



Association of Idaho Cities
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July 16, 2018

Ms. Paula Wilson, Administrative Rules Coordinator
Idaho Department of Environmental Quality
1410 N Hilton
Boise, ID 83706

Re: Docket No. 58-0102-1802 Revision of Recreational Use and Criteria; Adoption of Aquatic Life Criteria for Three Toxics per the 6/29/18 Stakeholder Meeting

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 important roles as primary implementers of the Clean Water Act, representing over 70% of all Idaho residents. These stakeholders have a significant interest in the development of water quality standards, rules, and guidance related to the protection of human and aquatic life. AIC is actively engaged in water quality issues through the work of our Environment Committee, chaired by Boise City Council President Pro Tem Elaine Clegg and our Municipal Water Users Group, chaired by Jerome City Council President Bob Culver.

The Idaho Department of Environmental Quality (DEQ) is proposing to revise recreational uses and criteria; and adopt aquatic life criteria for three toxics: acrolein, carbaryl, and diazinon. While our member cities take the protection of public health seriously, we also recognize the value of valid assessment data prior to potentially disruptive responses such as swimming beach closures. With this in mind, AIC urges the DEQ to ensure rapid bacteria testing equipment is available at each DEQ Regional Office so that DEQ staff can quickly respond to perceived or real public health risks within our communities. We also are concerned about 303(d) impairment listings that are based on overly conservative interpretations of US EPA's 2012 recommended federal criteria that were developed for beaches and subsequently recommended for all primary contact recreation waters.

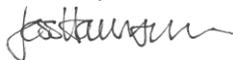
Additional comments:

- We are revising our previous comment submitted regarding how "either E. coli or enterococci" data are used to demonstrate protection of recreational use. AIC **supports** the use of either enterococci **or** E. coli data to assess potential risk to public health due to bacterial contamination in waters where people swim and play, and withdraws our comments regarding whether one might provide a more accurate assessment of risk. AIC anticipates improvements in public health risk assessment tools in the future and looks forward to working with the DEQ as the technology develops to accurately and quickly detect better indicators of harmful pathogens.

- AIC **does not agree** that there “appears to be no value in maintaining a distinction between primary and secondary contact recreation”¹ simply because the current geometric mean criteria are the same. Instead, AIC urges the DEQ to recognize that the risks to public health are significantly reduced when swimming is not physically possible within certain water bodies due to either a lack of water depth or other factors. These differences in risk are reflected by the current approach in Idaho to apply a higher “single sample maximum” value to secondary contact recreation. The adoption of the proposed approach will cause an increase in monitoring and impairment listings of water bodies that have a low-exposure risk without a corresponding increase to public health protection. Therefore, AIC **opposes** the collapse of primary and secondary contact recreation use designations into a single primary contact recreation use.
- AIC **supports** the adoption of a “statistical threshold value” (STV) for use; but only supports the application of the proposed STV when ample data is available to assess whether 25% of the samples collected exceed the proposed value over any 90-day period with valid samples.² AIC urges the DEQ to promulgate the new criteria based on a 25% exceedance over a 90-day period based on our understanding that the EPA is no longer objecting to longer averaging periods.
- AIC **opposes** application of the STV where only 1 sample is available for any purpose other than swimming advisories at designated beaches. Those tasked with assessing risks to public health due to bacterial contamination of swimming waters understand that the bacteria generating sources and conveyance patterns create intermittent and fragmented concentrations. AIC urges the DEQ to take the uncertainty associated with the result from a single sample into account during this rulemaking proceeding. Instead, AIC **supports** retention of the current rule that provides for additional sample collection prior to the DEQ making a final recreation use support determination.
- AIC **opposes** the DEQ’s proposal to use the STV as the basis of water quality based effluent limits (WQBEL) and for total maximum daily load (TMDL) targets for non-continuous or episodic discharges. Non-continuous or episodic discharges can occur at any time; however, when these occur during high runoff and wet weather events we urge to Department to apply common sense and acknowledge that recreational uses do not generally occur at these times. Instead, we suggest the development of appropriate “wet weather” criteria for the protection of human and aquatic health during extreme events.

AIC appreciates the opportunity to comment on the revision of recreational use designations and criteria and looks forward to working with our state and other partners in these efforts. Should you have questions concerning our attached comments, please feel free to contact me.

Sincerely,



Jess Harrison, Executive Director

cc: Elaine Clegg, AIC Environment Committee Chair
 Bob Culver, AIC Municipal Water Users Group Chair
 Johanna Bell, AIC Policy Analyst
 Tom Dupuis, AIC Environmental Consultant

¹ DEQ, 2018: <http://www.deq.idaho.gov/laws-rules-etc/deq-rulemakings/docket-no-58-0102-1802/>, accessed 7/10/2018.

² In the development of the 2012 Guidance EPA proposed the 25% STV exceedance & the 90-day averaging period in light of the case studies and data collection results. It was only during the final month of the 2012 Guidance development that the EPA adopted an unsupported policy position of a 10% STV exceedance frequency over any 30-day period. Personal communication by Adrienne Nemura, Senior Principal, Geosyntec Consultants.