

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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IN RE: WATER QUALITY STANDARDS FOR MAGANESE &
IMPLEMENTATION

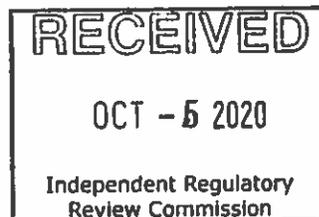
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BEFORE: BRIAN A. CHALFANT, Deputy Policy Director
DAREK JAGIELA, Administrative Assistant
JENNIFER SWAN, Administrative Assistant
LAURA GRIFFIN, Regulatory Coordinator

HEARING: Thursday, September 10, 2020
2:01 p.m.

LOCATION: WebEx Videoconference Hearing

WITNESSES: Ronald Musser, Jacquie Fidler, Serena
DiMango, Douglas Crawshaw, Carolyn Speicher, Josie
Gasky



Reporter: Derek Richmond

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NONE OFFERED

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MR. CHALFANT: We will continue to the Environmental Quality Board's public hearing on the proposed rulemaking for the Water Quality Standard for Manganese and the Implementation of that standard.

My name is Brian Chalfant, Deputy Policy Director for the Department of Environmental Protection. And representing the Environmental Quality Board, EQB, at today's hearing. Assisting me today is Laura Griffin, Darek Jagiela, and Jennifer Swan.

I officially call this hearing to order at 2:00 p.m. This public hearing will be recorded in its entirety. The purpose of this hearing is to formally accept testimony on the proposed rulemaking. I will read a summary of the rulemaking followed by some logistics for the hearing. And I saw a question from Serena and the -- question and answer about video.

And I believe, Darek correct me if I'm wrong, but we are not - I don't think we have the video enabled for this hearing. We'll just do - I've got my screen shared showing the list of folks who

1 preregistered and the timer that, hopefully if you
2 are on the Webex, should be seeing on your screens.
3 But I don't think we are going to have video
4 capabilities.

5 MR. JAGAILA: And I think that what
6 you are showing now is what she was wondering.

7 MR. CHALFANT: Okay. All right.
8 Thanks.

9 So giving the summary of the
10 rulemaking, this proposed rulemaking was adopted by
11 the EQB at its meeting on December 17, 2019. The
12 proposed rulemaking includes amendments to two
13 chapters of Title 25 of the Pennsylvania Code,
14 Chapter 93 relating to water quality standards and
15 chapter 96 relating to water quality standards
16 implementation.

17 Water quality standards are instream
18 water quality targets that are implemented. My
19 imposing specific regulatory requirements and permit
20 conditions such as treatment requirements, affluent
21 limitations, and best management practices on
22 individual sources of water pollution.

23 Water quality standards include the
24 existing and designated uses of the surface waters of
25 the Commonwealth along with the specific numeric and

1 narrative criteria necessary to achieve and maintain
2 those uses, as well as anti-degradation requirements.

3 There are four purposes and goals of
4 this proposed rulemaking which are first, to comply
5 with Act 40 of 2017. Second, to delete the existing
6 manganese numeric water quality criteria of 1.0
7 milligrams per liter from Table 3 and Section 93.7,
8 which was established for the protection of the
9 potable water supply use.

10 Third, to add manganese - to add a
11 manganese criteria of 0.3 milligrams per liter to
12 Table 5 and Section 93.8C, designed to protect human
13 health from the neuro-toxilogical effects of
14 manganese, which will also ensure adequate protection
15 of all water uses. And fourth, to identify the point
16 of compliance for the criteria.

17 The amendments propose two
18 alternatives for a point of compliance with the
19 manganese water quality standard. First, the point
20 all existing or planned surface water - surface
21 potable water supply withdrawals or all surface
22 waters meaning at or near the point of discharge.

23 Act 40 of 2017 added Subsection J to
24 Section 1920(a) of the Administrative Code of 1929,
25 which directed the EQB to propose regulations

1 requiring that the water quality criteria for
2 manganese established under Chapter 93 be met
3 consistent with the exception in Section 96.3B. In
4 other words, Act 40 directed the Board to propose
5 regulations that move the point of compliance for the
6 manganese water quality criteria from the point of
7 discharge to the point of any downstream public
8 drinking water intake.

9 The proposed regulation considers the
10 provisions of Act 40 in addition to several other
11 statutory obligations the Department and the EQB must
12 consider when evaluating water quality criteria and
13 points of compliance for the criteria, including
14 Pennsylvania Clean Streams Law, Safe Drinking Water
15 Act, and Federal Clean Water Act.

16 The proposed fee will affect all
17 persons, groups, or entities with proposed or
18 existing point source discharges of manganese into
19 surface waters of the Commonwealth that must comply
20 with the regulation. Persons who discharge waste
21 water containing manganese from mining will be
22 effected by the change in the proposed criteria and
23 by its implementation at the proposed second
24 alternative point of compliance near the point of
25 discharge. The mining industry will likely need to

1 add treatment to meet the new limit if the point of
2 compliance is at their discharge location.

3 Additionally, other sectors that
4 currently have water quality base affluent levels for
5 manganese and their discharge permits may be effected
6 by the regulation. Such facilities include
7 landfills, waste water treatment plants, and power
8 plants.

9 The signs of dischargers, public water
10 suppliers of drinking water, and other water supply
11 users of surface water for production activities
12 could be effected if the proposed first alternative
13 point of compliance is applied to the proposed
14 manganese criterion. These other waste water supply
15 uses may include food and beverage production or
16 preparation, paper and textile manufacturing, aqua
17 culture, and irrigation. Under this alternative, the
18 point of compliance for the manganese criterion will
19 be at the point of any planned or existing potable
20 water supply withdrawal.

21 Water suppliers will likely need to
22 conduct additional source water monitoring at their
23 facilities to determine the effects of increased
24 source water manganese levels on their operations.
25 Additionally, as the levels of manganese change in

1 surface water based on discharges, public water
2 suppliers of drinking water may require facility
3 upgrades or additional chemical usage to continue
4 achieving the secondary maximum contaminant level for
5 manganese 0.05 milligrams per liter. Any upgrades to
6 drinking water treatment will likely result in water
7 fee increases for the water supply rate payers.

8 This concludes the summary of the
9 rulemaking. If you would like to access a more
10 detailed explanation of the regulatory amendments in
11 this rulemaking, you can visit e-comment on DEP's
12 webpage select regulations.

13 In order to give everyone an equal
14 opportunity to comment on this proposal, I would like
15 to establish the following ground rules for this
16 hearing. I will call on the witnesses who have
17 registered to testify at this hearing. All who have
18 registered were assigned a number indicating the
19 order in which witnesses will be called upon to speak
20 which are showing on the screen right now.

21 Only those who registered as indicated
22 on the EQB webpage will be called upon to provide
23 testimony. Although if we have time at the end, we
24 will open it up if there is anybody on the Webex who
25 did not preregister. And I think we'll have time at

1 the end. We can accept testimony from those folks as
2 well.

3 Testimony is limited to five minutes
4 for each witness. Please note that written and
5 spoken testimony both carry the same weight. If you
6 should run out of time for your spoken testimony, we
7 will read the rest of your comments from your written
8 testimony. As advised in registration
9 correspondence, please provide a copy of your written
10 testimony to REGcomments@pa.gov, that is R-E-G
11 comments all one string at pa.gov. Your email must
12 note that you are submitting testimony for proposed
13 rulemaking Water Quality Standard for Manganese and
14 Implementation along with your first and last name,
15 mailing address, email address, and if you are
16 commenting on behalf of an organization.

17 Testimony is not required to be five
18 minutes long. If others who provide testimony before
19 you are making similar statements to yours, feel free
20 to abbreviate or summarize your verbal testimony and
21 still provide the full testimony via email. This
22 will help us hear from more commenters at this
23 hearing. You do not have to provide verbal testimony
24 in order to be included in the public record. All
25 written testimony submitted to REGcomments@pa.gov

1 will also be reviewed by the EQB and the Department
2 and included in the public record.

3 The public comment period on this
4 proposed rulemaking closes on September 25. Public
5 comments will not be accepted for the public record
6 on this proposed rulemaking after that date. Though
7 the registration process perspective commenters were
8 requested to designate one witness to present
9 testimony of behalf of an organization.

10 Please state your name, address, and
11 affiliation if applicable for the record prior to
12 presenting your testimony. The EQB would appreciate
13 your help by spelling out your name and terms that
14 may not be generally familiar so the transcript can
15 be as accurate as possible.

16 Because the purpose of a hearing is to
17 receive comments on a proposal, EQB members and
18 department staff cannot address questions about the
19 proposed rulemaking during the hearing. In addition
20 to or in place of verbal testimony presented at
21 today's hearing, interested persons may also submit
22 written comments on the proposal. Again, written and
23 verbal comments hold the same weight when considered
24 in finalization of this proposed rulemaking. All
25 testimony and written comments become a part of the

1 official public record.

2 All comments must be received by the
3 EQB on or before September 25, 2020. There are a few
4 different ways to submit written comments which are
5 distinct from testimony at the hearing today.
6 Comments may be submitted online through the e-
7 comment accessible from DEP's website. You can click
8 on the e-comment link at the bottom of DEP's homepage
9 or comments may submitted by email at the same email
10 address I read before, REGcomments@pa.gov.

11 A subject heading of the proposed
12 rulemaking and a return name and address must be
13 included in each email with comments. Comments may
14 also be sent through US Postal Mail to the
15 Environmental Quality Board P.O. Box 8477 Harrisburg,
16 Pennsylvania 17105-8477. All testimony received at
17 this hearing as well as written comments received by
18 September 25, 2020 will be considered by the EQB and
19 will be included in the comment response document
20 which will be prepared by DEP and reviewed by the EQB
21 prior to the Board taking its final action on this
22 regulation.

23 Now with that all said, I would like
24 to now call on the first commenter who preregistered,
25 Ronald Musser.

1 Ronald, are you on?

2 MR. MUSSER: Yes I am here.

3 MR. CHALFANT: Okay.

4 You can proceed with your testimony.

5 MR. MUSSER: Okay.

6 My name is Ronald L. Musser. I am a
7 professional geologist. My address - my working
8 address is 7785 Lincoln Highway, Central City, PA
9 15926. I am commenting on behalf of Pennsylvania
10 Mining Professionals. A solution without a problem.

11 Good afternoon, my name is Ron Musser,
12 I am registered professional geologist in the states
13 of Pennsylvania and New York. I am vice president of
14 Musser Engineering and current president of
15 Pennsylvania Mining Professionals. I have been
16 involved in Environmental consulting business for
17 over 30 years, and I have worked with the Maryland
18 Bureau of Mines as well as the Pennsylvania
19 Department of Environmental Protection on
20 approximately 200 mining permits and government
21 finance construction contracts.

22 I speak to you today on behalf of
23 Pennsylvania Mining Professionals. We are a
24 statewide organization comprised of engineers,
25 geologists, surveyors, and other scientific

1 professionals directly involved in the preparation of
2 various permits serving the coal, aggregate, and
3 other mining industries.

4 In 1999, a service mine permit was
5 issued to a mining company in Somerset County, PA.
6 The seams mined were the upper, middle, and lower
7 containing coal seams. The line was very successful
8 and today you can wonder across the back filled
9 reclaim mine site and never know that mining took
10 place.

11 The erosion and sedimentation pond was
12 lapped in a post mining structure at the request of
13 the land owner. Above the pond, a pipe valid from
14 when DEP approved pit floor drains fluid into the
15 pond and provided a year round source of cool water.
16 Aquatic life including fish that have been introduced
17 into the pond were thriving.

18 The permits were due for a renewal in
19 2014. And the renewed permit imposed a manganese
20 discharge limit to this sedimentation pond. With the
21 stroke of a pen, the pond went from a beautiful farm
22 pond to a water treatment facility.

23 Chemicals in the form cost will
24 require to meet the restrictive manganese limit. The
25 pond is now dead and harmful chemicals have replaced

1 aquatic life. Treatment costs also went from zero
2 dollars to nearly \$30,000 per year. There was no
3 stream degradation and no drinking water standards
4 were even remotely in jeopardy. In this instance,
5 manganese restrictions on the pond are harming the
6 environment, not helping and ultimately created a
7 solution without problem.

8 In 1987, I began monitoring the Stoney
9 Creek River located just upstream of the Hooversville
10 Bureau water supply intake and currently have data
11 that dates all the way back to 1982. This water
12 sample collecting was done for various mining
13 companies and continued almost uninterrupted until
14 January of 2020.

15 The comparative data for manganese
16 above the Hooversville water supply intake has
17 factually improved and over the years manganese
18 levels have decreased. This has occurred even though
19 manganese successful service mines that we were
20 operating within the watershed and within this same
21 time period. Again proving the manganese
22 restrictions are a solution without a problem.

23 A final note, the team at Musser's
24 Engineering are active volunteer members of the
25 Stoney Creek Commonwealth River Improvement Project.

1 We volunteer our time to derive quarterly sampling
2 and monitoring of the mop and run treatment system
3 that the Script Watershed Organization has installed
4 to passively treat pre-act AMD that each data shows
5 has a direct improvement on the Stoney Creek River.

6 If Pennsylvania is to continue to be a
7 leader and example in water quality improvement and
8 advance in maintenance, then our focus should be on
9 collaborative effort between the DEP watershed groups
10 and the industry rather than spending time and
11 resources on finding a solution to a nonexistent
12 problem. Thank you for your time.

13 MR. CHALFANT: Thank you for your
14 testimony Ronald. Next up, do we have Jacquie Fidler
15 with us?

16 MS. FIDLER: Hi, can you guys hear me
17 okay?

18 MR. CHALFANT: Yes, we can hear you
19 Jacquie. Please proceed with your testimony.

20 MS. FIDLER: Excellent. Thank you.

21 My name is Jacquie Fidler, I am
22 testifying on behalf of Console Energy. Our address
23 is 1000 Console Energy Drive, Canonsburg, PA 15317.

24 I am the director of Environmental and
25 Regulatory affairs at Console Energy and we are a

1 leading producer and exporter of high quality
2 bituminous coal from the Northern Appalachian basin.
3 The company Pennsylvania Mining Complex located in
4 Greene and Washington counties. It is the largest
5 underground coal mining complex in North America.
6 Together with our subsidiaries compiled about 30
7 permits in Pennsylvania under which we treat and
8 discharge approximately 9.5 billion gallons of water
9 annually.

10 In 2019, our environmental compliance
11 record exceed 99.9 percent for the sixth consecutive
12 year. On behalf of Console, we would like to thank
13 you for the opportunity to address the proposed
14 rulemaking. The proposed rulemaking was initiated in
15 response to Act 40 of 2017 which required the EQB to
16 revise the water quality standards at Chapter 96.3
17 (d) in a manner that would provide clarity on the
18 point of compliance for the existing manganese and
19 water quality standard.

20 Act 40 intended to provide consistency
21 with other water quality criteria similarly
22 established for the protection of potable water
23 supply such as total dissolved solids, chloride,
24 faulty, and fluoride. Act 40 did not instruct the
25 Department to reclassify manganese as a toxic

1 substance.

2 Our brief comments today are
3 consistent with Act 40 and are supportive of
4 maintaining the point of compliance at the location
5 of potable water supply withdrawal. In deriving to a
6 0.3 milligrams per liter water quality criteria, the
7 Department relies upon an oral reference dose
8 developed by EPA in 1995 based on dietary studies
9 alone, applies the recommended modification factor of
10 three and assumes a daily drinking water intake of
11 2.4 liters or approximately five standard size
12 bottles of water, a considerable consumption rate.

13 Under Chapter 93, the Department
14 defines existing or designated stream uses for
15 surface waters within the Commonwealth and ensures
16 that water quality standards are appropriately
17 applied to promote the maintenance and protection of
18 its designated uses. For instance surface waters
19 that are designated as potable water supplies are
20 protected for use as a potable water source.
21 Similarly the water quality in surface waters
22 designated as trout stock fisheries are protected to
23 support a trout population.

24 Given that the proposed manganese
25 standard was developed based on intake, consumption,

1 and human health only it is inappropriate and
2 overprotective to apply the proposed standard as an
3 ambient standard that must be achieved in all surface
4 waters and at the point of all discharges. Rather it
5 should be applied, well it will ensure protection of
6 intake and consumption in those surface waters
7 classified as potable water sources at the point of
8 potable water withdrawal.

9 As part of the NPEDS permitting
10 process, the Department evaluates the proposed
11 discharge and assigns affluent limits that are
12 intended not only to protect the designated use of
13 the receiving stream but to also protect nearest
14 downstream potable water supply intake.

15 The Department consistently employs its
16 Penntox program which is a quantitative assessment of
17 worst case scenario conditions to ensure adequate
18 protection of designated uses and downstream water
19 supply. This analysis includes the comparison of
20 imagery specific affluent limit guidelines to other
21 guidelines such as water quality standard based
22 affluent limits and total maximum discharge loads
23 developed at the watershed level. An approach that
24 is consistent with the Department's water quality
25 management and pollution control duties under the

1 Clean Streams Law.

2 In this analysis, the most protective
3 category of affluent limit is applied. This analysis
4 is regularly repeated during the permit renewal
5 process to ensure continued protection and
6 anti-degradation. This process applies to all
7 discharges and NPEDS permit holders across the state
8 regardless of industry classification.

9 In implementing Act 40 of 2017 as
10 intended and defining the location of potable water
11 withdrawal as the point of manganese compliance,
12 these processes would not change. Affluent limits
13 would still continue to be assign to discharges on a
14 site and watershed specific basin to ensure
15 protections of potable water supplies. Where
16 necessary, restrictive limits would be imposed to
17 ensure that no additional expense or threat to public
18 water supply could occur.

19 In closing, assigning a new
20 reclassified and toxic standard for manganese that
21 was derived based on human health and consumption to
22 all surface waters is not necessary, will threaten
23 compliance associated with increased costs and
24 operational challenges imposed across the state's
25 permanent discharges. We urge you to apply the new

1 water quality standard at the point of potable water
2 withdrawal in accordance with Act 40 of 2017. Thank
3 you very much for your time and consideration, and
4 please let me know if I can answer any questions.

5 MR. CHALFANT: Thank you Jacquie for
6 your testimony. Next individual who registered to
7 testify is Serena Dimango.

8 Do we have Serena?

9 MS. DIMANGO: Yes I am here.

10 MR. CHALFANT: Hi Serena. Please
11 proceed with your testimony.

12 MS. DIMANGO: Okay.

13 Serena Dimagno, my business address is
14 Spotts, Stevens, & McCoy, 701 Creekside Lane, Lititz,
15 Pennsylvania 17543.

16 Good afternoon. I am Serena Dimagno,
17 Senior Environmental Consultant with Spotts, Stevens,
18 & McCoy. I have over 45 years of experience in water
19 and waste water consulting. I am also the chairman
20 of the Pennsylvania Department of Environmental
21 Protection Small Water Systems Technical Advisories
22 Assistance Center, otherwise known as TAAC Board,
23 serving my third two year term as chairman. Today, I
24 am representing the Water Works Operators Association
25 of Pennsylvania, WWOAP, as the legislative and

1 regulatory affairs chairman.

2 WVOAP is a non-profit organization
3 dedicated to increasing the knowledge and expertise
4 of those working at all levels and in all sectors of
5 Pennsylvania's water supply industry. WVOAP has
6 existed for nearly a century to help strengthen and
7 promote the water industry. WVOAP appreciated the
8 opportunity to provide comments on this important
9 proposed rulemaking that impacts our members, all
10 sectors of the water supply industry in Pennsylvania,
11 and most significantly water consumers.

12 WVOAP supports the proposed rulemaking
13 the amend Chapters 96 and 96. We support the
14 proposed amendments to delete manganese from Table 3
15 and 93.7 and adding manganese to Table 5 in 93.8(c).
16 With these amendments the EQB is proposing a new
17 human health criterion for manganese of 0.3
18 milligrams per liter in Chapter 93.8 and would delete
19 the exiting one milligram per liter standard because
20 it is not protective of human health.

21 The new prosed 0.3 milligrams per
22 liter toxic health standard would apply to all
23 dischargers into surface waters as currently applied
24 to the existing one milligram per liter standard.
25 The proposed 0.3 milligram per liter toxic health

1 standard will protect human health from the
2 neurotoxilogical effects of manganese as well as
3 ensure adequate protection of all water uses. Both
4 the TAAC advisory board and the Water Resources
5 Advisory Committee, RAC, voted to support the 0.3
6 milligrams per liter standard proposed by DEP.

7 Additionally, the United States
8 Environmental Protection Agency requires states to
9 address levels of manganese above 0.3 milligrams per
10 liter due to the EPA health advisory which includes a
11 ten day limit of 0.3 milligrams per liter for
12 instance. EPA also requires states to implement
13 corrective actions including public notification
14 within one hour of discovery for an exceedance of an
15 EPA health advisory including manganese.

16 The EQB has proposed two alternatives
17 for point of compliance with manganese water quality
18 standard. The first, the point of all existing or
19 planned surface potable water supply withdrawals, or
20 second all surface waters that is near the point of
21 discharge.

22 WVOAP strongly supports continuing the
23 current point of compliance for manganese in all
24 surface waters that is near the point of discharge as
25 stated in paragraph 96.3(c). There has been

1 significant concern in the potable water industry
2 with a legislative provision contained in the
3 Administrative Code, Act 40 of 2017 require the EQB
4 to set a water quality standard for manganese and
5 shift the burden for treating manganese from the
6 dischargers like the coal industry and other industry
7 dischargers who water users.

8 DEP has determined there are over 900
9 NPEDS permit holders with manganese discharge limits
10 that do not include coal industry discharges. This
11 shift in the point of compliance from the generators
12 of manganese for public water suppliers will place
13 the entire burden of meeting manganese compliance of
14 public water supplies and come at substantial cost to
15 public water supply customers.

16 Public water suppliers must meet a
17 secondary maximum contaminant level of 0.05 milligram
18 per liter in accordance with EPA and DEP regulations.
19 In Pennsylvania moreover, SMCL's are enforced
20 similarly to maximum contaminant levels. Increasing
21 the level of manganese of public water supply intakes
22 by moving the point of compliance will require public
23 water suppliers to install specific manganese removal
24 technologies as substantial increases in capitol
25 operating and monitoring costs.

1 DEP determined that 280 of 340 surface
2 water treatment plants in Pennsylvania would need to
3 evaluate treatment changes if the manganese
4 compliance point would move without the addition of a
5 stricter upstream standard. Pollution is not the
6 solution to pollution.

7 Finally, the precedent established by
8 Act 40 in the shift of discharge compliance is
9 egregious overturning 30 years of environmental
10 stewardship. Dischargers must be responsible for
11 eliminating of mitigating the pollutants in their
12 discharges regardless of the contaminant or pollution
13 constituents. Public water suppliers rely on source
14 water protection to provide safe and adequate
15 drinking water to their customers. Thank you very
16 much for the opportunity to provide these comments
17 and I am available for any questions.

18 MR. CHALFANT: Thank you for your
19 testimony Serena. Next up, we have Doug Crawshaw,
20 Doug are you here?

21 MR. CRAWSHAW: Hi, can you hear me?

22 MR. CHALFANT: I can hear you Doug.
23 Please proceed with your testimony.

24 MR. CRAWSHAW: Very good, thank you,
25 everybody. My name is Douglas Crawshaw, I am the

1 water quality manager for the York Water Company and
2 I am testifying on behalf of the York Water Company.
3 Address is 130 East Market Street, York,
4 Pennsylvania.

5 As the water quality manager here and
6 at multiple other businesses, I have 24 years of
7 experience in water quality, applied research, and
8 drinking water treatment operations. York Water
9 Company supports the proposed rulemaking to amend
10 Chapter 93 and 96 relating to water quality standards
11 and water quality standards implementation.
12 Specifically, the York Water Company supports the
13 Environmental Quality Board's proposal of a new
14 numeric human health criterion for manganese of 0.3
15 milligrams per liter in Chapter 93.8, water quality
16 criteria for toxic substances and that the deletion
17 of the existing one milligram per liter standard
18 because it is not protective of human health.

19 The new proposed 0.3 milligram per
20 liter toxic health standard would apply to all
21 discharges going into surface waters just as the
22 existing one milligram per liter standard. The
23 Department of Environmental Protection reviewed the
24 effects of manganese on human health and determined
25 that current science shows manganese is harmful to

1 human health as a possible nervous system toxin with
2 implication to early childhood development at levels
3 that are less than the threshold levels that impact
4 aquatic life.

5 The DEP believes the new proposed 0.3
6 milligram per liter toxic health standard will
7 protect human health from neurotoxicological effects of
8 manganese, as well ensure adequate protection of all
9 water uses.

10 The EQB is also proposing for public
11 comment two alternatives for a point of compliance
12 for the manganese water quality standard. However
13 the proposed amendments set forth in Annex A support
14 both alternatives. The York Water Company supports
15 maintaining the current point of compliance for
16 manganese in all surface waters that is near the
17 point of discharge as stated in 96.3(c).

18 Water suppliers have been greatly
19 concerned with the legislative provision included in
20 the Administrative Code Act 40 of 2017 to require the
21 EQB to set a water quality standard for manganese.
22 Act 40 would shift the burden for treating manganese
23 discharges from mine sites and other sources from
24 those produced in the water to those using the water
25 like public water suppliers.

1 The consequence would put the entire
2 burden of meeting the manganese standard on water
3 suppliers at a significant cost as the one milligram
4 per liter standard is 20 times the level of manganese
5 that water suppliers can have in their water
6 supplies, which is 0.05 milligram per liter.

7 In accordance with EPA and DEP's
8 secondary maximum contaminant levels, Pennsylvania
9 enforces secondary maximum contaminant levels as they
10 assist public water systems in managing their
11 drinking water for aesthetic considerations such as
12 taste, color, and odor complaints. At relatively low
13 concentrations 0.02 milligram per liter or greater,
14 manganese can cause discolored water, usually black
15 or dark red/brown staining of laundry and plumbing
16 fixtures, and increased turbidity.

17 At higher levels, manganese can create
18 a metallic taste in the water at 0.1 milligrams per
19 liter or greater. These are significant current
20 concerns for both water customers and water
21 suppliers.

22 Therefore, water suppliers monitor for
23 manganese in their source water to make sure they can
24 properly treat it before it becomes a problem.
25 Moving the point of compliance for manganese would

1 result in higher levels of manganese in the source
2 water causing water systems to experience increases
3 in monitoring costs and increase in treatment costs
4 due to the need to modify existing treatments
5 processes or provide additional treatment.

6 For example, DEP staff informed the
7 WRAC that 280 of the 340 surface water treatment
8 plants in the state would have to evaluate whether to
9 make treatment changes if the manganese compliance
10 point were moved without the additional of a stricter
11 standard upstream.

12 Finally, it is important to note that
13 manganese does not degrade, pollution is not the
14 solution. So it must be addressed through treatment
15 or mitigation at the point of discharge.
16 Fundamentally, reducing pollution into our waterways
17 should be the responsibility of the generator of that
18 pollution at the point of discharge and not the
19 public water supplier at the point of water supply
20 intake.

21 Thank you.

22 MR. CHALFANT: Thank you for your
23 testimony Doug. Next individual who registered to
24 provide testimony is Andrew Gutshall. Are you with
25 us Andrew?

1 MR. JAGAILA: I do not see him on the
2 line.

3 MR. CHALFANT: Okay.

4 Next person who registered is Carolyn
5 Speicher. Carolyn are you still with us?

6 MS. SPEICHER: Yes, I am still here.

7 MR. CHALFANT: Okay.

8 And before you get started I just
9 wanted to note if there is anybody else on the line
10 logged into the conference who did not preregister to
11 provide testimony but would like to provide
12 testimony, please indicate that in the chat box and
13 we can arrange for that after Carolyn provides her
14 testimony. So whenever you're ready Carolyn, go
15 ahead.

16 MS. SPEICHER: Okay. Thank you.

17 My name is Carolyn Speicher and it's
18 S-P-E-I-C-H-E-R. My address is 739 South Juliana
19 Street, Bedford, PA. And I have lived in
20 Pennsylvania for my whole life. And as a tax paying
21 resident of the Commonwealth I have the following
22 comments for this proposed rulemaking. Throughout
23 the Commonwealth in various locations, ambient
24 background levels of manganese are already
25 drastically higher than the proposed limit or the

1 current discharge limit set up. So retaining the
2 current discharge system does not add any manganese
3 to the streams more than already permitted if the
4 point of compliance is moved to the public water
5 supply intake.

6 And water treatment plants already
7 have to reach standards lower than that. Their
8 treatment systems are mostly set up to achieve those
9 lower levels so there is not any actual benefit I see
10 to the supply drinking water by lowering the limit in
11 the stream more than they're already are.

12 The water treatment facilities are
13 also generally more capable of handling the manganese
14 treatment than the waste water facilities which would
15 be impacted then on the discharge compliance that is
16 where the biological occurs or the sludge that comes
17 out of the water treatment systems. And those
18 systems are not specialized for manganese metal
19 removal. They're specialized for biological
20 treatment.

21 The cost of manganese removal is very
22 high compared to any environmental benefit. For most
23 of the state there are challenges with space
24 limitations, chemical dosage, sludge handling, and
25 personnel. Meanwhile, DEP already has the tools to

1 manage any sites specific challenges and locations
2 that have chandelles or potable water supplies.
3 Those streams already have the ability for any
4 discharges into them to have limitations put on them.
5 There's many different tax payer dollars on making
6 manganese a bigger issue than it needs to be with no
7 proven risk or benefit to the public.

8 So in closing, I propose - I oppose
9 changing the current limit and support the point of
10 compliance being at the intake to the first
11 downstream public water supply. Thank you.

12 MR. CHALFANT: Thank you, Carolyn.
13 Just circling back to see if - do we have Andrew with
14 us yet?

15 MR. JAGAILA: Not from what I can tell
16 unless he has just called in.

17 MR. CHALFANT: Okay.

18 Is there a way we can check if one of
19 the call-ins is Andrew because -.

20 MR. JAGAILA: I just got a message
21 from someone in the audience there is a power outage
22 in Andrew's area.

23 MR. CHALFANT: Okay.

24 Well, if whoever knows how to contact
25 Andrew could let him know that if he could provide

1 his testimony to the REGcomments@pa.gov, his written
2 testimony will carry the same weight as I mentioned
3 in the introduction as any verbal testimony that he
4 would have given or if he is able to join us after.
5 I think we have - Darek, there was one individual who
6 indicated they'd like to provide additional testimony
7 here, Josie Gasky.

8 Is that right?

9 MR. JAGAILA: That's correct.

10 MR. CHALFANT: Okay.

11 Josie are you there?

12 MS. GASKY: I am. Can you hear me?

13 MR. CHALFANT: Yes, I can hear you.

14 Please proceed with your testimony when you're ready.

15 MS. GASKY: Thank you.

16 Good afternoon, my name is Josie Gasky
17 and I am Director of Environmental Safety and Health
18 for the Pennsylvania Aggregates and Concrete
19 Association. We are located at 2040 Linglestown Road
20 in Harrisburg.

21 PACA represents the broad interest of
22 over 150 member aggregates cement and ready mixed
23 concrete companies and the firms that support those
24 industries. PACA members account for more than 80
25 percent of the total aggregates production in

1 Pennsylvania. Pennsylvania consistently ranks in the
2 top five amongst states in national stone production
3 and in the top ten for sand and gravel. We oppose
4 the proposed rulemaking and will address just a few
5 reasons why.

6 Manganese is an essential nutrient
7 needed for normal functioning in the human body and
8 is a common mineral found in the earth. There are
9 locations in Pennsylvania where the ambient
10 background levels of manganese in the streams are
11 greater than the proposed limit 0.3 or even the
12 current one milligram per liter. Labeling manganese
13 as a toxin as DEP is proposing to do is
14 inappropriate.

15 The proposed standard is not
16 consistent with up to date science surrounding
17 manganese and human health effects, nor does the
18 current science support the modifying factor of three
19 that was used in the proposed rulemaking. The EPA's
20 studies from 2002 that purportedly provide the basis
21 for these three medication factor demonstrate no
22 conclusive evidence of adverse health effects for an
23 oral manganese dose. Remove the random modifying
24 factor and the current manganese level of one
25 milligrams per liter is protective of humans across

1 the entire human age range.

2 Regardless of DEP's concerns regarding
3 the consumption of manganese in drinking water and
4 their belief that untreated stream waters
5 consistently used by citizens for baby formula, it
6 should be noted that manganese is added to the
7 instant baby formula as recommended by the World
8 Health Organization and the Food and Agricultural
9 Organization of the United Nations.

10 Furthermore, there are many off the
11 shelf common liquid refreshments that contain
12 manganese concentrations at a magnitude many times
13 greater than 0.3 milligrams per liter. Many of our
14 members' facilities have background sampling results
15 from water drained wells upstream, downstream, and at
16 various surface points that demonstrate elevated
17 manganese levels consistently exceeding the current
18 limit of one milligram per liter.

19 Even with these higher background
20 levels, there is no evidence of impairment from
21 manganese found at the downstream water intakes.
22 This suggests that it makes little sense to consume
23 resources to remove manganese when those same
24 resources can otherwise be used for projects with
25 more return on investment for the general public.

1 The proposed rulemaking will impose
2 significant compliance costs not only on the non-coal
3 mining industries, but on the numerous other
4 industries that may not currently be limited for
5 manganese in their permits. The cost to all will be
6 significant with no real environmental or health
7 benefit.

8 Furthermore, treatment for manganese
9 is complicated. Many non-coal facilities already
10 treat for pH, iron, and aluminum. Manganese
11 treatment involves a careful balance between chemical
12 dosage to control pH and carefully managing total
13 suspended solids and aluminum levels to ensure
14 compliant discharge.

15 Significant increase costs are
16 associated with these additional steps. They are
17 site specific and they include costs for things like
18 engineering, construction, treatment systems, power
19 systems, and automation systems. Many facilities do
20 not have the room on their site for additional
21 treatment facilities.

22 Additionally, in order to consistently
23 meet a permit limit of 0.3 milligrams per liter, our
24 members will need to treat to an actual lower limit
25 on 0.15 milligram per liter again to prevent any

1 violations.

2 In conclusion we believe the
3 modification factor of three is not needed for human
4 health risk evaluation of manganese in drinking water
5 and that the proposed criterion of 0.3 is not
6 necessary for the protection of human health. We
7 oppose reducing the manganese limits and believe the
8 point of compliance should be at the point of intake
9 of the downstream water supplier. Thank you for the
10 opportunity to comment and we will be submitting more
11 complete written comments.

12 MR. CHALFANT: Thank you for your
13 testimony Josie. Just circling back one more time,
14 we still don't have Andrew with us?

15 MR. JAGAILA: No, we do not.

16 MR. CHALFANT: Okay.

17 Has anybody indicated that they'd like
18 to provide testimony who didn't preregister?

19 MR. JAGAILA: Josie was the only one.

20 MR. CHALFANT: Okay.

21 So I - anyone else indicating that
22 they'd like to provide testimony in the chat. We
23 will give another 20 to 30 seconds for that.

24 In the meantime, I will put in that
25 email address I had mentioned in the chat box where

1 written testimony or comments can be submitted. So
2 there is that email address, REGcomments@pa.gov. I
3 just put it in the chat box.

4 And I'm not seeing any other
5 indications in this chat box that anybody else would
6 like to provide testimony today. So with that on
7 behalf of the EQB, I hereby adjourn this hearing at
8 2:45 p.m.

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HEARING CONCLUDED AT 2:45 P.M.

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CERTIFICATE

1
2 I hereby certify that the foregoing proceeding
3 was reported by me on 09/10/2020 and that I, Derek
4 Richmond, read this transcript, and that I attest that
5 this transcript is a true and accurate record of the
6 proceeding.

7
8 Dated the 1st day of October, 2020

9
10 

11 Derek Richmond,
12 Court Reporter