

A RESOLUTION amending the *Water Quality Regulations*, *Water Code* and *Comprehensive Plan* to extend through July 31, 2008 the designation of the Lower Delaware River as Special Protection Waters.

WHEREAS, after a duly noticed public comment period and a public hearing, by Resolution No. 2005-2 on January 19, 2005 the Commission found on the basis of a series of studies, plans, and a federal designation that “the section of the Delaware River from River Mile 133.4 to River Mile 209.5, known as the “Lower Delaware River”, is characterized by exceptionally high scenic, recreational, ecological and/or water supply values/uses within the meaning of Section 3.10.3 A. of the *Water Quality Regulations* and requires special protection in accordance with that section” (Res. No. 2005-2, par. 1); and

WHEREAS, Resolution No. 2005-2 temporarily classified the Lower Delaware River (also “Lower Delaware”) as Significant Resource Waters, pending the determination of numeric values for existing water quality for this section of the river and a thorough evaluation of these data to determine whether to make the temporary Special Protection Waters designation permanent for some or all of the Lower Delaware; and

WHEREAS, Resolution No. 2005-2 made the Lower Delaware River subject to all applicable provisions of the Commission's Special Protection Waters regulations (Section 3.10.3 A.2 of the *Water Quality Regulations* and *Water Code*) except those that depend for implementation upon the use of numeric values for existing water quality; and

WHEREAS, to allow the Commissioners and staff time to determine numeric values for existing water quality, evaluate implementation options and develop new language for aspects of the rule that require clarification in order to ensure their uniform implementation in areas of the basin that drain to Special Protection Waters, the Commission extended temporary designation of the Lower Delaware by resolutions No. 2005-15, No. 2006-22 and No. 2007-13, before causing to be published in October of 2007 in the *Federal Register* and in the Delaware, New Jersey, New York and Pennsylvania registers a Notice of Proposed Rulemaking to Amend the *Water Quality Regulations*, *Water Code* and *Comprehensive Plan* to classify the Lower Delaware River as Special Protection Waters; and

WHEREAS, the Commission established a public comment period on the proposed amendments to run through December 6, 2007; it held informational meetings in Stockton, New Jersey on October 25, 2007 and in Easton, Pennsylvania on November 1, 2007; it made presentations on the proposed rule at a series of professional conferences as well as at meetings hosted by citizens’ groups and elected officials within the affected regions; and it held a public hearing on the proposal on December 4, 2007; and

WHEREAS, between September of 2004, when the Commission issued its first public notice of proposed rulemaking to classify the Lower Delaware River as Special Protection Waters, and December 6, 2007, when the comment period closed on the amendments noticed

formally in October of 2007, the Commission received thousands of comments from residents, elected officials, treatment plant operators, and administrative agencies, of which the majority constituted petitions in support of the action, and of which several articulated serious objections to it; and

WHEREAS an additional extension of the temporary SPW designation for the Lower Delaware is required in order to continue the protections afforded by this designation pending completion of the task of sorting, categorizing, reviewing and preparing thorough responses to the comments received; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission that:

1. The last paragraph of Section 3.10.3A.2.g.6) of the *Water Quality Regulations* and *Water Code* is amended by replacing the date “May 15, 2008” with the date, “July 31, 2008.”
2. This amendment shall be incorporated in the Commission’s *Comprehensive Plan*.
3. This amendment shall take effect immediately.

/s/ Cathy Curran Myers

Cathy Curran Myers, Chairwoman *pro tem*

/s/ Pamela M. Bush

Pamela M. Bush, Esquire, Commission Secretary

ADOPTED: May 14, 2008