

# EQB to Finalize Rulemaking on Water Quality Standards for Manganese

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The agenda for the August 9, 2022, Pennsylvania Environmental Quality Board (EQB) meeting included a vote on the final rulemaking for water quality standards for manganese in 25 Pa. Code chs. 93 and 96. This rulemaking was prompted by the addition of subsection (j) to section 1920-A of the Administrative Code of 1929, 71 Pa. Stat. § 510-20, by Act 40 of 2017. Act 40 directed the EQB to promulgate regulations under Pennsylvania's Clean Streams Law, 35 Pa. Stat. §§ 691.1–1001, and related statutes to require that the water quality criteria for manganese established under 25 Pa. Code ch. 93 be met.

The EQB approved the proposed manganese rule in December 2019 and the Pennsylvania Department of Environmental Protection (PADEP) held three public hearings on the rulemaking in 2020. See Vol. XXXVII, No. 4 (2020); Vol. XXXVII, No. 1 (2020) of this *Newsletter*. Since the proposed rulemaking, PADEP has met with the Mining and Reclamation Advisory Board, the Aggregate Advisory Board, the Public Water Systems Technical Assistance Center Board, and the Water Resources Advisory Committee to discuss the proposed rule.

The proposed manganese rule adds to table 5 in 25 Pa. Code § 93.8c a numeric water quality criterion for manganese of 0.3 mg/L intended to “protect human health from the neurotoxicological effects of manganese.” Executive Summary at 1. Section 93.8c establishes human health and aquatic life criteria for toxic substances, meaning PADEP is now regulating manganese as a toxic substance. The existing criterion of 1.0 mg/L, which was established in section 93.7 as a water quality criterion, will be deleted. The 0.3 mg/L standard will apply to all surface waters in the commonwealth. PADEP identifies the parties affected by the rule to be “[a]ll persons, groups, or entities with proposed or existing point source discharges of manganese into surface waters of the Commonwealth.” *Id.* at 3.

PADEP also specifically identifies “[p]ersons who discharge wastewater containing manganese from mining activities” as affected parties, and expects mining operators to have to perform additional treatment to meet this new criterion. *Id.* Final amendments to treatment systems will be implemented through PADEP's permitting process and other approval actions. Consulting and engineering firm Tetra Tech estimated the overall cost to the mining industry to achieve compliance with the 0.3 mg/L criterion “could range between \$44–\$88 million in annual costs (that is, for active treatment systems using chemical addition for manganese removal) and upwards of \$200 million in capital costs.” Comment and Response Document at 213.

The proposed manganese rule had included language supporting two alternative points of compliance for the proposed manganese criterion. The first alternative proposed to move the point of compliance to the point of all surface potable water supply withdrawals. The second alternative proposed to maintain the point of compliance in all surface waters at the point of discharge. PADEP received over 800 comments supporting maintaining the point of compliance at the point of discharge and in the final rulemaking has removed the first alternative option.

The EQB was scheduled to vote on the final rulemaking at its August 9, 2022, meeting. If the EQB adopts the regulation as final, it will then be sent to the House and Senate Environmental Resources and Energy standing committees and the Independent Regulatory Review Commission for approval. If approved, the regulation then goes to the Attorney General's Office for final approval before being published in the *Pennsylvania Bulletin*. The EQB meeting agenda and other materials can be found at

<https://www.dep.pa.gov/PublicParticipation/EnvironmentalQuality/Pages/2022-Meetings.aspx>.

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