

## IRRC

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**From:** Lake, John [jlake@state.pa.us]  
**Sent:** Tuesday, December 16, 2003 3:09 PM  
**To:** EP, RegComments  
**Cc:** IRRC  
**Subject:** Proposed Amendments to Chapter 93 Water Quality Standards (PaB 10/18/03)

Secretary Kathleen McGinty, Chair  
Environmental Quality Board  
P.O. Box 8477

Original: 2366

Harrisburg, PA 17105-8477

RE: Proposed Amendments to Chapter 93 Water Quality Standards (PaB 10/18/03)

Dear Secretary McGinty:

Please accept these comments on Pennsylvania's Triennial Review of Water Quality Standards, published in the October 18, 2003 Pennsylvania Bulletin. Please make a copy of these comments available to the full Environmental Quality Board.

I agree with your recent words that the present regulations are geared toward point source discharges and that nonpoint sources are a big challenge. Most of my suggestions would help move the standards toward better protection from nonpoint sources. I would find it most regrettable and embarrassing for you to repeat the mistakes of former Secretary Seif which resulted in the Authority of DEP being superceded by the U.S. EPA due to the Department's failure to mandate the minimum protection of public waters of the Commonwealth pursuant to the Federal Clean Water Act.

1. I support the proposed language change to Chapter 93.2. Water Quality Standards apply to "activities" not just "discharges." This is necessary to comply with state and Federal law.
2. I oppose the change to the dissolved oxygen criterion. DEP has not adequately stated how it will protect the hypolimnion of lakes. DEP should also adopt the higher EPA values for dissolved oxygen.
3. DEP needs to protect "existing uses," that is, all the biological species that are in the stream. It is not enough to simply evaluate activities for their potential to change water chemistry or temperature. Use the EPA guidance language to do so.
4. DEP has said in the past that it was going to work on a) biological criteria, b) a "cool-water fishes" designated use, and c) language protecting instream flow and habitat. It has not reported to the public on these issues, even though some are over ten years old. It is past time to implement, at least partially, all three.
5. Pennsylvania needs both a "mixing zone policy" and a "variance" procedure in its standards if it is going to allow them (which it does). It would be better to eliminate mixing zones, but a good first step would be a policy that allows the public to participate and provide input. Currently, for each discharge, DEP does not provide information in public notices on the size or extent of mixing zones, nor on the number of "time extensions" it may be granting to dischargers.

Thank you,

John

John R. Lake  
CM P-196  
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WB NE-IV-128

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2003 DEC 16 PM 3:32  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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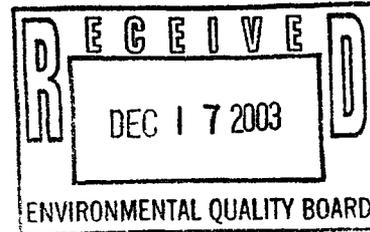
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# Pennsylvania Farm Bureau

510 South 31st Street • P.O. Box 8736 • Camp Hill, PA 17001-8736

Phone: (717) 761-2740 • FAX: (717) 731-3515 • www.pfb.com



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

Original: 2366

December 16, 2003

To Whom It May Concern:

On behalf of the more than 33,000 member families of the Pennsylvania Farm Bureau, I would like to thank the Environmental Quality Board for the opportunity to comment on its proposed revisions to the Water Quality Standards regulations.

Specifically, Farm Bureau wishes to comment on the proposed revision to Section 93.2, relating to "Scope." First, it is not clear that the Clean Streams Law provides for the Department to have such broad enforcement authority. The Law repeatedly refers to "discharges" in its definition of "pollution" (35 P.S. § 691.1), making it apparent that a "discharge" is the type of activity the legislature sought to regulate.

Second, although intended to clarify the Department's position regarding the scope of Chapter 93, the resulting language will only create more uncertainty. Although it may be the desire of the Department to have no limit to its regulatory authority, basic principles of fairness, both practical and legal, require that the regulated community have a more certain understanding of their responsibilities.

As more information becomes available regarding sources of impairment to waters of the Commonwealth, the proposed language would allow the Department to expand its enforcement authority accordingly, without having to proceed with further rulemaking. Such a situation would have the effect of imposing new regulations upon farmers and businesses of which they had no prior notice nor opportunity to comment.

If there is to be meaningful regulation and compliance, it is imperative that the mandates be clearly defined. If the Department wishes to expand its authority to an activity beyond what is commonly understood to be a "discharge," it must do so with specificity and public input. It should also do so only when there is clear authority from legislation.

For these reasons, Pennsylvania Farm Bureau opposes the proposed revision to Section 93.2 of the Water Quality Standards Regulations.

Thank you for your consideration.

Sincerely,

Marel A. Raub, Director  
Natural Resources Programs

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2003 DEC 19 PM 1:46  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

**IRRC**

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**From:** PFSC [pfsc@pa.net]  
**Sent:** Tuesday, December 16, 2003 2:42 PM  
**To:** IRRC  
**Subject:** Comments on triennial water quality review

2003 DEC 16 PM 2:54

REVIEW COMMISSION

Attached are PFSC's comments on DEP's triennial water quality review.  
A hard copy has also been forwarded to Sec. McGinty.  
Thank you for allowing us the opportunity to comment.

Original: 2366

Melody Zullinger  
Executive Director  
PA Federation of Sportsmen's Clubs

Always striving to preserve, promote and protect our Outdoor Heritage of Hunting, Trapping, Angling, Boating, the Shooting Sports and the Resource.

12/16/2003

# Pennsylvania Federation of Sportsmen's Clubs



2426 North Second St. • Harrisburg, PA 17110 • www.pfsc.org  
Phone: 717-232-3480 • Fax: 717-232-3480 • info@pfsc.org

December 15, 2003

Kathleen McGinty, Secretary  
PA Department of Environmental Protection  
Rachael Carson State Office Building  
P.O. Box 2063  
Harrisburg, PA 17105-2063

Original: 2366

Re: Triennial Water Quality Standards Review

Dear Secretary McGinty:

The Pennsylvania Federation of Sportsmen's Clubs appreciates the opportunity to provide comments to the Environmental Quality Board during the triennial water quality standards review. We have discussed these comments with Pennsylvania Trout, who has many PFSC affiliated chapters, and have had the opportunity to review their letter commenting on the triennial review. Basically, we are in agreement with the three major issues they have raised, so we will not elaborate on two of those issues. We would however, like to discuss the issue of Existing Use protection.

We are aware that DEP has devoted considerable effort to developing a procedure to determine when a stream should be classified as High Quality or Exceptional Value. We support that effort. However, we are not aware of how the Department determines what degree of biological impairment equates to elimination of an Existing Use, and therefore, what degree of biological impairment violates the antidegradation policy.

As you know, existing use protection is the floor of protection for all waters of the Commonwealth. The question is: What exactly constitutes an existing use, and how can it be determined that an existing use has been eliminated? We are aware that DEP (and the Environmental Protection Agency) define existing uses as "Those uses actually attained in the waterbody on or after November 28, 1975, whether or not they are included in the water quality standards" (Chapter 93.1). This definition appears to say that the State and federal government actually protects each species of aquatic life in the stream. And, in fact, EPA's guidance in their water quality standards handbook (Chapter 4) says exactly that:

*No activity is allowable under the antidegradation policy which would partially or completely eliminate any existing use whether or not that use is designated in a State's water quality standards...Non-aberrational resident species must be protected, even if not prevalent in numbers or importance. Water quality should be such that it results in no mortality and no significant growth or reproductive impairment of resident species. Any lowering of water quality below this full level of protection is not allowed...An existing aquatic community composed entirely of invertebrates and plants, such as may be found in a pristine alpine tributary, should still be protected whether or not such a*

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DEPARTMENT OF ENVIRONMENTAL PROTECTION

*stream supports a fishery.*

Despite clear direction to protect each species, DEP's antidegradation policy defines Existing Uses as if they are synonymous with Designated Uses. As Pennsylvania Trout pointed out, this seemingly minor point has major ramifications for aquatic life and implementation of the Department's water quality protection program.

For example, it is fairly well established that most serious point source discharges are under control, and that nonpoint source pollution from agriculture, logging, urban sprawl, highways, mining, and other types of development is now the most serious threat to aquatic life. A recent alert issued by the Chesapeake Bay Foundation pointed out that excess nutrients are the reason why the Environmental Protection Agency placed the Chesapeake Bay, and much of the lower Susquehanna on the list of impaired waters. According to CBF, excess nutrients are the largest source of surface water impairment in the United States, and agriculture is the #1 source of nitrogen pollution in the watershed. Other types of development such as logging, highways, mining and urban sprawl contribute enormous amounts of sediment and other pollutants to streams.

Ordinarily, this type of pollution doesn't cause the spectacular fish kills that makes headlines. The effect is far more insidious. Instead, the aquatic life in the stream (in unimpaired streams) eventually switches from one that does not tolerate pollution, to one that thrives under polluted conditions. In essence, nonpoint source runoff can convert a stream from a smallmouth bass dominated fishery (an Existing Use), to one comprised mainly of carp. That is a gross simplification, but the point is that native fish communities, freshwater mussels, and aquatic invertebrates are being eliminated from miles of streams and, if DEP does not develop a method by which biological condition relates to Existing Uses then the water quality standards are of little use in regulating any activity other than point source discharges.

How can activities that generate nonpoint source pollution that impairs a stream be regulated, and prevented from causing nonpoint source pollution, if the DEP defines Existing Uses as Warm Water Fishes, or Cold Water Fishes? After all, it is unlikely that any nonpoint source pollution would eliminate all in-stream aquatic life: it would be easy to argue that the stream is unimpaired because some aquatic life remains.

To determine if Existing Uses have been eliminated, the DEP needs a scientifically defensible procedure that uses the aquatic life in the stream. If DEP has such a procedure, it needs to be included as part of the Antidegradation Guidance so that the public is aware of the standards that DEP uses.

In fact, at times DEP does use biology to determine when a use has been impaired, or has equated a species to an "Existing Use." Pennsylvania Trout pointed out some of those instances in its letter and we will not repeat them here. Contrast, however, DEP's statement in the recently issued Antidegradation Guidance (page 6):

*The uses are protected on a waterbody segment when DEP makes a decision to issue or deny a permit or approval request for an activity that may impact the use. This is accomplished, for WWF, TSF, CWF and HQ waters with SEJ, through the application of numeric water quality criteria found in Chapter 93 of DEP's regulations and the toxic substances criteria found in Chapter 16, Toxics Management Strategy - Statement of Policy. For EV waters and HQ waters where SEJ has not been demonstrated, protection of existing use is accomplished through maintenance of existing quality.*

In other words, DEP is telling the public that it relies solely on water chemistry to determine whether an existing use has been protected. DEP's reliance on the numeric water quality criteria to protect uses work well for wastewater discharges, but cannot respond to the numerous ways in which our waters are threatened. For nonpoint source pollution, the problem is that by the time gross changes in the numeric water quality criteria are detected, aquatic biology can be devastated.

Recently, the National Wildlife Federation, of which we are an affiliate, commissioned a review of the State of Washington's water quality criteria, and the adequacy of traditional water quality criteria to protect the designated uses of Washington's streams<sup>1</sup>. Karr et al. found that "Traditional physical and chemical parameters...are often blind to biological condition..." In other words, all point source discharges may be meeting water quality standards, yet the aquatic life in the stream may be grossly impaired; Existing Uses may have been eliminated. Karr recommends that biological criteria become a core component of water quality criteria.

Based on studies by Karr and other scientists, it appears that the chemical quality of water sometimes does not change much as urbanization increases - until urbanization is significantly advanced. Using physical or chemical criteria would not reveal the extent of degradation to the aquatic system until it is too late. The only method that we are aware that can detect the subtle biological changes that signal impairment is the Index of Biological Integrity (IBI) approach.

The need for biological criteria is crucial because biological degradation frequently outpaces measurable physical and chemical water quality degradation in diverse land use contexts (e.g., urban, agriculture, forestry). We are aware that DEP had been funding a position at the Pennsylvania Fish and Boat Commission to sample fish communities throughout the Commonwealth with the goal of developing IBI's for fish communities in the various regions of Pennsylvania. To our knowledge, this work is not finished, and is not being expeditiously pursued.

In 1990, the EPA began recommending the states adopt biological indicators like IBI in their water quality criteria<sup>2</sup>. EPA's guidance (issued in 1990) states "...to meet the objectives of the Act and to comply with statutory requirements under Sections 303 and 304, States are to adopt biological criteria in State standards" and that "It is also EPA's policy that States should designate aquatic life uses that address biological integrity and adopt biological criteria necessary to protect those uses." (Footnote 2).

We are aware that DEP conducts stream assessments to meet their Section 305(b) responsibilities under the federal Clean Water Act, and to determine which streams are impaired. We note that in 1998, agriculture and abandoned mined lands were responsible for impairing over 3,000 miles of streams; in 2002 these activities were responsible for impairing over 6,000 miles of streams.

DEP's web site describes the method used to assess these waters, and it does not appear that water chemistry plays much of a role. Therefore, for the vast majority of the streams, DEP did not determine that these streams were impaired because numeric water quality criteria were violated; rather, DEP determined that these streams were impaired based on lower than expected biological conditions. Our question is: Does listing a stream as impaired mean that Existing

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<sup>1</sup> Karr, James R., R. Horner, and C. Horner, Esq. 2003. EPA's Review of Washington's Water Quality Criteria: An Evaluation of Whether Washington's Proposal Protects Stream Health and Designated Uses. Report of the National Wildlife Federation. 25pp.

<sup>2</sup> United States Environmental Protection Agency. 1990. Reducing Risk: Setting Priorities and Strategies for Environmental Protection. *SAB -EC -90 -021*. United States Environmental Protection Agency, Washington, DC

Uses have been eliminated? If so, we are not aware of an instance where the DEP has taken a regulatory action to rectify, or penalize, an activity that has caused the impairment.

To provide the basic floor of protection to aquatic life in the Commonwealth, we recommend the DEP complete the development of an IBI for fish and/or the benthic community that will allow a scientifically defensible method of determining when Existing Uses have been eliminated.

To further assist in our understanding of this issue, we would appreciate a written response to the following questions:

- Does an activity that significantly reduces the number or biomass of fish violate DEP's antidegradation policy? What percentage constitutes "significantly?"
- Does an activity that replaces a pollution intolerant community with one that tolerates pollution violate DEP's antidegradation policy? In other words, is it permissible to eliminate certain fish, mussels, or species of mayflies, and have them replaced by aquatic life that would still be warm-water or cold-water species, but would be tolerant of pollution?
- Does an activity that eliminates mussels, or certain pollution intolerant species of aquatic insects, violate DEP's antidegradation policy?
- Does an activity that eliminates aquatic life from certain reaches of a stream violate DEP's antidegradation policy? How long must the affected reach be? What percentage of a stream is it permissible to degrade?

We understand that these questions have been asked in the past and that the answer is still unknown. We hope to receive a response to these questions at your earliest convenience.

It is our position that until the DEP completes the development of scientifically defensible biocriteria, EPA's approval of the DEP's triennial review should be withheld or conditioned on a supplemental proposal to add biological criteria.

We thank you for the opportunity to submit the above comments on behalf of those who are perhaps affected most by these critical issues – Pennsylvania's million plus sportsmen.

Sincerely,

Ed Zygmunt, Clean Streams Committee Chairman

Melody Zullinger, Executive Director

**IRRC**

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**From:** Bill Keane [bill.keane@mindspring.com]  
**Sent:** Wednesday, December 10, 2003 2:10 PM  
**To:** RegComments@state.pa.us  
**Cc:** IRRC  
**Subject:** Clean Water

2003 DEC 10 PM 3:05

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
WATER QUALITY  
REVIEW COMMISSION

Original: 2366

BILL & SUE KEANE  
1903 Hampstead Drive Pittsburgh, PA 15235 (412) 241-1366  
E-mail: bill.keane@mindspring.com

December 10, 2003

Secretary Kathleen McGinty, Chair  
Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477

**SUBJECT:** Review of Water Quality Standards

Dear Secretary McGinty:

Please accept these comments on Pennsylvania's Triennial Review of Water Quality Standards, published in the October 18, 2003 Pennsylvania Bulletin. Please make a copy of these comments available to the full Environmental Quality Board.

I agree with your recent words that the present regulations are geared toward point source discharges and that nonpoint sources are a big challenge. Most of my suggestions would help move the standards toward better protection from nonpoint sources.

1. I support the proposed language change to Chapter 93.2. Water Quality Standards apply to "activities" not just "discharges." This is necessary to comply with state and Federal law.
2. I oppose the change to the dissolved oxygen criterion. DEP has not adequately stated how it will protect the hypolimnion of lakes. DEP should also adopt the higher EPA values for dissolved oxygen.
3. DEP needs to protect "existing uses," that is, all the biological species that are in the stream. It is not enough to simply evaluate activities for their potential to change water chemistry or temperature. Use the EPA guidance language to do so.
4. DEP has said in the past that it was going to work on
  - a) biological criteria,
  - b) a "cool-water fishes" designated use, and
  - c) language protecting instream flow and habitat.
 It has not reported to the public on these issues, even though some are over ten years old. It is past time to implement, at least partially, all three.

12/10/2003

5. Pennsylvania needs both a "mixing zone policy" and a "variance" procedure in its standards if it is going to allow them (which it does). It would be better to eliminate mixing zones, but a good first step would be a policy that allows the public to participate and provide input. Currently, for each discharge, DEP does not provide information in public notices on the size or extent of mixing zones, nor on the number of "time extensions" it may be granting to dischargers.

Yours truly,

William Keane

Susan Keane



Pennsylvania Oil & Gas Association  
106 Locust Grove Road  
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Bainbridge, PA 17502  
Tel: 717-426-0067  
Fax: 717-426-3010

December 15, 2003

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

**RE: Triennial Review of Water Quality Standards (7-386)**

I write on behalf of the Pennsylvania Oil and Gas Association, a trade organization representing the individuals and companies that explore for and produce the Commonwealth's crude oil and natural gas resources, to express a concern with one element of the proposed amendments to the Department of Environmental Protection's Water Quality Standards regulations in 25 *Pennsylvania Code* Chapter 93.

The proposed amendments were approved by the Environmental Quality Board on July 15, 2003 and published in the *Pennsylvania Bulletin* for public comment on October 18, 2003.

The proposed rulemaking contains an amendment to §93.2 (scope) of the water quality regulation that expands the applicability of the antidegradation standards beyond the regulation of surface water discharges from point and non-point sources to regulate virtually any activity that requires a DEP permit, approval or action. While the amendment may accurately reflect the Department's longstanding position that the scope of Chapter 93 should not be limited to the regulation of "discharges," we believe that the amendment unlawfully exceeds the authority granted to the EQB and the Department by the *Clean Streams Law*. For this reason, we respectfully ask the EQB to delete the amendment to §93.2 when promulgating the regulation finally.

**Scope of the Clean Streams Law**

Our concern with the proposed amendments to §93.2 arises from the plain language of the *Clean Streams Law* (CSL), which focuses and limits the authority of the Board and the Department on the regulation of water pollution from discharges.

Section 4 (declaration of policy) of the CSL clearly states that the statute is concerned with maintaining and protecting the unpolluted character of the waters of the Commonwealth. The section states, in part:

"It is the objective of the *Clean Streams Law* not only to prevent further pollution of the waters of the Commonwealth, but also to reclaim and restore to a clean, unpolluted condition every stream in Pennsylvania that is presently polluted;"  
and

"The prevention and elimination of water pollution is recognized as being directly related to the economic future of the Commonwealth."

The CSL defines "pollution" in Section 1 (definitions) as follows:

"Pollution" shall be construed to mean contamination of any waters of the Commonwealth such as will create or is likely to create a nuisance or to render

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such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, municipal, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life, including but not limited to such contamination by alteration of the physical, chemical or biological properties of such waters, or change in temperature, taste, color or odor thereof, or the discharge of any liquid, gaseous, radioactive, solid or other substances into such waters. The department shall determine when a discharge constitutes pollution, as herein defined, and shall establish standards whereby and wherefrom it can be ascertained and determined whether any such discharge does or does not constitute pollution as herein defined.

(Emphasis added)

While the definition of the term “pollution” appears broadly written, it contains specific direction to the Department that categorically limits the exercise of its authority to control pollution under the CSL to the identification and regulation of “discharges.”

#### **Scope of the Water Quality Standards**

The proposed amendment to §93.2 unlawfully expands the authority granted to the Department and the Board by the CSL beyond the regulation of discharges to the regulation of any other activity that would require a Department permit, approval or action. Through this amendment, the Board would grant the Department the authority to regulate not only point and non-point discharges to surface waters but withdrawals of water from surface and groundwater sources, land uses and other activities that may only indirectly or remotely affect water quality.

Although we appreciate the consuming desire of some in the Department to extend the agency’s regulatory authority as broadly as possible, we believe that those passions should be tempered to reflect the intent of the General Assembly when it enacted and amended the CSL. If the Department wants to extend the scope of authority currently granted by the CSL to regulate activities other than discharges that cause water pollution, it should discuss the matter in the proper forum – with the General Assembly.

The proposed amendment to §93.2 exceeds the scope of regulatory authority made available to the Department by the CSL, and the EQB should remove it from the final regulation.

**for the Pennsylvania Oil and Gas Association**



Stephen W. Rhoads  
President

# PENNSYLVANIA FEDERATION OF SPORTSMEN'S CLUBS, INC.

2426 North Second Street • Harrisburg, PA 17110

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Original: 2366

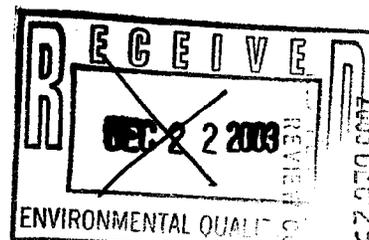
December 15, 2003

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ENV. PROTECTION  
SECRETARY'S OFFICE

Kathleen McGinty, Secretary  
PA Department of Environmental Protection  
Rachael Carson State Office Building  
P.O. Box 2063  
Harrisburg, PA 17105-2063



Re: Triennial Water Quality Standards Review

Dear Secretary McGinty:

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For example, it is fairly well established that most serious point source discharges are under control, and that nonpoint source pollution from agriculture, logging, urban sprawl, highways, mining, and other types of development is now the most serious threat to aquatic life. A recent alert issued by the Chesapeake Bay Foundation pointed out that excess nutrients are the reason why the Environmental Protection Agency placed the Chesapeake Bay, and much of the lower Susquehanna on the list of impaired waters. According to CBF, excess nutrients are the largest source of surface water impairment in the United States, and agriculture is the #1 source of nitrogen pollution in the watershed. Other types of development such as logging, highways, mining and urban sprawl contribute enormous amounts of sediment and other pollutants to streams.

Ordinarily, this type of pollution doesn't cause the spectacular fish kills that makes headlines. The effect is far more insidious. Instead, the aquatic life in the stream (in unimpaired streams) eventually switches from one that does not tolerate pollution, to one that thrives under polluted conditions. In essence, nonpoint source runoff can convert a stream from a smallmouth bass dominated fishery (an Existing Use), to one comprised mainly of carp. That is a gross simplification, but the point is that native fish communities, freshwater mussels, and aquatic invertebrates are being eliminated from miles of streams and, if DEP does not develop a method by which biological condition relates to Existing Uses then the water quality standards are of little use in regulating any activity other than point source discharges.

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whether an existing use has been protected. DEP's reliance on the numeric water quality criteria to protect uses work well for wastewater discharges, but cannot respond to the numerous ways in which our waters are threatened. For nonpoint source pollution, the problem is that by the time gross changes in the numeric water quality criteria are detected, aquatic biology can be devastated.

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In 1990, the EPA began recommending the states adopt biological indicators like IBI in their water quality criteria<sup>2</sup>. EPA's guidance (issued in 1990) states "...to meet the objectives of the Act and to comply with statutory requirements under Sections 303 and 304, States are to adopt biological criteria in State standards" and that "It is also EPA's policy that States should designate aquatic life uses that address biological integrity and adopt biological criteria necessary to protect those uses." (Footnote 2).

We are aware that DEP conducts stream assessments to meet their Section 305(b) responsibilities under the federal Clean Water Act, and to determine which streams are impaired. We note that in 1998, agriculture and abandoned mined lands were responsible for impairing over 3,000 miles of streams; in 2002 these activities were responsible for impairing over 6,000 miles of streams.

DEP's web site describes the method used to assess these waters, and it does not appear that water chemistry plays much of a role. Therefore, for the vast majority of the streams, DEP did not determine that these streams were impaired because numeric water quality criteria were violated; rather, DEP determined that these streams were impaired based on lower than expected biological conditions. Our question is: Does listing a stream as impaired mean that Existing Uses have been eliminated? If so, we are not aware of an instance where the DEP has taken a regulatory action to rectify, or penalize, an activity that has caused the impairment.

---

<sup>1</sup> Karr, James R., R. Horner, and C. Horner, Esq. 2003. EPA's Review of Washington's Water Quality Criteria: An Evaluation of Whether Washington's Proposal Protects Stream Health and Designated Uses. Report of the National Wildlife Federation. 25pp.

<sup>2</sup> United States Environmental Protection Agency. 1990. Reducing Risk: Setting Priorities and Strategies for Environmental Protection. SAB - EC - 90 - 021. United States Environmental Protection Agency, Washington, DC

To provide the basic floor of protection to aquatic life in the Commonwealth, we recommend the DEP complete the development of an IBI for fish and/or the benthic community that will allow a scientifically defensible method of determining when Existing Uses have been eliminated.

To further assist in our understanding of this issue, we would appreciate a written response to the following questions:

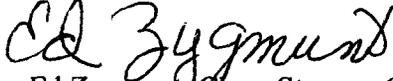
- Does an activity that significantly reduces the number or biomass of fish violate DEP's antidegradation policy? What percentage constitutes "significantly?"
- Does an activity that replaces a pollution intolerant community with one that tolerates pollution violate DEP's antidegradation policy? In other words, is it permissible to eliminate certain fish, mussels, or species of mayflies, and have them replaced by aquatic life that would still be warm-water or cold-water species, but would be tolerant of pollution?
- Does an activity that eliminates mussels, or certain pollution intolerant species of aquatic insects, violate DEP's antidegradation policy?
- Does an activity that eliminates aquatic life from certain reaches of a stream violate DEP's antidegradation policy? How long must the affected reach be? What percentage of a stream is it permissible to degrade?

We understand that these questions have been asked in the past and that the answer is still unknown. We hope to receive a response to these questions at your earliest convenience.

It is our position that until the DEP completes the development of scientifically defensible biocriteria, EPA's approval of the DEP's triennial review should be withheld or conditioned on a supplemental proposal to add biological criteria.

We thank you for the opportunity to submit the above comments on behalf of those who are perhaps affected most by these critical issues – Pennsylvania's million plus sportsmen.

Sincerely,



Ed Zygmunt, Clean Streams Committee Chairman



Melody Zullinger, Executive Director

RECEIVED  
2008 DEC 29 PM 12:33  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
REVIEW COMMISSION



# Pennsylvania Coal Association

212 North Third Street • Suite 102 • Harrisburg, PA 17101

(717) 233-7900  
(800) COAL NOW (PA Only)  
(717) 231-7610 Fax

GEORGE ELLIS  
President

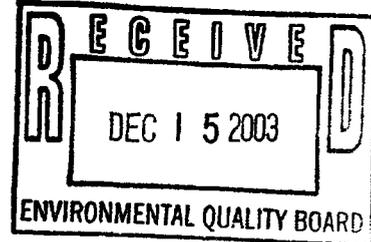
2003 DEC 19 PM 1:42

December 15, 2003

Original: 2366

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
WATER QUALITY CONTROL DIVISION  
REVIEW COMMISSION

Environmental Quality Board  
Rachel Carson State Office Building, 15<sup>th</sup> Floor  
400 Market Street  
Harrisburg, PA 17101-2301



RE: Comments of the Pennsylvania Coal Association  
Proposed Rulemaking  
Triennial Review of Water Quality Standards (7-386)

Dear Members of the Environmental Quality Board:

The Pennsylvania Coal Association (PCA) submits the following comments to the proposed amendments to Chapter 93. PCA is a trade association organized and operating under the laws of Pennsylvania representing producers of bituminous coal in Pennsylvania. PCA members produced about 70% of the 77 million tons of bituminous coal mined in Pennsylvania in 2001, and PCA members produce 90% of coal produced by underground mining methods. PCA underground producers use various modern mining methods including room and pillar, continuous haulage and longwall extraction.

PCA's comments are limited to the proposal to amend Section 93.2. As explained below, amending Section 93.2 as proposed will have no effect on the scope of Chapter 93 because the scope of Chapter 93 is limited by the scope of the Clean Streams Law ("CSL") and the CSL is limited to the regulation of discharges to the waters of the Commonwealth.

## BACKGROUND

Chapter 93 and all of its sections were adopted under authority of Sections 5(b)(1) and 402 of the CSL ("which authorize the Board to develop and adopt rules and regulations to implement provisions of the Clean Streams Law") and Section 1920-A of the Administrative Code ("which grants to the Board the power and duty to formulate, adopt and promulgate rules and regulations for the proper performance of the work of the Department"). 33 Pa. B. 5190, October 18, 2003. Section 5 of the CSL, 35 P.S. §691.5, gives the Department general rulemaking authority to adopt regulations to implement the CSL. Section 402 of the CSL, 35 P.S. §691.402, authorizes the Department to adopt regulations requiring permits for or regulating activities that create a danger of pollution of the waters of the Commonwealth and that are not otherwise required to get a permit under the CSL. Because Section 402 only authorizes promulgation of regulations requiring permits or regulating potentially polluting activities and Chapter 93 does not contain permit requirements or regulate specific activities of the type addressed by Section 402, it does not appear that Chapter 93 is authorized by Section 402.

The Department's regulations may not go beyond the scope of the statute(s) which they are adopted to implement. *Housing Authority of the County of Chester v. Pennsylvania State Civil Service Commission*, 556 Pa. 621 (1999). Section 1920-A of the Administrative Code merely authorizes the Board to adopt regulations for the proper performance of the work of the Department. Thus, it does not extend the authority of the Department beyond the scope of the statutes which the Department is authorized to administer. Accordingly, the scope of Chapter 93 is limited to the scope of the CSL, the only substantive statute under which Chapter 93 was adopted. Furthermore, because Chapter 93 does not address the types of activities addressed in Section 402 of the CSL, Section 402 does not appear to authorize Chapter 93. Accordingly, the sole substantive authority for Chapter 93 is Section 5(b)(1) of the CSL.

In the summary of the proposed amendment to Section 93.2, the Board states that "[i]t has been the Department's longstanding position that §93.2 is broad and that Chapter 93 is not limited to 'discharges' or to 'point sources' as defined in §92.1." 33 Pa. B. 5190, October 18, 2003. The Board does not provide a source of authority for this statement. Similarly, the Board does not provide a source of authority for the statement that:

The proposed amendment will reaffirm the Department's longstanding position that the water quality standards in Chapter 93 are standards that are used whenever the environmental statutes authorize the Department to make decisions or approvals relating to stream quality protection.

33 Pa. B. 5191, October 18, 2003. In the absence of specific examples to support these contentions, there is no way for the public to know if these are merely post-EHB decision rationalizations by the Department or not. Even if the Department has such "longstanding positions," they cannot justify the proposed amendment to Section 93.2 because the "longstanding positions" go beyond the scope of the CSL.

## **DISCUSSION**

If the provisions of the CSL are carefully reviewed, it is clear that the scope of the CSL is limited to the regulation of discharges to the waters of the Commonwealth. Therefore, the scope of Chapter 93 must be limited to regulation of discharges to the waters of the Commonwealth. Following are examples of provisions of the CSL which unquestionably demonstrate that its scope is limited to regulation of discharges to the waters of Commonwealth:

- Section 3 of the CSL, 35 P.S. §691.3, declares that the "discharge" of sewage or industrial waste or any substance to the waters of the Commonwealth is not a natural use and is a nuisance.
- Section 201, 35 P. S. §691.201, prohibits the "discharge" of sewage into any waters of the Commonwealth, except as provided in the CSL.

- Section 202, 35 P. S. §691.202, prohibits the “discharge” of sewage into any waters of the Commonwealth unless the “discharge” is authorized by regulations or authorized by a permit.
- Section 209, 35 P. S. §691.209, prohibits the “discharge” of sewage after a permit expires or is revoked.
- Section 301, 35 P. S. §691.301, prohibits the “discharge” of industrial wastes into any waters of the Commonwealth, except as provided in the CSL.
- Section 302, 35 P. S. §691.302, required registration of industrial waste discharges.
- Section 305, 35 P. S. §691.305, deals with research into the treatment of industrial wastes so that when treated the “discharge” of the industrial wastes will not be injurious to public health or to animal or aquatic life, or prevent the use of the water for domestic, industrial or recreational purposes.
- Section 307, 35 P. S. §691.307, prohibits the “discharge” of industrial wastes into any waters of the Commonwealth unless the “discharge” is authorized by regulations or authorized by a permit.
- Section 315(a), 35 P. S. §691.315(a), prohibits a “discharge” from a mine into any waters of the Commonwealth unless the “discharge” is authorized by regulations or authorized by a permit.
- Section 401, 35 P. S. §691.401, is a general prohibition against the “discharge” of any substance into the waters of the Commonwealth that will result in pollution. Even the definition of pollution is discharge dependent. “Pollution” is defined as the contamination of any waters of the Commonwealth by alteration of the physical, chemical or biological properties of such waters, or change in the temperature, taste, color or odor thereof, or the “discharge” of any substances into such waters. 35 P.S. §691.1. This definition also provides “[T]he department shall determine when a **discharge** constitutes pollution, as herein defined, and shall establish standards whereby and wherefrom it can be ascertained and determined whether any such **discharge** does or does not constitute pollution, as herein defined.” Id. The last sentence of the definition of “pollution” makes it obvious that the type of pollution that is regulated under the CSL is pollution that results from discharges. The use of the word “contamination” in the definition also supports this position. “Contamination” means a process of contaminating. To “contaminate implies intrusion of or contact with dirt or foulness from an outside source (water contaminated by industrial waste).” Webster’s New Collegiate Dictionary. Thus, the only pollution that is within the scope of the CSL is pollution that results from discharges to waters of the Commonwealth.

- Section 402, 35 P. S. §691.402, covers activities that create the danger of pollution of waters of the Commonwealth, such as impounding, handling, storage, transportation, processing or disposing of materials or substances. Such activities all have the potential to result in discharges to the waters of the Commonwealth.

## CONCLUSION

It is clear from reviewing the CSL that it is limited in the scope of its coverage to regulation of discharges to waters of the Commonwealth. Because Chapter 93 was adopted under the CSL and the general rulemaking authority of Section 1920-A of the Administrative Code, Chapter 93 is limited to discharges regardless of any “longstanding positions” of the Department. Accordingly, there is no reason to amend Section 93.2 to “avoid future misunderstandings” about the scope of Chapter 93.

PCA appreciates the opportunity to submit these comments.

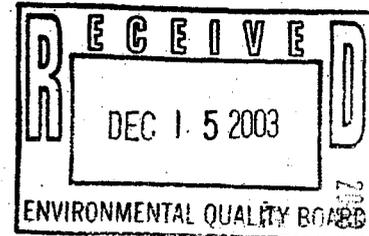
Sincerely,



George Ellis, President

Original: 236

**Marion M. Kyde, Ph.D.**  
**The Tulgey Wood**  
**15 Tankhannen Road**  
**Ottsville, PA 18942**



Secretary Kathleen McGinty, Chair  
Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477

December 10, 2003

Dear Secretary McGinty,

We wish to comment on the Triennial Review of PA Water Quality Standards and some of the proposed changes.

In the past, Pennsylvania's standards and regulations have been aimed mainly at point source discharges. Current research data indicate that non-point sources have an even greater impact on water quality. DEP has been somewhat resistant to the suggestions of conservation and resource protection agencies to improve the Clean Streams Act to reflect this fact. We strongly support the language changes to apply regulations to activities, not just discharges, and any additional proposed language that would address the numerous non-point threats to water quality.

In seeking to eliminate dissolved oxygen criteria for the hypolimnion, DEP is proposing to eliminate D.O. protection for waterbodies that it loosely classifies as "stratified". This would further water down dissolved oxygen protection level criteria that are already considered inadequate by the EPA. We oppose this change; moreover, DEP should adopt the higher EPA numbers.

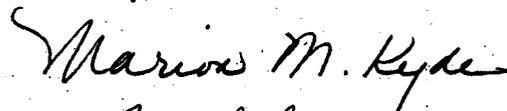
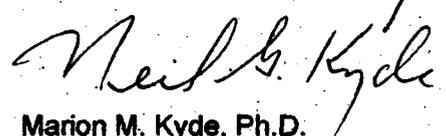
We are especially concerned about protection of biological integrity or "existing uses". EPA standards say all resident species must be protected. DEP regulations, dependent on water chemistry alone, do not do this. On the Tohickon Creek, DEP has already once attempted to downgrade the rating to "Warm Water Fishes", which would allow degradation to a point that would no longer support resident fish requiring temperatures above warm water levels. Fortunately, we were able to call this to their attention, and prevent the downgrade. This issue is still unresolved, nor is the Tohickon the only stream for which DEP has attempted a downgrade that would fail to protect uses. We need a "Cool Water Fishes" designation in addition to "cold" and "warm" to protect these designated uses. None of the current designations will do so.

DEP should also include language in the standards that will adequately protect instream flow and habitat. Subsidence and sedimentation may not change numeric water chemistry data, but they certainly will modify and/or eliminate aquatic ecosystems. Existing uses need to be protected from all activities that may impact them and their habitats.

Other areas in which the standards need improvement are the policies on mixing zones and variances. We do not believe that DEP regulations yet reflect all of the intent and purpose of the Federal Clean Water Act.

Thank you for the opportunity to comment.

Sincerely,

Marion M. Kyde, Ph.D.

Neil G. Kyde

Petitioners for the Tohickon

CC: Delaware Riverkeeper  
Raymond Proffitt Foundation

Original: 2366

**IRRC**

---

**From:** Ann Jacobs [annjacobs@webtv.net]  
**Sent:** Tuesday, December 09, 2003 10:39 AM  
**To:** IRRC  
**Subject:** Triennial Review of Water Quality Standards

I support the position of the Raymond Proffitt Foundation and urge that their recommendations be followed.

Ann Jacobs  
426 Marne Ave  
Monongahela PA 15063 724-292-1021

IRRC

RECEIVED

**From:** Gregory [meg5@psu.edu]  
**Sent:** Tuesday, December 09, 2003 3:59 PM  
**To:** RegComments@state.pa.us  
**Cc:** IRRC  
**Subject:** Comments on Triennial Review

2003 DEC 10 AM 7:10

DEP  
REVIEW COMMISSION

Original: 2366

Secretary Kathleen McGinty

9 Dec. 2003

Chairwoman  
 PA Environmental Quality Board  
 P.O. Box 8477  
 Harrisburg, PA 17105-8477

Dear Secretary McGinty:

We submit the following comments on Pennsylvania's Triennial Review of Water Quality Standards, published in the Oct. 18, 2003 "Pennsylvania Bulletin." Please make a copy of these comments available to the full Environmental Quality Board.

We agree with your recent words that the present regulations are geared toward point-source discharges and that non-point sources are a big challenge. Most of our suggestions would help move the standards toward better protection from non-point sources.

In particular, we:

1. Support the proposed language change to Chapter 93.2. Water Quality Standards apply to "activities" not just "discharges." This is necessary to comply with State and Federal law.
2. Oppose the change to the dissolved oxygen criterion. The DEP has not adequately stated how it will protect the hypolimnion of lakes. And the DEP should also adopt the higher EPA values for dissolved oxygen.
3. Urge that DEP protect "existing uses," that is, all the biological species that are in a given stream. It is not enough to simply evaluate activities for their potential to change water chemistry or temperature. The DEP should use the EPA guidance language to do so.
4. Urge that the DEP implement (a) biological criteria, (b) a "cool-water fishes" designated use, and (c) language protecting in-stream flow and habitat. The agency has not reported to the public on these issues, even though some are more than 10 years old. It is past time to implement, at least partially, all three.
5. Urge Pennsylvania to come up with both a "mixing zone policy" and a "variance" procedure in its standards if it is going to allow them (which the DEP does). It would be better to eliminate mixing zones, but a good first step would be a policy that allows the public to participate and provide input. Currently, for each discharge, DEP does not provide information in public notices on the size or extent of mixing zones, nor on the number of "time extensions" it may be granting to dischargers.

12/9/2003

Thank you.

Alan and Monica Gregory

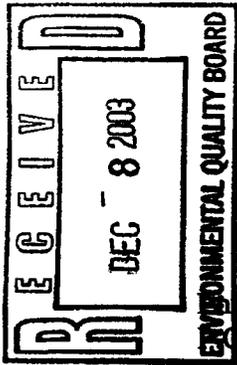
PO Box 571

Conyngham PA 18219-0571

[meg5@psu.edu](mailto:meg5@psu.edu)

---

Monica Gregory  
Director of Academic Affairs  
Assoc. Professor of Psychology  
Penn State Hazleton  
76 University Dr.  
Hazleton PA 18202  
[meg5@psu.edu](mailto:meg5@psu.edu)  
570-450-3188



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

RECEIVED  
2003 DEC 12 PM 3:18  
REVIEW COMMITTEE

Jonathan L. Clark, Esq  
104 White Course Apts, Bldg F  
University Park, PA 16802-6821  
(814) 862-0797, jlc256@psu.edu  
December 6, 2003

Original: 2366

Dear EQB:

I write to support the proposed change to 25 Pa. Code § 93.2(a). This change will clarify the fact that anti-degradation protection applies to all regulated activities, not just to discharges. As EPA has stated,

The federal antidegradation requirements do not create, nor were they intended to create, State or Tribal regulatory authority over otherwise unregulated activities. It is the position of EPA that, at a minimum, States and authorized Tribes must apply antidegradation requirements to *activities that are "regulated"* under State, Tribal, or federal law (i.e., any activity that requires a permit or a water quality certification pursuant to State, Tribal or federal law, such as CWA Sec. 402 NPDES permits or CWA Sec. 404 dredge and fill permits, any activity requiring a CWA Sec. 401 certification, any activity subject to State or Tribal nonpoint source control requirements or regulations, and any activity which is otherwise subject to State or Tribal regulations that specify that water quality standards are applicable).

63 Fed. Reg. 36780 (July 7, 1998) (emphasis added).

But, I also write to note that merely changing § 93.2(a) would be insufficient to protect the water quality of the Commonwealth's High Quality (HQ) and Exceptional Value (EV) waters. Under the current regulations, regulated activities other than discharges are permitted to degrade the water quality of HQ and EV waters, so long as those regulated activities do not eliminate the existing uses of such waters.<sup>1</sup> The DEP should prevent any regulated activity, not just a discharge, from degrading the water quality of an EV water.<sup>2</sup> And the DEP should prevent any regulated activity, not just a discharge, from degrading the water quality of a HQ water unless SEJ has been demonstrated.<sup>3</sup> Therefore, I respectfully request that you also change 25 Pa. Code § 93.4c (b) to ensure that the water quality of the Commonwealth's HQ and EV waters will be as protected from the effects of all regulated activities as it is currently protected from the effects of discharges.

<sup>1</sup>See DEP, *Water Quality Antidegradation Implementation Guidance*, p. 41 (November 29, 2003).

<sup>2</sup>See Letter from Evelyn S. MacKnight, U.S. EPA Region Three to Edward R. Brezina, PA DEP (February 19, 1999).

<sup>3</sup>*Id.*

**Thank you for considering my comments.**

**Sincerely,**

**Jonathan L. Clark, Esq.**

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2003 DEC 29 PM 3:35

RECEIVED  
REVIEW COMMISSION

Barbara Thomas  
119 Myrtle Avenue  
Cheltenham, PA 19012

Original: 2366

December 5, 2003

To whom it may concern,

I am writing to request that our water quality standards be strengthened. Polluters are currently working to weaken these standards. It is important that mining, farming and logging are kept to the same standards that currently exist.

I feel strongly that our natural resources should be preserved for our future generations. Strong water quality standards will make this possible.

Sincerely,  
Barbara Thomas





# CLEAN WATER ACTION

2003 DEC 17 PM 2: 05

TESTIMONY BEFORE THE ENVIRONMENTAL QUALITY BOARD  
DECEMBER 4, 2003, MOOSIC, PA

Good evening. Thank you for this opportunity to offer testimony.

Original: 2366

My name is Rick Loomis. I am Program Organizer for the Lehigh Valley / Northeast Pennsylvania office of Clean Water Action. Clean Water Action is a statewide citizens' environmental organization with 70,000 members in Pennsylvania. We work for clean water, clean air, safe, affordable drinking water and healthy communities.

**Clean Water Action supports the proposed change to Chapter 93.2.** The Constitution of the Commonwealth of Pennsylvania grants future generations the rights to clean air and water, and charges the state government with the responsibility to hand down the natural resources of the Commonwealth to future generations for their benefit. To do this, state agencies must have the tools to safeguard these resources. These tools have historically included the right to apply our water quality standards to both point source and non-point sources of pollution needing permits or approvals from the Department. The Department of Environmental Protection must continue to have these tools to achieve its goals.

The regulations found in Chapter 93.2 (a), as interpreted prior to December 2002, assured that the Department of Environmental Protection had appropriate means to progress toward improved water quality in the Commonwealth. The decision by the Environmental Quality Board in December 2002, to restrictively interpret this article, erroneously limited the power of the Department to carry out its mission. The Environmental Quality Board has since withdrawn their opinion for procedural reasons.

The amendment to Chapter 93.2, proposed by the Department, will clarify this issue and assure that the Department can continue to apply the Water Quality Standards to all *activities* requiring a permit or DEP approval which affect Pennsylvania's waters, not just to *discharges*. To allow anything less is to invite disaster by "closing the barn door after the horse is gone" and would place the Commonwealth in violation of the Pennsylvania Clean Streams Law and the federal Clean Water Act.

**Clean Water Action is opposed to the amendment of Table #3 of Section 93.7(a)** that would reduce protection for bottom waters in stratified lakes. The proposed amendment does not take into account conditions that cause variability of stratification of lakes and does not establish sound criteria for determining whether a lake is stratified. Further, it does not show how the Chapter 93 antidegradation requirements will apply to these lakes. The Use Attainability Analyses, currently part of the Department's regulations, are sufficient to address water uses that do not attain a water quality criterion. Unlike the proposal, these Use Attainability Analyses must go through a publicly accountable process. The proposed amendment is not necessary and

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1201 Chestnut Street, Suite 602, Philadelphia, PA 19107 ❖ (215) 640-8800 ❖ FAX (215) 640-0930

100 Fifth Avenue, Suite 1108, Pittsburgh, PA 15222 ❖ (412) 765-3053 ❖ FAX (412) 765-1737

4455 Connecticut Avenue NW, Suite A300, Washington, DC 20008-2328 ❖ (202) 895-0420 ❖ FAX (202) 895-0438



would eliminate Dissolved Oxygen protections for various waters and aquatic species in some of the Commonwealth's finest waters.

In addition to these comments, we would also like to suggest several items that should be changed in Chapter 93 that are not being addressed in this Triennial Review. They deal with Water Quality Standards for bacteria and other pathogens, and for nutrients, particularly total nitrogen and total phosphorus.

In its review of Pennsylvania's last Triennial Review, EPA expressed concern that the state does not use EPA's recommended indicators of E. coli and enterococci for bacterial contamination. We concur with EPA's recommendation, and urge the state to adopt EPA's recommended levels for these two indicators of bacterial contamination. We also urge DEP to move forward on adopting water quality standards for other pathogens such as giardia and cryptosporidium that are present in waterways across the state.

In addition, EPA has recently issued recommendations encouraging states to adopt water quality standards for nutrients, particularly total nitrogen and total phosphorus. These nutrients cause serious negative impacts on downstream waters, encouraging excessive growth of algae that ultimately reduce dissolved oxygen in the water to unhealthy levels. The Susquehanna River is the largest source of nitrogen to the Chesapeake Bay, which suffered its worst "dead zone" in recent memory this past summer. Other waterways in the state are also stressed and impaired by excessive nutrients. Pennsylvania needs nutrient standards for both total phosphorus and total nitrogen that can then be reflected in discharge permits for facilities.

We understand that Pennsylvania is moving forward on a standard for total phosphorus, and urge the Department to publish a schedule for completion and adoption of this standard. We also encourage the Department to adopt a standard for total nitrogen as well, and to ensure that such a standard is completed and adopted prior to the next Triennial Review process.

Clean Water Action will be submitting additional written comments prior to the close of the official comment period. Thank you for the opportunity to testify this evening, providing our initial comments on Chapter 93.

**Trostle, Sharon F. - DEP**

---

From: webserver@Cleanwateraction.org  
Sent: Tuesday, December 02, 2003 2:58 PM  
To: RegComments@state.pa.us  
Subject: Chapter 93 Changes Original: 2366

\*\*\*\*\*

Name: Steven Swarter  
Email: steven.swarter@westonsolutions.com  
Street: 1580 S. Coventry Lane  
City: West Chester  
Zip: 19382  
eActivist:  
B1: Submit

Comments:

Members of the Environmental Quality Board:

We have to keep our water clean! Do not allow businesses to reduce water quality. Prove to us that government is for the interests of the citizens of Pennsylvania and NOT business.

Where will your children and grandchildren swim, fish, hike and camp? Will there be anything worth going outdoors for? The American ideal of making a better life for your children will be lost.

KEEP AMERICA BEAUTIFUL, HEALTHY AND CLEAN.

Thank you.

Steven Swarter  
1580 S. Coventry Lane  
West Chester, PA, 19382

RECEIVED  
2003 DEC -5 PM 2:29  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
REVIEW COMMISSION

Original: 2366

**D. Patrick Ford, MD, MPH, CIH  
750 S. Randolph Street  
Philadelphia, PA 19147-3028**

10 December 2003

Environmental Quality Board  
Commonwealth of Pennsylvania  
P. O. Box 8477  
Harrisburg, PA 17105-8477

Re: Triennial Review of Water Quality Standards [33 Pa.B. 5190]; Notice of Proposed Rulemaking

Dear Board Members:

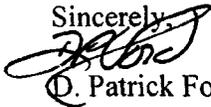
It has recently come to my attention that efforts are being made at this time of periodic review of the state's Water Quality Standards to limit the Standards' applicability to discharges only and to renege on regulatory management of non-discharge activities that affect water quality, most ominously runoff from agricultural, mining, and other sources.

While the immediate consequences of such a decision are likely to be aesthetic or at worst to interfere with recreational activities it is my professional opinion – as one of a handful of residency-trained, American Board of Medical Specialties board-certified specialists in environmental medicine – that its long-term consequences will have a measurable detrimental effect on the health of members of the Commonwealth as a result of increased introduction of some of the nastiest xenobiotics into our drinking water.

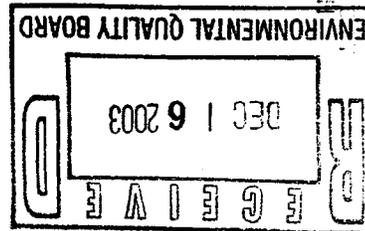
It is for this reason. I implore you to support the Department of Environmental Protection's proposed regulations that continue to control runoff and other non-discharge activities that affect water quality, and to not bend under the hubris of "big-business".

I thank you for taking the time to consider my request.

Sincerely,



D. Patrick Ford, MD, MPH, MS, CIH, FACPM, FACOEM



2003 DEC 19 PM 1:42  
RECEIVED  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

**Trostle, Sharon F. - DEP**

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**From:** odonata@erols.com  
**Sent:** Tuesday, December 02, 2003 6:41 PM  
**To:** RegComments@state.pa.us  
**Subject:** Chapter 93 changes

**Original:** 2366

Dear Environmental Quality Board,

It is my understanding that a possible change in the current clean water standards is being considered that would allow an increase in runoff from mining, farming and logging or cease to regulate it at all. This is absurd. Runoff from these sources reduces the pH of streams, introduces high sediment loads as well as significant loads of nutrients and pesticides. If you are not aware of the fact that these inputs kill fish, fish eggs, amphibians and their eggs as well and aquatic insect larvae then you need to educate yourself on this. An increase in nutrients from fertilizers also causes excessive algal growth which fouls streams, drops the dissolved oxygen content, and can produce toxic compounds. Increasing the regulation of runoff would be more appropriate. As a Pennsylvania I am appalled that you would even consider relaxing any runoff regulations! Contamination of surface lakes and streams, groundwater and wells that supply drinking water will be the result. A reduction in trout and other sport fish will also occur.

The public has a reasonable right to expect you to protect our surface and groundwaters now and for the future. Having good, clean water will add significantly to the economic future of our state. Increasing water pollution will jeopardize the future health and economic stability of our state and its people. I am urging you to support the proposed DEP regulations controlling runoff.

Lynnette Saunders  
94 Cressman Road  
Telford, PA 18969

RECEIVED  
2003 DEC -5 PM 2:35  
PA DEPARTMENT OF ENVIRONMENTAL PROTECTION  
REGULATORY COMMISSION

**Trostle, Sharon F. - DEP**

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**From:** Ann Jacobs [annjacobs@webtv.net]  
**Sent:** Tuesday, December 09, 2003 10:35 AM  
**To:** RegComments@state.pa.us  
**Cc:** irrcc@state.pa.us  
**Subject:** Triennial Review of Water Quality Standards

**Original: 2366**

I support the position of the Raymond Proffitt Foundation and urge the DEP to follow its recommendations.

Ann Jacobs  
426 Marne Ave  
Monongahela PA 15063 724-292-1021

RECEIVED  
2003 DEC 12 PM 3:21  
STATE OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

To Whom it may concern

Toxins may make  
people sick. Chemicals  
are very bad to use  
get into the water pollute  
fish we can get very  
sick just eating  
anything that may come  
out of streams such as  
fish and kills many  
fish. your health is  
very important to me  
and I hope everyone  
can see what it can  
cause, even Cancer +

RECEIVED

2003 DEC 16 PM 2:02

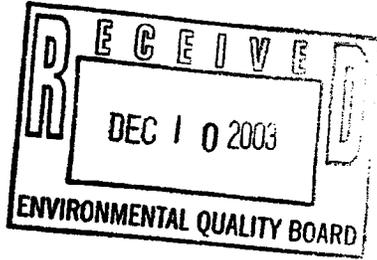
REVIEW COMMISSION

Original: 2366

may discuss.

Thank you for working  
for cleaned streams & air

Mrs Estelle C. [Signature]



Dec. 5<sup>th</sup>, 2003

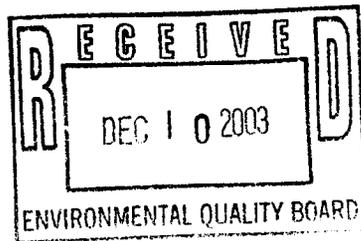
SUBJECT: WATER QUALITY

A Few Words Suffice

RECEIVED  
2003 DEC 16 PM 2:02  
REVIEW COMMISSION

Original: 2366

PLANET EARTH WILL OFFER NO  
SAFE HAVEN FOR POLLUTERS. THEY  
TOO WILL SICKEN AND DIE WITH THE  
REST OF ALL SPECIES.



P. M. Deily  
8220 Airport Rd. Lot #4  
Northampton, Pa. 18067

RECEIVED

2003 DEC 16 PM 2:02

REVIEW CONSENSION

DECEMBER 4, 2003

ENVIRONMENTAL QUALITY BOARD  
P.O. Box 8477  
HARRISBURG, PA 17105-8477

Original: 2366

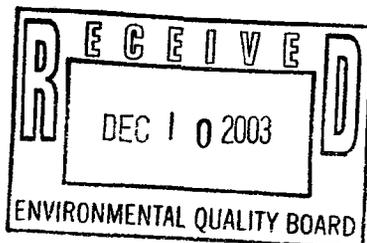
TO WHOM IT MAY CONCERN:

MY UNDERSTANDING IS THAT EFFORTS ARE UNDERWAY TO WEAKEN OUR STATE'S QUALITY STANDARDS FOR WATER, BY ELIMINATING RUNOFF FROM MINING, FARMING AND LOGGING FROM THE STANDARDS. THESE RUNOFFS ARE THE LEADING CAUSE OF STREAM IMPAIRMENT IN PENNSYLVANIA.

I AM AGAINST REMOVING RUNOFF FROM OUR WATER QUALITY STANDARDS WHICH HAS THE POTENTIAL TO DESTROY MANY OF OUR STREAMS.

PLEASE TAKE ACTION TO PROTECT OUR WATER QUALITY STANDARDS.

THANK YOU,



Charles D. Gorman  
1514 Bayberry Lane  
Bethlehem, PA 18018

Dear Sirs,

Original: 2366

It has been brought to my attention that Runoff is the leading cause of stream pollution in Penn. and if exempt from quality standards, many of our streams would be more polluted and in danger of being destroyed.

Please do not lower the DEP quality standards that exist today. You have my support to increase the quality of our rivers + streams - not diminish them.

Thank-you,

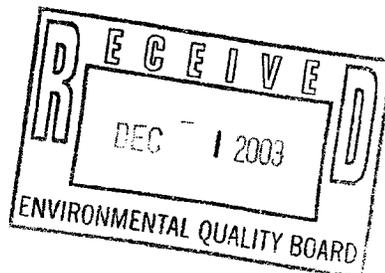
Mark Cohen  
4 Windsor Ave  
Melrose Park, P. A.  
19027

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2003 DEC 05 11 2:32

2003 DEC -5 PM 2:32

REVIEW COMMISSION



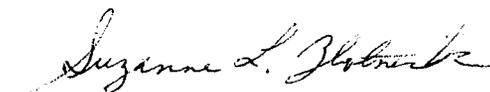
12/8/03

Dear Members of the Water Quality Board,

Original: 2366

Please ensure that our streams are well protected by not altering the Water Quality Standards. Non-point source pollution is a serious threat to the health of our streams. The issues of runoff from mining, farming and logging need to be addressed by our standards. We need to protect our streams for now and future generations.

Sincerely,

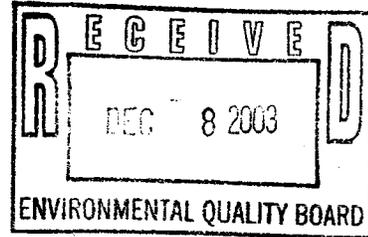


Suzanne L. Zlotnick

RECEIVED  
2003 DEC 29 PM 12:54  
REVIEW COMMISSION

Mark Garvin  
7816 Haines Rd.  
Cheltenham, PA 19012

Original: 2366



Dept. of Environmental Protection  
Environmental Quality Board  
PO Box 8477  
Harrisburg, PA 17105-8477

2003 DEC 12 PM 3:18  
REVIEW COMMISSION

I am writing to express my concern regarding the loosening of water quality standards in Pennsylvania. Water runoff in its various forms degrades streams and rivers; I have a stream flowing past my own backyard and am constantly reminded of the need to protect these important natural resources.

Please do not allow special interests, be they mining, industrial or others to negatively impact our watersheds.

Thanks  
Mark Garvin

Original: 2366

To Environmental Quality  
Board:

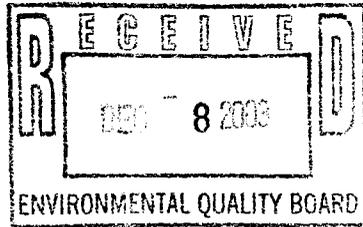
RECEIVED

2003 DEC 12 PM 3:17

REVIEW COMMISSION

Please do not weaken  
our <sup>state</sup> water Quality Standards  
We do not need more  
Pollution of our streams  
and rivers. We need  
to continue protecting  
our streams

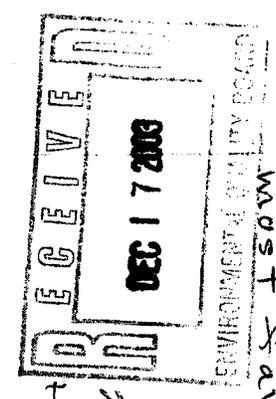
Thank You,  
Norma J. Montgomery



12/8/03

Environmental Quality Board  
P.O. Box 8477  
Harrisburg, Pa. 17105-8477

If we don't stop the pollution of our streams, we will lose the privilege of drinking the clean tap water which we take for granted many times a day and have to rely on expensive bottled water to quench our thirst. This would be much more expensive than keeping our high quality water standards which most Samlipes enjoy.

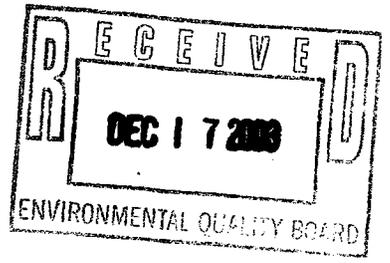


E. Turner  
2106 Williamsburg  
Huntingdon Valley, Pa  
19006

Environmental Quality Board  
PO Box 8477  
Harrisburg PA 17105-8477

Stop <sup>Dump</sup> spelling all your toxic waste in our water.  
You're making our children sick and killing the fish.

Marie Bode  
220 Summit Ave  
Willow Grove Pa

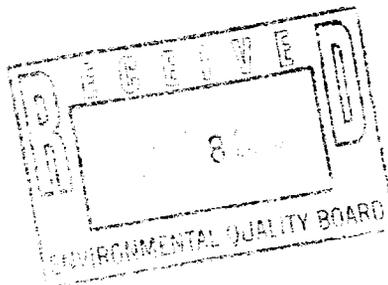


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2003 DEC 29 PM 3:34  
REVIEW COMMISSION

DEAR D.E.P.

I WOULD APPRECIATE A LITTLE MORE  
SCRUTINY INCLUDING RUNOFF SITUATIONS ESPECIALLY  
WHEN AND WHERE APPLICABLE WHEN NEW  
MILLS AND DEVELOPMENTS ARE PUT ON THE  
DRAWING BOARDS.

Respectfully  
Barry L. Pratt  
1902-B Allwood Dr.  
BETHLEHEM, PA 18018



RECEIVED  
2003 DEC 12 PM 3:20  
REVIEW COMMISSION

3057-1, Westfield Ter.  
Bethlehem PA 18017  
November 26, 2003

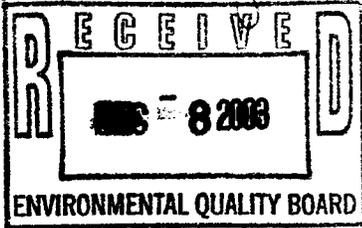
SEP

Original: 2366

PO Box 8777  
Harrisburg PA 17105

I am writing to make sure  
that Water Quality Standards  
apply to all activities that  
affect water quality  
everywhere. Please do  
not remove run off from  
water quality standards

Maney Varas



RECEIVED  
2003 DEC 12 PM 3:20  
REVENUE COMMISSION

5

**HORACE A. STERN**  
**307 SOUTH STERLING ROAD**  
**ELKINS PARK, PENNSYLVANIA 19027**

Original: 2366

November 26, 2003

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

Gentlemen:

In support of the efforts of Clean Water Action, I urge the Board not to weaken the state's water quality standards by exempting runoff from the applicability of those standards.

Those standards must apply to all activities that affect the quality of our water. Only such uniform application will protect our streams from runoff pollution.

Very truly yours,

*Horace A. Stern*



RECEIVED  
2003 DEC -5 PM 2:31  
REVIEW COMMISSION

RECEIVED

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