



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION



Office of Water Management

Triennial Review of Water Quality Standards TR17 Updated Recommendations and Timeline

Agricultural Advisory Board
April 25, 2019

Tom Wolf, Governor

Patrick McDonnell, Secretary

Triennial Review of Water Quality Standards

DEP is required to review, revise and update, as needed, at least once every three years, water quality criteria and standards found in

25 Pa Code Chapters 93 and 16

to reflect the latest scientific information and new federal guidelines for criteria development, and other implementation guidance

Companion Statement of Policy

While EQB does not take a formal action to approve the **Water Quality Toxics Management Strategy – Statement of Policy in 25 Pa. Code Chapter 16**, it is provided as a companion and as an integral supplement to the WQS regulations

Revisions and updates are proposed by DEP to reflect changes in the WQS regulations, so the chapters are consistent and support one another.

▶ WRAC & Other Advisory Committees

Presentations on the proposed rulemaking:

Water Resources Advisory Committee (WRAC)

- Briefing / updates on Feb. 18, and Nov. 18, 2015
- WRAC voted on March 24, 2016 to present the proposed rulemaking package to the EQB

Other advisory committees

- Agricultural Advisory Board (AAB) on Feb. 25, 2016
- Citizens Advisory Council (CAC) on June 21, 2016

Proposed Rulemaking

- Adopted by EQB at its April 18, 2017 meeting
 - Published in *Pa Bulletin* on October 21, 2017
- See 47 Pa.B. 6609
- with 70-day public comment period
 - Originally to end December 29, 2017
 - with 3 public hearings on December 6, 8, and 14, 2017 at DEP's NE, SC & SW Regional Offices

Public Comment Period Extended

EQB received comments requesting the public comment period be extended, and an additional public hearing be held in the southeast area of the Commonwealth

- Notice of public comment period extension and additional public hearing published in the *Pennsylvania Bulletin* on December 30, 2017 (47 Pa.B. 7852)
- Additional public hearing held on January 30, 2018, at DEP's Southeast Regional Office (SERO) in Norristown
- Extended public comment period ended February 16, 2018

Public Comments

EQB received comments from 776 commenters including comments from:

- U.S. Environmental Protection Agency (EPA Region 3)
- Testimony from 7 witnesses at the 4 public hearings
- Independent Regulatory Review Commission (IRRC)

The comments received, and DEP's responses will be summarized in the Department's **Report to the Environmental Quality Board Comments and Responses Document**.

- DEP considers all public comments received on its proposed rulemaking in preparing the final rulemaking

Summary of Changes in Final Rulemaking

§ 93.1. Definitions

- Draft definition for *Conservation Easement* deleted from proposed rulemaking at the EQB's April 18, 2017 meeting, but the question was still posed in proposed rulemaking, seeking information for consideration in future rulemaking
- New definition added for *7-day average*

Summary of Changes (continued)

§ 93.7. Specific water quality criteria - Table 3

- Updates to aquatic life water quality criteria for
Ammonia (Am)
Bacteria (Bac₁)

criteria to be wholly consistent with U.S. EPA's national CWA Section 304(a) recommendations

Summary of Changes (continued)

§ 93.8c. Table 5 – Water Quality Criteria for Toxic Substances

- Updated human health criteria to be consistent with the national CWA Section 304(a) recommendations from U.S. EPA
- Or are withdrawn if cannot determine original rationale to support the proposed revision

Summary of Changes (continued)

- The Water Quality Criteria Development Rationale Documents for

- Ammonia
- Bacteria
- Human Health

criteria are updated to reflect the changes from proposed to final rulemaking, in response to comments received in the proposed rulemaking

Summary of Changes (continued)

§ 93.8d(c). Development of site-specific water quality criteria.

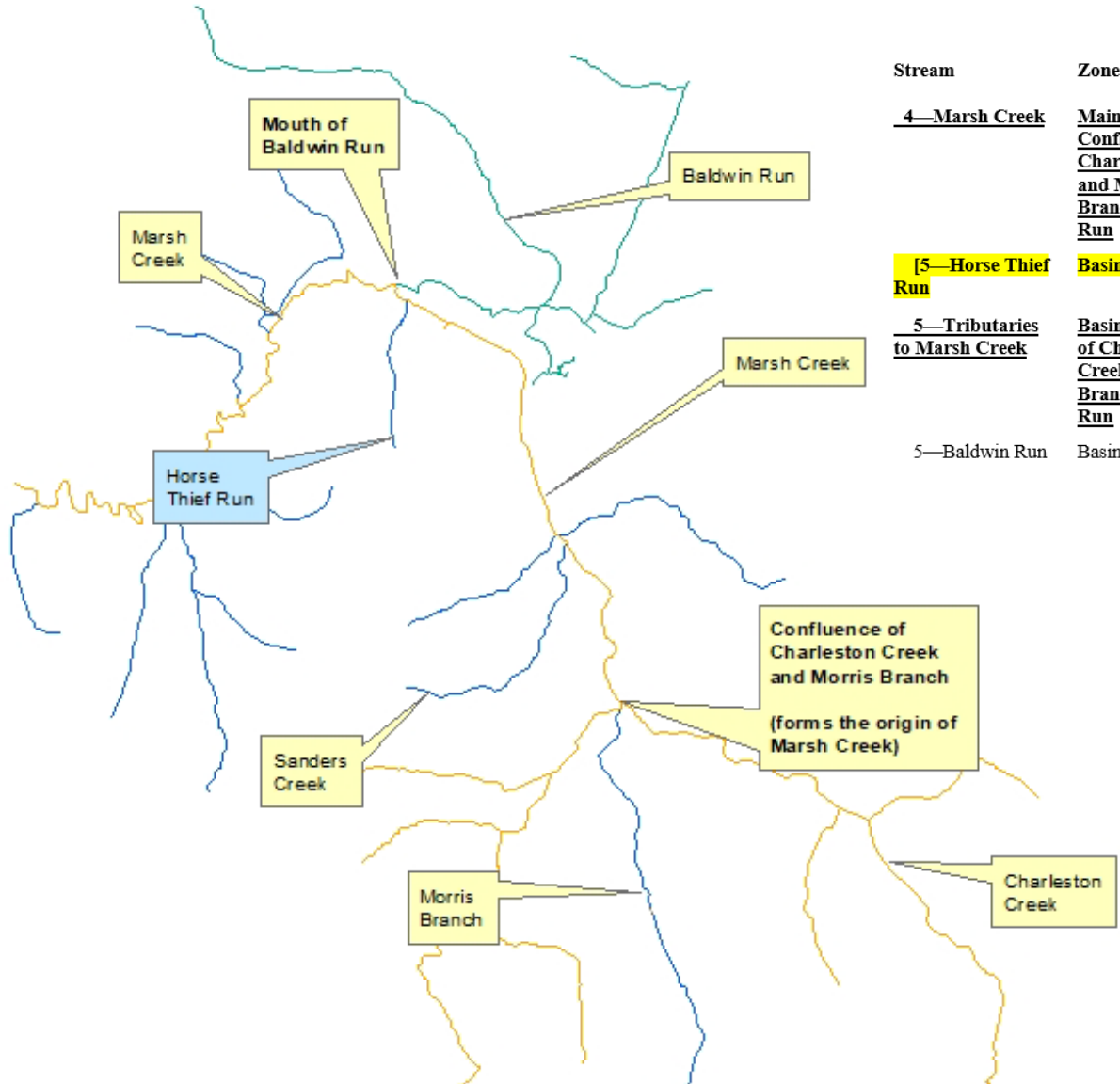
- To clarify that the Biotic Ligand Model (BLM) being added as option in proposed rulemaking, will now indicate that the BLM will be used (rather than may be) for the development of new or updated site-specific criteria for copper in freshwater systems

Corrections to Drainage Lists

Adding further clarifications, in response to public comments received on the corrections to the Drainage Lists at §§ 93.9b – 93.9g, 93.9j – 93.9t, 93.9v – 93.9x, and 93.9z.

- reinforce that these changes to the drainage lists are presented to clarify stream names, segment boundaries, reformat the drainage lists, and to correct typographical and other errors associated with prior rulemaking or publication activities, and are not imposing any changes to the applicable protected uses

Corrections to Drainage Lists (example)



Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
<u>4—Marsh Creek</u>	<u>Main Stem, Confluence of Charleston Creek and Morris Branch to Straight Run</u>	<u>Tioga</u>	<u>WWF, MF</u>	<u>None</u>
[5—Horse Thief Run	Basin	Tioga	CWF, MF	None]
<u>5—Tributaries to Marsh Creek</u>	<u>Basins, Confluence of Charleston Creek and Morris Branch to Baldwin Run</u>	<u>Tioga</u>	<u>CWF, MF</u>	<u>None</u>
5—Baldwin Run	Basin	Tioga	HQ-CWF, MF	None

▶ Non-Fishable/Non-Swimmable Waters

Need to Reaffirm the existing exclusions of the “fishable/swimmable” use for portions of the Delaware River and Lake Erie basins in Drainage Lists E, G, and X are still applicable

- Several zones within a portion of the Delaware Estuary (§§ 93.9e & 93.9g)
- Harbor Basin and entrance channel to Outer Erie Harbor/ Presque Isle Bay (§ 93.9x)

▶ Non-Swimmable Waters – Lake Erie

Lake Erie, Outer Erie Harbor/Presque Isle Bay (§ 93.9x)

- No change proposed to the designated use because the same conditions and hazards exist today, for the exclusion of the water contact sports (WC) designated in §93.9x

Exclusions on Delaware Estuary

Water contact sports (WC) use remains excluded from the designated uses for RMs 108.4 to 81.8 because of continuing significant impacts from combined sewer overflows (CSOs), and hazards associated with commercial shipping and navigation.

No change was proposed, but EQB received comments about water contact activities occurring on the Estuary

- DEP will initiate efforts with DRBC and the other member states to reevaluate the applicable water contact sports (WC) standards, to be considered in a future rulemaking

Exclusions on Delaware Estuary

WWF (Maintenance Only) and **MF (Passage Only)** limited uses for Zones 3, and 4 of the Delaware Estuary basin do not meet the Section 101(a)(2) fishable uses, described for Pennsylvania's portions of the tidal portions of the basin, from river mile 108.4 to the PA-DE State Border, in Drainage Lists E and G

- Recent data and observations suggesting recovery is occurring in propagation for some species in portions of these Zones
- DEP will continue to work with DRBC and other signatory states in determining the appropriate D.O. criteria that should apply to these section of the Estuary

Exclusions on Delaware Estuary

WWF (Maintenance Only) and MF (Passage Only) limited uses

- recommendations regarding the designated uses, along with the appropriate D.O. criteria, will be considered in the next triennial review of WQS, or next available WQS rulemaking following the outcomes of the collaboration with DRBC and other member states

Updates to Chapter 16: Statement of Policy

- Correct the reference to Ch. 92a at §16.22(1)
- Provide updates to methodologies/protocols for development of Aquatic Life and/or Human Health Criteria
- Change incorrect reference at §16.32(c)(2) to the Water Quality Standards Handbook, Second Edition (should reference EPA-823-B-94-005a)
- Correct incorrect reference to Tier II values at §16.61(b)(2) when referring to Human Health Criteria for the Great Lakes System

Updates to Chapter 16 (continued)

- Adding clarification that DEP will require use of the BLM for development of site-specific criteria for copper in freshwater systems
- Adding clarification on how and when the different methods can or cannot be used in combination in developing site-specific criteria
- Created a new on-line resource to store site-specific and provisional criteria; delete Table 1A in Appendix A

Updates to Chapter 16 (continued)

- Make Updates to §16.102 – Approved EPA Analytical and Detection Limits, with cross references to EPA approved methodologies;
 - Already maintained and updated by EPA
 - Easier to manage and implement
 - Eliminates potential for introducing errors or use of outdated information
- Methods Table 2A Repurposed to house DEP Accredited Analytical Methods and Detection Limits
- Delete Methods Tables 2B and 3

Updates to Triennial Review Timeline

- Still need to present to Agricultural Advisory Board – April 25, 2019
- Environmental Quality Board Meeting – July 16, 2019
- Must go through our Regulatory Process & be Approved by U.S. EPA



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Questions?

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