

Environmental Rules Board Hearing – October 28, 1:30p

Citizen’s petition to adopt Indiana appropriate version of the EPA 2012 Recreational Water Quality Criteria to provide regulatory certainty for CSO Communities

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Thank you, Chairwoman Gard – my name is Craig Williams, Superintendent of the Wastewater Utility in Angola, Indiana. On behalf of the citizens of Angola, Mishawaka, Rensselaer, Columbia City, Huntington, New Haven, Peru, Butler, Elwood, Richmond, Brownsburg, Speedway, Lafayette, South Bend and many other communities who are in support of this effort, thank you for the opportunity to speak to you today. I also want to thank Assistant Commissioner King and her staff as they have worked so hard to give us the opportunity to provide our testimony to you during this pandemic.

Over the last 20 years, Indiana Communities have made **historic** investments in sanitary sewer, storm sewer and wastewater treatment improvements to protect public health, improve water quality and to comply with federal and state requirements to reduce combined sewer overflows. Communities committed to these investments with the understanding that the EPA and IDEM recognized that one of *their roles* was to review & and revise Water Quality Standards to ensure that as CSO Long Term Control Plans were completed, compliance with EPA’s CSO Policy could be achieved.

From the 1994 EPA Combined Sewer Overflow Policy:

“...Development of the long-term plan should be coordinated with the review and appropriate revision of WQS and implementation procedures on CSO-impacted waters to ensure that the long-term controls will be sufficient to meet water quality standards.”¹

Seven years later, the following statement was made about these reviews & revisions of water quality standards: “In the seven years since EPA issued the CSO Control Policy, implementation of this principle has not progressed as quickly as expected.”² -- this statement was from the **2001 EPA Guidance**

Document *Coordinating CSO Long Term Control Plans with Water Quality Standard Reviews:*

And from the same document: “With increased coordination and cooperation, and the active participation of all entities in integrating the CSO long-term control planning processes and water quality

¹ 1994 EPA Combined Sewer Overflow Control Policy, page 24, paragraph 2

² 2001 EPA Guidance: Coordinating CSO Long-Term Planning with Water Quality Standards Review, Foreword, paragraph 2

standards reviews, states should be able to revise water quality standards as appropriate in cases where standards are not attainable, and communities should be able to develop LTCPs that provide for the attainment of water quality standards.”³

From IDEM’s Combined Sewer Overflow Fact Sheet, dated August 11, 2008, describing IDEM’s Fundamental Roles within the national CSO strategy: “Review & revision of the water quality standards during the development of CSO control plans to reflect the site-specific wet weather impacts of CSO’s on water usage.”⁴

Indiana communities developed and have implemented or are implementing their CSO Long Term Control Plans with none of the regulatory certainty that was anticipated – *no, expected*, by not only those *paying* for the CSO Controls, but those laying out the requirements some 25 years ago. The EPA recognized that once communities had completed CSO Long Term Control Plans, CSO’s would still occur during certain wet weather events. Referencing EPA’s own 1994 CSO Control Policy, then EPA Assistant Commissioner LaJuana Wilcher asserted that regulatory certainty for affected communities was one of the primary goals of the policy document. She went on to say that the USEPA would not have issued the document if they knew that the Water Quality Standards for CSO discharges were not going to be modified.

Obviously, proposing modifications to the water quality standards are counterproductive if they do not protect public health and water quality. **From the 2012 Recreational Water Quality Fact Sheet:** (I am paraphrasing for brevity) “The 2012 RWQC rely on the latest research and science, including studies that show a link between illness and fecal contamination in recreational waters ... The new criteria are designed to protect primary contact recreation, including ... activities where a high degree of bodily contact with the water, immersion and ingestion are likely.”⁵

The 2012 criteria are subject to EPA reviews every 5 years. In 2017, the EPA completed a review of the criteria with the focus on “...the science related to the protection of human health in water designated for primary contact recreation”⁶, and found the criteria to be sufficient to protect public health. Furthermore, the EPA contemplated the application of this criteria in what it described as “non-

³ 2001 EPA Guidance: Coordinating CSO Long-Term Planning with Water Quality Standards Review, page 2, paragraph 5

⁴ IDEM Combined Sewer Overflow Fact Sheet, dated Aug. 11, 2008

⁵ 2012 Fact Sheet, Recreational Water Quality, “Background” section

⁶ 2017 Fact Sheet, Five Review of the 2012 RWQC, “Summary” section

continuous or episodic discharges”⁷ related to CSO’s and anticipated its use to allow compliance to the national CSO Policy; as such, we believe that this criteria is an appropriate and defensible vehicle to provide Indiana CSO communities the regulatory certainty that was originally intended and expected.

Specifically, we are requesting the Board direct IDEM to:

1. Assemble a work group whose purpose is to recommend rule language that provides regulatory certainty utilizing the framework of the 2012 RWQC;
2. Set a specific deadline for IDEM to return to the board with recommended rule language;
3. Include representatives of regulated communities to participate in the work group/rule language development.

Thank you.

⁷ 2012 Recreational Water Quality Criteria, page 41, paragraph 4