

EXECUTIVE SUMMARY

Amendment to 25 PA. Code, Chapter 93 (Water Quality Standards) Triennial Review

The Department of Environmental Protection recommends the Environmental Quality Board (EQB) propose amendments to 25 Pa. Code Chapter 93 regarding water quality standards.

PURPOSE OF THE PROPOSAL - Section 303(c)(1) of The Clean Water Act requires that states periodically, but at least once every 3 years, review and revise as necessary, their water quality standards. This proposal constitutes Pennsylvania's current triennial review of its water quality standards.

Pennsylvania's water quality standards, which are codified in Chapter 93 and portions of Chapter 92a, are designed to implement the requirements of Sections 5 and 402 of The Clean Streams Law and Section 303 of the Federal Clean Water (33 U.S.C.A. § 1313). The water quality standards consist of the designated uses of the surface waters of this Commonwealth, along with the specific numerical and narrative criteria necessary to achieve and maintain those uses and an antidegradation policy. Thus, water quality standards are in-stream water quality goals that are implemented by imposing specific regulatory requirements, such as treatment requirements and effluent limitations, on individual sources of pollution.

SUMMARY OF THE PROPOSAL - The proposed regulations are comprised of:

Update definitions and terms in Section 93.1: to reflect their current use in Chapter 93 and the water quality standards program.

Revise and update cross references in Chapter 93 pertaining to Chapter 92a:
Updates to correct obsolete references to old Chapter 92, so it now reflects the appropriate references to the newly reformatted Chapter 92a.

Improve public notification process associated with the redesignation process in Section 93.4d(a):

Supplement specific requirement to publish in local newspapers with more general requirements to use the most appropriate and effective means of notification. This could include newspapers, but also direct mailings, web-based features, list serves and subscriber-based notifications, electronic bulletin boards, and other social media, as appropriate.

Updates to Specific criteria in §93.7. Table 3:

- Chloride & Sulfate - development based on Iowa's/Illinois' adoption – WQ condition-based criteria equations approved by U.S. EPA
- Dissolved Oxygen – freshwater D.O. criterion to be more consistent with U.S. EPA's recommendations.

Updates to Metals Criteria - §93.8b. Conversion Factors Table:

- Chromium III conversion factor updated by U.S. EPA

WQ Criteria Updates for Toxic Substances - §93.8c. Table 5:

Aquatic Life Criteria Updates:

- Acrolein (EPA Update – Aug 2009)
- Nonylphenol (EPA Update – Feb 2006)
- Molybdenum
- Resorcinol & sulfonates - site-specific criteria (Beazer & BCACS)

Human Health Criteria Updates:

- Acrolein (EPA Update – May 2009)
- Phenol (EPA Update – May 2009)
- Benzyl chloride
- 2-Butoxyethanol
- Cyclohexylamine
- 1,2 cis-dichloroethylene
- 1,2,4 and 1,3,5-trimethylbenzene
- Acrylamide and 1,4-dioxane (currently in Ch 16, App A, Table 1A)
- Strontium
- Molybdenum
- Resorcinol - added by DEP for site-specific criteria (Beazer & BCACS)

Updates, revisions, and corrections:

The Department also routinely reviews and will make updates, revisions, and corrections to WQ chapters for typos, translation errors and missed references associated with prior rulemaking and/or publication activities; including corrections to use designations and stream entries in Drainage List in Sections 93.9a-93.9z, which are not being addressed by other stream redesignation rulemakings.

Confirm Removal of Water Contact (WC) Use from select Pennsylvania waters:

The Department routinely re-evaluates, as part of its triennial review of water quality standards, the two water bodies where the fishable or swimmable uses specified in Section 101(a) (2) of the federal Clean Water Act required uses are not being met: (1) the Harbor Basin and entrance channel to Outer Erie Harbor/ Presque Isle Bay (93.9x), and (2) several zones within a portion of the Delaware Estuary (§§93.9e & g). Because the same conditions and hazards exist today as during the original use attainability assessments (UAA), no change to the designated use removal (delete WC – Water Contact) is anticipated for these waters, during this triennial.

Attached are draft rationale and other documentation that support the recommended amendments, revisions, and additions for this proposed rulemaking.

ADVISORY GROUPS - The Department's Water Resources Advisory Committee (WRAC) was briefed on these proposed amendments to Chapter 93 Water Quality Standards at its July 14, 2010; April 13, 2011; June 15, 2011; October 12, 2011; December 16, 2011 and January 11, 2012 meetings. On January 11, 2012, the WRAC voted to present this rulemaking package to the Board.

PUBLIC COMMENT - A public comment period of 45 days and at least one public hearing to be held in Harrisburg are recommended for the proposed regulation.