REGION 10
SEATTLE, WA 98101

June 10, 2026

Dr. Mary Anne Nelson
Surface and Wastewater Division Administrator
Idaho Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706-1255

Dear Dr. Nelson:

The U.S. Environmental Protection Agency has completed the Clean Water Act review of the new and revised water quality standards at IDAPA 58.01.02.100.02 and 58.01.02.210.01 of the Idaho Administrative Code, submitted to the EPA by the Idaho Department of Environmental Quality on January 20, 2022. Under Section 303(c) of the CWA, 33 U.S.C. § 1313(c), and the EPA's implementing regulations, states must submit new and revised WQS to the EPA for review and action, and the EPA must review those WQS for consistency with the CWA and its implementing regulations. The details of the EPA's action are outlined below and are further described in the enclosed technical support document.

The EPA's action applies only to waters in the state of Idaho and does not apply to waters that are within Indian Country, as defined in 18 U.S.C. § 1151. Nothing in this action shall constitute an approval or disapproval of a WQS that applies to waters within Indian Country. The EPA, or authorized Indian Tribes, as appropriate, retain the authority to establish WQS for waters within Indian Country.

Summary of the EPA's Action

Pursuant to the EPA's authority under CWA Section 303(c) and the implementing regulations at 40 C.F.R. Part 131, the EPA is approving the following new and revised WQS at IDAPA 58.01.02:

- IDAPA 58.01.02.100.02. Clarification of the definition of recreational use; and
- IDAPA 58.01.02.210.01. New numeric aquatic life criteria for acrolein, carbaryl, and diazinon

Regardless of whether or not the EPA is required to consult on approvals of WQS, the EPA nevertheless initiated consultation with U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) and transmitted a combined Biological Evaluation to FWS and NMFS on August 15, 2024, for Idaho's new acute and chronic aquatic life criteria for acrolein, carbaryl, and diazinon. FWS and NMFS issued biological opinions concluding that this approval would neither jeopardize the

continued existence of listed species in Idaho nor destroy or adversely modify designated critical habitat. In addition, the biological opinions identified reasonable and prudent measures to minimize the impact of incidental take associated with the action.[1, 2]

The EPA appreciates the efforts your staff has dedicated to providing new protections for Idaho waters and looks forward to continuing our close collaborations. If you have any questions regarding this letter, please contact me at shaw.hanh@epa.gov or Jason Pappani, the EPA staff lead, at (208) 378-5756 or pappani.jason@epa.gov.

Sincerely,

HANH SHAW

Digitally signed by HANH SHAW
Date: 2026.06.10 12:22:01 -07'00'

Hanh Shaw
Manager
Standards, Assessment and Watershed Management Branch
Water Division

Enclosure: Technical Support Document

cc (e-copy): Julia Achabal, Surface Water Bureau Chief, Idaho DEQ
Beth Spelsberg, Sr. WQS Scientist, Idaho DEQ

[1] FWS 2025. Biological Opinion for the Proposed Approval of Idaho's Water Quality Standards for Acrolein, Carbaryl, and Diazinon. 2024-0096794. U.S. Fish and Wildlife Service, Idaho Fish and Wildlife Office, Boise, ID. January 8, 2026.
[2] NOAA 2025. Endangered Species Act (ESA) Section 7(a)(2) Biological Opinion and Magnuson–Stevens Fishery Conservation and Management Act Essential Fish Habitat Response; EPA Approval of Idaho Water Quality Standards for Acrolein, Carbaryl, and Diazinon. NMFS Consultation Number: WCRO-2023-03583. National Marine Fisheries Service, Portland, OR. March 31, 2025.

U.S. ENVIRONMENTAL PROTECTION AGENCY – REGION 10

Technical Support Document

The EPA's Clean Water Act Action on Idaho's New and Revised WQS Clarifying Recreational Use Definition and Adopting Aquatic Life Criteria for Acrolein, Carbaryl, and Diazinon

Submitted on January 20, 2022

June 10, 2026

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I. Introduction

This Technical Support Document (TSD) provides the basis for the U.S. Environmental Protection Agency's (EPA) action under Section 303(c) of the Clean Water Act (CWA), 33 U.S.C. 1313(c), and the federal water quality standards (WQS) regulations at 40 C.F.R. Part 131, to approve certain WQS that Idaho submitted to the EPA on January 20, 2022.

This TSD addresses the following revisions to Idaho WQS:

- Clarification of the definition of recreational use; and
- Adoption of new numeric aquatic life criteria for acrolein, carbaryl, and diazinon.

A. Clean Water Act Requirements for Water Quality Standards

The objective of the CWA is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters with an interim goal, where attainable, to achieve water quality that provides for the protection and propagation of fish, shellfish, and wildlife and recreation in and on the water. Under Section 303(c) of the CWA and federal implementing regulations at 40 C.F.R. § 131.4, states[3] have the primary responsibility for reviewing, establishing, and revising WQS. These standards include the designated uses of a waterbody or waterbody segment, the water quality criteria to protect those designated uses, and an antidegradation policy. These statutory and regulatory requirements ensure that states work with local communities to adopt appropriate designated uses (as required in 40 C.F.R. § 131.10(a)) and to adopt criteria to protect those designated uses (as required in 40 C.F.R. § 131.11(a)).

States are required to hold public hearings for the purpose of reviewing applicable WQS periodically but at least once every three years and, as appropriate, modifying and adopting standards (40 C.F.R. § 131.20). Each state must follow applicable legal procedures for revising or adopting such standards (40 C.F.R. § 131.5(a)(6)) and is required to submit a certification by the state's attorney general, or other appropriate legal authority within the state, that the WQS were duly adopted pursuant to state law (40 C.F.R. § 131.6(e)). The EPA's review authority and the minimum requirements for state WQS submittals are described at 40 C.F.R. §§ 131.5 and 131.6, respectively.

Section 303(c) of the CWA requires states and authorized tribes to submit new or revised WQS to the EPA for review and action. The EPA reviews these changes and approves the WQS if they meet the requirements of the CWA and the EPA's implementing regulations.

The EPA considers four questions (described below) when evaluating whether a particular provision is a new or revised WQS. If all four questions are answered "yes" then the provision would likely

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[3] The EPA is using the word "state" in this Technical Support Document since the EPA is acting on a state submittal. However, where "state" is used in this section, it applies to both states, territories, and authorized Tribes consistent with the CWA and associated regulations.

constitute a new or revised WQS that the EPA has the authority and duty to approve or disapprove under CWA Section 303(c)(3).[4]

1. Is it a legally binding provision adopted or established pursuant to state or Tribal law?
2. Does the provision address designated uses, water quality criteria (narrative or numeric) to protect designated uses, and/or antidegradation requirements for waters of the United States?
3. Does the provision express or establish the desired condition (e.g., uses, criteria) or instream level of protection (e.g., antidegradation requirements) for waters of the United States immediately or mandate how it will be expressed or established for such waters in the future?
4. Does the provision establish a new WQS or revise an existing WQS?

If the EPA approves a state's WQS submission, such standard(s) shall thereafter be the applicable standard for CWA purposes unless and until the EPA approves revisions to the WQS or the EPA promulgates a more stringent WQS for the state. When the EPA disapproves a state's WQS, the EPA shall notify the state and specify why the WQS is not in compliance with the requirements of the CWA and federal WQS regulations and specify any changes that are needed to meet such requirements (40 C.F.R. § 131.21).

Finally, the EPA considers non-substantive edits to existing WQS to constitute new or revised WQS that the EPA has the authority to approve or disapprove under CWA Section 303(c)(3). While such edits and changes do not substantively change the meaning or intent of the existing WQS, the EPA treats such edits and changes in this manner to ensure public transparency as to which provisions are applicable for CWA purposes. The scope of the EPA's review and action on non-substantive edits or editorial changes extend only to the non-substantive edits or changes themselves. The EPA does not re-open or reconsider the underlying WQS that are the subject of the non-substantive edits or editorial changes.

B. Regulatory Requirements for Toxics

Section 303(c)(2)(B) of the CWA requires states and authorized tribes to adopt water quality criteria for toxic pollutants that are listed pursuant to Section 307(a)(1) and for which the EPA has published criteria under Section 304(a), where the discharge or presence of these toxics could reasonably be expected to interfere with the designated uses adopted by the state or tribe. In adopting such criteria, states and tribes should establish numeric values based on one of the following:

(1) CWA Section 304(a) guidance
(2) CWA Section 304(a) guidance modified to reflect site-specific conditions, or
(3) Other scientifically defensible methods (40 C.F.R. § 131.11 (b)(1)).

In addition, states and tribes should establish narrative criteria where numeric criteria cannot be established or to supplement numeric criteria (see 40 C.F.R. § 131.11(b)(2)).

[4] What is a New or Revised Water Quality Standard under 303(c)(3)? Frequently Asked Questions, EPA No. 820F12017 (Oct. 2012). Available at https://www.epa.gov/sites/production/files/2014-11/documents/cwa303faq.pdf

II. Idaho Department of Environmental Quality's January 20, 2022, WQS Submittal

By letter dated January 20, 2022, the Idaho Department of Environmental Quality (DEQ) submitted revisions to various sections of the Idaho Water Quality Standards, IDAPA 58.01.02, to the EPA for review and action under Section 303(c) of the CWA.

To develop these revised WQS, under Idaho rule docket 58-0102-1802, DEQ held public negotiated rulemaking meetings pursuant to Idaho Code Section 67-5220 and IDAPA 58.01.23.810-815. DEQ held public negotiated rulemaking meetings on May 31, 2018 and June 28, 2018. Stakeholders and members of the public participated in the negotiated rulemaking process by receiving email notifications, attending the meetings, reviewing DEQ's presentations and supporting information, and submitting comments.

The revisions were adopted as pending by the Idaho Board of Environmental Quality under Idaho rule docket 58-0102-1802. On November 14, 2018, the revisions were reviewed by the 2019 Idaho Legislature, became final and effective under state law on April 11, 2019, and were certified by the Idaho Attorney General on January 19, 2022, as duly adopted pursuant to state law.

Idaho submitted the following documents by electronic mail to the EPA in accordance with the minimum requirements of a WQS submittal at 40 C.F.R. § 131.6:

- Cover letter from Mary Anne Nelson, Idaho DEQ Surface and Wastewater Division Administrator, to Dan Opalski, EPA Region 10 Water Division Director, dated January 20, 2022.
- May 2, 2018, Notice of Negotiated Rulemaking.
- September 5, 2018, Notice of Proposed Rule announcing opening of 30-day public comment period on proposed rule.
- July 26, 2018, Negotiated Rulemaking Summary prepared pursuant to Idaho Code Section 67-5220(3)(f), including the summary of public comment and DEQ's response.
- November 2018 Board Meeting Minutes.
- December 5, 2018, Notice of Adoption of Pending Rule announcing adoption by the Board.
- May 1, 2019, Omnibus Notice of Legislative Action.
- September 5, 2018, Notice of Proposed Rule.
- Letter from the Idaho Attorney General's Office certifying the standards were adopted pursuant to state law or tribal authority, January 19, 2022.

The WQS revisions submitted to the EPA for review and CWA action pursuant to Section 303(c) include updates to Idaho's WQS provisions at IDAPA 58.01.02.210.01 and 58.01.02.100.02.

III. The EPA's Action on Idaho's New and Revised WQS

The EPA has completed its review and is acting on Idaho's January 20, 2022, submittal, as described below.

This action applies only to water bodies under the jurisdiction of the State of Idaho and does not apply to waters within Indian Country, and nothing in this letter and technical support document shall constitute an approval or disapproval of a WQS that applies to waters within Tribal jurisdiction.

A. EPA Approval of New and Revised WQS

In accordance with its CWA authority, 33 U.S.C. 1313(c)(3) and 40 C.F.R. § 131.11, the EPA approves 1) the non-substantive changes at IDAPA 58.01.02.100.02 clarifying that primary contact recreation (PCR) includes activities associated with secondary contact recreation (SCR) and 2) the new numeric aquatic life criteria for acrolein, carbaryl, and diazinon at IDAPA 58.01.02.210.01. The underlined portions of the text indicate the new language subject to the EPA's action.

i. Non-Substantive Changes at IDAPA 58.01.02.100.02

Rule Excerpt

02. Recreation

a. Primary contact recreation (PCR): water quality appropriate for prolonged and intimate contact by humans or for recreational activities when the ingestion of small quantities of water is likely to occur. Such activities include, but are not restricted to, those used for swimming, water skiing, or skin diving. <u>PCR includes all activities associated with secondary contact recreation (SCR).</u>

Rationale

The EPA is approving the clarifying language to the definition of PCR. This new language does not change where the use is designated nor the criteria associated with this use; the additional language clarifies that the PCR use provides protection for recreational activities *in addition* to the activities identified in SCR. The SCR use includes recreational activities where ingestion of raw water is not likely to occur. These changes are consistent with Idaho's longstanding interpretation of PCR. The EPA's action on the addition of clarifying language does not constitute an action on the underlying previously approved WQS.

ii. New Numeric Aquatic Life Criteria at IDAPA 58.01.02.210.01

Rule Excerpt

210. NUMERIC CRITERIA FOR TOXIC SUBSTANCES FOR WATERS DESIGNATED FOR AQUATIC LIFE, RECREATION, OR DOMESTIC WATER SUPPLY USE.

01. Criteria for Toxic Substances. The criteria of Section 210 apply to surface waters of the state as provided in Tables 1 and 2. Criteria for metals (arsenic through zinc) listed in Tables 1 and 2 are expressed as a dissolved fraction (i.e., passes through a forty-five hundredths (0.45) micron filter) unless otherwise noted.

a. Table 1 contains criteria to protect aquatic life.

Table 1. Criteria for Protection of Aquatic Life			
Compound	***CAS Number***	***CMC (µg/L)***	***CCC (µg/L)***
Acrolein	*107028*	*3*	*3*
Carbaryl	*63252*	*2.1*	*2.1*
Diazinon	*333415*	*0.17*	*0.17*

CMC: Criterion Maximum Concentration
CCC: Criterion Continuous Concentration

Idaho's existing frequency and duration components for aquatic life criteria applicable to acrolein, carbaryl, and diazinon are specified at IDAPA 58.01.02.210.03.d.i. as follows:

> *210.03.d. Application of toxics criteria.*
>
> *i. Frequency and duration for aquatic life toxics criteria. CMC column criteria in Table 1 in Subsection 210.01 are concentrations not to be exceeded for a one-hour average more than once in three (3) years unless otherwise specified. CCC column criteria in Table 1 in Subsection 210.01 are concentrations not to be exceeded for a four-day average more than once in three (3) years unless otherwise specified.*

Rationale

The EPA's WQS regulations at 40 C.F.R. § 131.11 require states to adopt water quality criteria that protect the designated uses and require that such criteria be based on sound scientific rationale. In establishing numeric criteria for toxic pollutants, states should establish numeric values based on (1) CWA Section 304(a) guidance; or (2) 304(a) guidance modified to reflect site-specific conditions; or (3) other scientifically defensible methods (see 40 C.F.R. § 131.11(b)(1)).

The EPA's 1985 guidelines for deriving aquatic life criteria[5] (the "1985 Guidelines") recommend that aquatic life criteria include three components: the magnitude of the criterion; the averaging period for the criterion, known as the duration component; and the maximum frequency at which the criterion may be exceeded. The EPA typically recommends averaging durations of one hour for the CMC and four days for the CCC for aquatic life criteria that are based on standard laboratory toxicity tests. As indicated in the 1985 Guidelines, aquatic ecosystems can generally recover

[5] USEPA. 1985. Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses. Accessed at https://www.epa.gov/sites/production/files/2016-02/documents/guidelineswater-quality-criteria.pdf

from most exceedances in about three years, and therefore the EPA recommends once in three years as the maximum frequency of exceedance for aquatic life criteria.

The EPA's review of the new criteria for acrolein, carbaryl, and diazinon in IDAPA 58.01.02.210.03.d.i is based on whether the criteria protect designated uses and are based on sound scientific rationale, including consideration of the EPA's National Recommended Water Quality Criteria published pursuant to Section 304(a) of the CWA. Idaho's new criteria for acrolein, carbaryl, and diazinon in IDAPA 58.01.02.210.03.d.i adopted the EPA's CWA Section 304(a) national recommendations for these pollutants. Therefore, the EPA finds that the acrolein, carbaryl, and diazinon criteria are scientifically defensible and protective of designated uses for the reasons explained in the EPA criteria documents for those pollutants.[6,7,8] The EPA's CWA Section 304(a) national recommendations provide an extensive technical basis and justification as to how the recommended aquatic life criteria adequately protect aquatic life uses. The criteria documents provide an assessment and critical review of all data identified in the EPA's literature search quantifying the toxicity of these pesticides to freshwater aquatic organisms and provides the basis for criteria that will assure protection of populations of fish, amphibians, aquatic invertebrates, and plants based on available data. The EPA is relying upon the justification for the CWA Section 304(a) national recommendations to provide the basis for the EPA's approval of Idaho's new numeric aquatic life criteria. Therefore, in accordance with the CWA, 33 U.S.C. 1313(c)(3) and 40 C.F.R. Part 131, the EPA is approving Idaho's new acute and chronic criteria for acrolein, carbaryl, and diazinon at IDAPA 58.01.02.210.01.a. Table 1.

[6] US EPA. 2009. *Ambient Aquatic Life Water Quality Criteria for Acrolein.* U.S. Environmental Protection Agency. Office of Water, Washington, DC.
[7] US EPA. 2012. *Aquatic Life Ambient Water Quality Criteria for Carbaryl.* EPA-820-R-12-007. U.S. Environmental Protection Agency. Office of Water, Washington, DC.
[8] US EPA. 2005. *Aquatic Life Ambient Water Quality Criteria: Diazinon.* EPA-822-R-05-006. U.S. Environmental Protection Agency. Office of Water, Washington, DC.