



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 155
Seattle, WA 98101

WATER
DIVISION

October 6, 2023

DELIVERED BY E-MAIL

Tyler Fortunati
Drinking Water Bureau Chief
Idaho Department of Environmental Quality
1410 North Hilton
Boise, Idaho 83706

Dear Mr. Fortunati:

Though we are unable to do a complete review until we receive a full primacy revision package with the associated cross-walks, we wanted to take this opportunity to relay comments on proposed revisions to the Idaho Rules for Public Drinking Water Systems, 58.01.08 - Docket No. 58-0108-2301. Please note, we did not review any of the sections that address the fee rule nor facility and design standards since these are outside of EPA's purview.

If you have any questions pertaining to these enclosed comments, please feel free to contact me at tucker.michelle@epa.gov or (206) 553-1414.

Sincerely,

Michelle Tucker
Ground Water and Drinking Water Section

Enclosure

EPA Region 10 Comments on Revisions to the Idaho Rules for Public Drinking Water Systems,
58.01.08 Docket No. 58-0108-2301

1. Some required definitions have been deleted or changed in a manner that may result in Idaho's rule being less stringent than federal requirements. An example of this is the replacement of the 'responsible charge operator' definition by incorporating Section 54-2403, Idaho Code by reference. 'Responsible Charge Operator' had required a valid license whereas the newly proposed rule appears to require only a certificate. EPA recommends a thorough review of the proposed definition changes as compared to the federal requirements and the retention of definitions that would not allow for full implementation of the federal rules.
2. The proposed changes broadly replace 'public water system' with 'PWS owner'. There are instances where use of 'PWS owner' is inappropriate, for instance, when technical and/or operational knowledge is required. For example, section 302.045 has been changed to require the PWS owner to consult with the department prior to taking specific corrective actions in response to significant deficiencies identified during a sanitary survey. Conversely, there may be instances where an operator would be required to make the change(s) that require consultation with the department for direction. EPA recommends a thorough review of the use of "PWS owner" versus 'operator' to ensure the rule correctly identifies, as the case may be, the level of authority or expertise required.
3. The proposed rule broadly change 'shall' to 'must' and in some instances was replaced with a less stringent word such as 'may.' While in most cases changing 'shall' to 'must' may not change the stringency of the rule, changing 'shall' to 'may' could result in Idaho's rule being viewed as less stringent than federal rules. EPA will review the full primacy revision package and associated crosswalks to ensure that required actions were not made less stringent.
4. Please clarify whether Public Notice would be required under Section 150.08.