



Association of Idaho Cities
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May 13, 2020

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

Re: Docket No. 58-0102-2001, AIC Comments per May 7, 2020 Stakeholder Meeting and Discussion

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.

The Idaho Department of Environmental Quality (DEQ) has initiated negotiated rulemaking to (1) revise water quality standards based on stakeholder comments and concerns regarding the implementation of the bacteria criteria, and (2) delete obsolete rule language. Regarding the removal of the obsolete language, AIC understands the purpose of these proposed rule changes and does not oppose this recommendation by the DEQ.

Our cities recognize the value of representative data to protect our citizens. AIC understands that *e. coli* or enterococci data are used as indicators for harmful bacteria or viruses, where high concentrations of these indicator organisms are used for short-term beach closures; and to assess whether chronic, human-caused sources of bacteria or viruses necessitate the development of a Total Maximum Daily Load (TMDL) to restore public safety.

EPA's 2012 Recreational Water Quality Criteria, and 2017 Five-Year Review of the same, propose the use of a Statistical Threshold Value (STV) for criteria magnitude (STV-90th percentile value), duration (30-day period), and frequency (1 in 10 samples). That is, The EPA selected the estimated 90th percentile of the water quality distribution to account for the expected variability in water quality measurements, while limiting the percentage of samples allowed to exceed the STV as a threshold of water quality impairment. The post-2019 bacteria criteria seeks to update the Idaho criteria to reflect the 2012 EPA Recreational Water Quality Criteria.

AIC supports the use of the proposed single "statistical threshold value" of either *e. coli* or enterococci to establish swimming beach closures. AIC suggests that the DEQ to work with our

Public Health District partners to secure up-to-date bacteria testing monitoring equipment and validated methods¹ to ensure timely information on potential water contamination to better protect Idaho's communities.

However, AIC is concerned about the implementation of the post-2019 criteria to assess whether chronic, human-caused sources of bacteria or viruses necessitate the development of a Total Maximum Daily Load (TMDL) to restore public safety. AIC wishes to respectfully remind DEQ staff of the underpinning reasons why the pre-2019 criteria clarified that the "single sample maximum (SSM) is not a criteria, and exceedance of the SSM alone" was "not considered a criterion violation." (Pre-2019 IDAPA, as cited on slide 11 in the May 7, 2020 DEQ presentation).² The underlying reasons for this provision³ are well documented in the public record when the pre-2019 criteria were adopted, and directly relate to how the concentrations of these organisms are extremely variable at both temporal and spatial scales. This variability poses a significant challenge in the development of both the pre-2019 and post-2019 criteria, which has been resolved throughout the United States and world using a statistical model of indicator organisms for exposure risk.

AIC does not support the adoption of statistically based criteria without a corresponding required minimum number of samples to assess whether chronic, human-caused sources of bacteria or viruses necessitate the development of a Total Maximum Daily Load (TMDL) to restore public safety.

Implementation of the Post-2019 Criteria – Requested IDAPA Rule Language Revision

AIC requests that the post-2019 rule language be revised to specify that a minimum of 5 samples are required prior to applying any criterion, and to clarify that a single sample that exceeds an STV alone will not be considered a criterion violation.

Should you have questions concerning this request, please feel free to contact me.

Sincerely yours,



Johanna M. Bell, PE
AIC Policy Analyst – Environment

cc: Kelley Packer, AIC Executive Director
Susan Hawkins, AIC President
Elaine Clegg, AIC Environment Committee Chair
AIC Municipal Water Users
Idaho Board of Environmental Quality
AIC IPDES Task Force

¹ For more context regarding this comment, the need for quicker indicator analytic equipment and lab methods is explained in more detail in a related 2004 USGS article, <https://pubs.acs.org/doi/pdf/10.1021/es034978j>; accessed 5/13/2020.

² <https://www.deq.idaho.gov/media/60184274/58-0102-2001-deq-ppt-bacteria-criteria-revision-050720.pdf>, accessed 5/13/2020.

³ Where the collection of sufficient data, i.e., a minimum of 5 samples over a 30-day period, is required to establish a geometric mean and assess the presence or absence of a criterion violation.