



Upper Delaware Council

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May 2, 2013

Thomas Starosta
Pennsylvania Department of Environmental Protection
Bureau of Point and Non-Point Source Management, Division of Planning and Permits
P. O. Box 8774
Harrisburg, PA 17105-8774

Subject: Document # 385-2208-001 titled: Sewage Facilities Planning Module Review for Onlot Sewage Systems Proposed in High Quality and Exceptional Value Watersheds

Dear Mr. Starosta,

Established in 1988, the Upper Delaware Council Inc. is a partnership between local, state and federal governments and agencies that work closely together in the management of the Upper Delaware Scenic and Recreational River. Encompassing Wayne and Pike Counties, members of the Upper Delaware Council include Damascus, Berlin, Lackawaxen, Shohola, and Westfall Townships.

In support of our respective County Commissioners and the positions of our member Townships, the Upper Delaware Council offers the following comments in opposition to the proposed guidance Document # 385-2208-001.

Approximately 95% of Wayne and Pike Counties are in a High Quality (HQ) or Exceptional Value (EV) watershed. Significant amounts of the aforementioned watersheds are tributaries to the Upper Delaware River. In general, water quality on the Upper Delaware River is uniformly good to excellent. Its clean waters support outstanding cold-water and warm-water fisheries. Maintenance of this quality is necessary for the full enjoyment of the river valley by residents and river valley recreationists. Current water quality monitoring is conducted by several agencies, including the United States Geological Survey (USGS), Delaware River Basin Commission (DRBC), and the National Park Service (NPS). Their data shows an incremental increase in water quality on the Upper Delaware River. This data proves that the current measures to protect the water quality in the river basin are successful.

Nitrate-N is the pollutant of concern in the proposed policy; therefore the following data reflects nitrate levels in Pennsylvania waters. A water quality study conducted by the USGS in the Delaware River Basin

Working together to conserve the Upper Delaware Scenic and Recreational River

*Town of Hancock - Town of Fremont - Town of Delaware - Town of Cochection - Town of Tusten - Town of Highland
Town of Lumberland - Town of Deerpark - Damascus Township - Berlin Township - Lackawaxen Township - Shohola Township - Westfall Township
State of New York - Commonwealth of Pennsylvania - Delaware River Basin Commission - In partnership with the National Park Service*

concludes that in streams, the predominant forms of nitrogen were nitrate and organic nitrogen plus ammonia. Nitrate was detected in more than 95 percent of the streams sampled and often amounted to more than 75 percent of the total nitrogen in surface-water samples. Concentrations of total nitrate ranged from non-detectable to 10.5 mg/L as N, with a median of 0.87 mg/L. (USGS 1998-2001, p. 19). Under Chapter 93, Section 7, Specific Water Quality Criteria of the Pennsylvania Code, the water quality standard for nitrate is 10 mg/L.

The rating system for Best Management Practices and Options in the proposed policy is based on a standard of 45 mg/L. There is no documented science that correlates nitrate-N with a 45 mg/L standard. The federal standard for nitrate-N levels in drinking water is 10 mg/L (EPA 2012).

According to the proposed policy, "In Pennsylvania, nitrate in groundwater is trending downward overall and this may be related to improved practices in land use and reductions in atmospheric deposition" (Reese and Lee 1998). The fact that the policy acknowledges that "Septic systems generally are not capable of affecting surface waters to the degree where the 10 mg/L limit may be threatened..." suggests that there is no justification for the proposed policy.

The following references contradict Section 71 (Administration of Sewage Facilities Planning Program) of Title 25 Pennsylvania Code:

Section 71.11, "General Requirements" states that "Municipalities are required to develop and implement comprehensive official plans which provide for the resolution of existing sewage disposal problems, provide for the future sewage disposal needs of new land development and provide for the future sewage disposal needs of the municipality. Official plans shall be developed, submitted to the Department for approval and implemented by municipalities under the act".

This same statement is also mentioned under Section III "Regulatory Requirements" in the proposed policy. Due to the fact that there is no current "sewage disposal problem" that needs resolution, there is no basis for the implementation of the proposed policy.

Section 71.21 "Content of Official Plans" states that the Department shall "Evaluate existing sewage facilities in the planning area through the following: An identification, mapping and description of areas that use individual and community onlot sewage systems in the planning area, including: A comparison of the types of onlot sewage systems installed in an area with the types of systems which are appropriate for the area according to soil, geologic conditions and Chapter 73 (relating to standards for onlot sewage treatment facilities)."

Creating a policy that represents HQ and EV streams throughout Pennsylvania does not address differences in soil and geologic conditions which vary greatly throughout the Commonwealth and have significant impacts on nitrate levels in ground and surface waters.

There is a fine line between protection and over regulation. High quality water is the basis for many of the healthy, viable, rural communities in Wayne and Pike Counties. The Upper Delaware Council is committed to protecting the water quality in this region, and scientific evidence verifies that current land use practices in Pennsylvania are successfully accomplishing that task. The Upper Delaware Council cooperates with member Townships and relies on their zoning and land use practices to achieve best management practices (BMPs) that are tailored to each area's specific soil and geology, while supporting recreational use of the environment and the economic well-being of communities. We see no benefit in preempting local zoning and land use regulations given the good to excellent quality of the waters in the Upper Delaware watershed.

The proposed policy, through the arbitrary point system and implementation of proposed best management practices, threatens the region's economic vitality. Models of new developments prove to be cost prohibitive under the BMPs of the proposed policy.

Furthermore, the proposed policy was derived from an Environmental Hearing Board Decision. Is the DEP not concerned that the required signing of a Declaration of Environmental Covenant that binds the land in perpetuity to the designated size and use could potentially be viewed as inverse condemnation by the court system?

Due to the discrepancies, lack of documented need, and potential negative economic impacts of the proposed policy, Document # 385-2208-001 should not be adopted. On behalf of our respective Townships, we urge the DEP to discard this draft policy and address the valid concerns of the citizens in the regions most affected.

Sincerely,

A handwritten signature in black ink that reads "Jeffrey R. Dexter". The signature is written in a cursive, flowing style.

Jeffrey R. Dexter, Chairman
Upper Delaware Council

Cc: PA Governor Thomas Corbett
PA DEP Acting Secretary E. Christopher Abruzzo
US Senator Pat Toomey
US Senator Robert P. Casey Jr.
Congressman Tom Marino, 16th District
Senator Lisa Baker, 20th District
Representative Michael Peifer, 139th District

Representative Sandra Major, 111th District
Representative Rosemary Brown, 189th District
Pike County Commissioners
Wayne County Commissioners
Wayne County Conservation District
Pike County Conservation District
Buckingham Township
Manchester Township
Damascus Township
Berlin Township
Shohola Township
Lackawaxen Township
Westfall Township
Dennis DeMara, PA DCNR, UDC Rep.
Sean McGuinness, NPS UDS&RR

References

1. Environmental Protection Agency (EPA), 2012, Relation Between Nitrate in Water Wells and Potential Sources in the Lower Yakima Valley, Washington, p. 1
2. Reese, Stuart O., Joseph J. Lee, 1997, Summary of Groundwater Quality Monitoring Data (1985 - 1997) from Pennsylvania's Ambient and Fixed Station Network (FSN) Monitoring Program. Pennsylvania Department of Environmental Protection
3. United States Geological Survey (USGS), 1998–2001, Water Quality in the Delaware River Basin Pennsylvania, New Jersey, New York, and Delaware, p. 19
4. Title 25 Pennsylvania Code, Chapters 71 (Administration of Sewage Facilities Planning Program) and Chapter 93. (Water Quality Standards)