



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1410 North Hilton • Boise, Idaho 83706 • (208) 373-0502

C.L. "Butch" Otter, Governor
Toni Hardesty, Director

June 21, 2010

Mike Bussell, Director
Office of Water, Region 10
U.S. Environmental Protection Agency
1200 6th Ave.
Seattle, WA 98101

Re: Submission of revised water quality standards for approval: Arsenic human health criteria revision & Cadmium low hardness cap revision (Idaho docket 58-0102-0801)

Dear Mr. Bussell:

Consistent with the Clean Water Act §303(c) and 40 CFR 131.20, revised water quality standards (WQS) are being submitted for EPA approval. Idaho rule Docket 58-0102-0801 revises Idaho's two human health criteria for arsenic applicable to surface waters, aligning them with EPA's MCL for drinking water. This docket also lowers the low-end limit on hardness values used in calculation of cadmium aquatic life criteria from 25 mg/L to 10 mg/L, as calcium carbonate. These revisions address in part issues raised by the Idaho Conservation League in a 60-day Notice of Intent to sue EPA regarding Idaho's Water Quality Standards dated July 7, 2008.

Rulemaking was initiated by DEQ with announcement of negotiated rulemaking in the December 3, 2008 Idaho Administrative Bulletin. One rulemaking meeting was held in Boise on December 17, 2008. Several parties participated in the negotiation, including EPA regional staff in person and EPA national staff via phone. A delay in publication of a proposed rule occurred due to Idaho's moratorium on rulemaking while the State Legislature is in session. DEQ published a proposed rule in the May 6, 2009 Idaho Administrative Bulletin with a 30-day public comment period. No request for public hearing was received and none was held. Comments were received from three parties, a summary of which is attached.

The proposed rule was presented to and considered by the Idaho Board of Environmental Quality (Board) on July 29, 2009. Christine Psyk, Associate Director, Office of Water, EPA Region 10, spoke in support of the proposed rule; there was no opposing testimony. The Board adopted the rule as proposed and a pending rule was noticed in the September 2, 2009 Idaho Administrative Bulletin. The pending rule was adopted as a final rule by the 2010 Idaho legislature, effective March 29, 2010.

The submittal package includes:

- 1) This cover letter, briefly describing the rulemaking and the contents of the package supporting the rule being submitted for EPA approval;

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- 2) December 3, 2008 Notice of Negotiated Rulemaking – Announcing DEQ’s intention to change arsenic and cadmium water quality criteria, inviting public participation in negotiation and noticing a date, time and place for the first meeting;
- 3) May 6, 2009 Notice of Proposed Rule – Announcing opening of 30-day public comment period on proposed rule language resulting from negotiations, including text of the affected portions of the water quality standards showing changes from existing rule language in legislative markup format (deletions struck out and proposed additions underlined) and availability of supporting documents;
- 4) Summary of public comment and DEQ’s response prepared for the Board;
- 5) July 29, 2009 Board of Environmental Quality Minutes – providing a summary of testimony regarding the rule.
- 6) September 2, 2009 Notice of Pending Rule – Announcing adoption by the Board and providing a descriptive summary of any changes from the proposed rule of which there were none;
- 7) DEQ’s Justification for the revised water quality standards and its supporting documents; and
- 8) An Attorney General’s certification that the rules were adopted according to state law.

These supporting documents are being delivered as computer files on the included compact disc.

If you have any questions on this rulemaking and the enclosed supporting documents, please contact Don A. Essig, 208-373-0119, or Don.Essig@deq.idaho.gov

Sincerely,



Barry N. Burnell
Water Quality Division Administrator

BNB:DE:bmm

Enclosures

- c: Lisa Macchio, EPA (with enclosures)
Justin Hayes, ICL (w/o enclosures)
Don Essig, DEQ (w/o enclosures)
Doug Conde, DEQ (w/o enclosures)
Michael McIntyre, DEQ (w/o enclosures)