



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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AUG 18 2011

OFFICE OF
WATER AND WATERSHEDS

Mr. Barry N. Burnell
Water Quality Division Administrator
Idaho Department of Environmental Quality
1410 North Hilton
Boise, Idaho 83706-1255

Re: Antidegradation Implementation Methods (Idaho docket 58-0102-1001)

Dear Mr. Burnell:

Pursuant to Section 303(c) of the Clean Water Act (CWA) and 40 CFR Part 131, the Environmental Protection Agency (EPA) approves the water quality standards revisions to the Idaho Administrative Code and Idaho Statute establishing Idaho's antidegradation implementation methods (Idaho docket 58-0102-1001). The EPA commends the Idaho Department of Environmental Quality (IDEQ) on its efforts to complete the implementation methods. Details of the basis for EPA's action are discussed in the enclosed support document.

By letter of April 15, 2011, IDEQ submitted revisions to its water quality standards administrative rule and revisions to Idaho water quality statute to EPA for review and action. Together these revisions, along with the existing provisions in Idaho rule for Outstanding National Resource Waters (referred to as "Outstanding Resource Waters" (ORWs) in Idaho), established methods for implementing Idaho's antidegradation policy at IDAPA 58.01.02.051. The revisions to the water quality standards rule (at Chapter 58.01.02, sections 10, 051, and 052 of Idaho Administrative Code) and the revisions to Idaho statute (sections 39-3601, 39-3602, and 39-3603 of the Idaho Code set forth in House Bill 153)) became effective under Idaho state law on March 18, 2011 and March 22, 2011, respectively, and were certified by the Idaho Attorney General on March 24, 2011, as being duly adopted pursuant to state law. Idaho's process for adopting the revisions, including the opportunity for public comment, is described in the State's submittal letter.

Revisions submitted to the EPA for review are identified in the following documents that were included with IDEQ's April 15, 2011 letter:

- 1) House Bill 153 (HB 153), which contains amendments to Sections 39-3601, 39-3602, 39-3603, and 39-3623 of the Idaho Code (IDEQ file: "*58-0102-1001 HO 153 – Amendment of water quality law regarding antidegradation.pdf*"). Additions are underlined, deletions are struck out;
- 2) Excerpted sections of the 2011 Idaho Administrative Code, Chapter 58.01.02, *Water Quality Standards*, which contain revisions in the form of additions to the State's water quality standards rule (IDEQ file: "*58-0102-1001 Sections 10, 051, & 052 from IDWQS_2011 with highlighted changes*," with cover page titled "Note on Excerpt of Official 2011 Idaho Administrative Code"). Additions are highlighted.

The EPA's water quality standards regulation at 40CFR § 131.12(a) requires states to adopt an antidegradation policy and to identify methods for implementing that policy. Both the policy and the implementation methods must be consistent with 40 CFR 131.12. Idaho's antidegradation policy (IDAPA 58.01.02.051) underwent only minor "housekeeping" revisions as a result of Idaho's recent action. The EPA has reviewed Idaho's water quality standards revisions addressing antidegradation implementation methods. The EPA is only acting on the revised portions of these provisions (changed and added language as cited below). The EPA is not acting on unchanged previously existing language, including the ORW provisions that were simply relocated rather than revised.

The EPA finds that these water quality standards revisions are consistent with the requirements of 40 CFR § 131.12. The EPA is therefore approving the revisions to the following provisions:

Idaho Code sections: 39-3601, 39-3602(6), 39-3602(13), 39-3602(14), 39-3602(15), 39-3602(33), 39-3603, 39-3603(1), 39-3603(1)(a), 39-3603(1)(b), 39-3603(1)(c), 39-3603(2), 39-3603(2)(a), 39-3603(2)(b), 39-3603(2)(b)(i), 39-3603(2)(b)(ii), 39-3603(2)(b)(iii), 39-3603(2)(b)(iii)(1), 39-3603(2)(b)(iii)(2), 39-3603(2)(b)(iv), 39-3603(2)(c), 39-3603(2)(c)(i), and 39-3603(2)(c)(ii).

Idaho Administrative Code, Chapter 58.01.02, sections: 010.01, 010.05, 010.16, 010.26, 010.35, 010.45, 010.49, 010.63, 010.73, 051.01, 051.02, 051.03, 051.04, 051.05, 052.01, 052.02, 052.03, 052.04, 052.04(a), 052.04(a)(i), 052.04(a)(ii), 052.04(a)(iii), 052.04(a)(iv), 052.04(b), 052.04(c), 052.05, 052.06, 052.06(a), 052.06(b), 052.06(b)(i), 052.06(b)(ii), 052.06(b)(ii)(1) thru (5), 052.06(b)(iii), 052.06(b)(iv)(1) thru (4), 052.06(c), 052.06(c)(i), 052.06(c)(ii), 052.06(c)(iii), 052.06(c)(iii)(1) thru (5), 052.06(c)(iv), 052.06(c)(v), 052.06(d), 052.06(d)(i), 052.06(d)(ii), 052.06(d)(iii), 052.07, and 052.07(g).

The enclosed support document explains in more detail the rationale for today's approval. These approved provisions together with the previously existing provisions not subject to today's action result in Idaho having in place an antidegradation policy and implementation methods as required by 40 CFR § 131.12.

IDEQ is in the process of developing guidance for the adopted antidegradation implementation methods. That guidance is in draft form, remains under development, and was not submitted to the EPA. Therefore, the draft guidance was not considered in the EPA's review of the antidegradation implementation methods adopted in rule and statute. The EPA will continue to work with IDEQ to ensure that any finalized guidance is consistent with the implementation methods approved today.

We look forward to working with Idaho in the future development, review, and approval of water quality standards pursuant to our responsibilities under the CWA. Please contact me (206) 553-4198, Christine Psyk (206) 553-1906, or Bill Beckwith (206) 553-2495 of my staff if you have any questions.

Sincerely,



Michael A. Bussell
Director
Office of Water and Watersheds

Enclosure: Support Document, Review of Idaho's Antidegradation Implementation Methods (Idaho docket 58-0102-1001), August 17, 2011

cc: Mr. Michael McIntyre, Surface Water Programs, Manager (w/ enclosure)

Mr. Don Essig, Water Quality Standards Coordinator, IDEQ (w/ enclosure)