



**UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY
REGION 10**

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WATER
DIVISION

SEP 16 2019

Dr. Mary Anne Nelson
Water Quality Division Administrator
Idaho Department of Environmental Quality
1410 North Hilton
Boise, Idaho 83706-1255

Re: The EPA Review and Action on Idaho's New and Revised Water Quality Standards, Domestic Water Supply, Idaho Rule Docket 58-0102-1703

Dear Dr. Nelson:

The U.S. Environmental Protection Agency has completed the review of Idaho's new and revised water quality standards that address domestic water supply (Idaho rule docket 58-0102-1703). The Idaho Department of Environmental Quality adopted these water quality standards into the State's regulations at IDAPA 58.01.02.110 through 160, 58.01.02.100.03.a, and 58.01.02.252.01. The purpose of DEQ's rulemaking was to designate additional water bodies for the DWS beneficial use, clarify the description of the DWS beneficial use, and clarify the criteria that protects this beneficial use.

In accordance with the EPA's authority under section 303(c) of the Clean Water Act and implementing regulations at 40 CFR Part 131, the EPA approves Idaho's new and revised water quality standards related to domestic water supply. Details of the submitted water quality standards and the EPA's action are outlined below and in the enclosed Technical Support Document.

Background

By letter dated July 19, 2019, the DEQ submitted new and revised water quality standards at IDAPA 58.01.02.110 through 160, 58.01.02.100.03.a, and 58.01.02.252.01 of Idaho's administrative code. These new and revised water quality standards were adopted and finalized by the 2019 Idaho Legislature, became effective under Idaho state law on April 11, 2019, and were certified by the Idaho Attorney General on June 10, 2019, as being duly adopted pursuant to state law. Idaho's process for adopting the submitted revisions, including the opportunity for public comment, is described in DEQ's submittal letter and its enclosures.

The water quality standards revisions submitted to the EPA for review and action are identified in an enclosure to DEQ's July 19, 2019, submittal letter, and include:

1. Designating an additional 27 water body units with the DWS beneficial use where the Safe Drinking Water Information System indicated an active surface water intake or ground water under direct influence of surface water (IDAPA 58.01.02.110 through 160).
2. Changing the description of the DWS beneficial use to clarify its appropriateness for use as untreated raw water for public drinking water supplies (IDAPA 58.01.02.100.03.a).

3. Removing a redundant provision regarding radioactivity (IDAPA 58.01.02.252.01.a) since existing narrative criteria at IDAPA 58.01.02.200.04 already provided this protection of surface waters.
4. Adding a new IDAPA 58.01.02.252.01.a. to clarify that general surface water quality criteria at IDAPA 58.01.02.200 and the human health (Water & Fish) criteria at IDAPA 58.01.02.210.01.b apply to the DWS use. Also, adding that turbidity should be measured at any public water intake to determine compliance with criteria.
5. Deleting the table of Designated Small Public Water Supplies (IDAPA 58.01.02.252.01.b) since these waters are addressed at IDAPA 58.01.02.110 through 160, where DWS designations are listed in the "Other" column for the water body unit providing source water for these public water systems.
6. Modifying the turbidity criteria at IDAPA 58.01.02.252.01.b.

The EPA's Approval Action

In accordance with the EPA's authority under section 303(c)(3) of the CWA and 40 CFR Part 131, the EPA approves the addition of new language and deletion of "supplies" to the description of the DWS beneficial use at IDAPA 58.01.02.100.03.a. In addition, the EPA approves DEQ's designations of an additional 27 water body units for the DWS beneficial use at IDAPA 58.01.02.110 through 160.

Regarding DEQ's revisions to IDAPA 58.01.02.252, the EPA approves deleting the current provision at IDAPA 58.01.02.252.01.a related to radioactive materials and replacing it with language specifying all general criteria in IDAPA 58.01.02.200 and the Water & Fish criteria in IDAPA 58.01.02.210.01.b are applicable to waters with the DWS use. The EPA also approves the deletion of IDAPA 58.01.02.252.01.b and IDAPA 58.01.02.252.01.b.i referring to small public water supplies and the table of Designated Small Public Water Supplies. Further, the EPA approves the addition of IDAPA 58.01.02.252.01.b.i specifying that turbidity is to be measured at any public water intake.

Pertaining to IDAPA 58.01.02.252.01.b.i.(1) through (3), the EPA approves these non-substantive revisions that rephrase the turbidity criteria to provide clarity, but which do not change the criteria. The EPA considers non-substantive edits to existing WQS to constitute new or revised WQS that the EPA has the authority to approve or disapprove under section 303(c)(3) of the CWA. While these edits and changes do not substantively change the meaning or intent of the existing WQS, the EPA believes it is reasonable to treat such edits and changes in this manner to ensure public transparency as to which provisions are applicable for CWA purposes. The EPA notes that the scope of its review and action on non-substantive edits or editorial changes extends only to the edits or changes themselves. The EPA is not re-opening or reconsidering the underlying WQS which are the subject of the non-substantive edits or editorial changes.

Lastly, the EPA approves revisions to IDAPA 58.01.02.252.b.i.(1) and (2) to clarify the meaning of "background." In this instance, the revisions are reasonable and consistent with 40 CFR § 131.11 requirements that criteria must be based on sound scientific rationale and must be sufficient to protect the applicable designated use. The EPA reiterates that it is not re-opening or reconsidering the underlying turbidity criteria numeric values in IDAPA 58.01.02.252.01.b.i. and ii. The scope of the EPA's review extends only to the non-substantive revisions to the criteria structure, and to the baseline of "background" from which the turbidity criteria are measured.

Nothing in this action shall constitute an approval of a water quality standard that applies to waters within Indian Country as defined in 18 U.S.C. § 1151. The EPA, or authorized Indian Tribes, as appropriate, will retain responsibilities for water quality standards for waters within Indian Country.

The EPA appreciates DEQ's ongoing work to update Idaho's water quality standards and supports DEQ's efforts to provide additional clarity to the domestic water supply designated use. If you have any questions or comments, please contact me at (206) 553-1855 or contact Cyndi Grafe, Water Quality Standards Coordinator, at (208) 378-5771.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Opalski", written in a cursive style.

Daniel D. Opalski
Director

Enclosure

cc: Jason Pappani, Surface Water Bureau Chief, DEQ

Technical Support Document

The EPA's Action on Idaho's New and Revised Domestic Water Supply Rule

(Submitted July 19, 2019)

September 16, 2019

Technical Support Document

The EPA’s Action on Idaho’s New and Revised Domestic Water Supply Rule

Submitted July 19, 2019

Contents

I.	Introduction	1
II.	Background	2
A.	Clean Water Act Requirements for Water Quality Standards.....	2
B.	Overview of Idaho’s July 19, 2019 WQS Submission.....	3
C.	DWS Use Definition	4
D.	Identification of Additional Waters for DWS Use Designation.....	4
E.	Removal of Designated Small Public Water Supplies Table	5
F.	Identification of Criteria Applicable to the DWS Use	6
III.	The EPA’s Review and Action on Idaho’s New and Revised Water Quality Standards.....	6
A.	Idaho’s New and Revised DWS Rule	6
B.	Revision to DWS Use Designation at IDAPA 58.01.02.100.03.a.	11
C.	Designations of DWS at IDAPA 58.01.02.110 through 160	12
D.	Criteria Protective of DWS Use at IDAPA 58.01.02.252.01.a.....	14
E.	Removal of Designated Small Public Water Supplies Table at IDAPA 58.01.02.252.01.b. and IDAPA 58.01.02.252.01.b.i.....	15
F.	Revision to Turbidity Criteria at IDAPA 58.01.02.252.01.b.	17
G.	Revisions to Turbidity Criteria at IDAPA 58.01.02.252.01.b.i.(1) through (3) and IDAPA 58.01.02.252.01.b.ii.....	18

I. Introduction

This document provides the basis for the U.S. Environmental Protection Agency's (EPA or the Agency) determination under section 303(c) of the Clean Water Act (CWA), 33 U.S.C. § 1313(c), and the federal water quality standards regulations at 40 CFR Part 131, to take action on certain new and revised water quality standards (WQS) regarding domestic water supply (DWS) submitted to the EPA by the Idaho Department of Environmental Quality (DEQ) on July 19, 2019.¹ The new and revised WQS contained in Idaho's Administrative Rules (IDAPA 58.01.02) were duly adopted into Idaho's WQS regulations consistent with state law and became effective on April 11, 2019. The EPA received DEQ's submittal of the new and revised WQS on July 19, 2019.

The WQS associated with the DWS beneficial use specify whether surface water from a lake or river is suitable for use as a source for a drinking water system. The DWS use protects source waters from harmful levels of turbidity, radioactivity, and other pollutants. Idaho's DWS use specifies that source water must be treated before it is delivered to the tap; a separate set of standards governs treated drinking water.²

The new and revised DWS provisions addressed in the EPA's decision include:

1. Designating an additional 27 water body units with the DWS beneficial use where the Safe Drinking Water Information System indicated an active surface water intake or ground water under direct influence of surface water (IDAPA 58.01.02.110 through 160).
2. Changing the description of the DWS beneficial use to clarify its appropriateness for use as untreated raw water for public drinking water supplies (IDAPA 58.01.02.100.03.a).
3. Removing a redundant provision regarding radioactivity (IDAPA 58.01.02.252.01.a) since existing narrative criteria at IDAPA 58.01.02.200.04 already provided this protection of surface waters.
4. Adding a new IDAPA 58.01.02.252.01.a. to clarify that general surface water quality criteria at IDAPA 58.01.02.200 and the human health (Water & Fish) criteria at IDAPA 58.01.02.210.01.b apply to the DWS use. Also, adding that turbidity should be measured at any public water intake to determine compliance with criteria.
5. Deleting the table of Designated Small Public Water Supplies (IDAPA 58.01.02.252.01.b) since these waters are addressed at IDAPA 58.01.02.110 through 160 where DWS designations are listed in the "Other" column for the water body unit providing source water for these public water systems.
6. Modifying the turbidity criteria at IDAPA 58.01.02.252.01.b.

¹ Letter dated July 19, 2019 from Mary Anne Nelson, Administrator Water Quality Division, Idaho Department of Environmental Quality, to Dan Opalski, Director, Water Division, Region 10, U.S. Environmental Protection Agency, RE: Submission of revised water quality standards for approval: Idaho rule docket 58-0102 -1703.

² See Safe Drinking Water Act at <https://www.epa.gov/sdwa>

The DWS rule provisions the EPA is approving at IDAPA 58.01.02.110 through 160, 100.03.a, and 252.01.a and b are effective for CWA purposes in waters of the state of Idaho, except in waters in Idaho within Indian Country. The EPA or authorized Indian Tribes, as appropriate, will retain responsibilities for WQS for waters within Indian Country.

This document is organized as follows:

- Part II of this document provides additional background information about the CWA requirements and Idaho's July 19, 2019 WQS submittal.
- Part III of this document provides the basis for this action under CWA Section 303(c) and the EPA's implementing regulations at 40 CFR Part 131.

II. Background

A. Clean Water Act Requirements for Water Quality Standards

Under section 303(c) of the CWA and federal implementing regulations at 40 CFR § 131.4, states have the primary responsibility for reviewing, establishing, and revising WQS, which include the designated uses of a waterbody or waterbody segment, the water quality criteria necessary to protect those designated uses, and an antidegradation policy. Such criteria must be based on a sound scientific rationale and must contain sufficient parameters or constituents to protect the designated use.

Section 101(a)(2) of the CWA establishes the interim goal of, wherever attainable, "water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water." Section 303(c)(2)(A) of the CWA and the EPA's regulations at 40 CFR § 131.10 require that in specifying the designated uses to be protected, states must "take into consideration the use and value of water for public water supplies, protection and propagation of fish, shellfish and wildlife, recreation in and on the water, agricultural, industrial, and other purposes including navigation." Where existing WQS specify designated uses less than those which are presently being attained, 40 CFR § 131.10(i) requires states to revise their WQS to reflect the uses actually being attained.

States are required to review applicable WQS periodically, and as appropriate, modify these standards (40 CFR § 131.20). Section 303(c) of the CWA also requires states to submit new or revised WQS to the EPA for review. The EPA is required to review these changes to ensure the revisions are consistent with the CWA.

The EPA considers four questions (described below) when evaluating whether a particular provision is a new or revised WQS. If all four questions are answered "yes" then the provision would likely constitute a new or revised WQS that the EPA has the authority and duty to approve or disapprove under CWA Section 303(c)(3).³

³ *What is a New or Revised Water Quality Standard under 303(c)(3)? Frequently Asked Questions*, EPA No.

- (1) Is it a legally binding provision adopted or established pursuant to state or tribal law?
- (2) Does the provision address designated uses, water quality criteria (narrative or numeric) to protect designated uses, and/or antidegradation requirements for waters of the United States?
- (3) Does the provision express or establish the desired condition (e.g., uses, criteria) or instream level of protection (e.g., antidegradation requirements) for waters of the United States immediately or mandate how it will be expressed or established for such waters in the future?
- (4) Does the provision establish a new WQS or revise an existing WQS?

Each state must follow its own legal procedures for adopting such standards (40 CFR § 131.5) and submit certification by the state's attorney general, or other appropriate legal authority within the state, that the WQS were duly adopted pursuant to state law (40 CFR § 131.6(e)).

B. Overview of Idaho's July 19, 2019 WQS Submission

On December 5, 2017, DEQ posted notice of the negotiated rulemaking for DWS on its website, and a preliminary draft rule was made available for public review. The Notice of Negotiated Rulemaking was published in the December 6, 2017, issue of the Idaho Administrative Bulletin. Negotiated rulemaking meetings were held on December 19, 2017, and April 24, 2018. Members of the public participated in the negotiated rulemaking process by attending the meetings and by submitting written comments. At the conclusion of the negotiated rulemaking process, DEQ formatted the final draft for publication as a proposed rule. The proposed rule was published in the August 1, 2018, issue of the Idaho Administrative Bulletin, followed by a formal 30-day comment period.

The rule was presented to the Idaho Board of Environmental Quality (Board) on November 14, 2018, and adopted as a pending rule. The pending rule was noticed in the December 5, 2018, issue of the Idaho Administrative Bulletin and finalized by the 2019 Idaho Legislature, and became effective under Idaho Law on April 11, 2019.

DEQ has an online record of the rulemaking process that includes all the rule drafts and comments received, presentations given, and materials distributed, which can be accessed at: www.deq.idaho.gov/58-0102-1703. In addition to the documents itemized below, all materials posted at this URL were incorporated by reference in DEQ's submittal to the EPA. The rule submittal package includes:

- The cover letter, briefly describing the rulemaking, its justification, and the contents of the package supporting the rule being submitted for approval;
- December 6, 2017 Notice of Negotiated Rulemaking;

820F12017 (Oct. 2012). Available at <https://www.epa.gov/sites/production/files/2014-11/documents/cwa303faq.pdf>

- August 1, 2018 Notice of Proposed Rule announcing opening of 30-day public comment period on proposed rule;
- Summary of negotiated rulemaking prepared for the Board, including the summary of public comment and DEQ's response;
- November 2018 Board Meeting Minutes;
- December 5, 2018 Notice of Pending Rule announcing adoption by the Board;
- May 1, 2019 Omnibus Rulemaking Notice of Final Legislative Action (available at www.deq.idaho.gov/58-0102-1803 on May 1, 2019); and
- An Attorney General's certification that the rules were adopted according to state law.

C. DWS Use Definition

During the negotiated rulemaking process, DEQ provided a discussion paper containing background information for the proposed domestic water supply rule revisions.⁴ The discussion paper explained the ambiguity with the DWS definition and the basis for the proposed revisions. DEQ stated that the DWS definition, before the revisions, could imply that waters designated for DWS must meet standards allowing for the safe, direct consumption of raw surface water without treatment. DEQ also noted potential confusion surrounding existing use considerations regarding private drinking water supplies and domestic water rights.

DEQ clarified that the DWS use is intended for the protection of source water for public water systems that are regulated by the federal Safe Drinking Water Act and the state of Idaho. DEQ included in the discussion paper a survey of other state DWS designated use definitions and interpretations. Nine of the 14 states that replied to the survey noted statements in their use definition that surface waters designated as domestic or drinking water sources must be treated prior to use as a potable water supply.

D. Identification of Additional Waters for DWS Use Designation

Idaho designates beneficial uses based on water body units (IDAPA 58.01.02.102.01), which are derived from hydrologic units and basins (IDAPA 58.01.02.109). There are currently 2,641 water body units in Idaho, representing approximately 96,490 miles of rivers and streams. Prior to this rulemaking, Idaho had approximately 22,957 miles of rivers and streams designated for DWS, serving 46 public water systems.

DEQ conducted a search of the Safe Drinking Water Information System (SDWIS) database and

⁴ *Rulemaking Docket 58-0102-1703 Designation of DWS Discussion Paper*. DEQ. April 2018.

identified 24 additional water body units with active surface water intakes supplying public water systems. In addition to surface water systems, Idaho has several public water systems with sources of drinking water that are designated as ground water under the direct influence of surface water (GWUDI). While many of these systems are already located on water body units that are designated for DWS, a search of the SDWIS database identified 3 additional water body units with active public water systems designated as GWUDI.

In total, Idaho's rule revision designated DWS for another 27 water body units, representing an additional 1,174 miles of rivers and streams serving 34 public water systems.⁵ DEQ designated new water body units with active surface water and GWUDI system intakes to ensure that Idaho is adequately protecting waters where DWS is an existing use.⁶

E. Removal of Designated Small Public Water Supplies Table

Prior to the revisions, IDAPA 58.01.02.252.01.b identified specific public water supply systems in a table of Designated Small Public Water Supplies and applied specific numeric turbidity criteria at the intakes of the listed systems in the table. DEQ noted the table was problematic for three main reasons: (1) misinterpretation of which waters in the state were designated for DWS; (2) the static table required frequent rulemaking updates; and (3) the turbidity criteria only applied to intakes specified in the table.

1. Table Interpreted as Waters Designated for DWS

The waters previously listed at IDAPA 58.01.02.252.01.b only represented a limited subset of the waters designated for DWS in the state; other waters designated for DWS were listed at IDAPA 58.01.02.110 through 160. According to DEQ, the waters in Table 58.01.02.252.01.b, prior to the revisions, could have been interpreted to be the full universe of DWS waters. This erroneous interpretation could lead to a failure to appropriately apply the criteria to protect DWS to all waters with that designation.

2. Table Requires Frequent Rulemaking Updates

The table previously found at IDAPA 58.01.02.252.01.b.i, prior to the revisions, was a static representation of dynamic public water systems. Since this table was incorporated as a WQS, revision to the table required DEQ to initiate formal rulemaking for any updates. Due to the lengthy and resource intensive rulemaking process, this table was rarely accurate, and may have caused public confusion about the current status of public water systems in Idaho.

⁵ *PWS Served by DWS Additions_Final_12-31-18*. Email correspondence from Jason Pappani. DEQ. August 15, 2019.

⁶ <https://www.epa.gov/sdwa> The Safe Drinking Water Act (SDWA) is the federal law that protects public drinking water supplies. Under the SDWA, EPA sets standards for drinking water quality to apply to public water systems.

3. Turbidity Criteria Only Apply to Intakes Specified in Table

The turbidity criteria at IDAPA 58.01.02.252.01.b.ii, prior to the revisions, only applied to those systems specified in the table of designated small public water systems. Because the criteria were only applied to intakes in specifically listed waters and not applied to the DWS use more generally, there was not an appropriate vehicle for applying the numeric turbidity criteria where DWS was either designated in rule or known to be an existing use. As noted earlier, applying the criteria to any system (new or existing) not listed in the table at IDAPA 58.01.02.252.01.b.i required a lengthy rulemaking process to add that system to the table.⁷

F. Identification of Criteria Applicable to the DWS Use

DEQ states that IDAPA 58.01.02.252.01 is intended to identify criteria that apply to the DWS use. Before the revisions, the only criteria listed in this section were for radioactive materials or radioactivity (IDAPA 58.01.02.252.01.a), or turbidity criteria for specific small public water supplies (IDAPA 58.01.02.252.01.b) identified in a table. DEQ deleted the radioactive materials and radioactivity criteria at IDAPA 58.01.02.252.01.a because the criteria were duplicative of criteria found at IDAPA 58.01.02.200. Additionally, DEQ clarified that general surface water criteria at IDAPA 58.01.02.200 and the human health (Water & Fish) criteria at IDAPA 58.01.02.210.01.b apply to waters designated for DWS.⁸

III. The EPA's Review and Action on Idaho's New and Revised Water Quality Standards

A. Idaho's New and Revised DWS Rule

The following sections provide the specific new and revised DWS rule language. The underlined text is new rule language while the text with strikethrough is deleted rule language.

1. IDAPA 58.01.02.100.03.a. Surface Water Use Designations – Water Supply

a. Domestic (DWS): water quality appropriate for use as untreated raw water (as defined under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems") for public drinking water ~~supplies.~~
(4-5-00)()

⁷ DEQ, April 2018

⁸ DEQ, April 2018

2. IDAPA 58.01.02.110-160 Water Body Designations – DWS

Table 1 List of 27 water body units designated for DWS beneficial use where the Safe Drinking Water Information System indicated an active public water system with a surface water intake or ground water source under direct influence of surface water.⁹

Basis	Subbasin	HUC	WQS Subsection	Water Body Unit	Water Body Unit Name	WQS Designation "Other"
Public Surface Water Intake	Lower Kootenai	17010104	110.02	P-13	Myrtle Creek - source to mouth	DWS
Public Surface Water Intake	Lower Kootenai	17010104	110.02	P-28	Twentymile Creek - source to mouth	DWS
Public Surface Water Intake	Lower Kootenai	17010104	110.02	P-30	Cow Creek - source to mouth	DWS
Public Surface Water Intake	Moyie	17010105	110.03	P-3	Skin Creek - Idaho/Montana border to mouth	DWS
Public Surface Water Intake	Moyie	17010105	110.03	P-12	Meadow Creek - source to mouth	DWS
Public Surface Water Intake	Pend Oreille Lake	17010214	110.05	P-14	Cocolalla Creek - source to Cocolalla Lake	DWS
Public Surface Water Intake	Pend Oreille Lake	17010214	110.05	P-28	Riser Creek - source to mouth	DWS
Public Surface Water Intake	Pend Oreille Lake	17010214	110.05	P-29	Strong Creek - source to mouth	DWS
Public Surface Water Intake	Pend Oreille Lake	17010214	110.05	P-46	Berry Creek - source to mouth	DWS
Public Surface Water Intake	Pend Oreille Lake	17010214	110.05	P-48	Sand Creek - Schweitzer Creek to mouth	DWS
Public Surface Water Intake	Pend Oreille Lake	17010214	110.05	P-53	Little Sand Creek - source to mouth	DWS
Public Surface Water Intake	South Fork Coeur d'Alene	17010302	110.09	P-9b	Lake Creek - mining impact area to mouth	DWS
Public Surface Water Intake	South Fork Coeur d'Alene	17010302	110.09	P-10	Placer Creek - source to mouth	DWS
Public Surface Water Intake	South Fork Coeur d'Alene	17010302	110.09	P-11	South Fork Coeur d'Alene River - from and including Daisy Gulch to Canyon Creek	DWS
Public Surface Water Intake	South Fork Coeur	17010302	110.09	P-14	Canyon Creek - from and	DWS

⁹ This table was developed to summarize the proposed water body unit designations. For the specific WQS designation text, refer to Notice of Rulemaking Proposed Rule: Docket No. 58-0102-1703, DEQ, November 2018. <https://www.deq.idaho.gov/58-0102-1703>

*Technical Support Document for the EPA's Action on Idaho's New and Revised DWS Rule
September 16, 2019*

Basis	Subbasin	HUC	WQS Subsection	Water Body Unit	Water Body Unit Name	WQS Designation "Other"
	d'Alene				including Gorge Gulch to mouth	
Public Surface Water Intake	St. Joe	17010304	110.11	P-67	Rochat Creek - source to mouth	DWS
Public Surface Water Intake	South Fork Clearwater	17060305	120.07	C-56	Elk Creek - confluence of Big Elk and Little Elk Creeks to mouth	DWS
Public Surface Water Intake	South Fork Clearwater	17060305	120.07	C-81	Sally Ann Creek - source to mouth	DWS
Public Surface Water Intake	Clearwater	17060306	120.08	C-16	Big Canyon Creek - source to mouth	DWS
Public Surface Water Intake	Clearwater	17060306	120.08	C-39	Orofino Creek - source to mouth	DWS
Public Surface Water Intake	Clearwater	17060306	120.08	C-61	West Fork Little Bear Creek - source to mouth	DWS
Public Surface Water Intake	Boise-Mores	17050112	140.10	SW-12	Elk Creek - source to mouth	DWS
Public Surface Water Intake	Payette	17050122	140.16	SW-4	Shafer Creek - source to mouth	DWS
Public Surface Water Intake	North Fork Payette	17050123	140.17	SW-5	Horsethief Reservoir	DWS
Active Public GWUDI System	South Fork Boise	17050113	140.11	SW-27	Feather Creek - source to mouth	DWS
Active Public GWUDI System	Bear Lake	16010201	160.02	B-23	Soda Creek – Soda Creek Reservoir Dam to Alexander Reservoir	DWS
Active Public GWUDI System	Middle Bear	16010202	160.03	B-3	Cub River - from and including Sugar Creek to US HWY 91 Bridge (T16S, R40E, Sec. 20)	DWS

3. IDAPA 58.01.02.252.01 – Surface Water Quality Criteria for Water Supply Use Designation

01. Domestic. Waters designated for domestic water supplies are to exhibit the following characteristics: (4-5-00)

a. ~~Radioactive materials or radioactivity not to exceed concentrations specified in Idaho Department of Environmental Quality Rules, IDAPA 58.01.08, "Rules Governing Public Drinking Water Systems."~~ (8-24-94)

b. ~~Small public water supplies (Surface Water).~~ (8-24-94)

i. ~~The following Table identifies waters, including their watersheds above the public water supply intake (except where noted), which are designated as small public water supplies.~~

TABLE – DESIGNATED SMALL PUBLIC WATER SUPPLIES

County	Water Body	Supply No.*	Supply System Name
<i>Benewah</i>	<i>Spring</i>	<i>4050001</i>	<i>BLM Sheep Springs</i>
<i>Benewah</i>	<i>Spring</i>	<i>4050002</i>	<i>BLM Tingley Springs</i>
<i>Benewah</i>	<i>Adams Ck.</i>	<i>4050011</i>	<i>Fernwood Water Dist.</i>
<i>Benewah</i>	<i>Rochat Ck.</i>	<i>4050024</i>	<i>St. Maries, City of</i>
<i>Boise</i>	<i>Elk Ck.</i>	<i>4080025</i>	<i>Idaho City Water Dept.</i>
<i>Boise</i>	<i>McBride Ck.</i>	<i>4080047</i>	<i>Terrace Lakes Rec. Ranch</i>
<i>Bonner</i>	<i>Spring</i>	<i>4090168</i>	<i>Beaver Ck Camp Assn</i>
<i>Bonner</i>	<i>Spring</i>	<i>4090017</i>	<i>Clark Fork U ID Field Campus</i>
<i>Bonner</i>	<i>Berry Ck.</i>	<i>4090021</i>	<i>Colburn Water Assn.</i>
<i>Bonner</i>	<i>Cougar Ck.</i>	<i>4090030</i>	<i>Cougar Creek Water Assn</i>
<i>Bonner</i>	<i>Strong Ck.</i>	<i>4090038</i>	<i>East Hope Water Dept.</i>
<i>Bonner</i>	<i>Composite Spring</i>	<i>4090052</i>	<i>Hope Water System</i>
<i>Bonner</i>	<i>Spring</i>	<i>4090074</i>	<i>Lakeview Townsite Improve Assn</i>
<i>Bonner</i>	<i>Spring</i>	<i>4090031</i>	<i>Midas Water System</i>
<i>Bonner</i>	<i>Little Sand Ck.</i>	<i>4090121</i>	<i>Sandpoint Water Dept</i>
<i>Bonner</i>	<i>Schweitzer Ck.</i>	<i>4090124</i>	<i>Schweitzer Basin Water Co</i>
<i>Bonner</i>	<i>Spring #1</i>	<i>4090123</i>	<i>Schweitzer Mtn Resort</i>
<i>Bonner</i>	<i>Spring #2</i>	<i>4090123</i>	<i>Schweitzer Mtn Resort</i>
<i>Bonner</i>	<i>Springs</i>	<i>4090151</i>	<i>West Bonner WD#1</i>
<i>Boundary</i>	<i>Meadow Ck.</i>	<i>4110001</i>	<i>Bee Line Water Assn.</i>
<i>Boundary</i>	<i>Myrtle Ck.</i>	<i>4110003</i>	<i>Bonnors Ferry, City of</i>
<i>Boundary</i>	<i>Spring</i>	<i>4110007</i>	<i>Cow Ck Water Assn</i>
<i>Boundary</i>	<i>Curley Ck.</i>	<i>4110008</i>	<i>Curley Ck. Water Assn.</i>
<i>Boundary</i>	<i>Mission Ck.</i>	<i>4110019</i>	<i>Mission Creek Water Assn.</i>
<i>Boundary</i>	<i>Caribou Ck.</i>	<i>4110020</i>	<i>Moravia Water Assn.</i>
<i>Boundary</i>	<i>Spring</i>	<i>4110044</i>	<i>Northwest Academy/Ascent</i>
<i>Boundary</i>	<i>Ruby Ck.</i>	<i>4110044</i>	<i>Northwest Academy/Ascent</i>
<i>Boundary</i>	<i>Brown Creek and Cedar Ck.</i>	<i>4110023</i>	<i>Paradise Valley Water Assn.</i>
<i>Boundary</i>	<i>Spring #1</i>	<i>4110024</i>	<i>Rocky Mountain Academy</i>
<i>Boundary</i>	<i>Spring #2</i>	<i>4110024</i>	<i>Rocky Mountain Academy</i>
<i>Boundary</i>	<i>Skin Ck.</i>	<i>4110025</i>	<i>Skin Ck. Water Assn.</i>
<i>Boundary</i>	<i>Springs</i>	<i>4110029</i>	<i>Trow Creek Water Assn</i>
<i>Boundary</i>	<i>Twenty Mile Ck.</i>	<i>4110030</i>	<i>Twenty Mile Ck. Water Assn.</i>
<i>Clearwater</i>	<i>N.F. Clearwater R.**</i>	<i>2180001</i>	<i>Ahsahka Water and Sewer District</i>
<i>Clearwater</i>	<i>Reeds Ck.</i>	<i>2180029</i>	<i>Potlatch Corp Headquarters</i>

Technical Support Document for the EPA's Action on Idaho's New and Revised DWS Rule
September 16, 2019

County	Water Body	Supply No.*	Supply System Name
<i>Custer</i>	<i>Garden Ck.</i>	<i>7190013</i>	<i>Challis, City of</i>
<i>Elmore</i>	<i>E.F. Montezuma Ck.</i>	<i>4200005</i>	<i>Atlanta Water Assn.</i>
<i>Idaho</i>	<i>Wall Creek</i>	<i>2250014</i>	<i>Clearwater Water Assn.</i>
<i>Idaho</i>	<i>Big Elk Ck.</i>	<i>2250017</i>	<i>Elk City Water/Sewer Assn.</i>
<i>Kootenai</i>	<i>Spring</i>	<i>1280068</i>	<i>Excelsior Beach Water</i>
<i>Kootenai</i>	<i>Rose Spring</i>	<i>1280164</i>	<i>Rose Lake Water Assn</i>
<i>Lemhi</i>	<i>Chick Ck., Jesse Ck., and Pollard Ck.</i>	<i>7300042</i>	<i>Salmon, City of</i>
<i>Nez Perce</i>	<i>Big Canyon Ck.</i>	<i>2350023</i>	<i>Peck Water System</i>
<i>Shoshone</i>	<i>Lake Ck.</i>	<i>1400084</i>	<i>Asarco Galena Unit</i>
<i>Shoshone</i>	<i>Shields Ck.</i>	<i>1400089</i>	<i>Central Shoshone County WD</i>
<i>Shoshone</i>	<i>Big Ck.</i>	<i>1400089</i>	<i>Central Shoshone County WD</i>
<i>Shoshone</i>	<i>McFarren Ck.</i>	<i>1400089</i>	<i>Central Shoshone County WD</i>
<i>Shoshone</i>	<i>Milo Ck.</i>	<i>1400089</i>	<i>Central Shoshone County WD</i>
<i>Shoshone</i>	<i>Sawmill Gulch and Canyon Ck.</i>	<i>1400016</i>	<i>East Shoshone County WD-Burke</i>
<i>Shoshone</i>	<i>Boulder Ck.</i>	<i>1400017</i>	<i>East Shoshone County WD-Mullan</i>
<i>Shoshone</i>	<i>Cranky Gulch</i>	<i>1400019</i>	<i>East Shoshone County WD-Wallace</i>
<i>Shoshone</i>	<i>Weyer Gulch</i>	<i>1400019</i>	<i>East Shoshone County WD-Wallace</i>
<i>Shoshone</i>	<i>Experimental Ck.</i>	<i>1400019</i>	<i>East Shoshone County WD-Wallace</i>
<i>Shoshone</i>	<i>Canyon Ck.</i>	<i>1400016</i>	<i>East Shoshone County WD-Burke</i>
<i>Shoshone</i>	<i>Mill Ck.</i>	<i>1400017</i>	<i>East Shoshone County WD-Mullan</i>
<i>Shoshone</i>	<i>Placer Ck. main channel</i>	<i>1400019</i>	<i>East Shoshone County WD-Wallace</i>
<i>Shoshone</i>	<i>Placer Ck WF</i>	<i>1400019</i>	<i>East Shoshone County WD-Wallace</i>
<i>Shoshone</i>	<i>Deadman Ck. MF</i>	<i>1400028</i>	<i>Hecla Mining Co-Lucky Friday</i>
<i>Shoshone</i>	<i>National Tunnel</i>	<i>1400028</i>	<i>Hecla Mining Co-Lucky Friday</i>
<i>Shoshone</i>	<i>Deadman Ck. WF</i>	<i>1400028</i>	<i>Hecla Mining Co-Lucky Friday</i>
<i>Shoshone</i>	<i>Spring</i>	<i>1400067</i>	<i>Lookout Pass Ski Area</i>
<i>Shoshone</i>	<i>Alder Ck. and East Alder Ck.</i>	<i>1400039</i>	<i>Murray Water Works</i>
County	Water Body	Supply No.*	Supply System Name
<i>Shoshone</i>	<i>E.F. Silver Ck.</i>	<i>1400046</i>	<i>Silver Creek Water Assn.</i>
<i>Shoshone</i>	<i>Big Ck #1</i>	<i>1400050</i>	<i>Sunshine Precious Metals</i>
<i>Valley</i>	<i>Boulder Ck.</i>	<i>4430059</i>	<i>Yellowpine Water System, Inc.</i>

* Public water supply number assigned by IDHW/DEQ.

** Only the portion of the watershed below Dworshak Dam is included.

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01)

*Technical Support Document for the EPA’s Action on Idaho’s New and Revised DWS Rule
September 16, 2019*

a. Must meet general water quality criteria set forth in Section 200 and the Water & Fish criteria set forth in Subsection 210.01.b.

#b. Turbidity.

i. For those surface waters identified in Subsection 252.01.b.i.: Turbidity as measured at ~~the~~ any public water intake shall not be: ~~(4-5-00)~~()

(1) Increased by more than five (5) NTU above *natural* background, ~~measured at a location upstream from or not influenced by any human induced nonpoint source activity,~~ when background turbidity is fifty (50) NTU or less.; ~~(8-24-94)~~()

(2) Increased by more than ten percent (10%) above *natural* background, ~~measured at a location upstream from or not influenced by any human induced nonpoint source activity,~~ not to exceed twenty five (25) NTU, when background turbidity is greater than fifty (50) NTU. and less than two hundred and fifty (250) NTU; or ~~(8-24-94)~~()

(3) Increased by more than twenty-five (25) NTU above background when background turbidity is two hundred and fifty (250) NTU or greater. ()

ii. Turbidity Background/Criteria Table.

<u>Turbidity Background</u>	<u>Turbidity Criteria</u>
<u>≤ 50 NTUs</u>	<u>5 NTUs above background</u>
<u>> 50 – < 250 NTUs</u>	<u>10% above background</u>
<u>≥ 250 NTUs</u>	<u>25 NTUs</u>

B. Revision to DWS Use Designation at IDAPA 58.01.02.100.03.a.

The EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 CFR § 131, the EPA approves the addition of new language (in underlined text below) and deletion of “supplies” to IDAPA 58.01.02.100.03.a.

IDAPA 58.01.02.100.03.a. Domestic (DWS): water quality appropriate for use as untreated raw water (as defined under IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems”) for public drinking water ~~supplies.~~

The EPA Rationale

The EPA is approving the clarifying language to the DWS beneficial use provision because it ensures consistency with Idaho's interpretation that surface waters designated for domestic water supplies are to be protected as source waters that will undergo appropriate treatment by a public drinking water system. Additionally, the new language cites the definition of untreated raw water at IDAPA 58.01.08 to ensure consistency with the Idaho Rules for Public Drinking Water Systems. The provision is consistent with 40 CFR § 131.10.

C. Designations of DWS at IDAPA 58.01.02.110 through 160

The EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 CFR Part 131, the EPA approves DEQ's designations of an additional 27 water body units for the DWS beneficial use at IDAPA 58.01.02.110 through 160, identified specifically in Table 2 below.

Table 2 Approval of 27 water body units designated for DWS beneficial use under "Other."¹⁰

EPA Action	WQS Designation "Other"	WQS Section	WQS Subsection	Water Body Unit	HUC	Water Body Unit Name
Approval	DWS	IDAPA 58.01.02	110.02	P-13	17010104	Myrtle Creek - source to mouth
Approval	DWS	IDAPA 58.01.02	110.02	P-28	17010104	Twentymile Creek - source to mouth
Approval	DWS	IDAPA 58.01.02	110.02	P-30	17010104	Cow Creek - source to mouth
Approval	DWS	IDAPA 58.01.02	110.03	P-3	17010105	Skin Creek - Idaho/Montana border to mouth
Approval	DWS	IDAPA 58.01.02	110.03	P-12	17010105	Meadow Creek - source to mouth
Approval	DWS	IDAPA 58.01.02	110.05	P-14	17010214	Cocolalla Creek - source to Cocolalla Lake
Approval	DWS	IDAPA 58.01.02	110.05	P-28	17010214	Riser Creek - source to mouth
Approval	DWS	IDAPA 58.01.02	110.05	P-29	17010214	Strong Creek - source to mouth
Approval	DWS	IDAPA 58.01.02	110.05	P-46	17010214	Berry Creek - source to mouth
Approval	DWS	IDAPA 58.01.02	110.05	P-48	17010214	Sand Creek - Schweitzer Creek to mouth
Approval	DWS	IDAPA 58.01.02	110.05	P-53	17010214	Little Sand Creek - source to mouth
Approval	DWS	IDAPA 58.01.02	110.09	P-9b	17010302	Lake Creek - mining impact area to mouth
Approval	DWS	IDAPA 58.01.02	110.09	P-10	17010302	Placer Creek - source to mouth
Approval	DWS	IDAPA 58.01.02	110.09	P-11	17010302	South Fork Coeur d'Alene River - from and including Daisy Gulch to Canyon Creek

¹⁰ This table was developed to summarize the DWS water body unit designations. The specific WQS designation text, can be found at [Notice of Rulemaking Proposed Rule: Docket No. 58-0102-1703](https://www.deq.idaho.gov/58-0102-1703), DEQ, November 2018. <https://www.deq.idaho.gov/58-0102-1703>

*Technical Support Document for the EPA's Action on Idaho's New and Revised DWS Rule
September 16, 2019*

EPA Action	WQS Designation "Other"	WQS Section	WQS Subsection	Water Body Unit	HUC	Water Body Unit Name
Approval	DWS	IDAPA 58.01.02	110.09	P-14	17010302	Canyon Creek - from and including Gorge Gulch to mouth
Approval	DWS	IDAPA 58.01.02	110.11	P-67	17010304	Rochat Creek - source to mouth
Approval	DWS	IDAPA 58.01.02	120.07	C-56	17060305	Elk Creek - confluence of Big Elk and Little Elk Creeks to mouth
Approval	DWS	IDAPA 58.01.02	120.07	C-81	17060305	Sally Ann Creek - source to mouth
Approval	DWS	IDAPA 58.01.02	120.08	C-16	17060306	Big Canyon Creek - source to mouth
Approval	DWS	IDAPA 58.01.02	120.08	C-39	17060306	Orofino Creek - source to mouth
Approval	DWS	IDAPA 58.01.02	120.08	C-61	17060306	West Fork Little Bear Creek - source to mouth
Approval	DWS	IDAPA 58.01.02	140.10	SW-12	17050112	Elk Creek - source to mouth
Approval	DWS	IDAPA 58.01.02	140.16	SW-4	17050122	Shafer Creek - source to mouth
Approval	DWS	IDAPA 58.01.02	140.17	SW-5	17050123	Horsethief Reservoir
Approval	DWS	IDAPA 58.01.02	140.11	SW-27	17050113	Feather Creek - source to mouth
Approval	DWS	IDAPA 58.01.02	160.02	B-23	16010201	Soda Creek – Soda Creek Reservoir Dam to Alexander Reservoir
Approval	DWS	IDAPA 58.01.02	160.03	B-3	16010202	Cub River - from and including Sugar Creek to US HWY 91 Bridge (T16S, R40E, Sec. 20)

The EPA Rationale

The new designations provide source water protection where surface waters are used for public drinking water supplies in Idaho. Protecting source water is critical to the Safe Drinking Water Act multibarrier approach to reduce risks to public health from exposure to contaminated water.

The list of the additional 27 water body units designated for DWS beneficial use was developed in coordination with the Idaho drinking water program. Using the most recent SDWIS information, Idaho identified water body units with active public water systems indicating a surface water intake or GWUDI.

Regarding the inclusion of water body units with GWUDI systems, Idaho's drinking water rules (IDAPA 58.01.08.003.138) define a surface water system 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." The EPA supports DEQ designating the DWS use for both surface

water sources and GWUDI. GWUDI systems, by definition, are vulnerable to the same types of contaminants as surface water supplies, and therefore their inclusion is warranted.

DEQ's WQS revisions are consistent with the federal regulations at 40 CFR §131.10. The EPA is approving the revised description of the DWS use and application of the DWS to 27 additional water body units in this action; future designations of or revisions to the DWS use on any waters in Idaho must be submitted to the EPA for review and action under the CWA section 303(c).

D. Criteria Protective of DWS Use at IDAPA 58.01.02.252.01.a.

The EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 CFR Part 131, the EPA approves DEQ's revisions to IDAPA 58.01.02.252. The revisions include deleting the current provision at IDAPA 58.01.02.252.01.a related to radioactive materials, and replacing it with language specifying all general criteria at IDAPA 58.01.02.200 and the Water & Fish criteria at IDAPA 58.01.02.210.01.b, are applicable to waters with the DWS use.

IDAPA 58.01.02.252.01.a – Domestic

Deletion - Approved

~~a. Radioactive materials or radioactivity not to exceed concentrations specified in Idaho Department of Environmental Quality Rules, IDAPA 58.01.08, "Rules Governing Public Drinking Water Systems." (8-24-94)~~

Replacement – Approved

a. Must meet general water quality criteria set forth in Section 200 and the Water & Fish criteria set forth in Subsection 210.01.b.

The EPA Rationale

The previous IDAPA 58.01.02.252.01.a regarding radioactive materials and radioactivity criteria was duplicative of existing radioactive materials criteria found at IDAPA 58.01.02.200.04. The EPA agrees that the deletion ensures consistency in interpreting and implementing the radioactive materials criteria for the DWS use.

As noted earlier, DEQ's intent for IDAPA 58.01.02.252.01.a. was to describe all criteria applicable to the DWS use. Previously, the only criteria listed at IDAPA 58.01.02.252 were for radioactive materials or radioactivity (IDAPA 58.01.02.252.01.a) or turbidity criteria for specific small public water supplies (IDAPA 58.01.02.252.01.b) specified in a table. The new provision specifies that all general criteria at IDAPA 58.01.02.200 and the Water & Fish criteria at IDAPA 58.01.02.210.01.b apply to the DWS use. This revision reduces misinterpretations of the WQS and ensures appropriate protection for the DWS use. Since the EPA previously approved the criteria at IDAPA 58.01.02.200 and 58.01.02.210.01.b as protective of the DWS use, this approval action extends only to the clarification that these are the applicable criteria to protect DWS waters and does not include the underlying criteria themselves.

E. Removal of Designated Small Public Water Supplies Table at IDAPA 58.01.02.252.01.b. and IDAPA 58.01.02.252.01.b.i.

The EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 CFR Part 131, the EPA approves the deletion of IDAPA 58.01.02.252.01.b and IDAPA 58.01.02.252.01.b.i referring to small public water supplies and the table of Designated Small Public Water Supplies.

b. — Small public water supplies (Surface Water). (8-24-94)

i. — The following Table identifies waters, including their watersheds above the public water supply intake (except where noted), which are designated as small public water supplies.

TABLE — DESIGNATED SMALL PUBLIC WATER SUPPLIES

County	Water Body	Supply No.*	Supply System Name
<i>Benewah</i>	<i>Spring</i>	<i>1050001</i>	<i>BLM Sheep Springs</i>
<i>Benewah</i>	<i>Spring</i>	<i>1050002</i>	<i>BLM Tingley Springs</i>
<i>Benewah</i>	<i>Adams Ck.</i>	<i>1050011</i>	<i>Fernwood Water Dist.</i>
<i>Benewah</i>	<i>Rechat Ck.</i>	<i>1050024</i>	<i>St. Marias, City of</i>
<i>Boise</i>	<i>Elk Ck.</i>	<i>4080025</i>	<i>Idaho City Water Dept.</i>
<i>Boise</i>	<i>McBride Ck.</i>	<i>4080047</i>	<i>Terrace Lakes Rec. Ranch</i>
<i>Bonner</i>	<i>Spring</i>	<i>1090168</i>	<i>Beaver Ck Camp Assn</i>
<i>Bonner</i>	<i>Spring</i>	<i>1090017</i>	<i>Clark Fork U-ID Field Campus</i>
<i>Bonner</i>	<i>Berry Ck.</i>	<i>1090021</i>	<i>Colburn Water Assn.</i>
<i>Bonner</i>	<i>Cougar Ck.</i>	<i>1090030</i>	<i>Cougar Creek Water Assn</i>
<i>Bonner</i>	<i>Strong Ck.</i>	<i>1090038</i>	<i>East Hope Water Dept.</i>
<i>Bonner</i>	<i>Composite Spring</i>	<i>1090052</i>	<i>Hope Water System</i>
<i>Bonner</i>	<i>Spring</i>	<i>1090074</i>	<i>Lakeview Townsite Improve Assn</i>
<i>Bonner</i>	<i>Spring</i>	<i>1090031</i>	<i>Midas Water System</i>
<i>Bonner</i>	<i>Little Sand Ck.</i>	<i>1090121</i>	<i>Sandpoint Water Dept</i>
<i>Bonner</i>	<i>Schweitzer Ck.</i>	<i>1090124</i>	<i>Schweitzer Basin Water Co</i>
<i>Bonner</i>	<i>Spring #1</i>	<i>1090123</i>	<i>Schweitzer Mtn Resort</i>
<i>Bonner</i>	<i>Spring #2</i>	<i>1090123</i>	<i>Schweitzer Mtn Resort</i>
<i>Bonner</i>	<i>Springs</i>	<i>1090151</i>	<i>West Bonner WD#1</i>
<i>Boundary</i>	<i>Meadow Ck.</i>	<i>1110001</i>	<i>Bee-Line Water Assn.</i>
<i>Boundary</i>	<i>Myrtle Ck.</i>	<i>1110003</i>	<i>Bonnors Ferry, City of</i>
<i>Boundary</i>	<i>Spring</i>	<i>1110007</i>	<i>Cow Ck Water Assn</i>
<i>Boundary</i>	<i>Curley Ck.</i>	<i>1110008</i>	<i>Curley Ck. Water Assn.</i>
<i>Boundary</i>	<i>Mission Ck.</i>	<i>1110019</i>	<i>Mission Creek Water Assn.</i>
<i>Boundary</i>	<i>Caribou Ck.</i>	<i>1110020</i>	<i>Moravia Water Assn.</i>

Technical Support Document for the EPA's Action on Idaho's New and Revised DWS Rule
September 16, 2019

County	Water Body	Supply No.*	Supply System Name
<i>Boundary</i>	<i>Spring</i>	<i>1110044</i>	<i>Northwest Academy/Ascent</i>
<i>Boundary</i>	<i>Ruby Ck.</i>	<i>1110044</i>	<i>Northwest Academy/Ascent</i>
<i>Boundary</i>	<i>Brown Creek and Cedar Ck.</i>	<i>1110023</i>	<i>Paradise Valley Water Assn.</i>
<i>Boundary</i>	<i>Spring #1</i>	<i>1110024</i>	<i>Rocky Mountain Academy</i>
<i>Boundary</i>	<i>Spring #2</i>	<i>1110024</i>	<i>Rocky Mountain Academy</i>
<i>Boundary</i>	<i>Skin Ck.</i>	<i>1110025</i>	<i>Skin Ck. Water Assn.</i>
<i>Boundary</i>	<i>Springs</i>	<i>1110029</i>	<i>Trow Creek Water Assn</i>
<i>Boundary</i>	<i>Twenty Mile Ck.</i>	<i>1110030</i>	<i>Twenty Mile Ck. Water Assn.</i>
<i>Clearwater</i>	<i>N.F. Clearwater R.**</i>	<i>2180001</i>	<i>Ahsahka Water and Sewer District</i>
<i>Clearwater</i>	<i>Reeds Ck.</i>	<i>2180029</i>	<i>Potlatch Corp-Headquarters</i>
<i>Custer</i>	<i>Garden Ck.</i>	<i>7190013</i>	<i>Challis, City of</i>
<i>Elmore</i>	<i>E.F. Montezuma Ck.</i>	<i>4200005</i>	<i>Atlanta Water Assn.</i>
<i>Idaho</i>	<i>Wall Creek</i>	<i>2250011</i>	<i>Clearwater Water Assn.</i>
<i>Idaho</i>	<i>Big Elk Ck.</i>	<i>2250017</i>	<i>Elk City Water/Sewer Assn.</i>
<i>Kootenai</i>	<i>Spring</i>	<i>1280068</i>	<i>Excelsior Beach Water</i>
<i>Kootenai</i>	<i>Rose Spring</i>	<i>1280161</i>	<i>Rose Lake Water Assn</i>
<i>Lemhi</i>	<i>Chick Ck., Jesse Ck., and Pollard Ck.</i>	<i>7300042</i>	<i>Salmon, City of</i>
<i>Nez Perce</i>	<i>Big Canyon Ck.</i>	<i>2350023</i>	<i>Peck Water System</i>
<i>Shoshone</i>	<i>Lake Ck.</i>	<i>1400081</i>	<i>Asarco Galena Unit</i>
<i>Shoshone</i>	<i>Shields Ck.</i>	<i>1400089</i>	<i>Central Shoshone County WD</i>
<i>Shoshone</i>	<i>Big Ck.</i>	<i>1400089</i>	<i>Central Shoshone County WD</i>
<i>Shoshone</i>	<i>McFarren Ck.</i>	<i>1400089</i>	<i>Central Shoshone County WD</i>
<i>Shoshone</i>	<i>Milo Ck.</i>	<i>1400089</i>	<i>Central Shoshone County WD</i>
<i>Shoshone</i>	<i>Sawmill Gulch and Canyon Ck.</i>	<i>1400016</i>	<i>East Shoshone County WD-Burke</i>
<i>Shoshone</i>	<i>Boulder Ck.</i>	<i>1400017</i>	<i>East Shoshone County WD-Mullan</i>
<i>Shoshone</i>	<i>Cranky Gulch</i>	<i>1400019</i>	<i>East Shoshone County WD-Wallace</i>
<i>Shoshone</i>	<i>Weyer Gulch</i>	<i>1400019</i>	<i>East Shoshone County WD-Wallace</i>
<i>Shoshone</i>	<i>Experimental Ck.</i>	<i>1400019</i>	<i>East Shoshone County WD-Wallace</i>
<i>Shoshone</i>	<i>Canyon Ck.</i>	<i>1400016</i>	<i>East Shoshone County WD-Burke</i>
<i>Shoshone</i>	<i>Mill Ck.</i>	<i>1400017</i>	<i>East Shoshone County WD-Mullan</i>
<i>Shoshone</i>	<i>Placer Ck.-main channel</i>	<i>1400019</i>	<i>East Shoshone County WD-Wallace</i>
<i>Shoshone</i>	<i>Placer Ck-WF</i>	<i>1400019</i>	<i>East Shoshone County WD-Wallace</i>
<i>Shoshone</i>	<i>Deadman Ck. MF</i>	<i>1400028</i>	<i>Hecla Mining Co-Lucky Friday</i>
<i>Shoshone</i>	<i>National Tunnel</i>	<i>1400028</i>	<i>Hecla Mining Co-Lucky Friday</i>
<i>Shoshone</i>	<i>Deadman Ck. WF</i>	<i>1400028</i>	<i>Hecla Mining Co-Lucky Friday</i>
<i>Shoshone</i>	<i>Spring</i>	<i>1400067</i>	<i>Lookout Pass Ski Area</i>

County	Water Body	Supply No.*	Supply System Name
Shoshone	Alder Ck. and East Alder Ck.	1400039	Murray Water Works
County	Water Body	Supply No.*	Supply System Name
Shoshone	E.F. Silver Ck.	1400046	Silver Creek Water Assn.
Shoshone	Big Ck #1	1400050	Sunshine Precious Metals
Valley	Boulder Ck.	4430059	Yellowpine Water System, Inc.

* Public water supply number assigned by IDHW/DEQ.

** Only the portion of the watershed below Dworshak Dam is included.

~~(3-30-~~

~~01)~~

The EPA Rationale

The previous WQS language at IDAPA 58.01.02.252.01.b and IDAPA 58.01.02.252.01.b.i identified specific public water supply systems that only applied the criteria at the intakes of the listed systems. Consequently, the criteria were not applied to all the water body units with DWS as a designated or existing use. The waters previously listed at IDAPA 58.01.02.252.01.b.i are now listed at IDAPA 58.01.02.110 through 160 as waters designated for DWS, and therefore the table at IDAPA 58.01.02.252.01.b.i is no longer necessary. The revision clarifies waters designated for the DWS use and promotes consistent application of the criteria to the DWS use.

F. Revision to Turbidity Criteria at IDAPA 58.01.02.252.01.b.

The EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 CFR Part 131, the EPA approves the revision at IDAPA 58.01.02.252.01.b.i specifying that turbidity is to be measured at any public water intake.

~~#b. Turbidity.~~

~~i. For those surface waters identified in Subsection 252.01.b.i. ~~Turbidity~~ as measured at ~~the any~~ public water intake shall not be:~~ ~~(4-5-00)()~~

The EPA Rationale

Since multiple public water intakes may be located on a water body, the revision clarifies that turbidity measurements may be taken at any of these intakes to determine compliance with the turbidity criteria. This clarification provides consistent protection to public water systems. Additionally, since Idaho deleted the list of waters at IDAPA 58.01.02.252.01.b.i with these revisions, it is appropriate for Idaho to delete reference to that table and apply the turbidity criteria to all public water intakes in the state.

G. Revisions to Turbidity Criteria at IDAPA 58.01.02.252.01.b.i.(1) through (3) and IDAPA 58.01.02.252.01.b.ii.

The EPA Action

In accordance with its CWA authority, 33 U.S.C. § 1313(c)(3) and 40 CFR Part 131, the EPA approves the revisions at IDAPA 58.01.02.252.01.b.i.(1) through (3) and IDAPA 58.01.02.252.01.b.ii.

(1) Increased by more than five (5) NTU above *natural* background, ~~measured at a location upstream from or not influenced by any human induced nonpoint source activity~~, when background turbidity is fifty (50) NTU or less; ~~(8-24-94)~~ ()

(2) Increased by more than ten percent (10%) above *natural* background, ~~measured at a location upstream from or not influenced by any human induced nonpoint source activity, not to exceed twenty five (25) NTU~~, when background turbidity is greater than fifty (50) NTU, and less than two hundred and fifty (250) NTU; or ~~(8-24-94)~~()

(3) Increased by more than twenty-five (25) NTU above background when background turbidity is two hundred and fifty (250) NTU or greater. ()

ii. Turbidity Background/Criteria Table.

<u>Turbidity Background</u>	<u>Turbidity Criteria</u>
<u>≤ 50 NTUs</u>	<u>5 NTUs above background</u>
<u>> 50 – < 250 NTUs</u>	<u>10% above background</u>
<u>≥ 250 NTUs</u>	<u>25 NTUs</u>

()

The EPA Rationale

The previous rule at IDAPA 58.01.02.252.b stated that turbidity could not be increased by more than 10% above background or exceed a maximum increase of 25 NTUs when background was greater than 50 NTUs. Because 10% of 250 NTUs is 25 NTUs, in practice, the 10% increase applied up to the threshold of 250 NTUs, after which point the increase was capped at 25 NTUs. Idaho's restructuring of the text and addition of the "Turbidity Background/Criteria Table" (IDAPA 58.01.02.252.01.b.ii) provides clarity on how the turbidity criteria are applied, without changing the numeric criteria. The EPA approves these non-substantive revisions that rephrase the turbidity criteria to provide clarity, but which do not change the criteria.¹¹

Additionally, DEQ removed the word "*natural*" at IDAPA 58.01.02.252.b.i.(1) and (2) and also

¹¹ The EPA considers non-substantive edits to existing WQS to constitute new or revised WQS that the EPA has the authority to approve or disapprove under section 303(c)(3) of the CWA. While these edits and changes do not substantively change the meaning or intent of the existing WQS, the EPA believes it is reasonable to treat such edits and changes in this manner to ensure public transparency as to which provisions are applicable for CWA purposes. The EPA notes that the scope of its review and action on non-substantive edits or editorial changes extends only to the edits or changes themselves. The EPA is not re-opening or reconsidering the underlying WQS which are the subject of the non-substantive edits or editorial changes.

removed the following wording: “measured at a location upstream from or not influenced by any human induced nonpoint source activity.” DEQ confirmed that it interprets the term “background” consistent with the existing definition at IDAPA 58.01.02.010.06.¹² Idaho’s definition of “background” is as follows:

“The biological, chemical or physical condition of waters measured at a point immediately upstream (up-gradient) of the influence of an individual point or nonpoint source discharge. If several discharges to the water exist or if an adequate upstream point of measurement is absent, the Department will determine where background conditions should be measured.”

Idaho’s turbidity criteria applicable to public water intakes are not intended to protect human health or aquatic life; instead, the criteria are intended to limit large increases in turbidity in source waters that would affect treatment capability at drinking water treatment systems. Therefore, it is reasonable for Idaho to evaluate a baseline of background turbidity upstream of individual point or nonpoint source discharges and to ensure that turbidity levels increase no more than a modest amount above those background levels. It is not necessary for Idaho to approximate or protect “natural” background turbidity to protect the DWS designated use. Therefore, Idaho’s revisions to clarify the meaning of “background” in this instance are reasonable.

Regarding the second sentence of the above-quoted “background” definition, DEQ confirmed that it will seek locations which are minimally impacted by upstream point and nonpoint source discharges when providing this flexibility in measuring background turbidity concentrations.¹³ Consequently, the rule revisions at IDAPA 58.01.02.252.01.b.i.(1) through (3) and IDAPA 58.01.02.252.01.b.ii provide additional clarity and are consistent with 40 CFR § 131.11, which requires that criteria must be based on sound scientific rationale and must be sufficient to protect the applicable designated use. The EPA reiterates that it is not re-opening or reconsidering the underlying turbidity criteria numeric values. The scope of the EPA’s review extends only to the non-substantive revisions to the criteria structure, and to the baseline of “background” from which the turbidity criteria are measured.

¹² Confirmation Requested - DWS Docket No. 58-0102-1703 - IDAPA 58.01.02.252.b.i and ii. Email correspondence. Jason Pappani, Surface Water Manager, Idaho Department of Environmental Quality. August 6, 2019.

¹³ Email correspondence from Jason Pappani. August 6, 2019.