

Overview of Incorporations by Reference for the DEQ Drinking Water Program - Docket No. 58-0108-2501 Required by Idaho Code § 67-5223(4)

Incorporation by reference of federal national primary drinking water regulations is a standard procedure that DEQ performs to meet legislative intent to avoid 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 (NPDWRs) in lieu of EPA.

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.

To maintain primacy of the SDWA and NPDWRs 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 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 revised or added and impact Idaho community public water system facilities:

40 CFR Part 141, Subpart O (40 CFR 141.151 through 141.156)

Subpart O – Consumer Confidence Reports (CCRs)

In this final rule, EPA promulgated revisions to the CCRs requirements. This final rule was published in the Federal Register on May 24, 2024 and effective on June 24, 2024. These changes were made to provide a better understanding to the consumers of their drinking water. A full description and rule text can be found in the [Federal Register](#).

The promulgation of the regulations for CCRs only affects community public water systems and are primarily found under 40 CFR 141.156.

The new regulations require community public water systems to:

- Include report summaries at the beginning of each report.
- Describe Optimal Corrosion Control Treatment, if provided.
- State how to locate the system’s lead service line inventory.
- Include contact information for help in translations.
- Create language access plans for systems with 100,000 or more customers.
- Distribute a second (biannual) report for systems with 10,000 or more customers.
- Post online for systems with 50,000 or more customers.

The revised portions of the regulations:

- Allow more flexibility on how to format the Contaminant Data Section.
- Provide definitions for risk communication language.
- Allow electronic delivery options.
- Change the certification form delivery deadline from three months to ten days.
- Add more examples on how to achieve “good faith” delivery for non-bill paying customers (renters, for example).

The following parts were revised or added and impact Idaho community and non-transient non-community public water system facilities:

40 CFR Part 141, Subpart I (40 CFR 141.80 through 141.93)<https://www.ecfr.gov/current/title-40/chapter-I/subchapter-D/part-141/subpart-Z>

Subpart I – Control of Lead and Copper

In this final rule, EPA promulgated revisions through the Lead and Copper Rule Improvements (LCRI) rule to the Control of Lead and Copper requirements. This final rule was published in the Federal Register on October 30, 2024 and effective on December 30, 2024. These changes were made to strengthen requirements that protect children and adults from lead in drinking water. A full description and rule text can be found in the [Federal Register](#).

The promulgation of the regulations for LCRI affects community and non-community non-transient public water systems and are found under 40 CFR 141.80 through 93.

The new regulations require community and non-community non-transient public water systems to:

- Replace lead service lines within 10 years.
- Improve tap sampling.
- Comply with a lower lead action level.
- Provide public health protection through provision of filters to service locations impacted by lead action level exceedances.
- Provide improved and increased communication and education on health effects of lead exposure and system actions to reduce or eliminate exposure.
- Sample for lead in school and childcare facilities.