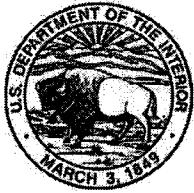


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United States Department of the Interior



FISH AND WILDLIFE SERVICE
Pennsylvania Field Office
315 South Allen Street, Suite 322
State College, Pennsylvania 16801-4850

March 11, 2010

RECEIVED

MAR 12 2010

INDEPENDENT REGULATORY
REVIEW COMMISSION

Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105-8477

Dear Chairman Hanger:

The U.S. Fish and Wildlife Service (Service) has reviewed the February 13, 2010, *Pennsylvania Bulletin* notice concerning the Environmental Quality Board's proposal to rescind 25 Pa. Code Chapter 92 ("National Pollutant Discharge Elimination System Permitting, Monitoring, and Compliance") and replace it with a new Chapter 92a of the same name. The purpose of the proposed rulemaking is to reorganize Chapter 92 so that it will be consistent with the organization of the companion federal regulations; to establish a new permit fee structure; to incorporate new federal requirements; and to add or reorganize certain treatment requirements to standardize the approach to discharges of treated sewage and industrial wastewater. The following comments are provided pursuant to the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) to ensure the protection of endangered and threatened species.

§ 92a.12(c) We support the retention of the Department's affirmation of its intent to protect federally- or State-listed threatened or endangered species or their critical habitat (formerly at 92.2a(c)).

§ 92a.26. New or increased discharges, or change of waste streams

We recommend that this section be amended to require that facilities proposing expansions or process modifications which may result in a new discharge, an increased discharge of pollutants, or the discharge of new pollutants, be subjected to a Pennsylvania Natural Diversity Inventory screening. If a potential conflict with a threatened or endangered species is revealed, follow-up coordination/consultation with the appropriate State and/or federal natural resource agencies is required.

§ 92a.54(a) General permits; coverage and purpose

In addition to prohibiting the use of general permits in High Quality or Exceptional Value waters, we recommend that general permits also be prohibited in waters that support federally- or State-listed threatened or endangered species or their critical habitat.

Thank you for the opportunity to provide these comments. Please direct any questions to Cindy Tibbott of my staff at 304-234-0238.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Cole".

Patricia Cole
Acting Supervisor

From: Cindy_Tibbott@fws.gov
Sent: Friday, March 12, 2010 10:14 AM
To: EP, RegComments
Subject: Comments on Proposed Rulemaking: Chapters 92 and 92a
Attachments: USFWScommentsChapter92_00000.pdf

(See attached file: USFWScommentsChapter92_00000.pdf)

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