

Mr. Kevin Coyne
WV Department of Environmental Protection
Division of Water and Waste Management
601 57th St. S.E.
Charleston, WV 25304

RE: 47CSR2 Requirements Governing Water Quality Standards

Mr. Coyne,

We appreciate this opportunity review and propose changes to WV 47CSR2 Requirements Governing Water Quality Standards. Please find below comments put together by the environmental and regulatory department of Enerplus Resources (USA) Corporation.

§47-2-1.1 Scope – These rules establish requirements governing the discharge or deposit of sewage industrial wastes and other wastes into the waters of the state and establish water quality standards for the waters of the State standing or flowing over the surface of the State.

Comment: This establishes water quality standards for waters of the state, standing or flowing over the surface. Clarify that this regulation is not intended to include groundwater.

§47-2-2.3 “Cumulative” means a pollutant which increases in concentration in an organism by successive additions at different times or in different ways (bio-accumulation).

Comment: This definition is more suited for “bio-accumulation”, not simply the generic term “cumulative”.

§47-2-2.9 “Intermittent Streams” are streams which have no flow during sustained periods of no precipitation and which do not support aquatic life whose life history requires residence in flowing waters for a continuous period of at least six (6) months.

Comment: Recommend utilizing the USACE definition of intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

§47-2-2.15 “Representative important species of aquatic life” shall mean those species of aquatic life whose protection and propagation will assure the sustained presence of a balanced aquatic community. Such species are representative in the sense that maintenance of water quality criteria will assure both

the natural completion of the species' life cycles and the overall protection and sustained propagation of the balanced aquatic community.

Comment: This is a generic and vague definition which could apply to virtually any species reliant on a given water source for the completion of its life cycle. Is it applicable to vertebrates, macro invertebrates, amphibians, plants and microscopic species collectively?

§47-2-2.23 "Wet weather streams" are streams that flow only in direct response to precipitation or whose channels are at all times above the water table.

Comment: These are defined as ephemeral streams by the USACE, recommend not introducing the new term "wet weather streams".

§47-2-5.1 In the permit review and planning process or upon the request of a permit applicant or permittee, the Secretary may establish on a case-by-case basis an appropriate mixing zone.

Comment: A definition for "mixing zone" should be added to section §47-2-2.

§47-2-7.2.c.4.H The average flow rate in the segment and the amount of flow at a designated control point and a statement regarding whether the flow of the stream is ephemeral, intermittent or perennial:

Comment: Recommend defining the time period required to determine average flow.

§47-Appendix E 8.33.1 This rule shall not apply to those activities at which Best Management Practices in accordance with the State's adopted 208 Water Quality Management Plan are being utilized, maintained and completed on a site-specific basis as determined by the appropriate 208 cooperative or an approved Federal or State Surface Mining Permit is in effect. This exemption shall not apply to Trout Waters.

Comment: This would apply to Oil & Gas sites that have a required erosion and sedimentation plan as part of the permit (§22-6-6). The turbidity limits as they exist within the standards are reasonable given that approved and properly implemented E&S plans will exempt O&G development from monitoring/maintaining these standards in non-"Trout Waters". It can be assumed that special consideration would be given to E&S plans for sites located within "Trout Waters" that would account for the turbidity standard.

Thank you for your time and consideration.

Sincerely,



Eric Ondrasik

Program Manager
HRL Compliance Solutions, Inc.

On behalf of

Robert Bleil

Regulatory/Environmental Program Coordinator
Enerplus Resources (USA) Corporation