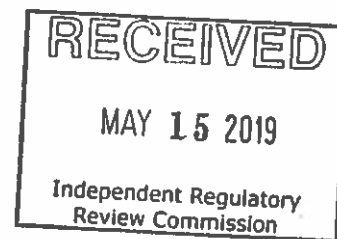




The Authorities

PENNSYLVANIA MUNICIPAL AUTHORITIES ASSOCIATION

3227



Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105-8477

May 14, 2019

RE: Comments on Proposed Rulemaking – 25 Pa. Code Chapters 91 and 92a, Water Quality Management (WQM) and National Pollutant Discharge Elimination System (NPDES) Permit Application Fees and Annual Fees

On behalf of over 500 member sewer and stormwater authorities, the Pennsylvania Municipal Authorities Association (PMAA) submits the following comments to the proposed increase to NPDES and MS4 permit fees and annual fees.

Issues:

1. There has been a significant staff cut, 25% since 2007, in DEP's NPDES program (Chapter 92a). These cuts have impacted the roughly 4,000 required annual inspections at wastewater treatment plants across the Commonwealth.
2. Since 2010, EPA has warned Pennsylvania of possible sanctions, including cuts in federal funding if the Chapter 91 and 92a programs are not brought up to federal requirements. The penalty to Pennsylvania for this funding shortfall will be even "less" funding from EPA, and the risk of EPA taking control of the program, much like they have threatened with the PA Drinking Water program. This would not be a sustainable solution to moving the program forward.

DEP's Proposed Solution:

Significant new program funding, \$8 million, is being proposed by DEP. If enacted, this will cover an additional \$7 million for the NPDES program, and an additional \$1 million for the Water Quality Management program. However, the money will now come from fee-based charges to wastewater and stormwater facilities directly resulting in higher bills to their customers.

Implementation:

1. Due to funding and staff cuts over time in the annual DEP budget, these programs have seen a significant downward spiral. Funding formerly provided in the General Fund, now proposed to be assessed against sewer and stormwater facilities, will be controversial.
2. When DEP faced a similar dilemma several years ago in the Safe Drinking Water program, they adjusted permit fees on the systems providing drinking water, escalating permit fees significantly, while also charging a new annual fee. This was done under threat from EPA to sanction the program. It also resulted in higher rates to customers statewide.
3. DEP is proposing a similar fee-based structure for the statewide wastewater and stormwater programs to finance departmental needs through increased annual and permit fees.
4. Like the drinking water program, this is DEP's "solution" for the DEP wastewater programs to make up their funding shortfalls from the state. And like the drinking water program, the wastewater program is already hearing criticism that a former environmental stipend in the annual budget will now become a fee-based charge to wastewater plants forcing them to

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escalate fees to all customers to meet their DEP-designated annual "contribution" to the Clean Water Program.

5. Specific program-based fees appears to be the new financial solution to environmental program needs. As this continues, we can expect significant backlash from customers of water and wastewater programs as they pay fees for operating funds previously provided by the Commonwealth.

We believe core functions of DEP, like those involving the NPDES program, should be covered by the General Fund. The taxpayers (our customers) are already paying for the program through tax dollars; therefore, fees should never be relied upon to cover the cost of this program directly related to the public's health.

Our support for this is noted in one of our resolutions adopted by our membership this past September at our 2018 annual conference:

Resolution 22-18

RESOLVED, That PMAA urge the PA General Assembly and Congress to address the underfunding of water and wastewater infrastructure and to offset the billions of dollars necessary to rebuild aging water and sewer systems.

We were disappointed when DEP did not request additional funding at its 2019 budget hearings, and instead, opted to implement this proposed fee package to address the funding gap.

Finally, we note that the long-term cost this rulemaking package will have on wastewater and stormwater providers includes a proposed automatic escalator increasing these fees every two years. We oppose an automatic escalator as it circumvents the regulatory review process denying public comment on proposed fee increases.

PMAA appreciates the opportunity to present these comments on this proposed rulemaking and respectfully requests the EQB's consideration.

Respectfully submitted,



John W. Brosious
PMAA Deputy Director