



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Paula Wilson
Idaho Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706

November 13, 2020

Re: **U.S. EPA Comments on Negotiated Rule Draft No. 2, Docket No. 58-0119-2001 Dated October 21, 2020**

Dear Ms. Wilson:

Thank you for organizing the public meeting on October 30, 2020 to discuss Negotiated Rule Draft No. 2, "Rules for the Design and Construction of Phosphogypsum Stacks" (Docket No. 58-0119-2001) (Negotiated Rule). During previous public meetings associated with this Negotiated Rule and in previously submitted public comments, the U.S. Environmental Protection Agency Region 10 (EPA) recommended that the Idaho Department of Environmental Quality (IDEQ) postpone finalizing the Negotiated Rule. EPA's rationale for postponing finalization of the Negotiated Rule was based on the fact that the U.S. Department of Justice, on behalf of EPA, is still engaged in discussions with two phosphoric acid manufacturing facilities located in Idaho pursuant to EPA's National Compliance Initiative for Mining and Mineral Processing. The discussions potentially could resolve compliance issues that EPA previously has identified at those facilities.

Although EPA repeats its previous recommendation here – that IDEQ postpone finalizing the Negotiated Rule until those discussions conclude – it also understands that IDEQ intends to finalize the Negotiated Rule even though some interested stakeholders have recommended otherwise. EPA remains interested in attending future public meetings about this Negotiated Rule. Please include me on future email notifications (davies.lynne@epa.gov), as well as Kevin Schanilec (schanilec.kevin@epa.gov).

Sincerely,

/s/ Lynne Davies

Lynne Davies
Acting Chief, Waste Enforcement Branch

cc: Kevin Schanilec, U.S. EPA Region 10