

CHAPTER 95. WASTEWATER TREATMENT REQUIREMENTS

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Authority

The provisions of this Chapter 95 issued under section 5 of The Clean Streams Law (35 P. S. § 691.5), unless otherwise noted.

Source

The provisions of this Chapter 95 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended September 7, 1979, effective October 8, 1979, 9 Pa.B. 3051, unless otherwise noted.

Cross References

This chapter cited in 25 Pa. Code § 71.21 (relating to content of official plans); 25 Pa. Code § 78.60 (relating to discharge requirements); 25 Pa. Code § 86.6 (relating to extraction of coal incidental to government-financed construction or government-financed reclamation projects); 25 Pa. Code § 87.102 (relating to hydrologic balance: effluent standards); 25 Pa. Code § 88.92 (relating to hydrologic balance: effluent standards); 25 Pa. Code § 88.167 (relating to hydrologic balance: effluent standards); 25 Pa. Code § 88.187 (relating to hydrologic balance: effluent standards); 25 Pa. Code § 88.292 (relating to hydrologic balance: effluent standards); 25 Pa. Code § 89.52 (relating to water quality standards, effluent limitations and best management practices); 25 Pa. Code § 90.102 (relating to hydrologic balance: water quality standards, effluent limitations and best management practices); 25 Pa. Code § 91.15 (relating to basin-wide compliance); 25 Pa. Code § 92.2a (relating to treatment requirements); 25 Pa. Code § 92.8a (relating to changes in treatment requirements); 25 Pa. Code § 92.17 (relating to other chapters applicable); 25 Pa. Code § 105.14 (relating to review of applications); and 25 Pa. Code § 250.1 (relating to definitions); 25 Pa. Code § 250.309 (relating to MSCs for surface water); and 25 Pa. Code § 250.406 (relating to relationship to surface water quality requirements).

§ 95.1. [Reserved].

Source

The provisions of this § 95.1 amended October 3, 1980, effective October 4, 1980, 10 Pa.B. 3917; amended July 16, 1999, effective July 17, 1999, 29 Pa.B. 3720; reserved November 17, 2000, effective November 18, 2000, 30 Pa.B. 6059. Immediately preceding text appears at serial pages (263065) to (263066) and (234591).

Notes of Decisions*Authority of Department*

This section contains no test to balance economic development against environmental harm, and the EHB appropriately concluded that the second prong of the section was designed to consider the environmental impact apart from the aspect of economic development. *Department of Environmental Resources v. Big B Mining Company, Inc.*, 554 A.2d 1002 (Pa. Cmwlth. 1989).

It was proper for the EHB to consider “need” in terms of market price and not in terms of public need. *Department of Environmental Resources v. Big B Mining Company, Inc.*, 554 A.2d 1002 (Pa. Cmwlth. 1989).

Evidence

Where a body of water is designated “high quality” under 25 Pa. Code § 93.9, that fact together with the provisions of subsection (b) demand that the permit holder developers and the DER be the parties responsible for justifying the permit after evidence has been presented showing the likelihood of environmental harm. *Marcon, Inc. v. Department of Environmental Resources*, 462 A.2d 969 (Pa. Cmwlth. 1983).

The nondegradation provision does not apply in the absence of evidence that a particular body of water is of better quality than the applicable water quality criteria. *Concerned Citizens for Orderly Progress v. Department of Environmental Resources*, 387 A.2d 989 (Pa. Cmwlth. 1978).

Cross References

This section cited in 25 Pa. Code § 89.57 (relating to treatment facility design); and 25 Pa. Code § 105.15 (relating to environmental assessment).

§ 95.2. Quality standards and oil-bearing wastewaters.

Industrial waste shall meet the following quality standards:

- (1) There may be no discharge of wastes which are acid.
- (2) Wastes shall have a pH of not less than 6 and not greater than 9, except

where:

- (i) The wastes are discharged to an acid stream, in which case the pH may be greater than 9.

- (ii) The discharger affirmatively demonstrates, in writing, to the Department that biological respiration in the wastewater treatment system will cause the discharge to exceed the limits in this paragraph and that exceeding these limits will not result in a violation of applicable water quality standards or of the applicable treatment requirements and effluent limitations to which a discharge is subject under the Federal Act, in which case the Department may grant a variance, in writing, from the limitation set forth in this paragraph.

- (3) Oil-bearing wastewaters, except those subject to paragraph (4), shall comply with all of the following:

- (i) At no time cause a film or sheen upon or discoloration of the waters of this Commonwealth or adjoining shoreline.

- (ii) At no time contain more than 15 milligrams of oil per liter as a daily average value nor more than 30 milligrams of oil per liter at any time, or

whatever lesser amount the Department may specify for a given discharge or type of discharge as being necessary for the proper protection of the public interest or to meet any requirements based upon the State Act or the Federal Act, as defined in § 92.1 (relating to definitions).

(4) Petroleum marketing terminals shall:

(i) Be provided with facilities to remove oil from waters, including stormwater runoff, before discharge into waters of this Commonwealth. Compliance with this paragraph shall constitute compliance with paragraph (3)(i) except to the extent that the State Act or Federal Act or regulations promulgated thereunder impose a more stringent requirement.

(ii) Develop, implement and keep up to date pollution incident prevention plans as described in § 91.34 (relating to activities utilizing pollutants).

(iii) Design, maintain and utilize oil removal facilities that consist of an American Petroleum Institute (A.P.I.) listed oil separator, unless the person operating the facility can demonstrate to the Department that an alternate design is equivalent or better in removing oil from water to maintain and protect the waters of this Commonwealth, including all existing and designated uses established under to Chapter 93 (relating to water quality standards).

(5) Waste may not contain more than 7 milligrams per liter of dissolved iron.

(6) When surface waters are used in the industrial plant, the quality of the effluent need not exceed the quality of the raw water supply if the source or supply would normally drain to the point of effluent discharge, unless otherwise required under the State Act or Federal Act or regulations promulgated thereunder.

Authority

The provisions of this § 95.2 issued under: section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); amended under sections 5(b)(1) and 402 of The Clean Streams Law (35 P. S. §§ 691.5(b)(1) and 691.402); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

Source

The provisions of this § 95.2 amended October 3, 1980, effective October 4, 1980, 10 Pa.B. 3917; amended February 17, 1989, effective February 18, 1989, 19 Pa.B. 636; amended November 17, 2000, effective November 18, 2000, 30 Pa.B. 6059. Immediately preceding text appears at serial pages (234591) to (234592).

Cross References

This section cited in 25 Pa. Code § 92.2c (relating to minimum sewage and industrial waste treatment requirements); and 25 Pa. Code § 92.2d (relating to technology-based standards).

§ 95.3. [Reserved].**Source**

The provisions of this § 95.3 reserved November 17, 2000, effective November 18, 2000, 30 Pa.B. 6059. Immediately preceding text appears at serial pages (234592) to (234593) and (228303) to (228304).

§ 95.4. Extensions of time to achieve water quality based effluent limitations.

(a) The Department may grant a discharger an extension of time to achieve water quality based effluent limitations imposed under Chapter 93 (relating to water quality standards) for specific pollutants, if all of the following requirements are met:

(1) The discharge was in existence on October 8, 1979, or the date on which the water quality standards applicable to the specific pollutants were originally promulgated, whichever is later.

(2) The discharger either:

(i) Has installed Best Demonstrated Technology (BDT) as defined in this section.

(ii) Has installed Best Available Technology Economically Achievable (BAT), Best Conventional Pollutant Control Technology (BCT), or new source standards of performance, as applicable, established by the Administrator of the United States Environmental Protection Agency under 33 U.S.C.A. §§ 1314(b) and 1316 or their equivalent as determined by the Department and will install BDT in accordance with a schedule acceptable to the Department.

(3) The installation of BDT will not result in the discharger achieving the water quality based effluent limitations for the pollutants in question.

(4) The discharger demonstrates, to the satisfaction of the Department, additional efforts to meet the water quality based effluent limitations by:

(i) Modifying process materials or production methods; or both.

(ii) Utilizing an alternate point of wastewater discharge—including the use of land application of wastewater.

(iii) Implementing wastewater management practices such as wastewater recycling, wastewater reuse and good housekeeping.

(iv) Conducting research into the application of new or innovative wastewater treatment technologies or management practices—including carrying out pilot-plant operations of sufficient size and duration to demonstrate adequately the technical feasibility of such treatment technologies or management practices.

(b) Subsection (a) shall not apply to any of the following:

(1) New sources as defined under 33 U.S.C.A. § 1316.

(2) Toxic pollutant effluent standards or prohibitions established under 33 U.S.C.A. § 1317(a).

(3) Dischargers which have a history of noncompliance with the Clean Streams Law (35 P.S. §§ 691.1—691.1001) or the regulations promulgated thereunder, this article, or the terms and conditions of permits or Department orders issued pursuant thereto. A discharger's timely installation of BDT and the other methods set forth in subsection (a)(4) which do not result in achievement of water quality based effluent limitations, shall not be considered non-compliance for the purposes of this subsection.

(c) Requests for time extensions shall be in writing, and shall contain information sufficient to demonstrate that the requirements specified in subsection (a) have been, or will be, met.

(d) Extensions shall be for a limited period of time, not to exceed 5 years, which will be specified by the Department in permits issued under the Clean Streams Law (35 P.S. §§ 691.1—691.1001). A discharger's extension of time may be renewed, for a period of time for each extension not to exceed 5 years, if the requirements for the extension continue to be met.

(e) During the initial extension period, and subsequent extension renewal, the discharger shall submit periodic progress reports to the Department, at a frequency acceptable to the Department, but in no case less than once every year detailing its efforts to meet the water quality based effluent limitations in question.

(f) Failure by the discharger to implement any of the requirements contained in subsections (a)—(e) will result in the imposition and enforcement by the Department of the required water quality based effluent limitations.

(g) The following definition shall apply for the purpose of implementing subsections (a)—(f): *Best Demonstrated Technology (BDT)*—The combination of wastewater treatment technologies and management practices which have been demonstrated, to the satisfaction of the Department, to achieve the most effective degree of pollutant reduction applicable to the type of wastewater and pollutants in question. The determination of BDT shall be based upon the documented results of either full-scale installation and operation of treatment technologies and management practices, or investigation and pilot-plant operations carried out by the discharger. In no case shall BDT be less stringent than Best Available Technology Economically Achievable (BAT), Best Conventional Pollutant Control Technology (BCT), or standards of performance for new sources for the wastewater and pollutants as determined by the Administrator of the United States Environmental Protection Agency under 33 U.S.C.A. §§ 1314(b) and 1316.

Source

The provisions of this § 95.4 amended February 15, 1985, effective February 16, 1985, 15 Pa.B. 544. Immediately preceding text appears at serial pages (44653) to (44654).

§ 95.5. Treatment requirements for discharges to waters affected by abandoned mine drainage.

(a) For wastes discharged to waters polluted by abandoned coal mine drainage, so that the applicable water quality criteria are not being met and designated water uses are not being achieved to the extent that aquatic communities are essentially excluded, and where the pollution cannot be remedied by controlling known, active discharges, the following degrees of treatment shall be provided:

(1) Sewage, as defined in The Clean Streams Law (35 P. S. §§ 691.1—691.1001), shall receive secondary treatment, as defined by this chapter.

(2) Industrial waste as defined in The Clean Streams Law (35 P. S. §§ 691.1—691.1001), shall achieve one of the following degrees of treatment, as appropriate, which are defined under 33 U.S.C.A. §§ 1314(b) and 1316(b):

(i) Best Conventional Pollutant Control Technology (BCT).

(ii) Best Available Technology Economically Achievable (BAT).

(iii) Standards of performance for new sources.

(b) A greater degree of treatment will be required to the waters where one of the following exists:

(1) The water quality of the receiving water has or is expected to improve significantly.

(2) The minimum degree of treatment required would cause pollution in downstream waters, so that designated stream uses in these downstream waters would not be achievable.

Source

The provisions of this § 95.5 amended February 15, 1985, effective February 16, 1985, 15 Pa.B. 544. Immediately preceding text appears at serial pages (44654) and (44655).

§ 95.6. [Reserved].

Source

The provisions of this § 95.6 amended February 15, 1985, effective February 16, 1985, 15 Pa.B. 544; reserved November 17, 2000, effective November 18, 2000, 30 Pa.B. 6059. Immediately preceding text appears at serial pages (228306) and (266235).

§ 95.7. [Reserved].

Source

The provisions of this § 95.7 reserved November 17, 2000, effective November 18, 2000, 30 Pa.B. 6059. Immediately preceding text appears at serial page (266235).

§ 95.8. [Reserved].

Source

The provisions of this § 95.8 reserved November 17, 2000, effective November 18, 2000, 30 Pa.B. 6059. Immediately preceding text appears at serial pages (266235) to (266236).

§ 95.9. [Reserved].

Source

The provisions of this § 95.9 added February 15, 1985, effective February 16, 1985, 15 Pa.B. 544; reserved November 17, 2000, effective November 18, 2000, 30 Pa.B. 6059. Immediately preceding text appears at serial pages (266236) to (228309).

Notes of Decisions

Regulations removing specific numeric phosphorus content limits in favor of evaluation by a general model must be challenged on a case-by-case basis by individual phosphorus discharges; said challenges do not cause direct and immediate harm to a petitioner and are deemed more efficient than judicial speculation as to how DER will implement amended regulations. *Neshaminy Water Resources Authority v. Department of Environmental Resources*, 513 A.2d 979 (Pa. 1986).

Petition filed under Commonwealth Court's original jurisdiction, challenging new regulations which removed specific numeric phosphorus content limits in favor of evaluation by a general model, was premature since petitioner would "not suffer direct and immediate harm which would render the statutory administrative review, process inadequate." *Neshaminy Water Resources Authority v. Department of Environmental Resources*, 513 A.2d 979 (Pa. 1986).

Regulations contemplate that DER will evaluate the degree to which phosphorus contributes to the impairment designed uses on a case-by-case basis and may impose more stringent limitations where necessary. *Neshaminy Water Resources Authority v. Department of Environmental Resources*, 513 A.2d 979 (Pa. 1986).

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