

November 5, 2015

Via email [paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov)

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

RE: Docket No. 58-0102-1201 Water Quality Standards

Dear Ms. Wilson:

On October 7, 2015 the Department of Environmental Quality (DEQ) published draft regulation for setting human health water quality criteria. This rulemaking was initiated because of a May 10, 2012 decision from the U.S. Environmental Protection Agency (EPA) that disapproved the July 7, 2006 Idaho DEQ water quality standard rule submittal. The Northwest Food Processors Association (NWFP) represents a number of Idaho businesses engaged in food processing who have a direct interest in water quality standards. NWFP has been actively engaged during the whole of the multi-year timeframe for this negotiated rulemaking process. Our comments are focused on three issues: risk decisions, our support for the exclusion of salmon and downstream waters.

#### Allowable Risk Decisions

As a part of this rulemaking, DEQ has made decisions about the level of protection for different segments of the population. DEQ is currently proposing to apply the  $1 \times 10^{-6}$  risk management goal to the 95th percentile of the general population. The State's currently proposed risk management goal results in the average Idahoan having an excess lifetime cancer risk of about  $1 \times 10^{-7}$ .

These risk management decisions can greatly influence criteria values. NWFP is concerned that the level of protection should assure preserving designated uses and ensure risk thresholds that allow for balance. Therefore, we encourage the DEQ to look at how the allowable risk decisions affect the calculated criteria value: more stringent risk management benchmarks lead to more stringent criteria. Depending upon the calculation methodology and allowable risk decisions, calculated values may result in criteria that are not achievable and would result in significant financial resources to try to achieve such values. It should be noted that these unrealistic risk thresholds will result in significant expenditures to meet criteria that, at best, will provide negligible improvements for human or ecological health. These costs do not just impact the regulated community, but will impact all Idaho businesses and residents.

Idaho state law requires divisions of government, including DEQ, to estimate and evaluate economic costs and benefits of proposed rules. NWFP would encourage DEQ to look at their risk policy decisions in balance with health values and economic costs of the resulting criteria. We would recommend that this sort of analysis should be performed at both the proposed target risk value and with a target risk value of  $1 \times 10^{-5}$ , to better examine the difference in benefits versus costs.

### Exclusion of Salmon

In determining the fish consumption rate for developing the water quality criteria in Idaho, the Department included resident, freshwater species that can be caught in Idaho waters. This includes steelhead trout, though often steelhead are anadromous. The complex life cycle of steelhead led DEQ to be conservative in their definition of resident, freshwater fish. DEQ's definition of "Idaho fish" excluded other anadromous fish, including salmon as we mentioned, other marine and non-Idaho fish, and most market fish. Rainbow trout that is market purchased was included because of the large aquaculture industry in Idaho that primarily raises trout.

The exclusion of salmon, other marine fish and market fish is justified for a number of reasons. Several research studies have shown that anadromous fish acquire the majority of the contaminant burden in marine waters, providing good science to support the exclusion of salmon from the fish consumption rate. Arguments have been made for consistency with other Northwest states. However, Idaho water quality rules can't regulate estuarine and marine waters, and where most market fish come from; thus Idaho regulations can't influence concentrations of chemicals present in such waters. As an inland or non-coastal state, Idaho is significantly different from the other Northwest states. The exclusion of salmon clearly recognizes the best science on sources of contaminants for salmon and the inland nature of our state and waters. In Idaho, the inclusion of salmon will not improve public health by decreasing risks associated with chemicals in anadromous fish. In addition, Idahoans could be faced with substantially increased compliance costs that would not result in improved public health benefits.

### Downstream Waters

DEQ has proposed rule language on how to apply the standards to the protection of downstream waters. This is a very significant issue which requires very careful examination and discussion. This provision also introduces new concepts that are undefined, therefore restricting our ability to determine potential impacts to this rulemaking to future DEQ rulemakings and any potential water quality decisions made by EPA. We raised this issue in previous comments and would again recommend that DEQ not include this provision in the rulemaking and address this matter in a future, separate rulemaking.

NWFPA appreciates the process that DEQ has provided for extensive participation by interested parties in this rulemaking.

Sincerely,



Ian Tolleson  
Director, Government Affairs  
Northwest Food Processors Association