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From: Peter Vlahos [peter@pacaweb.org]
Sent: Friday, February 12, 2010 4:52 PM
To: EP, RegComments
Cc: Peter Vlahos
Subject: PA Aggregates and Concrete Association Comments to Chapter 95 Wastewater Treatment
Attachments: PACA Comments to Chapter 95 Wastewater Treatment.doc

Good afternoon. Attached please find our comments to the Chapter 95 Wastewater Treatment Proposed Rulemaking.

Best Regards,

Peter T. Vlahos
Pennsylvania Aggregates and Concrete Association
3509 North Front Street
Harrisburg, PA 17110

717.901.2710 (direct)
717.756.4070 (mobile)
717.234.2603 (office)
717.234.7030 (fax)
peter@pacaweb.org

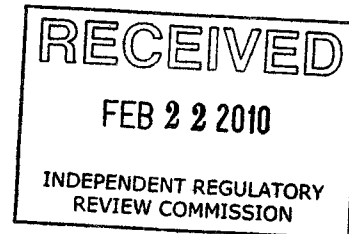
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3509 N. Front St., Harrisburg, PA 17110-1438 • Phone: 717.234.2603 • Fax: 717.234-7030 • www.pacaweb.org

February 12, 2010

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



Re: Proposed Rulemaking to Chapter 95 Wastewater Treatment Regulations (25 PA Code, Chapter 95)

Sent via Electronic Mail: RegComments@state.pa.us

Dear Chairperson Hanger,

The Pennsylvania Aggregates and Concrete Association ("PACA") wishes to submit the following comments in opposition to the Proposed Rulemaking on Effluent Limits for Total Dissolved Solids (TDS), Sulfates and Chlorides (25 PA Code, Chapter 95). In November 2009, the Department of Environmental Protection (DEP) proposed these changes to existing regulations governing the discharge of TDS, sulfates and chlorides into the Waters of the Commonwealth. The main component of this proposed regulation is to limit the TDS concentrations to 500 mg/l and a 250 mg/l limit for sulfates and chlorides effective January 1, 2011.

PACA represents the broad interests of the aggregates (crushed stone and sand & gravel) and ready mixed concrete industry in the Commonwealth of Pennsylvania and counts among its membership well over two hundred companies that would be adversely impacted by the proposed rulemaking.

We are concerned that this proposed rulemaking would create a very serious economic impact on our industry during a very difficult business climate in Pennsylvania. Furthermore, we are unable to comprehend the desired environmental impact by limiting the TDS concentrations to 500 parts per million and sulfates and chlorides at 250 parts per million, respectively. According to the United States Geological Survey (USGS), a review of toxicity studies completed in the Appalachian region indicated that TDS level above 1,340 mg/l represented conditions that may adversely affect macroinvertebrates. The U.S. EPA regulates sulfate in drinking water as a secondary maximum contaminant with a standard level of 250 mg/l based on aesthetic effects (i.e., taste and odor). Chlorides are also regulated by Pennsylvania and the U.S. EPA as a secondary maximum contaminant with a standard level of 250 mg/l based on

aesthetic effects (i.e., taste and odor). It is important to note that secondary maximum contaminant levels are not federally enforceable standards but rather guidelines for state water quality programs and public water systems. With the above information widely accepted, the Department still has not been forthcoming in explaining the real threat from TDS concentrations.

It is our recommendation that the department should abandon its efforts to advance this rulemaking for the following reasons:

a. Lack of Data: There is a lack of data to support this regulation based on the impact of our industry on the Commonwealth's waterways. DEP has acknowledged that TDS can originate from a variety of industry sources but none of those are directly applicable to our industry. Furthermore, we request that the Department share any data that it has in its possession with our industry so that we can better understand its position on the proposed rulemaking.

It is also important to note that many of the aggregate operations include dewatering activities and any elevated TDS levels would already exist within the groundwater. The Department has to understand that aggregate mining is not creating "high TDS" but rather recirculating the existing elevated TDS water within the respective drainage basins and aquifers.

b. Treatment Costs: It is evident by an analysis conducted by our industry that the treatment options currently available for managing TDS are prohibitively expensive.

Standard treatment options such as settling basins currently used by the aggregate and concrete industry generally have little impact on TDS or sulfate concentrations. Based on industry studies, a producer with an average flow rate of 1,000 gpm and TDS of 1,000 mg/l required to comply to a 500 mg/l TDS would invest more than \$2.5 million per year to treat the discharge over the life of the treatment system.

c. Treatment of Residuals: It is also evident from our treatment options analysis that our industry and the Commonwealth would struggle to manage the residual waste produced by the treatment technologies. The anticipated volume of residuals would most likely create disposal and management problems and in due course generate a new round of regulation that could impact our industry's ability to manage the Department's proposed rulemaking.

d. Economic Impact: Section 5 (a) (5) of The Clean Streams Law requires the Department to determine the immediate and long-term economic impact on the Commonwealth and its citizens when setting new standards. We believe that it is a prudent practice for any state agency to accurately identify the fiscal impact on the Commonwealth or its political subdivisions by the enactment of new regulations. The Department did not perform an economic impact analysis on the proposed rulemaking in its haste to push the proposed rulemaking.

The proposed rulemaking could potentially end the surface mining industry in Pennsylvania. According to the United States Geological Survey (USGS) 2009 data, Pennsylvania is ranked second in the total production of crushed stone in the United States.

The impact would not only be felt in the unemployment lines by the men and women that work in our industry but also on the overburdened taxpayer as PennDOT and local municipalities would be faced with a significant shortfall in available aggregate materials for use in road construction and maintenance projects. As result, PennDOT and local municipalities will be forced to import

aggregates from other sources at a higher cost to the Commonwealth and ultimately to the taxpayer. In addition, the importation of aggregate materials would have an environmental and quality of life impact on the Commonwealth due to increases in trucking, fuel consumption and traffic.

For these reasons, we strongly urge the Department to withdraw the regulation and conduct the required monitoring and economic analyses in a scientific and deliberate manner. It is imperative that any final decision by the Department should incorporate regulatory flexibility to achieve mutually acceptable permit compliance for the aggregates and ready mixed concrete industry. There are several outstanding issues associated with the Department's proposed rulemaking that warrants additional explanation and justification, including:

- a. existing high TDS influences (i.e. urban stormwater runoff, mine pools);
- b. assimilative capacity studies for receiving streams;
- c. implementation impracticability;
- d. permitting flexibility.

Thank you for your consideration.

Sincerely,

Peter T. Vlahos
President