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Terri A. Lorenzon, Director
Environmental Quality Council

To: Wyoming Environmental Quality Council

We are writing in support of the proposed revision of the pathogenic criteria for recreational use protection in Chapter 1, Wyoming Water Quality Rules and Regulations and associated implementation policies. We feel these proposed changes are necessary to better manage water quality for protection of recreational use in Wyoming waters by focusing available resources to those locations where primary contact recreation use is actually occurring or can potentially occur.

We note that the proposed revisions of the pathogenic criteria include four principal changes:

1. Change from fecal coliform bacteria to E. coli bacteria as the indicator organism
2. Change from designating all waters as primary contact recreation use by default to a system that designates certain waters as primary contact recreation use and remaining waters as secondary contact recreation use by default
3. Inclusion of specific guidance for Use Attainability Analysis (UAA) for recreation uses in the implementation policies
4. Inclusion of a provision for Variances from the E. coli standard in instances in the public interest

We recognize that the recreational use designations and associated bacteria standards are intended to protect public health. Thus, we support the change to E. coli from fecal coliform bacteria as the indicator organism. E. coli is a better indicator of fecal contamination and a better predictor of human illness than fecal coliform.

Our policy is to protect all designated uses of water, including recreation uses, in waterbodies on National Forest System (NFS) lands. However, the designated use should be consistent with the actual or potential use of the waterbody. We support the shift from a single recreation use designation where all waters are managed for primary contact recreation to a system where certain waters are managed for primary contact recreation and the remaining waters are managed for secondary contact recreation. We feel this is important because it recognizes the different human health risks associated with the different types of waters and recreational uses in the State.



We support the use of Table A as a means to differentiate between primary and secondary contact recreation use designation by default, as Table A is an established component of the water quality standards. Understandably, this is not a perfect solution as primary contact recreation is not the appropriate recreation use designation for all waterbodies listed on Table A. For example, some of the streams listed in Table A are small or intermittent and receive little to no primary contact recreation use and thus pose limited human health risk due to bacteria or other waterborne pathogens. Likewise, there are waterbodies not listed on Table A that should be designated and protected for primary contact recreation use, but would be designated as secondary contact recreation use by default. However, as a starting point, using Table A as the default would result in the appropriate recreation use designation being applied to most water bodies in the State from the start and a need to change recreation use designation on relatively few.

Wyoming Department of Environmental Quality (WDEQ) has recognized this problem and proposed Recreation UAA guidance in the Implementation Policies document to facilitate making changes to the default recreation use designation as appropriate. We are supportive of a straightforward UAA procedure to determine the appropriate recreation use designation as proposed by WDEQ.

We also support the addition of provisions to grant a Variance from E. coli values in certain instances in the public interest. Given the variability in bacteria concentrations in the natural stream/lake environment, and many potential natural and anthropogenic sources in the wildland settings, there will be cases where attainment of the primary contact recreation use standards will be impracticable even with the use of all appropriate Best Management Practices. The variance provision would allow for balancing the needs of all segments of the public to determine the appropriate level of protection to provide given the actual risk to public health.

This issue is of great importance to us and we welcome the proposed revisions. Several streams on NFS lands in Wyoming were placed on the 2004 303(d) list because of exceedances of the fecal coliform (and e. coli) standard. Livestock were considered to be one potential source of bacteria in these streams, in addition to wildlife and some human use.

One of these listed streams in particular illustrates why the proposed revisions to Chapter 1 are necessary. North Branch North Fork Crow Creek is less than 2 feet wide and 1 foot deep at high flow, and is located several miles from any developed recreation area. Yet, under the current rules and regulations, this stream is protected for primary contact recreation use. The Medicine Bow National Forest, WDEQ, Laramie County Conservation District and Laramie Rivers Conservation District have spent thousands of dollars on water sampling, watershed planning, and implementing Best Management Practices over the past four years in an effort to meet the current bacteria standard. In addition, the Forest Service was sued for alleged violations of the Clean Water Act for allowing livestock grazing to continue in this watershed while the stream was not meeting the bacteria standard for primary contact recreation use.

Monitoring data shows that while the primary contact recreation standard is exceeded, the secondary contact recreation standard likely would be met. Given the size, location and lack of existing primary contact recreation use on North Branch North Fork Crow Creek, we feel that

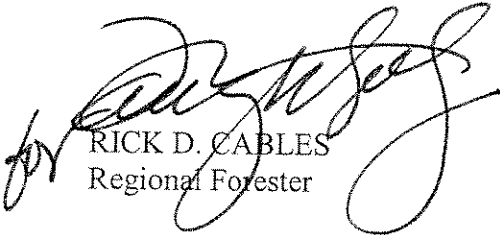
secondary contact recreation use is the appropriate recreation use designation for this stream. However, there currently is no secondary contact recreation use designation available to be applied to this stream.

The proposed revision to the pathogen criteria would allow the more appropriate secondary contact recreation use designation and associated standard to be applied to this stream. North Branch North Fork Crow Creek is not listed on Table A, and therefore, under the proposed revision would be designated secondary contact recreation use by default. If, for some reason, this stream was designated primary contact recreation use by default, then the proposed Use Attainability Analysis (UAA) procedure for Recreation Designations would make it easier to correct the recreation use designation.

As the North Branch North Fork Crow Creek example above demonstrates, there is a critical need to revise the pathogen criteria section in the Wyoming Water Quality Rules and Regulations now. Limited resources are being spent to provide protection for primary contact recreation use on streams where this use does not, and potentially never can, occur. The current criteria may unnecessarily impact some activities, such as livestock grazing, on NFS lands due to an inappropriate water quality use designation and standards applied to a given stream. The revisions proposed by WDEQ are a reasonable solution and should be approved.

Thank you for considering our comments.

Sincerely,


RICK D. CABLES
Regional Forester


FOR JACK G. TROYER
Regional Forester, Region 4