December 3, 2021

Dan Opalski, Director
Office of Water and Watersheds
U.S. EPA Region 10
1200 6th Ave.
Seattle, WA 98101


Dear Mr. Opalski:

I have reviewed the process by which the Idaho Board of Environmental Quality (Board) adopted revisions to the Idaho Water Quality Standards (Docket No. 58-0102-2001) and hereby certify that the revisions were duly adopted pursuant to Idaho law.

Consistent with provisions of the Idaho Administrative Procedure Act for public participation, the Department of Environmental Quality (DEQ) used a negotiated rulemaking process that included two meetings with stakeholders to develop the rule language. During the negotiated rulemaking process, stakeholders provided verbal and written comments to DEQ. A public hearing pursuant to Idaho Code § 67-5222(2) was not requested nor held; however, the public had an additional opportunity to provide the Board oral comments on the proposed rule during the Board’s meeting on November 19, 2020.

These revised water quality standards were submitted to the Idaho Legislature for review during the 2021 session and are currently in effect as temporary rules. To ensure that the codified rules continue beyond their expiration date with no lapse in the effect of the rules, the Board adopted IDAPA 58.01.02, Water Quality Standards, including the revisions made under Docket No. 58-0102-2001, as temporary rules pursuant to Idaho Code § 67-5226 under Omnibus Rule Docket No. 58-0000-2100. During its meeting on May 20, 2021, the Board promulgated Omnibus Rule Docket No. 58-0000-2100, and the temporary rules took effect on July 1, 2021.
Pursuant to Idaho Code § 67-5226(6), DEQ also initiated proposed rulemaking in the fall of 2021 for Omnibus Rule Docket No. 58-0000-2100 (which likewise includes the Docket No. 58-0102-2001 revisions). The proposed rule will be presented to the Board for adoption as a pending rule, which will then be submitted to the Idaho Legislature for review during the 2022 session. If necessary, DEQ will utilize the temporary rule process to ensure the Docket No. 58-0102-2001 revisions remain in effect under Idaho law.

Please do not hesitate to contact me with any questions regarding this rulemaking or this certification.

Sincerely,

Mark Cecchini-Beaver
Deputy Attorney General

c: Mary Anne Nelson, DEQ