



INDIANA ASSOCIATION for FLOODPLAIN
and STORMWATER MANAGEMENT

LEGISLATIVE COMMITTEE CHAIR REPORT

September 17, 2018

Legislation:

The Water Infrastructure Task Force held its first meeting on September 12, 2018. This was the first of four (4) expected meetings with the remaining meetings to be held on September 26, October 10 and October 30, 2018. The first meeting was a review of existing studies which estimate the several billions of dollars required for maintenance and necessary upgrades to drinking water, wastewater and stormwater systems in Indiana. The general consensus of the committee seemed to be that the needs are longer questioned but how to pay for the required maintenance and upgrades will be a difficult issue to resolve.

Listening Session:

The Listening Session regarding issues brought forth during the debate on House Bill 1096 was held on Tuesday July 17, 2018 in Goshen. The session was attended by 45 people in addition to the moderator and the six (6) panel members. INAFSM is working with members of the homebuilding industry and IDEM to look for mutual areas to work on to improve communication, standardize forms and improve processes.

Indiana Construction General Permit:

Rulemaking for the Indiana CGP has not yet been initiated. IDEM must first complete rulemaking to allow the general permit to take the place of the current administrative rule.

Indiana MS4 General Permit:

The first Advisory Group meeting for the Indiana MS4 General Permit was held on August 28, 2018. Lori Gates represents INAFSM in this advisory group and provided the INAFSM comments on the first draft of the MS4 Permit to IDEM.

Waters of the United States:

On August 16, 2018, the U.S. District Court for the District of South Carolina issued an opinion finding that the EPA and USACE failed to comply with the Administrative Procedure Act when they issued the rule suspending for 2 years, the effective date of the Obama Administration WOTUS Rule. It therefore enjoined the delay rule nationwide. This decision effectively reinstates the Obama Administration WOTUS rule in 26 states, with the other 24 states subject to two other court decisions staying the Obama Administration WOTUS rule.

On June 15, 2018, EPA and USACE sent a proposal to redefine WOTUS to the White House Office of Information and Regulatory Affairs (OIRA) for review. The proposal, if ultimately promulgated, would replace the WOTUS Rule. The proposal has not been made public, and OIRA reviews typically take several months. It is widely expected that the replacement rule will define WOTUS more narrowly and in a manner that is consistent with Justice Scalia's plurality opinion in the landmark *Rapanos* case, as directed by President Trump in a February 2017 executive order.