

SUBJECT: Aluminum Implementation

DATE: February 27, 2006

Approval: Lewis Halstead

This procedure shall be utilized for Aluminum Implementation. On January 9, 2006, EPA approved the new dissolved aluminum criteria in 46 CSR 1, Appendix E, Table 1, 8.1^(c), effective date June 30, 2005. This approval temporarily modifies the chronic aluminum criterion from 87 ug/l to 750 ug/l for all waters except trout streams. The revision does not affect trout waters, as defined in 46 CSR 1, Section 2.20, where the chronic criterion of 87 ug/l continues to apply. The attached list is to be used to identify trout streams. Streams on this list that are indicated as proposed additions need to be verified by DNR Coldwater Fisheries Biologist Mike Shingleton in Elkins.

The following condition will appear in each permit. "EPA has approved a revision to the aquatic life chronic water quality standard for warm water streams in West Virginia. The revision temporarily modifies the chronic aluminum criterion from 87 ug/l to 750 ug/l for all waters except trout waters, and applies until July 4, 2007. If the temporary revision is not extended past July 4, 2007, or is not approved as a permanent revision, your permit may be reopened for reevaluation of the effluent limitations for aluminum."

The following procedures have been developed to implement the revised aluminum criterion into the various application categories in DMR's permitting process.

I. New permits that have initiated or completed the public notice requirement (see attached flowchart).

This category includes pending new applications (NPD) and modification applications (NPM) with BWQ collected. The public comment period will be reopened and the aluminum limits recalculated, if applicable. Follow the implementation procedures outlined below.

IMPLEMENTATION PROCEDURES I

1. Determine if receiving stream(s) are trout streams.
2. If all of the receiving stream(s) are trout streams there is no need to reopen the comment period. Proceed with the issuance of the permit.
3. If one or more of the receiving stream(s) are not listed as trout streams, the 750 ug/l chronic value will be used to recalculate the effluent limits. Redraft the permit, include the previous ad form and send to the applicant to advertise.

II. Reissuances that have initiated or completed the public notice requirements (see attached flowchart).

This category includes pending reissuance applications (NPR) and modification applications (NPM) with no BWQ collected. Follow the implementation procedures outlined below.

IMPLEMENTATION PROCEDURES II

1. Determine if receiving stream(s) are trout streams.
2. If all of the receiving stream(s) are trout streams there is no need to reopen the comment period. Proceed with the issuance of the permit.
3. The applicant will be given the option to reopen the public comment period and have the aluminum limits recalculated, if applicable, or the permit issued as is. If the permit is issued as is, the permittee will be advised that a modification may be submitted within 90 days after the publication of the EPA approval appearing in the State Register. If one or more of the receiving stream(s) are not listed as trout streams, the 750 ug/l chronic value will be used to recalculate the effluent limits. Redraft the permit, include the previous ad form and send to the applicant to advertise.

III. Effective today, pending new applications (NPD), reissuance applications (NPR), and modification applications (NPM) with BWQ collected with no draft permit written yet. Draft permits with the new revised aluminum criterion (see the attached two flowcharts).

IMPLEMENTATION PROCEDURES

1. Determine if the receiving stream(s) are trout streams. Use the attached list of trout streams. If the receiving stream is a trout stream, the 87 ug/l chronic value will be used to calculate the effluent limits. If the receiving stream is not listed as a trout stream, the 750 ug/l chronic value will be used to calculate the effluent limits.
2. Determine if the receiving stream is on the 303(d) list. If the stream is listed and is a trout stream, assign criteria end-of-pipe effluent limits based on the 87 ug/l criterion. If the stream is listed and is not a trout stream, contact DWWM to review the data that was used to list the stream to determine if it exceeds the 750 ug/l chronic and acute criteria. If the data still supports listing the stream on the 303(d) list, assign criteria end-of-pipe effluent limits based on the 750 ug/l criterion.
 - A. If it is a pending new or modification application, assign the appropriate criteria end-of-pipe effluent limits effective upon issuance.
 - B. If it is a pending reissuance application, assign the appropriate criteria end-of-pipe final effluent limits. If necessary, a one year compliance schedule may be granted to allow time to achieve limits.
3. Determine if a dissolved aluminum TMDL has been completed for the receiving stream or downstream of the receiving stream(s). To date, dissolved aluminum TMDLs have been completed for selected streams in the Guyandotte and Upper Kanawha watersheds.

- A. If it is a pending new or modification application with a discharge into a stream with a dissolved aluminum TMDL, assign appropriate criteria end-of-pipe effluent limits.
 - B. If it is a pending new or modification application with a discharge into an unimpaired tributary of a stream with a dissolved aluminum TMDL, conduct a Tier II anti-degradation review assuming a Translator of one. Draft the permit with effluent limits effective upon issuance. Cap aluminum effluent limits at criteria end-of-pipe.
 - C. If it is a pending reissuance application, assign the wasteload allocation(s) in the TMDL to the corresponding outlets. If necessary, a one year compliance schedule may be granted to allow time to achieve limits.
4. The receiving stream is not on the 303(d) list and there is no completed dissolved aluminum TMDL downstream of the receiving stream.
- A. For pending new and modification applications review the BWQ data.
 - (1) If 3 or more of the 12 samples exceed the applicable criterion, the stream is impaired. Assign the appropriate criteria end-of-pipe effluent limits effective upon issuance.
 - (2) If the stream is not impaired, conduct a Tier II anti-degradation review assuming a Translator of one and effluent limits effective upon issuance.
 - B. If it is a pending reissuance application, assign the appropriate criteria end-of-pipe effluent limits with a compliance schedule and the Translator Study Condition in the permit.

The applicant has the opportunity to submit a socio economic justification to consume up to 100% of the remaining assimilative capacity of the stream. The information must be submitted with the application or prior to public notice. Granting socio economic justification requires public notice. Instead of doing two public notices before issuance, the notices may be combined into one if the agency has the information prior to writing the draft. Permit writers should recognize potential stringent limits scenarios early in the process and consult with the applicant to decide if it would want to pursue a socio-economic justification.

Modifications adding outlets will be drafted with the revised aluminum criterion. The entire permit will not be reopened.

IV. Existing permits.

This category includes issued permits with compliance schedules that have final aluminum effluent limits that will become effective prior to the expiration date of the permit.

IMPLEMENTATION PROCEDURES

1. A modification order will be issued to each permittee extending the final compliance date to the expiration date of the permit, except for permits issued after January 9, 2006.
2. The revised aluminum criterion will be incorporated into the permit upon reissuance, therefore there is no need for a permit modification.

V. For existing permits issued with aluminum effluent limits **currently in effect** based on the old aluminum criteria and not discharging to trout streams the permittee will be advised it may submit a modification, within 90 days of the publication in the State Register, to have its permit modified in accordance with the revised aluminum criterion.

VI. Existing permits issued with equal or less stringent aluminum effluent limitations than criteria end-of-pipe need not do anything until reissuance time.

VII. For permits and modifications adding outlets issued on or after January 9, 2006, with effluent limits based on the old aluminum criterion, the permittee will be notified that they may submit a modification, within 90 days of publication in the State Register, to have their permit modified in accordance with the revised aluminum criterion, if appropriate. These applications will be processed in accordance with section III of this document.