

Congress of the United States
Washington, DC 20515

March 9, 2011

The Honorable Lisa Jackson
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

We write to you regarding our concern over a recent decision by the U.S. Environmental Protection Agency (EPA) to partially rescind a 19-year Memorandum of Agreement between the EPA and the Pennsylvania Department of Environmental Protection (PaDEP). We are unaware of any legitimate basis for the decision and EPA's duplicative review has resulted in significant delays that adversely impact jobs and energy consumers in Pennsylvania. We therefore request an immediate explanation for reversing 19 years of precedent.

In a 1991 Memorandum of Agreement (MOA) regarding the Administration and Enforcement of the National Pollutant Discharge Elimination System (NPDES) that was signed between EPA and PaDEP, EPA waived its right to comment on or object to the sufficiency of NPDES permit applications associated with Pennsylvania coal mining activities.

In a September 2010 letter sent to PaDEP, the EPA notified PaDEP that it was "partially" rescinding its waiver of permit reviews, pursuant to the 1991 MOA, and directed the Department to submit certain NPDES mine-related permit applications prior to permit issuance to EPA's Region III office for additional scrutiny. As a result of this change, over 25 NPDES permit applications have been sent to and remain with the Philadelphia Regional Office.

This duplicative review of applications is creating a significant backlog of mining permits. If this backlog persists, the results could be detrimental to our local economy and result in the Commonwealth losing a significant energy source.

In light of the potential impact this policy change may have on the Pennsylvania energy industry, we respectfully request answers to the following questions:

1. Has the PaDEP's review of NPDES permits since 1991 been in violation of the 1991 MOA? (If yes, please cite any specific violations.)
2. Why did the EPA partially withdraw its waiver of NPDES permit reviews after 19 years? Please provide the rationale or events that led to this policy change.
3. For which other industries has EPA revised its NPDES permitting agreements?

4. What assurances can you provide that NPDES permit applications being relayed to Region III by PaDEP will be timely reviewed and processed and the permit backlog eliminated?
5. Does the agency have a timeline for restoring Pennsylvania's NPDES administrative and permitting process as it was originally outlined in the 1991 Memorandum of Agreement?

We would respectfully request a prompt response. If you have any questions, please contact the office of Representative Kelly at 202-225-5406.

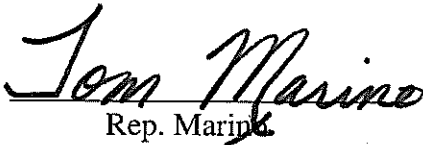
Respectfully,



Rep. Mike Kelly


Rep. Tim Holden



Rep. Thompson


Rep. Charlie Dent


Rep. Marino


Rep. Mark Critz


Rep. Barletta


Rep. Altmire