

March 18, 2022

Comments on Pre-Draft Proposed Revisions to DEP General Permits PAG-07 and PAG-08

The Pennsylvania Municipal Authorities Association (PMAA) submits for your consideration comments on the pre-draft proposed revisions to DEP General Permit PAG-07 for Beneficial Use of Exceptional Quality Biosolids and DEP General Permit PAG-08 for Beneficial Use of Biosolids by Land Application under 25 PA Code Chapter 271, Subchapter J.

PMAA represents over 700 municipal authorities across the Commonwealth, which collectively provide water, sewage treatment, waste management, stormwater management as well as other community projects and services to more than six million of its citizens. Of our members, the majority are involved in sewage collection and treatment, many of which hold General Permits to beneficially reuse their Biosolids through land application.

Our membership has a number of concerns with the proposed changes as currently written. The changes are significant and would result in widespread economic impacts and unintended adverse environmental impacts. Therefore, we believe public input is essential through the regulatory process and additional research is required in several areas prior to any permit changes.

Because our members believe the scope and significance of changes in the pre-draft permits warrant a thorough examination through the legislative and regulatory processes, PMAA adopted the following resolution as part of its 2022 advocacy platform:

Resolution 8-22

RESOLVED, That PMAA continue to support land application of Biosolids and other types of technologies for reuse of Biosolids when done in compliance with federal and state requirements, and support the requirement of legislative and regulatory oversight and approval of revisions to general permits issued by the PA Department of Environmental Protection.

We believe the regulatory review process, which includes legislative and public input, provides a deliberative procedure with due process resulting in beneficial decisions based on sound science.

Another concern with prematurely issuing revised general permits is that the path DEP is taking could ultimately result in an unnecessary expenditure of money since ongoing efforts at the federal level (including yet-to-be finalized risk assessment studies) could impact the PFAS issue.

Specifically, with regard to significant costs involved to implement the revisions, the permittee, their ratepayers, the agricultural community, and the citizens of the Commonwealth will be impacted. In order to determine the costs involved, House Resolution 149 (HR 149) by Representative Rigby was adopted in the House on December 15, 2021 and approved by the Legislative Budget and Finance Committee (LBFC) on February 9, 2022. It directs LBFC to study the cost to permit holders to comply with the proposed revisions and how these costs may be passed on beyond the permit holder.

LBFC is also directed to assess whether permit holders, considering current technology, would practically be able to comply with the proposed revisions. Due to the fact that HR 149 has been adopted and approved, we strongly urge that DEP consider refraining from revising the permits until LBFC has reported its findings. Only then can the economic consequences of the proposed changes be adequately analyzed.

To fully understand the scope of economic consequences involved, it is important to note that these proposed revisions are recommendations from Pennsylvania's Chesapeake Bay Phase 3 Water Implementation Plan (WIP) in Section C. *Programmatic and Policy - Enhanced Nutrient Management Planning for Biosolids*. If these recommendations apply to the Chesapeake Bay Watershed, will they also be implemented statewide? Also, how will the data that is collected on Biosolids management be credited? Will it be credited to the agricultural sector or the wastewater sector?

An important reminder to consider is that the wastewater sector has met all mandated reduction goals. PMAA continues to represent over 190 sewage treatment plants within the Chesapeake Bay related to Pennsylvania's role in meeting nutrient and sediment reductions. At a cost of \$1.4 billion dollars, the wastewater sector was the only sector to meet its 2017 midpoint goals for nitrogen and phosphorus reduction in the state, three years ahead of schedule. In addition, the EPA acknowledged that the wastewater sector has already met its 2025 mandated reductions, seven years ahead of schedule. While this is good news for the wastewater sector, other sectors (agriculture, forested lands, stormwater) continue to struggle to achieve their reductions, having already missed their required 2017 reductions.

Finally, our specific environmental concerns with the pre-draft revisions are the proposed PFAS testing requirements, use of the P-Index, hauled waste limitations, and covered storage requirements. All of these proposed changes result in environmental concerns, which are twofold; 1) the unintended negative consequences and 2) the lack of proven environmental benefit of the proposed changes.

For example, the use of P Index to determine Biosolids application rates would result in more Biosolids being landfilled or incinerated, increasing greenhouse gas emissions due to more landfill disposal and introducing PFAS into the atmosphere through incineration. If land application is restricted due to the proposed changes, does the Commonwealth have adequate landfill capacity to absorb these additional materials? What are the economic and environmentally friendly alternatives, if any?

PFAS testing, P-Index, and covered storage would result in less land application of Biosolids, which would result in more commercial fertilizer and cost impacts on farmers. Hauled waste requirements would result in fewer municipal biogas projects, reducing their impact on greenhouse gases and robbing those facilities of revenue. In addition, hauled wastes would be re-routed to less controlled sites, or discharged illegally.

What is the scientific basis for the proposed prohibition on permittees taking in organic wastes for digestion and renewable biofuel production purposes? Is DEP considering a new permit or modifying existing permits to allow those wastewater facilities to continue this type of operation and what will be required of these facilities to continue their operations under the new or modified permits?

The actual improvements to the environment from these proposed changes are speculative and have not been studied. Without proven environmental benefit that is fully researched and based on well-founded scientific information, any proposed changes are blindly made at the expense of Pennsylvania citizens. Therefore, research is necessary to calculate the environmental benefit. We urge that this is accomplished prior to implementing the permit changes as proposed.