



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

REPLY TO THE ATTENTION OF:

WW-16J

APR 15 2014

Brian Hall, Assistant Chief
Division of Surface Water
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

Dear Mr. Hall:

The U.S. Environmental Protection Agency has conducted a review of Ohio's draft 2014 Integrated Report (IR), on public notice from January 28, 2014 through February 28, 2014. We have also received Ohio's final IR, with a submittal letter dated March 31, 2014. In addition to the comments e-mailed to the Ohio EPA covering several Sections of the IR on March 25, 2014, we are writing to provide EPA's comments regarding the listing of the Western Basin of Lake Erie on Ohio's Section 303(d) list of impaired waters.

As in past cycles, Ohio has listed the Lake Erie shoreline areas as impaired for aquatic life use. Ohio has also, for the first time, listed the shoreline of the Western Basin as impaired for public drinking waters supply (PDWS) due to microcystin levels in drinking water intakes. While we commend Ohio for expanding its PDWS assessment to include microcystin, and support the additional listing, the data summarized in the IR and other readily available data and information indicate the open waters of the Western Basin beyond the defined shoreline area should also be listed as impaired for PDWS.

Ohio states that the impairment for the PDWS is located at Assessment Unit (AU) 24011 001, the Lake Erie Western Basin Shoreline. Ohio defines the shoreline as the area extending from the shoreline to 3 meters depth, as seen on the maps in Section I, Figure I5-1, and described on page I-30 of the IR. However, the data on which the impairment listing is based were collected at drinking water intakes for Oregon, Carroll Township, Toledo, and Marblehead (page H-13 of the 2014 IR), some of which are outside the shoreline assessment area. For example, the Toledo intake is located 10,700 feet from the shore at a point where the water depth is 15.2 feet, and the Oregon intake is 6,598 feet from shore at a point where the depth is 11.4 feet. Because these points are representative of offshore waters, the open water of the Western Basin should also be listed. Such a listing would be consistent with Ohio's PDWS assessment methodology, and is supported by data for microcystin collected at offshore water intakes.

Based on the above, we request that Ohio list the open waters of the Western Lake Erie Basin as impaired for PDWS, or explain why the waters should not be listed. In addition, please provide the raw data upon which Ohio based its Lake Erie Western Basin Shoreline PDWS listing.

In addition, we have the following comments regarding Ohio EPA's plans for future assessments of the Lake Erie Western Basin.

We understand that Ohio EPA proposes to expand its future assessments to include a total of ten AUs for Lake Erie. The proposed AUs are the shoreline, nearshore, and offshore for the Western, Sandusky and Central Basins, and the Islands shoreline. Further, it is our understanding that these AUs would be assessed for aquatic life, recreational and PDWS uses. Please clarify the State's plans for these additional assessments, including expected milestones and timeframes.

Section I, subsection I.5.2.3, of the 2014 IR discusses sources of data and the Ohio Credible Data Law 2003 (ORC 6111.50 to 6111.56). Ohio EPA states that when making attainment determinations it is limited to data certified as Level 3 data, and that the only currently available Level 3 data are from Ohio EPA ambient monitoring stations and from the Northeast Ohio Regional Sewer District. Ohio EPA expects that Level 3 data will be available from other sources in the future, including EPA data scheduled for collection in 2014 by the R/V Lake Guardian. EPA would like to coordinate with Ohio EPA to ensure that its upcoming monitoring provides the data to help Ohio EPA fully assess the ten AUs for Lake Erie and that the data are certified as Level 3 data for the 2016 integrated report and listing cycle.

We note that Ohio has not assessed Lake Erie with respect to the State's narrative criteria prohibiting, among other things, nuisance growths of algae. OAC 3745-01-04(E). Given the prevalence of HABs in the Western Basin, Ohio should develop a methodology for assessing for attainment of the narrative water quality criteria, in addition to other assessment methodologies Ohio has developed, or intends to develop. EPA's most recent Integrated Report Guidance¹ discusses several approaches for listing waters based on narrative nutrient criteria or direct evidence of failure to support designated uses. Ohio's methodology could be based on available sources of data and information such as:

- Visual information;
- NOAA satellite imaging data discussed in Section I of the 2014 IR;
- Phosphorus and chlorophyll-a data as discussed in Section I of the IR;
- Algal biomass, as discussed in the Ohio Lake Erie Phosphorus Task Force Final Report (2010) (Phase I); and
- Socio-economic indicators such as impacts on nearshore property values, regional tourism, beach recreation, recreational fishing, and commercial fishing, as discussed in the International Joint Commission 2014 Lake Erie Ecosystem Priority report.


Finally, in its future assessment of the new Lake Erie AUs, EPA requests that Ohio consider the impacts on recreational use related to HABs and nuisance algal growth, in addition to the impacts of bacteria it has traditionally considered.

¹ <http://water.epa.gov/lawsregs/lawguidance/cwa/tmdl/2014-memo.cfm>

In conclusion, the data summarized in Ohio's 2014 IR and other readily available data and information indicate that in addition to the Western Lake Erie Basin Shoreline, the open waters of the Western Basin beyond the defined shoreline area should be listed as impaired for PDWS. We therefore request that Ohio list the open waters of the Western Basin as impaired for PDWS, or explain why the waters should not be listed. We also request the raw data upon which Ohio based its Lake Erie Western Basin Shoreline PDWS listing. Lastly, we request clarification of the State's plans for assessment of additional Lake Erie AUs, including expected milestones and timeframes.

Once you have reviewed these comments, we would like to schedule a conference call to discuss any questions you may have or to provide further information. Please contact Jean Chruscicki at 312-353-1435 to schedule this discussion.

Sincerely,



Tinka G. Hyde
Director, Water Division