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February 9, 2026

VIA E-FILING@www.ahs.dep.pa.gov/eComment

Department of Environmental Protection
Policy Office
400 Market Street
P.O. Box 2063
Harrisburg, PA 17105-2063

Re: Comments to Advance Notice of Proposed Rulemaking for the Commonwealth's 11th Triennial Review of Water Quality Standards

TO WHOM IT MAY CONCERN:

The Pennsylvania Municipal Authorities Association ("PMAA") appreciates the opportunity to provide comments, through undersigned counsel, to the Department of Environmental Protection's ("DEP") proposed rulemaking entitled Advance Notice of Proposed Rulemaking for the Commonwealth's 11th Triennial Review of Water Quality Standards which was published in the Pennsylvania Bulletin on December 27, 2025 ("Advance Notice"). PMAA is an association that represents the interests of nearly 700 municipal authorities in Pennsylvania, which collectively provide water, sewer, stormwater, waste management and other services to over five million Pennsylvania citizens. Founded in 1941, the mission of PMAA is to assist authorities in providing services that protect and enhance the environment, promote economic vitality, and further the general welfare of the Commonwealth and its citizens. PMAA and its members, who are stewards of the environment, strive to provide the highest quality service to their customers and rate payers. Many of PMAA's members may be impacted by DEP's ultimate decision on the aforementioned Advance Notice.

1. DEP is proposing to adopt the United States Environmental Protection Agency's ("EPA") 2007 aquatic life water quality criteria recommendations for copper. Has DEP reviewed any possible changes to EPA's recommendations, given that it is nearly 20-years-old?

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2. It has been suggested that the Biotic Ligand Model is not being used in many states to address copper discharges. Has DEP evaluated why the Biotic Ligand Model is not being used in all states, and has DEP researched any possible alternatives to the Biotic Ligand Model, such as the continued use of the water effects ratio (“WER”) to address copper effluent limits?

3. PMAA understands that EPA is a participant in a Cooperative Research and Development Agreement to update certain ambient water quality criteria for a number of metals, including copper. (See Metals Cooperative Research and Development Agreement Phase 1 Report, dated March 20, 2022.) Has DEP discussed with EPA whether EPA is going to revise the methodology in which copper ambient water quality criteria are developed, which revision may not include the Biotic Ligand Model approach, prior to DEP’s submittal of the Commonwealth’s 11th Triennial Review of Water Quality Standards?

4. Although DEP reports that approximately 169 NPDES permits in Pennsylvania have numeric effluent limitations for copper, it acknowledges that only “several” sewage treatment facilities across Pennsylvania have successfully treated for and removed copper from wastewater effluent to low levels through one or more identified processes (none of which appear to be physical changes or modifications to the wastewater treatment plants). How can DEP assess the costs of treatment to remove copper, whether through chemical addition or physical changes at a wastewater treatment plant, given such admittedly limited data and information?

5. It is well known that a significant source of copper, if not the primary source of copper, in wastewater treatment plants is from domestic water systems. Copper is a byproduct of domestic plumbing systems and is found to be present throughout such systems. This source of copper is not within the control of wastewater treatment plants and, therefore, such plants have no ability to address such copper in their influent, which influent naturally plays a significant role in the effluent limitations placed in the NPDES permits of such plants. By contrast, wastewater treatment plants have the ability to address copper influent from industrial sources, for example, by setting local limits for copper from such sources. Therefore, given the fact that most of the copper entering wastewater treatment plants is from a source or sources not within the control of such plants, DEP should not require the use of a methodology, such as the Biotic Ligand Model, which will likely result in more stringent effluent limits than those derived from the current hardness-based approach, and impose more significant costs on wastewater treatment plants and their ratepayers.

6. In light of the previous comment, it is important to note that many NPDES permits have stricter effluent discharge limits for copper than the action level for copper in drinking water under the Federal Safe Drinking Water Act (1.3 mg/l). Therefore, since the effluent copper discharges are strictly dependent upon the influent copper concentrations, which are a function of the applicable water supplier or suppliers, and not the wastewater treatment plants, it is worth repeating that DEP should not require the use of a methodology, such as the Biotic Ligand Model, which will likely result in more stringent effluent limits than those derived from the current hardness-based approach, and impose more significant costs on wastewater treatment plants and their ratepayers.

7. DEP has long required wastewater treatment plants to perform whole effluent toxicity testing (“WET”) as part of their NPDES permit obligations. If the results of a WET test indicate that a wastewater treatment plant has no effect on aquatic species in the receiving water, will DEP still require use of the Biotic Ligand Model to address copper?

8. Most wastewater treatment plants were not designed for the removal of copper; accordingly, there will likely be a significant financial impact on wastewater treatment plants and their ratepayers, should the aforementioned plants be required to treat copper or perform physical changes and/or modifications to their plants based on copper limits derived from the Biotic Ligand Model. DEP should provide all economic and cost data for municipal wastewater plants that currently treat copper or have been required to perform physical changes or modifications at their plants to address copper discharges.

Once again, PMAA is appreciative of the opportunity to comment on the Advance Notice, and looks forward to working with DEP to address the issue of the Commonwealth’s 11th Triennial Review of Water Quality Standards.

Very truly yours,

HAMBURG, RUBIN, MULLIN,
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By: 

STEVEN A. HANN

SAH:ll