



## American Forest & Paper Association

**Oral Statement by Sundara Bhandaram  
Manager of Environmental Policy, American Forest & Paper Association, on  
Pennsylvania Department of Environmental Protection's Proposal to Update  
Water Quality Criteria for the Protection of Human Health  
December 14, 2017**

Good afternoon. My name is Sundara Bhandaram, and I am here on behalf of the American Forest & Paper Association. AF&PA represents the U.S. pulp, paper, packaging, tissue, and wood products manufacturing industry. Our member companies make products essential for everyday life from renewable and recyclable resources and are committed to continuous improvement through the industry's sustainability initiative - *Better Practices, Better Planet 2020*. Many of our members' mills, including those in Pennsylvania, are the economic and social lynchpins of their communities. Thank you for the opportunity to testify today on the Commonwealth's consideration of the Human Health Water Quality Criteria (HHWQC) as part of its triennial review.

Under the Clean Water Act (CWA), states have the primary responsibility for developing water quality standards. States typically begin that process with EPA's national recommended water quality criteria required by Section 304(a) of the CWA. EPA issued a national update of its HHWQC in 2015 that included updates to 94 human health criteria.

Importantly, under existing regulations, states are not obligated to adopt those criteria exactly as EPA has issued them before submitting them to EPA for approval. Nor are states required to implement the exact same values in the equation that is used to develop the criteria. The regulations also allow states to modify the national criteria to reflect site-specific conditions or develop other "scientifically defensible" criteria before sending them to EPA for approval.

The CWA is built on a foundation of cooperative federalism, and the EPA has emphasized that cooperative federalism is the touchstone of the environmental statutes it administers. The EPA Administrator has stated that the agency will give states greater flexibility to implement their environmental programs in ways that makes sense for the states.

This flexibility in the regulations and EPA's emphasis on cooperative federalism, give States the ability to take two important steps. First, a state can consider the science underlying EPA's methodology and the extent to which the default values in the national criteria are applicable to the waters of the state. Second, the state can consider the economic impacts of the new criteria – especially in a case where the criteria are more stringent and therefore could impose significantly higher compliance costs.

We have been working with a number of states as they begin their triennial reviews, urging them to take these two important steps, before simply adopting EPA's national criteria. Several states have agreed to look much more closely at these issues before adopting the EPA criteria, and no state has yet adopted the national criteria in their entirety.

Turning to the Commonwealth's proposal to amend the rule, with some exceptions, the Commonwealth is proposing to adopt the human health criteria EPA issued in 2015. By our count, of the 94 EPA updated criteria, 55 are more stringent than the current standard—sometimes many times more stringent. As my colleague Paul Wiegand from the National Council on Air and Stream Improvement will testify in a moment, EPA's national criteria use extremely conservative assumptions in their derivation of criteria, many of which strain credulity. This results in "compounded conservatism" and unnecessarily stringent criteria that will result in very stringent permit limits and higher compliance costs. Yet, the incremental human health protection provided by these criteria may be negligible at best. In light of this compounded conservatism and the scientific issues Mr. Wiegand will highlight, states that adjust the criteria to reflect the water quality characteristics of their state or that use more realistic assumptions in the development of their criteria should easily meet the "scientifically defensible" regulatory standard for EPA approval.

Based on the scientific issues Mr. Wiegand will discuss, we believe the Commonwealth should use the health protection target of one in a million ( $1 \times 10^{-6}$ ), but this should specifically target certain segments of the population. Targeted protection would more accurately mitigate the actual risk associated with calculated HHWQC. Second, the state should maintain the Fish Consumption Rate of 17.5 g/day. Third, the state should use a value of 1 for the Relative Source Contribution unless sufficient pollutant-specific data is available to calculate a different RSC. Fourth, while the transition from bioaccumulation to bioconcentration factors is a reasonable change, we urge the state to reconsider the methodology used by EPA, which heavily relies on models from the unique Great Lakes region. The recommendations put forth ensure that the environment and public health are protected, while also ensuring the industry's competitiveness and protecting jobs and livelihood of the local community.

Thank you for the opportunity to testify today. We intend to file detailed comments amplifying these key points in our testimony. We also look forward to working with the DEP as they move forward on their consideration of the criteria.