



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

NOV 22 2013

The Honorable Randy C. Huffman
Secretary
West Virginia Department of
Environmental Protection
601 57th Street, S.E.
Charleston, West Virginia 25304

Dear Secretary Huffman:

On March 12, 2013, the West Virginia Secretary of State approved an emergency rule that revised the State's water quality standards regulation. The West Virginia Department of Environmental Protection's (WVDEP) General Counsel certified on May 8, 2013 that the regulations were duly adopted in accordance with State law. In accordance with Section 303(c)(2)(A) of the Clean Water Act (CWA), 33 U.S.C. §1313(c)(2)(A), and 40 CFR §131.20(c), WVDEP forwarded the amended regulation to the U.S. Environmental Protection Agency (EPA), Region III, on May 14, 2013, and we received it on May 20, 2013.

The emergency rule amended the aquatic life category B dissolved aluminum criteria and the human health category A beryllium criterion. The purpose of this letter is to approve the revised beryllium criterion. EPA's rationale for approving the revised beryllium criterion, which amended the current criterion from 0.0077 µg/l to 4 µg/l, is based on the Maximum Contaminant Level Goal (MCLG) under the Safe Drinking Water Act (SDWA). We find it to be scientifically defensible and protective of the State's category A designated use, which are waters used for human consumption after conventional treatment.

EPA is still considering the revised aluminum criteria. As an emergency rule such as this one expires no later than 15 months after it becomes effective, earlier this year West Virginia proposed for public comment its triennial review of its water quality standards regulation. In that proposal, WVDEP stated its intent to adopt these emergency rule provisions permanently. In our June 29, 2013 comments on that proposal, EPA stated we were supportive of WVDEP's consideration of new data and information to revise its existing aluminum criteria. However, we also noted that to ensure that the criteria are scientifically defensible and protective of the most sensitive use, WVDEP should consider the latest studies on aluminum toxicity to aquatic life. EPA is in the process of considering possible revisions to the current CWA section 304(a) recommended aluminum aquatic life criteria. Included as an enclosure to our June 29, 2013 comment letter was the list of toxicity tests that EPA is presently evaluating to determine if the tests were conducted using procedures acceptable to EPA. As we also



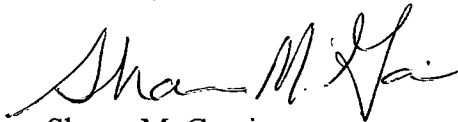
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noted in that letter, we would be happy to assist WVDEP in identifying which of these studies are most appropriate to consider. In the meantime, EPA is evaluating how this additional data impacts the scientific validity of West Virginia's revised aluminum criteria.

If you have any questions, please do not hesitate to contact me, or have your staff contact Mr. Mark Ferrell, EPA's West Virginia Liaison, at (304)542-0231.

Sincerely,



Shawn M. Garvin
Regional Administrator

cc: Mr. Scott Mandirola (WVDEP)
Mr. Kevin Coyne (WVDEP)
Mr. John E. Schmidt (USFWS)



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