

# 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) proposes to amend Chapter 16 (relating to water quality toxics management strategy—statement of policy) to read as set forth in Annex A.

#### A. *Effective Date*

The proposed 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 proposed amendments are available on the Department's web site at [www.dep.pa.gov](http://www.dep.pa.gov) (select "Public Participation," then "Environmental Quality Board" (Board) and then navigate to the Board meeting of July 11, 2023).

#### 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 proposed amendments will 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*

Proposed 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 proposes to delete a reference to Appendix A, Table 1A. Amendments removing this table from Chapter 16 were published previously at 50 Pa.B. 3485 (July 11, 2020).

In Appendix A, Table 2A (relating to approved DEP analytical methods and detection limits), the Department proposes to delete the parameter and method for free cyanide to reflect the availability of EPA-approved analytical methods published under 40 CFR Part 136 (relating to guidelines establishing test procedures for the analysis of pollutants). Facilities with National Pollutant Discharge Elimination System (NPDES) permits are required to use EPA-approved analytical methods published under 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*

Interested persons are invited to submit to the Department written comments regarding this proposed Statement of Policy. Comments must be received by the Department by November 21, 2023.

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.

Comments may be submitted to the Department by accessing eComment at <http://www.ahs.dep.pa.gov/eComment>.

Comments may also be submitted to the Department by e-mail at [ecomment@pa.gov](mailto: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.

#### F. *Public Hearings*

The Department will hold one virtual public hearing for the purpose of accepting comments on the proposed amendments to Chapter 16. The public hearing will take place on the same date when the Board will conduct a public hearing on the proposed amendments to Chapter 93. The hearing will begin at 1 p.m. on November 14, 2023.

Persons wishing to present testimony at the Chapter 16 hearing are requested to contact Michael (Josh) Lookenbill at (717) 787-9637 or [mlookenbil@pa.gov](mailto:mlookenbil@pa.gov), at least 1 week in advance of the hearing to reserve a time to present testimony. Language interpretation services are available upon request.

Oral testimony is limited to 5 minutes for each witness. Organizations are limited to designating one witness to present testimony on their behalf at each hearing. Witnesses may provide testimony by means of telephone or Internet connection. Video demonstrations and screen sharing by witnesses will not be permitted.

Witnesses are requested to submit written copy of their verbal testimony by e-mail to [ecomment@pa.gov](mailto:ecomment@pa.gov) after providing testimony at the hearing.

Information on how to access the virtual public hearing will be available on the Board’s webpage found through the Public Participation tab on the Department’s web site at [www.dep.pa.gov](http://www.dep.pa.gov) (select “Public Participation,” then “Environmental Quality Board”). Prior to a hearing, individuals are encouraged to visit the Board’s webpage for the most current information for accessing the hearing.

Members of the public wishing to observe a virtual public hearing without providing testimony are also directed to access the Board’s webpage.

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact the Department at (717) 783-8727 or through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

RICHARD NEGRIN,  
*Secretary*

*(Editor’s Note: See 53 Pa.B. 6170 (October 7, 2023) for a proposed rulemaking relating to this proposed statement of policy.)*

**Fiscal Note:** 7-582. No fiscal impact; recommends adoption.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION  
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart A. PRELIMINARY PROVISIONS**

**ARTICLE II. STATEMENTS OF POLICY**

**CHAPTER 16. WATER QUALITY TOXICS MANAGEMENT STRATEGY—STATEMENT OF POLICY**

**Subchapter A. GUIDELINES FOR DEVELOPMENT OF CRITERIA FOR TOXIC SUBSTANCES AND WATER QUALITY CRITERIA FOR TOXIC SUBSTANCES**

**GUIDELINES FOR DEVELOPMENT OF HUMAN HEALTH-BASED CRITERIA**

**§ 16.32. Threshold level toxic effects.**

\* \* \* \* \*

(d) The sources the Department uses to obtain relevant risk assessment values for protection for threshold level toxic effects to human health are as follows:

(1) Verified reference doses, listed in the EPA agency-wide supported data system known as IRIS (Integrated Risk Information System) and other EPA approved data sources [ **referred through IRIS** ].

\* \* \* \* \*

**CRITERIA MODIFICATION**

**§ 16.41. Changes and additions.**

The criteria in Chapter 93, Table 5 and site-specific criteria [ **in Appendix A, Table 1A** ] for toxic substances are based on the best scientific information currently available. These criteria may, however, be added to or modified if the Department determines upon evaluation of new scientific findings and information that a change is warranted. Submittal of data and information will be considered by the Department for this purpose. Site-specific criteria development will be performed in accordance with § 93.8d (relating to development of site-specific water quality criteria). Changes and additions to the tables will be published in the *Pennsylvania Bulletin*.

**APPENDIX A**

**TABLE 2A**

**APPROVED DEP ANALYTICAL METHODS AND DETECTION LIMITS**

<i>Parameter (CAS)</i>	<i>Method Number (Description) Source</i>	<i>Detection Limit (µg/l)</i>
[ * 14M ]	<b>CYANIDE, FREE (00057125)</b> —(DEP Free CN method, Auto) <b>Not EPA approved</b>	<b>1 ]</b>
—	BENZENE METADISULFONIC ACID (00098486) OR 357A Test America, HPLC/UV or LC/MS/MS	50

<i>Parameter (CAS)</i>		<i>Method Number (Description) Source</i>	<i>Detection Limit (<math>\mu\text{g/l}</math>)</i>
—	BENZENE MONOSULFONIC ACID (00098113)	OR 357A Test America, HPLC/UV or LC/MS/MS	50
—	P-PHENOL SULFONIC ACID (00098679)	OR 357A Test America, HPLC/UV or LC/MS/MS	50

[ \* EPA currently measures “total cyanide” to satisfy cyanide limits and has not yet approved analytical methods for “free cyanide.” Free cyanide is a DEP required analysis, and either of the three listed are acceptable for its determination. ]

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