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## **Pennsylvania Coal Association**

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George L. Ellis  
President

November 30, 2009

**RECEIVED**

**DEC - 7 REC'D**

**INDEPENDENT REGULATORY  
REVIEW COMMISSION**

PA Environmental Quality Board  
PO Box 8477  
Harrisburg, PA 17105-8477

**RE: Proposed Rulemaking Chapter 102 - Erosion and Sediment Control  
and Stormwater Management**

The purpose of this letter is to provide comments of the Pennsylvania Coal Association (PCA) regarding the above-referenced proposed rulemaking.

PCA is the principal trade organization of Pennsylvania's bituminous coal producers. PCA represents both large and small companies, partnership and individuals that produce over 85% of the bituminous coal mined annually in Pennsylvania. Member companies produce bituminous coal by surface (open pit and auger) methods and underground mining methods, and they also operate coal preparation plants and engage in other regulated coal mining activities.

We offer the following comments in response to the proposed rulemaking:

### Section 102.5(g)

PCA believes that mining activities permitted under PA DEP Bureau of Mining and Reclamation need not obtain an Erosion and Sediment Control permit as these activities are already extensively regulated and permitted including erosion and sediment control. We request clarification of §102.5 (g) that this is an accurate interpretation.

### Section 102.4 Erosion and Sediment Control Requirements

Other Department regulations and permits require the use of Best Management Practices with respect to erosion and sediment control and current provisions minimize or prevent impact, and maximize protection to waters. In addition, these erosion and sediment control plans are incorporated into permit requirements and are routinely monitored and inspected by DEP Bureau of Mining and Reclamation personnel. PCA believes the requirement to submit an additional E&S plan is redundant, unnecessary and undermines the scope and authority of the Bureau of Mining and Reclamation.

### Section 102.8 PCSM requirements

Again, other Department regulations and permits require the use of Best Management Practices with respect to the management of post construction storm water for mining activities. The permit applications for these activities are developed and reviewed by licensed professionals

using consistent engineering principles. Requirements for the operation of these activities are included in the permit itself and are subject to routine monitoring and inspection by DEP personnel. We believe preparation of an additional plan is redundant and unnecessary.

Section 102.14(2) Average Minimum Widths of Buffers

DEP has not defined "impaired waters" in this proposed rulemaking. In addition, PCA is concerned that an increase to 150 feet is an unnecessarily conservative and restrictive approach, increases costs, and causes a competitive disadvantage to mining companies from other major coal-producing states. PCA believes that DEP has not provided sufficient scientific evidence to justify this arbitrary number and believes current buffer requirements are sufficient to protect waters.

Section 102.14(4) Existing Buffers must meet Minimum Aggregate Widths

Mining sites currently under DEP-issued permits were designed and constructed utilizing a 100-foot buffer along special protection and impaired waters. These permits requirements were developed by DEP personnel using sound engineering, science-based methods and the appropriate regulations and regulatory process. Therefore, at a minimum, PCA recommends that these existing mining sites be grandfathered.

PCA appreciates the opportunity to comment and should you have any questions, please do not hesitate to contact us.

Sincerely,

Josie Gaskey  
Dir., Reg. and Tech. Affairs

Cc: George Ellis - PCA

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**Chambers, Laura M.**

INDEPENDENT REGULATORY  
REVIEW COMMISSION

**From:** Josie Gaskey [josie.a.gaskey@comcast.net]

**Sent:** Monday, November 30, 2009 4:25 PM

**To:** EP, RegComments

**Subject:** Chapter 102 Erosion & Sediment Control & Stormwater Management comments

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