

Contested Water-Testing Methods Pit State Against Feds

By James Potter & John DeWorken

An interesting battle between the Environmental Protection Agency (EPA) and the state's business community should soon be coming to a head. The battle concerns the Aquatic Life Protection Act, a law passed in 2004 by the General Assembly that directs the state Department of Health and Environmental Control (DHEC) to go back to the drawing board and develop a better water toxicity test (known as WET testing).

Currently, environmental regulators test water toxicity by assessing the level at which fleas are able to reproduce in a particular body of water. The Aquatic Life Protection Act confronts the validity of that test and directs DHEC to rethink its credibility. The EPA mixed things up when it began considering an industry mandate to continue using flea reproductivity to test the toxicity levels of water, trumping DHEC and state authority on the issue.

The problem with testing flea reproductivity, according to many experts, is that it does not produce dependably comparable results, and the testing has too many extraneous variables that compromise its validity and credibility. The stakes for failing a toxicity test are high, potentially subjecting the permittee to fines

and expensive corrective action.

Again, the Aquatic Life Protection Act requires DHEC to develop scientifically sound methods for testing water toxicity levels before imposing limits. As a result, DHEC is working to develop new regulations while the EPA (which allegedly tried to block the General Assembly from passing the Aquatic Life Protection Act) threatens to take over certain permits to impose and regulate its own limitations. Many in the business community believe it is unfair for the federal government to trump the efforts of its own state environmental agency.

Many experts and business leaders believe it is important for the state to implement the Aquatic Life Protection Act – providing sound science to its water toxicity testing. They also say the General Assembly should encourage DHEC to rapidly move forward on developing new regulations or risk placing the state's businesses and industries at a competitive disadvantage compared with neighboring states that utilize a less-stringent testing policy.

To read more about this subject, go to www.toxicity.com.

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