



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

SEP 10 2019

Mr. Jonathan Champion, Interim Associate Director
Water Quality Division
Natural Resources Administration
D.C. Department of Energy & Environment
1200 First Street NE, 5th Floor
Washington, D.C. 20002

Re: EPA Comments on DOEE's Notice of Second Proposed Rulemaking regarding D.C. Water Quality Standards

Dear Mr. Champion:

The U.S. Environmental Protection Agency (EPA), Region III, has reviewed the District of Columbia's (D.C.) Department of Energy & Environment (DOEE) notice of second proposed rulemaking and public comment period to amend Chapter 11, "Water Quality Standards", of Title 21, "Water and Sanitation", of the D.C. Municipal Regulations, which was published in the June 28, 2019 edition of the D.C. Register. I am pleased to offer the following comments regarding the 2016 Triennial Review of D.C. Water Quality Standards:

- 1) DOEE proposes to revise D.C.'s aquatic life criteria for ammonia to reflect the 2013 Aquatic Life Ambient Water Quality Criteria for Ammonia – Freshwater (EPA 822-R-13-001), published by EPA under Clean Water Act § 304(a). The ammonia criteria are based on EPA's latest scientific studies and toxicity data on freshwater mussels and gill-breathing snails. EPA supports and commends DOEE on its proposal to adopt the EPA-recommended water quality criteria, but EPA notes minor errors that should be revised to achieve consistency with EPA's 304(a) recommendations:
 - a. Table 2, note h, section (a): The word 'criterion' following CMC is redundant and its inclusion may add confusion. Please remove.
 - b. Table 2, note h, section (b): The exponents in the equation are difficult to read. Please recreate the equation in a larger font size.
 - c. Table 2d: The table description includes 'for *Oncorhynchus* spp. Present', which may imply that this table is only applicable when *Oncorhynchus* spp. (trout) are present in a waterbody. EPA recommends that this portion of the table description be removed.
- 2) DOEE proposes to revise D.C.'s aquatic life criteria for cadmium to reflect the 2016 Aquatic Life Ambient Water Quality Criteria – Cadmium (EPA-820-R-16-002), published by EPA under

Clean Water Act § 304(a). EPA supports and commends DOEE on its proposal to adopt the EPA-recommended water quality criteria.

- 3) DOEE proposes to revise D.C.'s human health criteria for ninety-four (94) chemical pollutants to reflect the 2015 Human Health Ambient Water Quality Criteria updates published by EPA under Clean Water Act § 304(a). These updated recommendations reflect the latest scientific information and EPA policies, including updated body weight, drinking water consumption rate, fish consumption rate, bioaccumulation factors, health toxicity values, and relative source contributions. They are intended to protect residents and visitors from exposure to these pollutants, particularly for those who eat fish or shellfish from D.C. waters as a significant portion of their regular diet. EPA supports and commends DOEE on its proposal to adopt the EPA-recommended water quality criteria. EPA notes a minor error that should be revised to achieve consistency with EPA's 304(a) recommendations:
 - a. Table 3: Under the heading of Chlorinated Benzenes, there is a misspelling of the organic constituent "1,2,4,5-tetrachlorobenzene (CAS Number 95943)". Please correct.
- 4) EPA published its 2018 Aquatic Life Ambient Water Quality Criteria – Aluminum (EPA 822-R-18-001), which provides updated criteria and recommendations for the protection of freshwater aquatic life uses. This revision establishes freshwater criteria magnitude values resulting from the interactions of aluminum and three water chemistry parameters: pH, total hardness, and dissolved organic carbon (DOC). This revision enables calculation of unique, site-specific criteria magnitudes. These recommendations provide the best currently available science and guidance. As required by the 2015 Regulatory Revisions Rule, which revised 40 CFR Part 131.20, "if a State does not adopt new or revised criteria for parameters for which EPA has published new or updated CWA section 304(a) criteria recommendations, then the State shall provide an explanation when it submits the results of its triennial review to the Regional Administrator...". EPA requests that D.C. review its criteria in light of the new science and data and consider revising the criteria.
- 5) EPA published its 2007 Aquatic Life Ambient Freshwater Quality Criteria – Copper (EPA 822-R-07-001), which provides updated criteria and recommendations for the protection of freshwater aquatic life uses. This revision uses a Biotic Ligand Model (BLM) to incorporate receiving water body characteristics and develop site-specific water quality criteria for copper. These recommendations provide the best currently available science and guidance. As required by the 2015 Regulatory Revisions Rule, which revised 40 CFR Part 131.20, "if a State does not adopt new or revised criteria for parameters for which EPA has published new or updated CWA section 304(a) criteria recommendations, then the State shall provide an explanation when it submits the results of its triennial review to the Regional Administrator...". EPA requests that D.C. review its criteria in light of the new science and data and consider revising the criteria.
- 6) EPA published its 2005 Aquatic Life Ambient Water Quality Criteria – Diazinon (EPA-822-R-05-006), which reflects the latest scientific knowledge regarding the toxicity of diazinon to aquatic life. Criteria are expressed as a final acute value of 0.3397 µg/L and final chronic value of 0.1699 µg/L for freshwaters. These recommendations provide the best currently available science and guidance. As required by the 2015 Regulatory Revisions Rule, which revised 40 CFR Part 131.20, "if a State does not adopt new or revised criteria for parameters for which EPA has published new or updated CWA section 304(a) criteria recommendations, then the State shall provide an explanation when it submits the results of its triennial review to the Regional

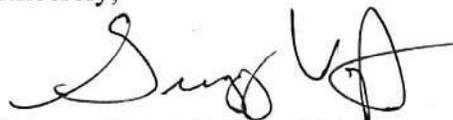
Administrator...”. EPA requests that D.C. review its criteria in light of the new science and data and consider revising the criteria.

- 7) EPA published its 2012 Recreational Water Quality Criteria (EPA 820-F-12-058), which are intended to protect human health in waters designated for primary contact recreation. This revision provides two sets of numeric concentration thresholds (magnitude, duration and frequency) for two bacterial indicators, either of which would be protective of a primary contact recreation designated use. These recommendations provide the best currently available science and guidance. As required by the 2015 Regulatory Revisions Rule, which revised 40 CFR Part 131.20, “if a State does not adopt new or revised criteria for parameters for which EPA has published new or updated CWA section 304(a) criteria recommendations, then the State shall provide an explanation when it submits the results of its triennial review to the Regional Administrator...”. EPA requests that D.C. review its criteria in light of the new science and data and consider revising the criteria.

- 8) EPA published its 2016 Aquatic Life Ambient Water Quality Criterion for Selenium – Freshwater (EPA 822-R-16-006), which reflects the latest scientific knowledge that selenium toxicity to aquatic life is primarily based on the consumption of selenium-contaminated food rather than exposure to selenium only in dissolved water. Criteria are expressed in terms of fish tissue concentration and water concentration. These recommendations provide the best currently available science and guidance. As required by the 2015 Regulatory Revisions Rule, which revised 40 CFR Part 131.20, “if a State does not adopt new or revised criteria for parameters for which EPA has published new or updated CWA section 304(a) criteria recommendations, then the State shall provide an explanation when it submits the results of its triennial review to the Regional Administrator...”. EPA requests that D.C. review its criteria in light of the new science and data and consider revising the criteria.

Thank you for the opportunity to provide written comments on DOEE’s notice of second proposed rulemaking and public comment period concerning the 2016 Triennial Review of D.C. Water Quality Standards. Please note that the comments addressed above are preliminary in nature and do not constitute a determination by EPA under Clean Water Act § 303(c). Approval/disapproval decisions will be made by the Region following adoption of new and/or revised standards by DOEE and submittal to EPA. Only the Administrator may make a determination pursuant to Clean Water Act § 304(c)(4)(B). Should you have any questions concerning these comments, please contact me at (215) 814-5737 or Raffaella Marano at (215) 814-2397 or via e-mail at marano.raffaella@epa.gov.

Sincerely,



Gregory Voigt, Section Chief
Standards and TMDLs Section
Water Division

cc : Ed Dunne, D.C. DOEE
Rebecca Diehl, D.C. DOEE