

DEP REGULATORY UPDATE February 17, 2012

(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 & Contact	Status
<p>Water Quality Standards Triennial Review <i>Clean Streams Law</i> 25 Pa. Code Chapters 93 and 16</p>	<p>This proposed rulemaking will include revisions to the Commonwealth's water quality criteria and standards in Chapter 93 and 16 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, 717-787-9614, tbarron@pa.gov</p>	<p>WRAC reviewed the proposed rulemaking at its January 11, 2012, meeting.</p> <p>Background: WRAC reviewed the proposed rulemaking at its December 16, 2011, meeting. WRAC continued its review of the draft proposed rulemaking at its October 12, 2011, meeting. WRAC continued its review of the draft proposed rulemaking at its July 13, 2011, meeting. WRAC reviewed a presentation by DEP on the scope, purpose, and timeline for the rulemaking at its 06/15/2011 public meeting.</p>
<p>Dam Safety and Waterways Management Fees Dam Safety and Encroachments Act and <i>Clean Streams Law</i> 25 Pa. Code, Chapter 105</p>	<p>The purpose of the rulemaking package is to amend existing regulations at 25 Pa Code, Chapter 105 to update existing fees and include additional fees for activities performed by the Department. The fees have not been increased since 1991.</p> <p>CONTACT: Sidney Freyermuth, 717-772-5977, sfreyermuth@pa.gov</p>	<p>The proposed rulemaking was published in the PA Bulletin on January 28, 2012, for a 30-day public comment period that will conclude on February 27, 2012.</p> <p>Background: The Attorney General's Office approved the proposed rulemaking. The rulemaking was deposited with the Attorney General's Office on December 23, 2010, for a 30-day review. The EQB approved the proposed rulemaking on December 21, 2010. The draft proposed rulemaking was presented to WRAC at the committee's July 14, 2010, meeting.</p>
<p>Regulated Medical and Chemotherapeutic Waste Amendments Solid Waste Management Act 25 Pa Code Chapters 271 and 284</p>	<p>This rulemaking will amend the existing Chapter 284. This will include some definitions in Chapter 271 that will be added or amended. The term infectious waste will be replaced with the term "regulated medical waste". This terminology change will be a global change. In addition to definitional changes, this proposal also includes changes to storage, transporter licensing, and manifesting requirements for regulated medical waste.</p> <p>CONTACT: Steve Socash, (717) 787-7381, ssocash@state.pa.us</p>	<p>The Solid Waste Advisory Committee (SWAC) reviewed the proposed rulemaking at its September 15, 2011, meeting.</p>

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<p>Sulfur Limits in Commercial Fuel Oil <i>Air Pollution Control Act</i> 25 Pa. Code, Chapters 121 and 123</p>	<p>The proposed rulemaking would amend 25 Pa. Code § 123.22 (relating to combustion units) to revise downward the maximum allowed percent sulfur content in commercial fuel oil sold for and used in combustion units in this Commonwealth, to further limit the emissions of sulfur dioxide (SO₂) from these sources. Amendments to 25 Pa. Code § 121.1 (relating to definitions) may also be necessary to support the proposed amendments to § 123.22. Emissions of sulfur dioxide (SO₂) contribute to the formation of regional haze, which degrades visibility in many American cities and scenic areas. Regional haze is visibility impairment caused by cumulative air pollutant emissions from numerous sources over a wide geographic area. The proposed rulemaking would be consistent with the Statement of the Mid-Atlantic/ Northeast Visibility Union (MANE-VU) Regional Planning Organization (RPO).</p> <p>CONTACT: Susan Hoyle, 717-772-2329, shoyle@pa.gov</p>	<p>On June 23, 2011, DEP staff presented AQTAC with a summary of comments received on the proposed rulemaking.</p> <p>Background: On December 29, 2010, IRRC issued comments on the proposed rulemaking. IRRC's comments are accessible on the Commission's website at www.irrc.state.pa.us. The proposal was published in the September 25, 2010, issue of the <i>PA Bulletin</i>, commencing a 60-day public comment period that closed on November 29, 2010. The Board received comments on the proposal from 16 commentators. The EQB approved the proposed rulemaking at its July 13, 2010, meeting. The proposed rulemaking was discussed with AQTAC on February 18, 2010.</p>
<p>Lithographic and Letterpress Printing Processes, Flexible Package Printing, Processes and Industrial Cleaning Solvents <i>Air Pollution Control Act</i> 25 Pa Code, Chapter 129</p>	<p>The proposed rulemaking would amend 25 Pa. Code Chapter 129 (relating to standards for sources) to add requirements to reduce the emissions of volatile organic compounds (VOCs) from lithographic and letterpress printing processes, flexible package printing processes and industrial cleaning solvents to meet the Clean Air Act's "reasonably available control measures" requirement for ozone nonattainment areas. The proposal would also add 25 Pa. Code § 129.67a (relating to control of VOC emissions from lithographic and letterpress printing processes) to adopt emission limits and work practice standards for lithographic and letterpress printing operations, amend § 129.67 (relating to graphic arts systems) and add 25 Pa Code § 129.79 (relating to control of VOC emissions from industrial cleaning solvents) to add emission limits and work practice standards.</p> <p>CONTACT: Susan Hoyle, 717-772-2329, shoyle@pa.gov</p>	<p>The proposed rulemaking was published in the February 11, 2012, issue of the PA Bulletin, where a 60-day public comment period was advertised in addition to three public hearings in Pittsburgh, Norristown, and Harrisburg, respectively. The public comment period will close on April 16, 2012.</p> <p>Background: The EQB approved the proposed rulemaking at its September 20, 2011, meeting. AQTAC reviewed the draft proposed rulemaking at its October 21, 2010, and December 16, 2010, meetings. The Small Business Compliance Advisory Committee (SBCAC) reviewed the rulemaking at its January 26, 2011, meeting. The Department consulted the Citizens Advisory Council (CAC) Air Committee on January 24, 2011. At the February 15, 2011, CAC meeting, the committee, on the recommendation of the Air Committee, concurred with presenting the proposed rulemaking to the EQB.</p>

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<p>HEDD – High Electric Demand Days <i>Air Pollution Control Act</i> 25 Pa Code, Chapter 145 Sub Ch. E</p>	<p>The proposed rulemaking would limit emissions of nitrogen oxides (NOx) from electric generating units (EGUs) and emergency generator sets used during nonemergency periods that operate less than 1200 hours per Ozone Season and generate electricity during periods of peak electric demand, including high electric demand days (HEDD). This class of units produces aggregate HEDD emissions of NOx on peak electric demand days that are great enough to reduce or eliminate the environmental benefit of NOx emission reductions achieved on peak electric demand days by the larger EGUs currently regulated under the Commonwealth’s Clean Air Interstate Rule (CAIR) and previously under the NOx Budget Trading Program.</p> <p>CONTACT: Susan Hoyle, 717-772-2329, shoyle@pa.gov</p>	<p>AQTAC reviewed the draft proposed rulemaking at its October 21, 2010, meeting.</p>
<p>Repeal of Employer Trip Reduction <i>Air Pollution Control Act</i> 25 Pa. Code Chapter 126, Subchapter B</p>	<p>This final-omitted rulemaking would repeal the employer trip reduction (ETR) regulations in Chapter 126, Subchapter B (relating to employer trip reduction). The ETR program was originally mandated by the 1990 Amendments of the Clean Air Act. In 1994, the PA General Assembly enacted Act 95 of 1994 suspending the implementation and enforcement of the program because of disproportionate economic costs. Congress has since enacted legislation authorizing states to implement alternative programs.</p> <p>CONTACT: Susan Hoyle, 717-772-2329, shoyle@pa.gov</p>	<p>AQTAC discussed the rulemaking at its June 23, 2011, meeting.</p>
<p>Repeal of Portable Fuel Containers <i>Air Pollution Control Act</i> 25 Pa. Code Chapter 130, Subchapter A</p>	<p>This final-omitted rulemaking would repeal the portable fuel container (PFC) regulations in Chapter 130, Subchapter A (relating to portable fuel containers). This regulation was promulgated at 32 Pa.B. 4819 (October 5, 2002). The United States Environmental Protection Agency subsequently adopted more stringent measures in February 2007 rendering this regulation unnecessary.</p> <p>CONTACT: Susan Hoyle, 717-772-2329, shoyle@pa.gov</p>	<p>AQTAC discussed the rulemaking at its June 23, 2011, and August 4, 2011, meetings.</p> <p>Background: AQTAC discussed the rulemaking at its June 23, 2011, meeting.</p>

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Repeal of St. Joe Resources Company Air Pollution Control Act 25 Pa. Code Chapter 128, § 128.21	<p>This final-omitted rulemaking would repeal the alternative compliance standard found at § 128.21 (relating to St. Joe Resources Company; Potter Township, Beaver County, Pennsylvania.). Section 128.21 was promulgated at 16 Pa.B. 521 (February 22, 1986). The alternative compliance standard has been superseded by Federally enforceable permit conditions. The standard in § 128.21 is no longer applicable.</p> <p>CONTACT: Susan Hoyle, 717-772-2329, shoyle@pa.gov</p>	AQTAC discussed the rulemaking at its June 23, 2011, meeting.
Emissions of Particulate Matter Air Pollution Control Act 25 Pa. Code Chapter 139, § 139.12	<p>The Environmental Quality Board amended 25 Pa. Code § 139.12 (relating to emissions of particulate matter) at 27 Pa.B. 6804 (December 27, 1997) to require source testing only for filterable particulate matter. The United States Environmental Protection Agency has revised the source test method (Method 202) to require the testing of both filterable and condensable particulate matter in source testing. The proposed rulemaking would amend § 139.12 to reflect the change in Federal test method requirements. Other clarifying amendments to Chapter 139 would also be proposed for timeliness of reporting requirements.</p> <p>CONTACT: Susan Hoyle, 717-772-2329, shoyle@pa.gov</p>	<p>AQTAC discussed and took action on the proposed rulemaking at the committee's October 20, 2011, meeting.</p> <p>Background: AQTAC discussed the rulemaking at its June 23, 2011, meeting.</p>

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<p>Coal Mining Permit Fees 25 <i>Pa Code</i>, Chapters 77, 86, 210 and 211</p>	<p>This rulemaking includes amendments to increase permit application fees to support program activities and administration.</p> <p>CONTACT: Bill Allen, 717-783-9580, wallen@pa.gov</p>	<p>On February 23, 2011, IRRC notified DEP that it had reviewed the proposed Coal Mining Permit Fees rulemaking and had no objections, comments or recommendations to offer on the regulation. As a result, if the final-form rulemaking is delivered without revisions to IRRC, and the Standing Committees do not take any action, the rulemaking will be deemed approved by IRRC. IRRC's Order can be accessed on their website at www.irrc.state.pa.us (see "Recent IRRC Orders"). Further processing of the rulemaking is on hold, pending approval from the Governor's Office</p> <p>Background: The public comment period for the proposal concluded on January 24, 2011. The EQB did not receive any comments on the proposal during the comment period. On December 25, 2010, the proposed rulemaking was published in the <i>Pennsylvania Bulletin</i> for a 30-day public comment period. The EQB approved the proposed rulemaking at its October 12, 2010, meeting. The proposal was discussed at the MRAB's October 23, 2009, meeting.</p>
<p>Noncoal Mining Fees Noncoal Surface Mining Conservations & Reclamation Act 25 <i>Pa Code</i>, Chapter 77</p>	<p>This rulemaking includes amendments to 25 <i>Pa Code</i> Chapter 77 in order to implement fees to support the Noncoal Mining Program.</p> <p>CONTACT: Bill Allen, 717-783-9580, wallen@pa.gov</p>	<p>The Department, by a notice published in the January 28, 2012, edition of the PA Bulletin, opened an additional 30-day public comment period on the proposed rulemaking. The additional comment period will close on February 27, 2012.</p> <p>Background: The proposed rulemaking was published in the August 28, 2010, edition of the PA Bulletin, commencing a 30-day public comment period that ended on September 27, 2010. 19 public commentators provided comments to the EQB on the proposal. IRRC issued comments on the rulemaking on October 27, 2010, which are accessible on IRRC's website at www.irrc.state.pa.us. On July 26, 2010, the Attorney General's Office issued a Tolling Memo on the proposal, which in effect suspends the office's review of the regulation until the Department addresses the issues and/or concerns raised by the AG's Office. The Department responded to the Tolling Memo on August 3, 2010. The EQB approved the proposed rulemaking at its June 15, 2010, meeting.</p>

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<p>Underground Coal Mine Safety Reportable Accidents <i>Bituminous Coal Mine Safety Act</i> 25 Pa Code, Chapter 208</p>	<p>This rulemaking expands the list of accidents in underground bituminous coal mines that must be reported to the Department within 15 minutes of discovery.</p> <p>CONTACT: Joseph Sbaffoni, 724-439-7469 jsbaffoni@pa.gov</p>	<p>The Board of Coal Mine Safety tabled consideration of this rulemaking at their October 26, 2010, meeting.</p>
<p>Underground Coal Mine Safety Automated External Defibrillators <i>Bituminous Coal Mine Safety Act</i> 25 Pa Code, Chapter 208</p>	<p>This regulation establishes safety standards relating to Automated External Defibrillators in underground bituminous coal mines.</p> <p>CONTACT: Joseph Sbaffoni, 724-439-7469 jsbaffoni@pa.gov</p>	<p>On 01/04/11 IRRC issued comments on the proposed rulemaking. IRRC's comments are accessible on the commission's website at http://www.irrc.state.pa.us/regulation_details.aspx?IRRCNo=2920</p> <p>Background: The public comment period for the proposal closed on December 5, 2011. The Board did not receive any comments during the public comment period. IRRC's comment deadline is January 4, 2012.</p> <p>The proposed rulemaking was published in the November 5, 2011, issue of the PA Bulletin, commencing a 30-day public comment period. The Attorney General's Office approved the proposed rulemaking. It will be published for public comment following the formal promulgation of 25 Pa Code Chapter 208 through the Underground Coal Mine Safety rulemaking.</p> <p>The proposed rulemaking was tolled for an additional time by the Office of Attorney General on December 21, 2010. The issuance of the Tolling Memo temporarily suspends the Office's mandatory 30-day review of the rulemaking until the Department can sufficiently address the issues and/or questions in the Tolling Memo. DEP responded to the Tolling Memo on March 18, 2011.</p> <p>The proposed rulemaking was tolled by the Office of Attorney General on November 24, 2010.</p> <p>The Board of Coal Mine Safety approved the proposed rulemaking at its October 26, 2010, meeting.</p>