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To be sent by email to PCS@orsanco.org

Ohio River Valley Sanitation Commission

Comment on the Proposed Revision of ORSANCO Pollution Control Standards

Dear ORSANCO Commissioners,

I am writing on behalf of the Hoosier Environmental Council (HEC) to comment on the proposed revision of ORSANCO's Pollution Control Standards. HEC appreciates the opportunity to comment on this important decision.

Founded thirty-five years ago, the Hoosier Environmental Council (HEC) is the largest statewide environmental policy organization in Indiana. HEC aims to advance solutions that are good for the environment and good for the economy.

The Hoosier Environmental Council is adamantly opposed to the ORSANCO proposal referred to as 'Alternative 2' since it would eliminate the ORSANCO Pollution Control Standards (PCS) and significantly weaken protection of the Ohio River.

State programs and ORSANCO standards are not redundant

The proposal before you as ORSANCO commissioners would have ORSANCO eliminate its Pollution Control Standards for the Ohio River and allow state standards to protect the river. In their April 1, 2017, document *Alternative #2 Expanded: Clean Water Act Alternative to ORSANCO PCS Rules*, ORSANCO's Ad Hoc Committee on Water Quality Standards Implementation stated "By proceeding under this approach the Commission is confident that public will have the full and complete

protection of the federal Clean Water Act and the oversight of USEPA and the states without the redundancy of the current PCS program.”

I respectfully disagree with the argument that the PCS are redundant. The document *ORSANCO Staff Water Quality Criteria Compilation* of February 14, 2018, lists 188 instances in which there are ORSANCO standards that the member states don't have. Indiana is the worst of the states, with 50 parameters in ORSANCO standards that are missing in Indiana standards and 53 Indiana standards that are significantly weaker than ORSANCO's. Clearly, the ORSANCO PCS are not redundant.

Each of those missing or weaker standards represents a chemical that will be allowed in greater concentration in the Ohio River if the ORSANCO PCS are eliminated. Indeed, some of the proponents of the PCS elimination proposal appear to be arguing for greater leniency for chemical discharges to the river. The February 2018 comments submitted by Jupiter Aluminum Corp, Ohio Coating's Company, Wheeling Nisshin, Ohio Manufacturers Association, Arcelor Mittal, and Koppers Inc, all of which submitted identically worded comments to the initial public review of the PCS, state

“where there are differences between the ORSANCO PCS and state water quality criteria and implementation procedures, the PCS, which must be implemented by the States, sometimes result in NPDES permit conditions that are more stringent than otherwise required by the States standards - and with no demonstrable environmental benefit.”

They all concur that ORSANCO standards result in more stringent NPDES permits, which I would argue is greater protection of the river. Their statement that this has “no demonstrable environmental benefit” is refuted by the PCS writing process itself. Each of the ORSANCO standards was carefully written by ORSANCO scientists based on toxicology data over the last 70 years. Each standard was calculated to give the maximum amount of a chemical the Ohio River can tolerate and still be safe for aquatic life and for human health.

Lack of federal environmental protection

The Ad Hoc Committee's statement that in the absence of ORSANCO PCS, the public “will have the full and complete protection of the federal Clean Water Act and the oversight of USEPA” is inaccurate on several counts. First, it does not take into account the fact that the current administration in Washington is working aggressively to dismantle significant portions of the Clean Water Act and shrink the size of the USEPA.

Also, regardless of which party has been in control, historically the Clean Water Act has only provided partial protection for US streams and rivers. A report based on 2010 data from the USEPA's Toxics Release Inventory showed that there were more than 220 million pounds of toxic material discharged into American waterways that year, and the Ohio River received the largest portion (Environment America Research and Policy Center (2012). *Wasting our Waterways 2012*. <https://environmentamerica.org/reports/ame/wasting-our-waterways-2012>). Given this report

on toxic releases, the ORSANCO standards need to be stronger and better implemented, not eliminated.

The Clean Water Act is also less than fully protective because the states write their standards in the setting of political pressure from their own businesses not to be too stringent. This is where ORSANCO plays a pivotal role. Only uniform standards by this multi-state compact can ensure protection the Ohio River. The processes under the Clean Water Act and USEPA are not serving the river well enough.

Impact on Indiana

Indiana is almost at the end of the 981-mile Ohio River, so with weaker standards, other states will be sending their pollution downstream to us. In EPA records, there are at least 490 permits for releasing waste into the Ohio River before it reaches the eastern edge of Indiana, including from oil and chemical industries. Reducing the standards for those discharges will hurt Indiana's drinking water and our ability to fish, boat, swim, and get clean water for businesses.

Plans for a new Appalachian Storage Hub with petroleum refining, pipelines and storage facilities along the Ohio River in Pennsylvania, West Virginia, and Ohio have received big financial backing from China. If built, the Hub will be impacting the Ohio River before it gets to Indiana, so this is another reason this is not the time to weaken pollution standards.

(<https://www.appastorage.com/>)

Loss of the ORSANCO standards will also create a regulatory burden for Indiana. ORSANCO standards are cited in Indiana's Administrative Code for water discharge permits at 327 IAC 5-2-10. Their loss will leave a gap that will require Indiana to spend time and tax payer money to fix. There will be similar impacts in other states that rely on the ORSANCO PCS.

The decision to eliminate the ORSANCO PCS will have extensive and lasting impacts on the Ohio River states, both in water quality and in regulatory impacts. To date the ORSANCO commissioners have not adequately studied how loss of the standards will impact permitting, water quality and state regulations, issues that require serious in-depth consideration before such a drastic move is made.

ORSANCO should coordinate implementation of the Pollution Control Standards rather than eliminating them

One argument for eliminating ORSANCO's standards is that the Ohio River states vary in how they use them. That should lead to efforts to coordinate use of the standards, not wipe them out. Instead of eliminating the PCS, I urge you to work with the member states to create more uniform implementation of the ORSANCO PCS.

If ORSANCO fulfills its potential to not only write standards, but coordinate implementation of the standards, then it is positioned to provide consistency and predictability for NPDES permit holders on the river, rather than the patchwork of varying standards they get from the individual states.

I urge you to reject Alternative 2, and preserve the ORSANCO Pollution Control Standards. Thank you for your consideration of the points I have provided above.

Sincerely,

A handwritten signature in black ink, appearing to read 'I. N. Frank', written in a cursive style.

Indra N. Frank, MD, MPH
Director of Environmental Health and Water Policy