

Overview of Incorporations by Reference for the DEQ Drinking Water Program - Docket No. 58-0108-2401

Required by Idaho Code § 67-5223(4)

Rulemaking Docket No. 58-0108-2401 describes incorporation by reference of final federal national primary drinking water regulations promulgated with effective dates through July 1, 2024.

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 (NPDWR) program in lieu of EPA.

To maintain primacy of the SDWA and NPDWR in effect under 40 CFR Part 141, the state of Idaho must adopt drinking water rules that are no less stringent than the NPDWR. 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 NPDWR 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 added and may have an impact on Idaho facilities:

[40 CFR Parts 141.900 through 905](#)

Subpart Z – Control of Per- and Polyfluoroalkyl Substances (PFAS)

In this final rule, EPA promulgated a new regulation for the control of per- and polyfluoroalkyl substances (PFAS). This final rule was published in the Federal Register on April 26, 2024 and effective on June 25, 2024. These changes were made to provide protection of public health by reducing exposure to per- and polyfluoroalkyl substances (PFAS) in drinking water. A full description and rule text can be found in the [Federal Register](#).

The promulgation of the regulations for the control of PFAS generally affect two groups: (1) All community public water systems; and (2) all non-transient non-community public water systems.

The new rule requires community and non-community non-transient public water systems to:

- Conduct routine monitoring for the presence of PFAS in the water they serve,
- Comply with maximum contaminant levels (MCL) for four individual PFAS analytes and a hazard index MCL for a mixture of four PFAS analytes,
- Mitigate PFAS if they are at or above the MCL and provide public notification to affected consumers, and
- Provide regular updates to consumers regarding PFAS monitoring results for the public water system through their routine consumer confidence reporting.