



Environment

IDAHO COUNCIL ON INDUSTRY AND THE ENVIRONMENT

June 25, 2014

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

Dear Paula:

The Idaho Council on Industry & Environment and its Environment/Regulatory Affairs Committee are submitting the following comments on Discussion Paper #4: Idaho Fish Consumption Rate and Human Health Water Quality Criteria.

The Idaho Council on Industry and Environment (ICIE) is a non-profit, non-partisan group, established in 1989, whose mission is to facilitate the use of sound science and facts in shaping public policy on environmental issues. ICIE's membership includes individuals, families, associations, business and industry from small to large.

The purpose of this rulemaking is to determine safe levels of human toxics allowed in Idaho waters. An EPA based fish consumption methodology is used. Theoretically, the amount of fish captured and consumed from Idaho waters will ultimately determine the level of toxics allowed in Idaho waters. Yet, Discussion Paper #4 argues that including market fish in a fish consumption survey will better ensure Idaho waters are protective. The scientific basis for such a conclusion is not clear and ICIE concludes either Idaho's methodology is incapable of setting an appropriate level of protection or there is a deliberate attempt to bias the outcome.

In 2011, 91% of the seafood consumed in the United States was imported from other countries and other waters, particularly from marine waters. At least half of this amount came from aquaculture. In fact, two-thirds of the salmon we eat is farmed in marine waters while the other one-third is wild caught, in the ocean. Almost all of the farmed salmon consumed in the US comes from off-shore (international) sites not subject to Idaho water quality standards. Much of the seafood consumed in the US is not wild captured but rather farmed where diet is controlled by international feed companies. The manufactured feed must provide diets that meet international standards of purity and safety (Codex Alimentarius). Fish farmed in the US must meet US FDA food safety requirements. IDEQ has not presented any evidence that internationally harvested or farmed seafood currently contain or could contain any of the contaminants at issue in this rulemaking. IDEQ does not provide evidence that Idaho water quality criteria would somehow impact these internationally captured or farmed seafood.

ICIE does not dispute that including market fish in the fish consumption survey will lead to lower human toxic criteria than might otherwise occur. However, it is an artificial criteria not based on sound science. The result is water quality criteria that mislead the public because it cannot be scientifically justified, and burdens cities and industry with expensive or unattainable standards of treatment. Ultimately, the public loses trust in its Department of Environmental Quality because state fish consumption advisories do not diminish.

The ICIE supports the use of sound science in the development of Idaho policy. An inherent element of sound science is sound logic. The argument presented in Discussion paper #4 lacks both. EPA does not take into consideration marine fish consumption which is a significant percentage of market fish in setting their national recommended criteria for states to rely upon in establishing human health criteria. Therefore consideration of market fish in setting Idaho human health criteria likely runs afoul of the Idaho Legislature's mandate to IDEQ that the agency cannot adopt criteria that are more stringent than EPA requirement (Idaho Code Section 107D). Idaho law mandates (same section, Idaho Code Section 107D) that IDEQ only adopt standards based on the best available science and sound scientific methods. It would seem that Idaho's reliance on market fish in their fish consumption survey is not the best available science or based on sound scientific practices and therefore is not in accordance with Idaho Code Section 107D.

Idaho's water quality criteria will not have any impact on the contaminants that may exist in fish that spend time in other water bodies with other contaminants. Stringent water quality in Idaho waters will not improve the safety of fish that spend most of their lives in water bodies outside of Idaho jurisdiction.

ICIE recommends IDEQ provide a sound scientific basis for their rule making. Discussion Paper #4 should be revised to better document their standard setting methodology and justifies inclusion of market fish in the fish consumption survey.

Sincerely,

A handwritten signature in black ink, appearing to read 'Norm Semanko', with a stylized 'N' and 'S' connected by a horizontal line.

Norm Semanko
Chairman
Environment/Regulatory Affairs Committee
Idaho Council on Industry & Environment