



September 23, 2020

Environmental Quality Board

P.O. Box 8477

Harrisburg, PA 17105-8477

Submitted via <https://www.ahs.dep.pa.gov/eComment/>

Re: Environmental Quality Board Proposed Rulemaking amending 25 Pa. Code Chapters 93 and 96 - Water Quality Standard for Manganese and Implementation

The Pennsylvania Environmental Council (PEC) respectfully submits the following comments on the Environmental Quality Board Proposed Rulemaking amending 25 Pa. Code Chapters 93 and 96 - Water Quality Standard for Manganese and Implementation.¹

The proposed rulemaking, if adopted, would delete manganese from Table 3 in 25 Pa. Code §93.7 (relating to specific water quality criteria) and add manganese to Table 5 in §93.8c (relating to human health and aquatic life criteria for toxic substances). The amendments also propose two alternatives for a point of compliance with the manganese water quality standard: the point of all existing or planned surface potable water supply withdrawals; or all surface waters (that is, near the point of discharge).

Our comments on the proposed rulemaking are as follows:

Point of Compliance

PEC supports maintaining the current point of compliance for manganese to all surface waters (that is, at the point of discharge). The alternative would be to allow for the unregulated discharge of manganese in Commonwealth waters after the point of discharge until it reaches a public water supply intake.

Fundamentally, the prevention and reduction of pollution entering our waterways should be the responsibility of the generator of that pollution and not the public or other downstream users. Shifting the point of compliance to public water supply intakes imperils hundreds if not thousands of miles of streams and the aquatic life they support. Furthermore, moving the point of compliance would adversely impact public water suppliers and other downstream users,

¹ Published in 50 Pa.B. 3724 (July 25, 2020).

increasing treatment capacity and costs (which, for public water suppliers, are ultimately borne by the citizens of the Commonwealth) and raising concerns about aquatic and public health impacts.

Maintaining the current point of compliance will protect all water uses, including municipal, industrial, and agricultural water supplies, and recreational and aquatic life uses, between the point of discharge and the point of a downstream drinking water intake. This is consistent with the statutory obligations of the Department of Environmental Protection and Environmental Quality Board under Pennsylvania's Clean Streams Law, Safe Drinking Water Act, and the Federal Clean Water Act.

Criterion

PEC supports changing the manganese criterion from 1.0 mg/l to 0.3 mg/l to fully protect public health and aquatic life in Commonwealth waters.

The Department solicited information for the development of this proposed rulemaking through an Advance Notice of Proposed Rulemaking (ANPR) published at 48 Pa.B. 605 (January 27, 2018). The Department sought scientific and current toxicological information to comprehensively review the manganese standard as it relates to the water uses identified in §93.3 (relating to protected water uses) and, in particular, to determine the need to develop manganese toxics criteria related to human health and aquatic life exposure.

The Department also conducted an independent search of the scientific literature available on the toxic effects of manganese to aquatic life and humans. With respect to impacts on humans, the Department reviewed over 60 human health studies relevant to the toxic effects of manganese and included areas of epidemiology, epigenetics, and animal toxicity studies. The Department also reviewed information available through the U.S. Environmental Protection Agency's Integrated Risk Information System database. At levels beyond those necessary to maintain adequate health, manganese has been identified as a nervous system toxin and has been specifically linked to negative impacts on fetal and childhood neurodevelopment.

Where a pollutant found in discharges to surface waters is toxic to human health or aquatic life, the Commonwealth's regulations require development of appropriate water quality criteria. 25 Pa. Code §93.8a (relating to toxic substances) specifically provides that "[t]he waters of this Commonwealth may not contain toxic substances attributable to point or nonpoint source waste discharges in concentrations or amounts that are inimical to the water uses to be protected."

Section 303(c) of the Federal Clean Water Act and 40 CFR Part 131 (relating to water quality standards) require states to develop water quality standards that consist of designated uses, water quality criteria to protect those uses, and antidegradation requirements. Such standards must "protect the public health or welfare and enhance the quality of water."² In addition, such standards must take into consideration water uses including public water supplies, propagation

² 33 U.S.C.A. §1313(c)

of fish and wildlife, recreational purposes, agricultural purposes, and industrial purposes. Section 101(a)(3) of the Clean Water Act declares the National policy that the discharge of toxic pollutants in toxic amounts be prohibited 33 U.S.C.A. §1251(a)(3).

The informational and health study analyses performed by the Department represents the first comprehensive review in decades. Current public health science supports changing the 1.0 mg/l manganese criterion in 25 Pa. Code §93.7 (Specific water quality criteria) and replacing it with the proposed 0.3 mg/L in Chapter §93.8 (Water Quality Criteria for Toxic Substances). This change is supported and based upon sound science to protect the public health of the Commonwealth citizens. This change would also apply at the discharge point which would protect other uses, such as aquatic life and recreation.

Thank you for your consideration.

Sincerely,

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