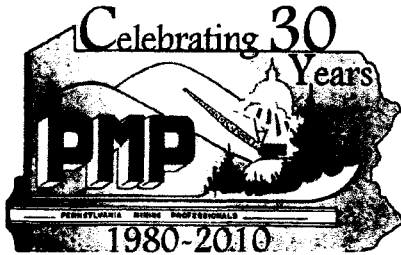
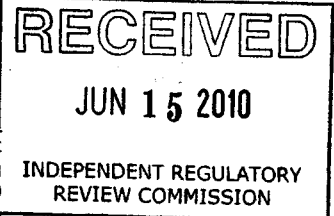


2806

Pennsylvania Mining Professionals



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June 14, 2010

John H. Jewett, Regulatory Analyst
Independent Regulatory Review Commission
333 Market ST., 14th Floor
Harrisburg, PA 17101
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RE: 25 PA Code Chapter 95: TDS, Chlorides, and Sulfates Effluent Standards
IRRC No. 2806
Regulation No 7-446

Dear Mr. Jewett:

Pennsylvania Mining Professionals (PMP) appreciates the opportunity to provide comments on the proposed Chapter 95 regulation concerning the effluent limits for total dissolved solids (TDS), sulfates, and chlorides. PMP is an organization comprised of geologists, engineers, surveyors and other scientific professionals involved in resource planning and permit preparation serving the coal and industrial minerals industries and providing a liaison between the regulatory community and the mining industry. Organized in 1980 we have been working with regulatory agencies to achieve a balance between the mining industry and protecting the environment of the Commonwealth. Our membership also includes industrial mineral and coal producers across the Commonwealth.

The Department of Environmental Protection, Bureau of Water Quality (BWQ) is proposing to amend Chapter 95 of the PA Code to establish a statewide limit of 500 mg/l for Total Dissolved Solids (TDS) and a 250 mg/l limit for sulfates and chlorides. This will have a devastating effect on industry in Pennsylvania. The justification for these limits is based on data collected by BWQ in only 2 ½ months on the Monongahela River during an exceptionally low flow period in fall, 2008. Considering the extensive stream system found within the

Commonwealth this is hardly a representative sampling let alone a scientific data set. To impose such restrictions based on such minimal data is irresponsible of the BWQ and PMP strongly opposes this regulation.

Furthermore, DEP utilized the wrong analytical test method when evaluating the samples for TDS. Pursuant to 40 C.F.R. § 136.3(a) and 40 C.F.R. § 143.4(b), the EPA-approved sample methodologies for determining TDS concentrations are Standard Method 2540 C and USGS Method I-1750-85. These methods require samples to be dried at a temperature of 180°C. The Department used USGS Method I-1749-85, an unapproved sample methodology that requires samples to be dried at a lower temperature of 105°C. The temperature used to dry a sample will influence the results because different temperatures and drying times will affect the sample's weight loss. Such things as water crystallization and volatilization of organic matter, as well as weight gains due to oxidation will give false values since samples dried at 103° to 105°C may retain a significant portion of water, especially if sulfates are present. The use of improper methodologies biased the sample results and should not be used as the justification of new regulatory requirement.

It should be recognized that the proposed limits are based on secondary drinking water standards established by the Federal Environmental Protection Agency (EPA) for aesthetic considerations like taste, color, and odor. EPA does not enforce these secondary standards but considers them guidelines to assist public water supplies in managing their drinking water. To compound matters, reportedly the TDS, chloride, and sulfate concentrations in the Monongahela River entering Pennsylvania from West Virginia are near to or exceed these limits already. Pennsylvania industry should not be penalized for high concentrations of these compounds that are initiated out of state.

The proposed regulations impose these standards on "end-of-pipe" discharges that were never intended to meet drinking water quality. Currently, the primary means of lowering TDS is through dilution which the rivers of the Commonwealth have done for years without any ill effects. To establish these limits at "end-of-pipe" points will cause excessive hardship on industries such as mining, natural gas, timbering, agriculture, municipal waste systems, and any other industries that utilize water since it is difficult to avoid elevating TDS in waters associated with earth disturbance and manufacturing. I also understand that no other state imposes an end-of-pipe standard on TDS which will further encumber our industrial operations in Pennsylvania.

Additionally, the proposed rulemaking requires that any new discharge, including any changes to existing discharges, must meet these standards by January 1, 2011, that's only six months away. Without dilution from the receiving rivers, the only currently viable treatment method for lowering TDS is reverse osmosis. This process is really only appropriate for treatment of small amounts of water, such as for residences. In large quantities, such as for industrial sites and mines, it becomes infeasible and prohibitively expensive. Even if industry could meet these unrealistic standards at "end-of-pipe", the timeframe is too short to plan, redesign, permit, and construct these treatment facilities. DEP's permitting process alone can take over a year to complete. Reverse osmosis also results in an approximate 25% concentrated waste requiring costly special handling methods to dispose of properly.

At a minimum, BWQ should be required to conduct extensive sampling to determine if there is a problem, the source, extent, duration, and seasonal effects. BWQ should also evaluate the methods of treatment, predict the outcomes, provide cost figures to substantiate the findings and include an alternatives analysis along with a social and economic justification for its proposal. These are not unreasonable requests, only what the DEP requires of the mining industry every day in order to obtain a permit. Background water sampling to obtain a mining permit must be conducted for a minimum of 6 months. Where historic pollutorial discharges exist; a minimum of one (1) year of sampling is required. Underground longwall coal mines require a minimum of two years of stream data for an application to even be considered complete enough for acceptance. Industry cannot make a claim without data to support its position and assessing the impacts. The Bureau of Water Quality should be held to at least the same standards and should not be allowed to impose effluent limits based on insufficient data and without evaluating the impacts.

We believe DEP's rush to regulate is based on very limited data, is unjustified, unscientific, and will cause irreparable harm to many industries within Pennsylvania. The timeframe is unrealistic for compliance and the end-of pipe standard will be impossible to meet with today's technology. Many industrial facilities will be unable to comply and will be forced to shut down. This will lead to job loss and flight of industry to other states. In today's economy and with Pennsylvania's budgetary problems, we cannot afford to loose good paying jobs or our industrial tax base. For the health of our state's industry, I urge you to reject this regulation and prevent these standards from becoming effective.

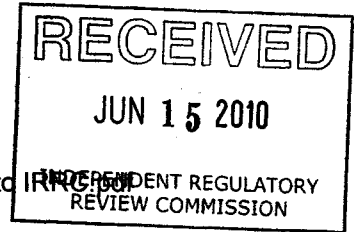
Thank you,



Barbara J. Dunst, PG
President
Pennsylvania Mining Professionals

2806

From: Jewett, John H.
Sent: Tuesday, June 15, 2010 7:23 AM
To: Gelnett, Wanda B.
Cc: Wilmarth, Fiona E.
Subject: FW: Comments on IRRC No. 2806
Attachments: image9e6f10.jpg@fb48c4aa.e7d043c9; PMP comments on TDS to IRRC



Email and attachment are final comments on #2806.

From: BDunst@eqt.com [mailto:BDunst@eqt.com]
Sent: Mon 6/14/2010 6:21 PM
To: Jewett, John H.
Subject: Comments on IRRC No. 2806

Dear Mr. Jewett,

I would like to submit the attached comments to the IRRC concerning 25 PA Code Chapter 95: TDS, Chlorides, and Sulfates Effluent Standards, IRRC No. 2806, Regulation No 7-446 on behalf of the Pennsylvania Mining Professionals.

Thank you.

Barb Dunst, PG

**President
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