

APPENDIX 3



RESPONSE to SUMMARIZED PUBLIC COMMENTS

Climate/Weather

PC: Farmers are doing a better job of managing their fertilizer, but the climate and lack of winters seem to be making the issues worse than what the farmers are doing.

The DAP's failure to mention climate change, which is expected to increase rain amounts in the critical March-July period, is a regrettable, politically motivated decision, which undercuts the DAP's claim to be a scientifically based proposal. The DAP should address this key issue.

Climate scientists predict increased frequency of intense storms for the Midwest. Does the DAP take into account predicted changes in spring run-off?

R: The DAP was revised to include the challenge posed by climate change.

Unregulated/Nontraditional Farmers

PC: Voluntary measures by farmers are not working to reduce phosphorus and nitrogen loadings. Regulatory controls are needed on agriculture.

Regulatory controls on Agriculture backed by better enforcement.

R: The DAP endorses rigorous enforcement of existing regulations and, at this time, is not proposing additional regulatory controls on agriculture. While there are dissenting views, the consensus of the DAP Advisory Committee is that adoption of conservation practices by farmers in the WLEB is increasing and that those practices along with the modelled nutrient load reductions associated with them will be tracked annually to determine trends. At the sub-watershed scale (12-digit HUC) where these practices are installed, additional water quality monitoring will be conducted over the next few years to determine if water quality is improving. Edge-of-field monitoring will enhance our knowledge of the efficacy of different suites of conservation practices and will help refine our models. Based on these findings, the DAP acknowledges that additional regulatory controls may be warranted in the future. Adaptive management is an underpinning of the DAP.

There should be fair and consistent enforcement of the Fertilizer and CFO rules and enforcement should be pro-active rather than triggered when there is a complaint. There should be un-announced inspections during time of year when application is expected with consequences for violations.

R: The CFO program conducts approximately 600 inspections annually which includes complaints. Because of the strict bio-security restriction, the large universe of farms, and the limited number of inspectors, it would be difficult to reach every farm during the land application season. Should a complaint be received regarding a land application, complaint staff would investigate the complaint at the application area and then contact the farm to review land application records. For example, in 2017 there were 112 complaints received. Only 24 complaints regarding land application were at farms that are regulated under the CFO regulations. No violations were determined for these 24 inspections. Another forty-nine inspections for land application at non-CFO facilities were referred to the Indiana Office of the State Chemist to investigate.

PC: There were several comments regarding nontraditional landowners and the perception that they are exempted from regulations regarding septic systems and the application and disposal of animal waste.

R: [Nontraditional landowners are not exempt from regulation.](#)

There are numerous livestock operations under the threshold for regulation by the CFO rule. The DAP should address these numbers as well as the acres for spreading manure because of them. The DAP should also enumerate the number of acres onto which commercial fertilizer is spread.

R: [The DAP was revised to include language on unregulated livestock operations and nontraditional farmers. It includes as a future endeavor \(2018-2019\) to document the numbers and density of these operations as well as the number of acres for land applying the manure generated from them. The revised DAP does not enumerate the number of acres onto which commercial fertilizer is spread but includes as a future endeavor to investigate this.](#)

Drainage maintenance/invasive species

PC: Drainage boards are key and many regulated drains/ditches/streams are devoid of vegetation.

Drainage boards, county surveyors and SWCDs should neither increase erosion and nutrient pollution, nor conflict with natural streambank protection & revitalization when working on ditch maintenance. Counties should use BMPs to selectively remove invasive species & protect riparian buffer areas.

Employ the practices in the *Indiana Drainage Handbook* such as working from 1 side of the stream and only removing vegetation (if necessary) from the side where machinery must be staged, and mitigate in-stream and streambank habitat loss.

R: [One of the DAP's guiding principles is to restore more natural hydrology and ecological functions by promoting drainage water management and mitigating modified hydrology. Based on these public comments, the DAP has been revised to include the reference to the *Indiana Drainage Handbook*. Additionally, WLEB county surveyors have been invited to participate on the Advisory Committee.](#)

PC: There were comments regarding urban sprawl, stopping the sale of invasive (plant) species and removing them so that native species will return, and providing more oversight on the sale and application of chemicals that contain P and herbicides that contain an added surfactant.

R: [These concerns have been added to the DAP section on future endeavors.](#)

The Public Comment Process

PC: Requiring the Survey Monkey form was a disservice to those who may have wished to provide extensive comments.

R: The Advisory Committee apologizes for any inconvenience. It made the decision to use Survey Monkey in anticipation of numerous comments with sorting functions available that the committee thought would make responding easier. The additional comment box allowed for more extensive comments and attachments. If the Advisory Committee seeks public comments again, that will be made clearer.

Additional participants with DAP

PC: PU Extension
Co. Surveyors, drainage boards
Save Maumee Grassroots Organization

R: Invitations have been extended.

Significant Challenges

PC: Reaching 40% P reduction with voluntary agricultural practices.

Chief concern with DAP is its reliance on existing programs and voluntary measures.

The Lake Erie nutrient problem will continue indefinitely. It cannot be addressed with temporary projects among a minority of producers. We need to make comprehensive and enduring changes in nutrient and drainage management.

R: The DAP emphasizes that reaching the target loads in the WLEB is a complex, multi-faceted problem caused by point and nonpoint sources across all sectors of our community. To successfully address this problem, a multi-faceted approach is required that includes using existent regulatory instruments and implementing a strong system of enduring voluntary best management practices (BMPs).

Single Comments

PC: Goals for each sector. Obtainable Point Sources, row crop agriculture, CFO's, instream, and etc. (this comment regarding the question "Does the DAP address the topics necessary to achieve Indiana's goal of reducing P to the WLEB?")

R: At this time, there is not enough baseline data for the various nonpoint sources to set specific targets.

PC: All producers of P runoff need to address not just the selected priority watersheds.

R: The DAP states this.

PC: Fish Creek does not flow into Cedar Creek as stated on page 49. It flows into the St. Joseph River.

R: Thank you for catching this; it has been corrected.