

OHIO RIVER VALLEY WATER SANITATION COMMISSION

MINUTES

**205th Commission Meeting
Embassy Suites RiverCenter
Covington, Kentucky
Thursday, February 14, 2013**

<u>Reports</u>	<u>Page</u>
Treasurer.....	1
Chairman.....	1
Executive Director	2
Pension Committee	2
Audit Committee.....	3
Technical Committee.....	3
Water Resources Committee	4
Pollution Control Standards Committee.....	5
Bylaws Committee	6
Water Quality Review Committee	7
Public Interest Advisory Committee (PIACO).....	8
Water Users Advisory Committee (WUAC).....	9
Roster of Attendance	11
Attachment 1: Draft Variance Application and Review Process	12

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Chairman Kenneth Komoroski, Presiding

Call to Order

Chairman Komoroski called the 205th meeting of the Ohio River Valley Water Sanitation Commission to order at 9:40 A.M., Thursday, February 14, 2013.

Commissioner Komoroski led the Commission in the Pledge of Allegiance.

Quorum Call

Commissioner Easterly declared that a quorum was present (see Roster of Attendance, page 11).

Action on Minutes

ACTION: Motion by Commissioner Duritsa, second by Commissioner Flannery and carried, that the minutes of the 204th meeting of the Commission and of the October 2012 Executive Session, electronically distributed on January 22, 2013, be adopted as presented.

Report of the Treasurer

Commissioner Easterly noted that a Treasurer's report as of January 31, 2013 was provided in the meeting packet.

The report indicates a balance of \$255,227 in accounts receivable due the Commission as of January 31, 2013. The balance represents \$123,875 due from Signatory States, \$128,245 due from Federal sources and \$3,107 from other sources.

Additionally, the report indicates receipts of \$2,508,522 plus carryover of \$2,145,346 totaling \$4,653,868 through the end of January 2013. Of that amount, \$1,801,442 was expended on programs, leaving \$2,852,426 available for the continuation of ORSANCO's programs.

ACTION: Motion by Commissioner Tomes, second by Commissioner Nally and carried, to receive the Treasurer's report as presented.

Report of the Chairman

Chairman Komoroski began by stating that he was proud to serve as Chairman for such a vital organization which is successful, due in large part, to the incredible resources provided through the network of highly engaged Commissioners, committee members, and dedicated staff. Mr. Komoroski also stated that during the remainder of his term as Chairman he intends to help, in any way possible, to get the word out to the public regarding all the good work of the organization. In particular, he noted the strong scientific effort of the Commission and how this information is used to make critical decisions which result in success stories. We need to continue communicating these success stories.

Mr. Komoroski concluded by commenting that during the remainder of his term, his mission is to do his best to be of service to Commissioners, committees and staff, and to support the goal of building bridges and alliances to heighten the awareness of ORSANCO's successes.

Report of the Executive Director

Mr. Tennant began by reporting that all state funding payments are up-to-date and thanked Commissioners for their support in securing these payments. He also noted that ORSANCO was celebrating its 20th anniversary in the headquarters facility and thanked those who attended the previous evening's reception at the office.

Mr. Tennant continued by reporting on the Toxic Release Inventory (TRI) and his concern over the possible misinterpretation of information. The Ohio River continues to rank highest in receiving the most toxic releases which is totally influenced by releases of nitrate, which in the water program are not considered toxic but a conventional pollutant. Staff analyzed the TRI data to be in a better position to respond to any possible media involvement.

Mr. Tennant reported that the emerging issue of invasive species, particularly the Asian Carp, will be part of the joint meeting discussion in St. Louis in June. Mr. Tennant was informed that the Midwest Governor's Association has an interest in invasive species. ORSANCO was also invited to serve as a resource by staff of Ohio Senator Brown's office on a media call regarding proposed legislation on invasive species.

Mr. Tennant reminded Commissioners that the June Commission meeting activities in St. Louis, scheduled for June 4-6, will take place a week earlier than normal to accommodate a joint meeting with the Upper Mississippi River Basin Association. The meeting schedules will require some modifications to accommodate this joint meeting.

Mr. Tennant concluded by announcing that the 2013 Ohio River Sweep will be held on Saturday, June 15th.

Report of the Pension Committee

Commissioner Morgan, Committee Chairman, presented the following report:

The July 1, 2012 Actuarial Report, compiled by Buck Consultants, indicated that the Pension Plan had assets with a market value of \$2,799,625. Based on market value of assets, the Plan's funded ratio has declined to 66.8%. Contributing factors included a reduction in the Plan's interest assumption, the actual return was lower than assumed, and no participants left the plan.

PNC Advisors reported that fund assets are currently invested with a 50% stock and 50% bond allocation. Based on risk management, the current allocation provides the best opportunity for long-term correction. The Pension Committee recommends continuing with this investment strategy.

The Pension Committee requests that the Program & Finance Committee consider a recommendation to fund a pension contribution of \$275,000, based on available funds, for FY14. This represents a \$25,000 increase over FY13.

Staff continues to work with the actuary and investment advisors to develop a ten-year plan to improve the funded ratio and reduce the unfunded liability.

ACTION: --- Motion by Commissioner Tomes, second by Commissioner Bruny and carried, to receive the Pension Committee's report as presented.

Report of the Audit Committee

Commissioner Lovan, Committee Chairman, provided the following audit report:

Barnes Dennig, Certified Public Accountants, was retained to perform a general-purpose financial audit for fiscal year ending June 30, 2012, as required by Commission By-Laws. This was Barnes Dennig's second ORSANCO audit.

Audit work began in August and in-house financial testing was performed in October. The Audit Committee was contacted by e-mail and given the opportunity to provide input and ask questions of the auditors. The Audit Committee met on February 13th with the auditor to review and discuss audit outcomes.

In the auditor's opinion, the general-purpose financial statements present fairly, in all material respects, the financial position of ORSANCO as of June 30, 2012. There were no reported material weaknesses in internal controls. The audit report is an "unqualified" report.

The Committee recommends accepting the audit report for year ending June 30, 2012 as presented and to retain Barnes Dennig to perform the 2013 audit.

ACTION: Motion by Commissioner Lovan, second by Commissioner Wilson and carried, to accept the Independent Auditor's Report and to retain Barnes Dennig to perform the 2013 financial audit.

Report of the Technical Committee

Commissioner Frevert, Technical Committee Chairman, reported that the Technical Committee met on February 12-13 and provided the following report and recommendations:

Variance Application & Review Process

ORSANCO has been working to formalize a variance application and review process since having received a first request from PPG for a variance from the Commission's prohibition on mixing zones for bioaccumulative chemicals of concern. This prohibition goes into effect on October 16th of this year. The Commission has recently received three additional variance requests, and there is available information which suggests the Commission may receive even more requests in the near future. As a result, the Technical Committee spent considerable time addressing this issue and offers the following recommendations:

- 1) ORSANCO is recommending to the state agencies that they notify affected permit holders of the Commission's prohibition on mixing zones for BCCs.
- 2) ORSANCO also recommends that the Pollution Control Standards Committee create a workgroup to address resolution of this issue as well as evaluate the appropriateness of having the prohibition for the Ohio River. This provision was originally adopted for the Great Lakes due to their very long retention time for pollutants, including BCCs; however, this is not currently the case for the Ohio River.

Determination of Mercury Impairments for the 2014 Ohio River 305b

During the 2012 assessment of water quality conditions for the Ohio River, determining impairment due to methyl mercury in fish tissue and use of outside entities' fish tissue data led to conflicting and confusing conclusions. As a result, it was decided that the river would not be assessed for impairment by mercury at this time and that staff should continue to work on resolving the problem. The issue was discussed at length and staff will continue to work with the 305b and fish consumption workgroups to resolve the significant issues (what data will be used and how to make an assessment of mercury impairment in fish tissue) for incorporation into the 2014 305b assessments.

Program Recommendations

TEC received a number of recommendations from the NPDES, Biological, and Monitoring Strategy Subcommittees and is referring those recommendations to the Program and Finance Committee for consideration of inclusion in the Commission's FY14 Program Plan.

ACTION: Motion by Commissioner Duritsa, second by Commissioner Potesta and carried, to receive the Report of the Technical Committee.

Report of the Water Resources Committee

Commissioner Potesta, Committee Chairman, reported that the Water Resources Committee held its fourth meeting on November 30, 2012 in Erlanger, Kentucky. Representatives from seven states, the US Army Corps of Engineers, the US Geological Survey, the Tennessee Valley Authority, and the National Weather Service were in attendance. The main topics for discussion included: 1) an update on the Water Resources Initiative, 2) efforts to evaluate climate change, and 3) advancement of a Governors' memorandum of understanding endorsing a Commission role in water resources.

Water Resources Initiative

The Committee received an update from staff on the current and upcoming activities related to the Water Resources Initiative. The initial focus of the initiative is to complete a series of reports which will characterize the water resources in the Ohio River Basin and describe how they are used and managed. Staff presented an inventory of the various state and federal regulations regarding water management. This assessment illustrated the similarities and differences among the approaches employed by the various state and federal agencies to manage the Basin's water resources.

Staff has also completed a water use inventory for the Ohio River Basin based on the 2005 national water use dataset compiled by the US Geological Survey. This assessment found that approximately 44 billion gallons of water is withdrawn from surface and groundwater supplies each day in the Basin. The results are further broken down into eight major use categories, with thermoelectric power production as the dominant use category accounting for nearly 80 percent of the water withdrawn and 38 percent of the consumptive water use.

The results of these assessments will be included as part of the water resources characterization reports to be completed in 2013.

Climate Change

Jim Noel from the National Weather Service's Ohio River Forecast Center in Wilmington, Ohio provided the Committee with a presentation on historical climate trends in the Ohio River Basin and potential future climate change scenarios. Mr. Noel noted that the region has experienced a warming trend since the mid-1970's.

Over the same time period, precipitation has also increased, with much of the change occurring during the late summer and early fall months. Current evidence suggests that climatic variability will be on the rise in the future, though specific climate change scenarios will be extremely difficult to predict.

Debbie Lee, with the US Army Corps of Engineers, briefed the Committee on a multi-agency initiative to evaluate climate change in the Ohio River Basin. The goal of the study is to identify potential threats to water resources management and infrastructure posed by climate change. The pilot study kickoff meeting was held in August 2012, and is anticipated to be completed in approximately one year.

Governors' MOU

The Committee also discussed a Governors' memorandum of understanding which would serve as an endorsement by the States recognizing a role for the Commission in water resources management. General support for the MOU was expressed by members from Indiana, Kentucky, Ohio, and West Virginia. Discussions are ongoing to secure support from additional states.

ACTION: Motion by Commissioner Lovan, second by Commissioner Nally and carried, to receive the Water Resources Committee report as presented.

Report of the Pollution Control Standards Committee

Commissioner Nally, Committee Chairman, reported on the following items:

Variance Application and Review Process

The Pollution Control Standards Committee met by conference call on January 22, 2013, with Chairman Scott Nally presiding. The committee discussed the draft Variance Application and Review Process (Attachment 1). It was originally drafted in response to the need for a formal process resulting from PPG Industries' request for a variance from the Commission's prohibition on mixing zones for bioaccumulative chemicals of concern (mercury); however, the process is intended to be applicable to any variance request. It was decided that the draft process would be used in the PPG variance request prior to being adopted by the Commission. The process was utilized in consideration of the PPG variance request and appears to have been adequate for that particular case.

The Technical Committee will be discussing this issue at its meeting prior to the Commission meeting. The Pollution Control Standards Committee may be presenting the draft process for consideration of adoption by the Commission provided further discussions do not warrant a continuing review.

Total Dissolved Solids

A total dissolved solids (TDS) criterion of 500 mg/L was adopted by the Commission by a narrow margin at the June 2011 Commission meeting. Subsequently, ORSANCO carried out a monitoring survey of Ohio River TDS levels, with the understanding that the TDS criterion might be reconsidered after completion of the study. A one year survey of TDS levels (and individual constituents of TDS) was completed in December 2012. Staff is currently in the process of compiling and assessing the survey data. A report of the TDS study is expected to be drafted by the June Commission meeting. The Pollution Control Standards Committee will be undertaking a review of the TDS criterion while considering results of the study.

Schedule for Next triennial Review of Pollution Control Standards

The most recent review of the standards was completed October 2012. A proposed schedule for the next review would begin in March 2014, with a request for initial public input, after which proposals would be developed. A formal hearing would then be conducted in the summer of 2015, and revisions adopted in October 2015. The standards committee has initially identified a number of issues which may be addressed in the next review including TDS, bromide, temperature, bacteria, and selenium.

ACTION: Motion by Commissioner Easterly, second by Commissioner Bruny and carried, to receive the report of the Pollution Control Standards Committee as presented.

ACTION: Motion by Commissioner Nally, second by Commissioner Frevert and carried that the Commission:

1. Adopt the draft variance process as proposed.
2. Adopt the triennial review timeline, beginning in March 2014, continue through public input and hearings scheduled for the summer of 2015, with action for adoption by the Commission in October 2015.
3. Agree that the constituents that make up TDS, temperature, bacteria, and mercury, should be topics to cover as part of the triennial water review process.
4. Direct the Executive Director to send a letter to the state Directors indicating the need for the states to notify dischargers potentially affected by ORSANCO's prohibition of mixing zones for bioaccumulative chemicals of concern which goes into effect October 16, 2013.
5. Establish an Ad Hoc Committee of the Pollution Control Standards Committee to develop and recommend one or more processes for member states to deal with individual dischargers that may potentially become out of compliance due to the ORSANCO prohibition of mixing zones for bioaccumulative chemicals of concern prior to October 16, 2013.

The Ad Hoc Committee will report back to the Pollution Control Standards Committee before its next meeting, which will be prior to the June Commission meeting. ORSANCO shall notify member State Directors immediately after the June Commission meeting of the Commission's actions relating to the processes available to Member states.

Report of the By-Laws Committee

Commissioner Phillips, Committee Chairman, reported that the Bylaws Committee met by conference call on December 18, 2013. The Committee consisted of Commissioners Phillips, Duritsa, and Lovan. The purpose of the call was to review proposed changes to the Commission Bylaws which would codify the changes to the Commission's Committee structure. Those changes had been recommended by the same three Commissioners, acting as an ad hoc work group on the Committee structure, and were presented to the Commission at its October 11th Executive Session.

If adopted, the proposed revisions to the Bylaws would accomplish the following:

1. Eliminate one category of committees – "Program Advisory Committees."
2. Eliminate three committees currently listed in the category of Program Advisory Committees – the Public Information Directors, the Registry of Distinguished Operators, and Special Projects Committees.

3. Move the ORSANCO/River Users Program Advisory Committee from the Program Advisory Committee category to Standing Committee.
4. Change the category of Special Committees to ad hoc Committees and add the stipulation that the formation of such committees requires a statement of the task to be performed and a date by which the task is to be completed.
5. Add language to clarify that the formation of a subcommittee or work group must be approved by majority vote of the Commission.

The Bylaws Committee recommends that the Commission adopt these changes.

ACTION: Motion by Commissioner Duritsa, second by Ron Schwartz and carried, to receive the report of the By-Laws Committee and adopt the recommended changes to the By-Laws as presented.

Report of the Water Quality Review Committee

Commissioner Bruny, Committee Chairman, reported the Water Quality Review Committee met by conference call on January 18th. The main topics of discussion were the continuing consideration of the Commission's role in an ongoing water quality trading program, and developing a new name for the committee.

Update on Issues

There are currently twelve issues that the Committee is tracking:

1. Oversight of Protocol for Addressing Interstate Inconsistencies
2. Oversight of ORSANCO Watershed Initiative/ Role on Tributaries
3. Relationship with the Big Sandy River Coalition
4. Development of Shale Gas
5. Differences in States' Consumption Advisories for Ohio River Fish
6. ORSANCO's role in implementing the Action Plan for Reducing Hypoxia in the Gulf of Mexico
7. Nutrient Reduction Strategies
8. Habitat
9. Oversight of Watershed Pollutant Reduction Program
10. Hydropower Development on the Ohio River
11. Total maximum Daily Loads – ORSANCO's Role
12. Interstate Water Quality Trading Program

For the most part, there were few recent developments to report on any of these issues. The Committee did note that items related to issues 1, 5, and 10 are on the Technical Committee's agenda for February 12-13.

ORSANCO's Role in the Water Quality Trading Program

The Committee has discussed this issue on several previous calls. For this call, the question for discussion concerned what other entity might assume leadership of the program if ORSANCO were to decline that role. Staff prepared a summary of what organizations were leading trading programs elsewhere; including state agencies, other governmental bodies, and special boards with participating public and private entities. Staff also provided a matrix for comparing candidate organizations based on a US EPA Manual on trading.

Committee members discussed the identified alternatives. Many of the questions raised in the discussion cannot be answered until initial trades are completed. It was agreed that further discussion of this topic should be deferred until that occurs.

Renaming the Committee

In the review of the Commission's Committee structure, a question was raised as to the continuing need for the Water Quality Review Committee. Further discussion of that question led to the conclusion that the name of the committee is somewhat misleading in that it implies a function similar to that of the Technical Committee and several of its subcommittees. The Water Quality Review Committee was tasked to consider a new name for the Committee.

The Committee considered several options and identified five possible new names. None of the possible new names received consensus approval. The Committee decided to ask for input from the full Commission. A proposal was advanced that the Executive Committee would assume the role of the Water Quality Review Committee. This proposal would allow for streamlining of the Commission's operations as well as introduce to the Commissioners some of the emerging issues the Committee considers. The By-Laws Committee has been charged with proposing the necessary changes.

ACTION: Motion by Commissioner Tomes, second by Commissioner Wilson and carried, to receive the report of the Water Quality Review Committee.

Report of the Public Interest Advisory Committee (PIACO)

Eriks Janelins, Committee Chairman, reported that the Public Interest Advisory Committee met on February 13th to discuss a number of topics. The Committee welcomed two new members, Betsy Mallison, an at-large member from the Commonwealth of Pennsylvania, and Byron Marks representing Illinois. Both have extensive volunteer experience with the River Sweep and have professional work experience with their respective state environmental agencies. Their voices were a welcomed addition to the Committee's deliberations.

The Committee continues to focus on the critical role of communications, public engagement, and outreach in the future of ORSANCO. The previous roundtable discussions regarding ORSANCO's ability to define and communicate the value of the Ohio River were invigorating, but the Committee requested that the Commission define the next action steps in that conversation and identify resources that could be committed to those efforts. PIACO is eager to play a leadership role in that process.

The Committee spent significant time examining both the Public Engagement role in the draft Variance Process and the Pollution Control Standards review. The Committee feels comfortable and is supportive of ORSANCO's 2012 efforts including public engagement during the PPG Variance procedure and the triennial review. The increased website postings, more than 8,000 email communications, and webinars are a great step in improving communication in an efficient manner, and the Committee believes it will lead to positive outcomes for the stakeholders.

The Committee is concerned about potential negative public relations that could occur regarding future decisions on the Variance procedure and prohibition on mixing zones. The Committee requests that Commissioner Nally consider adding a member of PIACO on his ad-hoc committee to help mitigate future challenges. While the PIACO members will not claim technical expertise, its representation may be helpful as ORSANCO struggles with this difficult and time-sensitive issue.

The Committee also requests that the Commission thoughtfully consider developing a transition and succession plan in the Public Information Office at ORSANCO. Whether tackling the challenges in communicating the value of the Ohio River and ORSANCO's value to the states and numerous stakeholder groups, to managing controversial ORSANCO decisions, this key role and function is a significant piece to the organization's future; therefore, the Committee believes it should be a priority for both staff and Commissioners. ORSANCO is an organization based on numerous stakeholders, committees, volunteers, and partnerships spread across a broad geographic area. An effective communication network is a key to this success.

ACTION: Motion by Commissioner Easterly, second by Commissioner Phillips and carried, to receive the report of the Public Interest Advisory Committee.

Report of the Water Users Advisory Committee (WUAC)

Mr. Ron Bargiel, Committee Chairman, reported that the Committee met on January 22-23 and discussed the following items.

Mr. Bargiel mentioned that at the last Commission meeting the Committee indicated that it would continue conducting research on Bromide. Subject matter experts attended the Committee's January meeting.

Jeanne Vanbriesen provided an update on an extensive research project to monitor bromide levels in the Monongahela River basin. The study began in 2009 and is will continue through 2013. Detected bromide levels were lower in 2012 despite the fact that river flows were lower. The study is also evaluating the impact of bromide levels on THM formation and speciation.

Michael Elovitz gave an update on the US EPA Region 3 RARE (Regional Applied Research) project. Five of the nine sites have been selected to participate in the study. There were also discussions of how to design a bromide spiking study. One approach is to do a jar test while adjusting water quality parameters such as pH, Temp, [Br-] and reaction time. The other approach would use treated water collected just before chlorine disinfection then spike bromide under controlled laboratory conditions. The latter approach is less involved but would need to be done on a site by site basis.

Sam Dinkins, ORSANCO staff, provided the Water Users with a preliminary summary of the ORSANCO River Users bromide/TDS study. The sample collection and analysis phase of the study was completed in December 2012. The data that was collected is being analyzed and will likely be available for the June 2013 TEC meeting. The vast majority of the Ohio River main stem TDS values have been under the current 500 mg/L limit. Values over 500 mg/L have been measured on some of the tributaries to the Ohio.

The Committee will continue to evaluate results from ORSANCO's Total Dissolved Solids (TDS) study as well as reviewing information from outside sources. The Committee realizes that to advise the Commission the members must become subject matter experts on these topics.

The Committee understands that certain Standards, like TDS are currently under review. Water users feel that the three most important parameters affecting water quality are bromide, ammonia and total dissolved solids. The Committee stresses the need for continued study and regulation of these parameters.

In addition, water utilities were asked by Pennsylvania DEP to perform voluntary sampling for emerging contaminants. He reported that this sampling is again being done this year.

Mr. Bargiel concluded by mentioning that the next Water Users meeting is planned for May 7-8 2013 and will be held in Cincinnati, Ohio.

ACTION: Motion by Commissioner Conroe, second by Melanie Davenport and carried, to receive the report of the Water Users Advisory Committee.

Recognition of Staff Reaching 5-year Employment Milestones

Donna Beatsch – 40 years
Jerry Schulte – 25 years
Lila Ziolkowski – 10 years
Greg Youngstrom – 10 years
Rob Tewes – 5 years

Upcoming Meetings

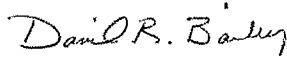
Chairman Komoroski noted the following schedule for upcoming Commission meetings:

- June 4-6, 2013 St. Louis, Missouri
- October 8-10, 2013 Charleston, West Virginia

Adjournment

The 205th Commission meeting was adjourned at 10:50 A.M.

Prepared by:



Date: March 5, 2013

David Bailey
Director of Administration

Approved by:



Date: March 11, 2013

Thomas Easterly
Secretary/Treasurer

ROSTER OF ATTENDANCE
205th Commission Meeting
February 14, 2013

Commissioners

Illinois	Toby Frevert Phillip Morgan
Indiana	Thomas Easterly
Kentucky	Ron Lovan Bruce Scott (PROXY for Leonard Peters)
New York	Douglas Conroe Mike Wilson
Ohio	Paul Tomes Scott Nally Stuart Bruny
Pennsylvania	Charles Duritsa Greg Phillips Ron Schwartz (PROXY for Michael Krancer)
Virginia	Melanie Davenport PROXY for David Paylor)
West Virginia	David Flannery Ron Potesta Scott Mandirola (PROXY for Randy Huffman)
Federal	Kenneth Komoroski
Legal Counsel	Ross Wales

Executive Director

Peter Tennant

Guests

Erich Emery – US Army Corps of Engineers; Eriks Janelsins – Public Interest Advisory Committee; Ron Bargiel –Water Users Advisory Committee; Betsy Mallison – Public Interest Advisory Committee; Judy Peterson – Public Interest Advisory Committee; John Spaeth – Midwest Biodiversity Institute (MBI)

Staff

David Bailey, Jason Heath, Jeff Thomas, Jeanne Ison, Tracey Edmonds, Sam Dinkins, Joe Gilligan, Jerry Schulte, Donna Beatsch, Lila Ziolkowski, Ryan Argo, Greg Youngstrom, Stacey Cochran, Rob Tewes

DRAFT VARIANCE APPLICATION AND REVIEW PROCESS

Background

Variances from Pollution Control Standards for Discharges to the Ohio River (hereafter referred to as “standards”) are allowable and may be granted pursuant to Chapter 1.6 of the Ohio River Valley Water Sanitation Commission’s Pollution Control Standards for Discharges to the Ohio River. Variances are allowable to Chapter 4.F Mixing Zone Designation and Chapter 5 Waste Water Discharge Requirements provided the uses set forth in Chapter 2 are maintained and the water quality criteria set forth in Chapter 3 are met.

The Standards require that applications include specific reasons for the variance, information on alternatives considered including elimination of the discharge, effluent limitations that the applicant believes can be met with the highest level of treatment achievable, demonstration that the uses set forth in Chapter 2 of the standards will be maintained, that the water quality criteria set forth in Chapter 3 are met, and any additional information the Commission deems pertinent to making a decision, including, but not limited to, the NPDES permitting state regulation that would allow the requested variance absent the ORSANCO standard.

The Commission will provide opportunity for public comment in its consideration of any variance request. A variance may be granted for a period not to exceed the life of the applicant’s NPDES permit; however, an applicant may apply for a variance renewal prior to the expiration of the permit.

Administration

Formal requests for variances must be submitted clearly in writing to the state and Commission. The amount of time necessary for ORSANCO’s Pollution Control Standards Committee to consider the request, allow for public input, and the Commission to take formal action at one of its regularly scheduled meetings prior to forwarding it to the state permitting authority, might typically require a minimum of 270 days.

The following information with all supporting documentation including cost information will be required to accompany a formal variance request:

- 1) Permit number, outfall number(s)
- 2) Pollutant for which variance is requested.
- 3) Discharge flow (provide most recent 12 months of data).
- 4) Discharge concentration of pollutant for which the variance is being requested (provide most recent 12 months of data).
- 5) Describe and provide all in stream, biological, and other data collected to support determinations of the status of Ohio River designated uses.
- 6) Describe the current treatment system for the discharge.
- 7) Is the current treatment system the best available technology? If yes, explain how this was determined. If no, describe the best available technology, expected resulting effluent quality, and costs.
- 8) Is the current performance of the in-place treatment system optimum? If no, describe what could be done to improve performance (provide cost information).
- 9) What alternative treatment systems have been investigated and why have they not been installed (provide justification and supporting information)?

- 10) How has elimination of the discharge been investigated? Provide justification and information to support why this cannot be achieved.
- 11) What is the best effluent quality (in terms of pollutant concentration) that can be achieved and provide a minimization plan that describes how that will be achieved.
- 12) Provide a plan with schedules and costs that describes how instream criteria will be met and how designated uses will be maintained.

Public Notification

Within 30 days of receipt of a formal request for variance, the Commission shall notify the public that a variance application has been received. The variance application and all supporting materials will be posted to the Commission's web site. After an initial recommendation regarding disposition of the variance application has been made by the Pollution Control Standards Committee to the Commission, a thirty day public comment period will be held prior to the full Commission making a final determination at one of its regularly scheduled meetings. A public meeting may be held near the applicant's facility should a request be received.

Process

Applicant submits a formal request in writing to the state and ORSANCO with all supporting documentation.

ORSANCO makes public notification within 30 days of receipt of the application and posts the application and all supporting information to the web site.

The Commission's Pollution Control Standards Committee makes an initial determination whether to grant or deny the variance request.

ORSANCO makes public notification with a thirty day comment period announcing its preliminary decision and rationale.

A public meeting near the applicant's discharge may be held.

The full Commission takes action at one of its regularly scheduled meetings. Should the variance be granted, it becomes part of the Commission's Pollution Control Standards and included in an appendix of the standards.

Criteria for Variance Approval

- 1) Demonstration that with existing treatment certain specific requirements of Chapter 4.F Mixing Zone Designation or Chapter 5 Waste Water Discharge Requirements cannot be met.
- 2) Demonstration that there are no reasonable alternative treatment technologies available to meet all requirements of Chapter 4.F and Chapter 5.
- 3) Demonstration that there are no reasonable alternative treatment technologies that would reduce or eliminate the current discharge.
- 4) An adequate pollutant minimization plan has been submitted that describes what will be done and when to evaluate the feasibility of meeting all requirements of Chapter 4.F and Chapter 5 prior to the next permitting cycle and to ensure minimization of the pollutant being discharged.
- 5) Determination of the best effluent quality currently achievable, proposed effluent limitations that can be met on a routine basis, and demonstration that proposed limits will meet all requirements of Chapter 2 Designated Uses and Chapter 3 Water Quality Criteria.