

PROPOSED RULEMAKING

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CHS. 11, 95, 123, 125 AND 128a]

Deletion of Outdated Regulations

The Department of Agriculture (Department) proposes to rescind Chapters 11, Subchapters B and C, 95, 123, 125 and 128a to read as set forth in Annex A. The chapters are deleted because the regulations are outdated or unnecessary.

Statutory Authority

The proposed rescission of Chapter 11, Subchapters B and C (relating to Johne's disease) is authorized under 3 Pa.C.S. Chapter 23 (relating to Domestic Animal Law), which addresses subjects such as animal health and disease detection and eradication. Under 3 Pa.C.S. § 2305 (relating to keeping and handling of domestic animals), the Department is authorized to regulate as necessary to exclude or contain dangerous transmissible diseases of animals.

The proposed rescission of Chapter 95 (relating to certified apple program) is authorized under the act of April 4, 1929 (P.L. 144, No. 148) (Act 148) (3 P.S. §§ 21—33), which addresses standards for farm products. Section 10 of Act 148 (3 P.S. § 30) authorizes the Department to regulate as necessary to carry out the provisions of that statute.

The proposed rescission of Chapter 123 (relating to fiscal aid for stem rust control) is authorized under the act of July 28, 1953 (P.L. 652, No. 193) (Act 193) (3 P.S. §§ 251 and 252), which addresses barberry bushes and stem rust disease. Section 1 of Act 193 (3 P.S. § 251) authorizes the Department to regulate a program to reimburse counties for expenses relating to the eradication of rust from barberry bushes and stem rust disease in certain other plant species.

The proposed rescission of Chapter 125 (relating to quarantine provisions) is authorized under the Plant Pest Act (3 P.S. §§ 258.1—258.27), which addresses plant diseases. Section 3 of the Plant Pest Act (3 P.S. § 258.3) authorizes the Department to regulate as necessary to carry out the provisions of the Plant Pest Act.

Although Chapter 128a (relating to CHEMSWEEP Pesticide Disposal Program—statement of policy) could be rescinded without going through the formal regulatory promulgation process, the Department references its intention to rescind this statement of policy in this proposed rulemaking, will consider comments offered on this subject as this document proceeds through the promulgation process and proposes to rescind this statement of policy in the same final order that rescinds the regulatory provisions described previously. Chapter 128a is authorized under the Pennsylvania Pesticide Control Act of 1973 (act) (3 P.S. §§ 111.21—111.61), which addresses pesticide use and disposal. Section 7(b) of the act (3 P.S. § 111.27(b)) authorizes the Department to regulate as necessary to carry out the provisions of the act.

Purpose

The proposed rulemaking rescinds outdated or unneeded regulatory provisions that are currently administered and enforced by the Department.

Background

The Department administers and enforces regulations addressing a wide range of statutory subjects. The need for some of these regulations has ended, whether due to changes in the authorizing statutes, subsequent regulations, changes in the regulated industries, technological advances or other factors.

The proposed rescission of Chapter 11 is driven by new testing and procedures that obviate the need for these provisions. In addition, 3 Pa.C.S. Chapter 23 affords the Department adequate authority to quickly impose a quarantine to deal with any problems regarding the presence of Johne's disease in an animal.

The Certified Apple Program addressed in Chapter 95 has long been obsolete, as the apple industry has moved on to other quality assurance standards and programs.

Chapter 123 is proposed for recession because the fiscal aid that had once been available for stem rust control has long been gone.

The various plant pest quarantines addressed in Chapter 125 are no longer necessary. The Department retains the ability to quickly address the presence of any plant pests by use of the quarantine authority provided it under the Plant Pest Act.

The proposed recession of the statement of policy in Chapter 128a is driven by the fact that this document has been entirely supplanted by Chapter 128b (relating to CHEMSWEEP Pesticide Disposal Program).

Need for Proposed Rulemaking

The proposed rulemaking is necessary to remove outdated and unnecessary regulatory provisions.

The Department is satisfied there are no reasonable alternatives to proceeding with the proposed rulemaking.

Overview of the Major Provisions of the Proposed Rulemaking

The proposed rulemaking accomplishes a straightforward deletion of outdated or unnecessary regulations.

Affected Individuals and Organizations

The proposed rulemaking would have no adverse impact on the various regulated communities.

The deletion of the outdated or unnecessary provisions addressed in the proposed rulemaking would likely help avoid confusion in the regulated communities.

Fiscal Impact

Commonwealth—The proposed rulemaking would impose no costs and have no fiscal impact on the Commonwealth.

Political subdivisions—The proposed rulemaking would impose no costs and have no fiscal impact upon political subdivisions.

Private sector—The proposed rulemaking would impose no costs and have no fiscal impact on the private sector.

General public—The proposed rulemaking would impose no costs and have no fiscal impact on the general public.

Paperwork Requirements

The proposed rulemaking is not likely to impact upon the paperwork generated by the Department or the regulated communities.

Effective Date

The proposed rulemaking will be effective upon final publication in the *Pennsylvania Bulletin*.

Sunset Date

There is no sunset date for the proposed rulemaking.

Public Comment Period/Contact Person

Interested persons are invited to submit written comments regarding the proposed rulemaking within 30 days following publication in the *Pennsylvania Bulletin* to the Department of Agriculture, Legal Office, 2301 North Cameron Street, Harrisburg, PA 17110-9408, Attention: Angela M. Black.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 13, 2007, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

DENNIS C WOLFF,
Secretary

Fiscal Note: 2-154. No fiscal impact; (8) recommends adoption.

Annex A**TITLE 7. AGRICULTURE****PART I. BUREAU OF ANIMAL HEALTH AND DIAGNOSTIC SERVICES****CHAPTER 11. JOHNE'S DISEASE****Subchapter B. (Reserved)**

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to delete the text of §§ 11.11—11.18, which appears in 7 Pa. Code pages 11-4—11-6, serial pages (276652) to (276654).)

§§ 11.11—11.18. (Reserved).

Subchapter C. (Reserved)

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to delete the text of §§ 11.21 and 11.22, which appears in 7 Pa. Code pages 11-6—11-7, serial pages (276654) to (276655).)

§ 11.21. (Reserved).

§ 11.22. (Reserved).

PART IV. BUREAU OF MARKET DEVELOPMENT**CHAPTER 95. (Reserved)**

(Editor's Note: The Department is proposing to delete Chapter 95 in its entirety. The present text of Chapter 95, which appears in 7 Pa. Code pages 95-1—95-2, serial pages (266875) to (266876).)

§§ 95.1—95.7. (Reserved).

PART V. BUREAU OF PLANT INDUSTRY**CHAPTER 123. (Reserved)**

(Editor's Note: The Department is proposing to delete Chapter 123 in its entirety. The present text of Chapter 123 appears in 7 Pa. Code pages 123-1—123-2, serial pages (276811) to (276812).)

§§ 123.1—123.6. (Reserved).

CHAPTER 125. (Reserved)**Subchapter A. (Reserved)**

(Editor's Note: The Department is proposing to delete Chapter 125, Subchapter A in its entirety. The present text of Chapter 125, Subchapter A appears in 7 Pa. Code pages 125-1—125-5, serial pages (276813) to (276817).)

§§ 125.1—125.8. (Reserved).

§ 125.11. (Reserved).

§ 125.12. (Reserved).

§§ 125.21—125.25. (Reserved).

§§ 125.31—125.33. (Reserved).

Subchapter B. (Reserved)

(Editor's Note: The Department is proposing to delete Chapter 125, Subchapter B in its entirety. The present text of Chapter 125, Subchapter B appears in 7 Pa. Code pages 125-6—125-7, serial pages (276818) to (276819).)

§§ 125.41—125.47. (Reserved).

Subchapter C. (Reserved)

(Editor's Note: The Department is proposing to delete Chapter 125, Subchapter C in its entirety. The present text of Chapter 125, Subchapter C appears in 7 Pa. Code pages 125-7—125-8, serial pages (276819) to (276820).)

§§ 125.51—125.56. (Reserved).

Subchapter D. (Reserved)

(Editor's Note: The Department is proposing to delete Chapter 125, Subchapter D in its entirety. The present text of Chapter 125, Subchapter D appears in 7 Pa. Code pages 125-9—125-12, serial pages (276821) to (276824).)

§§ 125.61—125.65. (Reserved).

§§ 125.71—125.78. (Reserved).

Subchapter F. (Reserved)

(Editor's Note: The Department is proposing to delete Chapter 125, Subchapter F in its entirety. The present text of Chapter 125, Subchapter F appears in 7 Pa. Code pages 125-14—125-15, serial pages (276826) to (276827).)

§§ 125.131—125.137. (Reserved).

CHAPTER 128a. (Reserved)

(Editor's Note: The Department is proposing to delete Chapter 128a in its entirety. The present text of Chapter 128a appears in 7 Pa. Code pages 128a-1—128a-10, serial pages (279345) to (279354).)

§§ 128a.1—128a.18. (Reserved).

[Pa.B. Doc. No. 07-308. Filed for public inspection February 23, 2007, 9:00 a.m.]