

DEP REGULATORY UPDATE December 2, 2011

(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 will review the proposed rulemaking at its December 16, 2011, meeting.</p> <p>Background:</p> <p>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>Water Quality General Provisions Amendments <i>Clean Streams Law</i> 25 Pa. Code, Chapter 91</p>	<p>Revisions to Chapter 91 (General Provisions) to require a management plan as part of the permit application, and clarify issuance of innovative technology permits for wastewater treatment facilities. The proposal will also include revisions to account for changes to CAFO regulations and will add a new subchapter on nutrient trading.</p> <p>CONTACT: Kevin McLeary, 717-787-8184; kmcleary@pa.gov</p>	<p>The draft proposed rulemaking was discussed with WRAC on April 8, 2009.</p> <p>Background: 3-14-07 & 1/10/07 WRAC discussion WRAC concept discussion 3/8/06.</p>
<p>Water Quality Standards for Chloride <i>Clean Streams Law</i> 25 Pa. Code Chapter 93</p>	<p>This rulemaking will add statewide water quality criterion in Chapter 93 for chloride, a substance that is documented to have toxic effects on aquatic life at certain concentrations.</p> <p>CONTACT: Tom Barron, 717-787-9614, tbarron@pa.gov</p>	<p>On July 15, 2010, IRRC issued comments on the proposed rulemaking. Those comments are accessible on IRRC's website at www.irrc.state.pa.us.</p> <p>Background:</p> <p>The proposed rulemaking was published in the May 1, 2010, issue of the PA Bulletin commencing a 45-day public comment period that ended on June 15, 2010. The EQB received comments from 20 commentators. The EQB adopted the proposed rulemaking at its March 16, 2010, meeting.</p>

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<p>Safe Drinking Water Fees <i>Safe Drinking Water Act</i> 25 Pa Code, Chapter 109</p>	<p>This rulemaking consists of amendments to Chapter 109 to update drinking water program fees.</p> <p>CONTACT: Kevin McLeary, 717-783-1820, kmcleary@pa.gov</p>	<p>On January 31, 2011, the Attorney General's Office issued an <i>additional</i> Tolling Memo on the proposed rulemaking. In the memo, the Attorney General's Office questioned the Department's authority in Section 109.1411 to impose an interest penalty for failure to remit an annual fee. Further processing of the rulemaking is on hold, including responding to the Tolling Memo, pending approval from the Governor's Office.</p> <p>Background: On December 21, 2010, the Office of Attorney General tolled its review of the rulemaking. 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. The Department responded to the Tolling Memo on January 11, 2011. The EQB approved the proposed rulemaking at its November 16, 2010, meeting. The draft rulemaking was discussed with the Technical Assistance Center (TAC) for Small Water Systems advisory committee at their March 9, 2010, 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 Attorney General's Office approved the proposed rulemaking. Further processing of the rulemaking is on hold, pending approval from the Governor's Office.</p> <p>Background: 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>

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Municipal and Residual Waste Amendments <i>Solid Waste Management Act and Waste Transportation Safety Act</i> 25 Pa. Code, Chapter 271-285 and 287-299	<p>These proposed revisions are comprehensive modification to Municipal and Residual Waste Regulation, including: combination of similar chapters, revised definitions, additional permit-by-rule, revised coal ash beneficial use, standardized provisions. The package will also include regulations to implement the Waste Transportation Safety Program as authorized by Act 90 of 2002.</p> <p>CONTACT: Ken Reisinger, 717-783-2388, kereisinger@pa.gov</p>	<p>SWAC discussion of the various chapters included in the comprehensive modifications to the Municipal and Residual Waste Regulations will continue to occur in 2009 as SWAC meets at its quarterly meetings. SWAC reviewed and approved the rulemaking package at its March 19, 2009, meeting.</p> <p>Background: SWAC discussion May 11, 2006; September 14, 2006; November 9, 2006; January 11, 2007; March 8, 2007; April 11, 2007; May 10, 2007; and January 16, 2008. Citizens Advisory Council discussion on January 15, 2008.</p>
Regulated Medical and Chemotherapeutic Waste Amendments Solid Waste Management Act 25 Pa Code Chapters 271 and 284	<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>Air Quality Plan Approval and Operating Permit Fees Air Pollution Control Act 25 Pa Code, Chapters 127 and 139</p>	<p>The proposed rulemaking will amend existing requirements and fees codified in 25 Pa. Code Chapter 127, Subchapter I (relating to plan approval and operating permit fees), and add new categories of fees to Chapter 127, Subchapter I, to address modifications of existing plan approvals and requests for determination of whether a plan approval is required. The proposed rulemaking also adds a new section to address fees for risk assessment applications. The proposed rulemaking will amend the existing emission fee paid by the owner or operator of a Title V facility. The proposed rulemaking will also establish a fee schedule in new Subchapter D of Chapter 139 (relating to testing, auditing and monitoring fees), to add new categories of fees to address Department-performed source testing and auditing and monitoring activities for continuous emission monitoring systems (CEMS).</p> <p>CONTACT: Dean Van Order, 717-783-9264, dvanorden@pa.gov</p>	<p>The EQB approved the final rulemaking at its November 16, 2010, meeting. The rulemaking was delivered to the Standing Committees and IRRC on November 23, 2010, for review. However, due to sine die of the state legislature, the rulemaking had to be re-delivered to IRRC and the Standing Committees by February 28, 2011, for the Standing Committees to complete their required 20-day review of the rulemaking. Redelivery of the rulemaking to IRRC and the Standing Committees did not occur, as further processing of the rulemaking is on hold, pending approval from the Governor's Office.</p> <p>Background: AQTAC reviewed the rulemaking on October 21, 2010. CAC reviewed the rulemaking on October 18, 2010. SBCAC reviewed the comments received on the proposed rulemaking at the committee's July 28, 2010, meeting. The proposed rulemaking was published in the October 17, 2009, edition of the PA Bulletin, commencing a 60-day public comment period on the proposal that ended on December 21, 2009. 16 commentators provided comment to the EQB on the rulemaking. IRRC issued comments on the rulemaking on January 20, 2010 (see www.irrc.state.pa.us) The proposed rulemaking was approved by the EQB at the Board's July 21, 2009, meeting. The draft proposed rulemaking was discussed with AQTAC on February 12, 2009. The Committee formally recommended that the proposed rulemaking be forwarded to the EQB for adoption as a propose rulemaking. The rulemaking was discussed with AQTAC on December 11, 2008. The CAC considered the rulemaking on February 17, 2009.</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 EQB approved the proposed rulemaking at its September 20, 2011, meeting.</p> <p>Background: 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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<p>Repeal of St. Joe Resources Company Air Pollution Control Act 25 Pa. Code Chapter 128, § 128.21</p>	<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>	<p>AQTAC discussed the rulemaking at its June 23, 2011, meeting.</p>
<p>Emissions of Particulate Matter Air Pollution Control Act 25 Pa. Code Chapter 139, § 139.12</p>	<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 Pa Code, 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 Pa Code, Chapter 77</p>	<p>This rulemaking includes amendments to 25 Pa Code 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 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. Further processing of the rulemaking is on hold, pending approval from the Governor's Office</p> <p>Background: 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>The proposed rulemaking was published in the November 5, 2011, issue of the PA Bulletin, commencing a 30-day public comment period. To date, the Board has not received any comments on the proposed rulemaking.</p> <p>Background: 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>