



VIA ELECTRONIC FILING

Nov. 21, 2023

The Honorable George Bedwick, Chairman  
Independent Regulatory Review Commission  
333 Market Street, 14th Floor  
Harrisburg, PA 17101

**Re: Responding to solicitation for comments with respect to Regulation #7-577: Triennial Review of Waster Quality Standards**

Dear Chairman Bedwick:

I write on behalf of the Pennsylvania Chamber of Business and Industry (PA Chamber), the largest, broad-based business advocacy organization in the Commonwealth, representing employers of all sizes and crossing all industry sectors throughout Pennsylvania. We appreciate the opportunity to respond to the PA Department of Environmental Protection's (DEP or the Department) Environmental Quality Board's (EQB) solicitation for comments to their Triennial Review of Ambient Water Quality Standards (AWQS).

Feedback from the employer community has generally focused on DEP's proposed standard for one compound in particular, 1,4 Dioxane, and concern that DEP has not provided sufficient justification for a statewide AWQS for 1,4-Dioxane, including because only 2.3 percent of third Unregulated Contaminant Monitoring Rule (UCMR 3) samples are greater than 0.30 ug/L. In short, employers contend that DEP should continue to regulate this pollutant on a stream-specific and site specific basis. Other data referenced by DEP, gathered by UGSG, DEP and DBRC show limited detections, and such detections are generally confined to portions of the Southeast Region and select stream segments in the DRBC area. It is not clear whether these water sources are even used as an intake for drinking water.

In 2012, DEP proposed a 1,4 Dioxane AWQC of 0.35 ug/L statewide. At the time, there was a regulatory site-specific water quality criterion identified for the West Branch of the Perkiomen River, in relation to the Bally Groundwater Superfund site, of 3 ug/L. After comment by various stakeholders, including the PA Chamber of Business and Industry,<sup>1</sup> the Department recommended to withdraw the proposed statewide 1,4 Dioxane standard, and committed to develop site-specific criteria, as needed, using the best available science.<sup>2</sup>

The comments regarding 1,4 Dioxane included a recommendation that the Department first survey levels present in groundwater, drinking water and surface to determine if 1,4 Dioxane

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<sup>1</sup> [https://www.irrc.state.pa.us/docs/2954/COMMENTS\\_PUBLIC/2954%2008-27-12%20PA%20CHAMBER%20OF%20BUSINESS%20AND%20INDUSTRY.pdf](https://www.irrc.state.pa.us/docs/2954/COMMENTS_PUBLIC/2954%2008-27-12%20PA%20CHAMBER%20OF%20BUSINESS%20AND%20INDUSTRY.pdf)

<sup>2</sup> <https://files.dep.state.pa.us/publicparticipation/Public%20Participation%20Center/PubPartCenterPortalFiles/Envrionmental%20Quality%20Board/2013/April%2016%20EQB/TRIENNIAL/Comment%20Response%20Document.pdf>

levels are concerning. In response to this recommendation, the Department chose to withdraw the rule and agreed to continue to use site specific criteria. See, for example, PADEP's Rationale for the Development of Ambient Water Quality Criteria Human Health Protection, 1,4-Dioxane.<sup>3</sup> In addition, when the Department withdrew its recommendation for 1,4 Dioxane in 2013, the EQB requested the Department collect additional data and report back to the Board.

The timing of EQB's recommendation coincided with data being gathered regarding 1,4 Dioxane included in the UCMR3<sup>4</sup> published in May of 2012, requiring community water systems to monitor for 1,4-Dioxane between 2013 and 2015. Specifically, between 2013 and 2015, there was sampling at approximately 362 Public Water Supplies facilities/locations in Pennsylvania, with results reported in 2017.<sup>5</sup> Only 20 of the 362 water supplies/locations (5.5 percent) had any detections exceeding the proposed standard of 0.3 ug/l in groundwater, surface water or mixed water supplies, and only about 2.3 percent of all samples showed any detections above the 0.3 ug/l proposed AWQC limit (PADEP stated "approximately 3% of the sample results being above 0.35 ug/L"). These limited and often inconsistent detections above the proposed standard, based on a 70-year exposure assumption for drinking water, are far less than the rate of 1,4 Dioxane detection observed nationally. The detections in Pennsylvania also appear to be limited to relatively few water sources.

DEP did not propose inclusion of a 1,4-Dioxane ambient water quality standard in the Triennial Water Quality Standards based on this data reflecting such a low detection rate. Similarly, based on the low detection rate in the data collected nationally in UCMR3, the USEPA chose to not regulate 1,4 Dioxane through an MCL or ambient water quality criterion based on a drinking water standard. By contrast, New Jersey had a rate of 17.2 percent in its PWS tested systems detecting Dioxane with levels over 0.35 ug/L (and likely more facilities over 0.30 ug/L), well above the national rate. As a result, New Jersey chose to regulate 1,4-Dioxane through a groundwater standard.

The DEP's proposal also disregards whether surface water is in fact used as a source of intake for drinking water. Along these lines, the Department states that it also reviewed data from the Water Quality Portal to characterize observed concentrations in waters (e.g. ambient surface water). These monitored values may or may not represent locations used as a source for drinking water

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<sup>3</sup>[https://files.dep.state.pa.us/PublicParticipation/Public%20Participation%20Center/PubPartCenterPortalFiles/Environmental%20Quality%20Board/2023/July\\_11\\_2023/04b\\_7-577\\_TR10\\_Proposed\\_1,4\\_Dioxane\\_Rationale.pdf](https://files.dep.state.pa.us/PublicParticipation/Public%20Participation%20Center/PubPartCenterPortalFiles/Environmental%20Quality%20Board/2023/July_11_2023/04b_7-577_TR10_Proposed_1,4_Dioxane_Rationale.pdf)

<sup>4</sup> [https://hero.epa.gov/hero/index.cfm?action=search.view&reference\\_id=10410586](https://hero.epa.gov/hero/index.cfm?action=search.view&reference_id=10410586)

<sup>5</sup> <https://www.epa.gov/dwucmr/occurrence-data-unregulated-contaminant-monitoring-rule#3> PADEP erroneously states in its supporting document the data was collected in 2017, but in fact it was collected in 2013-2015 and reported in 2017.

and can be analyzed to characterize the observed ranges of 1,4 Dioxane concentrations in ambient surface water. The data within the WQP shows approximately 145 lines of data, with only 5 lines of data showing detections (3.4 percent) with respect to recoverable dioxin. The detections are limited to a well in Franklin County near Dennis Creek (USGS-400057077443201) and Park Creek near Horsham Wastewater near Warminster PA. An additional data set for volatile 1,4 Dioxane, taken by DRBC and PADEP contains approximately 82 lines of data, primarily geared towards the Southeast PA and northward and primarily related to an effort to track down potential 1,4 Dioxane sources in areas with elevated concentrations. These address waters from Chester Creek, Crum Creek, Darby Creek, Frankford Creek, Lehigh River from Allentown to Phillipsburg, Neshaminy Creek, Pennypack Creek, Poquessing Creek, Ridley Creek, Schuylkill River. DEP acknowledges approximately 100 samples for 1,4 Dioxane in the WQP and states the samples were primarily collected within the Lehigh River Basin. Clearly, all of these sources are on the far eastern side of the Commonwealth, primarily within DRBC jurisdiction and/or the Southeast Region and in the Lehigh River basin. In the volatile 1,4 Dioxane data set, 56/82 samples exceeded a 0.3 ug/L value, which is not surprising given DEP's and DRBC's knowledge about and targeting of these select waterways. Such narrowly targeted results should not drive a statewide restriction.

Accordingly, the PA Chamber contends that the Department has not provided sufficient justification for moving the regulation of 1,4-Dioxane from what was formerly a stream segment specific standard in Chapter 16, Appendix A, Table 1A to a statewide AWQC in Chapter 93, Table 5. DEP has not established that 1,4-Dioxane is likely to occur in drinking water and public water systems throughout the State at sufficient frequency and concentrations to create a public health concern. DEP has not established that 1,4-Dioxane is present in surface water at sufficient frequency and concentrations to impact drinking water and public water systems throughout the State. Nor has DEP established that regulation of 1,4-Dioxane using a statewide surface water AWQC result in a meaningful health risk reduction associated with drinking water.

We appreciate the Department's consideration of our views on this important matter.

Sincerely,



Alex Halper  
Vice President, Government Affairs

cc: Laura Griffin, PA Department of Environmental Protection  
Ezra Thrush, PA Department of Environmental Protection