

**WATER QUALITY ADVISORY COMMITTEE  
NOVEMBER 6, 2003**

**ATTENDEES:**

<b>NY (via telephone)</b> Charles St. Lucia	<b>DE DNREC</b> John Schneider, Env. Prog. Administrator
<b>EPA</b> Denise Hakowski, EPA Region III	<b>Dupont</b> Alfred Pagano, Env. Consultant
<b>PA DEP (via telephone)</b> Ed Brezina, Env. Prog. Mgr Michelle Moses, Program Council Carol Young, Chief Wtr. Qual. Stds & TMDL Sect. Rod Kime	<b>Delaware Riverkeeper Network</b> Maya van Rossum, Riverkeeper Tracy Carluccio, Director Special Projects
<b>NJ DEP</b> Debra Hammond, Water Quality Standards & Assmt.	<b>Delaware Dept. of Public Works</b> Sean Duffy
<b>DRBC</b> Ken Najjar, Branch Head Planning & Implementation Patricia McSparran, Water Resources Engineer Robert Tudor, Deputy Exec. Director Todd Kratzer, Water Resources Engineer	<b>Other attendees:</b> Allan Ambler, National Park Service Bill Brown, Consultant John Interrante, Consultant

This meeting took place at the New Jersey DEP offices in Trenton.

**Review and Approval of Minutes**

The minutes from the July 29<sup>th</sup> and 30<sup>th</sup> meeting were reviewed and approved.

**Update on Application of Water Quality Standards document and Temperature Criteria Development**

Patricia McSparran stated that the DRBC recently received data from Pennsylvania Fish & Boat Commission and Academy of Natural Sciences and that DRBC staff are reviewing the temperature requirements for the different species. It is a very large list and will take longer than originally expected. She suggested that we delay the temperature criteria discussion until next year, after the revised regulations are adopted. The committee agreed with that schedule.

**Review of Existing Water Quality Tables**

Todd Kratzer reviewed the proposed existing water quality table. In addition to adding existing water quality for dissolved oxygen (non-seasonal in Upper Delaware and seasonal in the Middle Delaware), total dissolved solids, turbidity, and temperature, the tables were also simplified to only list the applicable confidence limit and percentiles for each parameter. It was suggested that Mr. Kratzer add text to the regulations to explain

the tables. There were no objections on the method used to create the table and the resulting values.

### **Report on Water Quality Issues Discussed by Commissioners**

Bob Tudor stated that the majority of this discussion was in the context of zones two through five. Patricia McSparran discussed the schedule proposed by the Toxics Advisory Committee:

- Update 10 metals in 2004
- Revise human health criteria listed on handout in 2004
- Adopt PCB criteria in Zones 2 to 5, and 6 (may not be 2004, may be 2005)
- In 2005, review and update criteria for all chemicals in Zones 2 to 5, and 6
- In 2005, adopt PCB criteria in Zone 1E
- In 2006, adopt revised criteria for chemicals in Zone 1
- In 2006, adopt PCB criteria for Zones 1A to D

**The TAC has asked the WQAC to include their proposed revisions to the metals and human health criteria in the Water Quality Regulations currently under review.**

Additional designations of intrastate tributaries as Outstanding Basin Waters was also discussed at the Commission meeting in September 2003. The Commissioners agreed with having the option of designating the contiguous intrastate tributaries as Outstanding Basin Waters. Bob Tudor said that the Commissioners would like to keep the option open only after agreement by the state involved. They would also like concurrence of the state to be a regulatory requirement. Maya Van Rossum did not think that the Commissioners requested a rule change to require approval by the state involved. The WQAC members requested to have copies of the minutes from September's Commission Meeting sent to them. Maya van Rossum and Tracy Carluccio also requested they be able to listen to the recorded tapes of the meeting.

### **Discussion of Interim Protection**

Patricia McSparran reviewed the proposed Resolution to provide interim protection to the Lower Delaware River from two years ago. The question is: Is there agreement to provide interim protection to the waters or should we wait until the waters are designated? The specific language to address the legal concerns of providing interim protection would be worked out by the lawyers from DRBC and the affected states. The committee was to decide on the policy and not focus on the specific language for this discussion. Bob Tudor stated that it was the sense of the Commission that interim protection made sense, if they adhere to due process by rulemaking. Debra Hammond commented that providing interim protection is a good thing if the waters qualify but there should be significant data to prove that the waters qualify.

The WQAC agreed that there is an interest in providing interim protection. The question is when and how and what the actual language should be. There needs to be public comment before this provision would be put into place. There needs to be a rule change to provide for the ability to provide interim protection.

The language will be discussed with the Commissioners at the December 3, 2003 Commission meeting to get their opinion of what the language should be.

#### **Discussion of Pollutant Trading (section 3.40.3E.3)**

Ed Brezina suggested that on Page 52, under the third bullet, we should clarify who has to issue approval. Also the words “project operation” should be replaced by language indicating that the control measures should be in place prior to qualifying for credit generation/utilization. Maya van Rossum stated that she would like those involved in the trade to demonstrate that there has been a reduction for the pollutant for which they are receiving credit. Ed Brezina pointed out that the sixth bullet conflicts with the fifth bullet. The word “affect” in the fifth bullet on page 52 and in the third bullet in section b on page 53 should be replaced with “benefit.” The word “applicants in the eighth bullet on page 52 should be replaced with “permittee or docket holder.” In general, many of the requirements in section b on page 53 are similar to those on page 52. The committee suggested reducing redundancy as much as possible.

#### **Discussion of Mixing Zones (section 3.40.3E.1)**

The following changes were suggested and/or made to this section:

- Page 46 – specify “federal and/or state threatened or endangered species”
- Page 48 – Remove “Non-tidal Surface Waters” under “c”
- Page 49 – Added “W1 Guidelines” to second bullet and removed bullet for “All Other Zones” on page 51
- Page 50 – Last bullet: add “of fish and aquatic life” after “indigenous population”

Also, Bill Brown questioned the point at which drinking water standards are applied (on page 20, #4). In DRBC regulations, they are applied in-stream at the edge of a mixing zone. In PA, certain parameters are applied at “the point of taking.” The concern was that certain plants discharge to small streams that do not afford much dilution so that even with a mixing zone, they would not meet the nitrate standard. It was decided that the issue of mixing zones and retaining basin-wide criteria has to be taken to the Commissioners on the December 3<sup>rd</sup> meeting.

#### **Other Review of the Water Quality Standards Document and Schedule**

- Page 1 – deleted “background total dissolved solids (TDS)”
- Page 2 – anything that has to do with toxics should be changed to reflect previous language since toxics are not being extended to Zones 1 and 6 right now
- Page 4 – added “load allocation”
- Page 4 – added “margin of safety”
- Page 5 – “non-point source pollution control plan” definition was made more general to describe non-point source pollutant loadings (not just stormwater)
- Page 5 – removed “wading” from “primary contact”

- Page 7 – under “shellfish”, added “bivalve”
- Page 8 – added EPA definition to “total maximum daily load”
- Page 16 & 18 – replaced “reasonable” with “conventional” under potable water supply use
- Page 19 – removed the nutrient and biocriteria sections from the tables and put it in the general section
- Page 20 – added “conventional” in #4 and B
- Page 21 – removed the biocriteria section
- Page 22 – again, removed the nutrients section
- Page 23 – ignore the temperature criteria table for now
- Page 25 – Deleted “total dissolved solids” from the table
- Page 27 – Federal fecal coliform standard (if exists) should be added
- Page 28 – again, moved the nutrients section
- Page 30 – deleted “total dissolved solids” section
- Page 31 to 33 – these will change to reflect the TAC recommendations
- Page 34 – section “g”, changed “public” to “potable”
- Page 35 – this table will be changed back to previous version
- Page 56 – added protection of threatened or endangered species (specify “federal and/or state”)
- The language on page 46, second bullet under section 1A, could pose a problem for plants discharging to small streams (the drinking water standards including TDS and nitrate would be difficult to meet and a mixing zone would not help)
- Pennsylvania doesn’t feel that there should be basin-wide criteria – this will be discussed with the Commissioners at the December 3<sup>rd</sup> Commission meeting
- Should a December meeting be added to the schedule to discuss the Application of Water Quality Standards document?

The WQAC should e-mail contacts for the Subcommittee on Biocriteria Development to Patricia McSparran at pmcsparran@drbc.state.nj.us.

The next WQAC meeting is proposed for February 10, 2004.