

DEPARTMENT OF ENVIRONMENTAL PROTECTION
[25 PA. CODE CH. 16]
Water Quality Toxics Management Strategy—Statement of Policy

The Department of Environmental Protection (Department) amends Chapter 16 (relating to water quality toxics management strategy—statement of policy) to read as set forth in Annex A.

A. Effective Date

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

B. Contact Persons

For further information, contact Michael (Josh) Lookenbill, 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 Pennsylvania Hamilton Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). The amendments are available on the Department's web site at www.dep.pa.gov (select “Public Participation,” then “Environmental Quality Board,” then navigate to the Board meeting of **DATE**).

C. Background and Summary

The Commonwealth's water quality standards in Chapter 16 and Chapters 92a and 93 (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance; and water quality standards) implement sections 5 and 402 of The Clean Streams Law (35 P.S. §§ 691.5 and 691.402) and section 303 of the Federal Clean Water Act (33 U.S.C. § 1313). Chapter 16 is a water quality toxics management strategy, establishing policy for regulating toxic pollutants in this Commonwealth's surface waters. It sets forth the guidelines for development and modification of water quality criteria for toxic substances. Chapter 16 is directly referenced as a supporting policy document in the Department's toxic substances regulations in §§ 93.8a and 93.8c (relating to toxic substances; and human health and aquatic life criteria for toxic substances).

The amendments update Chapter 16 to be consistent with the amendments to Chapter 93, as related to the Commonwealth's triennial review of water quality standards.

D. Summary of Amendments

The following is a description of amendments to Chapter 16. No changes were made to Annex A from the proposed to final-form statement of policy.

The amendments to § 16.32 (relating to threshold level toxic effects) include other data sources approved by the United States Environmental Protection Agency (EPA) beyond the use of the EPA's Integrated Risk Information System (IRIS) for risk assessment values. The EPA frequently publishes updated risk assessment information for toxic substances in health effects support documents, which are not referenced in or available through IRIS. Deletion of the

language “referred through IRIS” enables the Department to utilize the latest scientific recommendations.

In § 16.41 (relating to changes and additions), the Department deletes a reference to Appendix A, Table 1A. Amendments removing this table from Chapter 16 were published at 50 Pa.B. 3485 (July 11, 2020).

In Appendix A, Table 2A (relating to approved DEP analytical methods and detection limits), the Department deletes the parameter and method for free cyanide to reflect the availability of EPA-approved analytical methods in 40 CFR Part 136 (relating to guidelines establishing test procedures for the analysis of pollutants). Facilities with National Pollutant Discharge Elimination System permits are required to use EPA-approved analytical methods published in 40 CFR Part 136. Since the Department's analytical method in Table 2A is not EPA-approved and approved methods are now available, it is not needed.

E. Public Comments and Hearings

The Department presented the proposed statement of policy to the Environmental Quality Board at its July 11, 2023 meeting, as a companion to the Triennial Review of Water Quality Standards proposed rulemaking. The proposed statement of policy was published at 53 Pa.B. 6191 (October 7, 2023), opening a 45-day public comment period, which ended on November 21, 2023. The Department held one virtual public hearing for the purpose of accepting comments on the proposed statement of policy.

The Department received no comments during the public comment period, including the public hearing.

JESSICA SHIRLEY,
Secretary

(*Editor's Note:* See **XX Pa.B. XXXX (DATE)** for a final-form rulemaking relating to this final statement of policy.)