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Sent: Monday, March 15, 2010 5:27 PM
To: EP, RegComments
Subject: Comments on Rulemaking - 25 PA Code Chapters 92 & 92a

The Department of Defense, Regional Environmental Coordinator (REC) for EPA Region III is responsible for coordinating responses to various environmental policies or regulatory matters of interest on behalf of all the military services. The REC appreciates this opportunity, as part of the regulated community, to comment on the proposal to rescind 25 PA Code Chapter 92 (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance) and replace it with a new Chapter 92a of the same name. Comments are provided below.

*** 92a.25 Permit-by-rule**

The U.S. Court of Appeals ruling last year would require NPDES permit coverage for pesticide applications on or near surface waters. The Court then granted EPA a 2 year stay before the permit requirement would be effective. The PA Environmental Quality Board believes that the application of pesticides has little potential for adverse environmental effects, provided that the pesticides are properly registered, controlled, and applied by trained and certified applicators as per the requirements of FIFRA. The proposal is to regulate the application of pesticides under a permit-by-rule, as long as the requirements of FIFRA are achieved in full. PADEP would require coverage under a general or individual permit if a noncompliant applicator requires more rigorous controls for any reason.

COMMENT: We concur.

*** 92.a.34 Stormwater Discharges**

Currently stormwater discharges associated with industrial facilities may qualify for a conditional exclusion from the need for permit coverage if they are composed entirely of stormwater uncontaminated by industrial pollutants. The Board is proposing that stormwater discharges to a surface water classified as High Quality (HQ) Water or Exceptional Value (EV) Water under Chapter 93 would not be eligible for the conditional exclusion.

COMMENT: There are and will be instances where areas or operations on an industrial facility do not contribute pollutants to stormwater. If instance where this can be verified as true by PADEP, there would be no water quality impact from these discharges and HQ and EV waters would be protected. Therefore, we recommend leaving the conditional exclusionary language; and only denying the exclusion, as appropriate, on a case by case basis.

*** 92A.41 Conditions Applicable to all Permits**

The existing requirements for "prohibited" discharges restricts discharges of floating materials, oil, grease, scum, foam, sheen and substances which produce color, taste, turbidity, or settle to form deposits in concentrations or amounts sufficient to be, or creating a danger of being, inimical to the water uses to be protected or to human, animal, plant, or aquatic life. The proposed revision to this section would eliminate the qualifier "concentrations or amounts sufficient to be, or creating a danger of being, inimical to the water uses to be protected or to human, animal, plant, or aquatic life" for all listed discharges except foam.

COMMENT: We have no objection to PADEP prohibiting discharges of floating materials, oil, grease, scum, and sheen. However, the existing qualifying language "concentrations or amounts sufficient to be, or creating a danger of being, inimical to the water uses to be protected or to human, animal, plant, or aquatic life" should remain for discharges of color, turbidity and settling to form deposits. We make this recommendation because very small discharges of these items are impossible to consistently prevent. Otherwise all discharges would be crystal clear water. Furthermore, as with foam, insignificant changes in color or

turbidity, in the immediate vicinity of the discharge would not be expected to prohibit a water use or degrade water quality.

If you have any questions, please do not hesitate to contact me by email or phone (listed below). This email will be followed by comment letter from the REC delivered through the regular mail.

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