

Memo

Date: Tuesday, November 22, 2016

Project: NPDES Technical Support

To: Troy Smith, Idaho Department of Environmental Quality

From: Clint Dolsby, City of Meridian, Dave Clark and Michael Kasch, HDR

Subject: DEQ Requesting Comments for IPDES ELDG Development

Introduction

The Idaho Department of Environmental Quality (DEQ) is developing a program to address water pollution by regulating point sources that discharge pollutants to waters of the United States. In 2014, the Idaho Legislature revised Idaho Code to direct DEQ to seek Environmental Protection Agency's (EPA) authorization for a state-operated pollutant discharge elimination system permitting program. The current program is operated by EPA and called the National Pollutant Discharge Elimination System (NPDES) program. The state program will be called the Idaho Pollutant Discharge Elimination System (IPDES) program.

There are multiple steps toward state primacy and development of a program. Two of these steps are: prepare and develop IPDES rules for Idaho and prepare guidance documents. DEQ is in the process of developing IPDES Effluent Limit Development Guidance (ELDG) and is seeking comments. Specific items of interest include:

- 2016_1107 IPDES Guidance – Effluent Limit Development Guidance - Draft Outline.pdf
- 2016_1107 IPDES Guidance - Effluent Limit Development Guidance.pdf

The comment period ends at 5 p.m. on November 22, 2016 for the:

- *IPDES Effluent Limit Development Guidance*
 - *New Section 3*
 - *Revisions to Sections 1 and 2*
 - *Revisions to Draft Outline*

Comments

The City recommends the IPDES ELDG provide information to the permit writer on a wide range of permit elements and have guidance specific to Idaho. A broad range of comments have previously been provided. The following comments are based on the materials presented on November 15, 2016.

Comment Date: 11/22/2016
Commenter: City of Meridian

Comment No. 1

Section: 1 Introduction

Page: 1

Topic: DEQ's Ownership of the NPDES Process for the State of Idaho

Comment: Maintain statements that the purpose of this guidance includes: Define the requirements for permits in Idaho. This guidance integrates state and federal law, state and federal regulation and DEQ implementation policies. Restate one of the objectives of IDPES is gaining access to permit writers and other staff with local experience and knowledge and experiencing a streamlined timeline for issuing permits. Meeting these objectives will require guidance documents that are also specific to Idaho.

Comment No. 2

Section: 1 Introduction (multiple locations)

Page: 1

Topic: Division of Guidance Volumes and Contents

Comment: Reconsider the division of materials in Volume 1 (permit writer) and Volume 2 (permittee). DEQ's October thoughts were to push guidance topics to Volume 2 that are relevant to both the permit writer and permittee. Potentially such topics, such as reporting, interpreting and analyzing data that are common to both the permit writer and permittee should be in a Volume 3. DEQ should consider how to address topics that are not exclusive to permit writer or permittee.

Comment No. 3

Section 1.3 Relationship to Existing Rules and Guidance

Page: 2

Topic: References

Comment: Recommend adding watershed permitting reference to the text and/or bullet list.

Comment No. 4

Section: Section 2.1.1 Data Quality

Page: 4

Topic: Data Usage

Comment: The final statement in section 2.1.1 Data Quality states that data that does not meet QAPP requirements can be used for compliance actions, as follows:

“However, data generated under requirements of IPDES permits that do not meet programmatic IPDES QAPP requirements may still be used in compliance actions.”

This is in direct opposition to the requirement stated in the same section establishing that all data must meet the requirements specified in the QAPP.

An effective QAP will provide strong direction for identifying reasons for rejecting data based on valid, established quality assurance and quality control (QA/QC) acceptance criteria. Furthermore, an effective QAP will firmly establish how to document such rejections, including detailed information to include and where to record it (such as in the laboratory information management software, on analytical bench sheets, on finalized lab reports, on chain of custody forms, etc.).

There is a real and legitimate need to be able to reject a data point when presented with valid, documented criteria that demonstrate that the data point is of questionable quality or generated incorrectly. There is always the human element in performing any analysis – and people make mistakes. Laboratories need to have a reasonable path to explain and document such mistakes and reject those values. A QAP plan is meant to protect the lab and plant from reporting these types of results, and to protect regulators from taking action based on misinformation.

Suggestion:

Provide additional detail to the statement to indicate that all data points that fail to meet quality assurance or quality control criteria will be examined with due diligence and consideration of the rationale cited for rejection prior to overriding that decision to use the data point in a compliance action.

Comment No. 5

Section: 2.1.2 Data Applicability and Grouping

Page: 5

Topic: Data Issues

Comment: Recommend add gather more data to the bullet list.

Comment No. 6

Section: 2.1.2 Data Applicability and Grouping

Page: 5

Topic: Data Issues

Comment: When data issues are identified, such as, no data, insufficient data, outdated TMDL, non-representative data, or data that did not meet quality objectives, then options should be provided to the permit writer to fill in such knowledge gaps through additional monitoring and/or other actions. Otherwise the permit writer is faced with determining whether to set limits, and if necessary what limits to set, based on a weak foundation of supporting evidence.

Comment No. 7

Section: Section 2.3.3 Calculations Using Values < MDL or ML

Page: 9

Topic: Data Assessment

Comment: This discussion should not be deleted from Volume 1 for the permit writer. This is valuable information that should be provided as guidance to the permit writer.

Comment No. 8

Section: Section 3.1 TBELs for Publicly Owned Treatment Works (POTWs)

Page: 20

Topic: Performance Based Limits and Data

Comment: Blindly developing limits based on performance data may have unintended consequences. This can be a disincentive for facilities to operate such that effluent concentrations are significantly lower than effluent limits realizing they will be penalized with even lower limits in the next permit, although they may not be able to maintain such performance given increasing population/industry and flows and loads. Guidance is necessary beyond just statistically evaluating the data but also integrating other factors related to long-term facility planning.

Comment No. 9

Section: Section 3.1 TBELs for Publicly Owned Treatment Works (POTWs)

Page: 20

Topic: Technology Limits, Pretreatment, and Local Limits

Comment: DEQ should reconsider the placement and depth and breadth of discussion on these topics. Currently some of the material is intertwined. Particularly local limits warrants a unique section with further explanation and discussion.

Comment No. 10

Section: Section 3.2.3.5 Statistical Considerations with Establishing Case-by-Case TBELs

Topic: Guidance consistency

Comment: Recommend marking this section as tentative and consider consistency between this topic and performance based limits for SOCs, variances, and potentially other topics.

Comment No. 11

Section: Section 4 Determining Water Quality-Based Effluent Limits (WQBELs)

Page: 58

Topic: RPA

Comment: Delete the section Conduct a RPA without Data

Comment No. 12

Section: Section 4 Determining Water Quality-Based Effluent Limits (WQBELs)

Page: 58

Topic: Water Quality Topics

Comment: The City of Meridian previous submitted (March 17, 2016) extensive comments regarding water quality topics to address with the IPDES program, particularly guidance. DEQ should review these comments and topics for inclusion.

Comment No. 13

Section: Undefined

Page: Undefined

Topic: Facility Operations, Optimization, and Testing

Comment: A potential topic for Volume 2 is discussion on when and how permittees should communicate information to DEQ when DMR data may not be as expected, such as during optimization or process testing. Consider what notification is practical and appropriate.

Comment No. 14

Section: Section 4 Determining Water Quality-Based Effluent Limits (WQBELs)

Page: 58

Topic: Water Quality Topics - Workgroups

Comment: A matrix of water quality topics for workgroups discussion and potential entities to participate is shown below.

Topic	Agency	Municipal	Industry	Environmental	Other
UNCONVENTIONAL	✓	✓	✓	✓	
Water temperature	DEQ				AIC
pH					
NUTRIENTS	✓	✓		✓	
Nutrient permitting	DEQ				AIC
TOXICS	✓	✓	✓		
Ammonia	DEQ				AIC
Human health criteria					
Toxics					
Other: PPCPs, etc.					
OPERATIONS	✓	✓	✓		
Blending, bypass, filtering	DEQ				AIC
Monitoring	USGS?				
Laboratory methods					
INNOVATIVE APPROCHES	✓	✓			
Reuse	DEQ				AIC
Integrated watershed planning					IACI
Water quality trading					
Implementation tools					
OTHER	✓	✓		✓	
Nondegradation	DEQ			ICL	AIC
Anti-backsliding					