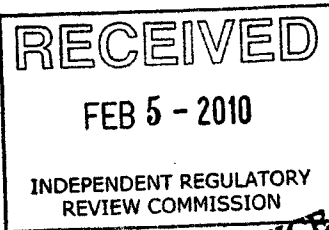


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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

SCOTT E. HUTCHINSON, MEMBER
152 MAIN CAPITOL BUILDING, PO BOX 202064
HARRISBURG, PA 17120-2064
PHONE: (717) 783-8188
FAX: (717) 705-1945



SECRETARY'S OFFICE

FEB - 2 2010

DEPARTMENT OF
ENVIRONMENTAL PROTECTION

February 2, 2010

Mr. John Hanger
Chairperson
Environmental Quality Board
16th Floor, Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17105

Dear Chairperson Hanger:

We write to you today to offer comments on the proposed rulemaking for Total Dissolved Solids (TDS) Wastewater Treatment Requirements (25 PA Code, Chapter 95). On November 14, 2009, the Department of Environmental Protection (DEP) proposed these changes to existing regulations governing the discharge of TDS into Pennsylvania's waterways. The main component of this proposed rulemaking is to limit concentrations of TDS to 500 parts per million in a monthly average.

We are concerned that this proposed rulemaking could create very serious economic consequences to a variety of Pennsylvania industries while not having any appreciable environmental effect. It is our recommendation that the department should abandon its efforts to advance this rulemaking. We would offer the following comments to support our position:

- 1) Absence of Data: There is an apparent lack of detailed data to support this regulation. The department has acknowledged in the text of the regulations that TDS can emanate from a variety of sources. These include but are not limited to: electric generation, wastewater treatment facilities, active coal mines, oil and gas well operations, and storm water runoff. These are but a few of the potential sources contributing to TDS levels in Pennsylvania waterways. It does not appear there is conclusive scientific evidence that describes the level each of these sources contributes to TDS levels.

Additionally, there is no evidence presented to us that indicates the department has conducted the analysis necessary to understand the magnitude of this issue. In fact, historical department water quality monitoring data show no recent increases in TDS trends. For example, since 1973, DEP has collected over 900 samples from monitoring stations along the Monongahela River. According to information we have received, only 27 of these samples, fewer than 3%, have exceeded 500 parts per million, and those 27 data samples are throughout a 30 year period. Data from other waterways show a similar trend. It does not appear that a small number of samples justifies a new set of regulations for the entire Commonwealth.

- 2) TDS Treatment Options: It is evident from the analysis completed by a number of different industry sectors that the treatment options available for regulating TDS have not proven to be cost-effective. Additionally, the affected industries have also shown that technological options are limited, pose significant technical feasibility issues, and are very energy intensive.

One industry sector analysis, completed by the electric industry is worth noting. The electric industry examined a number of treatment options; however, in the industry's analysis presented to the Water Resources Advisory Council in October, 2009, evaporation was shown to be the most viable in Pennsylvania. The estimated capital cost to implement this option on 15 electric power plants in the Commonwealth would cost industry approximately \$1 billion. The annual operating and maintenance costs for these 15 plants would total approximately \$70 million annually. During a time when electric rate caps are expiring, it does not seem prudent to add to the costs of electricity within Pennsylvania. The lack of cost-effective treatment options, in our view, severely hinders the competitiveness of many Pennsylvania businesses.

- 3) Treatment of Residuals: It also appears that all potentially available treatment technologies present a significant challenge concerning the management of resulting treatment residuals. The sheer volume of residuals whether they are concentrated brines, or salt cake sludge will likely create serious disposal and management problems, and add to the amount of materials being disposed in Pennsylvania landfills.

This proposed regulation also poses a number of serious and unresolved questions in terms of applicability and implementation. These include: how the proposed rules would apply to facilities with multiple existing sources and outfalls, and the impacts of the rulemaking on water conservation efforts.

For these reasons, we strongly urge the department to discontinue its efforts in advancing this proposed rulemaking. We appreciate the opportunity to provide these comments on a very significant public policy issue.

Sincerely,

Scott E. Hutchinson

Scott E. Hutchinson
PA State Representative
64th District – Venango & Butler Counties

Rose Marie Swanger

Todd A. Rock
Rock.

Stan Saylor

Jeffrey P. Ryle...

Donna Oberlander

Matt Habler

Brian L. Ellis

C. Odum Harris
Harris.

Nandy Vulakovich
Vulakovich

Thomas Creighton
Creighton.

Will Tallman,

Math. T. Causer

Carl Metzgar
Metzgar

Kathy L. Hess

DAVE REED

Dick Hess

Jerry A. Stern
Stern

Dick Hess
Hess.

Steph E. Barrar
Barrar