

May 12, 2008

ORSANCO
5735 Kellogg Avenue
Cincinnati, OH 45228

Att: PCS Comments

Dear Sir or Madam,

I submit these comments on behalf of the Kentucky Waterways Alliance regarding the issues expected to be raised as part of ORSANCO's forthcoming review of the Pollution Control Standards For Discharges to the Ohio River. The Kentucky Waterways Alliance, Inc. (KWA) is a statewide nonprofit organization dedicated to protecting and restoring our waterways. The Alliance represents over 500 members and affiliate organizations united to ensure high quality water resources in Kentucky for diverse recreational activities such as swimming, boating, and fishing as well as reliable drinking water supplies.

Temperature

The discharge of heated water contributes to bacteria problems and results in low concentrations of dissolved oxygen which is harmful to aquatic life. ORSANCO should ensure that any newly derived temperature criteria maintain the main stem Ohio River's ambient seasonal temperature and assures the protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife in or on the water into which the discharge is made. For summer months, any newly derived temperature criteria should guarantee critical thermal endpoints, such as the critical thermal maximum and incipient lethal temperatures for key shellfish and fish species. For non-summer months, any newly derived temperature criteria should provide for the protection of the natural seasonal thermal regime. We look forward to reviewing the detailed proposed revisions to the Pollution Control Standards.

Translators for Metals

We appreciate ORSANCO investment in studying translators for metals over an extended period of time. We look forward to reviewing the detailed proposed revisions to the Pollution Control Standards. At a minimum, ORSANCO should adopt as part of the 2009 review the EPA's translators for metals and the recommendations found in the EPA publication The Metals Translator: Guidance For Calculating A Total Recoverable Permit Limit From A Dissolved Criterion.

Selenium

The issue of selenium criteria has been historically clouded by differences in opinion over sampling criterion for chronic and acute thresholds. The EPA is in the process of internally reviewing these 304a guidelines. Should these guidelines be available as anticipated in the fall of

2008, we would like to see these incorporated into the Pollution Control Standards For Discharges to the Ohio River.

When considering criteria for selenium, ORSANCO should take into consideration:

1. Implementation should be clear and as simple to execute as possible;
2. That a dual criterion proposal be considered to adequately address the related problems of toxicity to aquatic and wild life.
3. Any selenium criteria ORSANCO sets for the main stem Ohio River will establish a precedent for rule changes on other waters, in particular, direct tributaries of the Ohio.

Pathogens

We look forward to reviewing the detailed proposed revisions to the Pollution Control Standards.

Applicability of New US EPA Human Health Criteria

We look forward to reviewing the detailed proposed revisions to the Pollution Control Standards.

Wet Weather Standards

Consideration of any reduction in Recreational Use Standards (wet weather standards) for the 2009 Triennial Review Process should be taken off the table until more studies have been completed. There are a series of reasons for this recommendation.

1. The timing of the recreation use study that has been commissioned by ORSANCO is such there will be insufficient time for the analysis of results by the technical and scientific community as well as the general public. This is obviously only one aspect that should be utilized in the consideration of wet weather standards, but a careful review of this data is essential prior to using the results as a component of the overall issue.
2. There is a need to consider well defined public health data prior to further consideration of any reduction in Recreation Use Standards. There has been insufficient study of this issue to-date.
3. We are early in the process of Ohio River communities adopting consent decrees requiring the reduction of combined elimination of sanitary sewer overflows. A thorough and scientifically analysis should be undertaken to determine not only the likely outcome of these investments on water quality should be analyzed, and an economic analysis should be undertaken to determine the actual and not a hypothetical return on investment curve.
4. Many Ohio River communities are investing heavily in development that improves access to the river. The potential negative impact of reducing Recreational Standards should studied to determine if reduced standards might discourage current and future economic development throughout the Ohio River Basin.
5. In the previously proposed Wet Weather Standards, the trigger for implementation of reduced Recreation Standards was a flow of 2 mph or greater. There is no scientific basis for this recommendation. If Wet Weather Standards are to be reconsidered at some time in the future, a

thorough analysis of the triggering event including the impact of flow and recent rainfall on bacteria concentrations must be undertaken.

6. Public perception of water quality helps to shape the overall public perception of the quality of life in Ohio River communities. Recruitment and retention of a quality work force depends on the public's perception of quality of life. Reduction of Recreational Use Studies may have a negative impact of quality of life perception and thus reduce the ability of Ohio River communities to recruit and retain a quality work force. We need to better understand the ramifications of these issues.

Rather than look to reduce Recreation Water Quality Standards on the Ohio River, all efforts should be directed toward improving compliance with these standards.

Mixing Zones

Under no condition should "existing discharger" be considered applicable to any BCC discharge beyond the scope of the NPDES program.

ORSANCO should revise the regulatory policy contained in the Pollution Control Standards concerning mixing zones for Bioaccumulative Chemicals of Concern (BCCs) to the more stringent regulatory language prior to the 2006 revisions. Additionally, ORSANCO should produce an annual report detailing all NPDES dischargers who became eligible, applied, and were approved for a mixing zone for BCCs following the 2006 mixing zone language revision including an estimated BCC loading increase analysis.

ORSANCO should amend the language of the Pollution Control Standards For Discharges to the Ohio River Section VI.G. to state:

G. Mixing zones shall be prohibited for Bioaccumulative Chemicals of Concern (BCCs) as set forth in this paragraph. **Existing NPDES discharges containing BCCs which were in existence on or before October 16, 2003** will have mixing zones eliminated for such pollutants as soon as practicable but no later than October 16, 2013; however, no increase in such discharges will be allowed. Existing NPDES discharges of BCCs that come into existence after October 16, 2003 are subject to this prohibition immediately. BCCs are defined as any chemicals that accumulate in aquatic organisms by a human health bioaccumulation factor (BAF) greater than 1000 (after considering various specified factors), and have the potential upon entering surface waters to cause adverse effects, either by themselves or in the form of their toxic transformation, as a result of that accumulation. Currently, the list of BCCs (as described in the Final Rule to Amend the Final Water Quality Guidance for the Great Lakes System to Prohibit Mixing Zones for Bioaccumulative Chemicals of Concern, includes:

Bioaccumulative Chemicals of Concern

Lindane	Mirex
Hexachlorocyclohexane	Hexachlorobenzene
alpha-Hexachlorocyclohexane	Chlordane
beta-Hexachlorocyclohexane	DDD
delta-Hexachlorocyclohexane	DDT
Hexachlorobutadiene	DDE
Photomirex	Octachlorostyrene
1,2,4,5-Tetrachlorobenzene	PCBs

Toxaphene	2,3,7,8-TCDD
Pentachlorobenzene	Mercury
1,2,3,4-Tetrachlorobenzene	Dieldrin

Recreational Study

In order for Responsive Management and/or ORSANCO to properly quantify the current and potential contact recreational uses and fish consumption rates of the Ohio River, the public should be given an opportunity to provide testimonials for the official record. An accurate and complete representation requires targeting and soliciting members of the public who are directly involved in recreational activities, such as marina and boat owners, boating/paddling clubs, fishing clubs/tournaments, waterfowl hunters, amateur and professional athletes, and festival organizers. We urge ORSANCO to seek a representative collection of these parties and initiate an opportunity for them to complete a survey. Additionally, popular and well-known Ohio River access points should be targeted to capture opinions of the general public, who are not included in any of the aforementioned groups.

As currently proposed, the Kentucky Waterways Alliance continues to believe Responsive Management's Draft Work Plan and Survey Instrument, "A Study of Ohio River Contact Recreational Use, Characteristics of Contact Recreational Use, and Site-Specific Fish Consumption Rates," ineffective for providing a realistic and statistical determination of recreational uses of the Ohio River. We recommend a revision of the proposed Survey Instrument and/or the creation of an alternative survey tool to quantify a realistic depiction of Ohio River recreation and fish consumption activities. In conclusion we believe the Recreational Survey will not provide any additional value to justify the suspension of the contact recreational use or the weakening of pathogen standards during or following a wet weather event.

Thank you for considering our comments.

Respectfully Submitted,

Jason Flickner
Water Resources Program Director