



November 19, 2020

via email: [paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov)

Ms. Paula Wilson, Administrative Rules Coordinator  
Idaho Department of Environmental Quality  
1410 N. Hilton  
Boise, ID 83706

Subject: Docket No. 58-0102-1801 Update to Human Health Criteria for Arsenic-11/5/2020 Stakeholder Meeting

Dear Ms. Wilson:

The Idaho Rural Water Association (IRWA) is a 501(c)3 non-profit corporation originally formed in 1987 to provide training and technical assistance to public drinking water and public sewer utilities in Idaho that serve communities of less than 10,000 people. Due to the rural nature of our state, IRWA serves more than 90 percent of public drinking water and wastewater utilities in Idaho. Our Association is currently comprised of over 365 of Idaho's drinking water and wastewater utilities and is governed by a seven-member board of directors that volunteer their time. Directors are elected from IRWA's member utilities.

Our member utilities have the very important public responsibility of complying with all applicable state water and environmental regulations and supplying the public with safe drinking water and sanitation every second of every day. Rural and small communities want to ensure access to quality drinking water, provide wastewater treatment services, and protect their local environment. After all, local water supplies are operated by people who are locally-elected and whose families drink the water every day. By our very nature, we strive to take every possible action to protect consumers (ourselves), our water resources, and our natural environment.

We appreciate the opportunity to comment on behalf of our members for the Department of Environmental Quality's (DEQ) rulemaking for the "Revision of Idaho's Human Health Criteria for Arsenic," Docket No. 58-0102-1801.

Small and rural communities have more difficulty affording public water service due to lack of population density and lack of economies of scale. While they have fewer technical resources, this dynamic results in water service often costing a much higher cost per household in small communities.

Rural and small communities caution DEQ regarding the crafting of arsenic water quality standard (WQS) results in numerical criteria lower than the current federal drinking water standard of 10 parts per billion. This would result in adverse effects on public health by mandating that local communities and consumers pay the cost of compliance in a manner that does not result in a commensurate public health benefit. Such regulation would lead to a mandatory state policy that usurps local communities' preferred public health policy.

Additionally, we urge you to consider the unintended consequences of precipitously increasing the cost of compliance (i.e. sewer rates) of an overly stringent WQS on economically disadvantaged populations. A WQS for arsenic less than the federal drinking standard would likely require many small communities to spend public dollars for compliance to the degree that it would threaten low-income consumers' ability to pay for water service and other public health necessities. Numerous Idaho small communities have already experienced this type of regressive public health policy dynamic under the federal arsenic drinking water standard promulgated by the U.S. Environmental Protection Agency.

The potential adverse economic and public health effects are very concerning considering WQS standards currently under consideration. The resulting dynamic would force small communities to pay for compliance treatment to reduce arsenic levels in their wastewater effluent that is lower than the ambient and naturally occurring groundwater levels feeding their local surface waters.

Based on the likely adverse economic and public health effects of an overly stringent WQS and the fact that arsenic is a naturally occurring element in the State's waters, we urge the DEQ to finalize the rule that identifies a WQS standard utilizing narrative criteria versus a numeric criterion.

Under the federal Clean Water Act which is requiring the state to act, a WQS must include three elements: (1) one or more designated "uses" for each water body; (2) water quality "criteria" expressed in numeric or narrative form, specifying the amount of each pollutant that may be present in those waters while preserving the designated uses; and (3) an antidegradation policy with implementation procedures to protect the current quality of the waters and all their existing uses (40 CFR Part 131, Subpart B).

DEQ has options under the Clean Water Act (40 CFR 131.11(b)(1)) in promulgating WQS to reflect site-specific conditions including the option of adopting narrative criteria sufficient to protect the designated use. The regulation requires that "where a State adopts narrative criteria for toxic pollutants to protect designated uses, the State must provide information identifying the method by which the State intends to regulate point source discharges of toxic pollutants on water quality limited segments based on such narrative criteria." Also, DEQ is provided the option under the law to interpret their narrative standard in a variety of ways, including, but not limited to, the consideration of Health Advisory values and the interpretation of a narrative criterion on a case-by-case basis.

Small and rural communities urge the DEQ to adopt the narrative criteria approach to promulgating WQS to ensure the rule does not result in harm to the State's citizens by unnecessarily increasing water rates to comply with the final rule.

We appreciate the opportunity to comment and the numerous opportunities DEQ has provided for public and stakeholder input to the process.

Respectfully,

A handwritten signature in blue ink that reads "AJ Gray". The signature is written in a cursive, flowing style.

AJ Gray  
Legislative Director  
Idaho Rural Water Association