

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
PROPOSED AMENDMENTS TO STATEMENT OF POLICY
25 PA. Code, Chapter 16
Water Quality Toxics Management Strategy –
Statement of Policy**

The Department of Environmental Protection (Department) is proposing amendments to Chapter 16 (relating to Water Quality Toxics Management – Statement of Policy). These proposed amendments compliment the water quality standards triennial review and revisions of Chapter 93 (relating to Water Quality Standards).

Pennsylvania's water quality standards, which are set forth in part in 25 Pa. Code Chapter 93, implement the provisions of Section 5 and 402 of the Clean Streams Law and Section 303 of the Federal Clean Water Act, 33 U.S.C.A. § 1313. Water quality standards consist of the uses of the surface waters of the Commonwealth, the specific numeric and narrative criteria necessary to achieve and maintain those uses and an antidegradation policy. Chapter 16 is a water quality policy for regulating toxic pollutants. It sets forth the guidelines for development of criteria for toxic substances, and currently lists the water quality criteria and analytical methods and detection limits for toxic substances. Chapter 16 is directly referenced as a supporting policy document in the Department's toxic substances regulation at Section 93.8a.

Contact Persons

For further information contact Richard H. Shertzer, Chief, Division of Water Quality Standards, Bureau of Water Standards and Facility Regulation, 11th Floor, Rachel Carson State Office Building, P.O. Box 8467, (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 (Department) website <http://www.depweb.state.pa.us>.

Summary of Amendments

The proposed revisions will merge sections of Chapter 16, Water Quality Management Strategy – Statement of Policy into Chapter 93, Water Quality Standards. Portions of the remaining sections from Chapter 16 (pertaining to Water Quality Toxics Management Strategy – Statement of Policy) that were not merged into Chapter 93 will be retained as the statement of policy and provide guidance.

The proposed revision is comprised of:

- Replacing the substances currently listed in Appendix A, Table 1 with a list of site-specific human health and aquatic life criteria that have been developed or reviewed and approved by the Department.

- Moving the criteria that were previously in Appendix A, Table 1 and the criteria tables at § 16.61 (relating to special provisions for the Great Lakes System) to Chapter 93 (relating to Water Quality Standards).
- Updating and correcting sections and tables remaining in the statement of policy.

Sections of Chapter 16 to be incorporated into Chapter 93 (relating to Water Quality Standards)

The sections proposed to be merged are: the criteria table portions of § 16.61 (relating to special provisions for the Great Lakes System) and toxics criteria located in Table 1, Appendix A. The merging of these sections will consolidate the water quality standards by placing water quality criteria in one regulation.

§ 16.1. General.

Language has been added to refer to the listing of site-specific criteria in Chapter 16.

§ 16.11. Toxic substances.

A citation has been added to clarify that EPA has added new methodologies (*The Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health* and the *National Recommended Water Quality Criteria: 2002*) for the development of human health criteria.

§ 16.22. Criteria development.

The Department proposes to clarify that amended and updated documents can be used for aquatic life criteria development.

§ 16.24. Metals criteria.

Dissolved criteria are re-located to Chapter 93, Table 5 and the conversion factors are located in a new section 93.8a.

§ 16.32. Threshold level toxic effect. and §16.33. Nonthreshold effects (cancer).

The Department proposes to add a new fish consumption rate of 17.5 grams as updated in the *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health, 2000*. As a result of definition clarifications in the 2000 methodology, the Department proposes to change the term “bioaccumulation factor” to a “bioconcentration factor.” The Department is also adding a citation to allow for the use of other approved data sources to obtain risk assessment values for developing threshold and non-threshold toxics criteria as referred through the Integrated Risk Assessment System (IRIS).

§ 16.41. Additional changes and additions.

The Department has updated the language in this section to clarify that the toxics criteria are housed in Chapter 93, Table 5 and Chapter 16, Appendix A.

§ 16.51. Human health and aquatic life criteria.

The Department has added a new citation to clarify that additional state derived and site-specific criteria are also housed in Chapter 16, Appendix A, Table 1. The Department will also clarify that the toxics criteria without a priority pollutant number (PP NO) are state-derived criteria.

§ 16.61. Special provisions for the Great Lakes System.

In Section 16.61(b)(4) (relating to criteria for the Great Lakes System), the Great Lakes aquatic life and human health criteria will be moved to Chapter 93, § 93.8d, Table 6 and the wildlife criteria to Table 7.

§ 16.101. Introduction.

In subsection (c) the Department proposes to change language to support the use of the purest water available for each analytical method.

APPENDIX A, TABLE 1 – The Department proposes to rename this table, “SITE- SPECIFIC WATER QUALITY CRITERIA FOR TOXIC SUBSTANCES”. Site-specific criteria that are developed or approved by the Department will be housed in Appendix A, Table 1 until such time that there is an opportunity for a final rulemaking by the Board that incorporates the criteria into Chapter 93, Table 5.

APPENDIX A, TABLE 2 – APPROVED ANALYTICAL METHODS AND DETECTION LIMITS

In Table 2A Inorganics, the Department proposes to correct the spelling for Dichlorobromomethane.

APPENDIX A, TABLE 3 – DESCRIPTION OF EPA METHODS FOR THE ANALYSIS OF PRIORITY POLLUTANT ORGANICS

The Department proposes to change the method number for semi-volatile organic compounds by isotope dilution GC/MS from EPA method 1625 to EPA method 1625B. The method number was changed in Table 2B during the last triennial review of water quality standards, but was inadvertently omitted from Table 3.

Public Comments

Comments and suggestions regarding the proposed amendments to the statement of policy should be addressed to Mr. Shertzer at the address noted above or may be submitted electronically by email to at RA-WQS@state.pa.us. A subject heading of the proposal and return name and address must be included in each transmission. Comments must be received by - _____, 200__ (within 45 days of publication in the *Pennsylvania Bulletin*). Comments submitted by facsimile will not be accepted.

The Department will hold a public hearing for the purpose of accepting comments on the proposed amendments to the statement of policy. The hearings will be held in conjunction with the Environmental Quality Board (EQB) public hearing on proposed water quality amendments

(Chapter 93). The DEP Chapter 16 hearing will be held immediately following conclusion of the EQB hearing. The EQB hearing will begin at _____. The date and location is listed below:

Public Hearing

Persons wishing to present testimony at a Chapter 16 hearing are requested to contact Jacqueline Tribby at (717) 787-0128 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness and one designated witness for each organization. Witnesses are requested to submit three written copies of their testimony to the hearing chairperson.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service of other accommodation in order to participate should contact Jacqueline Tribby at the above telephone number or the Pennsylvania AT&T Relay Service as (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how their needs may be accommodated.

KATHLEEN A. MCGINTY,
Secretary