

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.11 – GROUND WATER QUALITY RULE

DOCKET NO. 58-0111-2501 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized by Sections 39-105, 39-107, 39-120, and 39-126, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 17, 2025. If no such written request is received, a public hearing will not be held. Three public meetings were held during the negotiated rulemaking process.

DESCRIPTIVE SUMMARY: DEQ initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-Based Regulation](#) (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at: [Link](#). This is one of the DEQ rule chapters up for review in 2025. The goal of the rulemaking is to perform a critical and comprehensive review of the entire chapter in an attempt to reduce overall regulatory burden, streamline various provisions and increase clarity and ease of use.

In line with the Zero-Based Regulation Executive Order, DEQ removed the majority of a table that outlined primary federal drinking water standards and, instead, adopted the standards by reference, which maintains consistency with intent of using the federal drinking water standards for the groundwater rule and removes words and inconsistencies. By doing so, the rule now mirrors the federal drinking water standards for uranium, arsenic, and PFAS.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2026 Idaho State Legislature, the rule will become effective on July 1, 2026, unless otherwise specified in the concurrent resolution.

FEE SUMMARY: This rulemaking does not impose or increase a fee beyond what was previously submitted to and reviewed by the Idaho Legislature in prior rules. This rule chapter includes a point of compliance application fee. The fee is authorized by Idaho Code § 39-119.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: Not applicable.

NEGOTIATED RULEMAKING: Negotiated rulemaking was conducted pursuant to Section 67-5220, Idaho Code. On March 5, 2025, the Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking was published in the Idaho Administrative Bulletin. At the conclusion of the negotiated rulemaking process, DEQ submitted the draft rule to the Division of Financial Management for review. DEQ formatted the draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/groundwater-quality-docket-no-58-0111-2501/>.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule.

Incorporation by reference allows DEQ to keep its rules up to date with federal regulations and simplifies compliance for the regulated community. An electronic link to the incorporated material is available in the rule. This rulemaking does not propose to adopt amendments to materials previously incorporated by reference. The following sections of 40 CFR Part 141 are proposed for incorporation by reference into IDAPA 58.01.11 for the first time:

- 40 CFR 141.61(a) and (c) - organic contaminants
- 40 CFR 141.62(b) - inorganic contaminants
- 40 CFR 141.64 - disinfection byproducts
- 40 CFR 141.66 - radionuclides

IDAHO CODE SECTION 39-107D STATEMENT: This rule proposes to regulate an activity not regulated by the federal government and has previously been approved as meeting the requirements of Section 39-107D, Idaho Code, in Docket No. 58-0111-1901.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact the undersigned.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before September 24, 2025. Submit written comments to the undersigned.

Dated this 3rd day of September, 2025.

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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0111-2501
(ZBR Chapter Rewrite.)

58.01.11 – ~~GROUND WATER~~ GROUNDWATER QUALITY RULE

000. LEGAL AUTHORITY.

~~The Idaho Legislature has given the Board of Environmental Quality authority to promulgate the Ground Water Quality Rule pursuant to Sections 39-105, 39-107, 39-120, and 39-126, Idaho Code. The authority to formulate and adopt rules as are necessary and feasible to protect the environment and health of the citizens of the state is vested in the Director and Board pursuant to Sections 39-105 and 39-107, Idaho Code. Under Section 39-120, Idaho Code, the Board is authorized to adopt, by rule, ambient ground water quality standards. Under Section 39-126, Idaho Code, all state agencies shall incorporate the Ground Water Quality Plan, adopted by the legislature, in the administration of their programs and are granted authority to promulgate rules to protect ground water quality as necessary to administer such programs.~~ (3-24-22)()

001. ~~TITLE AND SCOPE.~~

~~01. **Title.** This rule is titled IDAPA 58.01.11, Rules of the Department of Environmental Quality, IDAPA 58.01.11, “Ground Water Quality Rule.” (3-24-22)~~

~~02. **Scope.** Under Section 39-120, Idaho Code, the Department of Environmental Quality is designated as the primary agency to coordinate and administer ground water quality protection programs for the state. This rule establishes minimum requirements for protection of ~~ground water~~ groundwater quality through standards and an aquifer categorization process. ~~The requirements of this rule shall~~ and serves as a basis for ~~the administration of administering~~ programs which address ground water that address groundwater quality. This rule does not ~~in and of itself~~ create a permit program. (3-24-22)()~~

002. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 58.01.23, “Contested Case Rules and Rules for Protection and Disclosure of Records.” (3-24-22)

~~003. **WRITTEN INTERPRETATIONS.**~~

~~The Department of Environmental Quality may have written statements which pertain to the interpretation of the rules of this chapter. If available, such written statements can be inspected and copied, at cost, at the Department of Environmental Quality, 1410 North Hilton, Boise, ID 83706-1255. (3-24-22)~~

003. INCORPORATION BY REFERENCE.

The following sections of 40 CFR Part 141, National Primary Drinking Water Regulations, revised as of July 1, 2025, are incorporated by reference: 40 CFR 141.61(a) and (c), organic contaminants; 40 CFR 141.62(b), inorganic contaminants; 40 CFR 141.64, disinfection byproducts; and 40 CFR 141.66, radionuclides. ()

004. REFERENCED MATERIAL.

Statistical Guidance for Determining Background Ground Water Quality and Degradation, Department of Environmental Quality. ()

~~0045. -- 0056. (RESERVED)~~

006. POLICIES.

It is the intent of the Department to implement, through this rule, the following policies from the Protection and Prevention Sections of the Idaho Ground Water Quality Plan, adopted by the legislature, 1992 Session Law, Chapter 310, Page 922. These policies are: (3-24-22)

~~01. **Ground Water Quality Protection.** It is the policy of the state of Idaho to maintain and protect the existing high quality of the state’s ground water. (3-24-22)~~

~~02. **Existing and Projected Future Beneficial Uses.** The policy of the state of Idaho is that existing and projected future beneficial uses of ground water shall be maintained and protected, and degradation that would impair existing and projected future beneficial uses of ground water and interconnected surface water shall not be allowed. (3-24-22)~~

~~03. **Categorization of Ground Water.** The policy of the state of Idaho is to provide differential protection for the state’s ground water resources. A ground water categorization system should be established for aquifers or portions of aquifers. The categorization system should be based on vulnerability of the ground water, existing and projected future beneficial uses of the ground water, existing quality of the ground water, and social and economic considerations. (3-24-22)~~

~~04. **Ground Water Quality Standards.** The policy of the state of Idaho is to establish ground water quality standards for biological, radiological, and chemical constituents. (3-24-22)~~

~~05. **Prevention of Ground Water Contamination.** The policy of the state of Idaho is to prevent contamination of ground water from all regulated and nonregulated sources of contamination to the maximum extent practical. (3-24-22)~~

~~06. Mining. The policy of the state of Idaho is to protect ground water and allow for the extraction of minerals above and within ground water. (3-24-22)~~

007. DEFINITIONS.

The terms “Board,” “Department,” and “Person” are defined in Section 39-103, Idaho Code. The term “Groundwater” (Groundwater) is defined in Section 39-121, Idaho Code. ()

01. Agricultural Chemical. Any pesticide, nutrient, or fertilizer used for the benefit of agricultural production or pest management. (3-24-22)()

02. Aquifer. A geological unit of permeable saturated material capable of yielding economically significant quantities of water to wells and springs. (3-24-22)

03. Beneficial Uses. Various uses of ~~ground water~~ groundwater in Idaho including, but not limited to, domestic water supplies, industrial water supplies including drinking water supplies, agricultural water supplies, aquacultural water supplies, and mining. A beneficial use is defined as actual current or projected future uses of ~~ground water~~ groundwater. (3-24-22)()

04. Best Available Method. Any system, process, or method ~~which that~~ is available to the public for commercial or private use to minimize the ~~impact of~~ degradation from point or nonpoint sources of contamination ~~on ground water~~ of groundwater quality. (3-24-22)()

05. Best Management Practice. A practice or combination of practices determined to be the most effective and practical means of preventing or reducing contamination ~~to ground water~~ of groundwater and interconnected surface water from nonpoint and point sources to achieve water quality goals and protect the beneficial uses of the water. (3-24-22)()

06. Best Practical Method. Any system, process, or method that is established and in routine use ~~which could~~ that can be used to minimize the ~~impact of~~ degradation from point or nonpoint sources of contamination ~~on ground water~~ groundwater quality. (3-24-22)()

~~07. Board. The Idaho Board of Environmental Quality. (3-24-22)~~

087. Cleanup. The removal, treatment, or isolation of a contaminant from ~~ground water~~ groundwater through the directed efforts of humans or the removal or treatment of a contaminant ~~in ground water~~ groundwater through management practice or the construction of barriers, trenches and other similar facilities for prevention of contamination, as well as the use of natural processes such as ~~ground water~~ groundwater recharge, natural decay, and chemical or biological decomposition. (3-24-22)()

098. Constituent. Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance occurring in ~~ground water~~ groundwater. (3-24-22)()

~~109. Contaminant.~~ Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste, or other substance ~~which that~~ does not occur naturally in ~~ground water~~ groundwater or ~~which that~~ naturally occurs at a lower concentration. (3-24-22)()

140. Contamination. The direct or indirect introduction into ~~ground water~~ groundwater of any contaminant caused in whole or in part by human activities. (3-24-22)()

121. Crop Root Zone. The zone that extends from the surface of the soil to the depth of the deepest crop root and is specific to a species of plant, group of plants, or crop. (3-24-22)

132. Degradation. The lowering of ~~ground water~~ groundwater quality as measured in a statistically significant and reproducible manner. (3-24-22)()

14. Department. The Department of Environmental Quality. (3-24-22)

153. Extraction. Physical removal of ore or waste rock from mineral-bearing deposits. Extraction does not include processing, which is the removal of target minerals from ores by physical or chemical methods. (3-24-22)

~~16. Ground Water.~~ Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (3-24-22)

~~174. Ground Water~~ **Groundwater Quality Standard.** Values, either numeric or narrative, assigned to any constituent for the purpose of establishing minimum levels of protection. (3-24-22)()

~~185. Highly Vulnerable Ground Water~~ **Groundwater.** ~~Ground water~~ **Groundwater** characterized by a relatively high potential for contaminants to enter ~~and~~ or be transported within the flow system. Determinations of ~~ground water~~ **groundwater** vulnerability will include consideration of land use practices and aquifer characteristics. (3-24-22)()

~~196. Irreplaceable Source.~~ A ~~ground water~~ **groundwater** source serving a beneficial use(s) where the reliable delivery of comparable quality and quantity of water from an alternative source in the region ~~would~~ **may** be economically infeasible or precluded by institutional constraints. (3-24-22)()

~~2017. Mine Operator.~~ Any person authorized to engage in mining activities, including without limitation those authorized by law, lease, contract, permit, or plan of operation. It does not include a governmental agency that grants mineral leases or similar contracts or permits unless the agency is engaged in mining activities. (3-24-22)()

~~2418. Mining Activity.~~ Recovery of a mineral from mineral-bearing deposits, which includes reclamation, extraction, excavation, overburden placement, disposal of tailings resulting from processing, and disposal of mineral extraction wastes, including tailings that are the result of extraction, waste rock, and other extraction wastes uniquely associated with mining. (3-24-22)

~~2219. Mining Area.~~ The area on or within ~~which~~ **that** one (1) or more mining activities occur. The Department ~~shall~~ **will** determine the boundaries of the mining area ~~as provided in Section 401.~~ Distinct mining activities may constitute separate mining areas. (3-24-22)()

~~230. Natural Background Level.~~ The level of any constituent in the ~~ground water~~ **groundwater** within a specified area as determined by representative measurements of the ~~ground water~~ **groundwater** quality unaffected by human activities. (3-24-22)()

~~24. Person.~~ Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any legal entity which is recognized by law as the subject of rights and duties. (3-24-22)

~~251. Point of Compliance.~~ The vertical surface where the Department determines compliance with ~~ground water~~ **groundwater** quality standards as provided in Subsection 400.05 and Section 401. (3-24-22)()

~~262. Practical Quantitation Level.~~ The lowest concentration of a constituent that can be reliably quantified among laboratories within specified limits of precision and accuracy during routine laboratory operating conditions. Specified limits of precision and accuracy are the criteria listed in the calibration specifications or quality control specifications of an analytical method. (3-24-22)

~~273. Projected Future Beneficial Uses.~~ Various uses of ~~ground water~~ **groundwater**, such as drinking water, aquaculture, industrial, mining, or agriculture, that are practical and achievable in the future based on hydrogeologic conditions, water quality, future land use activities, and social/economic considerations. (3-24-22)()

~~284. Recharge Area.~~ An area ~~in which~~ **where** water infiltrates into the soil or geological formation from, including but not limited to precipitation, irrigation practices and seepage from creeks, streams, and lakes, and percolates to one (1) or more aquifers. (3-24-22)()

~~295.~~ **Reclamation.** The process of restoring an area affected by a mining activity to its original or another beneficial use, considering previous uses, possible future uses; and surrounding topography. The objective is to re-establish a diverse, self-perpetuating plant community; and to minimize erosion, remove hazards, and maintain water quality. (3-24-22)()

~~3026.~~ **Remediation.** Any action taken (1) to control the source of contamination, (2) to reduce the level of contamination, (3) to mitigate the effects of contaminants, ~~and~~ or (4) to minimize contaminant movement. Remediation includes providing alternate drinking water sources when needed. (3-24-22)()

~~3127.~~ **Site Background Level.** The ~~ground-water~~ groundwater quality at the hydraulically upgradient site boundary. (3-24-22)()

~~008. --010.~~ **(RESERVED)**

~~011.~~ **INCORPORATION BY REFERENCE.**

~~Codes, standards and regulations may be incorporated by reference in this rule pursuant to Section 67-5229, Idaho Code. Such incorporation by reference shall constitute full adoption by reference, including any notes or appendices therein, unless expressly provided otherwise in this rule. Codes, standards or regulations adopted by reference throughout this rule are available in the following locations:~~ (3-24-22)

~~01. Department of Environmental Quality. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255.~~ (3-24-22)

~~02. Law Library. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051.~~ (3-24-22)

~~03. U.S. Government Printing Office. U.S. Government Printing Office, Superintendent of Documents, Washington, D.C. 20402, or U.S. Government Bookstore, Room 194 Federal Bldg., 915 Second Ave., Seattle, WA 98174.~~ (3-24-22)

~~012. -- 149.~~ **(RESERVED)**

150. IMPLEMENTATION.

This rule establishes minimum requirements to maintain and protect ~~ground-water~~ groundwater quality. This rule applies to all activities with the potential to degrade ~~ground-water~~ groundwater quality. (3-24-22)()

01. Ground-Water Groundwater Quality Standards. The numerical and narrative standards in Sections 200 and 301 identify minimum levels of protection for ~~ground-water~~ groundwater quality and ~~shall will~~ be used as a basis for: (3-24-22)()

a. Evaluating or comparing ~~ground-water~~ groundwater quality when developing or modifying best available methods, best management practices, or best practical methods; (3-24-22)()

b. Identifying permit conditions; (3-24-22)

c. Establishing cleanup levels; and (3-24-22)

d. Determining appropriate actions when ~~ground-water~~ groundwater quality standards are exceeded. (3-24-22)()

02. Aquifer Categorization. Aquifers of the state ~~shall will~~ be categorized based on vulnerability of the ~~ground-water~~ groundwater, existing and projected future beneficial uses of the ~~ground-water~~ groundwater, existing water quality, and social and economic considerations. There ~~shall will~~ be three (3) aquifer categories, Sensitive Resource, General Resource, and Other Resource, to provide different levels of protection. The level of protection required for each category and application of standards to these categories are shown in Table I.

Table 4. Level of Protection and Application of Standards to Aquifer Categories		
Category	Level of Protection	Application of Standards
Sensitive Resource	Apply best management practices and best available methods. This category provides the highest level of ground water <u>groundwater</u> protection.	May apply stricter standards than in Section 200.
General Resource	Apply best management practices and best practical methods to the maximum extent practical.	Apply numerical and narrative standards in Section 200.
Other Resource	Apply best management practices and best practical methods to the maximum extent practical.	May apply less strict standards than in Section 200.

(3-24-22)(____)

a. All aquifers where there are activities with the potential to degrade ~~ground water~~ groundwater quality are categorized in Section 300. Those aquifers where no activities with the potential to degrade ~~ground water~~ groundwater quality are occurring will remain uncategorized until such activities are commenced. If no action is taken to categorize an aquifer when an activity(ies) with the potential to degrade ~~ground water~~ groundwater quality is initiated, the aquifer will automatically be categorized as General Resource. (3-24-22)(____)

b. Categorization ~~should~~ will be considered when an activity with the potential to degrade ~~ground water~~ groundwater quality is proposed over an aquifer or portion of an aquifer ~~which that~~ presently has no such activities and, based on the criteria in Section 350, the aquifer may be most appropriately categorized as Sensitive Resource or Other Resource. (3-24-22)(____)

c. Recategorization ~~should~~ will be considered when information on vulnerability of the ~~ground water~~ groundwater, existing and projected future beneficial uses of the ~~ground water~~ groundwater, existing quality of the ~~ground water~~ groundwater, and social and economic considerations, in conjunction with one (1) or more of the criteria in Section 350, demonstrates that the aquifer or portion of an aquifer may be more appropriate in another category. (3-24-22)(____)

03. ~~Ground Water~~ Groundwater-Surface Water Interconnection. The beneficial uses of interconnected surface water ~~shall~~ will be recognized when evaluating ~~ground water~~ groundwater quality protection. The implementation of water quality programs ~~shall~~ ensure that the quality of ~~ground water~~ groundwater that discharges to surface water does not impair the identified beneficial uses of the surface water and that surface water infiltration does not impair beneficial uses of ~~ground water~~ groundwater. (3-24-22)(____)

04. **Interagency Coordination.** The Department will coordinate with other federal, state, and local agencies to pursue interagency agreements when necessary to ensure implementation of this rule for activities ~~which~~ have with the potential to degrade ~~ground water~~ groundwater quality. (3-24-22)(____)

151. -- 199. (RESERVED)

200. ~~GROUND WATER~~ GROUNDWATER QUALITY STANDARDS.

The following numerical and narrative standards apply to all ~~ground water~~ groundwater of the state and shall not be exceeded unless otherwise allowed in this rule. (3-24-22)(____)

01. Numerical ~~Ground Water~~ Groundwater Quality Standards. (3-24-22)(____)

a. The Primary Constituent Standards are based on protection of human health and are identified in Table II ~~for the bacteriological contaminants. For chemical and radiological contaminants, the following sections of 40 CFR Part 141, National Primary Drinking Water Regulations, are incorporated by reference into these rules: 40 CFR 141.61(a) and (c), organic contaminants; 40 CFR 141.62(b), inorganic contaminants; 40 CFR 141.64, disinfection byproducts; and 40 CFR 141.66, radionuclides.~~

Table II- Primary Constituent Standards		
Chemical Abstract Service Number	Constituent	Standard (mg/L unless otherwise specified)
7440-36-0	Antimony	0.006
7440-38-2	Arsenic	0.05
1332-21-4	Asbestos	7 million fibers/ longer than 10 um
7440-39-3	Barium	2
7440-41-7	Beryllium	0.004
7440-43-9	Cadmium	0.005
7440-47-3	Chromium	0.1
7440-50-8	Copper	1.3
57-12-5	Cyanide	0.2
16984-48-8	Fluoride	4
7439-92-1	Lead	0.015
7439-97-6	Mercury	0.002
±†	Nitrate (as-N)	10
±†	Nitrite (as-N)	1
±†	Nitrate and Nitrite (both as-N)	10
7782-49-2	Selenium	0.05
7440-28-0	Thallium	0.002
15972-60-8	Alachlor	0.002
1912-24-9	Atrazine	0.003
71-43-2	Benzene	0.005
50-32-8	Benzo(a)pyrene (PAH)	0.0002
75-27-4	Bromodichloromethane (THM)	0.1
75-25-2	Bromoform (THM)	0.1
1563-66-2	Carbofuran	0.04
56-23-5	Carbon Tetrachloride	0.005
57-74-9	Chlordane	0.002
124-48-1	Chlorodibromomethane (THM)	0.1
67-66-3	Chloroform(THM)	0.002
94-75-7	2,4-D	0.07
75-99-0	Dalapon	0.2

Table II- Primary Constituent Standards		
Chemical Abstract Service Number	Constituent	Standard (mg/L unless otherwise specified)
103-23-4	Di(2-ethylhexyl)-adipate	0.4
96-12-8	Dibromochloropropane	0.0002
541-73-4	Dichlorobenzene-m-	0.6
95-50-4	Dichlorobenzene-o-	0.6
106-46-7	1,4(para)-Dichlorobenzene or -Dichlorobenzene-p-	0.075
107-06-2	1,2-Dichloroethane-	0.005
75-35-4	1,1-Dichloroethylene	0.007
156-59-2	cis-1, 2-Dichloroethylene	0.07
156-60-5	trans-1, 2-Dichloroethylene	0.1
75-09-2	Dichloromethane	0.005
78-87-5	1,2-Dichloropropane	0.005
117-81-7	Di(2-ethylhexyl)phthalate	0.006
88-85-7	Dinoseb	0.007
85-00-7	Diquat	0.02
145-73-3	Endothall	0.1
72-20-8	Endrin-	0.002
100-41-4	Ethylbenzene	0.7
106-93-4	Ethylene dibromide-	0.00005
1071-83-6	Glyphosate	0.7
76-44-8	Heptachlor-	0.0004
1024-57-3	Heptachlor-epoxide	0.0002
118-74-1	Hexachlorobenzene-	0.001
77-47-4	Hexachlorocyclopentadiene	0.05
58-89-9	Lindane-	0.0002
72-43-5	Methoxychlor-	0.04
108-90-7	Monochlorobenzene	0.1
23135-22-0	Oxamyl (Vydate)	0.2
87-86-5	Pentachlorophenol	0.001
1918-02-1	Picloram-	0.5
1336-36-3	Polychlorinated biphenyls (PCBs)	0.0005
122-34-9	Simazine	0.004

Table II- Primary Constituent Standards		
Chemical Abstract Service Number	Constituent	Standard (mg/L unless otherwise specified)
100-42-5	Styrene	0.1
1746-01-6	2,3,7,8 TCDD (Dioxin)	3.0 x 10 ⁻⁸
127-18-4	Tetrachloroethylene	0.005
108-88-3	Toluene	4
±1	Total Trihalomethanes [the sum of the concentrations of bromodichloromethane, dibromochloromethane, tribromomethane (bromoform), and trichloromethane (chloroform)]	0.1
8001-35-2	Toxaphene	0.003
93-72-1	2,4,5-TP (Silvex)	0.05
120-82-4	1,2,4-Trichlorobenzene	0.07
71-55-6	1,1,1-Trichloroethane	0.2
79-00-5	1,1,2-Trichloroethane	0.005
79-01-6	Trichloroethylene	0.005
75-01-4	Vinyl Chloride	0.002
1330-20-7	Xylenes (total)	10
±1	Gross alpha particle activity (including radium-226, but excluding radon and uranium)	15 pCi/l
±1	Combined beta/ photon emitters	4 millirems/year effective dose equivalent
±1	Combined Radium-226 and radium-228	5 pCi/l
±1	Strontium-90	8 pCi/l
±1	Tritium	20,000 pCi/l
<u>7439-92-1</u>	<u>Lead</u>	<u>0.010</u>
<u>7440-50-8</u>	<u>Copper</u>	<u>1.3</u>
*1	Total Coliform ²	1 colony forming unit/100 ml
	Escherichia coliform (E. coli)	Less than 1 viable colony or colony forming unit/100 ml using any EPA approved method
	Fecal coliform	Less than 1 viable colony or colony forming unit/100 ml using any EPA approved method
Table Footnotes		
*1 No Chemical Abstract Service Number exists for this constituent.		

Table II - Primary Constituent Standards		
Chemical Abstract Service Number	Constituent	Standard (mg/l unless otherwise specified)
² An exceedance of the primary ground water groundwater quality standard for total coliform is not a violation of these rules. If the primary ground water groundwater quality standard for total coliform is exceeded, additional analysis for fecal coliform or E. coli will be conducted. An exceedance of the primary ground water groundwater quality standards for either fecal coliform or E. coli is a violation of these rules.		

(3-24-22)()

b. The Secondary Constituent Standards are generally based on aesthetic qualities and are identified in Table III.

TABLE III - SECONDARY CONSTITUENT STANDARDS <u>Table III. Secondary Constituent Standards</u>	
Constituent	Standard (mg/l unless otherwise specified)
Aluminum	0.2
Chloride	250
Color	15 Color Units
Foaming Agents	0.5
Iron	0.3
Manganese	0.05
Odor	3.0 Threshold Odor Number
pH	6.5 to 8.5 (no units apply)
Silver	0.1
Sulfate	250
Total Dissolved Solids	500
Zinc	5

(3-24-22)()

c. Sample preservation and analytical procedures to determine compliance with the standards identified in Subsection 200.01 ~~shall~~ must be in accordance with ~~the following Subsections 200.01.c.i and ii.~~, except that cyanide ~~shall~~ must be analyzed as weak acid dissociable cyanide ~~using a~~ as defined in IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation," or other methods approved by the Department: (3-24-22)()

i. ~~Environmental Protection Agency, Code of Federal Regulations, Title 40, Parts 141 and 143, revised as of July 2001~~ 40 CFR Part 141, National Primary Drinking Water Regulations, Subpart C, Monitoring and Analytical Requirements, provided in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems"; or

(3-24-22)()

- ii. Another method approved by the Department. (3-24-22)

02. Narrative ~~Ground Water~~ Groundwater Quality Standards. Contaminant concentrations, alone or in combination with other contaminants or properties, ~~shall~~ may not cause the ~~ground water~~ groundwater to be hazardous, deleterious, carcinogenic, mutagenic, teratogenic, or toxic. Determinations of specific numerical levels when applying this standard ~~shall~~ must be based on: (3-24-22)()

- a. Best scientific information currently available on adverse effects of the contaminant(s); (3-24-22)
- b. Protection of a beneficial use; or (3-24-22)
- c. Practical quantitation levels for the contaminant(s), if they exceed the levels identified in Subsection 200.02.a. or 200.02.b. (3-24-22)

03. Natural Background Level. If the natural background level of a constituent exceeds the standard in this section, the natural background level ~~shall~~ will be used as the standard. (3-24-22)()

201. -- 299. (RESERVED)

300. CATEGORIZED AQUIFERS OF THE STATE.

Aquifers or portions of aquifers in the state are categorized as follows: (3-24-22)

01. Sensitive Resource. (3-24-22)

- a. Spokane Valley -- Rathdrum Prairie Aquifer. (3-24-22)
- i. In addition to the ~~ground water~~ groundwater quality standards in Section 200, the following narrative standard applies: the aquifer ~~shall~~ may not be degraded, as it relates to beneficial uses, as a result of point source or nonpoint source activity unless it is demonstrated by the person proposing the activity that such change is justifiable as a result of necessary economic or social development. (3-24-22)()

02. General Resource. All aquifers or portions of aquifers where there are activities with the potential to degrade ~~ground water~~ groundwater quality of the aquifer, unless otherwise listed in Subsection 300.01 or 300.03. Once an activity with the potential to degrade the ~~ground water~~ groundwater quality of an uncategorized aquifer or portion of an aquifer is initiated, the uncategorized aquifer ~~shall~~ will automatically become General Resource unless petitioned into the Sensitive Resource or Other Resource category. (3-24-22)()

03. Other Resource. (3-24-22)

301. MANAGEMENT OF ACTIVITIES WITH THE POTENTIAL TO DEGRADE AQUIFERS.

The evaluation of activities for all aquifer categories should include water quality and hydrogeological modeling that consider existing and future conditions. ()

01. Sensitive Resource Category Aquifers. (3-24-22)

- a. Activities ~~with the potential to degrade Sensitive Resource aquifers~~ shall must be managed in a manner which maintains or improves existing ~~ground water~~ groundwater quality through the use of best management practices and best available methods except when a point of compliance is set pursuant to Section 401. (3-24-22)()

b. Numerical and narrative standards identified in Section 200 ~~shall~~ apply to aquifers or portions of aquifers categorized as Sensitive Resource. In addition, stricter numerical and narrative standards, for specified constituents, may be adopted pursuant to Section 350 on a case by case basis and listed in Section 300. (3-24-22)()

02. General Resource Category Aquifers. (3-24-22)

a. Activities ~~with the potential to degrade General Resource aquifers shall~~ **must** be managed in a manner which maintains or improves existing ~~ground water~~ **groundwater** quality through the use of best management practices and best practical methods to the maximum extent practical except when a point of compliance is set pursuant to Section 401. (3-24-22)()

b. Numerical and narrative standards identified in Section 200 ~~shall~~ apply to aquifers or portions of aquifers categorized as General Resource. (3-24-22)()

03. Other Resource Category Aquifers. (3-24-22)

a. Activities ~~with the potential to degrade Other Resource aquifers shall~~ **must** be managed in a manner which maintains existing ~~ground water~~ **groundwater** quality, except for those identified constituents which may have a less stringent standard, through the use of best management practices and best practical methods to the maximum extent practical except when a point of compliance is set pursuant to Section 401. (3-24-22)()

b. Numerical and narrative standards identified in Section 200 ~~shall~~ apply to aquifers or portions of aquifers categorized as Other Resource. In addition, less strict numerical and narrative standards, for specified constituents, may be adopted pursuant to Section 350 on a case by case basis and listed in Section 300. (3-24-22)()

302. -- 349. (RESERVED)

350. PROCEDURES FOR CATEGORIZING OR RECATEGORIZING AN AQUIFER.

The following process ~~shall~~ **will** be used for categorizing or recategorizing an aquifer. (3-24-22)()

01. Criteria for Aquifer Categories. The following criteria ~~shall~~ **will** be considered when a petition to categorize or recategorize aquifers or portions of aquifers is submitted to the Board: (3-24-22)()

a. For Sensitive Resource aquifers, ~~the groundwater in an aquifer or portion of an aquifer:~~ **the groundwater in an aquifer or portion of an aquifer:** (3-24-22)()

i. ~~The ground water in an aquifer or portion of an aquifer i~~ **Is** of a better quality than the ~~ground water~~ **groundwater** quality standards in Section 200 and maintenance of this quality is needed to protect an identified beneficial use(s); (3-24-22)()

ii. ~~The ground water in an aquifer or portion of an aquifer i~~ **Is** considered highly vulnerable; (3-24-22)()

iii. ~~The ground water in an aquifer or portion of an aquifer r~~ **Represents** an irreplaceable source for the identified beneficial use(s); (3-24-22)()

iv. ~~The ground water quality in an aquifer or portion of an aquifer h~~ **Has** been degraded and there is a need for additional protection measures to maintain or improve the water quality or prevent impairment of a beneficial use; (3-24-22)()

v. ~~The ground water within an aquifer or portion of an aquifer i~~ **Is** shown to be hydrologically interconnected with surface water and additional protection is needed to maintain the quality of either surface or ~~ground water~~ **groundwater**. Hydrologic interconnections can include either natural or induced ~~ground water~~ **groundwater** recharge or discharge areas; or (3-24-22)()

vi. ~~The ground water within an aquifer or portion of an aquifer d~~ **Demonstrates** other criteria which justify the need for additional protection. (3-24-22)()

b. For General Resource aquifers: (3-24-22)

- i. An activity with the potential to degrade ~~ground-water~~ groundwater quality is initiated over an aquifer or portion of an aquifer which presently has no such activities; (3-24-22)()
- ii. The ~~ground-water~~ groundwater in an aquifer or portion of an aquifer: ()
 - (1) ~~i~~s currently being used for drinking water or another beneficial use which requires similar protection; or (3-24-22)()
 - iii(2). The ~~ground-water in an aquifer or portion of an aquifer~~ Has a projected future beneficial use of drinking water or another beneficial use which requires similar protection. (3-24-22)()
- c. For ~~o~~Other ~~r~~Resource aquifers: (3-24-22)()
 - i. The ~~ground-water~~ groundwater quality within an aquifer or portion of an aquifer does not meet one (1) or more of the ~~ground-water~~ groundwater quality standards in Section 200; and allowing the ~~ground-water~~ groundwater quality to remain at this level does not impair existing or projected future beneficial uses within the aquifer or portion of an aquifer; (3-24-22)()
 - ii. The projected ~~ground-water~~ groundwater quality within an aquifer or portion of an aquifer will not meet one (1) or more of the ~~ground-water~~ groundwater quality standards in Section 200 as a result of activities over or within the aquifer or portion of an aquifer; and allowing the proposed degradation will not impair existing or projected future beneficial uses; (3-24-22)()
 - iii. Human caused conditions or sources of contamination have resulted in ~~ground-water~~ groundwater quality standards in Section 200 being exceeded, and the contamination cannot be remedied for economical or technical reasons, or remediation would cause more environmental damage to correct than to leave in place; or (3-24-22)()
 - iv. The ~~ground-water~~ groundwater within an aquifer or portion of an aquifer demonstrates other criteria which justify the need for categorization as an Other Resource. (3-24-22)()

02. Petition Process. The Department or any other person may petition the Board to initiate rulemaking to categorize or recategorize an aquifer or portion of an aquifer pursuant to ~~IDAPA 58.01.23, "Contested Case Rules and Rules for Protection and Disclosure of Records."~~ Section 67-5230, Idaho Code. In addition to the information required in a rulemaking ~~P~~petition ~~pursuant to IDAPA 58.01.23~~, the following information ~~shall~~ must be submitted in writing by the ~~P~~petitioner for the identified aquifer or portion of an aquifer: (3-24-22)()

- a. Current category, if applicable; (3-24-22)
- b. Proposed category and an explanation of how one (1) or more of the criteria in Subsection 350.01 are met; (3-24-22)()
- c. An explanation of why the categorization or recategorization is being proposed; (3-24-22)
- d. Location, description, and areal extent; (3-24-22)()
- e. General location and description of existing and projected future ~~ground-water~~ groundwater beneficial uses; (3-24-22)()
- f. Documentation of the existing ~~ground-water~~ groundwater quality; (3-24-22)()
- g. Documentation of aquifer characteristics, where available, including, but not limited to: (3-24-22)
 - i. Depth to ~~ground-water~~ groundwater; (3-24-22)()
 - ii. Thickness of the water bearing section; (3-24-22)

- iii. Direction and rate of ~~ground water~~ groundwater flow; (3-24-22)()
- iv. Known recharge and discharge areas; and (3-24-22)
- v. Geology of the area; and (3-24-22)()
- h. Identification of any proposed standards, for specified constituents, ~~which would be stricter~~ that are more or less strict than the ~~ground water~~ groundwater quality standards in Section 200, or any standards to be applied in addition to those in Section 200; and a rationale for the proposed standards. (3-24-22)()

03. Preliminary Department Review. Prior to submission of a petition to the Board to categorize or recategorize an aquifer, any person may seek a preliminary review of the petition from the Department. The Department ~~shall~~ will respond to the petitioner with comments within forty-five (45) days. (3-24-22)()

351. -- 399. (RESERVED)

400. ~~GROUND WATER~~ GROUNDWATER CONTAMINATION.

01. Releases Degrading ~~Ground Water~~ Groundwater Quality. No person ~~shall~~ may cause or allow the release, spilling, leaking, emission, discharge, escape, leaching, or disposal of a contaminant into the environment in a manner that: (3-24-22)()

- a. Causes a ~~ground water~~ groundwater quality standard to be exceeded; (3-24-22)()
- b. Injures a beneficial use of ~~ground water~~ groundwater; or (3-24-22)()
- c. Is not in accordance with a permit; consent order; or applicable best management practice, best available method, or best practical method. (3-24-22)()

02. Measures Taken in Response to Degradation. (3-24-22)

a. Except when a point of compliance is set pursuant to Section 401, when a numerical standard is not exceeded, but degradation of ~~ground water~~ groundwater quality is detected and deemed significant by the Department, the Department ~~shall~~ will take one (1) or more of the following actions: (3-24-22)()

- i. Require a modification of regulated activities to prevent continued degradation; (3-24-22)
- ii. Coordinate with the appropriate agencies and responsible persons to develop and implement prevention measures for activities not regulated by the Department; (3-24-22)
- iii. Allow limited degradation of ~~ground water~~ groundwater quality for the constituents identified in Subsection 200.01.a. if it can be demonstrated that: (3-24-22)()

(1) Best management practices, best available methods, or best practical methods, as appropriate for the aquifer category, are being applied; and (3-24-22)()

(2) The degradation is justifiable based on necessary and widespread social and economic considerations; or (3-24-22)

iv. Allow degradation of ~~ground water~~ groundwater quality up to the standards in Subsection 200.01.b., if it can be demonstrated that: (3-24-22)()

(1) Best management practices are being applied; and (3-24-22)

(2) The degradation will not ~~adversely impact~~ impair a beneficial use. (3-24-22)()

b. The following criteria ~~shall~~ will be considered when determining the significance of degradation:

(3-24-22)()

- i. Site specific hydrogeologic conditions; (3-24-22)
- ii. Water quality, including seasonal variations; (3-24-22)
- iii. Existing and projected future beneficial uses; (3-24-22)
- iv. Related public health issues; and (3-24-22)
- v. Whether the degradation involves a primary or secondary constituent in Section 200. (3-24-22)

03. Contamination Exceeding a ~~Ground Water~~ Groundwater Quality Standard. The discovery of any contamination exceeding a ~~ground water groundwater~~ standard that poses a threat to existing or projected future beneficial uses of ~~ground water groundwater~~ shall require appropriate actions, as determined by the Department, to prevent further contamination. These actions may consist of investigation and evaluation, or enforcement actions if necessary to stop further contamination or clean up existing contamination, ~~as required under the Environmental Protection and Health Act, Section 39-108, Idaho Code.~~ (3-24-22)()

04. Agricultural Chemicals. Agricultural chemicals found in intermittently saturated soils within the crop root zone will not be considered ~~ground water groundwater~~ contaminants as long as the chemicals remain within the crop root zone, and have been applied in a manner consistent with all appropriate regulatory ~~requirements provisions.~~ (3-24-22)()

05. Site-Specific ~~Ground Water~~ Groundwater Quality Levels or Points of Compliance. The Department may allow site-specific ~~ground water groundwater~~ quality levels, for any aquifer category, that vary from a standard(s) in Section 200 or Section 300, or may allow site-specific points of compliance, based on consideration of effects to human health and the environment, for: (3-24-22)()

- a. Remediation conducted under the Department's oversight; (3-24-22)
- b. Permits issued by the Department; (3-24-22)
- c. Situations where the site background level varies from the ~~ground water groundwater~~ quality standard; (3-24-22)()
- d. Dissolved concentrations of secondary constituents listed in Section 200 of this rule. The Department may allow the use of dissolved concentrations for secondary constituents if the requesting person demonstrates that doing so will not adversely affect human health and the environment; or (3-24-22)
- e. Other situations authorized by the Department in writing. (3-24-22)

401. MINING.

01. Request for Setting Point(s) of Compliance and Standards Applicable to Mining Activities. At the request of a mine operator, pursuant to this section, the Department ~~shall will~~ set a point of compliance, or points of compliance, at which the mine operator ~~shall must~~ protect current and projected future beneficial uses of the ~~ground water groundwater~~ and meet the ~~ground water groundwater~~ quality standards as described in Section 200 or as allowed under Subsection 400.05. Degradation of ~~ground water groundwater~~ is allowed at a point of compliance if the mine operator implements the level of protection during mining activities appropriate for the aquifer category as specified in Table ~~H~~ I of Subsection 150.02. If a request is not made, the mine operator must meet the ~~ground water groundwater~~ quality standards as described in Subsection 150.01 in ~~ground water groundwater~~ both within and beyond the mining area unless the Department establishes the point(s) of compliance consistent with Subsection 401.03. (3-24-22)()

- 02. Application Process.** (3-24-22)

a. If the mine operator requests a point(s) of compliance, ~~or points of compliance~~, the mine operator shall must make a written application to the Department. The application ~~shall~~ must be accompanied by a fee of two thousand five hundred dollars (\$2,500). ~~The application shall~~ and include the following information in sufficient detail to allow the Department to establish point(s) of compliance: (3-24-22)()

- i. Name, location, and mailing address of the mining operation; (3-24-22)
- ii. Name, mailing address, and phone number of the mine operator; (3-24-22)
- iii. Land ownership status of the mining operation (federal, state, private, or public); (3-24-22)()
- iv. The legal structure (corporation, partnership, etc.) and residence of the mine operator; (3-24-22)
- v. The legal description, to the quarter-quarter section, of the location of the proposed mining operation; (3-24-22)
- vi. Evidence the mine operator is authorized by the Secretary of State to conduct business in the state of Idaho; (3-24-22)

vii. A general description of the operational plans for the mining operation from construction through final reclamation. This description ~~shall~~ must include any proposed phases for construction, operations, and reclamation and a map that identifies the location of all mining activities; (3-24-22)()

viii. A preconstruction topographic site map or aerial photos extending at least one (1) mile beyond the outer limits of the mining area, identifying and showing the location and extent of the following features: (3-24-22)

- (1) All wells, perennial and intermittent springs, adit discharges, wetlands, surface waters, and irrigation ditches; (3-24-22)()
- (2) All public and private drinking water supply source(s) within one (1) mile of the mining area; (3-24-22)
- (3) All service roads and public roads; (3-24-22)
- (4) All buildings and structures within one (1) mile of the mining area; (3-24-22)
- (5) All special resource waters within one (1) mile of the mining area; and (3-24-22)
- (6) All Clean Water Act Section 303(d) listed streams, and their listed impairments, within one (1) mile of the mining area; (3-24-22)

ix. To the extent such information is available, a description and location of underground mine workings and adits and a description of the structural geology that may influence ~~ground water~~ groundwater flow and direction; (3-24-22)()

- x. Information regarding the relevant factors set forth in Subsection 401.03; and (3-24-22)
- xi. A proposed point of compliance, or points of compliance. (3-24-22)

b. Within thirty (30) days of receipt of an application, the Department ~~shall~~ will issue a written notice to the mine operator indicating: (3-24-22)()

- i. That the application is complete; or (3-24-22)
- ii. That the Department is rejecting the application as incomplete. In such a case, the Department ~~shall~~ will provide a list of deficiencies. Upon a determination that the application is incomplete, the Department ~~shall~~ will refund one-half (1/2) of the application fee. (3-24-22)()

c. The Department ~~shall~~ will establish the point(s) of compliance within one hundred eighty (180) days after receipt of a complete application unless the Department determines that additional time is necessary due to unusual circumstances. (3-24-22)()

03. Setting the Point(s) of Compliance. The point(s) of compliance ~~shall~~ will be set as close as possible to the boundary of the mining area, taking into consideration the relevant factors set forth in Subsections 401.03.a. through 401.03.h., but in no event ~~shall~~ may the point(s) of compliance be within the boundary of the mining area. The mining area boundary means the outermost perimeter of the mining area (projected in the horizontal plane) as it would exist at the completion of the mining activity. The point(s) of compliance ~~shall~~ will be set so that, outside the mining area boundary, there is no ~~injury~~ impairment to current or projected future beneficial uses of ~~ground water~~ groundwater and there is no violation of water quality standards applicable to any interconnected surface waters. The Department's determination regarding the point(s) of compliance ~~shall~~ will be based on an analysis and consideration of all relevant factors including, but not limited to: (3-24-22)()

a. The hydrogeological characteristics of the mining area and surrounding land, including any dilution characteristics of the aquifer and any natural attenuation supported by site-specific data; (3-24-22)

b. The concentration, volume, and physical and chemical characteristics of contaminants resulting from the mining activity, including the toxicity and persistence of the contaminants; (3-24-22)

c. The quantity, quality, and direction of flow of ~~ground water~~ groundwater underlying the mining area; (3-24-22)()

d. The proximity and withdrawal rates of current ~~ground water~~ groundwater users; (3-24-22)()

e. A prediction of projected future beneficial uses; (3-24-22)

f. The availability of alternative drinking water supplies; (3-24-22)

g. The existing quality of the ~~ground water~~ groundwater, including other sources of contamination and their cumulative ~~impacts~~ effects on the ~~ground water~~ groundwater; and (3-24-22)()

h. Public health, safety, and welfare effects. (3-24-22)

04. ~~Ground Water~~ Groundwater Monitoring and Reporting. The Department ~~shall~~ will require ~~ground water~~ groundwater monitoring and reporting whenever the Department sets the point(s) of compliance. The Department ~~shall~~ will not require ~~ground water~~ groundwater monitoring that duplicates ~~ground water~~ groundwater monitoring required by other state or federal agencies as long as the mine operator provides the data to the Department. (3-24-22)()

a. A ~~ground water~~ groundwater monitoring system required under Subsection 401.04 ~~shall~~ must be designed to: (3-24-22)()

i. Represent the quality of background ~~ground water~~ groundwater that has not been affected by the mining activity; and (3-24-22)()

ii. Represent the quality of ~~ground water~~ groundwater passing the point(s) of compliance ~~in order~~ to determine compliance with ~~ground water~~ groundwater quality standards or effectiveness of best management practices. (3-24-22)()

b. When practicable, indicator monitoring wells or other devices may be required. Such indicator wells and other devices ~~shall~~ may not be used to determine compliance with the ~~ground water~~ groundwater quality standards, but instead may be used to evaluate modeling results, ~~to~~ predict the quality of ~~ground water~~ groundwater at the point(s) of compliance, or ~~to~~ determine the effectiveness of best management practices. (3-24-22)()

c. All monitoring wells ~~shall~~ must be constructed (well depth, well screen size, well screen interval,

gravel pack, etc.) and developed so that ~~ground water~~ groundwater samples represent the quality of ~~ground water~~ groundwater that is relevant to current and future beneficial uses. (3-24-22)()

05. Coordination with Other State or Federal Agencies/Public Notice. Before setting the point(s) of compliance or requiring ~~ground water~~ groundwater monitoring, the Department ~~shall~~ will coordinate with and seek recommendations from other state or federal agencies ~~that have~~ with regulatory authority over the mining activities. The Department may provide public notice and an opportunity for public comment prior to setting or changing the point(s) of compliance. The Department ~~shall~~ will issue a public notice after it sets the point(s) of compliance. (3-24-22)()

06. Limitations. Section 401 addresses only those contaminants that naturally occur in the mining area ~~ground water~~ groundwater or in the surrounding rock or soil and are present in concentrations above the natural background level as a result of mining activities. (3-24-22)()

07. Application of Provisions. The provisions ~~set out~~ in Section 401 apply to new mining activities or to an expansion of existing mining activities ~~commencing after July 1, 2009~~. All consent orders, compliance schedules, and other agreements adopted or issued by the Department prior to July 1, 2009, pertaining to ~~ground water~~ groundwater protection at mine sites ~~shall~~ will remain in full force and effect. (3-24-22)()

08. Change in Point(s) of Compliance/~~Ground Water~~ Groundwater Monitoring. (3-24-22)()

a. A change in the point(s) of compliance may be requested by the mine operator when there is a change in, or new information regarding, the mining activity or any of the factors set forth in Subsection 401.03. A change requested by the mine operator ~~shall~~ must include an identification of the new proposed point(s) of compliance, a description of the cause for the change, and any data supporting the change. The mine operator's request ~~shall~~ will be handled as an application submitted pursuant to Subsection 401.02.a. and ~~shall~~ will be subject to all other provisions of Section 401. (3-24-22)()

b. The Department may initiate a change in the point(s) of compliance if there is a change in, or new information regarding, the mining activity or any of the factors set forth in Subsection 401.03, and the Department determines that the change is necessary to ensure there is no ~~injury~~ impairment to current or projected future beneficial uses of ~~ground water~~ groundwater and no violation of water quality standards applicable to any interconnected surface waters. The Department ~~shall~~ will notify the mine operator in writing of the Department's intent to change the point(s) of compliance. The Department ~~shall~~ will make its final decision to change the point(s) of compliance within sixty (60) days of the notice to the mine operator unless the Department and the mine operator agree more time is necessary to make the decision. (3-24-22)()

c. The Department may require additional or new ~~ground water~~ groundwater monitoring or indicator wells when the Department changes the point(s) of compliance. The Department may also require additional or different ~~ground water~~ groundwater monitoring or indicator wells if the Department determines, based upon a change in or new information regarding the mining activity or any of the factors listed in Subsection 401.03, that the monitoring no longer meets the ~~requirements set forth~~ provisions in Subsection 401.04. The mine operator may also request a change in the monitoring. (3-24-22)()

402. -- 999. (RESERVED)