

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FINAL RULEMAKING

Anacostia River Special Swimming Events

The Director of the Department of Energy and Environment (DOEE), pursuant to the authority set forth in the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code §§ 8-151.01 *et seq.* (2013 Repl. & 2017 Supp.)), the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code §§ 8-103.01 *et seq.* (2013 Repl.)), and Mayor's Order 2006-61, dated June 14, 2006, hereby gives notice of the adoption of an amendment to Chapter 11 (Water Quality Standards) of Title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR).

The purpose of this rulemaking is to allow for exceptions to the prohibition of swimming in the District's portion of the Anacostia River. If granted, exceptions would authorize qualifying swimming events for limited amounts of time if monitoring data demonstrates that the water quality does not pose a threat to human health. The District had previously created this exception for the Potomac River. DOEE is adopting this rulemaking in anticipation of water quality improvements that are expected upon completion of the DC Water's deep tunnel and sewer diversion facilities that will capture combined sewer overflows and deliver them to DC Water's Blue Plains Advanced Wastewater Treatment Plant.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on April 6, 2018 at 65 DCR 3687. DOEE received one comment in support of the rulemaking. No changes have been made from the proposed rulemaking.

These rules were adopted as final on May 14, 2018 and shall become effective on the date of publication of this notice in the *DC Register*.

Chapter 11, WATER QUALITY STANDARDS, of Title 21 DCMR, WATER AND SANITATION, is amended as follows:

Section 1108, RIVERS, is amended as follows:

Subsections 1108.2 and 1108.7 are amended by substituting the following:

- 1108.2 The Director may issue a decision that allows a special swimming event in the Potomac or Anacostia River, if:
- (a) A study conducted by the special swimming event organizer shows that the numeric criteria for Class A listed in § 1104.8 are being attained; and
 - (b) The other provisions of this section have been satisfied.

...

1108.7

The Director shall deny permission to swim in the Potomac or Anacostia River if the results of the study or the Director's independent investigation indicate:

- (a) The water quality standards are not being attained;
- (b) An emergency health hazard caused by a hazardous pollutant or condition has occurred; or
- (c) There may be a health risk from a known pollution source, including:
 - (1) Combined sewer overflow;
 - (2) Failing sewer infrastructure;
 - (3) Chemical release; or
 - (4) Wastewater treatment discharge.