

Response to Comments
2005 NPDES Permit Issuance to the Preston Wastewater Treatment Plant - Preston, Idaho
NPDES Permit No. ID0020214

Preston Wastewater Treatment Plant
70 West Oneida
Preston, Idaho 83263

Public Comment Period: 12/15/04 – 1/14/05

During the public comment period specified above comments were received from the following parties: the Association of Idaho Cities (AIC), and the City of Preston. This document summarizes those comments and provides EPA's response to them.

1. Regarding Appendix B, Section B.4.i. of the Fact Sheet – *Escherichia Coli* (*E. coli*)

Comment: AIC requests that the *E. coli* instantaneous effluent limit be removed from the permit as it has no regulatory or technical basis when considered with other applicable portions of the Idaho State Water Quality Standards such as IDAPA 58.01.02.080.03, "Violation of Water quality Standards".

Response: IDAPA 58.01.02.251 of the Idaho Water Quality Standards (WQS) provides the sole basis for determining bacteria effluent limitations in NPDES permits. However, the State may use IDAPA 58.01.02.080.03 as a basis for their own enforcement discretion or implementation policy of their wastewater treatment requirements. Furthermore, NPDES permitting regulations at 40 CFR 122.44(d) require EPA to include effluent limits in permits necessary to achieve water quality standards established under section 303(c) of the CWA. Establishing *E. coli* permit limits based upon single sample maximum and geometric mean concentrations is not only consistent with State WQS, but allows EPA and the State to monitor and control effluent variability by controlling spiked concentrations in the discharge in a way that is protective of public health.

2. Regarding Appendix B, Section B.4.i. of the Fact Sheet – *Escherichia Coli* (*E. coli*)

Comment: EPA's 1986 Bacteria Criteria Guidance, EPA's 2004 Final BEACH Rule (69 FR 67218), and the Idaho State Water Quality Standards appear to provide no technical or regulatory basis for the instantaneous bacteria limit included in the draft permit. While Idaho is not one of the 35 states included in the BEACH Rule, the rule contains EPA's most current thinking and guidance to states concerning appropriate implementation of *E. coli* standards for freshwaters. AIC requests that the basis for the limitation in the Fact Sheet be corrected to be consistent with State WQS, and that the instantaneous *E. coli* limit be removed from the permit.

Response: As described in Section IV.B.3. of the Beaches Environmental Assessment and Coastal Health (BEACH) Rule, EPA and the states "retain the discretion to use single sample maximum values as they deem appropriate in the context of Clean Water Act implementation programs other than beach notification and closure". While maximum or instantaneous *E. coli* values are appropriate for determining beach closures, the final rule does not constrain the use of

single sample maximum values in Clean Water Act programs such as NPDES permitting. As noted in the comment response above, Idaho WQS include an instantaneous maximum criterion for *E. coli*, and NPDES regulations at 40 CFR 122.44(d) require EPA to incorporate effluent limits necessary to protect state water quality standards. Since the State of Idaho has not authorized a mixing zone for bacteria, the effluent must meet the criterion prior to discharging to the receiving water. EPA has determined that meeting the bacteria criterion prior to discharging will not cause or contribute to a violation of the water quality standards.

3. Regarding Appendix B, Section B.4.i. of the Fact Sheet – *Escherichia Coli* (*E. coli*)

Comment: EPA has issued a number of NPDES permits throughout the state with instantaneous *E. coli* limits. Permit limits appear to be based on the incomplete/incorrect application of Idaho State Water Quality Standards (e.g. application of Section 251 but not 080.03). AIC is interested in EPA's proposed approach regarding how the Agency will correct these recently issued permits should it be determined that instantaneous limits are not required. AIC is also interested in knowing how EPA will address compliance reporting of instantaneous limits.

Response: EPA has included instantaneous maximum limits in NPDES permits because it determined that these limits were necessary to protect water quality standards as required under 40 CFR 122.44(d). As noted in the comment response above, EPA has interpreted Section 251 of the State WQS as providing the sole basis for determining permit effluent limitations, and that Section 080.03 can be utilized by the State for enforcement discretion or implementation policy. For the purposes of compliance reporting, sampling data regarding an instantaneous *E. coli* limit is summarized on a Discharge Monitoring Report (DMR) no differently from any other pollutant. Specific enforcement actions taken relative to permit violations are done on a case by case basis considering many factors including any history of repeated effluent violations.

4. Regarding sample frequency discrepancy between the fact sheet and the draft permit

Comment: In the fact sheet the frequency of sampling for both BOD₅ and TSS were reduced to one time per week. This change was not reflected in the draft permit. It was requested that the frequency changes be amended in the permit to match those in the fact sheet.

Response: Change corrected.