

RESOLUTION FOR THE MINUTES

A RESOLUTION for the Minutes amending the schedules adopted by Resolution No. 2017-04 for completing studies on the inclusion of propagation as a designated use in Zones 3 and 4 and the upper portion of Zone 5 of the Delaware River Estuary and for initiating DRBC rulemaking to revise the designated aquatic life uses consistent with the identified studies and the objectives and goals of the federal Clean Water Act.

WHEREAS, the DRBC reaffirms the shared goals set forth in Resolution No. 2017-04; it continues to recognize the vital importance of determining the appropriate designated aquatic life uses of the Delaware River Estuary and the water quality criteria necessary to protect these uses; and it appreciates the importance of reaching these determinations through a collaborative process informed by technical studies and specialized scientific and engineering expertise; and

WHEREAS, since 2017 the Commission has expended significant sums from its general operating fund to pay for the DRBC staff and external resources needed to meet the objectives set forth in Resolution No. 2017-04; and

WHEREAS, to augment its general fund contributions, the Commission has pursued and has been awarded grants and contracts from multiple public and private sources, including: the New Jersey Department of Environmental Protection, the Pennsylvania Department of Environmental Protection, the Pennsylvania Coastal Resources Management Program, the U.S. EPA Clean Water Act Section 106 program, the Delaware Watershed Research Fund, and the Delaware Watershed Conservation Fund; and

WHEREAS, the Commission and its contractors have completed or made substantial progress on a majority of the scientific studies and tasks outlined in Resolution No. 2017-04, including: obtaining input from an expert panel on modeling the water quality impacts of nutrient loadings; researching the dissolved oxygen requirements of key sensitive species; obtaining ichthyoplankton data; conducting ambient nutrient monitoring and primary productivity and algal speciation studies to support model calibration; developing a hydrodynamic and eutrophication model; identifying and evaluating the capital and operating costs required for twelve wastewater treatment plants to implement technologies for achieving higher levels of dissolved oxygen; and initiating an evaluation of the physical, chemical, biological, social and economic factors affecting attainment of uses; and

WHEREAS, it was not until May of 2020 that the last of the point source discharge operators provided data essential for development of the eutrophication model by submitting their 2018-2019 effluent nutrient monitoring data in accordance with a Resolution for the Minutes of September 2017; and

WHEREAS, the Eutrophication Model Expert Panel identified additional model development tasks that the staff agrees are necessary for development of a robust model; and in consultation with the model expert panel, the DRBC staff also has identified the need for and is implementing model code revisions that enhance the linkage between the hydrodynamic and water quality models; and completing these additional tasks will extend the timeline for model development; and

WHEREAS, during the planned 2018-2019 calibration period, conditions were exceptionally wet and thus were not representative of the critical environmental conditions for evaluating the impact of nutrient loadings on aquatic life uses; for purposes of the eutrophication model, additional time is needed to develop the dry to normal conditions observed in prior years; and

WHEREAS, shortfalls in signatory party operating fund contributions since 2017, coupled with budget uncertainties and cutbacks by the signatory parties associated with the COVID-19 pandemic during fiscal year 2020 reduced the funds available to fully engage the Eutrophication Model Expert Panel, modeling consultant, and interagency support; and

WHEREAS, supplemental data collection for development of the eutrophication model, including monitoring of light extinction parameters and an algal speciation study, were temporarily suspended due to the COVID-19 pandemic in 2020; and

WHEREAS, additional time beyond that anticipated by Resolution No. 2017-04 is needed to generate additional general fund revenue and other sources of funding and to allow the DRBC staff the time and resources required to complete a full draft analysis of attainability and to promulgate a final rule and an implementation strategy; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission that:

1. The schedule set forth in Resolution No. 2017-04 for completing a full draft analysis of attainability for aquatic life uses is amended to provide for completion by September of 2022.
2. The goal set forth in Resolution No. 2017-04 for issuance of a final rule and an implementation strategy is similarly revised. The Commission seeks to achieve these objectives by March of 2025.
3. These goals continue to depend upon the availability of resources and the resumption of normal laboratory and data collection activities that were temporarily suspended due to the COVID-19 pandemic.
4. This resolution shall take effect immediately.

ADOPTED: September 10, 2020