



pennsylvania
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

COMMENT AND RESPONSE DOCUMENT

Coal Refuse Disposal Revisions

25 Pa. Code Chapters 88 and 90
51 Pa.B. 6914 (November 6, 2021)
Environmental Quality Board Regulation #7-565
(Independent Regulatory Review Commission #3318)

Copies of Comments

Copies of all comments received by the Board are posted on the Department's e-Comment website at <https://www.ahs.dep.pa.gov/eComment/>. Additionally, copies of all comments are available on IRRC's website at <http://www.irrc.state.pa.us> by searching for Regulation # 7-565 or IRRC # 3318.

List of Commentators

Name/Affiliation/Address
Rachel Gleason Pennsylvania Coal Alliance 202 N. 3 rd Street, Suite 203 Harrisburg, PA 17101
Sarah Winner Center for Coalfield Justice 14 E. Beau Street, PO Box 4023 Washington, PA 15301

COMMENTS AND RESPONSES

General Comment

- 1. Comment:** The industry trade organization thanked the Department and the Bureau of Mining Programs for working with the Mining and Reclamation Advisory Board (MRAB), through both the Legislative, Technical and Regulatory Committee and the full Board, to develop the proposed rulemaking.

Response: The Department acknowledges this comment.

- 2. Comment:** The Commentator recognizes the current market challenges faced by the coal industry and understands the limited purpose of this rulemaking. We also recognize that refuse disposal is a temporary use of land; so reclamation must take place once operations have stopped to ensure that the site can be used in an economically productive way after mining. The Commentator supports proposed subsection (b) to Section 90.168, which provides a trigger for when a temporary cessation becomes a permanent cessation. The Department's critical obligation under the Coal Refuse Disposal Act (and SMCRA) as the coal industry declines is to ensure that the applicable performance standards are enforced, ensure that inactive sites are reclaimed as quickly as possible, and ensure that water pollution is treated. The Department must use its authority to prevent operators from functionally abandoning their permits (the operator has stopped producing coal and is not conducting reclamation) when the coal market declines to ensure that coalfield communities are not left with the burden of un-reclaimed or poorly reclaimed coal refuse disposal sites.

Response: The Department acknowledges this comment.

Public Notice

- 3. Comment:** The Commentator believes that dependable access to information about industry's existing and proposed environmental activities is critical to the ability to coalfield residents to know what environmental risks they may face or are currently facing in their communities. Temporary cessation of operations constitutes a change to the planned course of mining and reclamation. These changes should be made transparent. Upon receipt of a complete notice of intent to temporarily cease operations, the Department should publish notice of the temporary cessation in the *Pennsylvania Bulletin*.

Response: The Department acknowledges the importance of transparency and strives to provide as much information publicly when feasible. Currently, there are several hundred mine sites currently permitted in the Commonwealth and an individual site's status can change frequently throughout the year. Due to the nature and frequency of these changes and the timing of the formal publication process, notifying the public of these changes through the *Pennsylvania Bulletin* would be both impracticable and untimely. A more effective method for the public to access the real-time status of any permitted operation, as well as other relevant information on permitted mining activities, is through the Department's database, Environmental Facilities Application Compliance Tracking System, known as eFACTS, available at <https://www.ahs.dep.pa.gov/eComment/>.