

A RESOLUTION concerning the collection of additional data to further characterize point and non-point source discharges of toxic contaminants, including polychlorinated biphenyls (“PCBs”), to the Delaware Estuary for the purpose of developing and implementing TMDLs or actions under the DRBC Water Quality Regulations.

WHEREAS, at the request of the U.S. Environmental Protection Agency (“EPA”) and the states of Delaware, New Jersey and Pennsylvania (“the estuary states”), the Commission has taken the lead in development of total maximum daily loads (“TMDLs”) for polychlorinated biphenyls (“PCBs”) in the Delaware Estuary (“estuary”); and

WHEREAS, upon recommendations of the Commission’s Expert Panel and its Toxics Advisory Committee (“TAC”), the environmental protection agencies of the estuary states, EPA Regions II and III and the Commission have agreed that the TMDLs will be developed and issued in two stages. The Stage 1 TMDLs are to be issued by EPA by December 15, 2003, and

WHEREAS, by Resolution No. 2003-19, on September 3, 2003, the Commission directed the Executive Director to continue to work closely with the estuary states and EPA on addressing data collection and model refinement needs for the Stage 2 TMDLs; and

WHEREAS, in consultation with the TAC and the Expert Panel, the Commission has begun to identify data needs, including both point and nonpoint source monitoring requirements, for development of the Stage 2 TMDLs; and

WHEREAS, Commission and Delaware Estuary Program staff are in the process of developing a detailed budget for the Stage 2 TMDLs, including the following nonpoint source data collection efforts: tributary monitoring during base-flow and storm conditions; ambient monitoring, additional sediment surveys, continued monitoring to determine regional long-term trends in atmospheric deposition, both wet and dry; point source contribution function modeling and mobile air monitoring to identify local air sources of PCBs; and better characterization of loadings from nonpoint sources, including landfills and Superfund sites, and

WHEREAS, based upon sampling and analysis performed to date, the Commission has determined that additional monitoring of the water intakes and wastewater discharges of point sources is required in order to evaluate net loadings of PCBs to the estuary and develop and calibrate PCB homolog models required for the development of the Stage 2 TMDLs, and

WHEREAS, although the two largest sources of PCB loadings to the estuary are nonpoint sources, the proposed Stage 1 TMDL document indicates that point sources comprise nearly one-third of loadings in Estuary Management Zones 3 and 5; and

WHEREAS, a number of point source dischargers have indicated that at their own cost and expense they will voluntarily undertake additional monitoring to better characterize PCBs in their

discharges and will undertake waste minimization planning to help identify the causes of point source PCB loads and determine strategies for reducing these loads; and

WHEREAS, Section 4.30.8C of the Commission's *Water Quality Regulations* authorizes the Commission to require sampling by point source dischargers, and

WHEREAS, on July 26, 2000, the Commission adopted Resolution No. 2000-13, providing in part: (1) that the Commission, in consultation with the TAC, "shall continue its program to control the discharge of certain toxic substances, including PCBs, metals and DDT, to the Delaware Estuary;" (2) that this program "shall at a minimum include monitoring of toxic substances; modeling and assessment of the contributions of toxic substances from point and nonpoint sources; and controls to limit the contributions of such substances from all sources to meet water quality standards;" (3) that "as required by the Executive Director, all dischargers shall undertake monitoring of their discharges to measure the magnitude and variability of these toxic pollutants;" and (4) that "such monitoring and any other required data collection shall be provided by dischargers at their own cost and expense;" and

WHEREAS, on April 3, 2002, the Commission adopted Resolution No. 2002-8 re-affirming Resolution No. 2000-13 and, among other things, authorizing and directing the Executive Director to "require such additional monitoring and/or other data collection and analyses by dischargers as are needed to further characterize point source discharges of PCBs to the Delaware Estuary" in order to "develop, calibrate and validate the PCB model; develop total maximum daily loads; and/or allocate PCB loads among sources." Resolution No. 2002-8 also provided that "Consistent with Resolution No. 2000-13, the requested monitoring, data collection and analyses shall be undertaken and furnished by dischargers at their own cost and expense;" now therefore,

BE IT RESOLVED by the Delaware River Basin Commission:

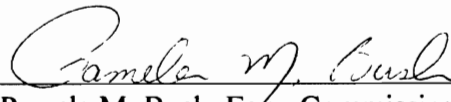
1. The Commission acknowledges and appreciates the cooperation of the point source dischargers that have collected data and have participated in activities of the Commission, its Toxics Advisory Committee, and its TMDL Implementation Advisory Committee. The Commission particularly appreciates the commitment by some dischargers to voluntarily undertake additional PCB monitoring to better characterize PCBs in their discharges and to undertake waste minimization planning to help identify the causes of point source PCB loads and determine strategies for reducing these loads.
2. Resolutions Nos. 2000-13 and 2002-8 remain in effect and are supplemented by this resolution.
3. The Executive Director is hereby authorized and directed to require dischargers and other responsible parties to conduct monitoring and/or other data collection and analyses to further characterize point and non-point loadings of toxic contaminants, including PCBs, to the Delaware Estuary for purposes of developing and implementing TMDLs or actions under the DRBC Water Quality Regulations. Consistent with Resolutions Nos. 2000-13 and 2002-8, the monitoring, data collection and analyses required for point source

dischargers and other responsible parties shall, at the discretion of the Executive Director, be undertaken and furnished at their own cost and expense.

4. In light of the short timeframe for completion of the Stage 2 PCB TMDLs, the dischargers are required to make timely submission of all additional data and information and to provide interim status reports based upon a schedule to be specified by the Executive Director.
5. The Executive Director has indicated that she will consult with the Toxics Advisory Committee on sampling, analytical and data quality issues before establishing a schedule for completion of the additional monitoring
6. The Executive Director shall continue to work closely with the estuary states and EPA on addressing data collection needs for both point and nonpoint sources, as well as model refinement needs for the Stage 2 TMDLs.
7. This Resolution shall take effect immediately.



Ernest P. Hahn, Chairman *pro tem*



Pamela M Bush, Esq., Commission Secretary

Adopted: December 3, 2003