

**Madison Brame**

From: ecomment@pa.gov
Sent: Wednesday, November 15, 2023 9:24 AM
To: Environment-Committee@pasenate.com; environmentalcommittee@pahouse.net; regcomments@pa.gov; Osenbach, Matt; Glendon King; Franzese, Evan B.; Eyster, Emily; IRRC
Cc: c-jflanaga@pa.gov
Subject: Comment received - Proposed Rulemaking: Triennial Review of Water Quality Standards (#7-577)

CAUTION: **EXTERNAL SENDER** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.



The enclosed comment was received as part of the following testimony:

Testimony name: Public Hearing - Triennial Review #7-577
Testimony date: 11/14/2023 12:00:00 AM
Testimony location: Virtual

Re: eComment System

The Environmental Quality Board has received the following comments on Proposed Rulemaking: Triennial Review of Water Quality Standards (#7-577).

Commenter Information:

Bruce Birchard
(brucebirchard45@gmail.com)
68 Twin Pine Way
Glen Mills, PA 19342 US

Comments entered:

Please see attached testimony given at the November 14, 2023 public hearing.

These links provide access to the attachments provided as part of this comment.

Comments Attachment: [7-577 Triennial Testimony Birchard.docx](#)

Please contact me if you have any questions.

Sincerely,
Ezra Thrush

Ezra Thrush
Director, Office of Policy
PA Department of Environmental Protection
Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, PA 17105-2063

Office: 717-783-8727
Fax: 717-783-8926
ecomment@pa.gov

Testimony of Bruce Birchard, Delaware County, PA, November 13, 2023

I want to thank the Department of Environmental Protection for holding this hearing today on water quality in the Delaware River. "My heartfelt request to the DEP is to amend it's Triennial Review to ensure 'primary contact' water quality standards for the entire Delaware River, including the 27-mile stretch that goes through Philly and the city of Chester..."

I have a long and loving history with the Delaware River. I was born in 1945 in Easton, Pennsylvania, and I spent a lot of time while growing up in, on and near the Delaware River. In Boy Scouts I learned to canoe on the river, and at the age of 15, a friend and I bought a beat-up Old Town Canoe, made some repairs, and then did a lot more canoeing on our own. That usually involved swimming, and often camping on the Delaware's banks as well.

In 1974 my wife and I moved to the Philadelphia area. For 29 years we lived in an 18th century farmhouse on the New Jersey side of the river, directly across from the intake pipes for the Philadelphia water works in far northeast Philadelphia. This was—and still is—the last farm right on the banks of the river. Our son could stand on our front porch and throw a stone into the river. We occasionally swam in the river, but not often, because the water was very polluted. We often cleaned up pollutants from the bank of the river, just yards from our home. We still do a lot of canoeing on and swimming in the Delaware, all the way from Long Eddy down to the Delaware Water Gap, but we canoe on the river around Philadelphia, again because of the heavily polluted water.

From 1974 until our retirements in 2011 and 2018, my wife and I worked in Philadelphia—I with various Quaker organizations, and she as a professor at the University of Pennsylvania. Our boys went to high school in the city, and our Quaker meeting is just 2 blocks from City Hall. We moved to Delaware County, PA in 2004, and we still get on and in the upper section of the river a lot, even at age 78. But the water along the shores of Philadelphia and Chester is still badly polluted.

What a tragedy this is. Upstream from Philadelphia, the Delaware River is beautiful and clean. Because of steps taken by the DEP on upstream sources of pollution, mostly in the 70's 80's, to reduce pollution from towns, industries and agriculture, pollution in the lower Delaware was reduced enough that the spring shad run returned. Now when we canoe in the upper Delaware in the spring, we see hundreds of shad that have spawned there. But pollutants still accumulate in the lower section, and the water in the Philadelphia stretch of the river is still badly polluted. It is NOT pleasant to either swim, canoe or boat along our stretch of the river. Or even to walk along its banks.

Please, please, help us return the river to the beautiful and relatively clean condition that would make it possible for the millions of people living along this stretch of the river to really enjoy it. It is a crime to allow higher levels of pollution in this section of the river. **As you conduct the current Triennial Review of the river, PLEASE amend the regulations by including language requiring "primary contact water quality standards" for the Philadelphia-Chester stretch of the lower Delaware River.**

Thank you again for holding these important hearings. YOU can make a huge difference in the lives of millions of citizens living in the Philadelphia-Chester area by taking these steps to substantially reduce pollution in this stretch of our wonderful Delaware River.

Bruce Birchard

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Commenter Information:

Christina Alleva
(christinapallea@gmail.com)
3101 W Glenwood Ave
Philadelphia, PA 19121 US

Comments entered:

It's crucial that the public has access to accurate information regarding these issues and also has the opportunity to voice their concerns about their environment, so thank you for the opportunity to testify. I'm testifying as a private citizen and I echo the sentiments of the testifiers who provided public comments in support of the protection of the sanctity of the Delaware River.

I was born across the Delaware River in South Jersey, but am no stranger to Pennsylvania, especially its waterways. I have been a Philadelphia resident for over 10 years, and I have been a rower for the better part of two decades. I come from a long line of rowers in my family - siblings, cousins, uncles, grandparents, and beyond. I practically grew up on the Schuylkill River, and I've had the privilege of representing the City of Philadelphia on waterways across the country and internationally. The global rowing community knows Philadelphia for our historic rivers, and I and the entire community deeply appreciate the beauty and life provided by every waterway in this commonwealth.

I recognize the immense privilege it takes to come from a family of rowers, and though this review is about the Delaware River, where I do not specifically row for reasons other testifiers have mentioned, these waterways and their ecosystems are all interconnected. I also believe it's my responsibility in my privilege to stand up for something that is not a privilege, but a right to the people of Pennsylvania: the guaranteed access to water that is unquestionably clean and safe. I am requesting that Pennsylvania's Department of Environmental Protection establish permanent primary contact protections through the 27-

mile stretch of the Delaware River that includes the city of Philadelphia and the city of Chester. Within the name of the organization, and within its mission statement, the DEP aims to "protect Pennsylvania's air, land and water from pollution and to provide for the health and safety of its citizens through a cleaner environment." Allowing exceptions to any environmental protection entirely defies the mission of this organization. Additionally, I fear allowing exceptions to protections may lead to a slippery slope of further exceptions and contribute further to the already terrifying ecological impact being brought on by the climate crisis due to continued allowance for unchecked pollution.

I remember the panic this March when I finished a hike at Wissahickon Creek to a notification that Philadelphia's water had possibly been contaminated by a chemical spill in Otter Creek, which runs into the Delaware River - the drinking water source for half of Philadelphia including me. To me it doesn't matter whether we're talking about drinking water, rowing water, swimming water, or water purely reserved for wildlife - our waterways are not waste dumps. We should never have to question whether our water is safe. I ask again that the DEP honors their mission statement and responsibility to the people of Pennsylvania, and recognize the impact that polluted waterways have on our neighbors in other states. I expect that after this Triennial Review process, the DEP establishes primary contact water quality standards to this stretch of the Delaware River. I hope these exceptions are removed so that Philadelphia can be an example for Pennsylvania, and so that Pennsylvania can move toward being an example for the country. I want to continue to be a proud ambassador for our Philadelphia waterways and continue to welcome rowers from all over the world to experience our gorgeous rivers.

Thank you again for the opportunity to testify.

No attachments were included as part of this comment.

Please contact me if you have any questions.

Sincerely,
Ezra Thrush

Ezra Thrush
Director, Office of Policy
PA Department of Environmental Protection
Rachel Carson State Office Building
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Commenter Information:

David Masur
PennEnvironment (david@pennenvironment.org)
1528 Walnut St Suite 1400
Philadelphia, PA 19102 US

Comments entered:

Please see attached testimony given at the November 14, 2023 public hearing.

These links provide access to the attachments provided as part of this comment.

Comments Attachment: [7-577 Triennial Testimony PennEnvironment Masur.pdf](#)

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Ezra Thrush

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Director, Office of Policy
PA Department of Environmental Protection
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Testimony for Triennial Review of Water Quality Standards Regulation
David Masur, PennEnvironment Executive Director
1528 Walnut Street, Suite 1400, Philadelphia PA 19102

Testifying on behalf of PennEnvironment, and the PennEnvironment Research & Policy Center

Good afternoon. My name is David Masur, and I am the Executive Director for PennEnvironment. PennEnvironment is a statewide, citizen-based non-profit environment organization. We work to promote clean air, clean water, and protecting Pennsylvania's incredible natural heritage and outdoor places.

Thank you for giving me the opportunity to testify today on the Pennsylvania Department of Environmental Protection's proposed rule making for the Triennial Review of Water Quality Standards. The Triennial Review is a critical—and required—step process for ensuring that our waterways achieve the goal laid out by the federal Clean Water Act, which is to make sure that ALL of our waterways are safe for fishing and swimming.

Specifically, I am here today to call on the Department of Environmental Protection to amend the current proposed draft of the Triennial Review, and remove its current (and unfortunately, longstanding) policy that sets lower water quality standards for the section of the Delaware River flowing through Philadelphia and the City of Chester, and instead, I request that DEP designate this 27-mile stretch of the Delaware River for “primary contact water quality standards” when the agency finalizes its 2023 Triennial Review.

The Delaware River is one of Pennsylvania's most beloved and iconic waterways. The section that flows through Philadelphia is enjoyed and valued by millions of people who walk along its banks, anglers who fish in the river, boaters and others. Personally, I enjoy taking my kids to the Navy Yard to explore and walk along the water, the banks of the Schuylkill River along Bartram's Garden, and having fun at the Spruce Street Harbor Park and Penn Treaty Park. These are the places that are the backbone of our communities in Philadelphia, help improve our quality of life, and give us ways to get back in touch with nature even though we live in a dense, highly-populated urban area.

Yet for years, DEP has kept a rule on the books that allows more pollution into the 27 miles of the Delaware that flow through Philadelphia and down to Chester, than is allowed anywhere else along the other 300 miles of the Delaware River. It is unacceptable to give higher water quality standards to residents living along one stretch of the river, and allow lower water quality standards and more pollution from those living along a different stretch.

Unfortunately, this embodies DEP's ongoing effort to avoid applying “primary contact” water quality standards to this stretch of the Delaware River, which would ensure that water quality along this 27-mile segment of the river is safe for wading, paddling and boating, swimming, jet skiing and other recreational activities.

On occasion, DEP has argued that the agency is reluctant to set stronger water quality standards for these 27 miles because of the current levels of pollution in this portion of the river. Yet the reality is that the reason that this section of the river receives more pollution and therefore is unsafe for primary use contact on so many days is because DEP hasn't set water quality standards to ensure a cleaner and healthier segment of the river.

Given this, it is time for DEP to give residents of Philadelphia and the City of Chester what it has afforded to all the other residents of the Delaware River—stronger protections that will require less pollution to be released into this section of the river, and lead to improved water quality. This is critical for a healthy environment, for protecting the public's health, and just plain fairness.

Thank you for allowing me to testify today, and I hope that DEP will make this change before it finalizes its proposed 2023 Triennial Review.

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Commenter Information:

Flora Cardoni
(floracardoni@gmail.com)
236 Buckingham Place Apt 1
Philadelphia, PA 19104 US

Comments entered:

Testimony on Proposed Rulemaking:
Triennial Review of Water Quality Standards
11/14/2023

My name is Flora Cardoni and I live in West Philadelphia, zip code 19104. Thank you for holding this hearing and thank you for the opportunity to testify today.

I am providing testimony today because I was so incredibly shocked and disappointed to learn that the stretch of the Delaware River between Philadelphia and Chester is held to weaker pollution standards than the rest of the river. So I am asking the DEP to amend its Triennial Review to ensure 'primary contact' water quality standards for the entire Delaware River, including the 27-mile stretch that goes through Philadelphia and the city of Chester.

One of the things I like best about living in Philly is being right on two rivers. I often walk along the Delaware and kayak on the Schuylkill. I do yearly cleanups at the John Heinz wildlife refuge, standing out in the water up to my waist in waders to pick up plastic and litter, and I enjoy walking along the trails there looking for wildlife. And I love taking the ferry across the Delaware from Philly to Camden for concerts in the summer. As someone who enjoys being on and around the river, I am deeply concerned about elevated levels of pollution- including untreated sewage and wastewater- which has the potential of

making people really sick.

Of course, this elevated pollution isn't just a risk for those of us living along this stretch of the river, but also the 15 million people who get their drinking water from the Delaware each day.

It does not have to be this way. A history of lower environmental standards and higher levels of pollution does NOT mean that we should continue to pollute the river we love and put all of our health at risk. Instead, we should make every effort to clean up the Delaware River so that even more people can recreate on it and drink from it safely.

I hope the DEP works in the best interest of Pennsylvanians' health and safety and stops giving the stretch of the Delaware River that flows through Philly and Chester weaker water quality protections than the rest of the river. During this Triennial Review process, I urge you to include language to give 'primary contact' water quality standards to this part of the river so that it can continue to get cleaned up and so Pennsylvanians can enjoy the Delaware for generations to come.

Thank you again for your time and consideration.

No attachments were included as part of this comment.

Please contact me if you have any questions.

Sincerely,
Ezra Thrush

Ezra Thrush
Director, Office of Policy
PA Department of Environmental Protection
Rachel Carson State Office Building
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The Environmental Quality Board has received the following comments on Proposed Rulemaking: Triennial Review of Water Quality Standards (#7-577).

Commenter Information:

Klaus Brettschneider
(brettschneider.klaus@gmail.com)
2430B Aquetong Rd
New Hope, PA 18938 US

Comments entered:

Please see attached testimony given at the November 14, 2023 public hearing.

These links provide access to the attachments provided as part of this comment.

Comments Attachment: [7-577 Triennial Testimony Brettschneider.pdf](#)

Please contact me if you have any questions.

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Ezra Thrush

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Director, Office of Policy
PA Department of Environmental Protection
Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, PA 17105-2063

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ecomment@pa.gov

Testimony for Triennial Review of Water Quality Standards Regulation

Klaus Brettschneider

New Hope, PA 18938

Email:

Thank you, Laura and the Environmental Quality Board, for arranging today's public hearing on such an important issue and allowing me to testify.

My name is Klaus Brettschneider; I'm an environmental engineer by trade. I studied environmental technologies in the 90s, long before the word sustainability was established in our vocabulary. I grew up in Germany and turned to sustainability influenced by the Bhopal, Sandoz, and Chernobyl disasters. I have been a Pennsylvanian resident for 16 years and professionally help corporations determine and capture their environmental impacts from their business data and IT systems. I live in New Hope close to the Delaware River, where the river turns from one of the longest stretches of river in the U.S. designated for primary contact into the dead zone through Philadelphia.

I'm testifying as a concerned citizen with a background of expertise to support any effort to remove the water-quality exemption for contact water along the 27-mile stretch of the Delaware River through Philadelphia.

Yes, I enjoy canoeing, swimming, and taking walks along the Delaware River, and I think our rivers should generally not be used as drains to dispose of waste and pollutants. However, this is not the point I want to make. I want to encourage the Department of Environment Protection to take bold actions to improve the region's economic situation.

The past has shown that more stringent regulations positively impact the economy. The Clean Water Act has had significant direct and indirect economic impacts.

- The Act authorized the construction of wastewater treatment plants and the implementation of pollution control measures. This led to a considerable amount of public and private infrastructure spending.
- The demand for skilled workers increased, contributing to local and regional employment.
- Cleaner water helps prevent waterborne diseases, reducing healthcare costs and promoting a healthier workforce.
- Healthy water ecosystems support fisheries, and cleaner water enhances the attractiveness of water bodies for recreational activities, positively impacting local economies dependent on tourism.
- Improved water quality enhances the overall quality of life in communities. This, in turn, positively influences property values and attracts businesses and residents to an area.

I'm sure that many industry leaders and community representatives are arguing that lifting the exemption will pose a financial burden. While compliance with stronger regulations imposes costs, the

long-term benefits, including avoided health costs and the preservation of natural resources, outweigh the compliance expenses.

I urgently request the Department of Environmental Protection (DEP) to reconsider the existing standards during the ongoing Triennial Review process. Specifically, I advocate for including language that designates 'primary contact' water quality standards for this particular segment of the Delaware River. Strengthening these standards is fundamental for more investments, specifically in the industrial stretch of the river in Philadelphia. More investments improve our economy and will make this region more sustainable. Environmentally and economically.

Your support in amending the current regulations to fortify water quality protections will not only benefit the present. It will serve as an enduring commitment to the well-being of our communities, the environment, and future generations.

Thank you for your attention to this matter. I anticipate a positive Triennial Review process that will lift the exceptions and support our collective pursuit of a cleaner, healthier Delaware River.

Madison Brame

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Commenter Information:

Nancy Boxer
Association for Climate Health (nboxer@a4ch.org)
2414 Hirst Terrace
Havertown, PA 19083 US

Comments entered:

Please see attached testimony given at the November 14, 2023 public hearing.

These links provide access to the attachments provided as part of this comment.

Comments Attachment: [7-577 Triennial Testimony A4CH Boxer.docx](#)

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Ezra Thrush

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Director, Office of Policy
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ecomment@pa.gov

Testimony for Triennial Review of Water Quality Standards Regulation

Nancy Boxer
Havertown, PA 19083
on behalf of the Association for Climate Health

Hello. I'm Nancy Boxer with the Association for Climate Health. Thank you for letting me testify.

Philadelphia and suburbs have been violating the Clean Water Act for decades – with occasional outbursts during dry weather and frequently during wet weather when their storm sewers pour huge volumes of rainwater runoff, including motor oil, trash and other street pollutants, into the sanitary sewers and then to the sewage treatment plants. These treatment plants cannot handle that capacity, and the result is untreated sewage cascading into our rivers. Such **poisoning** happens about every five days, and contaminates the rivers where our fellow citizens fish and eat their catch, swim, boat and otherwise expose themselves to mouthfuls of dangerous bacteria and viruses. Because the toxins last, the stretch of river around Philadelphia is dangerous for one out of every **three** days a year.

The Clean Water Act was passed back in 1972 to reduce and control such pollution and keep people safe. Cities around the country dragged their feet so frequently that in 1994 the EPA created a new directive requiring cities with combined sewers to create plans to come into compliance with the law. Still Philadelphia did not come into compliance.¹

Consent orders finally signed 13 years ago by the City of Philadelphia with DEP and the EPA have brought only an 18% reduction from combined sewer outflows. Presumably the remaining 12 years of the consent order will give Philadelphia's program some time to make additional progress.² Yet do we believe they will meet their stated goals, 50 years after Congress told Americans to clean up their act?

¹ US Government Accountability Office, "Clean Water Act – EPA Should Track Control of Combined Sewer Overflows and Water Quality Improvements," January 2023, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.gao.gov/assets/gao-23-105285.pdf

² John Rumpler, "Sewage Pollution in Philadelphia," July 20, 2023, <https://environmentamerica.org/pennsylvania/center/resources/15-billion-gallons-of-raw-sewage-enter-philadelphias-rivers-streams-each-year/>

Whether or not you feel their efforts to date are satisfactory, climate change is increasing the amount of precipitation in our region, and this increased volume will erase many of those gains. Not only is the **amount** of rainfall increasing; the **number** of severe weather events is also increasing. Another gift of climate change – this increased variability. This is bad for the rivers because it is during these more frequent, severe weather events that our combined sewers are most likely to overflow.

Thus, there is ample reason to conclude that the slow pace of Philadelphia's gains will slow **further** in the future, continuing to fall short of any goal set during the earlier climate era.

Philadelphia has many miles of waterfront, most of which is not monitored and remains accessible after these spills. Yes, the City has a website where you can go and look up the relative safety of the rivers for that day. **If** you know about the website, have access to a computer and remember ahead of time to do that. But I have walked the trails in Fairmount Park and along the riverfront many times after a big storm and seen people fishing, children wading in the water, kayakers flipping over and coming up soaked, spitting water out of their mouths. The same water which includes raw sewage and untreated chemicals because of combined sewer outflows.

Should we citizens all stay indoors playing video games? Should we only eat monitored and farmed fish, and hide from Nature? Or should we hold our local governments to the standards passed by our elected representatives in Congress, designed to direct us to do the most basic things our mothers and teachers taught us when we were young: to clean up our messes so we can live safer, healthier lives. To ensure a world where children can experience what our ancestors experienced, swimming and boating, fishing for their own food, in harmony with the Earth which sustains us.

I urge you to do the latter. Honor the commitments made by Congress to the American people and maintained by other jurisdictions around the country. Philadelphia should be held to the same standard and no longer get an easy pass.

Thank you for your time.

Madison Brame

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Commenter Information:

Richard Posmontier
(Rich.Posmontier@gmail.com)
7813 Linden Rd
Wyndmoor, PA 19038 US

Comments entered:

Thank you so much for holding these hearings and for permitting me to offer testimony regarding this issue today.

My name is Richard Posmontier, I'm here as a private citizen, I grew up in the city of Philadelphia and have lived here my entire life. I now live in Montgomery county, in zip 19038.

I'm retired and now spend much of my time enjoying the outdoors. As a lifelong Pennsylvania resident, the Delaware River is very important to me. I have children and grandchildren who enjoy the river frequently.

I'm speaking today to ask that the DEP require the stretch of the Delaware River that goes through Philadelphia and Chester counties have the same water quality standards as the rest of the river.

I enjoy the Delaware River frequently. I tube on the upper Delaware, and stroll and bike on the paths along the river in center City Philadelphia. As I mentioned, my children enjoy the river as well and I take my grandchildren there to enjoy the trails along the river. I have friends who sail from Penn's landing on the river regularly.

The Delaware has come a long way in the last 50 years and I would like to see that progress continue and improve. Not only is it good for the mental and emotional health of the citizens, it's a great economic resource. Without a clean river, the Spruce Street Harbor Park wouldn't be generating the millions of dollars it does.

Many years ago I had the pleasure of performing on a stage overlooking the Delaware River at Penn's landing, and it is a beautiful setting. There are many benefits to having a clean river. If additional pollution is allowed to flow into the river not only would it affect the local citizens but we would get a reputation as being a dirty city, a reputation we had years ago. This affects business coming to Philadelphia and our economic vitality.

Given all these reasons, it's imperative that the Pennsylvania Department of Environmental Protection stop giving the Delaware River through Philadelphia and Chester counties weaker protections from pollution.

I respectfully ask that as part of the Triennial review process you include language to give "primary contact" water quality standards to this part of the river so it can continue to get cleaned up.

Thank you again for allowing me to speak today. Remember, the Delaware River should be a resource, not an eyesore!

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Please contact me if you have any questions.

Sincerely,
Ezra Thrush

Ezra Thrush
Director, Office of Policy
PA Department of Environmental Protection
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Cc: c-jflanagan@pa.gov
Subject: Comment received - Proposed Rulemaking: Triennial Review of Water Quality Standards (#7-577)

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The enclosed comment was received as part of the following testimony:

Testimony name: Public Hearing - Triennial Review #7-577
Testimony date: 11/14/2023 12:00:00 AM
Testimony location: Virtual

Re: eComment System

The Environmental Quality Board has received the following comments on Proposed Rulemaking: Triennial Review of Water Quality Standards (#7-577).

Commenter Information:

Stefanie Kroll
(stef@riverways.org)
942 Sigel St
Philadelphia, PA 19148 US

Comments entered:

Please see attached testimony given at the November 14, 2023 public hearing.

These links provide access to the attachments provided as part of this comment.

Comments Attachment: [7-577 Triennial Testimony Kroll.docx](#)

Please contact me if you have any questions.

Sincerely,
Ezra Thrush

Ezra Thrush
Director, Office of Policy
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Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, PA 17105-2063

Office: 717-783-8727
Fax: 717-783-8926
ecomment@pa.gov

Testimony to the PA DEP regarding the Triennial Review

November 14, 2023

My name is Stefanie Kroll, I live in East Passyunk, in South Philadelphia, zip code 19148.

I have a PhD in Ecology, specializing in the effects of human activities on watersheds and aquatic ecosystems. I have studied watersheds for over 15 years, and specifically the Delaware River Watershed for the last 10. and I work at Riverways Collaboration of CultureTrust Greater Philadelphia and as an independent contractor supporting environmental nonprofits. I am also a co-founder of a new Community Environmental Action Group, EnviroPhilly. I'm testifying as an individual with expertise on this subject and situation.

I think it's essential for the DEP to remove the exemption and designate the 27-mile stretch of the Delaware River around Philadelphia and Camden for primary recreation.

All recent reports are clear about the cause of the pollution- combined sewer overflows. It's 2023-- I can't believe that we have to convince people that discharging raw sewage into our rivers is unacceptable. Today, we have technologies, including natural ones like bacteria and other microorganisms, which can break down virtually every contaminant, including plastics, chemicals at highly polluted superfund sites, and even PFAS ("Forever chemicals"; Per- and PolyFluoroAlkyl Substances). And, while they may not all be developed at scale, they do exist. Constructed wetlands, holding tanks and other grey infrastructure can be used to capture water for tertiary treatment and to help with stormwater capture. In the past, we have said the problem is too complicated, so urban rivers have been held to lower water quality and environmental health standards. But today, we [can and should re-evaluate this approach, and stop settling for polluted rivers](#) in our cities when the problem is solvable.

Not only is it solvable, but it is difficult to understand why so few steps have been taken to solve the combined sewer overflows in Philadelphia. The lack of regulation is a major factor, which this upgraded designation would start to address. Water quality is being improved in similar and bigger cities with equally old sewer systems: [Paris is cleaning up the Seine for the 2024 Olympics](#), [Boston is driving the Charles River Swimming Initiative](#), [Manhattan has a beach on the Hudson River](#), with another set to open in Brooklyn by 2028, and [The Swimmable Potomac Campaign](#) is making progress as well. For each of these projects, reliable data are being collected, communities are being asked about their interests and informed about the project, and cities are committing to reducing sewer overflows to 95% contained. While expensive, this is a completely possible goal. In 2017, our neighbors at [Camden Municipal Utilities Authority](#) accomplished this reduction through a [variety of actions, winning an award for their work](#). EPA's combined sewer overflow policy was issued in 1994, and Philadelphia has taken little action to reduce them.

In addition, an important component is that information on the overflows is being hidden from the public by only showing modeled data in CSOCast, making it impossible to know the actual amounts and risks to wildlife and recreators. Upgrading the designation is essential for driving the collection of pertinent data and release of data that are already being collected. There are gauges on overflows, but these actual data are not shared. Rather, we are only given an annual amount in each year's report. We know that a handful of CSOs discharge the majority of combined sewage and runoff. Camden has shown

that targeting the major overflows is very effective. We also only have access to modeled information about the effectiveness of Green Cities, Clean Water. While the claim is that the program is on track and working, no empirical evidence of reduced stormwater or CSOs has been shown. These reports have also been based on models rather than empirical data, meaning that models are not validated with real world conditions. By not having access to the data and information about the extent of the problem, the public may not realize what actions to push for to reduce CSOs and improve water quality. Because they lack access to information, they may also not realize how close we are to having water healthy enough to swim in. This misperception of water quality has prompted a response by many that they are surprised about the reasons for poor water quality. If taken care of, every person I speak with expresses interest in swimming and boating in clean waters in the future.

Right now our communities want to boat. Certain people at the Water Department say that there is little interest in boating in our regional rivers, or that the Delaware being a shipping channel makes it too dangerous, but Riverways, the US Environmental Protection Agency, [City Council, and local stakeholders disagree](#). Of course, tidal rivers are complicated places, and you have to know something about boating safety. You have to know when the tides are coming in and where the fast currents are. You have to know where you're paddling to stay away from large ships. But right now, people are boating in the calm waters of the Schuylkill, the Back Channel of the Delaware near Camden, on FDR Lake, and other tucked away spots with slow flows and lovely, on-water scenery.

During the summer, the piers on the Delaware and Schuylkill are full of fisherfolk, and we see more and more boaters in kayaks and canoes getting in the water through Riverways members' and other organizations' programs as well as on their own. Getting more people connected to rivers is a major objective of several groups in Philadelphia, Camden, and the region: [Riverways](#) is a coalition of urban boating and environmental education groups: [Bartram's Garden](#), [Glen Foerd](#), [Urban Promise](#), the [Center for Aquatic Sciences](#), [Discovery Pathways](#) and [LandHealth Institute](#). Riverways members monitor the Delaware and Schuylkill Rivers during boating season and found that extended dry periods in 2022 led to conditions safe for primary recreation. In 2023, the rivers were unsafe due to overflows during several rainstorms. Groups like Riverways, SeaPhilly, and Upstream Alliance show over 35,000 people per year how magical it feels to be out on the river admiring the birds, trees, natural spots, and the skyline. But we do not want to be putting people's health at risk.

[Riverfront North Partnership](#) opened a new dock for powerboats and kayaks if you have your own to launch, and they're adding to the Baxter Trail near them. Along other creeks, [Tookany-Tacony/ Frankford Watershed Partnership](#), [Clean Air Council](#), [Wissahickon Trails](#), [Circuit Trails](#), and many other organizations are building and maintaining trails to get people outdoors along our waterways.

While community organizations and environmental organizations are [advocating for officially designating the Delaware River swimmable in the area](#), some agencies saying it's not something people want—So why address it with more locations, safety precautions, and better water quality? But who wouldn't want to get on a boat or go fishing on a hot summer's day? The temperature is much cooler on the water. Spending time in nature has been documented to have major physical and mental health benefits. So, instead of having to prove that the public is interested in being able to safely boat and swim without paddling through sewage, I ask: who wouldn't want to swim, boat or go fishing? Shouldn't we have the right to good water quality and safe river access points in our communities, so we can experience our natural heritage, our rivers?

The 2019 triennial review references 30-year-old statements about CSOs that were based on conditions before the Long-term control plan. PWD, PA DEP and other agencies have made very little effort to collect the data they cite as lacking for this decision, but we could have access to information on the amount of effluent discharged throughout the year and for each CSO.

It's an environmental justice issue given the communities being excluded from primary recreation. This situation cannot be called anything but negligence. And while it may not have the same public health risks as drinking water system negligence in Flint, MI and Jackson, MI, it stems from the same issue—public officials knowing about a problem, failing to disclose the extent of it and the effects, and continuing to do harm in the long-term, in this case for wildlife and for people who get sick after boating. There is more funding now than there has been in a long time, and there is still no comprehensive plan, which is unacceptable. We ask you to designate the 27-mile stretch of the river for primary designation and to follow up on getting a plan and actions in place to move it toward attaining that status. This status would protect the critically endangered sturgeon and other sensitive fish species and aquatic fauna and flora, in addition to the people enjoying the river.

Madison Brame

From: ecomment@pa.gov
Sent: Wednesday, November 15, 2023 9:24 AM
To: Environment-Committee@pasenate.com; environmentalcommittee@pahouse.net; regcomments@pa.gov; Osenbach, Matt; Glendon King; Franzese, Evan B.; Eyster, Emily; IRRC
Cc: c-jflanagan@pa.gov
Subject: Comment received - Proposed Rulemaking: Triennial Review of Water Quality Standards (#7-577)

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Testimony name: Public Hearing - Triennial Review #7-577
Testimony date: 11/14/2023 12:00:00 AM
Testimony location: Virtual

Re: eComment System

The Environmental Quality Board has received the following comments on Proposed Rulemaking: Triennial Review of Water Quality Standards (#7-577).

Commenter Information:

Steve Risotto
American Chemistry Council (srisotto@americanchemistry.com)
700 2nd Street, NE
Washington, DC 20002 US

Comments entered:

Please see attached testimony given at the November 14, 2023 public hearing.

These links provide access to the attachments provided as part of this comment.

Comments Attachment: [7-577 Triennial Testimony Risotto.pdf](#)

Please contact me if you have any questions.

Sincerely,
Ezra Thrush

Ezra Thrush
Director, Office of Policy
PA Department of Environmental Protection
Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, PA 17105-2063

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ecomment@pa.gov

GOOD AFTERNOON, MY NAME IS STEVE RISOTTO AND I AM A SENIOR DIRECTOR AT THE AMERICAN CHEMISTRY COUNCIL, OR ACC, BASED IN WASHINGTON, DC. OVER THE PAST SEVERAL YEARS, ACC HAS BEEN ENGAGED IN FURTHERING OUR UNDERSTANDING OF THE MODE OF ACTION, OR MOA, FOR THE CANCERS REPORTED IN LABORATORY RATS AND MICE EXPOSED TO 1,4-DIOXANE.

THE HUMAN HEALTH CRITERION FOR 1,4-DIOXANE PROPOSED AS PART OF THE TRIENNIAL REVIEW IS BASED ON THE DEFAULT ASSUMPTION THAT THERE IS NO DOSE OF THE SUBSTANCE THAT DOES NOT PRESENT AN INCREASED CANCER RISK – NO MATTER HOW SMALL THE INCREASE. SUCH A NON-THRESHOLD MOA STEMS FROM AN ASSUMPTION THAT A SUBSTANCE IS DIRECTLY GENOTOXIC - RESULTING IN ALTERNATIONS OF GENETIC MATERIAL IN THE EXPOSED ANIMALS. THE NON-THRESHOLD APPROACH IS ALSO APPLIED AS A DEFAULT ASSUMPTION IN THE ABSENCE OF EVIDENCE FOR AN ALTERNATIVE MOA. IN THE CASE OF 1,4-DIOXANE, HOWEVER, THERE IS SUBSTANTIAL EVIDENCE FOR AN ALTERNATIVE MODE OF ACTION.

IT IS GENERALLY AGREED THAT 1,4-DIOXANE IS NOT DIRECTLY GENOTOXIC, AND THERE IS INCREASINGLY CLEAR EVIDENCE THAT THE TUMORS IN LABORATORY ANIMALS RESULT FROM CHANGES THAT OCCUR ONLY AFTER THE ANIMALS' CAPACITY FOR METABOLIZING 1,4-DIOXANE IS EXCEEDED AND THE PARENT SUBSTANCE BEGINS TO ACCUMULATE IN THE ANIMAL. THE EVIDENCE IS CLEAR FROM THE RESULTS OF LIFETIME AND MECHANISTIC STUDIES IN RATS, AND HAS BEEN CONFIRMED IN MICE BASED ON HISTOPATHOLOGIC, MOLECULAR, AND GENOMIC ANALYSES. WHILE MUCH OF THE FOCUS HAS BEEN ON EFFECTS IN THE LIVER, SIMILAR FINDINGS HAVE BEEN OBSERVED FOR THE NASAL TUMORS REPORTED IN THE AVAILABLE STUDIES.

BOTH THE ANIMAL AND HUMAN EVIDENCE CONFIRM THAT 1,4-DIOXANE IS RAPIDLY METABOLIZED VIA THE CYTOCHROME P450 PATHWAY TO FORM THE METABOLITE HEAA WHICH IS ALSO NOT GENOTOXIC AND WHICH IS RAPIDLY EXCRETED FROM THE BODY. HOWEVER, WHEN 1,4-DIOXANE CONCENTRATIONS EXCEED THE BODY'S CAPACITY TO METABOLIZE IT, LEVELS OF THE PARENT COMPOUND BEGIN TO ACCUMULATE IN THE BLOOD AND TISSUES. IT IS AT THIS POINT, AND AT THIS POINT ONLY, THAT EVENTS RESULTING IN THE DEVELOPMENT OF TUMORS ARE OBSERVED. THESE EVENTS INCLUDE INCREASED CELL DIVISION, BIOCHEMICAL STRESS INCLUDING OXIDATIVE STRESS RESULTING IN GENETIC MUTATIONS, AND ACTIVATION OF THE P450 ENZYME CYP2E1. THIS INDIRECT GENOTOXICITY CAUSED BY OXIDATIVE STRESS AND CYP2E1 ACTIVATION RESULTING FROM UNMETABOLIZED 1,4-DIOXANE PROLIFERATES AS NEW CELLS ARE PRODUCED, LEADING TO SUBSEQUENT TUMOR DEVELOPMENT.

THIS INFORMATION HAS LED AUTHORITATIVE BODIES FROM AROUND THE WORLD TO RECOGNIZE A THRESHOLD MOA – CONCLUDING THAT LOWER LEVELS OF EXPOSURE TO 1,4-DIOXANE DO NOT

CAUSE AN INCREASED CANCER RISK. AS A RESULT, BOTH HEALTH CANADA AND THE WORLD HEALTH ORGANIZATION RECOMMEND A DRINKING WATER LEVEL OF 50 MICROGRAMS PER LITER (MG/L) – WELL ABOVE THE LEVEL OF 0.3 MG/L PROPOSED BY THE DEPARTMENT IN ITS TRIENNIAL REVIEW. WE URGE THE BOARD TO DIRECT THE DEPARTMENT TO CAREFULLY CONSIDER THE EVIDENCE FOR A THRESHOLD CANCER MOA FOR THIS SUBSTANCE, WHICH WE WILL SUBMIT AS PART OF OUR WRITTEN TESTIMONY, BEFORE FINALIZING A HUMAN HEALTH CRITERION FOR 1,4-DIOXANE.

THANK YOU FOR YOUR ATTENTION.

Madison Brame

From: ecomment@pa.gov
Sent: Thursday, November 16, 2023 7:55 AM
To: Environment-Committee@pasenate.com; environmentalcommittee@pahouse.net; regcomments@pa.gov; Osenbach, Matt; Glendon King; Franzese, Evan B.; Eyster, Emily; IRRC
Cc: c-jflanagan@pa.gov
Subject: Comment received - Proposed Rulemaking: Triennial Review of Water Quality Standards (#7-577)

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Testimony location: Virtual

Re: eComment System

The Environmental Quality Board has received the following comments on Proposed Rulemaking: Triennial Review of Water Quality Standards (#7-577).

Commenter Information:

Tim Dillingham
American Littoral Society (tim@littoralsociety.org)
18 Hartshorne Drive
Highlands, NJ 07732 US

Comments entered:

Please see attached testimony given at the November 14, 2023 public hearing.

These links provide access to the attachments provided as part of this comment.

Comments Attachment: [7-577 Triennial Testimony Am Littoral Soc Dillingham.pdf](#)

Please contact me if you have any questions.

Sincerely,
Ezra Thrush

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Testimony for Triennial Review of Water Quality Standards Regulation

Tim Dillingham
Executive Director American Littoral Society
18 Hartshorne Drive
Highlands, NJ 07732

Good afternoon. I am the Executive Director of the American Littoral Society, a membership based conservation organization with members in the Commonwealth that actively use and are concerned with the protection of Pennsylvania's waters. Thank you for the opportunity to speak on the proposed Triennial regulations.

Before we provide specific comments on the Triennial Review document relevant to the 27-mile stretch of secondary contact waters of the tidal Delaware River— please consider this: imagine that you live in Philadelphia in too small a home with too many people. Your window air conditioner does not work well, and it is another day in the string of 90+ degree days. Where can you take the kids to cool off? You don't have a car; you don't even have a driver's license. The closest city pool is closed – no lifeguard. You could walk or take the bus to the River or a creek nearby – it would be great if the kids could wade and splash in the water. If only there were access sites organized for water recreation where the water is clean enough to play in. Unfortunately, the City Parks and Recreation Department forbid access to the river and creeks from their sites, and the river is not designated for primary contact due to the ongoing discharge of 15 billion gallons of combined sewage overflows as well as other chronic sources.

For the whole 310 miles of the Delaware River only 27 miles from north Philadelphia through Chester is not designated for swimming and splashing. It is time that changed, and standards of water quality be equal for everyone. Primary contact recreation such as paddling, jetskiing and swimming is already occurring and should be protected. Primary contact water quality is attainable in the foreseeable future and is in fact already occurring many days of the year in locations along the river. Many cities in the U.S. and around the globe have upgraded their systems to meet primary contact standards. Philadelphia, a world-class city, should be doing the same.

Governor Shapiro has prioritized addressing environmental justice and equity issues. With this new, energized administration, DEP can make a difference. This 27-mile stretch has been disregarded for years. It has been on the Commonwealth's Triennial Review, but no forward motion. This is a long-standing and overdue environmental justice and equity issue.

The federal Clean Water Act set a national goal of "water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water." 33 U.S.C. § 1251(a)(2). These are often referred to as the fishable/swimmable goals. States must

achieve water quality sufficient to support fishable and swimmable waters, wherever it is attainable. 33 U.S.C. § 1252(a)(2). The water quality regulations establish a “rebuttable presumption that fishable/swimmable uses are attainable and therefore should apply to a water body unless it is affirmatively demonstrated that such uses are not attainable.” Advanced Notice of Proposed Rulemaking on the Water Quality Standards Regulation, 63 Fed. Reg, 36,742, 36,749 (col. 3) (July 8, 1998).

A December 2017 letter from EPA Region III to PADEP during the last triennial report process stated strongly that PADEP should reconsider the exclusion of primary contact recreation for the Delaware River between River Mile (RM) 108.4 – 81.8., the 27-mile stretch running from Philadelphia through the City of Chester. The EPA also stated that “recreation which results in contact with the water is occurring in this portion of the river. PADEP should initiate an effort with the Delaware River Basin Commission (DRBC) and the other member states to revise the applicable standards to include designated use protection for water contact/swimming.” Six years have passed since this directive, and yet PADEP’s currently proposed draft of the Triennial Review does not revise the designated use to include swimming, nor does it even describe the efforts undertaken with partners, the remaining steps necessary, or the timeline on which it will do so.

In the proposed Triennial Review, PADEP states only that it will “continues to work in cooperation with the DRBC, the Federal government and other DRBC signatory states to determine the appropriate designated use or uses.” This does not fulfill their duties under the law. Section 303(c) of the federal Clean Water Act requires that at least once every three years, the State shall hold public hearings and, as appropriate, modify and adopt water quality standards. 33 U.S.C. 1313(c)(1); 40 C.F.R. § 131.20(b). Under the applicable regulations, the

“State shall also re-examine any waterbody segment with water quality standards that do not include the uses specified in section 101(a)(2) of the Act every 3 years to determine if any new information has become available. If such new information indicates that the uses specified in section 101(a)(2) of the Act are attainable, the State shall revise its standards accordingly.” 40 C.F.R. § 131.20(a).

New information, including extensive near-shore bacteriological monitoring from 2020-2023 has come available, and this must be analyzed and disclosed to determine if the primary contact recreational use is now attainable. PADEP should also have included in this draft report all other information, data, and efforts it has made since 2017 to reevaluate the appropriateness of the secondary contact recreational use designation.

There is a rebuttable presumption that fishable/swimmable uses are attainable unless the state proves otherwise through a Use Attainability Analysis, and the last such analysis took place in 1989. The triennial review is an important check on the State’s Clean Water Act progress by requiring that every three years the appropriateness of the designated uses are revisited and reconsidered. PADEP’s completely insufficient discussion of this issue does not demonstrate swimmable uses are not attainable. A designated use represents the goals for the water body, and attainability does not mean the water quality is *already* meeting primary contact criteria.

Attainability means that is an achievable goal, even if that is over a relatively long period of time. Given that significant water quality improvements have already been made, and there are LTCPs for the CSOs in place, PADEP cannot rely on this outdated use attainability analysis.

Based on EPA's direction six year ago and the requirements under the Clean Water Act, PADEP should have considered the greatly improved water quality and recreation that is already occurring and upgraded the designated use to primary contact recreation designation in this draft report.

We respectfully request the PADEP designate this 27-mile stretch of the Delaware River and tributaries for "primary contact recreation" within the agency's finalized 2023 Triennial Review. The PADEP should remove the current exception language in the draft of the Triennial Review and instead demonstrate a commitment to primary contact recreation quality waters for the 27-mile stretch of the river between Philadelphia and Chester to match the protections along the remaining 300 miles of the river.

Having not done so in the draft in the final 2023 Triennial Review of Water Quality Standards [25 PA. CODE CH. 93], PADEP should state what developments have been made since 2017, including any new data and analyses, and what they will be doing to advance this river segment to primary contact recreation (WC waters) quality. While PADEP should improve monitoring and its analysis to inform and guide implementation actions, that is neither required nor should it stop the Department from adopting higher primary contact standards at this time. We believe that implementation actions can be designed to advance attainment in an equitable and cost-effective manner for regulated entities, particularly given the availability of federal funding through the State Revolving Fund and other sources. My organization has been actively advocating for such support for the region and utilities to date and are committed to actively continuing to try and bring necessary financial support and new approaches to this issue. While some monitoring has been conducted, a multi-step action plan is needed that spells out what tasks are required, by when, and by whom to guide both short and long-term responses.

Given this we respectfully submit the following comments on 93.9 Designated Uses and Water Quality Criteria – Exceptions for Fishable/Swimmable Waters within the Proposed Triennial Review.

1. We appreciate the phrase "While the Department continues to work in cooperation with the DRBC, the Federal government and other DRBC signatory states to determine the appropriate designated use or uses, the Department will protect existing uses in accordance with § 93.4c(a) (relating to implementation of antidegradation requirements)." It is important that it is recognized that primary recreation is occurring on this stretch of the river, and the State has a duty to protect the health of those using the water already. Given that there is ample evidence of people swimming, boating, jetskiing and paddling along this portion of the river, it inherently leads to the obligation of the PADEP to protect these uses and the narrative of the Triennial should explicitly articulate and recognize these ongoing and increasing primary contact recreational uses.

- It was reasonable in the past to have secondary contact standards in the urban section of the tidal river. However, times have changed. People are using the river and tributaries. People want access to the river – just look at the popularity of the Bartram’s Garden waterfront. The river is healthier as noted by monitoring and the increase in propagating fish, and there are times during dry weather that it meets WC standards. The large CSOs in Philadelphia, Chester and Camden, NJ (the main contributors to bacterial pollution) have long-term control plans (LTCPs) and progress is being made, but slowly. PADEP can and must step up progress to swimmable waters.
- EPA guidance has made clear that “In order to protect public health, States must set criteria to reflect recreational uses if it appears that recreation will in fact occur in the stream.” See <https://www.epa.gov/sites/default/files/2015-01/documents/standards-recreation-uses.pdf>. EPA has also instructed that States (and Commonwealths) must do as much as possible to protect the health of the public, because people will use whatever water bodies are available for recreation. We know that is the case here.

2. We also appreciate that the previous reference to a safety or hazards study has been removed because such a study is not part of a water quality evaluation.

3. The ultimate goal is to upgrade the quality of the waters within the 27-mile stretch to primary recreation consistently and minimize pollution inputs. The public deserves more days on and in the river. There are ways to do this. There are also near-term actions that can be taken to help the environmental justice communities in Philadelphia and Chester. The Department plays a key role in implementing actions, permit conditions and directing funding to needed infrastructure (both green and grey)

- PADEP must develop an action plan, laying out steps and responsibilities in order to reach the primary contact goal in a reasonable time period. This can include:
 - forming a PADEP team with a lead senior person responsible for developing the action plan. This plan would include assessing the current conditions in the tidal Delaware and setting steps needed to reach primary contact water quality .
 - developing an action committee from the local area to assist.
 - analyzing and releasing publicly all of the near shore bacterial data that has been collected from 2020 to 2023 with reference to locations and wet weather events so that the regulators, advocates, and the general public can all have the information they need to understand the existing water quality and the ways to improve it.
 - revisiting the DRBC Co-regulator plan and push for actions to start prior to the conclusions of the LTCPs. (Note: the current co-regulator statement is not really a plan, but just a list of considerations.)

- increasing monitoring (maybe by multiple parties) to determine the proportional impact from CSOs, illicit discharges and SSOs. Monitoring is also needed to determine sources of bacteria during dry periods.
 - Discharge of bacteria- laden waters during dry flow periods is illegal but occurring. One direct action PADEP must do to help improve water quality and include in the Triennial is requiring Philadelphia Water Department to end its dry weather discharges or take legal action to do so.
 - Use the 2023 Triennial Review platform to inform the public of your intended actions (required steps, by when, by whom).
4. Near-term actions can be taken while PADEP moves forward with primary designation of the whole 27-mile river stretch.
- A number of areas of the mainstem river and tributaries are currently being used for recreation or have the potential for recreation access, including the Lower Schuylkill River and above Betsy Ross Bridge –the area from Bridesburg Outboard Club (RM 105.5) to Penny Pack Park (Rm 109.15)
 - . Work with the cities of Philadelphia and Chester to prioritize action in these CSO sewersheds sooner than proposed in the LTCPs. Evaluate whether the bacteria standard for WC waters can be met in these areas solely by green stormwater infrastructure (GSI) or if the addition of gray infrastructure is needed. Develop action plans for these selected areas for near-term change.

Thank you for the opportunity to provide comments on this important process and rule-making. The Delaware River's water quality has greatly improved over the decades through the tools, requirements and opportunities afforded by the Clean Water Act, and the actions of the public, governmental agencies including PADEP and many supporters of meeting the Clean Water Act's vision (and requirements) for swimmable and fishable waters for all Americans. My organization, and many others testifying here today stand ready to continue to assist in this effort.