



Association of Idaho Cities
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June 23, 2020

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

Re: Docket No. 58-0102-2001, AIC Comments per June 11, 2020 Stakeholder Meeting and Discussion

Dear Ms. Wilson/Paula,

The Association of Idaho Cities (AIC) serves to advance the interests of the cities of Idaho through legislative advocacy, technical assistance, training, and research. Idaho cities play important roles as primary implementers of the Clean Water Act, representing over 70% of all Idaho residents. These stakeholders have a significant interest in the development of water quality standards, rules, and guidance related to the protection of human and aquatic life. AIC is actively engaged in water quality issues through the work of our Environment Committee, chaired by Boise City Council President Elaine Clegg and our Municipal Water Users Group.

The Idaho Department of Environmental Quality (DEQ) has initiated negotiated rulemaking to (1) revise water quality standards based on stakeholder comments and concerns regarding the implementation of the bacteria criteria, and (2) delete obsolete rule language. As stated previously regarding the removal of the obsolete language, AIC understands the purpose of these proposed rule changes and supports the recommendation by the DEQ.

AIC respectfully submits the attached supplemental comments for your review and kind consideration. Should you have questions concerning our recommendations and comments, please feel free to contact me.

Sincerely yours,

A handwritten signature in black ink, appearing to read "J. Bell".

Johanna M. Bell, PE
AIC Policy Analyst – Environment

Attachment

cc: Kelley Packer, AIC Executive Director
Tom Jenkins, AIC President
Elaine Clegg, AIC Environment Committee Chair
AIC Municipal Water Users
Idaho Board of Environmental Quality
AIC IPDES Task Force



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Overview

The management of bacteria for the protection of human health pertains, in general, to public swimming beaches and water bodies with enough flow and conditions where full immersion activities suggest that there is a high likelihood of incidental ingestion of “raw” water. These water bodies have ‘primary contact recreation’ use designations. All other water bodies are assumed to carry a reduced risk to human health and have ‘secondary contact recreation’ use designations. However, both primary and secondary recreation use designations must attain water quality criteria that limit indicator bacteria concentrations and would be equally impacted by the proposed updates to the Idaho recreational use criteria.

EPA staff present at the June 11, 2020 negotiated rulemaking stakeholder meeting made the following general observations:

- Contrary to the June 8, 2020 proposed IDAPA rule language that proposes that the geometric mean criterion supersede the ‘statistical threshold value’ (STV), EPA's current position is that the STV and the geometric mean are to be applied with "equal weight."
- EPA has approved criteria for other States that provide for averaging periods longer than 30-days for water body assessments in order for the State to have additional time to collect more data; and therefore, have more data to apply a 10% STV exceedance criteria. Note: EPA-approved 60-day and 90-day averaging periods were mentioned during the June 11, 2020 meeting.
- Risks to human health from high bacteria concentrations frequently increase during and immediately following a wet weather event, and then taper off.

Following the June 11th meeting IDEQ staff, Michelle Dale, provided the following clarifications in response to some of the questions asked during the meeting:

- DEQ is responsible for collecting E. coli samples and then reports high fecal concentrations to the local Idaho public health districts.
- The Idaho public health districts are responsible for issuing public health advisories and posting beach closures.¹
- However, one or more of the Idaho public health districts also conduct monthly bacteria sampling and issues advisories in response to high results; and the City

¹ See Idaho Title 39-416, <https://legislature.idaho.gov/statutesrules/idstat/Title39/T39CH4/SECT39-416/>, accessed 6/23/2020.

of Boise, and possibly other cities, sample city-owned ponds during the high-use swimming period (i.e., from April 1 to September 30).

Discussion:

AIC observes that bacteria concentrations are: (1) measured by concentrations of colonies that can fluctuate greatly over time and space, (2) typically increase following wet weather events or during situations of high turbidity, (3) are used by Idaho public health districts, and some cities, to issue public beach closures or swimming advisories during discrete events in order to protect human health, and (4) have associated recreational use criteria adopted by States that reflect 30-, 60-, or 90-day averaging periods.

With respect to EPA's position to apply "equal weight" for both the STV and the geomean criterion, AIC recalls that EPA staff have also submitted comments regarding how the question of 'data sufficiency' does not "does not meet the EPA's test for what constitutes a new or revised water quality standard," and therefore does not plan to take action on Idaho's data sufficiency requirements.²

The "equal weight" position by the EPA, in light of the high temporal and spatial variability in bacteria concentrations, coupled with Idaho's limited ambient monitoring for beneficial use support, create real challenges for Idaho's support determinations if the averaging periods are limited to 30-day averaging periods only.

Recommendation:

AIC suggests that the best path forward is for Idaho to adopt a "swimming standard" for recreation advisories and public beach closures by the Idaho health districts (i.e., utilizing a STV); and a "recreational use standard" for beneficial use support determinations that are based on a 90-day averaging period, coupled with minimum data requirements (i.e., 5 to 10 samples), so that the STV or geomean may be applied with "equal weight," while not impacting the accuracy of the Idaho beneficial use support determinations.

AIC recommends this approach in order to reduce confusion for the general public and reduce the risk of mis-applying "advisory" thresholds as "enforcement criteria." It also helps clarify to the public that a "fully supported use" designation does not mean that ingestion of raw water from a surface water body is not without ANY risk to safety or health – a fundamentally wrong assumption due to nonanthropogenic risks from water-borne disease and bacteria concentrations throughout Idaho.

² See <https://www.deq.idaho.gov/media/60184347/58-0102-2001-epa-comments-0520.pdf>, pg. 3; accessed on 6/23/2020.