



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
WATER AND WATERSHEDS

January 18, 2018

Jason Pappani
Idaho Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706

RE: The EPA's Comments on Idaho's Preliminary Draft Rule, Designating Domestic Water Supply Use in Twelve Water Bodies and Associated Revisions, Docket No. 58-0102-1703

Dear Jason:

The EPA appreciates the opportunity to provide comments to the Idaho Department of Environmental Quality (DEQ) on the preliminary draft rule designating the domestic water supply use to those additional surface waters in Idaho that are currently known sources of water supply for public drinking water systems. In addition, the proposed rule includes clarification to the description of Idaho's domestic water supply designated use as well as deletion and revision of certain provisions directly and indirectly related to domestic public water supply.

The EPA appreciates DEQ's recent review of its domestic water supply (DWS) use designation. As stated in the June 9, 2016 letter to Don Essig of DEQ, the EPA's review of the Safe Drinking Water Identification System (SDWIS) database and DEQ's geographic information system (GIS) data layer for its designated uses indicated that there were a number of waters that are currently lacking the appropriate designation of DWS. Based on this review the EPA recommended DEQ conduct its own review and update its use designations. The EPA commends DEQ for completing its review and proposing revisions to address the findings.

These revisions are an important component in providing source water protection where surface waters are used for public drinking water. Furthermore, protecting source water is critical to the Safe Drinking Water Act multi-barrier approach to reduce risks to public health from exposure to contaminated water. Protecting source water from contamination is recognized as the first barrier of protection, and can reduce expensive treatment costs. The EPA appreciates DEQ's commitment to continuing its efforts in updating the list of waters designated as DWS as a part of its continuing efforts to protect public drinking water.

The EPA has reviewed DEQ's proposed rule language and is providing the following comments for DEQ's consideration.

Domestic Water Supply Use Description

Based on information provided during the rulemaking meeting, DEQ proposes clarifying language to the description of DWS at IDAPA 58.01.02.100.03.a. As you stated during the negotiated rulemaking meeting on December 19, 2017, as well as in recent conversations with

EPA staff, this clarification is consistent with the DEQ surface water and drinking water programs' longstanding interpretation of Idaho's DWS use. DEQ's proposed revisions, in underline text, are as follows:

58.01.02.100.03 - Water Supply

- a. *Domestic (DWS): water quality appropriate for use as drinking water supplies after appropriate treatment.*

The EPA understands DEQ's intention in adding this wording is to clarify that surface waters designated for DWS are not necessarily safe to drink until appropriate treatment is applied. Because the proposed wording raises some questions regarding its interpretation, the EPA suggests DEQ consider further revisions. In particular, the EPA thinks the proposed language could be misinterpreted to imply that criteria associated with the DWS use apply at the drinking water tap (after appropriate treatment) rather than in the ambient surface water. If that were the case, there would be little incentive to protect surface water supplies, and the potential exists for public water systems, that are legally accountable for the delivery of safe drinking water to their consumers, to be burdened with providing more expensive treatment as a result of higher concentrations of pollutants from anthropogenic activities. The EPA suggests DEQ consider revising the wording to avoid this potential misinterpretation. The EPA suggests this could be addressed by incorporating Idaho's drinking water definition of "raw water" as well as the term "untreated" to clarify that the DWS use designation does not imply that the surface water is potable drinking water.

The EPA provides the following example for DEQ to consider:

Domestic (DWS): water quality appropriate for use as raw (untreated) water, as defined in IDAPA 58.01.08 "Rules Governing Public Drinking Water Systems," for drinking water supplies.

Waters Designated for DWS

Idaho's drinking water rules (IDAPA 58.01.08.003.18) define surface water systems as "a public water system which is supplied by one (1) or more surface water sources or ground water sources under the direct influence of surface water" (GWUDIs). It is unclear if all the GWUDIs were included in the designations. GWUDI sources by their definition ("... under the direct influence of surface water ...") are vulnerable to the same types of contaminants as surface water supplies, and therefore their inclusion seems warranted.

The EPA understands that this information is available from DEQ's drinking water program and recommends DEQ consult its drinking water program staff and consider whether or not the list of waters proposed for DWS designation is complete or if DWS designation is needed for any additional surface waters.

The EPA notes that the Wilderness Ranch water system utilizes both surface and GWUDI sources on Mores Creek, in the Boise-Mores Subbasin, but that a DWS use is not proposed for its source water. The EPA recommends that the DWS use also be designated for waterbody units

upstream of this public water supply, and that this system be listed in the table identifying small public water supplies.

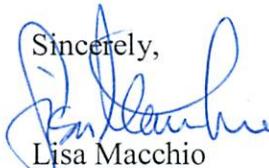
Small Public Water Supply and Turbidity Criteria

The EPA recommends DEQ consider retaining the entirety of 58.01.02.252.01.b., which includes the table listing small public water supplies at 58.01.02.252.01.b.i. and the provisions specifying turbidity criteria at 58.01.02.252.01.b.ii.(1) and (2) for waters identified in the table listing small public water supplies. The table and associated criteria provide a useful means to highlight which specific public water systems are vulnerable to surface contamination and in need of enhanced source water protection. The EPA recommends that the table be updated with current information, and that DEQ consider dropping the term “small” from the title, as the watersheds for both small and large drinking water supplies are important to be aware of and protect.

If DEQ plans to proceed with this change, the EPA recommends DEQ consider soliciting input from those stakeholders (e.g. the public water systems and their representative bodies) directly impacted by these rule changes who have both the experience in, and the responsibility to ensure that public health protection is maintained in drinking water supplies. To address this concern, the EPA suggests that another negotiated rulemaking meeting would be helpful to both DEQ and interested stakeholders.

The EPA appreciates DEQ’s commitment to updating Idaho’s water quality standards and is supportive of DEQ’s ongoing work to use all available and appropriate information in updating Idaho’s water quality standards and providing important protection for Idaho’s waters. The EPA continues to be available to provide assistance to DEQ on further development of the draft rule language. If you have any questions or would like to discuss these comments further, please contact me at (206) 553-1834.

Sincerely,



Lisa Macchio

Water Quality Standards Coordinator