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**RE: Triennial Review of Water Quality Standards (47 Pa.B. 7852) & Water Quality Toxics Management Strategy (47 Pa.B. 7861)**

I am writing on behalf of the Pennsylvania Chamber of Business and Industry (PA Chamber), the largest, broad-based business advocacy organization in the Commonwealth. Our nearly 10,000 member companies are involved in all industrial categories and are of all sizes. On behalf of these businesses, we welcome the opportunity to respond to the Department's invitation for public comments concerning the development of Pennsylvania's Triennial Review of Water Quality Standards and Water Quality Toxics Management Strategy.

As the Department and its staff are aware, the PA Chamber has been actively and positively involved throughout the past 15 years or more in working with other stakeholders in helping to frame workable approaches to addressing the water quality challenges of the state. As the PA Chamber has expressed in our previous comments on various legislation regarding water policy, DEP and EPA proposed rulemakings, and proposals from interstate water basin commissions for the Delaware and Susquehanna rivers, the Chamber and its members recognize that development, use and stewardship of the state's water resources is vital to the health and success of the communities, industries and enterprises throughout the state. That stewardship of our water resources requires a thoughtful balancing of environmental and economic considerations. It is with this perspective that we offer the following comments.

**The EPA Recommendations that Inform the Proposed Triennial WQS are Overly Conservative; PA Should, Like Florida, Consider a Risk-Based Strategy**

Pennsylvania is not obligated to incorporate the 2015 EPA guidance on human health water quality criteria (HHWQC). The revised HHWQC made significant changes to exposure-related assumptions, including those related to body weight, drinking water consumption rate, bioaccumulation factors, relative source contribution and fish consumption rate. It is our understanding that since the publication of this guidance, several other states have not adopted this guidance in their water quality standards and have instead, as Pennsylvania is allowed to do, developed a regulatory framework that is more reflective of their own state. Should Pennsylvania incorporate the revised federal HHWQC, it is likely that municipalities and industry will both be required to expend considerably more resources to comply when there is minimal additional net health benefit to be secured.

The federal HHWQC are overly conservative or are not based on the best available data. For example, the fish consumption rate assumes the average person is eating 22 g/day of fish, up from 17.5 g/day in the previous HHWQC. It is our understanding that EPA has not released the underlying data supporting this significant increase in fish consumption. We understand through our members other data has shown the average person is eating less than 22 g/day of fish. With respect to bioaccumulation factors, the

methodology EPA relied on is informed by models built upon data regarding accumulation of PCBs from the Great Lakes. We question why the characteristics of the Great Lakes should inform water quality criteria for all of Pennsylvania. Regarding water consumption, the revised HHWQC assumes the average person consumes 2.4 liters a day of untreated surface water. We ask if DEP believes this to be representative of Pennsylvanians' water consumption. Finally, the combination of extremely conservative assumptions in the revised HHWQC yields a combined level of protection far, far beyond what is necessary to protect the public health.

Instead, the PA Chamber urges that the Department review of its own in-stream water quality data and actual fish and water consumption in Pennsylvania and use that information to develop a probabilistic risk assessment approach, which would result in a transparent and rational regulatory framework that links real-world data with water quality criteria. The Clean Water Act gives states the flexibility to reconsider the assumptions EPA uses; and Pennsylvania, given the breadth of its various water assets and considerable information base, should take advantage of that flexibility.

### **DEP Should Amend the Chloroform Human Health Criteria**

In §93.8c, Table 5, the Department changed the Human Health Criteria for chloroform from 5.7 µg/L to 6.5 µg/L, and the basis from Cancer risk level (CRL) to Threshold effect human health criterion (H). These proposed changes to the Human Health criterion for chloroform are not specifically discussed in the preamble to the proposed regulation. With this change in Human Health criterion for chloroform, the Department is not consistent with, nor following the basis for their human health criteria changes as stated in the proposed rule preamble. If the Department is going to rely heavily on the HHWQC, it should do so consistently.

In the preamble's discussion of §93.8c, the Department states that it reviewed the 2015 U.S. EPA National recommendations, published in 80 FR 36986 (June 29, 2015) and determined that they are scientifically sound and applicable to for the protection of Pennsylvania waters. We note that the 2015 update to the U.S. EPA Human Health Ambient Water Quality Criteria increased the criteria for chloroform from 5.7 ug/L (water+organism) and 470 µg/L (organism only) to 60 µg/L (water+organism) and 2,000 µg/L (organism only). Thus, the Department's proposed change in Human Health Criterion for chloroform does not reflect the 2015 EPA update, and is in fact only 10.8% of the 2015 National recommended criterion for chloroform.

In addition, the proposed change from CRL to H further significantly reduces the allowable in-stream concentration for chloroform. Allowable in-stream concentrations for Human Health criteria that is CRL-based uses the Harmonic Mean Flow of the stream to calculate the in-stream concentration, whereas the allowable in-stream concentration for Human Health criteria that is H-based is required to use the 7Q10 low flow value of the stream to calculate the in-stream toxicity concentration. This difference in stream flows for calculating allowable in-stream concentrations can be very significant. In fact for lower order streams, calculating the allowable in-stream Human Health concentration for chloroform based on 6.5 µg/L and the 7Q10 low flow of the receiving stream can result in allowable in-stream human health concentrations for chloroform that are equal to the disinfectant byproduct trihalomethane levels in well-run, properly disinfected drinking water supplies. Hence, the Department's proposed Human Health criterion for chloroform (6.5 µg/L (H)) is inconsistent with the 2015 National Human Health Ambient Water Quality Criteria, and is indirectly regulating drinking water disinfection standards and practices. This improperly developed proposed Human Health criterion will jeopardize safe drinking water supplies

by forcing well-run drinking water facilities into modifying their drinking water disinfection practices to meet this proposed chloroform limit.

We are requesting that the Department adjust the proposed Human Health criterion for chloroform to 60 µg/L to be consistent with the 2015 U.S. EPA Human Health Ambient Water Quality Criteria, which the Department states in the proposed rule's preamble was the purported basis for Human Health criteria changes. In addition, we request that the Department clearly and specifically address in an amendment to the proposed regulation, published in the PA bulletin, the basis for changing the Human Health criterion for chloroform from Cancer risk level (CRL) to Threshold effect human health criterion (H).

In closing, thank you for your consideration of these comments, and we look forward to continuing to work with the Department on regulatory issues regarding the state's natural resources.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Sunday". The signature is written in a cursive style with a large initial "K" and "S".

Kevin Sunday  
Director, Government Affairs