



CORPORATE HEADQUARTERS

October 11, 2012

SENT VIA EMAIL TO: paula.wilson@deg.idaho.gov
ORIGINAL SENT VIA CERTIFIED MAIL #7009 0080 0001 0391 3777
RETURN RECEIPT REQUESTED

Ms. Paula Wilson
Idaho Department of Environmental Quality
1410 North Hilton
Boise, ID 83706

Dear Ms. Wilson:

The Department, at the October 4, 2012 rulemaking meeting on Fish Consumption Rates (FCR), asked for general comments in regards to this rulemaking. The J.R. Simplot Company offers the following comments for the Department's consideration.

FCR Surveys

Establishing the best data regarding Idaho specific fish consumption rates will be very helpful for this rulemaking. As the Department discussed during the October 4 meeting, there have been numerous studies determining FCR. Most of these studies are focused just on subpopulations (Native Americans), involve the consumption of marine and/or anadromous fish or lack information that would be helpful to determining fish consumption rates for Idaho residents. For example, the Columbia River Inter-Tribal Fish Commission 1994 report does not provide Idaho specific consumption information.

Idaho statute has requirements regarding rulemaking and standards necessary to protect public health.¹

2) To the degree that a department action is based on science, in proposing any rule or portions of any rule subject to this section, the department shall utilize:

- (a) The best available peer reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and
- (b) Data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justify use of the data.

¹ Idaho Code. Title 39-107D.(2) and (3).

(3) Any proposed rule subject to this section which proposes a standard necessary to protect human health and the environment shall also include in the rulemaking record requirements under chapter 52, title 67, Idaho Code, the following additional information:

- (a) Identification of each population or receptor addressed by an estimate of public health effects or environmental effects; and
- (b) Identification of the expected risk or central estimate of risk for the specific population or receptor; and
- (c) Identification of each appropriate upper bound or lower bound estimate of risk; and
- (d) Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty; and
- (e) Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data.

Conducting an Idaho specific fish consumption study would help provide the information to meet the requirements in the statute.

The new study needs to include data that will be helpful in addressing risk-related information needs, such as:

- Data that enables the extrapolation of long-term fish consumption rates.
- The source of fish (caught, store, etc.) and the location of any caught fish.
- The type of fish, including whether the fish are anadromous or solely fresh-water.
- Fish preparation method.
- Part(s) of the fish that are consumed.
- Identification and consumption rates for high-consuming sub-populations and for the public in general (non-high consumption).

Risk

During this rulemaking there are policy aspects to be considered:

- How to determine the appropriate exposure factors used to derive human health standards so as to not have standards that are excessively conservative?
- How to incorporate the life history of anadromous fish in relation to resident freshwater fish when setting consumption rate(s)?
- What is the acceptable level of risk to subpopulations and the general population?

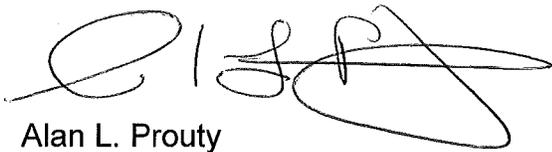
To properly address these factors and questions, sufficient data needs to be gathered in the Idaho FCR study. Also, the utility of other studies needs to be gauged in regards to how well they provide information to address these factors for Idaho residents.

Implementation

Finally, the rulemaking process needs to incorporate how the new standards will be implemented. Significant changes to discharge limits for certain dischargers may result from a change in fish consumption rates. Options for dischargers in such circumstances need to be developed in this rulemaking.

Please contact me if you have any questions about these comments.

Sincerely,



Alan L. Prouty
Vice President,
Environmental & Regulatory Affairs

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| A. LaBeau | Idaho Association of Commerce and Industry |
| J. Lyman | Idaho Mining Association |
| D. McGiverin | Northwest Food Processers Association |