

DEP Water Quality Standards Program

Final Public Meeting *(of 2012)*

November 8, 2012

Protecting the environment depends on us.



Division of Water and Waste Management



Meeting Agenda/Overview

- Intro/WQS meeting purpose/goals
- Overview of preparation for Triennial Review
- Submitted comments overview
- Other agency news/updates
- Open forum/adjournment



Meeting Purpose/Goals

- Previous feedback:
 - Need more outreach for WQS Program
- Public Meetings:
 - Informal format
 - Not bound by formal hearing procedures
 - Present information/gain feedback



Meeting Purpose/Goals (cont.)

- Information/Topics:
 - WQS Program related (47CSR2)
 - *46CSR6*
 - DWWM news/info
 - Other agency info (EPA, ORSANCO)
 - Other news/announcements
- No formal decisions/commitments



Meeting Purpose/Goals (cont.)

- 2011 schedule ~Quarterly*
- 2012 schedule:
 - “Semi-Annual”
 - ~~April, August, December~~
(November)
 - Tentatively last week/end of the month



2014 Triennial Review

- CWA requirement - state must review WQS (47CSR2) every three years
- Triennial review requirements/basic procedures:

2013

- Environmental Advisory Council
- Public comment/response
- Public hearing
- Submitted for approval during 2014 Legislative session, passed by Legislature, signed by Gov.
- Final approval (“*effective*”) by EPA ~ 2014/2015



2014 Triennial Review (cont.)

- Prep for 2013 efforts
- Solicitation for comments
 - Not a requirement but done in the past - starts the outreach process early
 - Revisions = additional criteria, update to current criteria, removal of criteria...
 - Any submission must have scientific justification for the revision



2014 Triennial Review (cont.)

- Tentative list of potential revisions*:
 - Bacteria/Rec criteria - pending EPA final recommendation, Fecal to E. coli (October November 2012)
 - Revise final piece of lakes nutrient criteria
 - Reviewing hardness based Al criteria (Cat. B)
 - Revising Beryllium - match EPA criteria
 - Site-specific Zinc
 - Selenium (EPA), potential site specific
 - Bromide (no recommended criteria at this time)



*Not complete list, only draft for presentation purposes

2014 Triennial Review (cont.)

- 2012 Plan:
 - Solicitation of comments (open ~Sept.)
 - 30 day “submission” period (end ~ October)
- *(Completed)*
- November - Public meeting *(Today)*
 - Overview of submissions
 - Review timeline/process for 2013 during meeting



2014 Triennial Review Comment Solicitation 2012

- Requested comments via DEP announcement
 - Sept. 11, 2012/ Oct. 10, 2012
- Most submitted Oct. 12, 2012
 - All electronic (thank you) w/ some hardcopy follow
 - Handful post requested deadline



2014 Triennial Review Comment Solicitation 2012

- Quick stats:
 - 15 comment packages submitted
 - Industry/interest groups - 11
 - Environmental groups - 2
 - Public - 1
 - Government - 1





west virginia department of environmental protection

- Promoting a Healthy Environment

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401 Certification
Certified Laboratories
Chesapeake Bay Program
Clean Water State Revolving Fund
Groundwater/UIC
Monitoring Well Construction
Nonpoint Source
RCRA Hazardous Waste
Solid Waste
Stormwater Program
Water Quality Standards

2014 Triennial Review of Water Quality Standards

What is the Triennial Review of the Water Quality Standards?

DEP is required by the federal Clean Water Act (CWA) to conduct a comprehensive review of the state water quality standards every three years (the "Triennial Review"). This review allows input from all interested stakeholders, and unlike most other states all revisions must be approved by the state legislature before final approval from the U.S. Environmental Protection Agency.

***This web page will be updated regularly** as the process unfolds. This includes posting documents, meeting announcements and other relevant information about the review.*

2014 Triennial Review September 2012

The West Virginia Department of Environmental Protection solicited public input on potential revisions to the state's water quality standards. The notice outlined that revisions could include a revision to a current standard, additional standard(s) and/or deletion of a standard(s). Submissions were to clearly state the revision being proposed and include sound scientific justification for the revision. The agency accepted submissions until October 2012, and the following comments were received:

American Electric Power	International Copper Association and Copper Development Association	West Virginia Coal Association
Appalachian Mountain Advocates	John M. and Petra B. Wood	West Virginia DEP -Office of Environmental Remediation
Enrplus Resources (USA) Corporation	Monongahela Area Watersheds Compact	West Virginia Manufacturers Association
First Energy	Risk-Based Remedies	West Virginia Municipal Water Quality Association
International Zinc Association	West Virginia Chamber of Commerce (Comment) (Comment Addendum)	West Virginia Rural Water Association

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*Only comment letters posted, attachments not at this time

2014 Triennial Review Comment Solicitation 2012 Submitted Comments

- *Thank you to everyone that submitted comments*
- Review of what we received, not commenting at this time
- Basic attempt to summarize what was in the comment, check specific comments for details (All posted to WQS 2014 Triennial Review page)
- Can discuss with others who share similar views (or argue outside and/or at the mall across the street if you differ)



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- Submitter #1:
 - GEI on behalf of Copper Development/International Copper Association
 - Request - Option to use of Biotic Ligand Model (BLM) for Copper aquatic life
 - Currently use hardness based criteria
 - Copper BLM EPA approved



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- **Submitter #2:**
 - **Appalachian Mountain Advocates (AMA)**
 - **Request to include conductivity standard**
 - **Chronic aquatic life standard of 300 $\mu\text{S}/\text{cm}$**
 - **Supporting information submitted**
(not posted at this time)



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- **Submitter #3:**
 - **International Zinc Association/Windard Environmental**
 - **Request to update Zinc aquatic life**
 - **Option for Biotic Ligand Model (BLM)**
 - **Zinc BLM still under EPA review...**



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- Submitter #3(cont.):
 - International Zinc Association/Windard Environmental
 - ...Zinc BLM still under EPA review
 - May complicate during 2014 Review
 - Secondary request to incorporate into revisions to 46-6 (site-specific tool)



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- Submitter #4:
 - WV Rural Water Association
 - Request - Protection of public drinking water supplies from being subjected to significant increases in concentrations of Bromide - Numeric criteria related to 3.2.h
 - Supporting info w/examples submitted

(not posted at this time)



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- **Submitter #5:**
 - **Enerplus Resources (USA) Corp.**
 - **Numerous revisions to Rule language**
 - 47-2-1.1 - Clarify that 47-2 is not intended to include GW
 - 47-2-2.3 - Definition of “Cumulative” more suited for “Bio-accumulation”
 - 47-2-2.9 - Recommend utilizing USACE definition of “intermittent stream”



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- Submitter #5 (cont.):
 - Enerplus Resources (USA) Corp.
 - Numerous revisions to Rule language
 - 47-2-2.15 - Clarify/Revise
“Representative important species of aquatic life”
 - 47-2-2.23 - Replace term “wet weather streams” with “ephemeral” (USACE)
 - 47-2-5.1 - Need to add definition of mixing zone to 47-2-2



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- **Submitter #5 (cont.):**
 - **Enerplus Resources (USA) Corp.**
 - **Numerous revisions to Rule language**
 - 47-2-7.2.c.4.H - Define time period for average flow determination
 - 47-App.E-8.33.1 - Applying turbidity limits to O&G permits in B2 waters



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- Submitter #6:
 - WV Coal Association
 - Numerous comments
 - General statement - WQS Program guidance needs to include both science and principals of public policy (WV WPCA/Legislature)

(attachments/supporting info submitted but not posted at this time)



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- Submitter #6 (cont.):
 - WV Coal Association
 - Aluminum aquatic life
 - Hardness based (similar to other metals)
 - EPA approved in other states (CO, NM)
 - Currently being reviewed by DEP/EPA



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- Submitter #6 (cont.):
 - WV Coal Association
 - Beryllium human health
 - Revise to EPA recommended criteria (MCL) - 0.004 mg/L
 - Currently 0.0077 $\mu\text{g/L}$



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- Submitter #6 (cont.):
 - WV Coal Association
 - Selenium criteria
 - Pursue revisions to standard vs. wait for EPA final criteria
 - Enlist WVU, Marshall, DEP...to assist



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- Submitter #6 (cont.):
 - WV Coal Association
 - Cat A use designation
 - Over application to all waters (misinterpretation carry over from EQB days - significant information/timeline included)
 - Revise to similar practice used for Magnesium (POI/5-mile rule)



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- Submitter #6 (cont.):
 - WV Coal Association
 - Narrative criteria implementation
 - SB562 - Develop rules to measure compliance w/ narrative WQS
 - Consider “holistic health of the aquatic ecosystem”
 - Finalize measure



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- Submitter #6 (cont.):
 - WV Coal Association
 - Trout Stream designation
 - Clarify process
 - Question of consultation w/ DNR w/o public input
 - Refine trout stream list to ID “naturally reproducing native” vs. “...non-native”



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- **Submitter #7:**
 - **Risk-Based Remedies (RBR Inc.)**
 - Request pertaining to App. E, Table 1, 8.23 - Organics
 - Revise potentially carcinogenic polycyclic aromatic hydrocarbons (cPAH)
 - New data concerning lack of bio-accumulation in fishes



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- **Submitter #8:**
 - **Peter Costello/DEP/Office Env.
Remediation**
 - **Request for two criteria revisions**
 - **Lead (Cat A) - revise from 50 to 15
µg/L (match Fed. Action Level)**
 - **Beryllium - Adopt EPA
recommended**



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- **Submitter #9:**
 - **American Electric Power**
 - **Numerous comments**
 - **Revise Cat A/C use designation**
 - **A -Only apply in waters within 500 linear yards of intake**
 - **C- Everywhere but headwater (eph./inter. streams, where no sport fish harvested)**



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- **Submitter #9:**
 - **American Electric Power**
 - **Numerous comments (cont.)**
 - **WV Stream Condition Index (WVSCI) implementation**
 - **Need to adopt into the WQS rule**
 - **Need to public notice for review**



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- Submitter #9:
 - American Electric Power
 - Numerous comments (cont.)
 - Selenium acute - rescind, not EPA recommended anymore, match 2012 ORSANCO PCS
 - Selenium chronic - retain 5 $\mu\text{g}/\text{L}$ BUT develop guidance for fish tissue criterion w/ translator to water



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- **Submitter #9:**
 - **American Electric Power**
 - **Numerous comments (cont.)**
 - **Aluminum aquatic life - Support change to hardness based approach**
 - **Iron aquatic life - Request change to dissolved criteria (similar to other metals)**



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- Submitter #9:
 - American Electric Power
 - Numerous comments (cont.)
 - Mercury aquatic life chronic - Rescind current standard (0.012 $\mu\text{g}/\text{L}$) replace w/ 0.91 $\mu\text{g}/\text{L}$ - GL EPA, ORSANCO, PA, OH
 - Mercury human health - Develop guidance - NPDES implementation



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- **Submitter #9:**
 - **American Electric Power**
 - **Numerous comments (cont.)**
 - **Beryllium - Adopt EPA standard**
 - **Recreation Criteria - Replace fecal w/ E. Coli per pending EPA recommendation**



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- **Submitter #9:**
 - **American Electric Power**
 - **Numerous comments (cont.)**
 - **Beryllium - Adopt EPA standard**
 - **Recreation Criteria - Replace fecal w/ E. Coli per pending EPA recommendation**



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- **Submitter #10:**
 - **WV Chamber of Commerce**
 - **Numerous comments**
 - **Cat A use designation - Apply in accordance w/ statutory and regulatory framework**
 - **Selenium - Establish/move forward w/ developing new criteria (don't wait for EPA)**



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- Submitter #10:
 - WV Chamber of Commerce
 - Numerous comments (cont.)
 - Aluminum aquatic life - Support hardness based change
 - Beryllium - Support change to EPA recommended
 - Arsenic Cat C - Rescind current standard



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- Submitter #11:
 - John M. and Petra B. Wood
 - Numerous comments
 - Based on scientific information request adoption of following criteria
 - Conductivity - 300 $\mu\text{S}/\text{cm}$
 - TDS - 500 mg/L
 - Sulfate - 50 mg/L



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- **Submitter #12:**
 - **WV Manufactures Association**
 - **Numerous comments**
 - **Aluminum aquatic life - Support hardness approach, check streams for levels prior to adoption**
 - **Beryllium - Support change to EPA recommended**



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- Submitter #13:
 - First Energy
 - Request to remove the Arsenic category C - Currently 10 µg/L
 - Match other states WQS (most don't have Cat C standard)



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- **Submitter #14:**
 - **Monongahela Area Watersheds Compact**
 - **Request for TDS standard - 500 ppm**
 - **Needed to protect drinking water, industry uses, biology, natural conditions in WV waters**



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- **Submitter #15:**
 - **WV Municipal Water Quality Association**
 - **Numerous comments**
 - **Nutrients criteria 8.3 - Express as annual geometric mean (Not yearly but 2 out of 3 years)**
 - **Support DEP linking TN/TP with chlorophyll a response (Lakes criteria)**



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- Submitter #15:
 - WV Municipal Water Quality Association
 - Numerous comments (cont.)
 - 1/2 Mile rule - Ability to waive rule if permission is granted from downstream user
 - Rec (Bacteria) criteria - Adopt E. coli, express 126 as monthly geo-mean, 235 weekly geo-mean



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments (In order received)**

- **Submitter #15:**
 - **WV Municipal Water Quality Association**
 - **Numerous comments (cont.)**
 - **8.18.2 - Methylmercury - Express current standard as annual average criterion**
 - **Turbidity - Needs revision (Will supply EPA approved examples), current standard overly stringent**



**2014 Triennial Review
Comment Solicitation 2012
Submitted Comments
Summary**

- Some common comments
 - Al, Be, Se, Cond., TDS
 - Cat A/Trout stream
 - Rec/Bacteria



2014 Triennial Review (cont.)

- 2013 Process Overview (post 2012 solicitation)

- ~ January - March

Review of scientific information, fact gathering, drafting of rule revisions (public meetings(s) as needed)

- April

Public meeting - Review of proposed rule revisions

- May

Proposed rule to DEP Advisory Council

- Early Summer (~June)

Notice of public hearing/comment period

- Mid Summer (~July)

Public hearing

**The above timelines are approximate only and subject to change*



2014 Triennial Review (cont.)

- 2013 Process Overview (post 2012 solicitation)

- Late Summer (~August)/Fall

Filing of Agency Approved Rule/response to comments w/ Legislative Rulemaking Review Committee, for consideration that fall

- January - March 2014

Agency Approved Rule in Legislature

- ~April/May 2014

Filing of Final Legislature Approved Rule w/ SOS

- July 2014

Rationale & Final Rule to EPA for approval

- 2014/2015

EPA Approval(?)

**The above timelines are approximate only and subject to change*





Thank you
Next meeting - 2013
Questions? Comments? Discussion?



Division of Water and Waste Management

