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Re: Environmental sector's recommendations for action steps in the Illinois Nutrient Reduction Strategy

Dear Marcia and Warren:

As members of the Illinois Nutrient Reduction Strategy Policy Working Group, we appreciate the opportunity to offer suggestions for action steps in the strategy document. According to IEPA's Statewide Nutrient Reduction Strategy website, "[t]he task of the Nutrient Reduction Strategy Policy Working Group will be to formulate the action steps for the strategy document, using the results of the science assessment, to craft a strategy (action plan) that is effective and implementable." Elements 6 and 7 of U.S. EPA's "Framework Memo" require states to adopt a number of accountability, verification, and reporting activities to "assure" that the development of a Statewide Nutrient Reduction Strategy is not just a paper exercise and that nutrient load reductions actually occur.

We offer the following action steps for the Group's consideration. We have broken down our recommendations by category (general, row crop agriculture, point sources, animal feeding operations, and urban stormwater) and included our priority recommendations. The University of Illinois Science Assessment shows that to meet the 45% statewide nutrient reduction goal, the greatest reductions are needed from row crop agriculture and sewage treatment plants, so the strategy should focus on these sources. However, there is also ample evidence that animal feeding operations and urban stormwater can be locally important contributors to nutrient impairment, so new actions should be taken to address these sources as well. We anticipate that the final results of the University of Illinois Science Assessment could be used to further target and prioritize action steps that will have the highest impact on reducing nutrient loading.

General

1. Adopt numeric total nitrogen criteria for lakes and streams and numeric total phosphorus criteria for streams, and properly implement the existing phosphorus criterion for lakes;
2. Create a Clean Water Fund to generate statewide revenue that funds nutrient pollution reduction initiatives;
3. Focus state and federal funding sources to meet nutrient goals in priority watersheds; and
4. Study the effectiveness of the action steps that are implemented.

Row Crop Agriculture

1. IEPA and IDA should promote legislation that results in broad adoption of priority practices identified by the Policy Working Group's agriculture subcommittee: riparian buffers, cover crops, split application of fertilizer, ephemeral gully erosion control, end-of-tile wetlands, conservation tillage, no fertilizer application on top of frozen ground or when soil phosphorus is above maintenance levels. There should also be regulation of fall application such that fertilizer cannot be applied when losses are likely (e.g., soil temperature >50F, fertilizer contains nitrate, fertilizer is unincorporated, the ground is frozen, ice-covered, or snow-covered);
2. IEPA should seek authority to regulate non-point source pollution so as to ensure that load allocations in TMDLs are met, and IDA and IEPA should provide greater assistance in the implementation of TMDLs (see December 2013 GAO report, "Clean Water Act – Changes Needed If Key EPA Program Is to Help Fulfill the Nation's Water Quality Goals");
3. IDA should develop and execute a plan to work with farmers to ensure fields do not continue to erode above the tolerable loss rate (as indicated by the state transect data); and
4. The agricultural associations should expand their nutrient education and monitoring programs statewide to achieve broad adoption of practices that keep nutrients for the crops and out of the water.

Point Sources

1. IEPA should include monthly average phosphorus effluent limits of 0.3 mg/L in NPDES permits for the 20 largest sewage treatment plants in the state, and 1.0 mg/L for all other majors;
2. In cases where biological nutrient removal technology is used to remove phosphorus, the IEPA should require a monthly average total nitrogen effluent limit of 8 mg/L;
3. IEPA should include water quality-based effluent limits in NPDES permits for total nitrogen and for phosphorus using the "offensive conditions," "unnatural sludge," and dissolved oxygen water quality standards;
4. IEPA should prioritize funding from the Water Pollution Control Loan Program for nutrient reduction projects; and
5. IEPA should support watershed group pollution cleanup plans that include studies determining the levels of phosphorus reductions needed to meet narrative and dissolved oxygen standards, interim phosphorus limits, and implementation plans designed to meet water quality standards over time.

Animal Feeding Operations

1. IEPA should undertake public outreach on the new livestock regulations (35 IAC 501 and 502) and ways to address/avoid the most common pollution problems from AFOs;
2. IEPA should initiate a rulemaking on 35 IAC 560 to create more stringent land application criteria for anyone applying livestock waste, more in keeping with the new technical standards proposed in 35 IAC 502;

3. IEPA should expand its inspection program in nutrient, dissolved oxygen, and pathogen-impaired watersheds to locate discharging CAFOs and determine compliance with land application regulations; and
4. IDA should seek amendment to the Livestock Management Facilities Act to gain authority to review and approve the waste management plans of facilities with more than 1000 animal units.

Urban Stormwater

1. IEPA should adopt rules and NPDES permit conditions that require more on-site infiltration of stormwater at new development sites and redeveloped sites (based on the Stormwater Performance Standards Recommendations document completed in 2013 by the Post-Development Stormwater Runoff Performance Standards Workgroup);
2. IEPA should promote enactment of a state law allowing all Illinois counties to develop stormwater ordinances and stormwater utilities;
3. IEPA should modify the MS4 NPDES general permit to require water quality monitoring at MS4 outfalls that discharge to receiving waters impaired by nutrients, and require actions to reduce nutrient loading should this monitoring demonstrate nutrients from the discharge are causing or contributing to the impairment;
4. IEPA should continue to administer the Illinois Green Infrastructure Grant program and support capital improvement planning that includes green infrastructure (we support IEPA's efforts to expand Water Pollution Control Loan Program eligibility to include green infrastructure projects); and
5. IEPA should dedicate staff to provide technical assistance to permittees seeking to implement low impact development and green infrastructure.

We look forward to discussing these policies and programs with you at future meetings of the Policy Working Group to identify the highest priority "action steps," accountability tools, and reporting metrics to include in the strategy document. We expect the strategy document will also contain an implementation section based on commitments made by your agencies and other Working Group members. Thank you for the inclusive nature of this process.

Sincerely,

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Cc: Tom Davenport, USEPA