



REGION 5

CHICAGO, IL 60604

May 17, 2024

REPLY TO THE ATTENTION OF:
W-15J

Ms. Martha Clark Mettler
Assistant Commissioner Office of Water Quality
Indiana Department of Environmental Management
Mail Code IGCN 1315
100 North Senate Avenue Indianapolis,
Indiana 46204-2251

Re: Indiana 2024 List of Impaired Waters under Clean Water Act, Section 303(d)

Dear Ms. Clark Mettler:

The U.S. Environmental Protection Agency appreciates receiving the Indiana Department of Environmental Management's (IDEM) Clean Water Act (CWA) Section 303(d) List of Impaired Waters, i.e., those still requiring Total Maximum Daily Loads (TMDLs), which was submitted as part of Indiana's 2024 Integrated Report (IR) on March 30, 2024. EPA has carefully reviewed Indiana's submittal, including the listing decisions, the assessment methodology, and supporting data and information to determine whether the state reasonably identified waters to be listed as impaired. EPA is partially approving, partially disapproving, and deferring action on the State's 2024 Section 303(d) list.

Based on this analysis, EPA approves Indiana's 2024 Section 303(d) list (Table 1 of Enclosure 3) as the state's decision is consistent with Section 303(d) of the CWA and EPA's implementing regulations at 40 C.F.R. § 130.7.

EPA disapproves the state's decision not to list a series of WQLSs for certain lead and iron impairments because the existing and readily available data and information for those WQLSs indicate impairments of either the numeric water quality criterion for lead or the narrative water quality criterion for iron. EPA reviewed the state's reasons for not including these same WQLSs on its 2022 303(d) list and concluded that these WQLSs should be included. EPA partially disapproved the state's decision not to list these waterbodies and subsequently added them to Indiana's 2022 list.

During the 2024 public comment period EPA inquired whether there was any new data or information regarding these WQLSs that would support Indiana’s decision to delist them on the 2024 303(d) list. In the state’s response to EPA’s comment, no additional information or data was cited. Therefore, EPA finds that the state’s decision not to include these WQLSs on the 2024 303(d) list is inconsistent with Section 303(d) of the CWA and EPA’s implementing regulations.

EPA is identifying for inclusion on the list the WQLSs for iron and lead ([Table 9 of Enclosure 3](#)) that Indiana failed to include in its submittal. The details of EPA’s action, based on the review of Indiana’s compliance with the statutory and regulatory requirements, are provided in [Enclosure 1](#). Additional details on EPA’s analysis of Indiana’s assessment methodology for developing its 2024 Section 303(d) list, and other state relevant information submitted, are provided in [Enclosure 2](#) and [Enclosure 3](#).

EPA will issue a public notice providing for a 30-day public comment period on these additions to Indiana’s 2024 Section 303(d) list. After considering any comments received, EPA may make revisions, as appropriate, and will transmit its listings to Indiana.

When the state issued its draft 303(d) list for public comment, Indiana identified several segments as impaired for Selenium in Fish Tissue on the state’s draft 2024 303(d) list. In response to public comments received objecting to these listings, the state declined to include them on the final version of the 2024 303(d) list submitted to EPA for review. EPA reviewed the public comments submitted and discussed the issue with the state. EPA will continue to work in the near term with the state on approaches for evaluating the data and information regarding the assessment of the waterbodies for determining whether applicable IN WQS for Selenium in Fish Tissue are attained. These assessment units did not appear on the EPA approved IN 2022 303(d) list as impaired for Selenium in Fish Tissue and these waters maintain that listing status until an action is taken by EPA on these waters.

EPA’s approval/disapproval authority extends to only the waterbodies and causes of impairment listed in Category 5 of the IR (state’s Section 303(d) list), with the exception of any waters or portions of waters that are within Indian Country as defined in 18 U.S.C. § 1151. EPA is taking no action to approve or disapprove the state’s list with respect to any waters or portions of waters that are within Indian Country. EPA, or eligible Indian Tribes, as appropriate, will retain responsibilities under Section 303(d) of the CWA for those waters.

I appreciate the continuing dialogue on these issues and look forward to our continued partnership in addressing the challenges of water quality in Indiana. EPA will share any comments received on the public notice of the additions to Indiana’s Section 303(d) list, and I and my staff will continue to collaborate with you and your staff as you prepare your 2024 list.

Thank you for your attention to this matter. If you have any questions, please contact Mr. David Pfeifer, Manager, Watersheds and Wetlands Branch, at (312) 353-9024.

Sincerely,

5/17/2024

X 

Tera L. Fong
Director, Water Division
Signed by: TERA FONG

ENCLOSURES

1. Enclosure 1, *Review of Indiana's 2024 Section 303(d) Lists of Impaired Waters*, IN_303d_EPA_Action_Enclosure1_20240517.pdf
2. Enclosure 2, *Analysis of Indiana's Section 303(d) List and the State's Integrated Report (IR) Submittal for 2024*, IN_303d_EPA_Action_Enclosure2_20240517.pdf
3. Enclosure 3, *Tables in support of EPA's 2024 Action on Indiana's 2024 303(d) List of Impaired Waters*, IN_303d_EPA-Action-Enclosure3_20240517.pdf

cc: Kristen Arnold, IDEM
Paul McMurry, IDEM