

EXECUTIVE SUMMARY

Triennial Review of Water Quality Standards 25 Pa. Code Chapter 93

The Department of Environmental Protection (Department) proposes to amend Chapter 93 (relating to water quality standards) to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

Water quality standards are in-stream water quality goals that are implemented by imposing specific regulatory requirements and permit conditions (such as treatment requirements, effluent limits and best management practices (BMPs)) on individual sources of pollution. They include protected water uses, the specific numeric and narrative criteria necessary to achieve and maintain those water uses, and antidegradation requirements. Section 303(c)(1) of the Federal Clean Water Act (CWA) requires that states periodically, but at least once every three years, review and revise as necessary their water quality standards.

This proposed rulemaking fulfills the Commonwealth's obligation to periodically review and revise its water quality standards and updates the water quality standards such that the surface waters of this Commonwealth are afforded the appropriate level of protection.

Summary of the Proposed Rulemaking

The Department recommends the following revisions, updates and amendments to the Commonwealth's water quality standards:

- In Section 93.1, the deletion of a reference to Appendix A, Table 1A from the definition of "toxic substance." This table was removed from 25 Pa. Code Chapter 16 (relating to water quality toxics management strategy—Statement of Policy) in the previous triennial review of water quality standards, which was published as a final-form rulemaking in the *Pennsylvania Bulletin* on July 11, 2020 (50 Pa.B. 3426).
- In Section 93.7, the addition of language that clarifies the duration period for the aquatic life use criteria found in Table 3. Unless otherwise specified in § 93.7, the duration period of the aquatic life criteria with minimum or maximum values, including pH, is a one-hour average as defined in § 93.1.
- In Section 93.8c, the addition of a new subsection (c) that clarifies the duration periods for the aquatic life criteria in Table 5. Unless otherwise specified in § 93.8c, the aquatic life criteria duration periods for criteria maximum concentration (CMC) values and criteria continuous concentrations (CCC) values are a one-hour average and a four-day average, respectively, as defined in § 93.1.
- In Section 93.8c Table 5: the replacement of the existing H and CRL column with a new "Notes" column; the replacement of the word "footnotes" with "notes" in "Acronyms and Footnotes to Table 5"; the replacement of the existing footnote symbols with numerals; the replacement of the existing H and CRL acronyms with numerals; and the addition of

a new numeral for aquatic life criteria duration periods that are instantaneous and 24-hour. Table 5 will also include new or revised aquatic life and human criteria water quality criteria for the following substances:

- New aquatic life criteria
 - Carbaryl
 - Tributyltin
 - Revised aquatic life criteria
 - Cadmium
 - New human health criteria
 - 1,4-dioxane
 - Chlorophenoxy herbicide (2,4-D)¹
 - Revised human health criteria
 - Acetone
 - Barium
 - Boron
 - Chloroform
 - Formaldehyde
 - Methyl ethyl ketone
 - Metolachlor
 - Resorcinol
 - 1,2,3-trichloropropane
 - 1,2,4-trimethylbenzene
 - 1,3,5-trimethylbenzene
 - Xylene
- In Section 93.8e, the addition of a new subsection (c) that clarifies the duration periods for the aquatic life criteria in Table 6. Unless otherwise specified in § 93.8e, the aquatic life criteria duration periods for criteria maximum concentration (CMC) values and criteria continuous concentrations (CCC) values are a one-hour average and a four-day average, respectively, as defined in § 93.1.
 - In Section 93.8e Table 6: the replacement of the existing H and CRL column with a new “Notes” column; the replacement of the word “footnotes” with “notes” in “Acronyms and Footnotes to Table 5”; the replacement of the existing footnote symbols with numerals; and the replacement of the existing H and CRL acronyms with numerals.
 - In Section 93.9, the addition of language to subsection (a) that clarifies the duration period for the exceptions to specific criteria listed in § 93.9e (relating to Drainage List E), § 93.9o (relating to Drainage List O), and § 93.9x (relating to Drainage List X) is a one-hour average as defined in § 93.1.

¹ A human health criterion for 2,4-D of 1,400 µg/L was published in 25 Pa. Code § 93.8c Table 5 as part of the last triennial review of water quality standards, which was published as a final-form rulemaking July 11, 2020 at [50 Pa.B. 3426](#), but the criterion was subsequently disapproved by the EPA.

As part of every triennial review of water quality standards, the Department is required to reaffirm the removal of CWA Section 101(a)(2) uses and, as part of this triennial review, is recommending reaffirmation of the following:

- the removal of the Water Contact Sports (WC) use from the Outer Erie Harbor/Presque Isle Bay in § 93.9x (relating to Drainage List X) and portions of the Delaware Estuary in § 93.9e (relating to Drainage List E) and § 93.9g (relating to Drainage List G); and
- removal of portions of the Warm Water Fishes (WWF) and Migratory Fishes (MF) aquatic life uses for portions of the Delaware Estuary in § 93.9e (relating to Drainage List E) and § 93.9g (relating to Drainage List G).

The Delaware Estuary water uses remain under study by the Department in cooperation with the Delaware River Basin Commission and the United States Environmental Protection Agency.

Affected Parties

The proposed rulemaking is necessary to improve total pollution control and may impose additional compliance costs on the regulated community. The expenditures necessary to meet new compliance requirements may exceed that which is required under existing regulations.

The proposed amendments will be implemented through the Department's permit and approval actions as new and renewed permits are issued. Persons with existing permitted discharges or proposing to add new discharge points to a stream could be adversely affected upon permit issuance or permit renewal if they need to provide new or higher levels of treatment to meet any new or updated water quality standard established by this proposed rulemaking. Treatment costs and BMPs are site-specific and depend upon the size of the discharge in relation to the size of the stream and many other factors. It is therefore not possible to precisely predict the actual change in costs. Economic impacts would primarily involve the potential for increased monitoring and sampling costs and higher treatment costs for new or expanded discharges to streams to meet any new or updated water quality standards. The initial costs resulting from the installation of technologically advanced wastewater treatment processes and BMPs may be offset by potential savings from and increased value of improved water quality through more cost-effective and efficient treatment over time.

There are approximately 10,300 facilities across this Commonwealth that hold permits issued pursuant to Chapter 92a (relating to National Pollutant Discharge Elimination System (NPDES) permitting, monitoring and compliance). The Department identified 274 active NPDES permits with effluent limitations for one or more of the toxic substances included in this proposed rulemaking. These 274 active NPDES permits include permits for treated sewage, industrial waste, groundwater remediation, and stormwater associated with industrial activities.

Outreach (Advisory Committee/Stakeholder Consultation)

On November 17, 2022, the Department met with the Water Resources Advisory Committee (WRAC) to discuss the proposed amendments to Chapter 93. WRAC voted to support presentation of this proposed rulemaking to the Environmental Quality Board. In addition, the Department provided to the Agricultural Advisory Board on December 8, 2022, a regulatory

review that included this triennial review of water quality standards.

Recommendation

The Department recommends adoption of this proposed rulemaking. A 45-day public comment period is also recommended and one virtual public hearing. Other public hearings may be scheduled if sufficient interest is shown during the public comment period.