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MEMBER:

Water Environment Federation

OFFICIAL PUBLICATION:

Keystone Water Quality Manager

Pennsylvania Water Environment Association

March 15, 2010

Environmental Quality Board
Post Office Box 8477
Harrisburg, PA 17105-8477

Re: Proposed Chapter 92a Regulations

Gentlemen and Ladies:

The Pennsylvania Water Environment Association (PWEA), a statewide organization representing a diverse group of wastewater professional, has significant concerns with the proposed Chapter 92a Regulations. Because of the limited comment period and at the same time we have been working with the Department on several other regulatory packages, we have not attempted to do a detailed, itemized comment letter for this proposed regulation, but offer the following.

Largely, the proposed changes outlined in Section 92a.47 are contrary to existing State Policy that requires that any regulatory changes proposed to be made by the Department has to match the federal requirement, or where more restrictive, has to very clearly document the socio-economic and/or environmental benefits to the Commonwealth. Making regulatory changes that are not stipulated by the Federal Government and that impose more restrictive requirements on the regulatory community, resulting in more costs to achieve compliance, is a clear disadvantage to Pennsylvania; specifically where industrial wastewater is involved.

Redefining secondary treatment and percent removal provisions for these facilities will create a cost burden that is not justified by any environmental water quality benefits. It will also unduly restrict the ability of rural communities to utilize the less capital intensive wastewater stabilization ponds for sanitary wastewater treatment. The proposed regulation arbitrarily eliminates certain exemptions provided for in 40 CFR Part 133 that provides for different allowances for "Trickling Filters, Waste Stabilization Ponds and permitted combined sewers, all of which still exist in the Commonwealth.

The proposed regulations also establishes a new tertiary treatment standard [TTS] for the discharge of treated sanitary wastewater for all new or expanding discharges to impaired streams, impaired by the discharge of treated sanitary wastewater, and to all surface waters classified as Special Protection [HQ or EV]. This new proposed requirement is contrary to EPA guidance and a number of court cases that has established that no discharge to sewage impaired surface waters from new or expanded sanitary wastewater discharges can be allowed until a TMDL has been developed and schedules established and imposed on point and non-point sources necessary for achieving the water

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body's designated uses. Imposing the TTS on new or expanded discharges to Special Protection surface waters is also contrary to the existing anti-degradation regulatory requirements found at 25 Pa Code Chapter 93 §93.4a...4d.

In addition to the increases in construction, operating and maintenance costs that may arise from these proposed restrictions, the Department has imposed considerable increases to permitting fees and a new annual fee. In the preamble, the Department does not provide information on the true basis for the increases, except to say that the increases are necessary to cover the State's cost for permitting, as well the do not explain what services will be rendered by the fees. Are these permit fee increases and the new annual fee a direct relation to the increase of the services rendered or is it a consequence of state budgetary cut backs to the Department? Also, implementation of the fee increases should be done in a manner that conforms to local municipalities/authorities integrating these fees into their user fees, without creating an undue burden to Commonwealth citizens.

The Department has proposed an extensive reorganization of Chapter 92, including more restrictive discharges, that PWEA supports comments submitted from the our colleagues and affiliates and their request for an extension of time be given in order for the Department meet with the regulated communities to further review this proposed regulation.

Thank you for considering our comments. We welcome the opportunity to continue working with the Department to provide protection of waters and to provide a clean environment for future generations.

Sincerely,



Alison J Shuler
PWEA President

cc: Ronald Furlan, Environmental Program Manager, PA DEP
Williams S. Cumings, Jr., Assistant Counsel, PA DEP