <http://www.dep.pa.gov/Business/Land/Mining/BureauofMiningPrograms/Aggregate-Advisory-Board/Pages/default.aspx>

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

Approximately 1,200 licensed noncoal mine operators operate in Pennsylvania. Most of these entities who conduct noncoal mining in Pennsylvania are small businesses. Only a few of the licensed noncoal mine operators are not small businesses.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

The 1,200 licensed noncoal mine operators in Pennsylvania will be required to comply with the proposed rulemaking.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The proposed amendments increase the cost for permit applications and administrative fees. To mitigate the impacts on the noncoal operators, DEP introduced an approach that will incrementally increase the fees in three, two-year phases. Also, consistent with current practice, the fees are scaled to the size and scope of the regulated operation. The existing fee structure inadequately covers the cost for DEP to review permit applications, perform inspections, provide compliance assistance, and track permittee reporting requirements. Without an adjustment to the fee schedule, the gap between the fees and program costs will continue to grow and the Department will not be able to fulfill its responsibility to implement the Noncoal Surface Mining Conservation and Reclamation Act. The purpose of the Noncoal Surface Mining Conservation and Reclamation Act is “to provide for the conservation and improvement of areas of land affected in the surface mining of noncoal minerals, to aid in the protection of birds and wildlife, to enhance the value of the land for taxation, to decrease soil erosion, to aid in the prevention of the pollution of rivers and streams, to protect and maintain water supply, to protect land, to enhance land use management and planning, to prevent and eliminate hazards to health and safety and generally to improve the use and enjoyment of the lands.” See 52 P.S. § 3302. A fee sufficient to support the implementation of the Noncoal Surface Mining Conservation and Reclamation Act will allow the Department to achieve those purposes for the benefit of the citizens of the Commonwealth.

While every effort is made to reduce the impact on small businesses, the noncoal mining program is fully funded through fees and has no additional funding sources to minimize the impact on small businesses.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The regulation adjusts fees necessary to support the Department's implementation of the Noncoal SMCRA, the purpose of which is "to provide for the conservation and improvement of areas of land affected in the surface mining of noncoal minerals, to aid in the protection of birds and wildlife, to enhance the value of the land for taxation, to decrease soil erosion, to aid in the prevention of the pollution of rivers and streams, to protect and maintain water supply, to protect land, to enhance land use management and planning, to prevent and eliminate hazards to health and safety and generally to improve the use and enjoyment of the lands." See 52 P.S. § 3302. With Noncoal SMCRA, the Commonwealth acknowledged the environmental, public health and safety, and economic risks associated with underregulated noncoal mining. The Department's ability to mitigate those risks through implementation of the Noncoal SMCRA outweighs the cost to the regulated community from the fees adjusted under the proposed regulation. Moreover, the Noncoal SMCRA prohibits noncoal mining without a permit issued by the Department. Therefore, timely processing of noncoal operator permits (approximately 300 annually) is vital for Pennsylvania's economy as the noncoal industry is currently a \$20 billion dollar per year industry in the state and consistently ranks among the top ten noncoal mineral producers in the nation.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The proposed permit application fees and proposed annual permit administration fees for noncoal mining operations would increase incrementally over six years. For small noncoal surface mining operations, the proposed permit application fee will increase from the current \$525 to \$775, with a \$75 increase proposed for each of the first and second phases, and a \$100 increase proposed for the third phase. The annual administrative fee for these small noncoal operations is proposed to increase from \$200 to \$500, with a \$200 increase proposed in the first phase, and a \$50 increase proposed in each of the second and third phases.

The proposed increase in fees for small noncoal mining operations is attributable to several factors. The salary and benefit costs for Department staff in the noncoal mining program have increased between 2009 and 2015. In addition, the Department determined an average of three hours is needed to inspect a small noncoal mine operation, rather than the two hours estimated in the prior analysis. Finally, certain indirect costs and overhead costs were not accounted for in the prior cost analysis.

For large noncoal surface mining operations, as well as underground noncoal mining operations, the permit applications fees are also proposed to increase. For example, the permit application fee for large noncoal surface mining operations that require groundwater pumping is proposed to increase from \$20,225 to \$29,500, with a \$2,225 increase in the first phase, a \$3,075 increase in the second phase and a \$3,975 increase in the third phase. The annual permit administration fee for active large surface mining operations with blasting is proposed to increase from \$1,850 to \$2,250, with an actual decrease of \$175 in the first phase, an increase of \$75 above the current fee in the second phase, and a further increase of \$325 in the third phase.

As with the proposed increase in fees for small noncoal mining operations, the increases for the large noncoal surface mining operations and underground operations are attributable to several factors. As discussed in Section D of this preamble, the salary and benefit costs for Department staff in the noncoal mining program have increased between 2009 and 2015. The percent increase to annual administration

fees for large noncoal operations was less than that for small noncoal operations because the Department determined that an average of five hours is needed to inspect the larger operations rather than the seven hours used in the prior cost analysis.

The total increased costs to the industry for the fees proposed in this rulemaking is estimated to be about \$1,200,000 when all phases of the proposed increases are implemented. Fee increases beyond that time would depend on the change in the United State Bureau of Labor Statistics index applied every two years.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The Department expects no impact on local governments.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The regulation will not create any additional costs or savings to the state government because the administration involved in the collection of fees will remain the same.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The Department does not anticipate any additional reporting, recordkeeping or other paperwork because the administration involved in the collection of fees will remain the same.

(22a) Are forms required for implementation of the regulation?

The regulation does not require new forms. The Department will revise existing forms to reflect the final fee schedule once it is adopted.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

The large industrial mineral application form (5600-PM-BMP0315) includes a fee schedule in Module 1:

<http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-98752/5600-PM-BMP0315-1.pdf>

The Small Industrial Mineral Application (5600-PM-BMP0316) does not include a fee section.

The Department collects annual administration fees with the license renewal application. These applications are generated by the Department's database. Each application includes a customized annual administration fee section that calculates the fee for the applicant. The Department expects

applicants to confirm that the information provided by the Department from the database is correct. The Department resolves any discrepancies during the license renewal review process. When the final-form regulations are approved, the Department will update the database to reflect the final fee amounts.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Savings	\$0	\$0	\$0	\$0	\$0	\$0
COSTS:						
Regulated Community	\$2,355,133 (FY2016-17 Budget)	\$2,356,000 (FY2017-18 Budget)	\$2,827,000 (FY2017-18 Budget plus 20%)	\$2,827,000 (FY2017-18 Budget plus 20%)	\$3,534,000 (FY+3 plus 25%)	\$3,534,000 (FY+3 plus 25%)
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	\$2,355,133	\$2,356,000	\$2,827,000	\$2,827,000	\$3,534,000	\$3,534,000
REVENUE LOSSES:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(23a) Provide the past three-year expenditure history for programs affected by the regulation.

Program	FY -3 2013/14	FY -2 2014/15	FY -1 2015/16	Current FY 2016/17
Noncoal Surface Mng Conservation & Reclam Fund	\$3,045,000	\$2,912,000	\$3,196,000	\$4,485,000

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

The Department estimates that about 1,200 small businesses will be subject to this proposed regulation. No alternative method exists to accomplish the revenue generation and public safety elements of this proposed rulemaking. The fee amounts are based upon the actual cost for the Department to do the work, so while every effort is made to reduce the impact for small businesses, it is not possible to eliminate the effect because the fees reflect the cost of implementing the Noncoal Surface Mining Conservation and Reclamation Act. Without an additional funding source, which is not available, it is not possible to mitigate the impact on small businesses.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

The regulation contains no special provisions focused on the needs of minorities, the elderly, small businesses or farmers. The Department does not have any authority to adjust fees for these groups, which would result in increased fees for noncoal mining operators who do not fall within these groups. However, consistent with current practice, the Department scaled the proposed fees based on the size and scope of the regulated operation.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

Because the premise of this rulemaking is the generation of funds to implement the Department's noncoal program, the final permit fee for each permit category reflects the Department's cost and workload analysis, and the Noncoal Surface Mining Conservation and Reclamation Act authorizes the Department to adjust fees in this manner, the Department did not consider alternative regulatory provisions outside of the fee schedule provision as a less burdensome alternative. However, the Department did consider the impact that an all-at-once fee adjustment would have on the regulated community and determined that a three-phase roll out of the fee adjustment with two years between each phase would be a less burdensome acceptable alternative.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

While the Department did not consider other regulatory methods that will minimize adverse impacts specifically on small businesses, consistent with current practice, the Department scaled the proposed fees based on the size and scope of the regulated operation, which may to some extent correlate with the size of the business. The Department also considered the impact that an all-at-once fee adjustment would have on the regulated community and determined that a three-phase roll out of the fee adjustment with two years between each phase would be a less burdensome acceptable alternative. Again, the Department considered this flexibility in relation to the industry as a whole and not specifically with regard to small businesses as defined by the Regulatory Review Act. However, the Department anticipates that small businesses will be more likely to benefit from the three-phase roll out of the regulation.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

The fees assessed in this proposed rulemaking are based on a workload planning tool used by the Department to manage staffing levels. Current calculations of DEP’s noncoal mining program reveal a substantial deficit between incoming revenue and expenses used to permit and administer the noncoal mining program.

Fiscal Year	Revenue	Expenses
2011-2012	\$1,081,051.52	\$2,445,425.30
2012-2013	\$1,704,234.96	\$2,815,131.75
2013-2014	\$2,452,449.76	\$3,019,993.00
2014-2015	\$2,571,166.41	\$2,768,333.00
2015-2016	\$2,532,837.75	\$3,030,545.43

(29) Include a schedule for review of the regulation including:

- | | |
|---|------------------------|
| A. The length of the public comment period: | <u>30 days</u> |
| B. The date or dates on which any public meetings or hearings will be held: | <u>NA</u> |
| C. The expected date of delivery of the final-form regulation: | <u>Quarter 3, 2018</u> |
| D. The expected effective date of the final-form regulation: | <u>Quarter 3, 2018</u> |
| E. The expected date by which compliance with the final-form regulation will be required: | <u>Quarter 3, 2018</u> |
| F. The expected date by which required permits, licenses or other approvals must be obtained: | <u>NA</u> |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Department will gauge the regulation's effectiveness through ongoing interaction with the industry, advisory boards and the public. The ultimate test of effectiveness is whether the fees provide sufficient funding for the implementation of the Noncoal Surface Mining Conservation and Reclamation Act. The Department tracks this on a monthly basis as it receives revenue and incurs costs.