

History of Antidegradation in Idaho



Negotiated Rulemaking
April 2010

Overview

“You have to know the past to understand the present” Dr. Carl Sagan

- 30+ years
- Water quality standards
- Executive orders
- Statutes
- Agreements/MOUs

Idaho History – The Early Years

1973

- Antidegradation language in WQS
 - Point sources and high quality waters

1974

- Specific antidegradation language removed from WQS

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1980

- SRW language appeared
- EPA disapproved of Section 1-2300.1

1985

- 1985 - EPA letter

1985 EPA Letter

- ID WQS lack minimum antidegradation requirements
- EPA/DEQ would jointly address antidegradation
- 4 milestones; 1986 = final deadline

Idaho History – The First Legal Action

1986

- Deadline passes

1987
(?)

- Citizen conservation group initiates legal action

1988

- Emergency Rule
- Final Agreement
- Executive Order 88-23

1988 Emergency Rule

- Incorporated the antidegradation policy into Idaho WQS
 - Maintenance of Existing Uses for All Waters
 - High Quality Waters
 - ORWs

1988 Final Agreement

- Negotiated Agreement establishing:
 - “Antidegradation policy”
 - Water quality advisory working committee
 - Basin area meetings (BAM)
 - Process for designating ORWs
 - Coordinated monitoring program
 - Implementation for 3 NPS activities

Executive Order 88-23

- Adopted an antidegradation policy as in 40 CFR 131.12
- Established water quality advisory working committees
- Identified management agencies to implement the policy
 - DEQ required to organize BAMs
 - DEQ required to established ORW designation procedures
 - DEQ required to fully maintain and protect ORWs

Idaho History

1990

- Various components of the agreement were adopted into WQS

- EPA approves

1991

- Idaho Conservation League lawsuit

1992

- Executive Order 92-23 replaces 88-23

- 1st attempt at ORW designation

Idaho History – Antideg Enters State Law

1995

- New legislation 39-3601 *et seq.*
 - 39-3603 replaces Exec. Order 92-23 and portions of the 1988 agreement

1996

- EPA disapproves of ORW portion of antidegradation policy
- EPA acknowledges Idaho's lack of clear implementation
- Board adopts a temporary rule to address EPA's concern

Idaho History – Last Rule Revision

1997

- Idaho legislature adopts 1996 temporary rule
- EPA approval received
- 2nd attempt at ORW designations

1998

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2008

- Antidegradation implementation procedures
- 3rd attempt at ORW designations

Idaho History – Here and Now

2009



■ ICL notice of intent to sue

April 2010

<i>Sun</i>	<i>Mon</i>	<i>Tue</i>	<i>Wed</i>	<i>Thu</i>	<i>Fri</i>	<i>Sat</i>
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