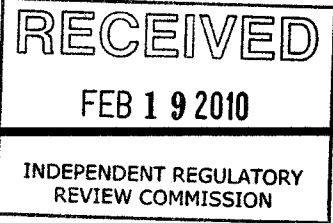


2806



From: Robert Gandley [RGandley@mijb.com]
Sent: Friday, February 12, 2010 2:08 PM
To: EP, RegComments
Subject: Comments on Chapter 95 (Wastewater Treatment Requirements) Proposed Regulations

Dear Environmental Quality Board,

There are several aspects of the proposed Wastewater Treatment Regulations governing Total Dissolved Solids (TDS) that we are afraid have not been fully thought out. As an initial matter, the fact that the proposed rule focuses on a statewide limit, as opposed to being imposed on a watershed specific basis like other wastewater discharge requirements, will not result in an efficient use of resources. Efforts and resources should be directed to those watersheds where TDS reductions are needed.

Second, we think imposing this proposed regulations on a statewide basis has largely been triggered by projected discharges from Marcellus Shale drilling operations. That said, we are concerned that the projected discharges from that industry are greatly overstated as it appears that to date the rate of generation of flow back water has been overestimated and the ability to reuse flow back water has been underestimated. There is a strong likelihood that the predicted negative water quality impacts of the Marcellus Shale drilling operations are grossly overstated.

The proposed regulations will however greatly limit the availability of commercial treatment of brine. Specifically, the proposed regulations will essentially eliminate much of the current capacity to take brines to municipal treatment plants for disposal and they will also prevent commercial brine plants from expanding capacity at all without making very costly improvements in treatment technology. This problem is exacerbated by the fact that there is considerable uncertainty regarding the treatment capacity that will ultimately be needed by the Marcellus Shale industry; however, the short time frame in the proposed rule does not allow the Department and potential treatment facilities to take the time required to get a better understanding of the needed treatment capacity.

Finally, it is our concern that the group impacted the greatest from this rule will likely be small oil and gas producers. Many small oil producers in the northern tier produce far more brine than oil and disposal is already a very significant portion of their operating costs. If this proposed rule greatly increases brine disposal costs, which is a near certainty, small oil and gas producers are the group that has the least ability to pay higher rates. As a result, this proposed regulations could have a significant impact on oil production in Pennsylvania if steps are not taken to somehow protect the interests of small oil producers.

Small oil producers are further limited by the fact that their brine production volumes are not large enough to make installing treatment onsite feasible. Further, the high cost of trucking their brines to commercial treatment facilities prevents them from being available to utilize more distant instate or out of state disposal locations. One step the Department could take to help alleviate this concern is to streamline residual waste regulations for the handling of brines after they have left a production site. The ability for brine transfer stations or transfer operations to operate with greatly streamlined regulations would ease the burden on small producers and their haulers by allowing them to consolidate brine loads for shipment.

Thank you for the opportunity to comment on this proposed rulemaking.

Sincerely,

Bob Gandley

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