



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION



Bureau of Mining Programs

Final-Form Rulemaking: Federal Office of Surface Mining and Reclamation (OSM) Program Consistency (25 Pa. Code Chapters 86, 87, 88, 89 & 90)

Environmental Quality Board

November 19, 2019

Tom Wolf, Governor

Patrick McDonnell, Secretary

Purpose

- Achieve Consistency with Federal Requirements to Maintain Pennsylvania's Program Primacy
 - OSM Oversight
- Program Maintenance
- Corrections

Background

- Under the federal Surface Mining Control and Reclamation Act, states may assume primacy over regulation of surface coal mining and reclamation operations.
- Primacy states are subject to oversight by OSM.
- When OSM finds an issue, they formally require a program amendment.

Required Program Amendments

- Timing of Seeding for Revegetation
- Managing Collateral Bonds
- Permit Coverage for Use of Public Roads for Anthracite Coal Mines

Other Program Consistency Issues

- Underground Mine Effluent Limits
- Temporary Cessation
- Definition of “Surface Mining Activities”
- Civil Penalties
- Administrative Requirements
- Form Number Used for Employee Financial Interests

Program Maintenance & Corrections

- Storm Event Data from the NOAA
- Natural Resources Conservation Service
- Regulatory Reference Updates:
 - Chapter 92a
 - Chapter 96
- DER References
- Other Corrections:
 - “Of” to “Or”
 - MSHA Name
 - Remining

Program Updates

- Remining Financial Guarantees
- Coal Ash/Biosolids
- Anthracite Emergency Bond Loan
- Coal Refuse Site Selection

Summary of Final Regulation

- Incorporates federal definition of “Surface Mining Activities”
- Replaces the tables of runoff for storm events with a reference to NOAA’s online tool
- Removes upper time limit for temporary cessation and includes same language in each section
- Makes corrections

▶ Mining and Reclamation Advisory Board

- Discussed regulation at several committee meetings between July 2016 and April 2019
- Specific recommendation from MRAB about “Surface Mining Activities” definition
- In April 2019, the MRAB recommended that the Department proceed with the final rulemaking process.

▶ Comments on the Proposed Rulemaking

- Comments received from 3 public commenters and the Independent Regulatory Review Commission (IRRC)
- Comment topics included:
 - Clarification about the change to the definition of haul road in Chapter 88
 - Notifications to municipalities
 - Acknowledgement of the process
 - Equivalent Resources
 - Regulatory Analysis Form

Changes to the Proposed Rulemaking

- Definition of Surface Mining Activities
- Reversion to Previous Wording of Who Should Be Notified
- Residential Septage
- Fees for Water Supply Cases
- Coal Refuse Disposal Temporary Cessation
- “A” to “Any”

Recommendation

The Department recommends that the Board adopt this final-form rulemaking.



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