



ASSOCIATION OF MISSOURI
CLEANWATER AGENCIES

Preliminary Comments on Update to 10 CSR 20-7.015 Effluent Regulations

October 3, 2012

The following are the preliminary comments of the Association of Missouri Cleanwater Agencies on the proposed update to 10 CSR 20-7.015 Effluent Regulations. We appreciate the Department's consideration of our recommended changes.

Please contact either Steven Meyer (AMCA President; smeyer@springfieldmo.gov) or Paul Calamita (paul@aqualaw.com) with any questions.

Section (2)A.2.d. This section states that DNR may impose more stringent BOD or TSS limits for discharges to the Missouri and/or Mississippi Rivers based upon past performance of the facility or in the case of newer facilities, enhanced technology capability.

We ask that this provision be removed. We have no problem with necessary water quality-based limits that impose control requirements beyond the secondary treatment standards set forth in the Clean Water Act. However, we object to the State imposing additional technology-based controls which are not needed to protect water quality. In the case of existing facilities, reducing limits based upon superior past performance (when there is no water quality need to reduce the limits) punishes the permittees' good deed of working hard to outperform the technology-based requirements. Requiring additional treatment beyond what is necessary for water quality protection purposes from new facilities is unnecessary and wasteful. The new technology will perform better than water quality requirements and that is more than adequate. Pushing for higher levels of control is unnecessary and usually triggers competing environmental impacts (such as more energy and chemical use).

Same comment regarding Section (8)(A)2.D.

Section 2(C)(1)B – Monitoring Frequencies. This section should be revised such that reduced monitoring frequencies will be considered where a facility consistently meets its limits rather than only when it has a consistent effluent quality as is currently specified. For example, if a facility has a monthly

average limit for suspended solids and it has discharged at a level less than 50% of the limit for an extended period of time, reduced monitoring is warranted even if the facility experiences daily variation (because it has established that it easily meets the applicable longer-term limits). Our specific suggested wording change is as follows:

“unless the applicant can show that the wastewater ~~has a consistently~~ complies with applicable effluent limits quality, such as once through cooling water or mine dewatering, then the department may set less frequent sampling requirements;”

Same change should be made to Sections:

(3)(B)1.B; (4)(C)1.B, (8)(B)1.B

Section 2(C)2 – Monitoring Frequencies. This section purports to require “evenly” spaced sampling. This is unnecessary to obtain representative data. The sampling requirement for all data should be that “representative” sampling is performed. Accordingly, we ask that the following change be made:

2. Sampling shall be representative of the discharge during the period which the sampling covers (daily, weekly, monthly, seasonal, etc). ~~frequency shall be spread evenly throughout the discharge year. This means that a point source with a continuous discharge shall collect samples on a regular evenly spaced schedule, while point sources with seasonal discharges shall collect samples evenly spaced during the season of discharge.~~

Same change should be made to Sections: (3)(B)2, (4)(C)2, (5)(C)2, (6)(A)4.B, (8)(B)2

Section (3)(A)1.C – Effluent Limits for Lakes. This Section should be reworded as follows:

“Where the use of effluent limitations set forth in Section (3) of this rule is ~~known or~~ reasonably expected to ~~produce an effluent that will endanger or violate~~ exceed applicable water quality standards, the department ~~may~~ shall either conduct waste load allocation studies in order to....”

Same comment for Section (8)(A)2.C regarding revising the “endanger water quality” language. Also note that this section states that the department “will set specific effluent limitations....” Which is consistent with our suggested change from “may” to “shall” above.

Section (3)(C) – Grandfathering Existing Discharges to Lakes. This Section states that existing discharges to L1 lakes may remain “so long as the discharge remains in compliance with its operating permit.” This requirement should be revised to state that the source “can continue to discharge in accordance with its permit.” Otherwise, the current wording could be misread to require cessation of the discharge for any permit non-compliance. Accordingly, we suggest the following specific corrective language:

“Discharges permitted prior to the effective date of this requirement may continue to discharge in accordance with its operating permit so long as the discharge remains in compliance with its operating permit.”

Section (3)(E) – Monthly Phosphorous Requirements for Discharges to Lake Taneycomo. This Section imposes monthly average phosphorous limits for discharges to the Lake and its tributaries. We believe the limits should be expressed as annual geometric means rather than monthly averages.

Same comment for discharges to Table Rock Lake in Section (3)(F).

Section (4) – Effluent Limitations for Losing Streams. We do not believe that the restrictions in Section (4)(B)1-3 or 6 make sense.

As to BOD and TSS limits, we question the science behind limiting discharges to 15 mg/L (monthly) and 20 mg/L (weekly average). We don't see how these levels matter to potential recharge of groundwater aquifers. We believe Section (4)(B)(1) and (2) should be removed.

We also question why dechlorination is necessary due to the presence of a losing stream. Chlorine dissipates rapidly on its own in the natural environment and should not be detectable and certainly not harm water storage systems. Is there an underlying scientific study that supports this requirement?

Moreover, we fail to understand how weekly limits are necessary. Due to instream mixing and extensive aquifer storage, we can't imagine pollutant concentrations that warrant weekly limits below secondary treatment levels.

As to Section 6, we question whether nitrate limits should be triggered because the discharge in question “may impact specific drinking water wells.” We think there should be a higher likelihood of influence than “may impact”. We think the threshold should be that the discharge has the reasonable potential to cause or contribute to an impairment of an identified drinking water well for nitrates. We question whether the 10 mg/L monthly average limit is scientifically justifiable? It essentially sets the drinking water standard at the end-of-pipe without the benefit of any instream dilution or dilution in the aquifer of concern (WQS apply 10 feet down). Moreover, we don't see any scientific justification for a daily maximum limit in relation to downstream aquifers. At a minimum, the daily maximum limit should be removed and we believe higher monthly average limits should be allowed where the 10 mg/L monthly average limit is a compliance issue. Alternatively, we suggest a 10 mg/L annual average limit for POTWs given that impacts to downstream aquifers are long-term issues rather than daily/monthly concerns.

We also question whether this is a realistic concern – POTW impacts to residential wells given that most wells are deep enough as to be well below the influence of any POTW discharge even in losing streams. Moreover, we think health department septic system siting requirements provide some perspective. Many states allow wells to be placed 50 feet from septic systems. Septic systems put out approximately

40 mg/L of total nitrogen so making a POTW meet a monthly average of 10 instream does not make sense to us from a risk and/or reasonable potential perspective.

Section (5)(B) – Effluent Limitations for Metropolitan No-Discharge Streams. This Section states that “All permits for discharges to these streams shall be written to ensure compliance with Water Quality Standards.”

This says nothing and should be removed. It suggests that permits for dischargers to other stream classifications may not have to be written to ensure compliance with WQS.

Section (5)(C)1.B – Monitoring Requirements for Metropolitan No-Discharge Streams. This Section is different than Section (2)(C)1.B, (3)(B)1.B; and (4)(C)1.B in that it does not allow for a reduction in monitoring based upon a showing that the effluent consistently complies with applicable permit limits. It should be conformed to those sections – with our changes recommended above.

Same comment for Section (6)(A)4.A

Section (6)(A)3 – Prohibition on Discharge to Special Streams. This Section prohibits any non-pre-existing POTW discharge to special streams. The Department may want to add an exception for short term discharges to enable construction/reconstruction activities for facilities such as roads.

Section (9)(B)2 – PH, Bacteria, and Nutrient Limits. There are numerous references in this Section to “paragraph (4)(C)2”. We do not find Subsection “2”. We believe the correct reference is to Section (4)(C).

Same change for Section (9)(D)6.

Section (9)(B)2.E – E.Coli Requirements for Discharges to Losing Streams. We object to the daily maximum limit of 126 counts for POTWs discharging to losing streams. This requirement is beyond the state-of-the-art for municipal disinfection. The State of Indiana previously attempted to impose daily maximum e.coli limits on POTWs across Indiana but was forced to reverse course after concluding it was beyond the State-of-the-art for POTW disinfection systems (and completely unnecessary substantively). We can provide Indiana’s memorialization of that conclusion if you would like to review it. Moreover, a 126 daily maximum is substantively unnecessary as bacteria above this level occur routinely in natural streams. Notably, EPA’s pending bacteria criteria would allow up to 25 percent of instream bacteria samples to exceed 235 and still declare a water body fit for swimming. This acknowledges that a significant portion of the time a natural system will have e.coli counts above 235, nevermind 126. Accordingly, setting POTW discharge limits at a never-to-exceed 126 not only is beyond the state-of-the-art but makes no sense in light of naturally occurring bacteria levels.

As we have noted above, given the allowable close proximity between residential drinking water wells and septic systems, imposing a 126 daily maximum on POTW discharges makes no sense to us. We

believe that monthly 126 geometric mean and weekly 630 geometric mean is more than adequate to protect any downstream water supplies.

Section (9)(B)2.G(I) – Implementation Schedules for Recreational Criteria. We question whether this section should be revised in light of the removal of the three year limit on compliance schedules from the permitting regulation. We ask that the Department reevaluate the deadlines in Section G to see if this language is still current in light of any recent statutory/regulatory changes.

Section (9)(B)3.A – Nutrient Limits. We question the operation of this section in that it seems to suggest that an existing source which has a pending application for permit renewal will not be subject to TMDL requirements. This seems inconsistent with applicable law to us.

Section (9)(B)3.D – Nutrient Limits. This Section would require POTWs to meet a 10 mg/L total nitrogen limit and 1.0 mg/L total phosphorous limit, both as a monthly average. We object to these requirements as being legally unnecessary. Even if the requirement were appropriate, any nutrient limits should be expressed as annual geometric means.

Section (9)(C)4 – Schedules of Compliance. Delete the word “treatment” as follows: “In no case shall the compliance schedule be modified to extend beyond an applicable statutory ~~treatment~~ deadline.”

Section (9)(F)1 and 2 – Compliance. This Section should be revisited. It states that new sources have to meet all requirements (which is really implicit) and that sources with operating permits issues prior to the effective date “shall meet all the requirements of the existing permit.” We are not sure what the Department has in mind but question whether Section F should be revisited.

Section (9)(H)6 – SSOs. This Section uses the term “Sanitary sewer overflows” but the regulation does not define it. We suggest SSO be defined as any release of untreated wastewater to Waters of the State other than from a permitted outfall.

Section (9)(H)6.B – Catastrophic Damage. This Section prohibits SSOs except where wet weather flows would “catastrophically damage” any part of the POTW. We suggest this be revised to say that such flows “would cause severe damage to any facilities or processes....”

Section (9)(L)(3) – Reasonable Potential for WET Limits. This Section should be revised as follows:

“Where the department concludes that a discharge has the reasonable potential to contribute to an excursion from the narrative WQS...”

Same change to Section (L)(4)(C).