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Tate, Michele

From: Denise Hakowski <Hakowski.Denise@epamail.epa.gov>
Sent: Tuesday, August 21, 2012 4:03 PM
To: EP, RegComments
Subject: Comments on Proposed Rulemaking: Triennial Review of Water Quality Standards
Attachments: Proposal.EPA Comments.pdf

A signed copy of this letter on EPA letterhead is attached here:

Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105-8477

2012 SEP -5 PM 4:38

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Dear Sir or Madam:

The U.S. Environmental Protection Agency (EPA), Region III has reviewed the proposed amendments to Chapter 93 of the Commonwealth's environmental regulation. This proposal, which was announced for public review and comment in the Pennsylvania Bulletin on July 7, 2012, constitutes Pennsylvania's current triennial review of its water quality standards, as required by the Clean Water Act (CWA or "the Act") Section 303(c)(1). The purpose of this letter is to provide EPA's comments on the proposal. Please note that the comments and recommendations contained in this letter are strictly for the Environmental Quality Board's (EQB) consideration and do not constitute approval or disapproval decisions under CWA 303(c). Neither are these comments a determination by the EPA Administrator under CWA Section 303(c)(4)(B) that revised or new standards are necessary to meet the requirements of the Act.

Subject to a few comments listed below, EPA is fully supportive of Pennsylvania's proposed revisions. Under CWA Section 303(c), it is the responsibility of the Pennsylvania Department of Environmental Protection (PADEP) to protect the existing and designated uses of the surface waters of the Commonwealth by establishing water quality standards. The specific water quality criteria being proposed will help PADEP determine if any particular parameter has the potential to negatively impact water quality and, therefore, uses. Having scientifically defensible numeric criteria also benefits the public: dischargers know what specific standards they will be required to meet, and the general public understands what standards are needed to protect water resources.

In accordance with federal regulation at 40 CFR 131.11, states must adopt water quality criteria based on sound scientific rationale and these criteria must contain sufficient parameters or constituents to protect the designated use. States can adopt numerical criteria based on EPA's national CWA 304(a) recommendations, EPA's national recommendations modified to reflect site-specific conditions, or other scientifically defensible methods. Pennsylvania is proposing to adopt several criteria that either do not match the national recommendations, or for which there are no national recommendations. The bases of these criteria are EPA's recommended methodologies, or studies in which EPA participated. EPA reminds PADEP that in order to support a CWA 303(c) approval, EPA will need to document that Pennsylvania has met the requirements of the 40 CFR 131.11. To that end, please consider the following comments:

- Please include in the rationale documents for the development of aquatic life criteria for the sulfonate compounds and resorcinol the toxicity data used to calculate the criteria, ranked by the genus mean acute

values.

- For the dissolved oxygen (DO) criteria, please explain how the proposed criteria will be protective of designated uses. For example, in the rationale document, PADEP indicates that for the 7-day average it has chosen the qualitative level of effect "slight production impairment" value from the summary of DO concentrations found on page 31 of EPA's Ambient Water Quality Criteria for Dissolved Oxygen (EPA 440/5-86-003, April 1986), and "moderate production" value for the minima. PADEP needs to indicate in the rationale why it believes these levels are protective of aquatic life in the Commonwealth.

Regarding the application of the DO criteria, the proposed Pa. Code 93.7(b) allows for limiting the extra seasonal DO protection for salmonids if it can be demonstrated that the early life stages are not present. EPA reminds PADEP that the application of criteria is based on designated use, not existing use. The more stringent DO should apply for any water designated for cold water fishes (CWF) where the designated use has been defined as maintenance and propagation of salmonids.

In this triennial review, PADEP is reviewing the rate of temperature change provision in Pa. Code 93.7, Table 3. The public notice indicates that the EQB may consider changes to this provision in the final-form rulemaking based on comments received. EPA is wondering what opportunity will be available for public review should revisions be made to this provision.

Finally, Pennsylvania is proposing a number of corrections to the drainage lists. PADEP notes in the proposal these corrections do not change the current stream use designations, however, there are several streams in the annex where this is not clear. Please address the following:

- Pocono Creek basin, drainage list C: In the proposal, it appears that the designation has been deleted and not replaced. Also, the entire basin of Wolf Swamp Run is currently designated EV. It is not clear that the entire stream segments currently designated as EV are maintaining the EV designation in the proposed changes.
- Lahaska Creek, drainage list E: The designation for Mill Creek appears to be changed to WWF and should be CWF, unless the use change complies with the requirements for use change under the regulations at 40 C.F.R 131.10.
- Noon Branch Wolf Run, drainage list L: Currently Noon Branch Wolf Run in its entirety is designated EV, MF. In the proposal it appears that only a portion of Noon Branch is EV, the remainder is designated HQ-CWF.

Thank you for this opportunity to provide comments on Pennsylvania's triennial review of its water quality standards regulation. EPA would be happy to assist the Commonwealth as necessary to complete this triennial review. If you have any questions concerning this letter, please contact me at (215)814-5452, or have you staff contact Denise Hakowski at (215) 814-5726.

Sincerely,

Larry Merrill, Associate Director
Office of Standards, Assessment & TMDLs
Water Protection Division
Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
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Philadelphia, Pennsylvania 19103-2029

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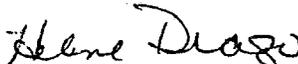
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Sincerely,


for Larry Merrill, Associate Director
Office of Standards, Assessment & TMDLs
Water Protection Division

cc: Rodney Kime (PADEP)
Thomas Barron (PADEP)

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Handwritten text, possibly a date or a short note, located below the signature.

Handwritten text, possibly a name or title, located on the right side of the page.

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