



November 21, 2017

WQS Coordinator
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102

Subject: Comments on “10 CSR 20-7.031 Water Quality Standards” Proposed Amendment, Published in the *Missouri Register* October 16, 2017

To whom it may concern:

Thank you for the opportunity to comment on the proposed rule amendment for 10 CSR 20-7.031.

REGFORM is a statewide association of regulated entities representing manufacturing, mining, electric utility, chemical and other business interests and higher education institutions on environmental regulatory matters in Missouri. Our membership is diverse and touches almost all major aspects of Missouri’s economy. Our members must comply with this rule.

We strongly support the numeric nutrient criteria portions of this rule. We urge the Clean Water Commission (“Commission” or “CWC”) to adopt it without delay. These numeric nutrient criteria are needed to avoid US EPA acting to set standards for Missouri.

Similarly, we support proposed amendments regarding mixing zones and hardness calculations. We request that the Commission adopt those provisions as well.

Regarding the large scale adoption of the as yet unadopted 304(a) standards, we offer the following comments:

1. Acceptable cancer risk incidence rate. Both 10 CSR 20-7.031(1)(C)3 and 10 CSR 20-7.031(5)(M) prohibit concentrations of carcinogens that would exceed a cancer incidence of one in one million over

November 21, 2017

Page 2

the background incidence rate, commonly referred to as 10^{-6} . In its role as the risk management authority, MDNR and the Clean Water Commission may adopt Water Quality Standards that are calculated using a risk level of 10^{-5} , one in one hundred thousand. US EPA guidance clearly states that the 10^{-5} level is approvable.

Under risk-based corrective action, the Hazardous Waste Management Commission has adopted risk-based target levels and other provisions that are based on an acceptable cancer incidence rate of 10^{-5} . These provisions have been in effect for many years.

Water Quality Standards based on the 10^{-5} rate are protective. We believe that Iowa and Nebraska, and numerous other states, including Arkansas, have adopted Water Quality Standards based on the 10^{-5} rate.

For the sake of consistency within the State and in an effort to eliminate unnecessary burdens to individuals and businesses in Missouri we request that the Commission adopt amendments to this proposed rule that replace 10^{-6} with 10^{-5} in both CSR 20-7.031(1)(C)3 and 10 CSR 20-7.031(5)(M).

2. Unnecessary burden to individuals or businesses. Earlier this year Gov. Greitens and MDNR announced efforts to eliminate unnecessary regulatory burdens that do little to protect or improve public health, safety, or natural resources. As a part of that process, MDNR temporarily withdrew several rules in progress in order to conduct a review to determine whether provisions of those rules were unnecessarily burdensome. We are concerned that the large scale adoption of most of the 304(a) list standards that is proposed in this amendment has not undergone that review.

Specifically, we don't know whether:

1. the WQs proposed for adoption were calculated based on an acceptable cancer risk of 10^{-6} , 10^{-5} , or some other incidence rate,
2. Missourians on average consume less than 22g/day of fish,
3. Missourians on average consume less than 2.4 L/day of water,
4. treated water (rather than raw water) was taken into account in the WQS calculations, or
5. the effects of cooking that can reduce exposure to pollutants in fish tissue were considered.

Each of these factors, and others, could result in unnecessarily stringent water quality standards being imposed on Missourians.

We request that MDNR strike from the proposed rule and the Commission not adopt any Human Health Protection standards proposed in the Water Quality Standards rule amendment.

This action will allow MDNR and stakeholders the time to go back and consider these factors and others and come up with WQs that are scientifically supportable but not unnecessarily stringent.

To be clear, we are not requesting that the remainder of the 304(a) table not be adopted. Only the Human Health Protection numbers should be withdrawn.

3. Fish tissue and water consumption. 10 CSR 20-7.031(5)(M) in the rule amendment proposes to increase the fish tissue consumption rate to 22 g/day and the water consumption rate to 2.4 L/day.

November 21, 2017

Page 3

Since we are not aware of data supporting those levels of consumption in Missouri, we request that the Department strike these two changes from the proposal and the Commission not change the existing consumption rates for water and fish tissue.

4. **Outstanding technical issues.** A 2015 US EPA fact sheet (EPA Office of Water 820-F-15-001, June 2015) says that "Due to outstanding technical issues, EPA did not update human health criteria for the following chemical pollutants at this time: antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium (III or VI), copper, manganese, methylmercury, nickel, nitrates, nitrosamines, N-nitrosodibutylamine, N-nitrosodiethylamine, N-nitrosopyrrolidine, N-nitrosodimethylamine, N-nitrosodipropylamine, N-nitrosodiphenylamine, polychlorinated biphenyls (PCBs), selenium, thallium, zinc, or 2,3,7,8-TCDD (dioxin)."

We request that MDNR strike from the proposed rule and the Commission not adopt any Human Health Protection standards in the proposed Water Quality Standards rule amendment for any of the pollutants listed in the referenced fact sheet.

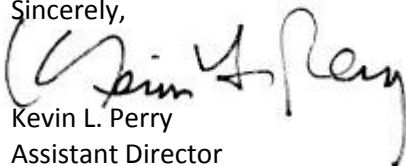
5. **Applicability.** Our reading of the water quality standards leads us to believe that the human health protection (HHP) standards proposed in this rule amendment would apply to all waterbodies in the MUDD.

Most classified waters in Missouri are not designated for the Drinking Water Supply (DWS) use.

We request that the proposed rule be amended to make clear that if organism+water criteria are promulgated, those standards should apply only to waters with the DWS use.

Thank you for considering our comments.

Sincerely,



Kevin L. Perry
Assistant Director

c: R. Walker, REGFORM
REGFORM members