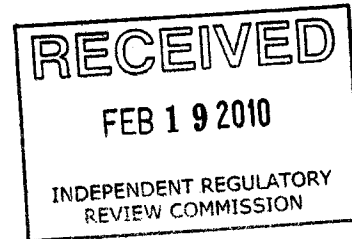


From: Larry and Janet Sandeen [SandeenPA@Comcast.net]
Sent: Thursday, February 11, 2010 4:03 PM
To: EP, RegComments
Subject: Comments on Revisions to 25 Pa. Code Chapter 95 - Wastewater Treatment Requirements

Mr. John Hanger
Chairman
Environmental Quality Board
16th Floor, Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17101



Re: Revisions to 25 Pa. Code Chapter 95 – Wastewater Treatment Requirements

Dear Chairman Hanger:

I commend the Commonwealth for working to address the issue of Total Dissolved Solids (TDS) in our waters. As noted in the rulemaking, increased levels of TDS in our streams and rivers can have dramatic impacts on ecosystems. This draft rulemaking is a first step towards addressing an important issue.

I am concerned that this action does not adequately consider or address creative solutions to the elevated TDS documented in some waters of the Commonwealth. The needs of an upland stream are far different than the needs of a major river or estuary. Further, the needs of streams discharging into the Ohio for a 1,300 mile journey to the Gulf of Mexico are far different from the needs of streams discharging into the Delaware Estuary just above the salt line. Utilizing the same standards for each type of water body has economic and environmental cost. The high energy and capital intensive solutions we can expect to see as a result of this rule can have significant carbon footprint impacts. This action should be evaluated to ensure that flexibility is provided to allow the local ecosystem needs to be met, while minimizing the carbon footprint and economic costs. The rulemaking should ensure that regulators, technologists and dischargers have the flexibility to apply available technology to develop custom solutions for each water body and discharger, so as to provide maximum benefit and better allocate scarce resources. Since the stated issue to be addressed is the concentration and characterization of TDS in a receiving stream, all action should be focused on that result. In our desire to find the optimal balance of the goals of protecting the environment, minimizing carbon footprint and reducing economic impacts we should consider the following:

1. Document the science supporting the standard: The proposed rule will have significant economic impacts in the Commonwealth, and the selection of the numeric values of these standards should be supported by the application of sound science. While it is clear that TDS is a parameter of concern, it is important that the literature supporting the selected numeric values be documented and placed in the public record. This should be accomplished and made available for public review and comment prior to the implementation of this rule.

2. Implement Ecosystem Specific Standards: The rule, as proposed, takes a standard approach for all watersheds, and risks being burdensome and inefficient. Obviously trout habitats are more sensitive to TDS than tidal estuaries, while other considerations would be appropriate for streams with drinking water intakes. The rule should be modified to impose standards that are appropriate for the needs and uses of each water body and its ecosystem. Whole Effluent Toxicity (WET) testing results can be used to inform this process, since the species selected for the testing are representative of the needs of the receiving waters. The

WET analytical data that has been collected through the NPDES permit program, at significant cost to dischargers, should be evaluated and presented as part of the scientific basis for this regulation.

3. Utilize WET Testing in lieu of TDS limits: The regulation of TDS will have a significant economic impact. Certain parameters, either alone or in conjunction with other parameters can have adverse impacts. The ratios of ions in the water body can be critical to maintain a healthy ecosystem; however, TDS is a aggregate parameter, and by itself does not protect the ecosystem. Consideration should be given to allowing a higher TDS limit for dischargers that agree to accomplish routine WET testing. This will allow a meaningful reduction in the cost of implementation of this regulation, and still provide adequate protection of the environment.

4. Utilize Seasonal or Flow Based Approaches: The rule does not address the highly variable assimilative capacity of the streams based on flow variability. Some industries may have the ability to schedule discharge activities during periods of high stream flows, allowing the increased assimilative capacity of the higher flow rates to be used versus energy intensive options, with their significant carbon footprint. Consideration should be given for the implementation of seasonal or flow based TDS limits, with the intent of restricting TDS mass discharges during periods of low flows. Dischargers could be asked to assist with downstream monitoring during discharge periods to ensure that impacts to the receiving water are well understood.

5. Implement TDS Effluent Credit Trading: The importance of addressing legacy issues in the Commonwealth, such as the remediation of abandoned mines is addressed in the draft ruling. The language is supportive of ongoing remedial activities and ensures that the new standards will not hinder progress in this area. However, it is possible that sources such as AMD may be easier and more cost effective to control than discharges from other activities, especially relatively infrequent activities such as discharges from natural gas extraction activities. Consideration should be given to the implementation of a TDS trading system, which could effectively address legacy TDS contributors, such as AMD, in return for higher discharge limits for municipalities and industry. A properly designed effluent credit trading system could speed the restoration of damaged ecosystems.

6. Simplify Permitting of TDS Treatment Facilities: The rule does not allow the treatment of TDS under standard NPDES permits. The Commonwealth needs to ensure that all facilities treating high TDS wastewaters are properly designed, permitted and operated, however the regulatory control of the treatment can be accomplished by insertion of appropriate language into any facilities NPDES permit. The restriction of TDS treatment to Centralized Waste Treatment facilities and POTWs excludes the industrial customer from treating its wastes at its own site.

7. Minimize regulatory impacts to existing operating facilities: The current wording of the rule implies that most existing facilities would not be impacted by this rule and would not be forced to pay the additional stated cost of \$250/1000 gallons of treated wastewater or additional recordkeeping costs. Since a significant portion of POTWs receive trucked in wastewaters and septage, which often contains in excess of 2,000 mg/l of TDS, any change in the sources or volumes of these wastewaters could trigger the requirement to meet the new standards, forcing these facilities to comply with all provisions of the rule.

8. Provide Flexibility to Regulators: Provide the permit writers and enforcement officials with the flexibility to implement this rule in an effective and environmentally beneficial manner. Each region has professional staffs that are best positioned to know the needs of the ecosystems that they protect. Failure to provide flexibility will slow the pace of environmental improvement, hinder economic growth/recovery and potentially shift valuable resources to litigation.

I thank you for the opportunity comment of this rulemaking. Please feel free to contact me with any questions that you may have regarding my comments.

Sincerely,

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