



March 20, 2024

U.S. Environmental Protection Agency
EPA Docket Center, Water Docket
Mail Code 28221T
1200 Pennsylvania Avenue NW
Washington, DC 20460

Re: Docket ID No. EPA-HQ-OW-2023-0475

To Whom It May Concern:

The Pennsylvania Department of Environmental Protection (PADEP) appreciates this opportunity to review and comment on the United States Environmental Protection Agency's (EPA) proposed *Guidance for Future National Pollutant Discharge Elimination System (NPDES) Permits for Combined Sewer Systems*, as published in the *Federal Register* at 89 FR 12837 on February 20, 2024. PADEP has reviewed the draft guidance and is requesting clarification on the following:

1. On pages 5 and 6 the draft guidance states: *"In the instance where PCCM [post-construction compliance monitoring] documents that a community has achieved both the performance objectives to which they committed in their LTCP [long-term control plan] and that any remaining CSO [combined sewer overflow] discharges are not contributing to an exceedance of WQS [water quality standards], the permitting authority should ensure the next CSO permit accounts for these conditions. In this case, the permit should include monitoring, reporting, effluent limitations, and performance standards to ensure that CSO controls continue to meet:*
 - *The NMCs [nine minimum controls] and any other technology-based controls the permitting authority deems appropriate;*
 - *The design and performance criteria that are specific in the LTCP; and*
 - *All water quality-based effluent limits as necessary to continue meeting WQS."*

PADEP requests that EPA please explain what is meant by "water quality-based effluent limits" in this context. Does EPA expect that, after PCCM demonstration, CSO discharges should be treated similarly to a discharge from a publicly-owned treatment works (POTW)? Or does this phrase refer to narrative water quality-based limits or ongoing compliance with performance standards?

In addition, PADEP requests that EPA please explain how a permitting authority or CSO permittee would determine if remaining CSO discharges are or are not contributing to an exceedance of WQS. May a state establish its own criteria for how this determination is to be made (for example, setting criteria for the necessary number and locations of receiving

Secretary

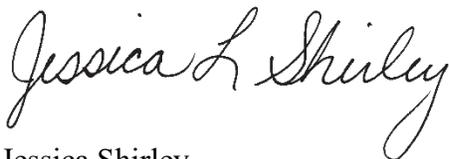
water samples) and whether reasonable potential to cause or contribute to an exceedance of WQS has been demonstrated, or are there federal criteria that must be met?

Additionally, PADEP requests that EPA please clarify why a community is required to achieve the *performance objectives* to which it has committed in its LTCP, but not to the *performance standards* as identified in the EPA's CSO Policy. A permittee may have higher *performance objectives* in its LTCP than it is required to achieve the *performance standards* (that is, WQS). This clarification is specifically requested for permittees who take the "Presumption" Approach.

2. PADEP agrees that it is important for LTCPs to consider increased precipitation as a result of climate change. PADEP continues to receive LTCP revisions; should these revisions include an adjustment due to climate change? Does EPA recommend that states develop their own expectations for an increased precipitation planning targets or design standards based on regional climate change projections?
3. On page 7, the guidance indicates that EPA's CSO Policy identifies three potential approaches when remaining CSO discharges contribute to a waterbody's inability to meet WQS: schedules of compliance, WQS variances, and designated use changes. Does the schedules of compliance approach include the ability to revise and implement an updated LTCP or extend a current LTCP beyond its projected end date?

Thank you for your consideration of these comments. If you have any questions about these comments, please contact Sean Furjanic, P.E., Manager of the NPDES Permitting Division in PADEP's Bureau of Clean Water, at sefurjanic@pa.gov or 717.787.2137.

Sincerely,



Jessica Shirley
Interim Acting Secretary