

From: Pappani, Jason < >
Sent: Tuesday, April 14, 2026 5:13 PM
To: Elizabeth Spelsberg <Elizabeth.Spelsberg@deq.idaho.gov>
Cc: Garnett, Becky < >
Subject: Comments: negotiated rulemaking, Docket No. 58-0102-2601

Beth,

Thank you for the opportunity to provide comments on the April 8, 2026, negotiated rulemaking meeting, Docket No. 58-0102-2601, and the materials provided.

Negotiated Rule Draft No. 1:

EPA Region 10 acknowledges IDEQ's updates to the Idaho Water Quality Standards definition of "waters," "water body," and "surface waters" to reflect the definition found in Idaho Code Section 39-3602. In addition, we support updating water body unit names in Sections 110 – 160 to reflect current USGS names.

Site Specific Criteria Proposals

Addressing the following comments would add clarification and strengthen the site-specific proposals. This information and level of detail is necessary to verify the criteria are protective and based on sound science for the EPA's ultimate criteria review and CWA 303(c) action.

Data: All of the raw data and analyses for development of the site-specific criteria should be made available.

Site descriptions: Sites identified in the site-specific proposals should be clearly delineated based on geographic features and should be consistent with the site descriptions in the Water Quality Standards. Additionally, in the cover letter to IDEQ, Simplot states that there is no site-specific criterion proposed for Pole Canyon Creek, but in table of the draft proposal, Table ES-1 states that the criterion elements would apply to "North Fork Sage Creek and Tributaries – Source to Mouth" and in Section 2.3 it states that "... the Site or geographic scope of applicability includes NFSC and its tributaries (e.g.,

PCC)”. Additional information about the specific boundaries of the sites is necessary to evaluate where the SSCs apply and whether the proposed criteria are protective.

Fish Surveys and Species Distributions. For all proposals, include any new fish surveys that confirm the species present in the waters with proposed SSCs, or a brief description of why there wouldn't be any expected changes in species present since the last surveys were completed. In addition, please provide descriptions of the upper tributaries that do not have fish data, explaining why it is reasonable to assume that the species composition in these waters is the same as in the downstream waters (or why you would not expect any additional species to be present in these tributaries).

Protectiveness of Muscle and Whole-Body elements to other aquatic species. Since the criteria will need to be protective of all aquatic life, including other fish species, the proposals should describe how applying the Brown Trout muscle and whole-body elements to other fish species will ensure that those species' egg-ovary concentrations will not exceed their species-specific threshold.

North Fork Sage Creek Proposal Section 3.4.1. How were outliers determined? Please provide an explanation for why the benthic data were “inconsistent” and why it is reasonable to exclude the outliers and elevated benthic data from the analysis.

Brown Trout Whole-Body Element. EPA used a whole-body value of 13.2 mg/kg based on a directly-measured EC10. Please provide a rationale for using the geometric mean of a CF-derived whole-body element as opposed to a directly measured value.

Representativeness of Juvenile Tissue Values. Please describe how BAFs based on data from juvenile fish would derive criterion elements appropriately protective of adult fish, considering the change in foraging behavior to increasingly piscivorous in adult fish.

Crow Creek Proposal: Please provide additional rationale to describe how changing the tissue values for Crow Creek and its upstream tributaries, without recalculating the water column value, is protective.

Crow Creek Proposal, pg. 25 states that “Despite low selenium concentrations in water, tissue concentrations occasionally exceed the brown trout tissue threshold...” Is there an explanation for why this might be occurring? Please provide additional information to demonstrate that the water column value is protective despite the occasional exceedance of tissue thresholds.

General Comments:

Please explain how downstream waters will be protected where criteria are higher than downstream criteria (e.g., at the Wyoming line).

If IDEQ intends to remove the applicable muscle tissue element and rely solely on the whole-body element for any SSC, then IDEQ should consider how to address any potential muscle tissue data that might be collected or submitted for the applicable water body. However, to retain flexibility in implementation options, the EPA recommends that IDEQ consider adopting the muscle chronic value for *Salmo* from the EPA’s 2016 national recommendations for these sites.

Please let me know if you have any questions.

Thank you,

Jason Pappani

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