

STATEMENTS OF POLICY

DEPARTMENT OF ENVIRONMENTAL PROTECTION

[25 PA. CODE CH. 16]

Water Quality Toxics Management Strategy— Statement of Policy

The Department of Environmental Protection (Department) is proposing to amend Chapter 16 (relating to water quality toxics management strategy—statement of policy). These proposed amendments compliment the water quality standards triennial review and revisions of Chapter 93 (relating to water quality standards).

The Commonwealth's water quality standards, which are set forth in part in Chapter 93, implement the provisions of 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.A. § 1313). Water quality standards consist of the uses of the surface waters of this 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 in § 93.8a (relating to toxic substances).

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 at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Availability of Proposed Statement of Policy

Copies of the proposed statement of policy may be obtained from Ken Parmelee, Division of Water Quality Standards, Bureau of Water Standards and Facility Regulation, 11th Floor, Rachel Carson State Office Building, P. O. Box 8647, Harrisburg, PA 17105-8467, (717) 772-4018; kparmelee@state.pa.us. This proposal is available electronically through the Department of Environmental Protection's (Department's) website at www.depweb.state.pa.us (DEP Keyword "Public Participation, Participate;" then choose "Proposals Currently Open for Comment").

Summary of Amendments

The proposed revisions will merge sections of Chapter 16 into Chapter 93. Portions of the remaining sections from Chapter 16 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 table that will contain future listings 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 in § 16.61 (relating to special provisions for the Great Lakes System) to Chapter 93.
- Updating and correcting sections and tables remaining in the statement of policy.

Sections of Chapter 16 to be incorporated into Chapter 93

The sections proposed to be merged are: the criteria table portions of § 16.61 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 the 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 relocated to Chapter 93, Table 5 and the conversion factors are located in a new § 93.8b (relating to metal criteria).

§ 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 nonthreshold toxics criteria as referred through the Integrated Risk Assessment System.

§ 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 are State-derived criteria.

§ 16.61. Special provisions for the Great Lakes System.

In § 16.61(b)(4), the Great Lakes aquatic life and human health criteria will be moved to Chapter 93, § 93.8e (relating to special criteria for the Great Lakes System), 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 required 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 a 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

The approved methods and detection limits in Table 2A and 2B have been updated to reflect the EPA approved methods that were recently updated and published as final in the *Federal Register* (72 FR 11199) on March 12, 2007. The revised and updated methods associated with the Federal regulations were effective April 11, 2007.

In Table 2B organics, 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 semivolatile 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

Written comments, suggestions or objections regarding the proposed amendments to the statement of policy may be addressed to 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. Comments submitted by facsimile will not be accepted; however, the Department will accept comments submitted by e-mail. Electronic comments may be submitted to RA-WQS@state.pa.us. A subject heading of the proposal and return name and address must be included in each e-mail transmission. Comments must be received by February 26, 2008.

(*Editor's Note:* For a proposed rulemaking relating to this document, see 38 Pa.B. 236 (January 12, 2008).)

Public Meeting and Public Hearing

The Department will hold two public meetings and two public hearings on the proposed amendments to Chapter 16. The public meetings and public hearings will take place on the same date and at the same location where the Environmental Quality Board will conduct public meetings and hearings on the proposed amendments to Chapter 93. At the public meeting for the Chapter 16 amendments, the Department will provide an overview of the proposed amendments to Chapter 16, as well as an overview of the proposed amendments to Chapter 93, and address questions from meeting participants. The public meetings will begin at 2 p.m. and 6 p.m. as follows:

February 14, 2008	Department of Environmental Protection Southcentral Regional Office Susquehanna Room A 909 Elmerton Avenue Harrisburg, PA 17110
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The two Chapter 16 public hearings will be held for the purpose of accepting comments from the public and will begin at 3 p.m. and 7 p.m. as follows:

February 14, 2008	Department of Environmental Protection Southcentral Regional Office Susquehanna Room A 909 Elmerton Avenue Harrisburg, PA 17110
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Persons wishing to present testimony at the Chapter 16 hearings are requested to contact Ken Parmelee at (717) 772-4018; kparmelee@state.pa.us 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 to participate should contact Ken Parmelee at the previously listed telephone number or e-mail address or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how their needs may be accommodated.

KATHLEEN A. MCGINTY,
Secretary

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