

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
PUBLIC NOTICE**

**[25 PA Code, Chapter 16]
Water Quality Toxics Management Strategy
Statement of Policy**

The Department of Environmental Protection (DEP) is amending Chapter 16, Water Quality Toxics management Strategy – Statement of Policy. The proposed changes are described below.

A. Effective Date

These amendments will be effective upon publication in the *Pennsylvania Bulletin*.

B. Contact Persons

For further information, contact Thomas A. Barron, Chief, Standards Section, Division of Water Quality Standards, Bureau of Clean Water, 11th Floor, Rachel Carson State Office Building, P.O. Box 8774, Harrisburg, PA 17105-8774, (717) 787-9637 or Michelle Moses, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department of Environmental Protection's (DEP or Department) web site (<http://www.dep.pa.gov>).

C. Summary of Amendments

In section 16.21 amendments have been made to the language to clarify endpoints, magnitude and duration.

Section 16.23 has been updated to include the ECO-TOX web-site as a source for aquatic life information. Reference to the Aquire database has been removed because it is no longer available.

In section 16.24 the Department is incorporating the availability of the Biotic Ligand Model (BLM), to determine site-specific metals criteria.

In Section 16.32 the Department is adding Benchmark Dose Modeling (BMD) as an alternative way of calculating adverse effect levels for human health criteria development. Also, the reference to the *National Recommended Water Quality Criteria* (EPA-822-H-04-001, 2004), and Exhibit 3-1 of the *Water Quality Standards Handbook, Second Edition*, EPA 823-0-94-005A, August, 1994, as sources of developing water quality criteria is being removed. The Department uses the *EPA Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health* (EPA-822-B-00-004, October 2000) as its source for method development.

In sections 16.33, 16.51 and 16.61, in order to maintain the consistency of the ambient water quality criteria throughout the state, the Department is removing language pertaining to criteria from Appendix A, Table 1A and Chapter 93 Table 5, not applying to the Great Lakes System. Current criteria available in Chapter 93, Table 5 are applicable to the final water quality guidance for the Great Lakes System (final guidance) at 40 FR 15336 (March 23, 1995) in which the Department agreed to create criteria as protective as the criteria created using the GLI guidelines.

In Section 16.102, DEP is removing language that pertains to Tables 1A, 2B and 3. Site-specific criteria contained in Appendix A, Table 1A will be populated and maintained on DEP's web-site. The EPA approved analytical methods and guidelines will be referenced in this section, and are found in the following federal regulations as amended and updated; 40 CFR Parts 122, 136, 141, 143, 430, 455 and 465, *Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act; National Primary Drinking Water Regulations; National Secondary Drinking Water Regulations; Analysis and Sampling Procedures*. (Final Rule, April 11, 2007)

In Appendix A, Table 2A will be titled, Approved DEP Analytical Methods and will contain methods developed and approved by DEP. The other analytical methods in Tables 2A and 2B are being removed. The information in Table 3 is redundant, and is also found in 40 CFR Parts 122, 136, 141, 143, 430, 455 and 465. It is therefore no longer necessary to have Table 3. Section 16.102 has been updated to compliment the changes made to the Tables.

D. Public Comments

The Department invites public comments on this proposed Statement of Policy and will accept comments through DATE. Comments, including comments submitted by e-mail, must include the originator's name and address. A subject heading of the proposal and return name and address must also be included in each transmission. Commentators are urged to submit comments using the Department's online eComment system at www.ahs.dep.pa.gov/eComment. Written comments should be submitted by e-mail to ecomment@pa.gov or by mail to the Department of Environmental Protection, Policy Office, Rachel Carson State Office Building, P.O. Box 2063, Harrisburg, PA 17105-2063. Comments submitted by facsimile will not be accepted.

E. Public Hearings

The Department will hold three public hearings on the proposed amendments to Chapter 16. The public hearings will take place on the same date and at the same location where the Environmental Quality Board will conduct public hearings on the proposed amendments to Chapter 93 (Proposed Rulemaking: Water Quality Standards – Triennial Review). The public hearings will begin at _____ as follows:

DATE LOCATION
DATE LOCATION
DATE LOCATION

Persons wishing to present testimony at the Chapter 16 hearings are requested to contact Mr. Barron at (717) 787-9637; tbarron@pa.gov at least one week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to five minutes for each witness. Witnesses are requested to submit three written copies of their oral testimony to the hearing chairperson. Organizations are limited to designating one witness to present testimony on their behalf at each hearing.

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact the Mr. Barron at (717) 787-9367 or through the Pennsylvania AT&T Relay Service at 1-800-654-5984 (TDD) to discuss how the Department may accommodate their needs.

Patrick McDonnell
Acting Secretary
Department of Environmental Protection