

## Mixing Zone Policy Rulemaking Summary of Comments Received

Docket 58-0102-1401, Preliminary Draft Rule (Draft No. 1), May 22, 2014 comment deadline

This summary lists the comments received that were specific to subsections 01(b), 01(e), 01(f), and 1(h).

### Commenters –

**NOAA** - National Oceanic and Atmospheric Administration, National Marine Fisheries Service

**CP** - Clearwater Paper

**FWS** - U.S. Fish and Wildlife Service

**ICL** - Idaho Conservation League

**EPA** - U.S. EPA Region 10

**IMA** - Idaho Mining Association

**IACI** - Idaho Association of Commerce and Industry

**Simplot** - J.R. Simplot Company

**Chris Mebane** – Private Citizen

### Section 060.01(b)

**EPA** – clarifying language suggested regarding the exceedance of chronic, acute and all water criteria. DEQ concurred with the suggestion. See proposed draft 2

**ICL** – Similar concern as EPA. See changes to proposed language. Also, commented on lack of sizing of the ZID. The ZID is dependent on the conditions associated with the mixing zone and therefore vary depending on pollutant, effluent flow, stream flow, and pollutant concentration. The ZID is modelled for those instances when needed.

### Section 060.01(e)

**EPA** – approves of the clarification suggested at the last rulemaking meeting

**ICL** – points to some confusion whether this applies to all of a single facility's points of discharge to a single receiving water or to all the facility's points of discharge. DEQ believes the new language clarifies this.

**IMA** – suggested language to clarify the points regarding multiple discharge points for a single activity. DEQ believes the suggested language is clearer and therefore adopted that language into the proposed rule. However, as DEQ also accepted the proposed switching of section (e) and (f) as per EPA's comment, this language is now 060.01(f).

### Section 060.01(f)

**EPA** – recommends swapping the order of (e) and (f). DEQ concurred.

### Section 060.01(h)

**EPA** – commented on need for more clarity concerning the demonstration a discharger should make to obtain a mixing zone authorization that varies from the size restrictions. DEQ has addressed this in (i).

**NOAA & FWS** – commented that 060.01(h) needs to address variations both larger and smaller from the 25% identified as a size restriction in this section. DEQ has addressed this in (i).

### Section 060.01(h)(i)

**EPA** – recommends that the cumulative effect of mixing zones be addressed. DEQ believes this is accomplished in 060.01(g)

**NOAA & FWS** – commented that there may be difficulty in approval of the rule from a consultation standpoint if DEQ does not provide performance standards that are protective of listed species. DEQ

believes that the language in the full rule text provides these performance standards and that in conjunction with the guidance document will allow for all questions regarding protection of listed species to be answered.

### **Section 060.01(h)(ii)**

**EPA** – recommends DEQ clarify the purpose of this provision. DEQ believe this is accomplished in the new 060.01(j)

**NOAA & FWS** – commented that it may not always be preferable to have mixing zones located away from the edge of the stream. DEQ believes this is addressed with the new section 060.01(j) design considerations.

### **Section 060.01(h)(iii)**

**EPA** – recommends using “low flow design discharge conditions” instead of “critical volume of the stream flow”. DEQ made the recommended change.

### **Other Comments:**

Most commenters focused on language associated with section 060.01(d) on unreasonable interferences. These comments will be saved for the next round of comment as well as used to help focus the discussion on unreasonable interference for the June 12<sup>th</sup> meeting.