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Dear John,

As promised, enclosed is a copy of our comments on the antidegradation ANFR.

I also enclosed our comments on the 1997 proposal. I look forward to meeting with you and Chuck Tyrrell next Tuesday.

Sincerely,

Barb Kosow



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Pennsylvania Executive Director

Jolene E. Chinchilli

Edward R. Brezina, Chief

Division of Water Quality Assessment and Standards

Bureau of Watershed Conservation, PADEP

10th Floor, RCSOB

400 Market Street

Harrisburg, PA 17105-8555

February 22, 1999

Dear Mr. Brezina:

The Chesapeake Bay Foundation submits the following comments on the Advanced Notice of Final Rulemaking on 25 PA Code Chapters 92, 93, and 95, Water Quality Standards – Antidegradation. Please contact Barbara Kooser of our staff if you have any questions.

Sincerely,

Jolene E. Chinchilli

Pennsylvania Executive Director

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**Comments of the Pennsylvania Office of the Chesapeake Bay Foundation
On the Advanced Notice of Final Rulemaking
Water Quality Amendments - Antidegradation
25 PA. Code Chs. 92, 93, and 95
February 22, 1999**

The Pennsylvania Office of the Chesapeake Bay Foundation (CBF) respectfully submits the following comments to the Department of Environmental Protection (DEP) on the advanced notice of final rulemaking (ANFR) on the water quality regulations pertaining to antidegradation. CBF is the largest regional citizens group whose mission is to maintain and restore the Chesapeake Bay and its watershed. The greatest link between the Chesapeake Bay and Pennsylvania can be found in the Susquehanna River - the river that drains half of the Commonwealth of Pennsylvania and provides half of the fresh water that enters the Chesapeake Bay. The only way for the Bay to be healthy is for the rivers and streams in its watershed to be healthy. This is one reason the antidegradation regulations are important to the Bay. These regulations are meant to keep our clean waters clean.

We applaud the DEP for the changes it has made between the proposed rulemaking and the ANFR. A number of the concerns we expressed in our comments on the proposed rules have been addressed, including:

- The prohibition of the use of general permits in high quality waters;
- Retention of high quality and exceptional value as designated uses;
- Disjunction of the biological and chemical tests for high quality waters;
- Deletion of the de minimus use of assimilative capacity without a social and economic justification;
- Requiring new and expanded discharges to high quality waters to examine pollution prevention alternatives;
- Inclusions of language regarding nonpoint source pollution;
- Increased public participation opportunities.

The changes DEP has made to the rulemaking address some of our major concerns with the package, and overall we support the ANFR. We believe the ANFR will embody the current special protection waters program, and will serve to address most of the items for which Environmental Protection Agency partially disapproved the Pennsylvania water quality standards in regards to the antidegradation program. However there still remain a few concerns that DEP should address before finalizing this rulemaking package.

Chapter 93

§93.4b (a) Qualifying as high quality

(1) DEP is asking for input on what chemicals should be included under the qualifying chemical test for high quality. We believe that the chemistry test

should not be expanded to include all the chemicals in Chapter 16. Many of the chemicals found in Chapter 16 are man-made, and are not found naturally in a stream. A group petitioning to have a stream designation upgraded should not have to monitor for all those chemicals over a lengthy period of time to determine the long term chemistry. Even DEP does not monitor for all the Chapter 16 chemicals at each water quality monitoring network station. The list of chemicals should not be expanded. Also, the ANFR states that the long term water quality must be better than all the listed criteria 99% of the time. We wonder how DEP reconciles this with the EPA guidance that interprets antidegradation to apply on a parameter by parameter basis, without needing to be better than all criteria all the time.

(2)(i)(A): The ANFR proposes to use an 83% RBP score (as compared to a reference station) as the biological indicator of a high quality stream. We are concerned with such a stiff demarcation of what is considered high quality biology. The 83% is taken from a pilot study done in North Carolina 13 years ago (see USEPA, 1989). In addition, the reference stations set up by the state were not established with the expressed purpose for measuring water quality better than standards. In some cases, if the reference station is of extremely high quality, streams that may have water quality higher than criteria would not reach the 83% benchmark, and would incorrectly not be granted the protection they deserve. In addition, if the reference station is just barely itself high quality, then streams that meet the 83% may not have water quality better than criteria and would also be incorrectly designated. We suggest some flexibility be incorporated by allowing a range of percentages in the regulations, or to delete the percentage cutoff here in the regulations and put it in the handbook with more flexibility included.

(2)(ii): Why is this limited to only Class A wild trout streams? Any stream supporting wild reproducing populations of trout are indicators of excellent water quality, not just those meeting a certain biomass measurement. We suggest all wild trout streams be designated as high quality.

(b) Qualifying as an Exceptional Value Water

(1)(v): Our concern with the strict demarcation for high quality waters applies to exceptional value waters as well. We would like DEP to include some kind of flexibility in these sections.

(3): This section did not make sense here, and Mr. Bill Gerlach confirmed that this section was mistakenly inserted here in the ANFR.

93.4c Implementation of Antidegradation Requirements

(a)(2): The language for the protection of endangered and threatened species is better than the proposal, but is still not adequate. Concern has been expressed by the US Fish and Wildlife Service that PNDI listing is not always timely, so we support that further consultation with USF&WS and PA Fish and Boat Commission be required. In addition, by limiting the consideration to "aquatic" species, other endangered or threatened species that are not necessarily aquatic but depend on aquatic species for food (such as bald eagles) are not considered. We suggest deleting the word "aquatic" from the sentence. Although DEP has deleted the reference to mixing zones that was found in the proposal, we are concerned that there is no mention of how a discharge may be limited.

(b)(1)(i)(A): We support that all dischargers need to look at alternatives, and in particular support the pollution prevention requirement here.

(b)(1)(ii)(A): We support the requirement for dischargers to solicit comments before an application for new or additional discharge is filed. Too often the public is not aware of the intentions for a discharger to increase the loading to a stream, and by the time they find out at the draft permit stage, negotiations between the applicant and the DEP are often complete. We suggest the comments be sent somewhere other than to the discharger, perhaps to DEP. The discharger has a vested interest in perhaps not addressing any comments that would be against a discharger, and a more objective third party would be better to receive and document the responses.

(b)(2): We support the addition of the federal language that covers nonpoint sources here. However, there is no mention of how these provisions will be implemented, and some mention of implementation should be included.

93.4d Processing of petitions, evaluations, and assessments to change a designated use.

The combination of public meeting/hearing is a great step above holding just a hearing. This combination allows the public to hear a short explanation by DEP and then allows questions to be asked and clarifications to be made before the hearing opens. This approach allows some dialogue between the Department and the public, and will diffuse the notion that DEP will not answer questions, which has in the past caused bad feelings in the public.

DEP has also asked for input on whether it should require a petitioner to submit the names and addresses of all the land owners in the watershed when submitting a petition for a stream upgrade. We oppose this requirement which is both unreasonable and burdensome. In no other case does DEP require all the landowners to be notified of an action, including when facilities want new or increased discharges to high quality waters. This requirement would put an unreasonable responsibility on a petitioner. We believe that with the increased opportunities for public input, particularly when DEP undergoes a study and the requirement of notification of municipalities, there is added opportunity for landowners to become aware of what is being proposed. DEP should not require petitioners to submit landowner information in watersheds proposed for upgrade.

This conclude the comments of the Chesapeake Bay Foundation. If you have any questions please contact Barbara Kooser.



CHESAPEAKE BAY FOUNDATION

*Resource Protection
Environmental Education*

Comments of the Pennsylvania Office of the Chesapeake Bay Foundation

On the Proposed Rulemaking Water Quality Amendments - Antidegradation 25 PA. Code Chs. 92, 93, and 95 May 21, 1997

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The Pennsylvania Office of the Chesapeake Bay Foundation (CBF) respectfully submits the following comments to the Environmental Quality Board on the proposed rulemaking on the water quality regulations pertaining to antidegradation. CBF is the largest regional citizens group whose mission is to maintain and restore the Chesapeake Bay and its watershed. The greatest link between the Chesapeake Bay and Pennsylvania can be found in the Susquehanna River - the river that drains half of the Commonwealth of Pennsylvania and provides half of the fresh water that enters the Chesapeake Bay. The only way for the Bay to be healthy is for the rivers and streams in its watershed to be healthy. This is one reason the antidegradation regulations are important to the Bay. These regulations are meant to keep our clean waters clean.

CBF was an active member of the regulatory negotiation(Reg Neg) group convened by Department of Environmental Protection (DEP) to discuss the issues revolving around the antidegradation requirements. The proposed regulations in some ways address the areas which do not currently meet federal minimum standards. However, there are particular areas in which the standards are not protective of one of the most important natural resources in our Commonwealth - our rivers and streams.

§92.81 and §92.83 - General NPDES permits

The use of general permits in special protection waters was discussed in some detail during the Reg Neg. CBF believes that some general permits may have minimal impacts on streams, so that the use of general permits should not be totally forbidden in high quality waters. However, a determination needs to be made that the use of the specific general permit will not individually or cumulatively degrade the water where the discharge is located. This review should be stricter than for the use of general permits in Tier 1 waters. The determination should be to nondegradation levels, not to nonpolluting levels. DEP should consider adding conditions on the use of the general permits, such as a requirement for a specific dilution ratio, before allowing its use in a high quality water. In addition, DEP needs to periodically review the usage of general

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permits in high quality watersheds and make a determination whether the cumulative impact of the use of the general permits is degrading the stream. Under these conditions we would not object to the use of general permits in high quality watersheds. We agree with the prohibition of their use in Exceptional Value watersheds.

§93.1 - Definitions

We agree with the proposal to keep the current definition for Exceptional Value Waters, and also agree with adopting the federal definition of Tier 2 waters as the definition for High Quality Waters. By using the definition of Tier 2 waters, DEP will satisfy one point of the EPA partial disapproval of Pennsylvania's water quality standards.

§93.4 - Protected Water Uses

It is true that EPA does not require antidegradation classifications to be designated uses. But until this proposal, the state has given use designation to special protection waters, and in doing so brought this process under the purview of the Environmental Quality Board (EQB), with changes reviewed by EPA. As a result, the designation process was lengthy and periodically became a political battle rather than a decision based on the water quality of the stream. The DEP proposal keeps the designation process through the EQB, but by removing the designation as a designated use, DEP removes the EPA review. Therefore the decision on the designation in the special protection program still can be based on a political decision rather than water quality. We support the recommendation of the Reg Neg group to take the designation of high quality waters out of review of the EQB, and make it a management classification with proper public notice and participation but not needing a rulemaking action by the EQB. However, if DEP insists on keeping the designation process, we recommend the designation remain a use designation with review by EPA.

§93.4a - Existing uses

The proposed language appears to put a qualifier on protection of existing uses - in order for an existing use to be protected, DEP has to do a study on the stream. EPA requires existing uses to be protected, regardless of when or if DEP does a study. The federal language on existing uses should be substituted for the proposed language:

"Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected." A separate sentence can then be added to explain how the DEP will determine existing uses.

In addition, we do not believe the language regarding threatened and endangered species will be protective. Although in the proposed regulation it states that "...discharges to these waters shall be limited to ensure protection of these species and critical habitat," the summary states that the measures used to limit the discharges will be examination of mixing zones. This alone may not be protective of the endangered species. Unless it can show by toxicity testing that the discharge of a particular pollutant will not harm a particular endangered species, then DEP should not allow the discharge of that pollutant. In addition, there is no mention of how DEP will control nonpoint source pollutants in relation to endangered species. Both point and nonpoint sources of pollution need to be controlled in order to adequately protect endangered species.

§93.4b - High Quality Waters

(a) Part of the EPA disapproval of the antidegradation portion of the water quality standards centered around the definition of high quality waters. The old definition was more stringent than the federal requirements. Although in this regulatory proposal the definition has changed, this section serves to further restrict what is considered a high quality water. This regulation requires both a biological and chemical test to be passed in order to qualify. The Reg Neg group discussed this issue at great length. The biological test is supposed to be an indicator of long-term water quality, since the aquatic flora and fauna for the most part are subjected to the water quality over their lifetime. If a healthy flora and fauna are present, it is indicative of good water quality. In other words, if there are no long term water quality data available, then biology can be used as an indicator. However, the biology and chemistry tests should be separate, not joined. If one or the other requirement is fulfilled, then the water should qualify as high quality. If you join the tests, then it becomes more stringent than federal requirements, and should not be approved by EPA.

§93.4b(a)(1)(i)

Because this sentence covers two different topics, it is confusing. It first states that the water quality must be better than the criteria found in Chap. 93 and 16, but then lists a limited number of chemicals that need to be sampled. It would be clearer to separate this paragraph into two sentences.

§93.4b(b) Level of protection/social or economic justification (SEJ)

CBF agrees with adopting the federal language in regards to the SEJ, although the first period needs to be removed in order to make a complete sentence. CBF also supports the language "...and will result in economic or social benefits to the public which outweigh any water quality degradation which the proposed discharge is expected to cause." The SEJ must override water quality degradation. There should not be just a balancing of the two.

One suggestion voiced in the Reg Neg SEJ workgroup was the need for all the SEJ determinations to be consistent. The workgroup suggested that all the SEJ determinations be done through the central office, and that personnel with the appropriate backgrounds, such as an economist, be brought in to help with the determinations. CBF hopes DEP will adopt these suggestions to help bring statewide consistency to the determinations.

93.4b(d) - (e)

Throughout sections (d) and (e), it is difficult to determine what requirements apply in specific situations. If the discharge relieves a public health problem, do they need to do an alternatives analysis? It is difficult to determine which requirements apply.

Also, in section (e), it should be made clear that if an SEJ is to be determined during the sewage planning stage, the appropriate personnel within DEP need to analyze the SEJ. The personnel who look at the sewage facility plans for consistency with planning requirements may not be familiar with the requirements for an SEJ within the antidegradation and permitting programs.

§93.4b(f) Special provisions for minimal impact discharges

The concept of a threshold below which an SEJ is not needed came as a very contentious compromise made at the Reg Neg meetings. The understanding was that all current SEJs were approved, no matter what minimal benefit was derived. The streams awarded an SEJ then could be degraded down to the water quality standards, which is more degradation than would be allowed with a minimal impact threshold. In this light, the idea of using the threshold was that if truly minimal impacts were exempt from the SEJ process, then the SEJ process could be tightened and overall there would be an environmental benefit. Because there was no consensus reached for revising the SEJ process, the entire idea of a threshold for SEJ was never finally agreed upon by the Reg Neg group.

CBF believes that if DEP does revise the SEJ process so that only true overriding needs are given one, then perhaps a threshold below which an SEJ is not needed may be allowed. However, as proposed, the threshold of 25% of the assimilative capacity is too high, particularly for toxic chemicals. For persistent, bioaccumulative chemicals, no additional discharge should be allowed. For naturally occurring metals, only 10% additional should be allowed without an SEJ. For conventional pollutants, 20% would be an appropriate threshold without an SEJ. Once again, this threshold should only be allowed if the SEJ process is tightened. In addition, it should be made clear that even those discharges that would be exempt from an SEJ are required to do a discharge alternatives analysis/ pollution prevention evaluation.

§93.4c - Exceptional Value Waters

As stated regarding high quality waters, CBF believes the chemistry and biology tests should be separate, not joined. The water should be able to qualify for exceptional value with either the chemistry or biology test, it should not need both. We also believe that there should be a prohibition of discharges into Exceptional Value Waters, and supports EPA's request on the this issue. These streams are the best of the best, and even with the current DEP policy, pollutants can be added to these exceptional streams.

§93.4d - General requirements for High Quality and Exceptional Value Waters

(a) Discharge alternatives: If the requirement for an alternatives analysis does apply to all new and expanded discharges, then it should say so in section 93.4b, where the confusion exists in (d), (e), and (f). In all situations for a proposed discharge to high quality waters, pollution prevention plans and alternatives analysis should be required. DEP could tier the complexity of these requirements to the size of the plant, e.g. a small package plant discharging to a large stream would need to examine a reduced universe of alternatives compared to a large plant discharging to a small stream. Particularly with DEP's pollution prevention initiative, the requirement for pollution prevention plans and alternatives analysis should be an important requirement in those areas where water quality degradation should be kept at a minimum.

(b) Nonpoint sources: The proposed language on nonpoint sources is weak and ambiguous. It is not clear that DEP will require anything to address nonpoint source pollution in high quality and exceptional value waters. This language needs to be strengthened so that high quality and exceptional value waters will not be degraded by nonpoint source pollution.

(c) designation process: During the Reg Neg, there was concern about the large number of streams that are unassessed. When a new permit application is filed, would the stream be assessed before issuing the permit, or would the permit be issued and the stream not get the full protection it may deserve? The proposed regulations do not address this concern. Also, it is not clear in the proposed regulations if someone must petition the EQB for a change to occur in the antidegradation classification. The petition process should not be the only route for a change in the antidegradation classification, because then streams only get appropriate protection if there is a group in the state with the resources needed to do a study and submit a petition. Protection of instream water quality should not be dependent on the ability of local watershed groups to have a study done on a stream. It is DEP's responsibility to provide appropriate protection of water quality at all times. Antidegradation protection should not be dependent on a group to submit a petition.

§93.4e Public Participation

In the Reg Neg SEJ workgroup meetings, public participation was discussed at length. The final report of the workgroup included recommendations on public participation (see Attachment 1). DEP should incorporate these recommendation into their proposal.

Other Issues

Federal Regulations

Even though the EPA has promulgated antidegradation regulations for Pennsylvania, we commend DEP for proceeding with state water quality regulations on antidegradation. Although the federal regulations do address the PA water quality standards partial disapproval, they do not go far enough in addressing a number of implementation issues that are addressed in the state proposal. The federal regulations alone are not sufficient.

Coverage of the antidegradation program to wetlands

In §93.2, waters of the Commonwealth are defined to include wetlands. Therefore the antidegradation requirements also apply to wetlands. However, DEP has not proposed policy on how to include wetlands in this program. We hope DEP will soon develop this guidance, and we would be happy to work with them on this task.

This concludes our comments on the proposed changes to the antidegradation regulations. Please contact Jolene Chinchilli or Barbara Kooser if you have any questions regarding these remarks.

Attachment 1 - Final report of the SEJ Workgroup



CHESAPEAKE BAY FOUNDATION

*Resource Protection
Environmental Education*

Comments of the Pennsylvania Office of the Chesapeake Bay Foundation On the Proposed Rulemaking on Water Quality Amendments - Antidegradation, submitted May 21, 1997

Summary: Please refer to the full comments for more complete information.

- General Permit: May allow use in high quality waters if additional review is made to ensure that waters will not be degraded. The review should include periodic review of the use of gps in the watershed to ensure the cumulative use of the gps is not degrading the water.
- Definitions: We agree with the proposed definitions of exceptional value and high quality waters.
- Protected Water Uses: DEP should leave antidegradation classification as a designated use with full EPA oversight or completely remove the classification from review by the EQB.
- Existing uses: The federal language should be adopted verbatim - delete the part of the sentence regarding when DEP does a review.
- High Quality Waters: The chemical and biological tests should be separated.
- SEJ: We support the proposed language, and the reviews should be consistent statewide.
- Pollution Prevention: The pollution prevention requirements should apply to all new and additional discharges.
- Minimal impact: The threshold should not be allowed unless first the SEJ is tightened. If it is tightened, then possibly allow minimal impacts, but lower the percentage of the assimilative capacity to 20% for conventional pollutants, 10% for metals, and 0% for persistent bioaccumulative chemicals.
- Exceptional Value Waters: We agree with proposed definition, the chemical and biological tests should be separated, and we agree with EPA on no new or expanded discharges.
- Nonpoint source controls: The proposed language is weak and ambiguous.
- Designation process: DEP must ensure that when an assessment is done, appropriate classification changes are then made. Reclassification should not be dependent on a local group submitting a petition.
- Public participation: The recommendations of SEJ workgroup from the Reg Neg process should be followed.
- Wetlands: The antidegradation program should be expanded to cover wetlands.

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**Comments of the Pennsylvania Office of the Chesapeake Bay Foundation
On the Proposed Statement of Policy
Implementation of Antidegradation Requirements
25 PA Code Ch. 15
May 21, 1997**

The Pennsylvania Office of the Chesapeake Bay Foundation (CBF) respectfully submits the following comments to the Department of Environmental Protection (DEP) on the proposed statement of policy on the implementation of antidegradation requirements. CBF is the largest regional citizens group whose mission is to maintain and restore the Chesapeake Bay and its watershed. The greatest link between the Chesapeake Bay and Pennsylvania can be found in the Susquehanna River - the river that drains half of the Commonwealth of Pennsylvania and provides half of the fresh water that enters the Chesapeake Bay. The only way for the Bay to be healthy is for the rivers and streams in its watershed to be healthy. Therefore, strong implementation of the antidegradation requirements is essential for a healthy watershed.

For your reference, we have attached a copy of our comments on Chapters 92, 93, and 95 proposed changes to the antidegradation requirements. A number of the comments also pertain to Chapter 15.

15.1 Implementation of Tests for High Quality Waters

The biology and chemistry tests for a determination of high quality waters should be separate, not needing both to pass the requirement. The biological test is supposed to be an indicator of long-term water quality, since the aquatic flora and fauna for the most part are subjected to the water quality over their lifetime. If a healthy flora and fauna are present, it is indicative of good water quality. Therefore, if there are no long term water quality data available, then biology can be used as an indicator. However, the biology and chemistry tests should be separate so if one or the other requirement is fulfilled, then the water should qualify as high quality. By joining the tests, it becomes more stringent than federal requirements, and should not be approved by EPA.

In addition, in section (d), DEP proposes to use an integrated benthic macroinvertebrate score greater than or equal to 83% of the reference stream in order

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to qualify for high quality status. There are several flaws with this approach. First, the 83% is based on the Rapid Bioassessment Protocol (Plafkin, 1989) that uses data from North Carolina for the analysis. Second, the reference stations in the state have not been selected for the purpose of determining antidegradation classification. These two flaws completely undermine the scientific basis on which DEP proposes to base the antidegradation classification. Therefore, until DEP can base a percentage on PA data, and ensure that their selection of reference stations will not unduly bias the determination of high quality and exceptional value streams, the proposal should not be finalized.

(d). We agree with the inclusion of Class A Wild Trout Streams as meeting the conditions for high quality waters.

15.2 Implementation of Tests for Exceptional Value Waters

(d) The comments for the biology test for high quality waters applies to exceptional value waters as well.

(e) We agree with the inclusion of Wilderness Trout Streams as meeting the conditions for exceptional value waters.

15.3 Submission of Antidegradation Evaluation Reports and Petitions

We agree with using the petitioning process in addition to DEP's evaluation of surface waters. However, it should be made clear in the regulation and up front in the policy that the petitioning process in to supplement the state evaluation.

This concludes our comments on the proposed Chapter 15. Please feel free to contact Jolene Chinchilli or Barbara Kooser if you have any questions.

References

Plafkin, J.L. et. al. 1989. Rapid Bioassessment Protocols for Use in Streams and Rivers: Benthic Macroinvertebrates and Fish. Report No. EPA/444/4-89-001. USEPA, Office of Water, Washington D.C.

Attachment



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C. Trowbridge Suong
William W. WarnerPennsylvania Executive Director
Jolene E. ChinchilliThe Honorable James M. Seif, Secretary
PA Department of Environmental Protection
16th Floor Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17101-2301

May 7, 1999

Dear Mr. Seif:

The Chesapeake Bay Foundation (CBF) is writing in support of a regulatory package to be considered at the May 19, 1999 Environmental Quality Board (EQB) meeting. The "Antidegradation" regulations were proposed almost two years ago, and the final regulatory package is scheduled to be considered at the May EQB meeting. Chesapeake Bay Foundation believes that these regulations are important to ensure the long-term health of Pennsylvania's high-quality and exceptional-value streams.

We support the antidegradation regulations DEP brings forth in the final rulemaking package. The package as crafted by DEP will preserve the essence of the current special protection waters program which has been in existence for almost 20 years. Throughout the regulatory negotiation process, it was clear that Pennsylvania businesses and industries wanted to know the "rules" by which they needed to play under the antidegradation program. These regulations clearly spell out for them the requirements for streams to be redesignated to a higher protection level. It is also clear in these regulations that there is no prohibition on new or increased discharges. For streams that are redesignated to either high-quality or exceptional-value, there are also no new requirements for current dischargers to these streams. More stringent discharge limitations would be required only for new discharges to a stream, or for current dischargers who want to increase their discharge volumes. Even new or expanding industries do have viable and desirable alternatives. Land application is only one. Employing green technology or other pollution prevention

processes is another alternative that not only protects the environment, but also provides economic benefit. DEP currently provides pollution prevention information and assistance to Pennsylvania businesses.

Pennsylvania Office: Old Waterworks Building, 614 N. Front Street, Harrisburg, Pennsylvania 17101, 717.234-5550, fax 717.234-9632

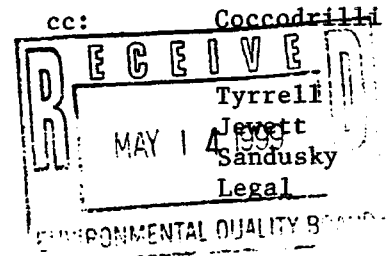
Headquarters Office: 162 Prince George Street, Annapolis, Maryland 21401, 410.268.8816, fax 410.268.6687

Maryland Office: 111 Annapolis Street, Annapolis, Maryland 21401, 410.268.8833, fax 410.280.3513

Virginia Office: 1001 E. Main Street, Suite 710, Richmond, Virginia 23219, 804.780.1392, fax 804.648.4011

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Antidegradation Regulations

May 7, 1999

Page 2

The new regulations also expand public participation opportunities. This is another area where all interested parties agreed. Expanded and earlier public participation will go a long way toward improving the process and avoiding the problems that have occurred in the past. We do not, however, believe that it is necessary to directly notify every landowner in the watershed. This would be an overly burdensome, unworkable, and unnecessary requirement. It should be noted that this level of notification is not required of those who propose to discharge to Pennsylvania's waters. It should not be harder to protect a stream than to pollute it.

The majority of Pennsylvanians recognize that a healthy environment and a healthy economy are not mutually exclusive. The final regulatory package for antidegradation provides for both, and balances the interests of all Pennsylvanians. We ask that you support the adoption of the final antidegradation regulatory package. Please feel free to contact me at 717-234-5550 if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jolene E. Chinchilli".

Jolene E. Chinchilli
Pennsylvania Executive Director

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Revision to Rapid Bioassessment Protocols For Use in Streams and Rivers:

Periphyton, Benthic, Macroinvertebrates, and Fish

Michael T. Barbour
Jeroen Gerritsen
Blaine D. Snyder
James B. Stribling



EPA 841-D-97-002

Addendum (August 1997): Follow this link for current additions and changes to this document.

The Office of Wetlands, Oceans, and Watersheds (OWOW) of the US Environmental Protection Agency (EPA) is in the process of revising the RBPs (Plafkin et al. 1989) based on refinements in the methods that have occurred from testing and implementation of the approach over the past 7 years. Methods for periphyton, and guidance for a performance-based methods system (PBMS) are additions to the RBPs. This revision of the RBPs features an orientation in an SOP format and methods that are more flexible to sampling aquatic habitat in proportion to its natural representation in the system. Also included are improved techniques for biological metric calibration, habitat assessment and benthic subsampling.

This page on the EPA Office of Water World Wide Web site has been established for the protocols as the RBPs are being developed and revised. The page serves as an informational forum for scientists and interested parties on an International level. An annotated outline of the revised document and a timeline for the progress and completion of the document is included below. A Consultation Workgroup of technical experts will be organized to review and provide final comments prior to publication. In addition, An agency review will be conducted of the technical and policy aspects of the document relevant to use in water resource monitoring programs. A final revision will address comments from these simultaneous reviews.

For further information, contact:
Chris Faulkner, OWOW -- rbpnew96@epamail.epa.gov

Revision to Rapid Bioassessment Protocols For Use in Streams and Rivers:

Periphyton, Benthic, Macroinvertebrates, and Fish

Foreword

In December 1986, U.S. EPA's Assistant Administrator for Water initiated a major study of the Agency's surface water monitoring activities. The resulting report, entitled "Surface Water Monitoring: A Framework for Change" (U.S. EPA 1987), emphasizes the restructuring of existing monitoring programs to better address the Agency's current priorities, e.g., toxics, nonpoint source impacts, and documentation of "environmental results." The study also provides specific recommendations on effecting the necessary changes. Principal among these are:

1. To issue guidance on cost-effective approaches to problem identification and trend assessment.

2. To accelerate the development and application of promising biological monitoring techniques.

In response to these recommendations, the Assessment and Watershed Protection Division developed the rapid bioassessment protocols (RBPs) designed to provide basic aquatic life data for water quality management purposes such as problem screening, site ranking, and trend monitoring, and produced a document in 1989 (Plafkin et al. 1989). Although none of the protocols were meant to provide the rigor of fully comprehensive studies, each was designed to supply pertinent, cost-effective information when applied in the appropriate context.

As the technical guidance for biocriteria has been developed by EPA, states have found these protocols useful as a framework for their monitoring programs. This document was meant to have a self-corrective process as the science advances; the implementation by state water resource agencies has contributed to refinement of the original RBPs for regional specificity. This revision reflects the advancement in bioassessment methods since 1989 and provides an updated compilation of the most cost-effective and scientifically valid approaches.

Dedication

All of us who have dealt with the evaluation and diagnosis of perturbation to our aquatic resources owe an immeasurable debt of gratitude to *Dr. James L. Plafkin*. In addition to developing the precursor to this document in 1989, Jim was a driving force within EPA to increase the use of biology in the water pollution control program until his untimely death on February 6, 1990. Throughout his decade-long career with EPA, his expertise in ecological assessment, his dedication, and his vision were instrumental in changing commonly held views of what constitutes pollution and the basis for pollution control programs. Jim will be remembered for his love of life, his enthusiasm, and his wit. As a small token of our esteem, we dedicate this revised edition of the RBP's to his memory.

Acknowledgments

Dr. James L. Plafkin of the Assessment and Watershed Protection Division (AWPD) in USEPA's Office of Water, served as principal editor and coauthor of the original document in 1989. Other coauthors of the original RBPs were consultants to the AWPD, Michael T. Harbour, Kimberly D. Porter, Sharon Gross and Robert M. Hughes. Many others also contributed to the development of the original RBP document. Special thanks goes to the original Rapid Bioassessment Workgroup. The Workgroup, composed of both State and EPA Regional biologists (listed in Chapter 1), was instrumental in providing a framework for the basic approach and served as primary reviewers of various drafts. Dr. Kenneth Cummins and Dr. William Hilsenhoff provided invaluable advice on formulating certain assessment metrics in the original RBP approach. While not directly involved with the development of the RBPs, Dr. James Karr provided the framework and theoretical underpinnings for "re-inventing" bioassessment for water resource investigations. Since 1989, extensive use and application of the RBP concept has helped to refine specific elements and strengthen the overall approach. The insights and consultation provided by these numerous biologists have provided the basis for the improvements presented in this current document.

This revision of the RBPs could not have been accomplished without the support and oversight of Chris Faulkner of the USEPA Office of Water. Special thanks go to Ellen McCarron and Russell Frydenborg of Florida DEP, Kurt King of Wyoming DEQ, John Maxted of Delaware DNREC, Dr. Robert Haynes of Massachusetts DEP, and Elaine Major of University of Alaska, who provided the opportunity to test and evaluate various technical issues and regional specificity of the protocols in unique stream systems throughout the U.S. Editorial, production, report design, and HTML formatting were provided by a team of Tetra Tech staff — Brenda Fowler, Michael Bowman, Erik Leppo, James Kwon, and Susan (Abby) Markowitz. Technical assistance and critical review were provided by Drs. Jerry Diamond and James (Sam) Stribling, both of Tetra Tech.

Much appreciation is due to the biologists in the field (well over a hundred) who contributed their valuable time to review both the original and current documents and provide constructive input. Their help in this endeavor is sincerely appreciated.

1. The Concept of Rapid Bioassessment

Serves as an introduction to this document and underscores the importance of biological assessment and the need for quick turnaround of data and reporting to management. The purpose and history of the development of the document are included here. Because the conceptual approach of the original RBPs is still valid, and EPA documents subsequent to 1989 have addressed specific technical issues, this revision focuses on methodological aspects that have resulted from state implementation and testing in various parts of the country.

2. Application of Rapid Bioassessment Protocols (RBPs)

This chapter points out the application of biological data in monitoring of trends and assessment of condition (i.e., 305b, screening, NPS, TMDLs, watershed investigations, protection of ALUS, etc.). These EPA programs are briefly described in the context of biological monitoring. A chronology of bioassessment since the original RBPs and some discussion of the various relevant EPA documents is done in this chapter.

3. Elements of Biomonitoring

The importance of biosurveys, habitat assessment, bioassays, and chemical monitoring is presented to demonstrate the link among these tools. Also included are crucial technical issues, such as reference condition, seasonality, methodology, assemblage selection, and data management. Various technical issues relevant to the key assemblage (periphyton, benthos, and fish) are summarized here.

4. Performance-Based Methods System (PBMS)

Some variation of methods will and do exist around the country. Also, the quality of the data produced by a given method is often unknown. Therefore, a determination of method performance and comparability is best done through a PBMS approach, which focuses on aspects of data precision, bias, and sensitivity to impairment. Determination of bioassessment method performance characteristics ensures confidence in meeting data quality objectives, and yields the possibility of method flexibility. This section is a form of QA/QC, but oriented toward facilitating the exchange of data among agencies.

5. Habitat Assessment and Physicochemical Characterization

This section is similar to the original RBPs but with improved techniques. It is also organized as an SOP for ease in use. Photographs are included to illustrate the range of conditions of the habitat parameters. The physicochemical parameters are relatively unchanged, and are presented pretty much as in the original RBPs.

6. Periphyton Protocols

Periphyton procedures were not included in the original RBPs, primarily because of the lack of adequate prototypes among the states. However, a few states have developed procedures that are conducive to the RBP concept (e.g., Kentucky, Montana, Oklahoma). Although these protocols have not been widely tested, they are documented here as the most appropriate, cost-effective methods that are relatively translatable across the country.

7. Benthic Macroinvertebrate Protocols

Organized as an SOP, this section details procedures for 2 levels of intensity (related to original RBP I and RBP III levels). The RBP I is patterned after Florida's BioRecon, which is essentially a more standardized RBP I. The RBP III covers benthic procedures that have evolved and been adapted around the country. These procedures are applicable to both low-gradient and high-gradient streams. The revised and improved subsampling procedures used to facilitate sample processing are included here, along with a technique to test subsampling levels using a Power/Cost Efficiency test (PCE).

8. Fish Protocols

These protocols have not changed substantially from the original. However, an SOP organization has been used, which are patterned after those methods developed for Massachusetts and Ohio. As in the original protocols, the fish sampling strategies follow the methods developed for the Index of Biotic Integrity and include new metrics for coldwater and coastal streams.

9. Biological Data Analysis

Two data analysis approaches are presented, which may be considered supplemental to one another: The multimetric approach and the River Invertebrate Prediction and Classification Scheme (RIVPACS). Subsequent to the IBI and the original RBPs being published, much has been written on the multimetric concept. This chapter will be redundant to some of the documentation in the literature, but is paraphrased here to illustrate how this process works, so users will have the proper guidance. We have built upon the development already done and attempted to present a more cohesive process for multimetric analysis. While the multimetric approach is more commonly used in US state agency programs, the RIVPACS multivariate technique is endorsed in some form by agency biologists in England and Australia. The process for performing RIVPACS and its derivative, AUSRIVAS, is described here.

10. Data Integration and Reporting

The approach to integration of habitat, water quality, and biosurvey data is presented here. How an agency would integrate across assemblages (perhaps patterned after Ohio EPA) are summarized. Diagnostics for problem solving and mitigation are discussed. Report formats are also covered in this chapter.

11. Literature Cited

Appendix A: Sample Data Forms for the Protocols

Appendix C: Tolerance and Trophic Guilds of Selected Fish Species

**Appendix D: Questionnaire Survey for Listing Biosurvey Data and
Bioassessment Information**

Announcement | Download the RBP
Chapter 1 | Chapter 2 | Chapter 3 | Chapter 4 | Chapter 5
Chapter 6 | Chapter 7 | Chapter 8 | Chapter 9 | Chapter 10 | Chapter 11
Appendix A | Appendix B | Appendix C | Appendix D

Time Schedule for RBP Revision

Revision of the RBPs will undergo four phases following the recent comment period. Phase 1 will entail a revision based on the comments received from the comment period. Phase 2 will include a subsequent formal peer review and consultation workshop to address specific technical issues raised by the expert panel. Phase 3 will provide for documentation of the recommendations from the consultation and a response to the efficacy of those recommendations. The final revision of the RBP document would constitute Phase 4.

	Completion Date							
	Jul 31	Aug 31	Sep 30	Oct 31	Nov 30	Dec 31	Jan 31	Mar 31
Phase 1. Revision	X							
Phase 2. Consultation & Review		X						
Phase 3. Recommendations			X					
Phase 4. Final Revisions							X	
Publication								X

OWOW Homepage

HOME HOTLINES PUBLICATIONS COMMENTS SEARCH

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Download Section

All chapters of the RBPs are in Word Perfect 6.1 format which are compressed into ZIPed files.



Download One Section At A Time

Chapter 1.	The Concept of Rapid Bioassessment	(ch_1.zip - 7.8 KB)
Chapter 2.	Application of Rapid Bioassessment Protocols (RBPs)	(ch_2.zip - 14.9 KB)
Chapter 3.	Elements of Biomonitoring	(ch_3.zip - 386.5 KB)
Chapter 4.	Performance-Based Methods System (PBMS)	(ch_4.zip - 30.1 KB)
Chapter 5.	Habitat Assessment and Physicochemical Parameters	(ch_5.zip - 3.3 MB)
Chapter 6.	Periphyton Protocols	(ch_6.zip - 23.6 KB)
Chapter 7.	Benthic Macroinvertebrate Protocols	(ch_7.zip - 289.0 KB)
Chapter 8.	Fish Protocols	(ch_8.zip - 186.8 KB)
Chapter 9.	Biological Data Analysis	(ch_9.zip - 74.4 KB)
Chapter 10.	Data Integration and Reporting	(ch_10.zip - 378.0 KB)
Chapter 11.	Literature Cited	(ch_11.zip - 23.2 KB)
Appendix A-D.	Appendices	(appendix.zip - 258.1 KB)

OR Download The Complete Document

Rapid Bioassessment Protocols For Use in Streams and Rivers (rbp.zip - 5.0 MB)





Citizens Advisory Council

to the Department of Environmental Protection

P.O. Box 8459 • Rachel Carson State Office Building

Harrisburg, PA 17105-8459 • 717-787-4527 • Fax 717-772-2291

Please Note: Our New Fax Number is 717-772-5748

February 11, 1999

Mr. Edward R. Brezina, Chief
Division of Water Quality Assessment and Standards
Bureau of Watershed Conservation
P.O. Box 8555
Rachel Carson State Office Building, 10th Floor
400 Market Street
Harrisburg, PA 17105-8555

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NATURAL RESOURCES
REVIEW COMMISSION

Dear Mr. Brezina:

At its January 11, 1999 meeting, the Citizens Advisory Council was briefed on the Draft Advance Notice of Final Rulemaking (ANFR) on Water Quality Standards – Antidegradation (25 PS. Code, Chapters 92, 93, and 95). Attached are comments on this package, which were approved by the Council at its February 8, 1999 meeting.

Overall, the Council supports the package as presented. The goal of the program is now to protect all of the waters of the Commonwealth from degradation, not just certain waters. The Advance Notice of Final Rulemaking is an improvement over both the existing program and the proposed regulation.

In particular, we are pleased with the stronger public participation provisions and protection of existing uses. Public notification is critical, and we support notification of all municipalities containing waters subject to an evaluation or assessment. However, Council opposes the suggestion that petitioners be required to provide a full list of landowners in the watershed as both unreasonable and unworkable. We offer to work with DEP to identify more workable and effective notification options for consideration. We also support the language in §93.4c, which is now consistent with federal requirements, and clarifies that the intent of the program is to protect existing uses, as required by federal law.

We are concerned about the lack of clarity provided on some of the issues. For example, the regulation postpones the details of Social and Economic Justification until the Implementation Handbook is revised. It also does not define how DEP plans to “assure that cost-effective and reasonable best management practices for nonpoint source control shall be achieved.” The Council is highly dissatisfied that the handbook is not available for public review concurrent with public review of the regulation. The issues to be



addressed in the handbook are critical to the program, and both deserve and require equal attention. The handbook must be a priority, to ensure effective implementation of the program, and we recommend that a draft of the revised handbook be made available for comment before the rulemaking goes to the Environmental Quality Board for consideration in May.

The enclosed comments expand on these items, raise some questions, and make several recommendations. Council's discussions at both the committee and full Council levels reflect the controversial nature of several of these provisions. On some issues, the vote was not unanimous, but a majority of the members present supported the comments relayed here.

Thank you for the opportunity to comment on this important regulation. Please call Sue Wilson, Council's Executive Director, should you have any questions.

Sincerely,

Jolene E. Chinchilli
Chairperson

Enclosure

The Department asked for comment on two specific aspects of the Commonwealth's antidegradation program as outlined in the Advance Notice of Final Rulemaking:

1. *The Department requests comment on the appropriate chemicals that qualify a water for HQ protection under §93.4b(a) of the draft final regulations.*

Council as a whole does not have the expertise to comment on the specific chemicals that should be used to qualify a water for special protection. However, we request that the Department provide the rationale supporting the eight (8) parameters which have been included in the ANFR. We also ask for an explanation of how the Department reconciles the 8 listed parameters with Tables 4 and 5, which are Statewide Specific Criteria which apply to the surface waters of the Commonwealth and Specific Water Quality Criteria Based on Water Uses to be Protected, respectively, and with Chapter 16, Water Quality Toxics Management Strategy.

Recognizing the resource needs and associated cost to collect and analyze samples for a large number of parameters over a long term, we support minimizing the number of parameters that must be collected to a reasonable amount. The need for adequate information must be balanced against the cost of obtaining that information. We further support retaining the flexibility to consider additional chemical and toxicity information that characterizes water quality on a case by case basis. For example, aluminum is a known problem in many streams in the Commonwealth. We must recognize that we are a long way from fully understanding chemical synergies, long term accumulation and cumulative impacts in the natural environment; at times information on additional parameters will be needed, but should not necessarily be required in all cases.

2. *The Department seeks comment as to whether persons petitioning the EQB to change the designated use of a water to HQ or EV should be required to provide, as part of the petition, a list of landowners (and their addresses) in the watershed sought to be upgraded, from tax maps or other sources, for the purpose of notifying such landowners, or whether there are other methods of notification which are acceptable.*

We agree that public notification is critical and support notification of all municipalities containing waters subject to the evaluation, as required in §93.4a(a) of the regulation. However, the proposal that petitioners be required to provide a full list of landowners in the watershed is both unreasonable and unworkable, for a number of reasons:

- In its comments on the proposed regulation, the IRRC said that such a requirement would be too burdensome for the agency. If a government agency with a budget of nearly \$600 million and a complement of more than 3,000 cannot meet such a requirement, how can it be feasible much less reasonable to ask an individual or a small non-profit to do so?

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- How will “landowner” be defined? Ownership of surface rights only, or will it also include mineral and timber rights? Many areas will have a confusing mosaic of ownership patterns.
- If we need to individually notify surrounding landowners that might be affected, shouldn’t we also notify landowners that are downstream beneficiaries of the additional protection? What about others who routinely use the stream?
- The list may change between the time the petition is submitted and when it is actually accepted.

Instead of notifying each individual landowner (however landowner is defined), we need to identify other, more effective but less burdensome, mechanisms for public notification. Possibilities include radio announcements, public service announcements, local cable ad channels, etc. Council offers to work with DEP to identify more workable and effective notification options for consideration.

The following are comments on other aspects of the Advance Notice of Final Rulemaking:

Definitions

The definition of “Outstanding National, State, Regional or Local Resource Water” supports state and local efforts to address issues on a watershed basis, and endorses what some local governments and watershed groups are already doing. Local and regional governments can choose to protect a corridor through land use controls, and state and federal government can protect water resources through resource management plans. There is some question about what “coordinated efforts” by local or regional governments means—how many have to be involved? What if some are not? Clarification is needed.

The regulation as published includes a new term “coordinated water quality protective measures--legally binding sound land use measures which maximize water quality protection in a multi-jurisdictional watershed corridor area, as approved by the EQB as an exceptional value designated use based on the expected environmental benefits in the watershed.” This definition appears to be intended to address some of the questions raised in the paragraph above, but is unclear. The language and use of this term need to be clarified.

It is our understanding that the two categories included in the definition of “Surface Water of Exceptional Ecological Significance” (EV wetlands and thermal springs) are examples of types of waters that might be included, but are not the only types that could be included. These two categories should be clearly listed as examples; the current construction of this definition appears to limit this term to these two categories.

Chemical and Biological Testing

Council supports the change from the requirement in the proposed regulation that a water meet both chemical and biological conditions to requiring it to meet either chemical or biological conditions. Requiring extensive chemical and biological data is potentially burdensome; we should be able to definitively determine water quality by appropriate use of one or the other.

For chemistry to be a decision making tool, it needs to be long enough term to reflect the ongoing water quality; biology already reflects long term changes, so can probably take less time, if done correctly. In some cases, chemical tests might provide an earlier indication of problems than waiting until the biota has been affected. Because we don't know all we need to about chemical synergies and long term accumulations, most members were not comfortable with moving to strictly biological parameters at this time.

The Rapid Bioassessment Protocol referenced in §93.4b(a)(2)(i)(A) appears to be out of date, and has been replaced by a revision (EPA 841-D-97-002). We support the use of biological testing as a means of determining water quality but recommend that the Department ensure that the intended protocol is properly referenced in the regulation.

Existing Use Protection

We support the change in language (§93.4c) supporting existing use protection. This language is consistent with federal requirements, and clarifies that the intent of the program is to protect existing uses, as required by federal law.

Social and Economic Justification

Section 93.4c(b)(1)(i)(A) requires evaluation of non-discharge alternatives in HQ and EV watersheds; the alternative used must be "environmentally sound and cost effective" compared with the cost of the proposed discharge. Clarification of what is meant by "environmentally sound" and "cost effective" as well as of the parameters of the evaluation is needed. In addition, what are the parameters of the demonstration called for in the following paragraph? Do we have benchmarks to check the "demonstration" that there are no environmentally sound and cost effective non-discharge alternatives?

The Department has stated that these are to be clarified and defined in a revision of the implementation handbook. The Council is highly dissatisfied that the handbook is not available for public review concurrent with public review of the regulation. The issues to be addressed in the handbook are critical to the program, and both deserve and require equal attention. The handbook must be a priority, to ensure effective implementation of the program. We recommend that a draft of the revised handbook be made available for comment before the ANFR goes to the Environmental Quality Board for consideration in May. We also recommend that the handbook be cited in the regulation in the appropriate places.

Section 93.4c(b)(1)(ii)(B) requires the applicant for a proposed discharge to HQ or EV waters to collect and respond to public comments after notification through the newspaper. To eliminate any possibility or perception that a permit applicant might withhold pertinent information, we recommend that comments be sent directly to DEP as well to ensure that they are considered.

Section 93.4c(c)(2) mentions “existing public health or pollution hazards”; what constitutes a hazard? Is this definition risk based? This section further states that a sewage facility designed for the purpose of correcting an existing “hazard” documented by the Department satisfies the SEJ requirements for discharging into a HQ or EV stream. It is not clear if this refers only to the capacity required to address the hazard and any additional capacity must still be subject to SEJ, or if it includes what might be considered as excess capacity, that will encourage further development and therefore further stresses on the watershed. It is Council’s position that the portion of the facility correcting a documented hazard should satisfy SEJ; however, any portion of the facility that goes beyond addressing that hazard should be required to independently demonstrate SEJ.

Section 93.4d(a) requires that DEP’s public notice of receipt of a complete evaluation (should line 5 read “petition” rather than “evaluation”?) for redesignation as HQ or EV request “submission of information concerning the water quality of the waters subject to the evaluation.” It is Council’s position that the designation should be based on technical and scientific water quality information. The only times that other, more subjective types of information may come into play are when a water is being considered for EV status (already HQ, but with some additional qualifications) or during the SEJ process (when we are trying to balance environmental harm against social and economic factors). This section should be clarified to distinguish between the scientific/technical information required to evaluate water quality, and the economic and social information that may be required to evaluate SEJ for a potential discharge or elevation to EV.

Non-Point Sources

Section 93.4c(b)(2) requires DEP to “assure that cost-effective and reasonable best management practices for nonpoint source control shall be achieved.” This section follows the federal language, but is ambiguous and does not indicate how the Department can or will assure such actions, or what will happen if such actions are not implemented. How are “cost-effective” and “reasonable” defined?

Public Participation Requirements

Council supports the improved public participation outlined in the ANFR. In particular, we support the combined public meeting and fact finding hearing as a mechanism to educate concerned citizens, allow for a dialog/give and take on issues related to a stream evaluation, and still provide for formal comment and submission of pertinent information. This approach will improve the quality and usability of comments received.

The public participation requirements for a proposed discharge to a HQ or EV stream are still unclear—§93.4d deals with proposed changes to designated use, but not with proposed discharges. Section 92.61 deals with the public participation requirements for any NPDES permit application, and states that a public hearing will be held if requested. However, a public meeting and/or hearing should be required in the case of a proposed discharge to a HQ or EV stream.

Miscellaneous

Section 95.1 references 33USCA, which refers to the Clean Water Act. We suggest that the title be included as a parenthetical, to make it easier for citizens to read.

KIRKPATRICK & LOCKHART LLP

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Via Telecopy and Mail

Bruce J. Kilby, Manager
Health Safety and Environmental Engineering
Pasteur Mérieux Connaught
P. O. Box 187, Route 611
Swiftwater, PA 18370

Re: Draft Comments on Draft Final State Antidegradation Regulations

Dear Bruce:

As you requested, we have prepared for your review, comment and approve the enclosed draft of comments on the Advanced Notice of Proposed Rulemaking concerning the state's water quality antidegradation program.

As you are aware, the deadline for comments submission is Monday, February 22. We would very much appreciate if you could get your comments to us by the close of business on Friday, so we can finalize this comment letter over the weekend.

In the meantime, we will work on draft letters to the Independent Regulatory Review Commission and House and Senate committees which summarize the salient points.

Very truly yours,


R. Timothy Weston

Enclosures

cc: Timothy Cleary, Esq.

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Pennsylvania Department of Environmental Protection
Bureau of Watershed Conservation
Division of Water Quality Assessment and Standards
P. O. Box 8555
Rachel Carson State Office Building, 10th Floor
400 Market Street
Harrisburg, PA 17105-8555

**Re: Comments on Advanced Notice of Final Rulemaking regarding Water
Quality Standards - Antidegradation.**

Dear Mr. Brezina:

These comments are submitted on behalf of Connaught Laboratories, Inc. ("Connaught") with regard to the Department of Environmental Protection's draft final regulations relating to the antidegradation provisions of the Department's water quality standards, notice of which was published on January 23, 1999 at 29 *Pennsylvania Bulletin* 455.

By way of background, Connaught owns and operates a facility in Swiftwater, Monroe County, Pennsylvania, at which it manufactures vaccines for children and adults that are used widely across the United States to prevent disease. Connaught's facility operates under a National Pollutant Discharge Elimination System ("NPDES") permit issued by the Department. The receiving waters for Connaught's water discharge are part of a watershed categorized by the Department as "High Quality Waters."

With this background in mind, Connaught offers the following comments on the Department's draft final regulations.

**§ 93.1. Definition of "Outstanding National, State, Regional or Local Resource Water";
§93.4b(b). Qualifying as an Exceptional Value Water.**

Section 93.4b(b) goes far beyond the requirements of the Federal antidegradation requirements in defining exceptional value waters. Where the Federal rules apply the most stringent no-reduction-in-water-quality requirements to waters identified as constituting an outstanding National resource, the proposed final PaDEP rule would expand this to any "outstanding" national, state, regional or local resource water.

First, §93.4b(b) purports to establish automatic criteria for designating an exceptional value water. In stating that "a surface water that meets one or more of the following conditions is an exceptional value water," the rule in essence removes and discretion from the classification process. If the stream meets any of the proposed 6 criteria, it apparently qualifies as EV, without any further action or discretion by the Environmental Quality Board.

In this context, the proposed definition of "Outstanding National, State, Regional or Local Resource Water" in the ANPR includes any "surface water for which ... regional or local governments have adopted coordinated water quality protective measures along a watershed corridor by zoning or other ordinances." This definition would effectively delegate to local governments, without any criteria, the power to upgrade any waterway from High Quality Water to Exceptional Value Water by adopting any zoning provision or other ordinance purporting to protect the stream. This grant of water quality decision-making authority to local governments represents a substantial (and we believe legally impermissible) shift in regulatory power to other political bodies. Such entities, without any guidance from the EQB, may employ their authority inconsistently across the Commonwealth, without adequate (or any) scientific justification, and irrespective of the water management or land use impacts in neighboring jurisdictions. The resulting balkinization of the water quality management program in this fashion would undermine the watershed management approach that the Department should be pursuing, while providing virtually unchecked (and unappealable) power to certain local political forces to kidnap the state's water quality program to serve no-growth/no-development objectives.

At the same time, the proposed definition may have the unintended effect of misinterpreting and discouraging local stream conservation efforts. Currently, Connaught has joined with other businesses and municipalities in the Swiftwater/Brodhead Creek watershed in an active watershed conservation effort. That effort, led by the Brodhead Creek Watershed Association, has aimed at fostering a variety of coordinated efforts to promote wise placement of development, preservation of stream corridors, improved non-point source management, and cooperative stream monitoring. Those efforts were not aimed at a "no discharge" policy,

Edward R. Brezina

February 16, 1999

Page 3

but at accommodating current and anticipated development while protecting our water resources. The Department's proposal would convert such watershed efforts into an automatic upgrade of each stream to EV status – effectively stifling the development of those industries, landowners and municipalities that have entered into such cooperative efforts. Faced with this definition and approach, one could argue that we would be better off abandoning such watershed efforts, lest we lay the groundwork for imposing EV status which precludes any further development or increased discharge.

At the same time, not every waterway for which a national or state government agency has adopted protective measures in a resource management plan may be appropriate to designated as an "outstanding water." There are many streams for which resource plans and protective measures may be framed that do not necessarily merit a "no discharge" requirement. In some ways, the definition is circular and meaningless. One could argue that since Pennsylvania has a State Water Plan and Comprehensive Water Quality Management Plan (both resource management plans), and those plans call for protection of virtually all of our waterways by carrying out the protective measures found in the state's water quality standards, then all of Pennsylvania's waters could qualify as EV streams. Clearly, that result is ludicrous, but that is what the current draft of the rule would imply.

In our view, the test of an EV stream should not be whether there is a resource management plan that provides some level of protection, but whether that plan identifies the stream as requiring no degradation in water quality. We should adopt resource management plans and appropriate protective measures for all of our streams, but only some plans and some streams merit the ultimate EV protection.

Accordingly, Connaught believes that, consistent with the Federal antidegradation rules, the Department should limit EV status to outstanding national or state waters, and the Department modify the definition of outstanding waters as follows:

Outstanding national, or state, ~~regional or local~~ resource water –
A surface water for which a national or state government agency has adopted water quality protective measures in a resource management plan which identifies the stream as requiring no reduction in water quality, ~~or regional or local governments have adopted coordinated water quality protective measures along a watershed corridor by zoning or other ordinances.~~

Concurrently, Connaught believes that the criteria set forth in §93.4b(b) must be applied with a degree of discretion by the Environmental Quality Board. The listed criteria are not hard

"rules," but rather indicative factors which cause one to consider a stream for EV status. However, the current loosely worded provision simply declares any stream that meets certain subjective criteria "*is* an exceptional value water" – implying that if a stream meets one of these more or less subjective criteria, it is automatically elevated to EV protection without any further action by the EQB. Considering the serious implications of EV status on all development within a watershed, and the attendant impact on property rights, such an approach is wholly unacceptable.

Instead of considered study and legislative action (with public notice and comment), the proposed rule threatens to convert the classification of streams into the focus of litigation before the Environmental Hearing Board or courts. As presently worded, any third party appellant could argue that under §93.4b(b), a certain stream listed in Ch. 93 as high quality is in fact "EV" because it meets one of the 6 factors listed in §93.4b(b)(i)-(vi). Instead of review by the EQB, we may find the Environmental Hearing Board becoming the judge of what is "exceptional recreational significance", "exceptional ecological significance," or "outstanding."

§ 93.3. Protected Water Uses.

The proposed final rule refers to High Quality Waters and Exceptional Value Waters as "Protected Uses" in § 93.3 and Table 1 (and elsewhere, e.g., § 93.7(e) & Table 5 and §§ 93.9a-93.9z). This approach was wisely rejected in the amendment originally proposed by the Environmental Quality Board.

Inclusion of HQ and EV as "uses" will perpetuate the ambiguity in the existing rule regarding the purpose of these classifications, which was acknowledged in the amendments originally proposed. *See 27 Pennsylvania Bulletin* 1459 (March 22, 1997). "High Quality Waters" and "Exceptional Value Waters" are not water *uses*, as that term is ordinarily understood, but rather are water management classifications that express the *quality* of a given water body. These waters, in fact, may serve a variety of different uses.

Indeed, listing HQ and EV as "uses" creates a circularity in the regulations for special protection waters. For example, §93.4c(b)(1)(iii) declares that after satisfying the social or economic justification requirement, a discharge to an HQ stream must still demonstrate that the HQ water will support the applicable existing and designated water uses set forth in §93.3, Table 1. If that Table simply lists "HQ," one has no real point of reference.

In the proposed rule, these categories were identified as "Antidegradation Classifications," which accurately distinguishes them from "Protected Uses." In the draft final rule, however, this distinction has been abandoned with no real explanation – the Department's

notice simply states that the change from the proposed rule is “in response to numerous comments” In our view, the Department got it right the first time, and the distinction between “Protected Uses” and “Antidegradation Classifications” originally proposed should be maintained in the final rule.

§ 93.4b(a). *Qualifying as a High Quality Water.*

§ 93.4b(a)(1). *Chemistry.*

The chemistry test for High Quality Water in the proposed final rule (§ 93.4b(a)(1)) does not require analyses of many of the parameters included in the amendment originally proposed or comparison of the water’s quality to the Department’s water quality criteria for toxic substances (Chapter 16, Appendix A, Table 1) as originally proposed. For example, analyses for aluminum, arsenic, cadmium, chromium, copper, lead, nickel and zinc have been removed from the chemistry test requirement. Although a general clause has been added stating that the Department “may consider additional chemical and toxicity information, which characterizes or indicates the quality of a water, in making its determination,” the reduced chemistry test requirements in the proposed final rule may allow surface water with substantial chemical contamination to be designated as High Quality Water.

This problem is compounded by the fact that the chemistry test is now proposed as an independently sufficient basis for surface water to qualify as High Quality Water. As stated in the Department’s notice of the draft final regulations, “The draft final regulations do not require a surface water to meet both a chemistry and a biology test to qualify as an HQ Water. A water may qualify by meeting either the chemistry or biological test.” *See 29 Pennsylvania Bulletin* at 455. *See also* Proposed Final Rule § 93.4b(a) (“[S]urface water that meets *one or more* of the following conditions is a High Quality Water”). The relaxation of the High Quality Water standard in this way is misguided and may lead to an excessive number of designation requests, many of which may relate to surface waters that are not deserving of this special classification.

§ 93.4b(a)(2). *Biology.*

The biology test included in the proposed final rule (§ 93.4b(a)(2)) incorporates the rapid bioassessment protocols by Plafkin, et al., “as updated and amended.” This suggests that the Department is adopting an uncertain future standard for biology testing, i.e., a standard that may change with each update or amendment to the incorporated work without any independent review or consideration by the Department. Although the present protocol included in Plafkin’s work may provide a suitable benchmark for biologic assessments, blind

incorporation of future amendments to that work is arbitrary and unwise, and may constitute an impermissible delegation of regulatory authority..

Also, the placement of subpart (C) ("The Department may consider additional biological information ...") under subparagraph (i) creates an ambiguity with regard to (C)'s relationship to subparts (A) and (B). Does the Department intend that the additional information contemplated by subpart (C) may serve as an independent basis for satisfying the biology test, without regard to subpart (A) or (B)? If so, the biology test for High Quality Water would seem to have little or no defining criteria at all. If not, the structure and/or language of §93.4b(a)(2), and particularly §93.4b(a)(2)(i)(A)-(C), should be changed to clarify that the "additional information" contemplated by (C) is to be used by the Department to determine if the criteria stated in (A) or (B) have been met, not as an independent basis for High Quality Water designation.

§ 93.4c(b)(1)(iii). Implementation of Antidegradation Requirements; Protection of High Quality and Exceptional Value Waters.

The proposed final provision for social and economic justification for discharges in High Quality Waters (§ 93.4c(b)(1)(iii)) states that the Department "may" allow a reduction of water quality in High Quality Water upon certain findings of social and economic justification. This proposed language appears to grant the Department unconfined discretion to permit or not permit a proposed discharge even where it finds that the economic and social justification criteria have been satisfied. This would represent a substantial change in the Department's approach to deciding if discharges to High Quality Waters should be permitted. In the absence of defined standards, after meeting the threshold criteria of social and economic justification, decisions regarding the permissibility of proposed discharges to High Quality Waters would be increasingly subject to influence by irrelevant factors, and Department personnel would be placed in the difficult position of rendering determinations without adequate guidance.

The use of the discretionary term "may" in proposed final § 93.4c(b)(1)(iii) may be the result of the awkward placement of the provision in relation to § 93.4c(b)(1)(i). In other words, the wording may have been selected because the criteria found in § 93.4c(b)(1)(iii) are not the only criteria that must be satisfied in order to discharge to High Quality Water. Rather, a demonstration of no environmentally sound and cost-effective non-discharge alternative must also be made under § 93.4c(b)(1)(i).

Connaught recommends that the language of proposed final §93.4c(b)(1)(iii) be clarified to confirm that the Department *will* permit a discharge to High Quality Water upon demonstration that no environmentally sound and cost-effective non-discharge alternative exists

and that appropriate social and economic justification criteria are satisfied. The following revised language would address Connaught's concern:

(iii) *social or economic justification (sej) in high quality waters* – **If a person proposing a new, additional, or increased discharge to High Quality Water has demonstrated that no environmentally sound and cost-effective non-discharge alternative exists under clause (b)(1)(i)(A), the Department will** ~~may~~ allow a reduction of water quality water if it finds

The proposed final § 93.4c(b)(1)(iii) also modifies the criteria for social and economic justification, apparently requiring the applicant to link the social and economic benefits of the project to the area in which the waters are located. Specifically, the proposed final rule states that the Department may allow a reduction of water quality in High Quality Water

if it finds ... that allowing lower water quality is necessary to accommodate important economic and social development *in the area in which the waters are located*, and will result in economic and social benefits to the public which outweigh any reduction in water quality which the ... discharge is expected to cause. (emphasis added).

The rule currently in effect does not limit or target the showing of social and economic importance to just the area in which the waters are located. Rather, under the current rule, a proposed discharge simply must be "justified as a result of necessary economic or social development which is of significant public value." See 25 Pa. Code § 95.1(b)(1).

The Department's focus in the proposed final rule on "important economic and social development in the area in which the waters are located" is troubling to Connaught because it may be subject to an interpretation that would require demonstration of *local* economic and social benefits regardless of more widespread benefits. Taking Connaught's situation as an example, what if Connaught were to propose to expand its facility to produce a new vaccine for which, hypothetically, could prevent a disease afflicting a significant population in the United States, but perhaps not individuals in Monroe County, Pennsylvania. Is one to read the proposed final rule to require that Connaught nevertheless demonstrate local benefits in order to evidence that any increased discharge associated with the expansion is "necessary to accommodate important economic or social development in the area in which the waters are located." Because the hypothetical disease in question is not afflicting the local area, must the discharge be denied because the applicant could not demonstrate sufficient *local* economic and

social justification for the project. The limited focus on the "area in which the waters are located" would seem to ignore the broader social or economic benefits and could be interpreted to preclude a discharge notwithstanding potentially substantial and broad regional, statewide, or national need.

Connaught recognizes that this "local" language proposed by the Department in its draft final rule finds its root in the Federal antidegradation policy for Pennsylvania. *See* 40 C.F.R. § 131.32(a)(2). Nonetheless, Connaught believes that this language may have unintended consequences, and that the Department should not follow the Federal standard verbatim on this point. At a minimum, even if the Department believes that it is compelled to follow in the footsteps of the Federal standard, Connaught suggests that the Department clarify the intent of the provision in the preamble to the final rule, particularly with respect to the type of hypothetical situation discussed above.

Furthermore, we note that where the Federal rule establishes one test, the draft final rule purports to frame a two step test. As now formulated, the demonstration that a proposed discharge is needed to accommodate important economic or social development is followed by a second, broader balancing of economic or social benefits against the anticipated reduction in water quality. In other words, under proposed final § 93.4c(b)(1)(iii), an applicant would be required to show *both* that the proposed discharge is needed to accommodate important economic or social development *and* that the proposal "will result in economic or social benefits to the public which outweigh any reduction in water quality which the new, additional, or increased discharge is expected to cause." This broad-based benefits balancing, on top of the social and economic justification demonstration, substantially increases the burden for potential discharges to High Quality Water, and is not required under the Federal rule for antidegradation in Pennsylvania. *Compare to* 40 C.F.R §131.32(a)(2).

Finally, the last sentence of proposed final § 93.4c(b)(1)(iii) requires a demonstration that applicable existing and designated water uses set forth in § 93.3, Table 1, will continued to be supported by the receiving water even after the proposed discharge reduces the quality of the High Quality Water. This provision, again, highlights the ambiguity and circularity (discussed above) created by listing High Quality Water as a "Protected Use" in § 93.3, Table 1. A literal reading of this part of the proposed final rule would create a circular morass, under which a reduction in the quality of High Quality Water would be allowed, upon satisfaction of certain criteria, provided that the applicant demonstrates that existing and designated water uses – including the High Quality Water at issue – be maintained.

* * *

Edward R. Brezina

February 16, 1999

Page 9

We appreciate the Department's consideration of these comments. If the Department needs any further information regarding the issues outlined above, or if we can provide any additional clarification of those issues, please do not hesitate to contact me.

Very truly yours,

R. Timothy Weston

cc: Mr. Bruce J. Kilby
Timothy Cleary, Esq.

The fish were thrown away.

I wish they could have been sent to you so you would know and see for yourselves, if this could happen to the river, what chance would the tiny streams and other waterways have!

Thank You,
Mrs. Alma Napoli.

P.S. In the future any fish, such as I described, caught will be photographed and such pictures will be sent to you.

Thank you.

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3/20/97

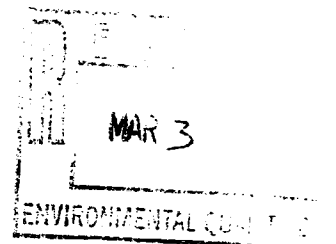
97 APR -9 10:19

Environmental Quality Board
DEP
P.O. Box 8465
Harrisburg, PA 17105

To whom it may concern:

Please reject the DEP's current
anti-degradation proposal!

Diane Panepresser
500 Denbigh Rd
Langhorne, PA 19047



3/20/97

Environmental Quality Board

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Please reject the DEP's current anti-degradation proposal which would lower water quality standards, and adopt the simpler better standards of the EPA. Please reply.

Thank you,
Frank Gallagher
198 FLINT RD.
LANGHORNE, PA 19047

FILE

3

ENVIRONMENTAL QUALITY BOARD

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ST APR -3 1997

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THE ENVIRONMENTAL QUALITY BOARD

March 20, 1997

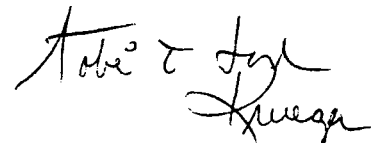
Environmental Quality Board (EQB)
DED, PO. Box 8465,
Harrisburg, PA. 17105

To whom it may concern

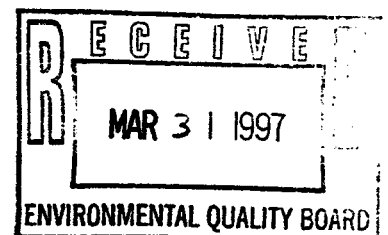
We need standards that protect our waterways from any more degradation.
Please reject the DEP's current anti-degradation proposal.
Adopt the simpler, better standards of the EPA.

We would appreciate a reply from your office regarding your position.

Sincerely,



Jon and Tobi Krueger
76 Egerton Rd.
Langhorne, PA. 19047



James T. Malec
333 White Swan Way
Langhorne, PA 19047

March 21, 1997

Environmental Quality Board
DEP, PO Box 8465
Harrisburg, PA 17105

Dear Sir:

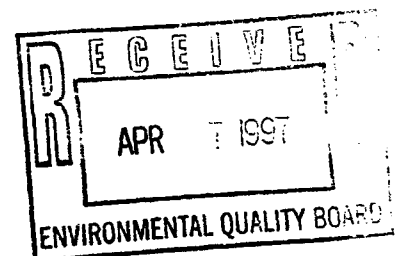
My wife and I are very concerned about the quality of water in Bucks County and are **opposed** to the DEP's current **anti-degradation proposal**. Please consider the many residents that are against the continued lowering of our water quality standards

Sincerely,



James T. Malec

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7/21/97

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97 APR -9 11:10:19

Pa. Environmental Quality Board,

This letter is written to express my opposition of the DEP's current anti-degradation proposal. The DEP's new regulations allowing lower water quality standards which would allow additional discharges into our streams would eliminate many streams from qualifying for strong protection.

Please adopt the simpler, better standards of the EPA.

I would appreciate a reply concerning the above mentioned anti-degradation proposal.

Thank You.

Maryann Hamer

505 Briggs Rd.

Langhorne, Pa. 19047

3

ENVIRONMENTAL QUALITY BOARD

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Mr. & Mrs. Pacifico
35 Teal Drive
Langhorne, Pa 19047
3-21-97

97 APR -9 AM 10:10

DEPT. OF ENVIRONMENTAL PROTECTION
HARRISBURG, PA 17104

Dear E Q A,

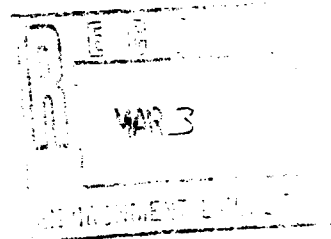
This is a plea to keep our water clean and free, yes free, of waste to harm life. We enjoy traveling across our state of Pennsylvania, our views, mountains and country side.

Reject the DEP's current anti-degradation proposal. Please do not force our people to trust bottled and filtered water for survival. Our waters are part of our living.

Please reply on your decision!!

Sincerely,

Mrs. Susan Pacifico
Mr. James Pacifico



3/21/97

RECEIVED

MAR 3

76 ALGATERA
Langhorne
PA.
19047

97 APR -9 AM 10:17

To whom it concerns AT the
EQB,

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I was asked to write a letter
asking you to "reject the DEP's
current anti-degradation proposal"
and to "adopt the simpler, better
standards of the EPA." I cannot do
this as I am not certain what
is contained in either proposal. But
what I can do is to ask you
to please vote and act according
to your conscience and do what
would be best for your children
and grandchildren. I thank you
for listening to the people and
for doing the "right" thing

Sincerely,
Paul R. Tip

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97 MAR -9 CHIC 10

Environmental Quality Board
DEP, PO Box 8465
Harrisburg, PA 17105

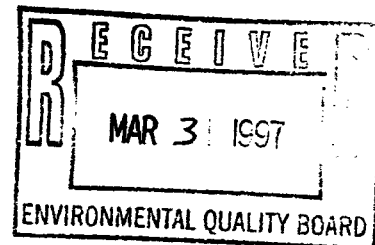
21 March, 1997

We are concerned about the quality of the water in our state. We are writing to urge you to reject the DEP's current anti-degradation proposal and adopt the simpler, better standards of the EPA. Thank you for your time and effort concerning this important issue.

Thank you:



Robert P. & Carolyn A. Hogan
46 Katie Dr.
Langhorne, PA 19047



3-23-97

Dear Mr. Seif,

97 APR 14 PM 1:52

REVIEW COMMISSION

I must tell you how disappointed I am with the proposed antidegradation regulations adopted by the EQB as proposed rules on 1/21/97. These regulations do not meet the minimum Federal requirements and will not protect Pennsylvania water from degradation.

As in the Federal regulation I feel existing uses should be protected unconditionally not after a DEP "review of technical data."

All streams where water chemistry is better than standards deserve High Quality Protection. A stream might fail the biology test because one parameter is in violation. EPA stated in its general rule that a violation of one parameter should not disqualify a stream from High Quality protection. Therefore, this rule with a chemistry & biology test cannot be approved by EPA. Overall, streams have less chance to become High Quality under this program than under the current program.

Also under this program streams have less ways to become Exceptional Value. I am especially disturbed by DEP's removal of considering PA & 15 endangered species and the removal of any consideration of the public ownership of land. Also not addressed by DEP is EPA's concerns with discharges into ONRWS.

APR 1 1997

It is quite clear that DEP has sided with polluters and has ignored the bulk of public comments that they solicited after the May 1996 draft proposal. These proposed regulations should be rejected & a new proposal prepared & voted on as over

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proposed rulemaking. This proposal is beyond
repair. Start protecting our waters as
you are paid to do!

Sincerely
Rose Hudson
R07 Box 7711
Stroudsburg PA
18360

Rhapsody

NOTICE OF COLLECTION
SECRETARY'S OFFICE

97 MAR 31 AM 10:45

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STANDARD 1:81

3/24/87

Dear E.O.B.,

I would like you to reject the

Dep. Council Anti-Degradation proposal.

Please adopt the better standards of the EPA.

Thank you

Phil Hines

p.s. please let me know
where you stand on
this issue.

John
4 Tr.

3/24/77

5125

L. COCCODRILLI
50 Sunketree Rd
Levittown PA 19056

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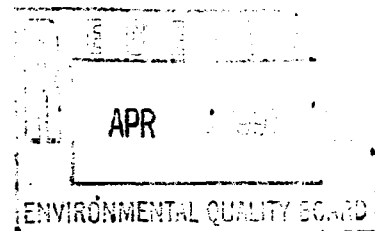
This letter is to urge you to
Reject the OEP's current anti-degradation
Report. Please adapt the
simpler, better standards of the EPA.

Regards
L. Coccodrilli

P.S.

Please Reply.

Thank you



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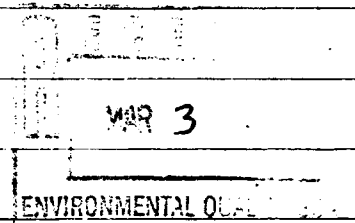
March 24, 1997

STANDARD 14 PM 1:50

Dear EQB,

This letter comes your way in the attempt to convince you to reject the DEP's current anti-degradation proposal. We need to protect our waterways! I would like a response about your decision. Please support Clean Water Action.

Sincerely,
The Rostos Family



March 24, 1997

Environmental Quality Board
DEP P.O. Box 8465
Harrisburg, Pa. 17105

87 APR 14 PM 1:50

APR

ENVIRONMENTAL QUALITY BOARD

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Dear Sirs/Madam:

I have lived in Levittown for 35 years and I am not planning to move any time soon. The water in our area is a large concern for my family and children. I want you to reject the DEP'S current anti-degradation proposal.

Please adopt the simpler standards of the EPA. We don't want our water quality standards lowered.

Thank You for your time in this matter

Denise J Burns

Please Reply to:

Richard & Denise Burns
15 Falcon Road
Levittown, Pa. 19056

March 24, 1997

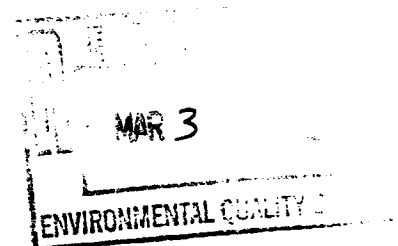
Dear Sirs;

STAFF I am writing you to ask you to please reject the DEP's current anti-degradation proposal. Please adopt a simpler, and better standard for the EPA.

Thank you.



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3/1/97

97 APR 15 11:10 AM

RENEWAL DIVISION

TO:

Environmental Quality Board (EQB.)

Dep

P.O. Box 8465

Harrisburg PA 17105

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WYATTE
BERESCHAK

Please Re Jet The DEP's Current
Anti degradation Proposal. And Adopt the Simpler
better Standards OF the EPA.

The Wilken Family
51 Thistle Rd
Levittown PA 19056

Please Reply.

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JEWETT
SANDUSKY
WYATTE
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3-2597

Dear Sirs,

Please reject the DEP's current anti-degradation proposal. Don't compromise the standard. Please adopt the EPA's better standards.

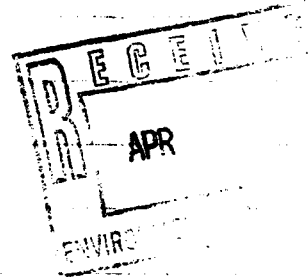
Sincerely,

Connie Simon

49 Falcon Rd
Levittown, Pa 19056

Levittown

Your reply is requested.



49 Falcon Rd
Levittown Pa

March 25, 1997

STANDARD MAIL

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Environmental Quality Board (EQB)
DEP, P.O. Box 8465
Harrisburg, PA 17105

Gentlemen:

The Clean Water Act requires states to protect waterways from further degradation. I understand the DEP is proposing new regulations that would lower water quality standards! This proposal would allow additional discharges into our best streams and would eliminate many streams from qualifying from any more degradation!

Please reject the DEP's current anti-degradation proposal and adopt the simpler, better standards of the EPA.

Our children's and grandchildren's future depends on our action now.

Thank you.

Sincerely yours,

Anna Kush

Anna Kush

37 Tinsel Rd.

Levittown, PA 19056

Would appreciate hearing from you in this regard.

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3/25/77

Environmental Quality Board

I am writing to ask you to reject the
DEP's current anti-degradation proposal.

I would like for you to adapt the simpler
better standards of the EPA to protect our
waterways from any more degradation.

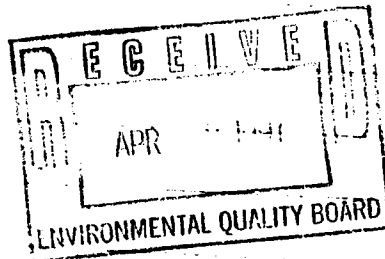
I would appreciate a reply regarding
your action to the above.

Thank you so much

G. Harkant

31 Quaker Rd.

Levittown, PA 19057



G. WILLIAM ASAY

31 SPINDLETREE ROAD • LEVITTOWN, PENNSYLVANIA 19056

APR

ENVIRONMENTAL QUALITY BOARD

Mar. 25, 1997

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Environmental Quality Board,

Please reject the DEP's
current anti-degradation proposal.

also ask them to prepare
and adopt the simpler, better
standards of the EPA.

Thank you.

G. William Asay

June. 3-25-97

Dear Environmental Quality
Board,

Please reject the

DEP's current anti-degradation
proposal. If anything is
done it should be something
to make our water purer.

It is so hard now that we
ought a purifier because
water from our plants not only
tastes bad but also has a
unpleasant odor.

Sincerely,
Harriet E. Kirshner

HARRIETT E. KIRSHNER
8 FALEENROCK RD.
LEVITTOWN, PA. 19056

March 25, 1997

Kimberley J. Baum
34 Fieldstone Rd
Levittown, PA 19056

Environmental Quality Board
DEP PO Box 8465
Harrisburg, PA 17105

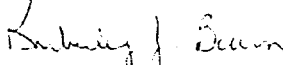
Dear EPA:

I am writing to you to make sure that you vote for KEEPING the Safe Drinking Water Act and rejecting the DEP's current anti-degradation proposal. I have heard that they want to abolish or lower the safe drinking water act and why make more people sick, when we can prevent such things from happening. I myself got very sick once in another country from unclean water and I don't want it to happen again or have anyone else have to go through the experience.

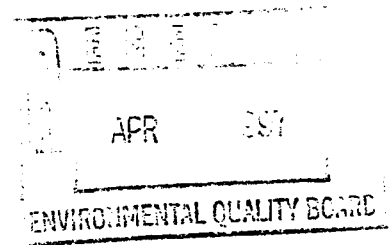
So please DO NOT REDUCE the standards that protect the quality of our drinking water. Please endorse *The Principles for Drinking Water Protection* and reject the DEP's current *anti-degradation proposal* and you will have our vote again.

Also, please respond to this letter, so I know that you are a concerned citizen, and a person that is for the people.

Thank You,

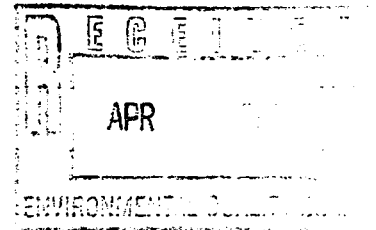

Kimberley J. Baum

07 APR 1997
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Mary Lou McElhara
71 Flamehill Rd
Levittown, Pa. 19056
March 25, 1997

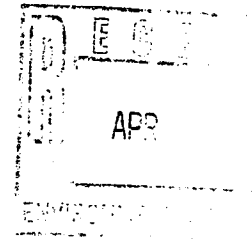
Dear EQB,

I am requesting that the EQB reject
DEP's current anti-degradation proposal. Please
adopt the simpler, better standards of the EPA.
I am requesting a reply to this issue.

Sincerely,

Mary Lou McElhara

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07 APR 14 PM 1:00

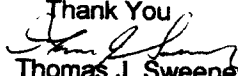
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Environmental Quality Board
DEP
PO Box 8465
Harrisburgh, PA 17105

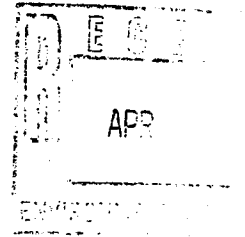
25 March, 1997

Dear Board Members:

It is my opinion that the Board should reject the DEP's anti-degradation proposal and adopt the standards set by the EPA.

Thank You

Thomas J. Sweeney
61 Red Rose Way
Levittown, Pa 19056

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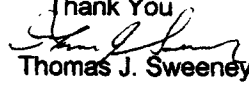
97 APR 14 PM 1:00

Environmental Quality Board
DEP
PO Box 8465
Harrisburgh, PA 17105

25 March, 1997

Dear Board Members:

It is my opinion that the Board should reject the DEP's anti-degradation proposal and adopt the standards set by the EPA.

Thank You

Thomas J. Sweeney
61 Red Rose Way
Levittown, Pa 19056

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3/26

We need to protect our
waterways from any more
degradation. I strongly suggest
you vote to reject the DEP's
current anti degradation
proposal. Vote to adopt the
stronger better standards of
the EPA

Please respond to this note
at your earliest convenience

D. Myers
13 Quaker Hill Rd
Levittown PA 19057



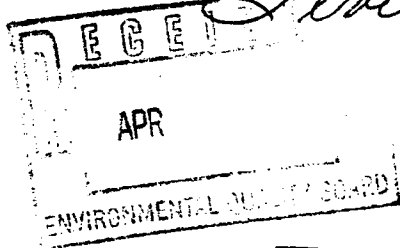
Mar. 26, 1997

Dear Sirs:

I am writing to ask that
you drop your proposal for
new regulations that would
lower water quality standards.
We desperately need standards
that protect our waterways
from any more degradation

Thank you

Helix Picariello
27 Quaker Hill Rd
Levittown Pa. 19057



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Dr
A

To whom it may concern:

Please reject the DEP's current
anti-degradation proposal. For our having
clean water at the simplest, better
standards of the EPA. Do not propose
anything that would lower water quality
for your citizens.

Please reply

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APR 11 1987

Katherine D'Amico
221 Quincy Dr.
Levittown, PA 19057

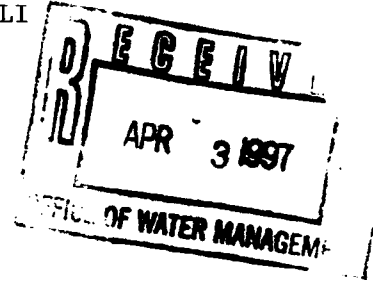
Thank you

3/26/97
Levittown, Pa 19057

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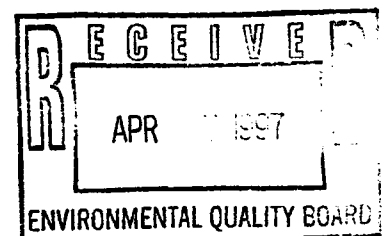
3/27/97

Environmental Quality Board, DEP
PO Box 8465
Harrisburg PA 17105



I am writing to let you know I am opposed to the DEP's
current anti-degradation proposal; and in favor of
the EPA standards.

Cheryl Bayford
223 Cobalt Ridge Dr.
Leetown Pa 19057



Environmental Quality Board
DEP
P.O. Box 8465
Harrisburg, PA 17105

APR 1997
ENVIRONMENTAL QUALITY SC-10

March 27, 1997

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To Whom It May Concern,

I urge you to reject the DEP's current anti-degradation proposal and to adopt the simpler, better standards of the EPA. Thank you.

Sincerely,

Jennifer K. Richardson
53 Crystal Rd.
Levittown, PA 19057

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3-27-97

STANDARD TIME: 11:51 AM

21 Quarter turn Rd E.
Levittown, PA 19057

To Who it may concern
Could you please reject the DEP's
current anti-degradation proposal.

Thanking you
Pauline Chelak.

TO WHOM IT MAY CONCERN,

MARCH 27, 1997

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BERESCHAK

PLEASE REJECT THE D.E.P.'S

CURRENT ANTI-DEGRADATION PROPOSAL!

THANK YOU!

R. Harrison

PLEASE REPLY TO:

R. HARRISON

54 QUARTER TURN ROAD WEST

LEVITTOWN, PA 19057

APR

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3-28-97

Edward Bryson
184 Quincy Dr.
Levittown, PA 19057

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MARCH 28 1997

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To: PA Environmental Quality Board

As a tax payer and a voter of the Commonwealth of Pennsylvania it has come to my attention that the DEP is proposing new regulations that would **lower water quality standards!** Please reject the DEP's current **anti-degradation proposal**. I would be pleased if you would reply to my letter.

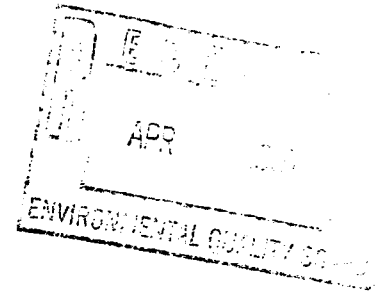
Thank you,

Edward Bryson

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BERESCHAK

Kathleen M. Roden
5 Quaker Hill Turn
Levittown, PA 19057-1905

March 28, 1997



Dear Sir:

I recently have been made aware of the new water regulation. I have lived in Levittown Pennsylvania for over 7 years. I am extremely concerned over the quality of our drinking water. I do not enjoy drinking the water from my tap and can actually see particles floating in it. As a mother of 4 small children it concerns me that the water might actually get worse instead of better. Please for the sake of our children DEMAND water standards that protect our families. Tell the E.Q.B. and the E.P.A. to adopt stronger standards that protect our water, streams, and to reject the D.E.P.'s current anti-degradation proposal.

Please send a reply based on your position in regard to this matter.

Kathleen M. Roden
5 Quaker Hill Turn
Levittown, PA 19057-1905
(215) 946-1410

Kathleen M. Roden

cc: E.Q.B.

Mike McCabe
Tom Tomilson
Matt Wright



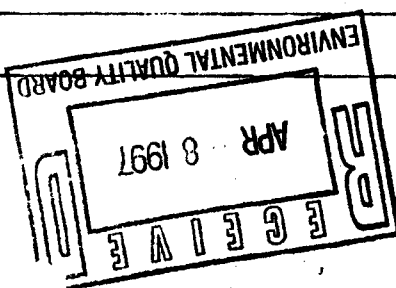
Thank you,
 Linda Harmon

Revisits the DEP's current
 anti-degradation proposal adopt
 the EPA standards

Dear E. Q. B.

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3/28/97



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