



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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OFFICE OF
WATER AND
WATERSHEDS

October 4, 2018

Jason Pappani
Idaho Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706

RE: The EPA's Comments on Idaho's Proposed Rule – Revision of Recreational Use Criteria and New Aquatic Life Criteria for Acrolein, Carbaryl, and Diazinon, Docket No. 58-0102-1802

Dear Jason:

Thank you for the opportunity to provide comments to the Idaho Department of Environmental Quality on its proposed rule to update and revise Idaho's bacteria criteria and add new aquatic life criteria for acrolein, carbaryl and diazinon consistent with the EPA's national recommended Clean Water Act section 304(a) criteria. The EPA appreciates the DEQ's follow-up on the November 2017 Triennial Review of the Idaho Water Quality Standards and your efforts to be consistent with the regulations at 40 CFR 131.20, which clarify the requirements regarding adoption of new or revised criteria for which EPA has published CWA section 304(a) criteria recommendations. The DEQ identified the proposed criteria revisions as "High Priority" in the 2017 Triennial Review of the Idaho Water Quality Standards.¹

The EPA has reviewed the DEQ's proposed rule and offers the following comments for your consideration.

Primary Contact Recreation Activities

The proposed rule includes language clarifying that the designated use for primary contact recreation includes all activities associated with secondary contact recreation. The EPA understands this change provides clarity and consistency with the DEQ's long standing interpretation of PCR and SCR. In addition, the DEQ's interpretation of PCR and SCR activities is provided in the DEQ Water Body Assessment Guidance.² Section 3.2.2 of the document includes the following statement, "Waters used or suitable for PCR are also suitable for SCR activities such as fishing." The EPA supports the proposed revision to clarify activities associated with primary contact recreation.

IDAPA 58.01.08.100.02.a

Primary contact recreation (PCR): water quality appropriate for prolonged and intimate contact by humans or for recreational activities when the ingestion of small quantities of water is likely to occur. Such activities include, but are not restricted to, those used for swimming, water skiing, or skin diving. PCR includes all activities associated with secondary contact recreation (SCR).

¹ 2017 Triennial Review of Idaho Water Quality Standards. Idaho Department of Environmental Quality. November 2017. pp. 19.

² Water Body Assessment Guidance. 3rd Edition. Idaho Department of Environmental Quality. October 2016. pp. 118.

Enterococci Criteria

The proposed rule adds enterococci criteria consistent with the EPA’s 2012 national recommended CWA section 304(a) criteria. Enterococci are good predictors of gastrointestinal illnesses in marine and fresh recreational waters and the inclusion of these criteria improves public health protection. The proposed rule, like Idaho’s current rule, provides that the bacteria criteria are applicable to both primary and secondary contact recreation, which is consistent with the EPA’s national recommendations and guidance.

During the May 31, 2018 negotiated rulemaking meeting, the DEQ verbally noted the department’s intent to implement the *E. coli* and enterococci criteria as independently applicable. Further, the DEQ clarified its intent in IDAPA 58.01.08.251.02 by stating that data on either of the indicator criteria would be considered sufficient for determining compliance with the bacteria criteria. The DEQ stated in the proposed rule notice that allowing use of either indicator would provide dischargers with the option to request an alternative fecal indicator bacteria for monitoring compliance with water quality standards and support a transition period from *E. coli* criteria to enterococci criteria. Based on this reasoning, the EPA supports such a transition approach with two fecal indicators and the proposed rule revision.

IDAPA 58.01.08.251.02

Fecal Indicators. *Waters designated for recreation must meet criteria for indicator organisms of fecal contamination. Either of the following indicator criterion would be considered sufficient for determining compliance with the fecal indicator criteria:*

Geometric Mean and Statistical Threshold Value Criteria Implementation – Independently Applicable

At IDAPA 58.01.08.251.02.a.i and b.i, the DEQ added “or” to the proposed rule language. The EPA interprets the proposed rule language to mean that for each indicator there are two components: a geometric mean and a statistical threshold value, and that each are independently applicable. Please clarify if the DEQ has different intentions regarding this language.

Geometric Mean and STV Criteria Implementation – Time Period

At IDAPA 58.01.08.251.02.a.ii and b.ii, the DEQ’s revised criteria to protect recreation in fresh water specify:

a.ii. “Statistical Threshold Value (STV). No greater than ten percent (10%) of valid samples collected over a thirty (30) day period are to contain *E. coli* bacteria in concentrations exceeding an STV of four hundred and ten (410) *E. coli* CFU per one hundred (100) ml.; or”

b.ii. “Statistical Threshold Value (STV). No greater than ten percent (10%) of valid samples collected over a thirty (30) day period are to contain enterococci bacteria in concentrations exceeding an STV of one hundred and thirty (130) enterococci CFU per one hundred (100) ml.; or”

The EPA interprets the language in these proposed rule provisions to mean that the ten percent exceedance frequency of the STV applies to the same 30-day period as the geometric mean. Please clarify if the DEQ has different intentions regarding this language.

Sample Size and Geometric Mean

The language regarding the Geometric Mean Criterion for *E. coli* and enterococci (IDAPA 58.01.08.251.02.a.i and b.i) states, “*based on a minimum of five (5) samples taken every three (3) to seven (7) days over a thirty (30) day period.*” The EPA reiterates its previous recommendation, provided in our comment letter of June 5, 2018, that the DEQ not include data sufficiency clauses/statements addressing the sample number in its statement of criteria. Instead, the EPA recommends that Idaho include these statements in its assessment methodology for assessing compliance with the recreational criteria. If the language is retained in the DEQ’s water quality standards, then the EPA plans not to act on the language as it does not meet the EPA’s test for what constitutes a new or revised water quality standard.

Aquatic Life Criteria for Acrolein, Carbaryl and Diazinon

The proposed rule at IDAPA 58.01.02.210.01, Table of Numeric Criteria for Toxic Substances, includes the addition of acute and chronic aquatic life criteria for acrolein, carbaryl and diazinon. The criteria adopted by the DEQ for these pollutants are the same as the EPA’s national recommended CWA section 304(a) water quality criteria. The EPA is pleased that the DEQ has adopted acute and chronic aquatic life criteria for these pollutants and supports the DEQ’s proposed rule.

The EPA appreciates the DEQ's commitment to update Idaho's water quality standards and supports the DEQ's ongoing efforts to use all available and appropriate information in updating the water quality standards that provide important protection to aquatic life and public health. If you have any questions or would like to discuss these comments further, please contact Lisa Macchio at (206) 553-1834 or me at (208) 378-5771.

Sincerely,



Cyndi Grafe
Water Quality Standards Coordinator