

Overview of Incorporations by Reference for the DEQ Drinking Water Program - Docket No. 58-0108-2301

Required by Idaho Code § 67-5223(4)

Rulemaking Docket No. 58-0108-2301 describes incorporation by reference of final federal national primary drinking water regulations promulgated with effective dates through July 1, 2023.

An efficient way to implement new or updated federal regulations is to incorporate them by reference into state rule. Reproducing the Code of Federal Regulations (CFR) in state rule is impractical and costly. Therefore, when possible, DEQ incorporates federal regulations by reference. Sections with no changes are also incorporated to ensure the state rules are consistent with federal regulations and to provide one set of rules for industry to follow. Idaho industry is required to comply with all applicable new and updated federal rules regardless of whether DEQ incorporates them by reference.

Incorporation by reference of federal national primary drinking water regulations is a standard procedure that DEQ performs to meet the legislative intent to avoid the existence of duplicative, overlapping, or conflicting state and federal regulatory systems and allows DEQ to maintain authority for implementing the federal Safe Drinking Water Act (SDWA) and National Primary Drinking Water Regulations program in lieu of EPA.

To maintain primacy of the SDWA and National Primary Drinking Water Regulations in effect under 40 CFR Part 141, the state of Idaho must adopt drinking water rules that are no less stringent than the National Primary Drinking Water Regulations. The federal regulations incorporated by reference in IDAPA 58.01.08, Idaho Rules for Public Drinking Water Systems, ensure that these rules meet the minimum requirements to maintain primacy and enforcement authority of the SDWA and national primary drinking water regulations without being more stringent than the federal minimum requirements.

The following table summarizes the CFR sections the DEQ Drinking Water Program incorporates by reference.

40 CFR Part	Title	Changes During Past Year?	Impact on Idaho
141	National Primary Drinking Water Regulations	Yes	Yes
143	Other Safe Drinking Water Act Regulations	No	No

An overview of the changes is included below.

The following parts were revised and may have an impact on Idaho facilities:

[40 CFR Parts 141.80](#)

Subpart I – Control of Lead and Copper

In this final rule, EPA updated regulations related to the control of lead and copper. This was completed through the Lead and Copper Rule Revisions published on January 15, 2021. These changes were made to provide greater and more effective protection of public health by reducing exposure to lead and copper in drinking water. A full description and rule text can be found in the [Federal Register](#).

The changes to the regulations will better identify high levels of lead, improve the reliability of lead tap sampling results, strengthen corrosion control treatment requirements, expand consumer awareness, and improve risk communication. The updates will also require community public water systems to conduct lead-in-drinking-water testing and public education in schools and childcare facilities. The rule will also accelerate lead service line replacements by propelling early action and strengthen replacement requirements.

These revisions to the regulations for the Control of Lead and Copper generally affect two groups: (1) All community public water systems; and (2) all non-transient non-community public water systems.