



April 10, 2013

Paula Wilson
IDEQ State Office
Attorney General's Office
1410 N. Hilton
Boise, ID 83706

Clearwater Paper Corporation
601 West Riverside, Suite 1100
Spokane, WA 99201

**RE: Docket No. 58-0102-1201 - Negotiated Rulemaking
Idaho's Fish Consumption Rate and Water Quality Criteria**

Dear Ms. Wilson:

Clearwater Paper is pleased to offer this comment letter on the subject rulemaking. We appreciate the Idaho Department of Environmental Quality's (IDEQ) work on these very important matters and look forward to participating as this rulemaking proceeds.

Basis for Update of Acrolein, Phenol, and Copper Water Quality Criteria

The posted documents associated with updating the above criteria do not appear to be a complete regulatory record.

The presentation appears to be truncated prior to any conclusions or discussion of a path forward.

Information regarding how IDEQ plans to proceed in light of the information in the posted slides would be welcome.

Relative to acrolein, there are several chemical-specific factors that suggest a more detailed evaluation may be warranted for this chemical so that the water quality criteria accurately reflects available information and potential risk. Although some information suggests that acrolein is not well metabolized by fish, available data indicates it does not bioaccumulate in fish. Based on its high water solubility, low octanol-water partition coefficient, and high reactivity, uptake of acrolein into fish tissue is expected to be low. As a highly reactive chemical, acrolein may not even be present in the edible tissues of fish.

The incorporation of a 20% relative source contribution (RSC) assumes not only that 80% of an individual's exposures are incurred from other, non-fish and non-water sources, but also that these other exposures constitute a significant fraction of the reference dose for a given chemical. It is unlikely for this particular collection of chemicals that background sources contribute a significant fraction of the RfD, and therefore chemical-specific RSC values should be considered and the best available science used for derivation of the water quality criteria. A blanket assumption of a 20% relative source contribution is highly likely to result in overly conservative water quality criteria and lead to compounding conservatism in setting water quality criteria, 303(d) lists, TMDL's and ultimately

point-source allocations. Setting appropriate and science based water quality criteria is the cornerstone of effective and prudent public policy and sets the path forward for reasonable allocation of public sector resources.

Rather than use EPA default values, we respectfully urge Idaho DEQ to adopt science based assumptions that are appropriate for the unique circumstances in Idaho and are balanced relative to the compounding conservatism inherent in setting water quality criteria. Idaho resources should be allocated to solve actual, current, risk and science-based issues in Idaho and not set the table for future issues without a clear basis in real-world exposures and risk.

Fish Consumption Survey Design and Water Quality Criteria Development

Clearwater Paper is pleased to see the presentation information from Mr. Lon Kissinger. Certainly, considerable high-level thinking has occurred in EPA Region 10 with regard to fish consumption rates.

In reviewing his presentation, we do have a couple of comments.

We support the use of probabilistic approaches for evaluating fish consumption (using population distributions rather than point estimates consumption), and agree that such approaches can form a strong technical basis for the derivation of water quality criteria.

The NCI method presented in slide 14 (and as published by Pollisar et al), provides an example of how a fish consumption dataset can be analyzed to provide data that can be used in a probabilistic approach to deriving water quality criteria. This approach could be used to evaluate fish consumption data that are developed for populations in Idaho.

Slide 12 of this presentation states that “Including non-consumers decreases the estimates of average and FCR percentiles relative to “true” values.” This, however, is not accurate in the context of how “non-consumers” are defined: as individuals who did not consume fish on the interview day(s). People who did eat fish, however rarely, should be included in the fish consumption estimate even if they did not eat fish on the interview days. A fish consumption rate used to set water quality criteria should represent long-term daily fish consumption within the population. As described in the final bullet on this slide, EPA’s presentation is correct in stating that using consumer-only data (i.e., only for people reporting intake on the survey days) results in a data set that “increases estimated FCR relative to true values” (i.e., provides a high bias), and the resulting data defines a distribution of portion sizes, rather than consumption rates. These factors are important considerations for the design of any fish consumption studies performed in Idaho.

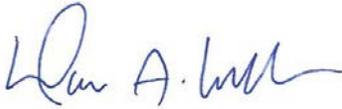
To the extent possible, a fish consumption survey should also evaluate usual intake for total diet and not be limited only to fish. This will provide data to validate fish intake estimates within the context of the total diet to meet energy needs and be a real-world backstop in estimating realistic exposures from realistic dietary assumptions.

We support the use of best available science in setting water quality criteria. As noted in our previous comment letters, we believe the use of a probabilistic approach based on using real-world distributions of the parameters used to set the criteria (distributions of body weight, drinking water intake, fish consumption rate, etc.) is a perfect example of evolved science-based rule making. This approach is well supported in the scientific and regulatory community. There are also many examples where EPA and other state agencies have used probabilistic approaches in setting air, water and cleanup criteria that are protective of public health. We urge IDEQ to put the building blocks in place to use these tools in the subject rule making.

On behalf of Clearwater Paper, we appreciate the opportunity to provide comments on these important matters and look forward to participating with IDEQ as this rulemaking goes forward.

Please contact me at 509-344-5956 or marv.lewallen@clearwaterpaper.com with questions.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Marv A. Lewallen". The signature is fluid and cursive, with the first name "Marv" being the most prominent.

Marv Lewallen
Vice President – Environmental, Energy & Sustainability

C: Don Essig