

NOTICE OF PROPOSED RULEMAKING AND PUBLIC HEARING
August 17, 2009

Proposed Amendments to the *Water Quality Regulations*, *Water Code*, and *Comprehensive Plan* to Revise the Human Health Water Quality Criteria for PCBs in the Delaware Estuary, to Apply the PCB Human Health Water Quality Criterion to Delaware Bay, and to Provide for the Use of Compliance Schedules to Implement Stream Quality Objectives Established by the Commission

Text of Proposed Amendments

It is proposed to amend the Comprehensive Plan, Articles 3 and 4 of the *Water Quality Regulations* (WQR), and Article 3 of the *Water Code* (WC) as set forth below. Editor's instructions are denoted by underscore thus. Deleted text is denoted by brackets [thus] and added text is denoted by boldface **thus**.

Amend Section 3.10.3 D. of Article 3 of the WQR and WC as follows:

3.10.3 Stream Quality Objectives

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D. Human Health Objectives for Toxic Pollutants. It is the policy of the Commission to designate numerical stream quality objectives for the protection of human health for the Delaware River Estuary (Zones 2 through 5) which correspond to the designated uses of each zone. **It is also the policy of the Commission to designate a stream quality objective for the protection of human health from carcinogenic effects for PCBs in Delaware Bay (Zone 6).**

Stream quality objectives for protection from both carcinogenic and systemic effects are herein established on a pollutant-specific basis for:

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Other toxic substances for which any of the three Estuary states have adopted criteria or standards may also be considered for the development of stream quality objectives.

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6. A rate of ingestion of water of 2.0 liters per day is assumed in calculating objectives for river zones where the designated uses include public water supplies after reasonable treatment. [A] **For toxic pollutants other than PCBs, a rate of ingestion of fish of 6.5 grams per day (equivalent to consuming a ½ pound portion every 35 days) is assumed in calculating freshwater stream quality objectives for human health[. A]; and a rate of ingestion of fish of 37 grams per day (equivalent to consuming a ½ pound portion every 6 days) is assumed in calculating marine stream quality objectives for human health.**

For PCBs in Zones 2 through 6, a rate of ingestion of fish of 17.5 grams per day (equivalent to consuming a ½ pound portion every 13 days) is assumed in calculating both freshwater and marine stream quality objectives.

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Amend Table 6 of Section 3.30 of Article 3 of the WQR and WC as follows:

For the parameter “PCBs (Total)”, in the column headed “Freshwater Objectives (ug/l): Fish & Water Ingestion,” remove the number “0.0000444” and insert “0.000016”; in the column headed “Freshwater Objectives (ug/l): Fish Ingestion Only,” remove the number “0.0000448” and insert “0.000016”; and in the column headed “Marine Objectives (ug/l): Fish Ingestion Only,” remove the number “0.0000079” and insert “0.000016”.

Amend Section 3.30.6 C. of Article 3 of the WQR and WC by the addition of a new subsection 3.30.6 C.11. as follows:

3.30.6 Zone 6

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C. Stream Quality Objectives.

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11. Toxic Pollutants. The applicable marine stream quality objective for PCBs for the protection of human health from carcinogenic effects is 0.000016 ug/l.

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Amend Section 4.20.2 of Article 4 of the WQR as follows:

4.20.2 Additional Specifications. [The Standards have set limits for most of the significant and commonly used indicators which are pertinent to water quality management in the Basin. When a need arises, or upon application to the Commission, additional indicators and limits will be defined.]

Redesignate subsection 4.20.2 A. of Article 4 of the WQR as 4.20.2 B. and insert new language at Section 4.20.2 A. as follows:

A. Schedules of Compliance. Where implementation of a stream quality objective established by the Commission requires a reduction of the pollutant concentration or loading of a discharge to Basin waters, the Commission and/or environmental agency of the signatory party may establish a schedule of compliance (“compliance schedule”) subject to the following:

1. **Where the U.S. Environmental Protection Agency (EPA) or a state agency authorized by EPA to issue NPDES permits under the Clean Water Act issues a NPDES permit governing the discharge, then the compliance schedule shall be consistent with the Clean Water Act and applicable federal regulations; and**
2. **in all other instances, the compliance schedule issued by the Commission or the environmental agency of the signatory party shall obligate the discharger to attain as soon as reasonably possible in the judgment of the agency issuing such schedule the concentration or loading required to implement the stream quality objective.**

B[A]. Background, Total Dissolved Solids. The following background levels of total dissolved solids shall be utilized for the specified zones of the Delaware River:

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