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1200 Pennsylvania Ave NW, 4201M
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Via regulations.gov:

Docket ID No. EPA-HQ-OW-2016-0715

**RE: Human Health Recreational Ambient Water Quality Criteria
and/or Swimming Advisories for Microcystins and
Cylindrospermopsin**

The Association of Clean Water Administrators (“ACWA”) is the independent, nonpartisan, national organization of state, interstate, and territorial water program managers, who on a daily basis implement the water quality programs of the Clean Water Act (“CWA”). ACWA appreciates the opportunity to comment on the Environmental Protection Agency’s (“EPA”) draft *Human Health Recreational Ambient Water Quality Criteria and/or Swimming Advisories for Microcystins and Cylindrospermopsin*.

In general, ACWA supports EPA’s efforts to address the issue of harmful algal blooms (“HABs”) in recreational waters. ACWA also acknowledges the collaboration and dialogue that has occurred between ACWA and EPA throughout 2016 and 2017 regarding HABs and recognizes the achievements that have emerged from that partnership. We appreciate the flexibility that EPA has extended to states to use the recommended values for swimming advisories only, as water quality standards, or neither. However, ACWA still has questions and concerns that it would like to raise, specifically regarding implementation, monitoring, and the science behind the criteria and advisory values.

Implementation

ACWA and EPA discussed criteria implementation in depth at the December 14, 2016 HABs Focus Group face-to-face meeting at EPA Headquarters. However, the discussion failed to answer critical questions raised by the states at that time including concerns regarding NPDES permitting, TMDL calculation, and costs. These fundamental questions related to criteria implementation should be addressed.

Specifically, states offer three questions:

- 1) How would a state include protection from cyanotoxins in a NPDES permit?
- 2) How would a state calculate a cyanotoxins TMDL?
- 3) What would constitute an “exceedance” in the context of cyanotoxins?

Cost of criteria implementation is also a concern for states and there appears to be a disconnect between states and EPA on this issue. EPA should provide a robust and transparent discussion with the states with regard to costs and provide an analysis of implementation costs.

Some states also requested that EPA consider including general recommendations regarding avoidance of recreational exposure to suspected or confirmed cyanobacterial blooms.

As stated above, EPA should address these implementation concerns in detail and ACWA looks forward to continuing discussion with EPA on these issues.

Monitoring

States recognized numerous issues with regard to monitoring. Many states do not currently have mechanisms in place to adequately sample for the toxin levels specified by EPA. For example, one state explained that current technologies available in the state do not allow for testing less than 10 µg/l for cylindrospermopsin. Also, states expressed timing concerns, explaining that they do not have the ability to sample recreational water, send the sample to a lab, wait for the lab results, and return to the recreational water to post a health advisory quickly enough to appropriately protect public health. Another concern is lab capacity. Many states simply lack enough lab capacity to increase the amount of samples analyzed for algal toxins.

EPA should also provide clarity on sampling and analysis techniques. Cyanobacteria blooms can be highly variable within a waterbody, even across relatively small spatial and temporal scales, thereby complicating determinations regarding magnitude, duration, and frequency of exposure. Further, would a violation of water criteria/advisory levels occur if there is an exceedance found on one side of a waterbody but not where individuals normally recreate? Additionally, sampling for different purposes (e.g., designated bathing area monitoring, attainment of water quality standards, etc.) could result in confusion. Similarly, as there are a variety of laboratory analytical methods that can be used to process cyanobacteria bloom samples, usage of these different methods could also result in confusion.

EPA should address these concerns in detail and ACWA looks forward to continuing discussion with EPA on these issues.

Science

EPA presented much of the science behind the cyanotoxins criteria/advisory values to ACWA members and the HABs Focus Group throughout 2016 and early 2017. However, states need EPA to provide additional explanation of the science behind the studies used to generate the criteria/advisory numbers so that states can better understand what underlies this policy decision.

This information is critical for states to review before finalization and will assist states in supporting the use of the criteria in their programs as appropriate.

Further, states want to better understand how EPA's microcystins and cylindrospermopsin levels relate to nitrogen and phosphorous, particularly how they may link to potential numeric nutrient criteria. EPA provided the HABs Focus Group with some general background on this issue when speaking on the development of narrative nutrient criteria for lakes. However, states wish to view the numbers and models EPA developed. States are also interested in helping EPA test the models and are ready to do so.

States are also interesting in hearing more about EPA's calculation of exposure risks and whether EPA is planning to perform more studies on inflammatory health endpoints other than those for kidney and liver failure. Until such time as inflammatory endpoints may be developed, many states will only employ cyanobacteria levels for swimming advisories.

Additional Comments

States are the entities implementing this criteria/advisory. ACWA hopes that EPA will continue to include states and the HABs Focus Group in discussions, specifically with regard to EPA's review of all of the comments submitted on March 20, 2017 and the finalization of the criteria/advisory and associated recommendation documents and materials.

While ACWA's process to develop comments is comprehensive and intended to capture the diverse perspectives of the states that implement these programs, EPA should also seriously consider all of the recommendations that come directly from states, interstates, and territories. Again, ACWA appreciates the opportunity to comment on this criteria/advisory and we look forward to continuing our discussions of the matter with EPA. Please contact ACWA's Executive Director Julia Anastasio at janastasio@acwa-us.org or (202) 756-0600 with any questions regarding ACWA's comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter LaFlamme". The signature is stylized and cursive.

Peter LaFlamme
ACWA President
Director, Watershed Management Division
Vermont Department of Environmental Conservation