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FEB 19 2010
INDEPENDENT REGULATORY
REVIEW COMMISSION

From: Fromm, Thomas [ThomasFromm@cogentrix.com]
Sent: Friday, February 12, 2010 1:15 PM
To: EP, RegComments
Subject: PROPOSED RULEMAKING ENVIRONMENTAL QUALITY BOARD [?25 PA.?CODE CH. 95?]
Wastewater Treatment Requirements [39 Pa.B. 6467] [Saturday, November 7, 2009]

Environmental Quality Board
Rachel Carson State Office Building
16th Floor, 400 Market Street
P. O. Box 8477
Harrisburg, PA 17101-2301

Subject: Comments on Proposed Rulemaking

Reference: PROPOSED RULEMAKING ENVIRONMENTAL QUALITY BOARD [25 PA. CODE CH. 95] Wastewater
Treatment Requirements [39 Pa.B. 6467]
[Saturday, November 7, 2009]

Cogentrix Energy Inc. is submitting the following comments on the referenced proposed rulemaking. We are concerned about the unintended impact the proposed regulation would have on the waste coal mining operations associated with our waste coal fuel fired generating plants located in Northampton and Scrubgrass, PA. The current discharges from our operations are conducted in an environmental sound manner and should continue to be regulated under the existing requirements by PADEP. We believe the proposed regulation unintentionally includes our type of operation and could reduce our ability to remove waste coal in the future, especially as related to our Northampton operations. Please accept the specific comments as highlighted in red below. We would appreciate a response confirming that our comments were received and are acceptable for your review.

Sincerely,
Thomas Fromm
Manager, Environmental Operations
Cogentrix Energy, Inc.

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Specific Comments

CHAPTER 95. WASTEWATER TREATMENT REQUIREMENTS

§ 95.10. Effluent standards for new discharges of wastewaters containing high Total Dissolved Solids (TDSs) concentrations.

(a) For the purpose of implementing this section, a new discharge of High-TDS wastewater is a discharge that did not exist on April 1, 2009, and includes a TDS concentration that exceeds 2,000 mg/L or a TDS loading that exceeds 100,000 pounds per day. The term "new discharge" includes an additional discharge, an expanded discharge or an increased discharge from a facility in existence prior to April 1, 2009.

Comment: Although it is stated in the proposed rulemaking preamble that this rule should not effect remining projects, the applicability is only retroactive. Meaning, remining activities initiated after April 1, 2009 will be effected. This will inhibit current and future remining activities because some projects used mine pool water to process the waste coal. NGC typically uses mine pool water which is already impacted with high TDS and sulfates in their waste coal processing operations. These waste coal processing plants are mobile. They are relocated from one site to another after the available waste coal supply has been exhausted. The process water from the waste coal processing plant is not discharged offsite but returned to the mine pool.

Suggested language: add the following sentence: "The term 'new discharge' excludes all existing and future discharges from abandoned coal mines and remining operations per Subchapter F of Chapter 87, Subchapter G of Chapter 88, or Subchapter F of Chapter 90." after the last sentence above which ends with "... prior to April 1, 2009."

(b) Unless specifically exempted under paragraph (6), new discharges of wastewater with High-TDS must comply with the following:

- (2) The discharge may not contain more than 500 mg/L of TDS as a monthly average.
- (3) The discharge may not contain more than 250 mg/L of total chlorides as a monthly average.
- (4) The discharge may not contain more than 250 mg/L of total sulfates as a monthly average.

Comment: These limits should not be applicable to discharges from remining operations that return the water to a mine pool. Existing discharges for TDS from waste coal processing plants can be in the 2,500 mg/L range which is well above the 500 mg/L limit proposed above and although the chloride levels are well below the limit proposed in the regulation the sulfates in the process waste water can be in the 2,000 mg/L range due to the acidity of the mine pool water being utilized in the process plant.

Suggestion: Exempt waste coal remining operations from these requirements. See the previous suggested language.

(5) In addition to paragraphs (1)—(4), discharges to groundwater, including land application and discharges to existing mine pools, must comply with §§ 91.51 and 91.52 (relating to underground disposal).

Comment: It appears that the language found in §§ 95.51 which specifically excludes "coal fines" from regulation to allow for reinjection of mine pool water at remining operations is being trumped by this section. Meaning, although the reinjection of coal fines is still technically permitted by regulation, the limits in paragraphs (1)-(4) would negate this exclusion because the levels of TDS and sulfates of mine pool water are well above the limits in paragraphs (1)-(4).

Suggested language: revise this section by deleting the following words "In addition to paragraphs (1)—(4),". The new wording for the section should read as follows "(5) Discharges to groundwater, including land application and discharges to existing mine pools, must comply with §§ 91.51 and 91.52 (relating to underground disposal)."