



Association of Idaho Cities
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July 5, 2017

Paula Wilson
Idaho Department of Environmental Quality
1410 N Hilton
Boise, ID 83705

Re: Idaho Water Quality Standards, Triennial Review Comments

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 an important role as the primary implementers of the Clean Water Act and have a significant interest in the development of rules and guidance related to water quality standards. AIC is actively engaged in water quality issues through the work of our Environment Committee, chaired by Boise City Councilmember Elaine Clegg.

The Idaho Department of Environmental Quality (IDEQ) is implementing a triennial review process to identify priorities for water quality standards rulemaking and program development priorities for the next three years. With that in mind, AIC is submitting the attached comments.

AIC appreciates the opportunity to comment and looks forward to working with our State and other partners in the development of Idaho priorities that impact Idaho cities. Should you have questions concerning our attached comments, please feel free to contact me.

Sincerely,



Seth Grigg

Executive Director

cc: Elaine Clegg, AIC Environment Committee Chair
Johanna Bell, AIC Policy Analyst
Tom Dupuis, AIC Environmental Consultant



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AIC respectfully provides the following comments on the Idaho triennial review priorities:

1. Modified Aquatic Life Uses

Issue:

Idaho water quality standards include a number of presumed uses that are applied as default uses and modified, manmade, and cool and warm water uses that have not been used. <http://www.deq.idaho.gov/media/60179851/triennial-review-modified-aquatic-life-use-undesigned-waters-paper-1.pdf>. IDEQ proposes to refine uses (e.g. modified, manmade, CWAL, cool water...) using existing subcategories in state water quality standards. Subcategories of beneficial use(s) are allowed and require a UAA. IDEQ intends to use existing biological and other GIS data to refine the CWAL and manmade uses first and then move onto other categories of use later (cool/warm/red bands ...).

Comment:

AIC supports the sub-categorization of uses as a high priority – year 1.

2. Salmonid Spawning Use

Issue:

IDEQ considers salmonid spawning a seasonal sub-category of beneficial use with more stringent temperature criteria <http://www.deq.idaho.gov/media/60179849/triennial-review-salmonid-spawning-paper-2.pdf>. IDEQ intends to use new GIS, T, and occurrence data to refine the Salmonid Spawning sub-category of using (Miller, 2014).

Comment:

AIC supports this effort as a medium priority - year 2 or 3.

3. Recreational Water Quality Criteria

Issue:

Current E. coli recreational criteria are 126 geomean with three additional sampling thresholds. <http://www.deq.idaho.gov/media/60179849/triennial-review-contact-recreation-paper-3.pdf>. EPA proposed the same geomean and a beach closure criterion (235 E. coli) in 2012. IDEQ seeks public input on updating from the 2000 to the 2012 criterion.

Comment:

AIC supports updating of the criterion; however, only as a low priority; no year assignment. AIC observes that Idaho does not have ocean beaches. Further, EPA is working on a

significant update of the human health and recreational bacteria criteria (Colophage effort) and that a draft proposed rule may be available in 2017 or 2018.

<https://www.epa.gov/wqc/microbial-pathogenrecreational-water-quality-criteria>

4. Six Toxic WQ Criterion

Issue:

Idaho does not have criterion for three 304(a) recommended water quality criterion (Acrolein, Carbaryl, Diazinon) and three updated 304(a) updated criteria (Ammonia, Selenium, Cadmium). <http://www.deq.idaho.gov/media/60179850/triennial-review-aquatic-life-criteria-toxic-substances-paper-4.pdf> EPA revised the Cadmium criteria recommendation in 2016 and it is less stringent than the current Idaho Cadmium standard. Idaho statutes require stringency of equal to but no more stringent than EPA recommended criterion.

Comment:

AIC supports of adoption of criterion and proposed data collection and implementation approach for ammonia. Ammonia: high priority - year 1; cadmium and other metals: medium priority - year 2 or 3. The science has advanced and Idaho has the opportunity to update methods that define appropriate criteria for aquatic life protection (e.g., biotic ligand model).

5. Cold Water Aquatic Life Short Term Turbidity Exceedance Language

Issue:

IDEQ is proposing short term sediment exceedance language for Cold Water Aquatic Life similar to language used by Wyoming.

<http://www.deq.idaho.gov/media/60179850/triennial-review-turbidity-paper-5.pdf>

Comment:

AIC supports the proposed short-term exceedance language as a medium priority - year 2 or 3.

6. Alaska Rule

Issue:

The Alaska Rule decision clarifies that state water quality standards are not applicable until approved by EPA. <http://www.deq.idaho.gov/media/60179848/triennial-review-alaska-rule-paper-6.pdf> IDEQ has submitted and EPA has approved, partially approved, or has not approved proposed water quality standards. IDEQ proposes to clarify the applicable criterion and water quality standards for Idaho. EPA is required to act within specific time frames under the Clean Water Act and regulations. The obligation to comply already exists. Further, federal law supersedes state law.

Comment:

AIC supports the development of a clarification of the applicable water quality standards in Idaho. However, the issue here is a procedural issue that EPA has an obligation to fulfill. AIC suggests that this issue be addressed in the existing Idaho/EPA Performance Partnership Agreement.

7. Other: Arsenic Settlement Agreement

Issue:

EPA and Northwest Environmental Advocates (NWEA) entered a settlement agreement on Idaho arsenic water quality standards on May 19, 2016. The agreement requires EPA to:

- review and issue permits in Idaho using Idaho's approved designated uses and EPA's current recommended Arsenic criteria (6.2 ug/l for consumption of fish only and 0.02 ug/l for consumption of fish and water)
- include water quality based numeric permit limitations for Arsenic where needed
- require additional monitoring where detectable concentrations of Arsenic are greater than 0.5 ug/l using sufficiently sensitive analytical methods, and
- for permittees that cannot meet permit limits, the permit will include a compliance schedule and where appropriate, a treatability study

Comment:

AIC supports a statewide approach for the new arsenic criteria and implementation measures for Idaho NPDES and IPDES permits as a high priority – year 1.