



January 20, 2022

Mr. Dan Opalski
Office of Water and Watersheds, Region 10
U.S. Environmental Protection Agency
1200 6th Ave., Suite 155
Mail Stop: OWW-192
Seattle, WA 9811

Subject: Submission of revised water quality standards for approval: Aquatic Life Criteria for Acrolein, Carbaryl, and Diazinon, Idaho rule docket 58-0102-1802.

Dear Mr. Opalski:

Consistent with Clean Water Act § 303(c) and 40 CFR 131.20, the following revisions to Idaho's water quality standards (WQS) are hereby submitted for EPA approval: (1) addition of aquatic life criteria for acrolein, carbaryl, and diazinon in accordance with EPA's current §304(a) recommended criteria (IDAPA 58.01.02.210.01), and (2) clarification of the definition of recreational use in IDAPA 58.01.02.100.02. These revisions were identified as high priority in the 2017 Triennial Review of Idaho's WQS.

These revisions were made under Docket No. 58-0102-1802, which also included an update of recreation criteria for bacteria. However, the bacteria criteria revisions were re-negotiated in 2020 and submitted to EPA under Docket No. 58-0102-2001 on December 1, 2021.

On May 2, 2018, the Notice of Negotiated Rulemaking for Docket 58-0102-1802 was published in the Idaho Administrative Bulletin, and DEQ posted notice of the negotiated rulemaking on its website. A preliminary draft rule was made available for public review on May 8, 2018. Negotiated rulemaking meetings were held on May 31 and June 28, 2018. Stakeholders and members of the public participated in the negotiated rulemaking process by receiving email notifications, attending the meetings, reviewing DEQ's presentations and supporting information, and submitting comments. No comments were received regarding the addition of aquatic life criteria for acrolein, carbaryl, and diazinon.

At the conclusion of the negotiated rulemaking process, DEQ formatted the draft for publication as a proposed rule. The proposed rule was published in the September 5, 2018, issue of the Idaho Administrative Bulletin, followed by a formal 30-day comment period. The Idaho Board of Environmental Quality (Board) adopted the pending rule on November 14, 2018.

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The pending rule was published in the December 5, 2018, issue of the Idaho Administrative Bulletin, reviewed by the 2019 Idaho Legislature, became final and effective on April 11, 2019, and is currently effective as a temporary rule. If necessary, DEQ will utilize the temporary rule process to ensure the Docket No. 58-0102-1802 revisions remain in effect under Idaho law.

DEQ has an online record of the rulemaking process that includes all the rule drafts and comments received, presentations given, and materials distributed, which can be accessed at: <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/water-quality-docket-no-58-0102-1802/>. In addition to the documents itemized below, all materials posted at this URL are hereby incorporated by reference in this submittal.

The rule submittal package includes:

1. This cover letter, briefly describing the rulemaking, its justification, and the contents of the package supporting the rule being submitted for approval;
2. May 2, 2018, Notice of Negotiated Rulemaking;
3. September 5, 2018, Notice of Proposed Rule announcing opening of 30-day public comment period on proposed rule;
4. July 26, 2018, Negotiated Rulemaking Summary prepared pursuant to Idaho Code § 67-5220(3)(f), including the summary of public comment and DEQ's response;
5. November 2018 Board Meeting Minutes;
6. December 5, 2018, Notice of Adoption of Pending Rule announcing adoption by the Board;
7. May 1, 2019, Omnibus Notice of Legislative Action;
8. An Attorney General's certification that the rules were adopted according to state law.

DEQ is only seeking review and approval to the changes of 58.01.02.100.02 and 58.01.02.210.01, found in the September 5, 2018, Notice of Proposed Rule. As described above, other revisions in Docket No. 58-0102-1802 were renegotiated submitted separately.

If you have any questions on this rulemaking and the enclosed supporting materials, please contact Beth Spelsberg at (208) 373-0158 or elizabeth.spelsberg@deq.idaho.gov.

Sincerely,



Mary Anne Nelson, PhD
Surface & Wastewater Division Administrator