



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:
W-15J

February 1, 2022

Brian C. Rockensuess, Commissioner
Indiana Department of Environmental Management
Indiana Government Center North
100 North Senate Avenue
Indianapolis, Indiana 46204-2251

Dear Mr. Rockensuess:

Thank you for your agency's letter of November 22, 2021, submitting Indiana's new and revised water quality standards for review and approval by the U.S. Environmental Protection Agency in accordance with Section 303(c) of the Clean Water Act (CWA). Submission of this rule package was complete with the receipt of the final rule posted in the Indiana Register on December 1, 2021, which was sent to EPA in an electronic mail message dated December 8, 2021.

Section 303(c) of the Clean Water Act and 40 CFR § 131.21 require that EPA review and approve or disapprove all new and revised state water quality standards. As detailed in the enclosed review document, EPA reviewed the information submitted in support of the new and revised standards. EPA determined that Indiana's new and revised water quality standards are consistent with the relevant requirements of the CWA and 40 CFR parts 131 and 132 and hereby approves them pursuant to Section 303(c) of the CWA and 40 CFR § 131.21.

Section 7 of the Endangered Species Act, 16 U.S.C. § 1536, requires federal agencies to consult with the United States Fish and Wildlife Service (FWS) to ensure that any federal action does not jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat. Under 50 CFR § 402.02, Section 7 applies to agency actions "in which there is discretionary agency action or control." Consistent with the requirements of the ESA, EPA evaluated the potential impacts of its approval of the adopted revisions on federally-protected species and designated critical habitat and determined that consultation with FWS is required only for its approval of revisions to the new and revised criteria to protect aquatic life.

As described in its biological evaluation, EPA determined that the action may affect, but is not likely to adversely affect, one or more aquatic, aquatic-dependent or wetland species in the action area. To date, EPA has initiated, but not completed, consultation with FWS on the revised standards. EPA determined that its approval of Indiana's revised aquatic life criteria does not violate Section 7(d) of the ESA, which prohibits irreversible or irretrievable commitments of resources that have the effect of foreclosing the formulation or implementation of reasonable and

prudent alternatives. EPA concluded, as described in the record, that there are not impacts of concern during the interim period until consultation is completed.

If you or your staff have any questions regarding this approval, please contact Kay Edly of my staff at (312) 886-7090 or edly.kay@epa.gov.

Sincerely,

Tera L. Fong
Division Director, Water Division

Enclosure

cc via email w/enclosure:

Martha Clark Mettler, IDEM
Daniel Sparks, USFWS
William Tucker, USFWS