



STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

1410 North Hilton • Boise, Idaho 83706 • (208) 373-0502  
www.deq.idaho.gov

C.L. "Butch" Otter, Governor  
John H. Tippetts, Director

October 26, 2016

Dan Opalski, Director  
Office of Water and Watersheds, Region 10  
U.S. Environmental Protection Agency  
Mail Code: OWW-19  
1200 Sixth Ave., Suite 900  
Seattle, WA 98101

Re: Submission of revised water quality standards for approval: Mixing Zone Policy, Idaho rule docket 58-0102-1401.

Dear Mr. Opalski:

Consistent with the Clean Water Act §303(c) and 40 CFR 131.20, revisions to Idaho's water quality standards (WQS) are hereby submitted for EPA approval. Rulemaking was initiated to revise the language on authorization of mixing specified in section 060 of Idaho's water quality standards, referred to as Mixing Zone Policy.

Idaho rule docket 58-0102-1401 was initiated in response to comments on a draft mixing zone guidance document DEQ had prepared based on existing rule language; specifically comments that some of the guidance content needed better support in rule. By this rule change DEQ accomplishes three things. First, it responds to comments on the draft guidance by incorporating in rule a better foundation for minimizing the size of a mixing zone and addressing bioaccumulative compounds. Second, it takes into account modern tools and 20+ years of experience implementing mixing zones in Idaho. And third, it reorganizes the entire section for better flow and clarity on mixing zone authorization.

Rule negotiation with the public was announced in the April 2, 2014 volume of the Idaho Administrative Bulletin, as well as on DEQ's web page and by direct e-mail. The first meeting was held on May 1, 2014, with two additional meetings held on June 12<sup>th</sup> and July 10<sup>th</sup> of 2014. Four preliminary drafts of the rule were prepared including the preliminary draft taken into the first meeting. Each draft had a public comment period in addition to the meeting negotiations. A fifth draft was published as the proposed rule in the September 3, 2014 Administrative Bulletin kicking off a formal 30-day public comment period.

In response to public on the proposed rule it was revised and then presented to the Idaho Board of Environmental Quality on November 19, 2014 and adopted as a pending without further change. The pending rule was noticed in the December 3, 2014 Idaho Administrative Bulletin and became effective on April 11, 2015 after the conclusion of the 2015 Idaho Legislature.

Since then DEQ has also revised its mixing zone guidance document to reflect the revised rule, held another round of public comment on the guidance, and incorporated response to comment. This version of Idaho's Mixing Zone Guidance is now undergoing final editing before becoming final. When the guidance is final we will provide a copy to EPA for your information.

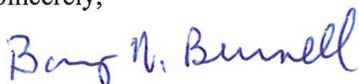
DEQ has an online record of the rulemaking process that includes all the rule drafts and comments received, presentations given and material distributed, which can all be accessed at: <http://www.deq.idaho.gov/laws-rules-etc/deq-rulemakings/docket-no-58-0102-1401/>. In addition to the documents itemized below, all materials that are posted at this URL are hereby incorporated by reference in this submittal.

The rule submittal package includes:

- 1) This cover letter, briefly describing the rulemaking, its justification, and the contents of the package supporting the rule being submitted for your approval, *[file: 1) 58-0102-1401 EPA submittal letter.pdf]*;
- 2) April 2, 2014 Notice of Negotiated Rulemaking, *[file: 2) 58-0102-1401\_Notice of Negotiated Rulemaking\_04-14.pdf]*;
- 3) September 3, 2014 Notice of Proposed Rule announcing opening of 30-day public comment period on proposed rule, *[file: 3) 58-0102-1401-Notice of Proposed Rule\_08-14.pdf]*;
- 4) Summary of negotiated rulemaking prepared for DEQ's Board, *[file: 4) 58-0102-1401 Summary of negotiated rulemaking .pdf]*;
- 5) Summary of public comment and DEQ's response, including copies of meeting sign-in sheets, *[file: 5) 58-0102-1401 Public comment summary\_11-14.pdf]*;
- 6) Mixing Zone Rule Crosswalk, a word document that helps identify previous rule language that has been retained in the revised rule but relocated and/or modified; *[file: 6) 58-0102-1401 Mixing Zone Rule Crosswalk.pdf]*;
- 7) December 3, 2014 Notice of Pending Rule – Announcing adoption by the DEQ Board, *[file: 7) 58-0102-1401 Notice of Pending Rule\_12-14.pdf]*;
- 8) Notice of final rules from May 6, 2015 Administrative Bulletin, docket 58-0102-1401 is highlighted on page 28, *[file: 8) Notice of final rules, May 6, 2015 Admin Bulletin.pdf]*;
- 9) An Attorney General's certification that the rules were adopted according to state law, *[file: 9) AG's Certification letter 58-0102-1401.pdf]*;
- 10) Electronic copies of the above materials burned onto CD for your convenience.

If you have any questions on this rulemaking and the enclosed supporting materials, please contact Don A. Essig, 208-373-0119, or [Don.Essig@deq.idaho.gov](mailto:Don.Essig@deq.idaho.gov)

Sincerely,



Barry N. Burnell  
Water Quality Division Administrator

DE:BNB:tg

Enclosures

- c: Lisa Macchio, EPA (with enclosures)  
Cyndi Grafe, EPA (with enclosures)  
Jason Pappani, DEQ (w/o enclosures)  
Don Essig, DEQ (w/o enclosures)  
Mary Anne Nelson, DEQ (w/o enclosures)  
Doug Conde, DEQ (w/o enclosures)