
From: Rebecca McPhail <rebecca@wvma.com>
Sent: Wednesday, January 30, 2019 2:28 PM
To: Glenn Jeffries
Subject: RE: Revised Amendment Language [STB-WORKSITE.FID588863]

We are fine with this. I know its crazy over there, but let me know if you have substantive conversations with the Chairman and how we might best assist.

From: Glenn Jeffries <Glenn.Jeffries@wvsenate.gov>
Sent: Wednesday, January 30, 2019 2:15 PM
To: Rebecca McPhail <rebecca@wvma.com>
Subject: FW: Revised Amendment Language [STB-WORKSITE.FID588863]

Hello Rebecca
Can you look at Scott's response

Thank You Rebecca for your help with this



Senator Glenn D. Jeffries
Room 229W, Bldg. 1
1900 Kanawha Blvd. E.
Charleston, WV 25305
Glenn.Jeffries@wvsenate.gov
Office (304) 357-7866
Mobile (304) 989-2223

From: Mandirola, Scott G <Scott.G.Mandirola@wv.gov>
Sent: Wednesday, January 30, 2019 9:28 AM
To: Glenn Jeffries <Glenn.Jeffries@wvsenate.gov>
Cc: Wandling, Jason E <Jason.E.Wandling@wv.gov>
Subject: RE: Revised Amendment Language [STB-WORKSITE.FID588863]

Senator Jefferies,

I believe the language that I selected avoids the concern Dave has about this referring to all 92 new updates. The language states that "the Secretary shall propose updates to the numeric human health criteria found in Appendix E, subsection 8.23 Organics and subsection 8.25 Phenolic Materials", which to me indicated that we are mandated to update the numbers currently "found" in Appendix E. This language does not preclude us from adding additional criteria but I believe it only mandates that we update what is currently there.

Two other small changes that I made to the language explaining the amendment include, adding the word "numeric" to describe the changes that are being removed. The purpose for this is that Legislative Rule-Making Review also asked the Agency to put the parameters in alphabetical order and I assume that change would remain. Additionally I made the change to the second sentence explaining the amendment, to reflect section 8 and it's title.

If you have any questions or would like to discuss this further, we are available.

Scott

Scott G. Mandirola
Deputy Cabinet Secretary
West Virginia Department of Environmental Protection
601 57th Street SE
Charleston, WV 25304
(304) 926-0440
Fax: (304) 926-0496
Scott.G.Mandirola@wv.gov

From: Glenn Jeffries <Glenn.Jeffries@wvsenate.gov>
Sent: Wednesday, January 30, 2019 7:12 AM
To: Mandirola, Scott G <Scott.G.Mandirola@wv.gov>
Subject: Fwd: Revised Amendment Language [STB-WORKSITE.FID588863]

Scott

Could you look at David comments and let me know if you are ok with this
Thanks Scott

Sent from my iPhone

Begin forwarded message:

From: Rebecca McPhail <rebecca@wvma.com>
Date: January 29, 2019 at 8:02:26 PM EST
To: "glenn.jeffries@wvsenate.gov" <glenn.jeffries@wvsenate.gov>
Subject: FW: Revised Amendment Language [STB-WORKSITE.FID588863]

From: David L. Yaussy <DYaussy@spilmanlaw.com>
Sent: Tuesday, January 29, 2019 4:01 PM
To: Rebecca McPhail <rebecca@wvma.com>; jennie@henvtl.com
Subject: RE: Revised Amendment Language [STB-WORKSITE.FID588863]

9.5 8.6 On or after ~~May~~ April 1, 2020 the Secretary shall propose updates to the numeric human health criteria found in Appendix E, subsection 8.23 Organics and subsection 8.25 Phenolic Materials, ~~numeric human health criteria for those organics likely to be found in surface waters of the state.~~ The secretary shall allow for submission of proposed human health criteria until at least October 1, 2019, and for public comment and agency review for an appropriate time thereafter.

Amend 47 CSR 2 to remove all changes to Appendix E in Section 8.23, Organics, and 8.25, Phenolic Materials, and leave them as they were before any changes were proposed by the DEP.

Add a subsection to 47 CSR 2, Section 9, Establishment of Safe Concentration Values:

9.5 On or after May 1, 2020 the Secretary shall propose, in Appendix E, subsection 8.23, numeric human health criteria for those organics likely to be found in surface waters of the state. The secretary shall allow for submission of proposed human health criteria until at least October 1, 2019, and for public comment and agency review for an appropriate time thereafter.

Yes, I missed that it is not just the organics, but also phenolics, that will be reviewed, so that was a good catch on Scott's part. For the same reason, I changed the reference in the sentence about amending the Appendix E criteria to include phenolics as substances that will not be revised this session, and will be subject to review. See attached, which I'm sure they will find acceptable.

I debated whether Section 9 or 8 is where this should go, so I'm fine with 8.6 unless Jennie sees something I don't. I had written my amendment to try to avoid getting all 92 adopted, but that isn't likely to happen, and we can fight that when the time comes if it does happen. I'm fine with the language of the amendment.

The change to April 1 is fine. I almost used that date anyway.

David L. Yaussy

Spilman Thomas & Battle, PLLC

O 304.340.3829

M 304.552.6658

DYaussy@spilmanlaw.com

Begin forwarded message:

From: Glenn Jeffries <Glenn.Jeffries@wvsenate.gov>

Date: January 29, 2019 at 3:39:33 PM EST

To: "rebecca@wvma.com" <rebecca@wvma.com>

Subject: Revised Amendment Language

I consulted with Scott
He made some revision

Thank You

Amend 47 CSR 2 to remove all numeric changes to Appendix E in Section 8.23, Organics, and 8.25, Phenolic Materials, and leave them as they were before any changes were proposed by the DEP.

Add a subsection to 47 CSR 2, Section ~~8 9~~, ~~Establishment of Safe Concentration Values~~ Specific Water Quality Criteria:

~~9.5~~ 8.6 On or after ~~May~~ April 1, 2020 the Secretary shall propose updates to the numeric human health criteria found in Appendix E, subsection 8.23 Organics and subsection 8.25 Phenolic Materials, numeric human health criteria for those organics likely to be found in surface waters of the state. The secretary shall allow for submission of proposed human health criteria until at least October 1, 2019, and for public comment and agency review for an appropriate time thereafter.