

# Citizen's Guide to DEP Regulations



**pennsylvania**

DEPARTMENT OF ENVIRONMENTAL  
PROTECTION



## The Environmental Regulatory Process

The Pennsylvania General Assembly has passed a number of laws to protect the environment. To enforce and implement these laws, the General Assembly often delegates specific responsibilities to administrative agencies and rulemaking boards to develop and adopt regulations. Regulations are detailed requirements or rules that are created to implement laws and have the full force and effect of law.

To enact regulations in Pennsylvania, a detailed process must be followed. This guide provides a step-by-step outline of that process. It also provides information on why, how and when a citizen can become involved in the regulatory development process.

***Did you know?*** *That a regulation and statute are both laws, but are different depending on the authority under which it was created. For example, regulations are laws initiated by an administrative agency or rulemaking board, but a statute is a law created by the Pennsylvania General Assembly.*



## How the Regulatory Process Begins

The process to change or create a new regulation starts when a need or opportunity for improvement is identified by Department of Environmental Protection (DEP) staff or the public. DEP then evaluates and addresses the need by developing draft regulations in consultation with stakeholders, including DEP advisory committees. DEP continuously reviews existing regulations for opportunities to improve and enhance those regulations.

In addition to offering recommendations to DEP, citizens may request the development of a new or modified regulation by petitioning the Environmental Quality Board (EQB). The EQB petition process is initiated by the public through the submission of a formal request or petition.

### EQB Petition Process

For more information on the EQB petition process, including the petition policy and form, visit DEP's website. Select Public Participation Center, EQB, Rulemaking Petitions.



## How DEP Advisory Committees Shape Regulations

Several statutes governing environmental protection require the establishment of certain advisory committees to provide DEP with input in policy development, including the development of regulations. These advisory committees are comprised of various stakeholders with different appointing authorities. In order to have a variety of perspectives, advisory committees are made up of members from groups such as, non-profit organizations, industry, environmental consultants, grassroots organizations, healthcare professionals, environmental lawyers and local governments.

Advisory committees can review DEP regulations related to their specific area of expertise and provide advice for improvement or suggestions for addressing the regulatory need.

Each individual advisory committee has a page on DEP's website that includes the committee's charge and responsibilities, committee member information, minutes and documents from past meetings and information about future meetings.

To find out more about DEP advisory committees, including schedules and agendas, visit [www.dep.state.pa.us](http://www.dep.state.pa.us) and click on "Public Participation Center" and then "Advisory Committees."



## How a Regulation Moves From Draft to Proposed

A draft regulation becomes a proposed rulemaking once it is adopted by the Environmental Quality Board (EQB).



### The Environmental Quality Board (EQB)

The EQB is a 20-member independent board that adopts all DEP regulations. The members of the board include representatives of:

Eleven state agencies, including the departments of Environmental Protection (chair), Agriculture, Health, Community and Economic Development, Transportation, the Public Utility Commission, the Fish and Boat Commission, the Game Commission, Labor and Industry, the Governor's Office of Policy, the Historical and Museum Commission, five members of the Citizens Advisory Council and four members of the senate and house.



## Where to Learn About Regulations

**Pennsylvania Code Online:** *The Pennsylvania Code* is the commonwealth's official publication of rules and regulations. All of Pennsylvania's environmental protection regulations can be found in Title 25 (Environmental Protection). To view all regulations that are current law, visit [www.pacode.com](http://www.pacode.com).

**Pennsylvania Bulletin Online:** The *Pennsylvania Bulletin* is the official gazette for information and rulemakings. It is the authoritative source for official notifications from the Commonwealth of Pennsylvania. This is where information such as draft policies, proposed permits, public comment periods, etc. can be found. Visit the *Pennsylvania Bulletin* online at [www.pabulletin.com](http://www.pabulletin.com).

**Public Participation Center:** The EQB's website lists a "Regulatory Update" which provides a quick snapshot of the current status of regulations being worked on by DEP. The Public Participation Center on DEP's website also provides links to proposals currently open for public comment and recently finalized regulations.

To visit DEP's Public Participation Center, visit the DEP website and click on "Public Participation Center."

**eNotice for Regulations:** eNotice is an email notification system that provides status updates on a number of DEP and EQB actions on regulations. Anyone may subscribe to eNotice by visiting DEP's website and clicking on "Tools."

**DEP Newsroom:** The DEP Newsroom provides environmental news updates and an option to subscribe to DEP news releases. To subscribe, visit the DEP website and click on "Newsroom."

### STAY INFORMED!

**Up-to-the-minute information on DEP regulations is just a click away...** Sign up for eNotice for regulations to receive email notices from DEP on actions taken on regulatory proposals. From DEP's home page, select Public Participation Center, Be Informed, Useful Tools then eNotice. Provide your email address, select a password and the types of notifications you select will be sent to you.



## How to Understand a Regulation Notice

The official notice of a proposed regulation in the *Pennsylvania Bulletin* is called a Notice of Proposed Rulemaking. This notice contains two parts: the Preamble and the Annex. **The Preamble** contains background information and a summary of the regulation. The **Annex** is the text of the proposed regulation. The text of the Annex could have different formats if it is amending an existing regulation.

### Understanding the Annex

Words that are in normal type/text are unchanged from the existing law. Example: this text is unchanged.

Words that appear in bold-face text will be added to the existing regulation. Example: **This text is new to the regulation.**

Words that are bold-face inside square brackets are proposed to be deleted from the current law. Example: **[This text will be deleted from the regulation].**



## How to Submit Public Comments

The public comment period starts when the regulation is published in the *Pennsylvania Bulletin*. The comment deadline will be published in the Preamble along with specific directions about how and where to submit comments. A minimum of a 30-day public comment period will be offered on all proposed regulations.

**Written Comments:** Most regulations require that comments be submitted in writing. Written comments can be transmitted by mail or electronically through email.

- **Mail:** Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477

- **Express Mail:** Environmental Quality Board  
Rachel Carson State Office Building  
16<sup>th</sup> Floor  
400 Market St.  
Harrisburg, PA 17105-2301
- **Email:** [RegComments@pa.gov](mailto:RegComments@pa.gov)  
Be sure to include the specific regulation you are commenting on in the subject line.

### **Tips for Submitting Effective Comments**

1. Read the proposal thoroughly before submitting comments.
2. Contact DEP if you have any questions on the proposal or attend a public meeting if one is being offered.
3. Be clear and concise as possible in your written comments but support your claims or opinions.
4. There are no minimum or maximum length requirements for submitting an effective comment.
5. Suggest alternatives, including different options to address a need, without regulatory requirements.
6. Provide specific examples of how the rulemaking will meet or not meet the intended need or objective.

**Verbal Comments:** When a regulation is likely to receive increased public interest, the EQB may choose to schedule a **public hearing**. You can submit comments verbally at these public hearings. These comments will not be responded to during the hearing, but become part of the public record and are responded to in the comment and response document. However, a public hearing will not be held for every proposed regulation.

***Did you know?*** By law, DEP is required to submit all written comments and public hearing transcripts received by the EQB to the House and Senate Environmental Resources and Energy committees and IRRC.

### **Independent Regulatory Review Commission (IRRC)**

IRRC is an independent board established by law to review commonwealth agency regulations to ensure they meet certain criteria, including that all regulations are in the public's interest. For more information on IRRC, visit their website at [www.irc.state.pa.us](http://www.irc.state.pa.us)





## Format of a Public Hearing for a Proposed Regulation

Public hearings are used by DEP for a variety of reasons. For a proposed regulation, a public hearing provides a forum for verbal comments to be heard by the EQB. Hearings are not question and answer sessions. Information on how to request a public hearing will be included in the *Pennsylvania Bulletin* notice. Those speaking at a hearing provide testimony and are encouraged to speak clearly and concisely, as a limited amount of time is provided to each person testifying. Those providing comment should be respectful to all those in attendance, anyone interrupting other commentators, or disrupting the hearing may be asked to leave the public hearing.

**People with disabilities** can call 800-654-5984 (TDD users) or 800-654-5988 (voice users) to provide comments.

### Tips for Providing Comments at a Public Hearing

1. Commentators who wish to provide testimony must sign up at the meeting by providing their name and address.
2. Commentators will be called to speak in the order in which they registered.
3. When commentators are called to testify, they must state their name and address clearly for the stenographer.
4. Commentators do not need to submit written remarks, but are encouraged to do so to aid the stenographer in the transcription of the comments.
5. Upon being called to provide comments, a commentator must abide by his or her allotted time to testify.
6. The most **effective comments** are those that are based on facts, science, data, or relevant experience from residents or other stakeholders and pertain to the specific regulation.



## How a Regulation Moves from Proposed to Final

All written comments received by the EQB during the official public comment period, including those verbal comments received at any EQB public hearing, become a part of the public record and are responded to in a written Comment and Response document that is developed by DEP as part of the final rulemaking package. In its consideration of comments, DEP will present a summary of comments received on a proposed rulemaking with an appropriate advisory committee as well as discuss potential changes to the rulemaking to accommodate suggestions. Once the final rulemaking is developed and discussed with

an advisory committee, it is submitted to the EQB for adoption, along with the Comment and Response document. The Comment and Response Document is made public when the final regulation is submitted to the EQB. The Comment and Response Document is made public when the final regulation is submitted to the EQB.



## The Regulatory Process: Step by Step

1. After a need to create or change a regulation is identified, DEP develops **draft regulatory language**, which is shared with stakeholder groups, including DEP advisory committees.
2. The (EQB) considers the draft regulation and votes to adopt it as a **proposed regulation**.
3. Once adopted, the proposed regulation undergoes review by the Office of General Counsel and the Attorney General's Office.
4. The proposed regulation is published in the *Pennsylvania Bulletin* and opened for public comment ([www.pabulletin.com](http://www.pabulletin.com)), then sent to the House and Senate Environmental Resources and Energy committees and the IRRC for review. The EQB may hold public hearings on the proposed regulation as part of the public comment period.
5. All **public comments** submitted to the EQB become part of the official record.
6. DEP reviews all comments and develops responses to those comments, including developing revisions to the proposed rulemaking, if needed. This new version, called the draft final regulation is again shared with stakeholder groups, including DEP advisory committees.
7. EQB considers and votes whether to adopt the **final regulation**.
8. Once adopted as final, the regulation is sent to the House and Senate Environmental Resources and Energy standing committees and IRRC for action.
9. If approved by the standing committees and IRRC, the final regulation is submitted to the Attorney General's Office for approval.
10. Once approved by the Attorney General's Office, the regulation is published in the *Pennsylvania Bulletin* and becomes **law**.
11. Once the regulation becomes law, it is immediately effective, unless otherwise specified, and is enforced by DEP. Reference materials such as fact sheets are developed, training for staff and opportunities for stakeholders to become educated are put in place. As part of its compliance assistance efforts, DEP will work with the regulated community to assure understanding of the new regulations and obligations for compliance.



**For more information, contact:**



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DEPARTMENT OF ENVIRONMENTAL  
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Policy Office

Rachel Carson State Office Building

P.O. Box 2063

Harrisburg, PA 17105-2063

717-783-8727

[www.dep.state.pa.us](http://www.dep.state.pa.us)

