

Paula Wilson

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Sent: Thursday, May 13, 2010 9:35 AM
To: Paula Wilson
Cc: Michael Fuss; Greg Pearce; Andy Tiller; Andy Zimmerman; ROBBIN FINCH; Sheri Murray; Lenard Grady; lynnmoser@qwestoffice.net
Subject: comments on Anti-degradation rule draft No. 2

Hi Paula,

Thank you for coordinating the review comments on the anti-degradation rule. I have a few comments/questions for DEQ to consider during the negotiations:

1. Question: the policy statement 051.02 states that ". . . reasonable best management practices for nonpoint source control." However, I could not find any statement further in the document about non-point sources. I understand that non-point sources are not to be regulated but the policy statement indicates that they are to be reviewed. Should this statement be removed from the policy?
2. Policy statement 051.03. Based on the comments in the May 12 meeting, I suggest that the words "such as waters of national and state parks and wildlife refuges and waters of exceptional recreational or ecological significance" be removed from the policy statement and moved to subparagraph j on Tier III waters.
3. Policy statement 051.02 (8th line). How will DEQ "assure" that these requirements shall be achieved? Wouldn't it better to rewrite this sentence to read "Further, the highest statutory and regulatory requirements for all new and existing point sources . . . shall be achieved."?
4. Paragraph 06.d. "Evaluation of effect of discharge on water quality". In the introductory paragraph: Some point sources report additional constituents that are not required by the DMR. Will these additional constituents be reviewed as part of the three years of data?
5. Paragraph 06.d. "Evaluation of effect of discharge on water quality". In subparagraph II on discharge quality.
 1. I would like to see this moved to the guidance document so that variations can be more easily done to fit particular conditions.
 2. My main concern is the wording on comparing future to current. Most municipal POTW's produce BOD, TSS, and ammonia concentrations at much lower than the permit limits. If the future discharge is based on future permit and compared to current operational conditions, then there will almost always be significant impacts on the receiving stream. Whereas the future operational conditions may be much less than the permit, the potential impacts could be overestimated which could cause either permit rejection or overly expensive construction.
- 6.. Paragraph 06.d. "Evaluation of effect of discharge on water quality". In subparagraph iv Offsets. In the third line, it states that these offsets must be "upstream". I understand but can the statement be changed to "preferred to be upstream"? Under the current wording, the ability to use a wetlands downstream of a point source to clean up more than the point sources issues is not feasible. Also, at some point sources, it may be much easier to locate and purchase land downstream than upstream.
7. Tier II Analysis. In iii, what is the definition of "major municipal discharge"? Is it 1 mgd or

05/13/2010

10,000 people (which would limit this to only about 15 of the over 100 POTW's in the state) or is it based on the contribution to the receiving stream? This term needs to be defined somewhere to minimize protests.

Also, if a major municipal discharge is only experiencing a small growth and it discharges into a major river (like directly to the Snake River), why should it have to do an entire study (the paragraph says the "in no case will the department determine insignificance").

8. Tier II analysis: in subparagraph 4.b, there is a statement about "... across media". What media are being considered (newspaper vs radio)? Is this a comparison of discharging to water versus air or land? I could not understand what to study.

9. Tier III discussion: In subparagraph i on nominations, If this is about nominations, why is subparagraph 5 on discussion of nonpoint sources included? It seems that the nominations section should be about nominating a stream. Then the subparagraph 5 would be for some potential pollutant.

10. SRWs: In subparagraph iii, the introductory paragraph discusses point source discharges to SRW's and their tributaries. The Snake River at various locations including Oxbow reservoir is a SRW. As such, the entire lower half of Idaho is tributary to a SRW. Is the intent of DEQ that a point source that discharges to a stream that is 20 or 30 stream segments removed from the SRW still be required to meet the requirements of the SRW? Many of the point sources discharge to receiving waters that are reused on agricultural lands so that little to none of the point sources water ever reaches the SRW but could still be required to meet overly stringent requirements.

11. Proposed new definitions: The total phosphorus measurable limit is very stringent. I am very concerned that it could be overly expensive for a point source to meet. I understand that it is the threshold for further study but I see where it could be a sticky issue under a couple scenarios:

A. A point source is participating in an approved trade with another source. Currently, the point source is discharging over 2 mg/l into a stream that is around 0.1 mg/l. The point source installs phosphorus removal to get to 0.3 mg/l phosphorus. The receiving stream after mixing is impacted more than the listed 2 micrograms/liter. But at another location, more phosphorus is removed in a trade. The point source has to do a study to show that there are no impacts in the "near field" stream but the only impacts are in a "far field" reservoir. This puts an unneeded expense on the point source to do a study or to do additional treatment.

B. A point source discharges at its permitted limit (say, 0.07 mg/l) but the receiving stream is at 0.05 mg/l. After mixing, the downstream concentration exceeds the 2 microgram increase so will the point source have to treat even lower concentrations to keep below the 2 microgram increase?

Phosphorus is not a toxin and is mainly a problem in reservoirs. However, the wording of this section could cause some unnecessary work and costs.

Thanks again for the opportunity to comment on this draft.

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