

Original: 2009

29TH DISTRICT
JAMES J. RHOADES

PLEASE REPLY TO:



SENATE P.O. BOX 203029
THE STATE CAPITOL
HARRISBURG, PA 17120-3029
PHONE: (717) 787-2837
FAX: (717) 783-9149



32 E. CENTRE STREET
MAHANOH CITY, PA 17048
PHONE: (570) 773-0891
(570) 621-3413
FAX: (570) 459-3921



Senate of Pennsylvania

COMMITTEES

EDUCATION, CHAIRMAN
AGING AND YOUTH
APPROPRIATIONS
ENVIRONMENTAL RESOURCES AND ENERGY
TRANSPORTATION

PHEAA BOARD OF DIRECTORS
EDUCATION COMMITTEE OF NCSL
COMMISSIONER, EDUCATION COMMISSION OF
THE STATES
SPECIAL COMMITTEE ON
INTERSCHOLASTIC ATHLETICS, CHAIRMAN

August 11, 2000

The Honorable Mary Jo White
Chair, Senate Environmental Resources
and Energy Committee
Room 168, Main Capitol Building
Harrisburg, PA 17120

Dear Senator White :

I am writing in my capacity as Senate Co-Chairman of the Pennsylvania Legislative Coal Caucus to comment on Regulation #7-345. In my view, Section 145.00 of this regulation will put Pennsylvania's coal producers at an economic disadvantage with other coal producing states.

As you know, I was a strong supporter of House Resolution 182. The intent of that resolution was to discourage Pennsylvania from adopting emissions standards that would put the Commonwealth's coal producers at an competitive disadvantage with neighboring states that have, so far, declined to embrace more stringent standards. This would ensure that Pennsylvania's electric generating units, which purchase up to 80% of Pennsylvania's coal, were allowed to compete on a level playing field with other coal producing states. Many of Pennsylvania's coal producing neighbors have, so far, refused to implement this standard. As a result, Pennsylvania's adoption of the standard will place our coal producers at a competitive disadvantage.

The Coal Caucus played an instrumental role in having the House and Senate unanimously approve HR 182. Essentially, HR 182 directed the Department of Environmental Protection to revise a previous version of this rulemaking to ensure that electric generating units operating in Pennsylvania were not subject to "emission control requirements more stringent than, or on a compliance schedule sooner than..." similar generating units in states adjacent to Pennsylvania.

RECEIVED
2000 AUG 11 PM 3:55
REVIEW COMMISSION

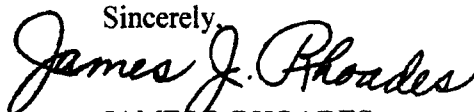
The Honorable Mary Jo White
Page 2

In response to HR 182, DEP inserted Section 145.000 to the regulation which would allow the Department, under certain circumstances, to enforce Pennsylvania's emissions standards against assets owned by producers in states that significantly contribute to non-attainment in Pennsylvania.

If this section is found to be unconstitutional, then the purpose of HR 182 – ensuring a level regulatory playing field among the states – will not be met. This would mean that Pennsylvania electric generators, coal producers, transporters and miners will be asked to shoulder an inequitable compliance burden in direct contravention of HR 182.

I ask that you and the Commission carefully review these regulations, particularly Section 145.000, to determine if they meet the intent of HR 182. If your analysis finds that Section 145.000 would not be enforceable by the Commonwealth, then the Department should be asked to include additional language in the rulemaking that would protect Pennsylvania's competitive interests.

Thank you for your consideration of these comments.

Sincerely,

JAMES J. RHOADES
State Senator

JJR/ag

Cc: John R. McGinley, Jr.
George Ellis