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**VIA EMAIL ONLY**

Ohio EPA, Division of Surface Water  
Attn: 303(d) Comments  
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P.O. Box 1049  
Columbus, OH 43216-1049

**Re: Comments on Draft Ohio 2022 Integrated Water Quality Monitoring and Assessment Report**

Dear TMDL Coordinator:

The Association of Ohio Metropolitan Wastewater Agencies (“AOMWA”) appreciates the opportunity to comment on the Draft Ohio 2022 Integrated Water Quality Monitoring and Assessment Report (“Draft Integrated Report”). AOMWA is a not-for-profit trade association that represents the interests of public wastewater agencies across the state of Ohio, serving more than 4 million Ohioans and successfully treating more than 320 billion gallons of wastewater each year.<sup>1</sup> AOMWA and its members have a keen interest in the Draft Integrated Report and the water quality policy recommendations included therein.

Accordingly, AOMWA writes to provide the following comments concerning the Draft Integrated Report:

- According to the Draft Integrated Report, Ohio EPA is developing a new aquatic life use assessment methodology for the open waters of Lake Erie. Pg. I-21. Consistent with AOMWA’s prior comments on this issue in the context of the Maumee Watershed Nutrient TMDL process, this new assessment is a *de facto* water quality standard. As Ohio EPA has acknowledged, water quality standards must be promulgated as rules pursuant to R.C. 119.03. *Fairfield Cty. Bd. of Comm’rs v. Nally*, 2015-Ohio-991, ¶ 37, 143 Ohio St. 3d 93, 102, 34 N.E.3d 873, 882. The Agency had appropriately indicated that this assessment methodology will be incorporated into Ohio’s water quality standards through a separate notice

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<sup>1</sup> AOMWA members include cities of Akron, Avon Lake, Bowling Green, Canton, Columbus, Dayton, Euclid, Fairfield, Hamilton, Lancaster, Lima, Marysville, Middletown, Newark, Portsmouth, Solon, Springfield, Wadsworth, Warren, and Butler County, Greene County, Hamilton County, Summit County, the Metropolitan Sewer District of Greater Cincinnati, the Northeast Ohio Regional Sewer District, and the Tri-Cities Regional Wastewater Authority.

and comment process. See Maumee TMDL LAP Resp. Cmt. 74, pg. 39 (Jan. 14, 2022) (“Ohio EPA intends to incorporate changes to the [Lake Erie] aquatic life use and criteria into Ohio’s water quality standards in the future.”). Thus, the new aquatic life use assessment should be promulgated as a rule before it is incorporated into an integrated report, to provide the public with a meaningful and adequate opportunity to comment.

- Similarly, the Draft Integrated Report states that Ohio EPA has convened an external advisory panel in connection with the new aquatic life use assessment methodology for the open waters of Lake Erie. Pg. I-21. AOMWA appreciates Ohio EPA’s recent efforts to improve stakeholder involvement in other actions and requests that Ohio EPA also provide opportunities for stakeholder engagement in the development of this methodology and in discussion regarding the findings of the external advisory panel.
- The Draft Integrated Report also acknowledges that, due to the COVID-19 pandemic, Ohio EPA has made limited progress in updating monitoring data for Ohio’s streams and rivers. Pg. G-8. Consistent with AOMWA’s previous comments on updating monitoring data, AOMWA supports frequently updating monitoring data for Ohio’s streams and rivers so that regulatory decisions are based on the most current data. AOMWA requests that Ohio EPA update monitoring data more frequently, particularly since we believe that Ohio EPA has recently relied on outdated biological and water quality monitoring data in TMDL development. AOMWA certainly understands that some data cannot be incorporated into the Draft Integrated Report because it does not exist where sampling was delayed due to COVID-19. Nonetheless, AOMWA urges Ohio EPA to incorporate already-collected data into the Integrated Report where possible.
- Likewise, fish tissue impairments for PCBs or mercury are, in many cases, based on extremely outdated data. See, e.g., Table E-4. AOMWA requests that Ohio EPA re-evaluate the list of waters impaired due to fish tissue levels of PCBs or mercury using updated data.
- Additionally, AOMWA is concerned that the evaluation method for bacteria used in the recreation use evaluation is likely based on limited data or improper assumptions. For example, compliance was evaluated where there could be as few as five samples within a 90-day period, and five samples is too limited to evaluate compliance in a 90-day geomean. Pg. F-4. Moreover, in instances where there were not daily bacteria samples, a measured exceedance was assumed to continue until a subsequent sample documented that the beach action value was not exceeded. Pg. F-5. Depending on the length of time that could have lapsed between samples, this is a concerning assumption given the variability of bacteria. AOMWA believes the evaluation method for bacteria is inadequate where it was based on such assumptions or limited data.
- The Draft Integrated Report also states that Ohio EPA is evaluating U.S. EPA’s recently finalized guidance on Lakes and Reservoirs Nutrient Criteria. Pg. I-17. AOMWA requests that Ohio EPA hold stakeholder meetings and provide opportunity for public participation during this evaluation.

- Moreover, the public drinking water assessment methodology has been aligned with adult drinking water threshold values for cyanotoxin indicators, and the Draft Integrated Report indicates that Ohio EPA is determining impairment based on impairment status of the public drinking water supply. See Section H2. It appears that Ohio EPA is applying the drinking water threshold to source waters. To the extent that this is true, Ohio EPA should not use drinking water thresholds to determine surface water quality impairments.
- Lastly, Ohio EPA has also indicated that, for assessment units with multiple public drinking water supply zones, attainment statuses of all zones are combined and the lowest attainment status is applied to determine the PDWS attainment status for the entire assessment unit. H-5. However, particularly for large assessment units such as the central basin of Lake Erie, this approach does not necessarily provide an accurate determination where the assessment unit covers a huge area with a considerable variety of microcystins. Consequently, AOMWA has concerns with Ohio EPA's attainment determinations for assessment units with multiple zones. AOMWA would also appreciate the opportunity to review the data supporting Ohio EPA's assessment in the Central Basin, if it is possible for Ohio EPA to provide that data for review.

AOMWA appreciates Ohio EPA's consideration of these comments and Ohio EPA's willingness to engage AOMWA and other stakeholders on this issue. Should you have any questions, please contact Rees Alexander at [rees.alexander@squirepb.com](mailto:rees.alexander@squirepb.com) or (614) 365-2798. Thank you again for your attention to and consideration of these comments.

Sincerely,



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President, AOMWA

cc: (via email)  
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