

# PROPOSED RULEMAKING

## ENVIRONMENTAL QUALITY BOARD

[ 25 PA. CODE CH. 250 ]

### Administration of the Land Recycling Program; Public Comment Period Extension and Public Hearing Cancellations

By this notice, the public comment period on the proposed rulemaking published at 50 Pa.B. 1011 (February 15, 2020) is extended to April 30, 2020.

Out of an abundance of caution and to prevent possible spread of COVID-19, all public hearings scheduled for this proposed rulemaking are canceled.

Interested persons are invited to submit to the Environmental Quality Board (Board) written comments, suggestions, support or objections regarding this proposed rulemaking. Comments, suggestions, support or objections must be received by the Board by April 30, 2020. All comments are treated equally. Written comments are given equal weight as comments that would have been provided in public testimony.

Comments may be submitted to the Board by accessing eComment at <http://www.ahs.dep.pa.gov/eComment>.

Comments may also be submitted to the Board by e-mail at [RegComments@pa.gov](mailto:RegComments@pa.gov). A subject heading of this proposed rulemaking and a return name and address must be included in each transmission.

If an acknowledgment of comments submitted online or by e-mail is not received by the sender within 2 working days, the comments should be retransmitted to the Board to ensure receipt. Comments submitted by facsimile will not be accepted.

Written comments should be mailed to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477 or to the Environmental Quality Board, Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101.

PATRICK McDONNELL,  
*Chairperson*

[Pa.B. Doc. No. 20-407. Filed for public inspection March 20, 2020, 9:00 a.m.]

## LIQUOR CONTROL BOARD

[ 40 PA. CODE CH. 5 ]

### Cleaning of Malt or Brewed Beverage Dispensary Systems

The Liquor Control Board (Board), under the authority of section 207(i) of the Liquor Code (47 P.S. § 2-207(i)), proposes to amend § 5.51 (relating to cleaning of malt or brewed beverage dispensing systems) to read as set forth in Annex A.

#### Summary

The Board submits this proposed rulemaking to update its regulations regarding the cleaning of malt or brewed beverage dispensing systems, which deliver what is commonly known as “draft beer.” In the proposed regulation, the frequency of dispensary system cleaning is decreased

from once every 7 days to once every 14 days. This proposed rulemaking also clarifies that every licensee using such a dispensary system for selling malt or brewed beverages (“beer”)—including limited wineries, limited distilleries and distilleries—is subject to this proposed rulemaking.

A dispensing system begins with beer that is stored in a keg. Pressurized gas enters the keg and forces the beer up and into a plastic hose, whose length it travels until it reaches a faucet. The beer waits in the plastic hose until the faucet is opened, whereupon the beer is poured into a container. For purposes of this proposed regulation, the dispensing system runs from the keg to the faucet.

A dispensing system is, because of its function, usually wet and located in a dark area. As a result, dispensing systems can readily harbor bacteria, yeast, mold and “beer stones,” which occur when organic compounds in the beer bind with compounds in the brewing water and form calcium oxalate, the chemical name for beer stones. Cleaning the dispensing system is necessary to prevent these items from spoiling the beer.

However, the licensee incurs costs for cleaning the dispensing system, as well as the loss of the beer that is present in the hose. Therefore it is important to find the right frequency for cleaning, so as to avoid requiring the licensee to incur unnecessary expense and avoid needless waste of beer.

The Pennsylvania Restaurant and Lodging Association (PRLA) and the Brewers of Pennsylvania (BOP) asked the Board to consider revising the cleaning frequency requirement from once every 7 days to once every 14 days. The PRLA and BOP note that the Brewer’s Association, an organization of more than 5,000 United States brewery members, advocates cleaning a dispensing system every 14 days.<sup>1</sup> Based on this information, this proposed rulemaking changes the frequency of cleaning the dispensing system from once every 7 days to once every 14 days. Licensees are still required to maintain clean dispensary systems, under § 5.54 (relating to responsibility for condition of equipment), regardless of how often the lines are cleaned.

This proposed rulemaking also amends § 5.51(a) to clarify that all licensees who use a dispensing system are subject to the regulation. The current language—“A licensee that uses a malt or brewed beverage dispensing system in its licensed premises shall clean the system at its sole expense”—was proposed in 2007 and finalized in 2010. At that time, Pennsylvania-licensed limited wineries, limited distilleries and distilleries did not have the authority to serve malt or brewed beverages on their licensed premises.

However, Act 39 of 2016 gave Pennsylvania-licensed manufacturers the right to sell, for on-premises consumption, products made by other Pennsylvania-licensed manufacturers. As a result, Pennsylvania-licensed limited wineries, limited distilleries and distilleries may sell beer produced by Pennsylvania-licensed breweries for on-premises consumption. See 47 P.S. §§ 5-505.2(a)(6.1) and 5-505.4(b)(1) and (c)(1). This proposed rulemaking clarifies that if the Pennsylvania-licensed manufacturer serves beer by means of a dispensing system, the manufacturer is subject to the regulation regarding the cleaning of the dispensing system.

<sup>1</sup> <https://www.brewersassociation.org/educational-publications/draught-beer-quality-manual/>.

*Affected Parties*

The affected parties include any licensee that sells draft beer, including licensed restaurants, hotels and clubs, as well as licensed breweries, limited wineries, distilleries and limited distilleries. As of December 11, 2019, there were nearly 17,000 licensees that could potentially serve draft beer.

*Paperwork Requirements*

This proposed rulemaking does not impose any new paperwork requirements on licensees.

*Fiscal Impact*

It is anticipated that the fiscal impact would be beneficial to licensees, since it will effectively halve the annual expenses of cleaning the dispensing system.

*Effective Date*

This proposed rulemaking will become effective upon final-form publication in the *Pennsylvania Bulletin*.

*Public Comments*

Interested persons are invited to submit written comments about this proposed rulemaking to Rodrigo Diaz, Chief Counsel, Jason M. Worley, Deputy Chief Counsel, or Norina Foster, Assistant Counsel, Office of Chief Counsel, Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001, within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. When commenting, individuals should indicate if they wish to be apprised of future developments regarding this proposed rulemaking, and include a name, address and e-mail address. Comments submitted by facsimile will not be accepted.

Public comments will be posted on the Independent Regulatory Review Commission's (IRRC) web site. Personal information will not be redacted from the public comments received.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on February 28, 2020, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to IRRC and to the Chairpersons of the House Liquor Control Committee and Senate Committee on Law and Justice. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to this proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review prior to final publication of this proposed rulemaking by the Board, the General Assembly and the Governor.

TIM HOLDEN,  
*Chairperson*

**Fiscal Note:** 54-101. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 40. LIQUOR**

**PART I. LIQUOR CONTROL BOARD**

**CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES**

**Subchapter D. SANITARY CONDITIONS AND LIGHTING AND CLEANING OF MALT OR BREWED BEVERAGE DISPENSING SYSTEMS**

**CLEANING OF MALT OR BREWED BEVERAGE SYSTEMS**

**§ 5.51. Cleaning of malt or brewed beverage dispensing systems.**

(a) **[ A ] Any licensee, including but not limited to a retail licensee, a brewery, a limited winery, a limited distillery or a distillery,** that uses a malt or brewed beverage dispensing system in its licensed premises shall clean the system at its sole expense. One licensee may not clean a malt or brewed beverage dispensing system for another licensee.

(b) The method of cleaning must leave the entire malt or brewed beverage dispensing system in a clean and sanitary condition. The cleaning method used must include cleaning the entire system with a chemical cleaning solution or other cleaning method approved by the Board. The following alternative cleaning methods have Board approval:

(1) Live steam.

(2) Hot water and soda solution, followed by thorough rinsing with hot water.

(c) The frequency of cleaning for the malt or brewed beverage dispensing system shall be as follows:

(1) Once every [ 7 ] **14** days for the faucets.

(2) Once every [ 7 ] **14** days for the dispensing lines, valves, joints, couplers, hose fittings, washers, o-rings, empty beer detectors (known as "FOBS") and draft foam control units, except if the licensee has an operating ultrasonic, electromagnetic or other system that retards the growth of yeast and bacteria in the dispensing lines. If such a system is installed and operating, the licensee shall follow the cleaning frequency and cleaning method guidelines of the system's manufacturer.

(3) The Board may approve different cleaning frequencies.

[Pa.B. Doc. No. 20-408. Filed for public inspection March 20, 2020, 9:00 a.m.]