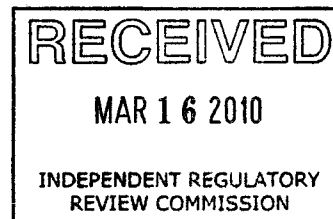


2819

March 15, 2010



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Environmental Quality Board
Rachel Carson State Office Building
16th Floor
400 Market Street
Harrisburg, PA 17101-2301

RE: Comments to Proposed Rulemaking Regarding 25 Pa. Code Chapters 92 and 92a, National Pollutant Discharge Elimination System (NPDES) Permitting, Monitoring and Compliance, published in the *Pennsylvania Bulletin* on February 13, 2010 (40 Pa.B. 847).

Dear Members of the Board:

The Allegheny County Sanitary Authority (ALCOSAN) respectfully submits these comments in response to the above-referenced proposed rulemaking regarding 25 Pa. Code Chapters 92 and 92a (the Proposed Rulemaking), which was published in the *Pennsylvania Bulletin* on February 13, 2010.

A. Background

ALCOSAN provides wastewater treatment services to 83 communities including the City of Pittsburgh. ALCOSAN's 56-acre treatment plant is the largest wastewater treatment facility in the Ohio River Valley and is permitted to process up to 250 million gallons of wastewater daily. As a nonprofit agency, ALCOSAN is funded solely by user fees with capital funds raised through the sale of sewer revenue bonds. There are approximately 320,000 residential, commercial and industrial accounts representing a service population of 900,000. ALCOSAN is committed to implementing measures to protect and improve the quality of waterbodies receiving its discharges. ALCOSAN recently completed a \$400 million capital improvement program, addressing odor control, treatment capacity, solids handling and wet weather planning. We have now embarked on the largest public works project in the Pittsburgh region's history through \$1 billion in engineering and construction projects to address combined sewer overflows (CSOs).

B. Specific Comments

As stated in the Proposed Rulemaking, the Pennsylvania Department of Environmental Protection's (PADEP) primary goal in proposing these regulations

is to reorganize the existing Chapter 92 in order to ensure consistency with companion federal regulations, including 40 CFR Part 122, and to add a new NPDES fee structure. However, some of the proposed regulatory changes retain or impose more stringent requirements than the federal regulations, and other proposed changes will unnecessarily and adversely impact ALCOSAN's operations. ALCOSAN appreciates the opportunity to comment on this Proposed Rulemaking and offers the following specific comments.

1. 25 Pa. Code §92a.47(b) and (c) - Tertiary Treatment Requirements

The Proposed Rulemaking imposes unilateral tertiary treatment requirements on the following two discharge scenarios: (1) sewage discharges from new or expanding facilities to High Quality (HQ) or Exceptional Value (EV) waters; and (2) discharges to waters not meeting water quality standards when the impairment is in any way attributed to point source discharges of treated sewage. These tertiary treatment requirements are unwarranted in that, as written, they would be unilaterally applied and overly burdensome without requiring any prior demonstration that the imposition of such requirements would improve water quality. As such, the tertiary treatment requirements should be deleted.

The tertiary treatment requirements set forth in the Proposed Rulemaking are more stringent and inclusive than the requirements for secondary treatment and will likely require burdensome and costly treatment system upgrades to ensure compliance. While ALCOSAN has demonstrated its continued commitment to protecting the waters of the Commonwealth through planned system upgrades expected to cost in excess of \$1 billion, it does not understand PADEP's rationale for unilaterally imposing these tertiary treatment requirements, and PADEP has not provided sufficient explanation of its rationale in the Proposed Rulemaking.

Further, these technology-based limits do not address specific water quality needs. Under the first discharge scenario, imposing the treatment requirements on every new or expanded discharge to an EV or HQ water, without any demonstration that the particular receiving water will be impacted as a result of the discharge, is unfounded and unnecessary. Therefore the tertiary treatment requirements should be deleted. In the alternative, the requirements should be imposed on a case-by-case basis after (1) PADEP has demonstrated that the special protection water will be harmed by the discharge and that the imposition of every treatment requirement is necessary to prevent this harm; or (2) the discharger has the opportunity to demonstrate that all or some of the tertiary treatment requirements are not needed because the discharge will not harm the special protection water.

Under the second discharge scenario, requiring compliance with the treatment requirements for any discharge to a water not meeting the water quality standards just because sewage discharges of some type contribute in any way to the impairment is overly burdensome and unfair. There may be thousands of industrial, commercial, and/or residential discharges (point and non-point) that partially contribute to an impairment of a waterbody. For many waters, a Total Maximum Daily Load (TMDL) has not been completed and/or all contributing sources have not been investigated. Under the Proposed Rulemaking, the total contribution of sewage discharges may be less than one percent. Imposing such stringent treatment requirements on such an insignificant contribution would be unfair and unlikely to improve water quality. Therefore, the tertiary treatment requirements should be deleted. In the alternative, the requirements should be imposed on a case-by-case basis after PADEP has used the appropriate methodologies to identify impairment, determined the respective contribution of all sources and demonstrated that imposing the treatment requirements will significantly contribute to improving water quality.

Further, ALCOSAN believes that impairments of surface waters (i.e., the “river water advisories”) are typically short term events caused by wet weather discharges from combined outfalls or separate outfalls in the collection system or non-point sources within the watershed. Imposing tertiary requirements at the treatment plant will not address these problems. In particular, putting stringent limits on phosphorus, nitrogen and dissolved oxygen will not address this situation. ALCOSAN recommends that PADEP delete the tertiary treatment standards in from Chapter 92 and instead develop wet weather water quality standards for Chapter 93.

2. 25 Pa. Code §92a.47(a) – Secondary Treatment

ALCOSAN objects to the requirement in 25 Pa. Code §92a.47(a) that secondary treatment include “significant biological treatment,” because such a requirement unnecessarily limits the types of available treatment options. Among other things, retaining the biological treatment requirement limits the options for sanitary sewer overflow (SSO) control and for process enhancements at a sewage treatment plant. Technology exists to meet secondary limits without the biological component. These technology options could allow sewage systems, such as the system operated by ALCOSAN, to treat and discharge SSOs, and possibly avoid construction of storage and added conveyance. As such, 25 Pa. Code §92a.47(a) should be revised to remove the requirement that secondary treatment include “significant biological treatment.”

3. 25 Pa. Code §92a.28 and 92a.62 – Fees

The increased permit application fees and imposition of annual fees set forth in the Proposed Rulemaking are excessive. In particular, the imposition of a \$5,000 permit reissuance fee and a \$5,000 annual fee for a major facility with a CSO is overly burdensome, especially since fees for comparable major facilities without CSOs are half these amounts. Doubling the fees for a major facility based solely on the existence of a CSO is tantamount to a CSO penalty. There is no demonstration of an administrative burden that would warrant this arbitrary increase in fees.

ALCOSAN's sewage conveyance system is more than 60 years old and contains many CSOs. ALCOSAN is working diligently to address wet weather issues associated with these CSOs through a Consent Decree with PADEP, the United States Environmental Protection Agency (EPA) and the Allegheny County Health Department (ACHD). The Consent Decree is the product of extensive discussions between ALCOSAN and these governmental agencies, examining the wet weather issues associated with ALCOSAN's system, prioritizing the actions necessary to improve this system and developing a comprehensive regional planning effort. Complying with the Consent Decree is costly and imposing additional annual fees on ALCOSAN, rather than allowing ALCOSAN to spend its limited funds on improving the CSOs is counterproductive.

4. 25 Pa. Code §92a.41(c) – Prohibition of General Pollutational Discharges

PADEP is proposing to delete, from the prohibition of general pollutational discharges, the existing qualifier that floating materials, oil, grease, scum, sheen and other taste and odor-forming substances must be "in concentrations or amounts sufficient to be, or create a danger of being, inimical to the water uses to be protected or to human, animal, plant or aquatic life." This proposed change is more stringent than necessary to protect water quality and would prohibit any discharges containing these substances. For example, the Proposed Rulemaking would prohibit any discharge containing oil or grease, even though 25 Pa. Code §95.2(3) allows discharges of oil-bearing wastewaters containing oil and NPDES permits routinely allow oil and grease discharges up to 30 mg/l as a daily maximum. The current regulation has been sufficient for many years, and PADEP has provided no scientific justification to implement the proposed changes. Therefore, the proposed revisions to Section 92a.42(c) should be deleted.

C. Conclusion

For the reasons stated above, ALCOSAN encourages the Environmental Quality Board to revise the Proposed Rulemaking. ALCOSAN appreciates the opportunity to submit these comments.

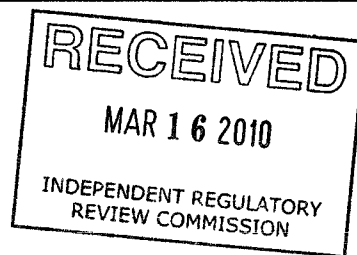
Sincerely,

ALLEGHENY COUNTY SANITARY AUTHORITY

A handwritten signature in black ink, appearing to read "Arletta Scott Williams", written over a horizontal line.

Arletta Scott Williams
Executive Director

From: Arthur Tamilya [Arthur.Tamilya@alcosan.org]
Sent: Monday, March 15, 2010 3:52 PM
To: EP, RegComments
Cc: Arletta Williams
Subject: Chapter 92 revisions
Attachments: NPDES25PaCode3-15-10.pdf



Submitted herewith are the comments of the Allegheny County Sanitary Authority regarding proposed revisions to 25 Pa Code Chapter 92. Correspondence regarding these comments should be directed to:

Arletta Scott Williams, Executive Director
Allegheny County Sanitary Authority
3300 Treble Avenue
Pittsburgh, PA 15233-1092
412-734-8705

Thank you for your consideration.