

Williamsport Sanitary Authority

Summary of Comments on 25 PA Code, Chapter 96 proposed regulations which appeared in the PA Bulletin on February 13, 2010

The WSA supports the comments on this matter submitted by the Pennsylvania Municipal Authorities Association and the Lycoming County Commissioners, and recommends that because of the short time period afforded to review these proposed rules, the Department should publish any revisions to the proposed regulations in the form of advance notice of final rulemaking for additional public comment prior to final adoption.

There are numerous sections in the proposed regulations that could have the effect of significantly changing current Department NPDES permit policies on which WSA facility improvements have been planned and designed, particularly with regard to the future use of offsets provisions which have been written into our current NPDES permits by the Department. Some of these changes could conservatively cost the WSA over \$20 million in additional treatment facility improvements, significant operating cost increases, and/or trading credit purchases over those currently anticipated and further increase the staggering user rate increases now being experienced. The WSA's planning for over \$110 million of facility improvements and contracts with tributary municipalities have been based on the use of these permitted offsets.

Accordingly, these types of offsets need to be memorialized by regulation, and not lumped into the regulations as presented in §96.8 with credits. The word "offsets" should be deleted from the collective terminology "credits and offsets" throughout the proposed regulations, and a separate section be drafted to deal with offsets to codify the basis of the NPDES permit writer guidance currently used by the Department.

In § 96.8 (e) through (g), the regulatory procedures for a POTW NPDES discharger to trade or sell surplus load reductions as end-of-year true-up credits described under (1) above, should not be subject to the application, certification and verification provisions of the regulation applicable to generators of nonpoint credits. The NPDES permittee's signature on its DMRs should be sufficient certification and verification. Additionally, these credits should not be subject to reduction using the "reserve ratio" because there is a certainty that the credits were actually generated by virtue of certification on the DMR by the permittee. Additionally, such POTW point source-generated credits should be allowed to be traded or sold to another POTW within a sub-watershed having the same delivery ratio on a pound for pound basis with no reduction in tradable load. It must be stated clearly in the regulation that once a credit is certified and sold such as at a PENNVEST auction), the number of pounds of credits is guaranteed for the current or future years for which it was certified and purchased and cannot be reduced based on "further review" of whether it was really produced.

As stated in the comments to the definition of "Baseline" above, if local stream TMDLs are developed for TN or TP and result in lower POTW NPDES permit limits than those required for the Chesapeake Bay cap loads, the POTW should be allowed to trade or sell those excess loading reductions as credits for the purpose of the Bay compliance program.