



IDAHO MINING ASSOCIATION

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VIA EMAIL – paula.wilson@deq.idaho.gov

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, ID 83706-1255

Docket No. 58-0102-1702

Dear Ms. Wilson:

The Department of Environmental Quality (Department) has proposed changes to the Water Quality Standards (IDAPA 58.01.02) to address what has become known as the Alaska Rule (40 CFR §131.21) and to identify which water quality standards have been approved by EPA. The Idaho Mining Association (IMA) has members to which water quality standards are of direct interest, especially the status of which specific standards have been approved by EPA and are applicable for purposes of the Clean Water Act. Besides commenting specifically on how to best describe the status of EPA approval/disapproval of water quality standards, IMA also believes that the Department needs to take further action to resolve issues associated with the human health water quality criterion for arsenic. Specifically, we ask the Department to consider the following:

Proposed Section 007.

This section should make it clear that any standard initially approved by EPA after 2000, then later disapproved by EPA, will stay in effect until EPA promulgates a new federal standard. [See §131.21.(c).(2)].

Proposed Section 210.

IMA agrees with the Department that the creation of two separate tables for the Criteria for Toxic Substances improves the clarity and readability of the standards.

One of the challenges with water quality standards is that EPA does not adhere to the timetable for review and approval of standards as described in §131.21. EPA's failure to follow their own rules creates problems for the Department and for the regulated community in that it is not certain what standards are approved by EPA and applicable

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for Clean Water Act purposes. Further confusion is then created from the numerous lawsuits filed by non-governmental organizations challenging the EPA approved standards or EPA's failure to take actions on water quality standard submittals by the state.

To address this issue, IMA recommends two subcolumns for each contaminant standard: one column showing the EPA approved value (i.e., the value for purposes of the CWA) and the second column showing the state approved value. Where there is a difference between the EPA approved value and the state approved value, a footnote should be provided explaining the difference. For example, since Idaho submitted in December 2016 revised human health water quality criteria to EPA for approval, one column in the table should show the existing EPA approved standards and then another column the state approved standard with a footnote that these standards were submitted to EPA in 2016 for approval.

Arsenic – Human Health Water Quality Criteria

The human health water quality criteria for arsenic should remain at 10 micrograms per liter, for both water and fish and fish only. We believe that this is consistent with §131.21.(c).(2) until EPA puts forward a new standard for Idaho. We do recommend that the Department consider a new rulemaking on the arsenic criteria.

Kindest Regards,



Benjamin J. Davenport
Executive V.P.
Idaho Mining Association