

Dear Senators BAIR, VICK, Stennett, and
Representatives THOMPSON, Anderst, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Department of Environmental Quality:
IDAPA 58.01.02 - Water Quality Standards - Proposed Rule (Docket No. 58-0102-1201).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 10/28/2015. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/25/2015.

The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Resources & Environment Committee and the House Environment, Energy & Technology Committee

FROM: Principal Legislative Research Analyst - Katharine Gerrity

DATE: October 08, 2015

SUBJECT: Department of Environmental Quality

IDAPA 58.01.02 - Water Quality Standards - Proposed Rule (Docket No. 58-0102-1201)

The Department of Environmental Quality submits notice of proposed rule at IDAPA 58.01.02 - Water Quality Standards. According to the department, on May 10, 2012, the Environmental Protection Agency (EPA) disapproved its July 7, 2006 water quality standard rule submittal which affects 167 of Idaho's revised human health criteria for 88 toxic pollutants. The department states that in 2006 it changed the fish consumption basis for determining the toxic standard from 6.5 g/day to 17.5 g/day based on EPA's nationally recommended fish consumption rate. However, EPA indicated that it believed the criteria did not protect Idaho's designated uses and was unable to determine whether the 17.5 g/day rate was consistent with federal regulations. The department goes on to state that EPA identified several sources of information on local and regional fish consumption that it claims Idaho did not consider before using the default fish consumption rate. The department states that EPA claimed that the information it reviewed suggested that fish consumption among some of Idaho's population groups is greater than 17.5 g/day.

The department states that in May 2014 the EPA proposed updates to its national criteria recommendations to states and tribes, for protection of human health. The updates were based on a new national fish consumption rate of 22 g/day, as well as new information on body weight, drinking water intake, chemical toxicity, bioaccumulation of toxins in fish tissue and the relative magnitude of contribution to exposure to toxins from various sources other than fish and water. The department states that EPA's proposal was finalized on June 29, 2015, providing new or updated criteria for 94 chemicals, some not currently present in Idaho's rules. The rule proposal updates criteria for numerous toxic substances, some of which are revised and some of which are new.

The department indicates that negotiated rulemaking was conducted and that eighteen hearings were held between October 2012 and August 2015. During this time the department also conducted a yearlong survey on fish consumption and notes that at the same time, the Nez Perce Tribe and Shoshone-Bannock Tribes were also conducting similar surveys. The department confirms that the standards included in the proposed rule are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated

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by the federal government. The rulemaking appears to be authorized pursuant to Sections 39-105, 39-107 and 39-3601, Idaho Code.

cc: Department of Environmental Quality
Paula J. Wilson

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS

DOCKET NO. 58-0102-1201

NOTICE OF RULEMAKING - PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this proposed rulemaking will be held as follows:

ORIGINATING LOCATION – LIVE HEARING

DEQ State Office
Conference Room C
1410 N. Hilton, Boise, Idaho

Tuesday, October 27, 2015
3 p.m. Mountain Time

VIDEO CONFERENCING LOCATIONS

DEQ Coeur d'Alene Regional Office
2110 Ironwood Parkway
Coeur d'Alene, Idaho

DEQ Pocatello Regional Office
444 Hospital Way #300
Pocatello, Idaho

Department of Environmental Quality
1118 F Street
Lewiston, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: On May 10, 2012, the United States Environmental Protection Agency (EPA) disapproved the July 7, 2006 Idaho DEQ water quality standard rule submittal. The disapproval affects 167 of Idaho's revised human health criteria for 88 toxic pollutants. In addition to incorporating newer toxicity information, DEQ's 2006 rule changed the fish consumption basis for determining the toxic standard from 6.5 g/day to 17.5 g/day, based on EPA's nationally recommended fish consumption rate. EPA disapproved the proposed criteria because EPA believes that the resulting criteria do not protect Idaho's designated uses. As a result, EPA was unable to determine that the 17.5 g/day fish consumption rate was consistent with 40 CFR 131.11(a). EPA identified several sources of information on local and regional fish consumption, which they claim that Idaho did not consider before using the national default fish consumption rate. According to EPA, the information that EPA reviewed suggests that fish consumption among some Idaho population groups is greater than 17.5 g/day.

Over the span from October 2012 to August 2015, DEQ met with interested parties in eighteen negotiated meetings. DEQ planned a statewide Idaho fish consumption survey then executed a yearlong survey and, while the survey was underway, discussed the various policy decisions involved in derivation of criteria protective of human health. At the same time as Idaho's fish consumption survey was being conducted, the Nez Perce Tribe and Shoshone-Bannock Tribes were conducting similar surveys to inform DEQ's knowledge of the potential magnitude of exposure to toxic substances through consumption of fish with the help of EPA and the intent that this information would also inform DEQ's revision of human health criteria. In May 2014 EPA proposed updates to its national 304(a)

criteria, recommendations to states and tribes, for protection of human health. These updates were based on a new national fish consumption rate of 22 g/day, as well as new information on body-weight, drinking water intake, chemical toxicity, bioaccumulation of toxins in fish tissue, and the relative magnitude of contribution to exposure to toxins from various sources other than fish and water. EPA's proposal was finalized on June 29, 2015, providing new or updated criteria for 94 chemicals, some not currently present in Idaho's rules.

EPA's national action expanded what DEQ considered in its rulemaking. In addition to recent information on fish consumption in Idaho, these criteria changes also incorporate new information on body-weight, drinking water intake, toxicity, bioaccumulation, and relative source contribution. DEQ is also updating more criteria than just those EPA acted on in 2012.

The current rule proposal is to update Idaho's human health criteria for 105 toxic substances, 9 of which are new. There are 209 revised or new criteria, consisting of 94 revised and 11 new criteria based on exposure to toxic substances from the consumption of fish and ingestion of water, plus 94 revised and 10 new criteria based on exposure to toxic substances from the consumption of fish alone. There is one less new criterion for consumption of fish alone because the copper criterion is based on exposure from ingestion of water only. In addition, although new input values were used, the values for the antimony fish only criterion and the bromoform fish + water criterion did not change; these are counted as revised criteria. With this proposal, Idaho will have updated all of its human health criteria except those for arsenic, methylmercury and asbestos.

Idahoans that recreate in, drink from, or fish Idaho's surface waters, and any who discharge pollutants to those same waters, may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in December 2015 for adoption of a pending rule. The rule is expected to be final and effective upon adjournment of the 2016 legislative session if adopted by the Board and approved by the Legislature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code § 67-5220 and IDAPA 58.01.23.810-815. The Notice of Negotiated Rulemaking was published in the September 2012 Idaho Administrative Bulletin, **Vol. 12-9**. Eighteen meetings were held between October 2012 and August 2015. A preliminary draft rule was made available for public review in August 2015. Members of the public participated in this negotiated rulemaking process by attending the meetings and by submitting written comments. A record of the negotiated rule drafts, written comments, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary is available at www.deq.idaho.gov/58-0102-1201.

All comments received during the negotiated rulemaking process were considered by DEQ when making decisions that resulted in drafting the proposed rule. At the conclusion of the negotiated rulemaking process, DEQ formatted the final rule draft for publication as a proposed rule. DEQ is now seeking public comment on the proposed rule.

IDAHO CODE SECTION 39-107D STATEMENT: The standards included in this proposed rule are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.

FISCAL IMPACT STATEMENT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year when the pending rule will become effective: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Don Essig at don.essig@deq.idaho.gov, (208)373-0119.

Anyone may submit written comments by mail, fax or email at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before November 6, 2015.

DATED this 7th Day of October, 2015.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0102-1201
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

For the purpose of the rules contained in IDAPA 58.01.02, "Water Quality Standards," the following definitions apply: (4-11-06)

01. Activity. For purposes of antidegradation review, an activity that causes a discharge to a water subject to the jurisdiction of the Clean Water Act. (3-18-11)

02. Acute. A stimulus severe enough to induce a rapid response. In aquatic toxicity tests, acute refers to a single or short-term (i.e., ninety-six (96) hours or less) exposure to a concentration of a toxic substance or effluent which results in death to fifty percent (50%) of the test organisms. When referring to human health, an acute effect is not always measured in terms of lethality. (3-30-07)

03. Acute Criteria. Unless otherwise specified in these rules, the maximum instantaneous or one (1) hour average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from acute toxicity due to exposure to the toxic substance or effluent. Acute criteria are expected to adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. This is also known as the Criterion Maximum Concentration (CMC). There are no specific acute criteria for human health; however, the human health criteria are based on chronic health effects and are expected to adequately protect against acute effects. (3-30-07)

04. Aquatic Species. Any plant or animal that lives at least part of its life in the water column or benthic portion of waters of the state. (8-24-94)

05. Assigned Criteria. Criteria associated with beneficial uses from Section 100 of these rules. (3-18-11)

06. Background. 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. (8-24-94)

07. Basin Advisory Group. No less than one (1) advisory group named by the Director, in consultation with the designated agencies, for each of the state's six (6) major river basins which shall generally advise the Director on water quality objectives for each basin, work in a cooperative manner with the Director to achieve these objectives, and provide general coordination of the water quality programs of all public agencies

pertinent to each basin. Each basin advisory group named by the Director shall reflect a balanced representation of the interests in the basin and shall, where appropriate, include representatives from each of the following: agriculture, mining, nonmunicipal point source discharge permittees, forest products, local government, livestock, Indian tribes (for areas within reservation boundaries), water-based recreation, and environmental interests. (3-20-97)

08. Beneficial Use. Any of the various uses which may be made of the water of Idaho, including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. The beneficial use is dependent upon actual use, the ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for the purpose of wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use. (8-24-94)

09. Best Management Practice. A practice or combination of practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be the cost-effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals. (3-20-97)

10. Bioaccumulation. The process by which a compound is taken up by, and accumulated in the tissues of an aquatic organism from the environment, both from water and through food. (8-24-94)

11. Bioaccumulative Pollutants. A compound with a bioaccumulation factor of greater than one thousand (1,000) or a bioconcentration factor of greater than one thousand (1,000). (4-11-15)

12. Biological Monitoring or Biomonitoring. The use of a biological entity as a detector and its response as a measure to determine environmental conditions. Toxicity tests and biological surveys, including habitat monitoring, are common biomonitoring methods. (8-24-94)

13. Board. The Idaho Board of Environmental Quality. (7-1-93)

14. Chronic. A stimulus that persists or continues for a long period of time relative to the life span of an organism. In aquatic toxicity tests, chronic refers to continuous exposure to a concentration of a toxic substance or effluent which results in mortality, injury, reduced growth, impaired reproduction, or other adverse effect to aquatic organisms. The test duration is long enough that sub-lethal effects can be reliably measured. When referring to human health, a chronic effect is usually measured in terms of estimated changes in rates (# of cases/ 1000 persons) of illness over a lifetime of exposure. (3-30-07)

15. Chronic Criteria. Unless otherwise specified in these rules, the four (4) day average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from chronic toxicity due to exposure to the toxic substance or effluent. Chronic criteria are expected to adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. This is also known as the Criterion Continuous Concentration (CCC). Human health chronic criteria are based on lifetime exposure. (3-30-07)

16. Compliance Schedule or Schedule Of Compliance. A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard. (8-24-94)

17. Cost-Effective and Reasonable Best Management Practices (BMPs) for Nonpoint Sources. All approved BMPs specified in Subsections 350.03 and 055.07 of these rules. BMPs for activities not specified are, in accordance with Section 350, determined on a case-by-case basis. (3-18-11)

18. Daily Maximum (Minimum). The highest (lowest) value measured during one (1) calendar day or a twenty-four (24) hour period, as appropriate. For ambient monitoring of dissolved oxygen, pH, and temperature, multiple measurements should be obtained at intervals short enough that the difference between consecutive measurements around the daily maximum (minimum) is less than zero point two (0.2) ppm for dissolved oxygen, zero point one (0.1) SU for pH, or zero point five (0.5) degree C for temperature. (3-30-07)

19. Daily Mean. The average of at least two (2) appropriately spaced measurements, acceptable to the

Department, calculated over a period of one (1) day: (3-20-97)

a. Confidence bounds around the point estimate of the mean may be required to determine the sample size necessary to calculate a daily mean; (8-24-94)

b. If any measurement is greater or less than five-tenths (0.5) times the average, additional measurements over the one-day period may be needed to obtain a more representative average; (3-20-97)

c. In calculating the daily mean for dissolved oxygen, values used in the calculation shall not exceed the dissolved oxygen saturation value. If a measured value exceeds the dissolved oxygen saturation value, then the dissolved oxygen saturation value will be used in calculating the daily mean. (8-24-94)

d. For ambient monitoring of temperature, the daily mean should be calculated from equally spaced measurements, at intervals such that the difference between any two (2) consecutive measurements does not exceed one point zero (1.0) degree C. (3-30-07)

20. Degradation or Lower Water Quality. “Degradation” or “lower water quality” means, for purposes of antidegradation review, a change in a pollutant that is adverse to designated or existing uses, as calculated for a new point source, and based upon monitoring or calculated information for an existing point source increasing its discharge. Such degradation shall be calculated or measured after appropriate mixing of the discharge and receiving water body. (3-29-12)

21. Deleterious Material. Any nontoxic substance which may cause the tainting of edible species of fish, taste and odors in drinking water supplies, or the reduction of the usability of water without causing physical injury to water users or aquatic and terrestrial organisms. (8-24-94)

22. Department. The Idaho Department of Environmental Quality. (7-1-93)

23. Design Flow. The critical flow used for steady-state wasteload allocation modeling. (8-24-94)

24. Designated Agency. The department of lands for timber harvest activities, oil and gas exploration and development, and mining activities; the soil conservation commission for grazing and agricultural activities; the transportation department for public road construction; the department of agriculture for aquaculture; and the Department’s division of environmental quality for all other activities. (3-20-97)

25. Designated Beneficial Use or Designated Use. Those beneficial uses assigned to identified waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, “Water Quality Standards and Wastewater Treatment Requirements,” Sections 110 through 160, whether or not the uses are being attained. (4-5-00)

26. Desirable Species. Species indigenous to the area or those introduced species identified as desirable by the Idaho Department of Fish and Game. (3-15-02)

27. Director. The Director of the Idaho Department of Environmental Quality or his authorized agent. (7-1-93)

28. Discharge. When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. For purposes of antidegradation review, means “discharge” as used in Section 401 of the Clean Water Act. (3-18-11)

29. Dissolved Oxygen (DO). The measure of the amount of oxygen dissolved in the water, usually expressed in mg/l. (7-1-93)

30. Dissolved Product. Petroleum product constituents found in solution with water. (8-24-94)

31. Dynamic Model. A computer simulation model that uses real or derived time series data to predict a time series of observed or derived receiving water concentrations. Dynamic modeling methods include continuous simulation, Monte Carlo simulations, lognormal probability modeling, or other similar statistical or deterministic

- techniques. (8-24-94)
32. **E. coli (Escherichia coli).** A common fecal and intestinal organism of the coliform group of bacteria found in warm-blooded animals. (4-5-00)
33. **Effluent.** Any wastewater discharged from a treatment facility. (7-1-93)
34. **Effluent Biomonitoring.** The measurement of the biological effects of effluents (e.g., toxicity, biostimulation, bioaccumulation, etc.). (8-24-94)
35. **EPA.** The United States Environmental Protection Agency. (7-1-93)
36. **Ephemeral Waters.** A stream, reach, or water body that flows naturally only in direct response to precipitation in the immediate watershed and whose channel is at all times above the water table. (4-11-06)
37. **Existing Activity or Discharge.** An activity or discharge that has been previously authorized or did not previously require authorization. (3-18-11)
38. **Existing Beneficial Use Or Existing Use.** Those beneficial uses actually attained in waters on or after November 28, 1975, whether or not they are designated for those waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards." (4-11-06)
39. **Facility.** As used in Section 850 only, any building, structure, installation, equipment, pipe or pipeline, well pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock or aircraft, area, place or property from which an unauthorized release of hazardous materials has occurred. (8-24-94)
40. **Four Day Average.** The average of all measurements within a period of ninety-six (96) consecutive hours. While a minimum of one (1) measurement per each twenty-four (24) hours is preferred, for toxic chemicals in Section 210, any number of data points is acceptable. (3-30-07)
41. **Free Product.** A petroleum product that is present as a nonaqueous phase liquid. Free product includes the presence of petroleum greater than one-tenth (0.1) inch as measured on the water surface for surface water or the water table for ground water. (7-1-93)
42. **Full Protection, Full Support, or Full Maintenance of Designated Beneficial Uses of Water.** Compliance with those levels of water quality criteria listed in Sections 200, 210, 250, 251, 252, 253, and 275 (if applicable) or where no major biological group such as fish, macroinvertebrates, or algae has been modified by human activities significantly beyond the natural range of the reference streams or conditions approved by the Director in consultation with the appropriate basin advisory group. (3-15-02)
43. **General Permit.** An NPDES permit issued by the U.S. Environmental Protection Agency authorizing a category of discharges under the federal Clean Water Act or a nationwide or regional permit issued by the U.S. Army Corps of Engineers under the federal Clean Water Act. (3-29-12)
44. **Geometric Mean.** The geometric mean of "n" quantities is the "nth" root of the product of the quantities. (7-1-93)
45. **Ground Water.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (3-30-07)
46. **Harmonic Mean *Flow*.** The number of daily *flow* measurements divided by the sum of the reciprocals of the *flows measurements* (i.e., the reciprocal of the mean of reciprocals). (~~8-24-94~~) ()
47. **Hazardous Material.** A material or combination of materials which, when discharged in any quantity into state waters, presents a substantial present or potential hazard to human health, the public health, or the environment. Unless otherwise specified, published guides such as Quality Criteria for Water (1976) by EPA, Water Quality Criteria (Second Edition, 1963) by the state of California Water Quality Control Board, their subsequent

revisions, and more recent research papers, regulations and guidelines will be used in identifying individual and specific materials and in evaluating the tolerances of the identified materials for the beneficial uses indicated.

(7-1-93)

48. Highest Statutory and Regulatory Requirements for Point Sources. All applicable effluent limits required by the Clean Water Act and other permit conditions. It also includes any compliance schedules or consent orders requiring measures to achieve applicable effluent limits and other permit conditions required by the Clean Water Act.

(3-18-11)

49. Hydrologic Unit Code (HUC). A unique eight (8) digit number identifying a subbasin. A subbasin is a United States Geological Survey cataloging unit comprised of water body units.

(4-5-00)

50. Hydrologically-Based Design Flow. A statistically derived receiving water design flow based on the selection and identification of an extreme value (e.g., 1Q10, 7Q10). The underlying assumption is that the design flow will occur X number of times in Y years, and limits the number of years in which one (1) or more excursions below the design flow can occur.

(8-24-94)

51. Hypolimnion. The bottom layer in a thermally-stratified body of water. It is fairly uniform in temperature and lays beneath a zone of water which exhibits a rapid temperature drop with depth such that mixing with overlying water is inhibited.

(3-30-07)

52. Integrated Report. Refers to the consolidated listing and reporting of the state's water quality status pursuant to Sections 303(d), 305(b), and 314 of the Clean Water Act.

(3-18-11)

53. Inter-Departmental Coordination. Consultation with those agencies responsible for enforcing or administering the practices listed as approved best management practices in Subsection 350.03.

(7-1-93)

54. Intermittent Waters. A stream, reach, or water body which naturally has a period of zero (0) flow for at least one (1) week during most years. Where flow records are available, a stream with a 7Q2 hydrologically-based unregulated flow of less than one-tenth (0.1) cubic feet per second (cfs) is considered intermittent. Streams with natural perennial pools containing significant aquatic life uses are not intermittent.

(4-11-06)

55. Load Allocation (LA). The portion of a receiving water's loading capacity that is attributed either to one (1) of its existing or future nonpoint sources of pollution or to natural background sources.

(8-24-94)

56. Loading Capacity. The greatest amount of pollutant loading that a water can receive without violating water quality standards.

(8-24-94)

57. Lowest Observed Effect Concentration (LOEC). The lowest concentration of a toxic substance or an effluent that results in observable adverse effects in the aquatic test population.

(3-30-07)

58. Man-Made Waterways. Canals, flumes, ditches, wasteways, drains, laterals, and/or associated features, constructed for the purpose of water conveyance. This may include channels modified for such purposes prior to November 28, 1975. These waterways may have uniform and rectangular cross-sections, straight channels, follow rather than cross topographic contours, be lined to reduce water loss, and be operated or maintained to promote water conveyance.

(3-30-07)

59. Maximum Weekly Maximum Temperature (MWMT). The weekly maximum temperature (WMT) is the mean of daily maximum temperatures measured over a consecutive seven (7) day period ending on the day of calculation. When used seasonally, e.g., spawning periods, the first applicable WMT occurs on the seventh day into the time period. The MWMT is the single highest WMT that occurs during a given year or other period of interest, e.g., a spawning period.

(3-30-07)

60. Milligrams Per Liter (mg/l). Milligrams of solute per liter of solution, equivalent to parts per million, assuming unit density.

(7-1-93)

61. Mixing Zone. A defined area or volume of the receiving water surrounding or adjacent to a

wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated. (7-1-93)

62. National Pollutant Discharge Elimination System (NPDES). Point source permitting program established pursuant to Section 402 of the federal Clean Water Act. (8-24-94)

63. Natural Background Conditions. The physical, chemical, biological, or radiological conditions existing in a water body without human sources of pollution within the watershed. Natural disturbances including, but not limited to, wildfire, geologic disturbance, diseased vegetation, or flow extremes that affect the physical, chemical, and biological integrity of the water are part of natural background conditions. Natural background conditions should be described and evaluated taking into account this inherent variability with time and place. (3-30-07)

64. Nephelometric Turbidity Units (NTU). A measure of turbidity based on a comparison of the intensity of the light scattered by the sample under defined conditions with the intensity of the light scattered by a standard reference suspension under the same conditions. (8-24-94)

65. New Activity or Discharge. An activity or discharge that has not been previously authorized. Existing activities or discharges not currently permitted or licensed will be presumed to be new unless the Director determines to the contrary based on review of available evidence. An activity or discharge that has previously taken place without need for a license or permit is not a new activity or discharge when first licensed or permitted. (3-18-11)

66. Nonpoint Source Activities. Activities on a geographical area on which pollutants are deposited or dissolved or suspended in water applied to or incident on that area, the resultant mixture being discharged into the waters of the state. Nonpoint source activities on ORWs do not include issuance of water rights permits or licenses, allocation of water rights, operation of diversions, or impoundments. Nonpoint sources activities include, but are not limited to: (3-20-97)

- a.** Irrigated and nonirrigated lands used for: (7-1-93)
 - i.** Grazing; (7-1-93)
 - ii.** Crop production; (7-1-93)
 - iii.** Silviculture; (7-1-93)
- b.** Log storage or rafting; (7-1-93)
- c.** Construction sites; (7-1-93)
- d.** Recreation sites; (3-20-97)
- e.** Septic tank disposal fields. (8-24-94)
- f.** Mining; (3-20-97)
- g.** Runoff from storms or other weather related events; and (3-20-97)
- h.** Other activities not subject to regulation under the federal national pollutant discharge elimination system. (3-20-97)

67. Nuisance. Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state. (7-1-93)

68. Nutrients. The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. (7-1-93)

- 69. One Day Minimum.** The lowest daily instantaneous value measured. (3-20-97)
- 70. One Hour Average.** The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of one (1) hour. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the one-hour period may be needed to obtain a more representative mean. (3-20-97)
- 71. Operator.** For purposes of Sections 851 and 852, any person presently or who was at any time during a release in control of, or having responsibility for, the daily operation of the petroleum storage tank (PST) system. (4-2-03)
- 72. Outstanding Resource Water (ORW).** A high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been designated by the legislature and subsequently listed in this chapter. ORW constitutes an outstanding national or state resource that requires protection from point and nonpoint source activities that may lower water quality. (3-20-97)
- 73. Owner.** For purposes of Sections 851 and 852, any person who owns or owned a petroleum storage tank (PST) system any time during a release and the current owner of the property where the PST system is or was located. (4-2-03)
- 74. Permit or License.** A permit or license for an activity that is subject to certification by the state under Section 401 of the Clean Water Act, including, for example, NPDES permits, dredge and fill permits, and FERC licenses. (3-18-11)
- 75. Person.** An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties. (3-20-97)
- 76. Petroleum Products.** Products derived from petroleum through various refining processes. (7-1-93)
- 77. Petroleum Storage Tank (PST) System.** Any one (1) or combination of storage tanks or other containers, including pipes connected thereto, dispensing equipment, and other connected ancillary equipment, and stationary or mobile equipment, that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. (7-1-93)
- 78. Point Source.** Any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (7-1-93)
- 79. Pollutant.** Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities. (3-20-97)
- 80. Project Plans.** Documents which describe actions to be taken under a proposed activity. These documents include environmental impact statements, environmental assessments, and other land use or resource management plans. (7-1-93)
- 81. Public Swimming Beaches.** Areas indicated by features such as signs, swimming docks, diving boards, slides, or the like, boater exclusion zones, map legends, collection of a fee for beach use, or any other

unambiguous invitation to public swimming. Privately owned swimming docks or the like which are not open to the general public are not included in this definition. (4-11-06)

82. Receiving Waters. Those waters which receive pollutants from point or nonpoint sources. (7-1-93)

83. Reference Stream or Condition. A water body which represents the minimum conditions necessary to fully support the applicable designated beneficial uses as further specified in these rules, or natural conditions with few impacts from human activities and which are representative of the highest level of support attainable in the basin. In highly mineralized areas or in the absence of such reference streams or water bodies, the Director, in consultation with the basin advisory group and the technical advisors to it, may define appropriate hypothetical reference conditions or may use monitoring data specific to the site in question to determine conditions in which the beneficial uses are fully supported. (3-20-97)

84. Release. Any unauthorized spilling, leaking, emitting, discharging, escaping, leaching, or disposing into soil, ground water, or surface water. (8-24-94)

85. Resident Species. Those species that commonly occur in a site including those that occur only seasonally or intermittently. This includes the species, genera, families, orders, classes, and phyla that: (8-24-94)

a. Are usually present at the site; (8-24-94)

b. Are present only seasonally due to migration; (8-24-94)

c. Are present intermittently because they periodically return or extend their ranges into the site; (8-24-94)

d. Were present at the site in the past but are not currently due to degraded conditions, and are expected to be present at the site when conditions improve; and (8-24-94)

e. Are present in nearby bodies of water but are not currently present at the site due to degraded conditions, and are expected to be present at the site when conditions improve. (8-24-94)

86. Responsible Persons in Charge. Any person who: (8-24-94)

a. By any acts or omissions, caused, contributed to or exacerbated an unauthorized release of hazardous materials; (8-24-94)

b. Owns or owned the facility from which the unauthorized release occurred and the current owner of the property where the facility is or was located; or (8-24-94)

c. Presently or who was at any time during an unauthorized release in control of, or had responsibility for, the daily operation of the facility from which an unauthorized release occurred. (8-24-94)

87. Sediment. Undissolved inorganic matter. (3-30-07)

88. Seven Day Mean. The average of the daily mean values calculated over a period of seven (7) consecutive days. (3-20-97)

89. Sewage. The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (8-24-94)

90. Short-Term or Temporary Activity. An activity which is as short as possible but lasts for no more than one (1) year, is limited in scope and is expected to have only minimal impact on water quality as determined by the Director. Short-term or temporary activities include, but are not limited to, those activities described in Subsection 080.02. (3-30-07)

- 91. Silviculture.** Those activities associated with the regeneration, growing and harvesting of trees and timber including, but not limited to, disposal of logging slash, preparing sites for new stands of trees to be either planted or allowed to regenerate through natural means, road construction and road maintenance, drainage of surface water which inhibits tree growth or logging operations, fertilization, application of herbicides or pesticides, all logging operations, and all forest management techniques employed to enhance the growth of stands of trees or timber. (3-20-97)
- 92. Sludge.** The semi-liquid mass produced by partial dewatering of potable or spent process waters or wastewater. (7-1-93)
- 93. Specialized Best Management Practices.** Those practices designed with consideration of geology, land type, soil type, erosion hazard, climate and cumulative effects in order to fully protect the beneficial uses of water, and to prevent or reduce the pollution generated by nonpoint sources. (3-3-87)
- 94. State.** The state of Idaho. (7-1-93)
- 95. State Water Quality Management Plan.** The state management plan developed and updated by the Department in accordance with Sections 205, 208, and 303 of the Clean Water Act. (3-20-97)
- 96. Suspended Sediment.** The undissolved inorganic fraction of matter suspended in surface water. (3-30-07)
- 97. Suspended Solids.** The undissolved organic and inorganic matter suspended in surface water. (3-30-07)
- 98. Technology-Based Effluent Limitation.** Treatment requirements under Section 301(b) of the Clean Water Act that represent the minimum level of control that must be imposed in a permit issued under Section 402 of the Clean Water Act. (8-24-94)
- 99. Thermal Shock.** A rapid temperature change that causes aquatic life to become disoriented or more susceptible to predation or disease. (4-11-15)
- 100. Total Maximum Daily Load (TMDL).** The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. (8-24-94)
- 101. Toxicity Test.** A procedure used to determine the toxicity of a chemical or an effluent using living organisms. A toxicity test measures the degree of response of an exposed test organism to a specific chemical or effluent. (8-24-94)
- 102. Toxic Substance.** Any substance, material or disease-causing agent, or a combination thereof, which after discharge to waters of the State and upon exposure, ingestion, inhalation or assimilation into any organism (including humans), either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, malignancy, genetic mutation, physiological abnormalities (including malfunctions in reproduction) or physical deformations in affected organisms or their offspring. Toxic substances include, but are not limited to, the one hundred twenty-six (126) priority pollutants identified by EPA pursuant to Section 307(a) of the federal Clean Water Act. (8-24-94)
- 103. Treatment.** A process or activity conducted for the purpose of removing pollutants from wastewater. (7-1-93)
- 104. Treatment System.** Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment by disposal plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishing thereof and their appurtenances. A treatment system may also be known as a treatment facility. (4-11-06)

105. Twenty-Four Hour Average. The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of twenty-four (24) consecutive hours. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the twenty-four (24)-hour period may be needed to obtain a more representative mean. (3-20-97)

106. Unique Ecological Significance. The attribute of any stream or water body which is inhabited or supports an endangered or threatened species of plant or animal or a species of special concern identified by the Idaho Department of Fish and Game, which provides anadromous fish passage, or which provides spawning or rearing habitat for anadromous or desirable species of lake dwelling fishes. (8-24-94)

107. Wasteload Allocation (WLA). The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. (8-24-94)

108. Wastewater. Unless otherwise specified, sewage, industrial waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present. (7-1-93)

109. Water Body Unit. Includes all named and unnamed tributaries within a drainage and is considered a single unit unless designated otherwise. (4-5-00)

110. Water Pollution. Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the state, or the discharge of any pollutant into the waters of the state, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. (8-24-94)

111. Water Quality-Based Effluent Limitation. An effluent limitation that refers to specific levels of water quality that are expected to render a body of water suitable for its designated or existing beneficial uses. (8-24-94)

112. Water Quality Limited Water Body. After monitoring, evaluation of required pollution controls, and consultation with the appropriate basin and watershed advisory groups, a water body identified by the Department, which does not meet applicable water quality standards, and/or is not expected to meet applicable water quality standards after the application of required pollution controls. A water body identified as water quality limited shall require the development of a TMDL or other equivalent process in accordance with Section 303 of the Clean Water Act and Sections 39-3601 et seq., Idaho Code. (3-20-97)

113. Waters and Waters Of The State. All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (7-1-93)

114. Watershed. The land area from which water flows into a stream or other body of water which drains the area. (3-20-97)

115. Watershed Advisory Group. An advisory group appointed by the Director, with the advice of the appropriate Basin Advisory Group, which will recommend to the Department those specific actions needed to control point and nonpoint sources of pollution affecting water quality limited water bodies within the watershed. Members of each watershed advisory group shall be representative of the industries and interests affected by the management of that watershed, along with representatives of local government and the land managing or regulatory agencies with an interest in the management of that watershed and the quality of the water bodies within it. (3-20-97)

116. Whole-Effluent Toxicity. The aggregate toxic effect of an effluent measured directly with a toxicity test. (8-24-94)

117. Zone of Initial Dilution (ZID). An area within a Department authorized mixing zone where acute

criteria may be exceeded. This area shall be no larger than necessary and shall be sized to prevent lethality to swimming or drifting organisms by ensuring that organisms are not exposed to concentrations exceeding acute criteria for more than one (1) hour more than once in three (3) years. The actual size of the ZID will be determined by the Department for a discharge on a case-by-case basis, taking into consideration mixing zone modeling and associated size recommendations and any other pertinent chemical, physical, and biological data available. (4-11-15)

(BREAK IN CONTINUITY OF SECTIONS)

070. APPLICATION OF STANDARDS.

01. Multiple Criteria. In the application of the use designation, the most stringent criterion of a multiple criteria applies. (4-5-00)

02. Application of Standards to Nonpoint Source Activities. The application of water quality standards to nonpoint source activities shall be in accordance with Section 350. (7-1-93)

03. Application of Standards to Point Source Discharges. The application of water quality standards to point source discharges shall be in accordance with Sections 400 and 401. (4-11-06)

04. Applicability of Gas Supersaturation Standard. The application of gas supersaturation standard shall be in accordance with Section 300. (4-5-00)

05. Mixing Zones. The application of water quality standards to mixing zones shall be in accordance with Section 060. (7-1-93)

06. Application of Standards to Intermittent Waters. Numeric water quality standards only apply to intermittent waters during optimum flow periods sufficient to support the uses for which the water body is designated. For recreation, optimum flow is equal to or greater than five (5) cubic feet per second (cfs). For aquatic life uses, optimum flow is equal to or greater than one (1) cfs. (3-30-01)

07. Temperature Criteria. In the application of temperature criteria, the Director may, at his discretion, waive or raise the temperature criteria as they pertain to a specific water body. Any such determination shall be made consistent with 40 CFR 131.11 and shall be based on a finding that the designated aquatic life use is not an existing use in such water body or would be fully supported at a higher temperature criteria. For any determination, the Director shall, prior to making a determination, provide for public notice and comment on the proposed determination. For any such proposed determination, the Director shall prepare and make available to the public a technical support document addressing the proposed modification. (4-5-00)

08. Protection of Downstream Water Quality. All waters shall maintain a level of water quality at their pour point into downstream waters that provides for the attainment and maintenance of the water quality standards of those downstream waters, including waters of another state or tribe. ()

(BREAK IN CONTINUITY OF SECTIONS)

210. NUMERIC CRITERIA FOR TOXIC SUBSTANCES FOR WATERS DESIGNATED FOR AQUATIC LIFE, RECREATION, OR DOMESTIC WATER SUPPLY USE.

01. Criteria for Toxic Substances. The criteria of Section 210 apply to surface waters of the state as follows. (5-3-03)

a. Columns B1, ~~and B2, and C2~~ of the following table apply to waters designated for aquatic life use. ~~(5-3-03)~~()

b. Column C2 of the following table applies to waters designated for primary or secondary contact

recreation use.

(5-3-03)()

c. Column C1 of the following table applies to waters designated for domestic water supply use.

Note: In 2006, Idaho updated 167 human health criteria for 88 chemicals. On May 10, 2012, EPA disapproved Idaho's 2006 update of 167 human health criteria for toxic substances and the use of 17.5 g/day fish consumption rate for human health criteria (see IDAPA 58.01.02.210.05.b.i). This action was based on EPA's judgment that the fish consumption rate used in criteria derivation was not adequately protective. As a result of this action, the human health criteria published in the 2005 version of IDAPA 58.01.02.210.01 continue to apply and are effective for federal Clean Water Act purposes. These criteria are summarized in "Numeric Criteria for Toxic Substances (2005)" located at http://www.deq.idaho.gov/media/451725-human_health_criteria.pdf.

For more information regarding this EPA disapproval, go to <http://www.deq.idaho.gov/epa-actions-on-proposed-standards>.

A		B Aquatic life				C Human health for consumption of:				
(Number) Compound	a CAS Number	b CMC (µg/L)		b CCC (µg/L)		Carcinogen?	Water & organisms fish (µg/L)		Organisms Fish only (µg/L)	
		B1	B2	B1	B2		C1	C2		
1 Antimony	7440360						5-6 3.2	c	640	c
2 Arsenic	7440382	340 e	150 e	Y		10	dfq	10	dfq	
3 Beryllium	7440417						h		h	
4 Cadmium	7440439	1.3 i	0.6 i				h		h	
5a Chromium III	16065831	570 i	74 i				h		h	
5b Chromium VI	18540299	16 e	11 e				h		h	
6 Copper	7440508	17 i	11 i			1.300	q			
7 Lead	7439921	65 i	2.5 i				h		h	
8a Mercury	7439976		g							
<p>Note: In 2005, Idaho adopted EPA's recommended methylmercury fish tissue criterion for protection of human health. The decision was made to remove the old tissue-based aquatic life criteria and rely on the fish tissue criterion to provide protection for aquatic life as well as human health. Thus, current Idaho water quality standards do not have mercury water column criteria for the protection of aquatic life. While EPA approved Idaho's adoption of the fish tissue criterion in September 2005, it had withheld judgment on Idaho's removal of aquatic life criteria. On December 12, 2008, EPA disapproved Idaho's removal of the old aquatic life criteria. The water column criteria for total recoverable mercury effective for federal Clean Water Act purposes are located at http://www.deq.idaho.gov/epa-actions-on-proposed-standards.</p>										
8b Methylmercury	22967926								0.3 mg/kg	p
9 Nickel	7440020	470 i	52 i			640 75	c	4600 330		c
10 Selenium	7782492	20 f	5 f			470 20	c	4200 800		c

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		B1	B2	C1		C2			
11 Silver	7440224	3.4 i							
12 Thallium	7440280					0.24 0.038 c	0.47 0.075 c		
13 Zinc	7440666	120 i	120 i			7400 1.100 c	26000 4,800 c		
14 Cyanide	57125	22 j	5.2 j			140 2.4 c	140 460 c		
15 Asbestos	1332214					7,000,000 fibers/L kg			
16 2, 3, 7, 8-TCDD Dioxin	1746016				Y	0.000000005 5.8E-09 cl	0.0000000054 6.1E-09 cl		
17 Acrolein	107028					190 2.0 c	290 400 c		
18 Acrylonitrile	107131				Y	0.054 0.036 cl	0.25 7.0 cl		
19 Benzene	71432				Y	2.2 0.83 cl	54 37 cl		
20 Bromoform	75252				Y	4.3 cl	140 110 cl		
21 Carbon Tetrachloride	56235				Y	0.2 38 cl	4.6 4.3 cl		
22 Chlorobenzene	108907					130 75 c	1600 780 c		
23 Chlorodibromomethane	124481				Y	0.4 08 cl	13 20 cl		
24 Chloroethane	75003								
25 2-Chloroethylvinyl Ether	110758								
26 Chloroform	67663					5.7 39 lc	470 2,300 lc		
27 Dichlorobromomethane	75274				Y	0.5 56 cl	47 26 cl		
28 1,1-Dichloroethane	75343								
29 1,2-Dichloroethane	107062				Y	0.3 6.2 8 cl	37 640 cl		
30 1,1-Dichloroethylene	75354					330 200 lc	7400 16,000 lc		
31 1,2-Dichloropropane	78875				Y	0.5 06 cl	15 30 cl		
32 1,3-Dichloropropene	542756				Y	0.34 0.17 cl	24 11 cl		
33 Ethylbenzene	100414					530 70 c	2400 120 c		
34 Methyl Bromide	74839					47 80 c	1500 12,000 c		
35 Methyl Chloride	74873							h	h
36 Methylene Chloride	75092				Y	4.6 1.0 cl	590 1,300 cl		
37 1,1,2,2-Tetrachloroethane	79345				Y	0.1 70 cl	4.0 2.5 cl		
38 Tetrachloroethylene	127184				Y	0.69 8.6 cl	3.3 28 cl		

A		B Aquatic life			C Human health for consumption of:		
(Number) Compound	a CAS Number	b CMC (µg/L)	b CCC (µg/L)	Carcinogen?	Water & organisms fish (µg/L)	Organisms Fish only (µg/L)	
		B1	B2		C1	C2	
39	Toluene	108883			1300 <u>36</u> c	15000 <u>500</u> c	
40	1,2-Trans-Dichloroethylene	156605			140 <u>81</u> c	10000 <u>3,700</u> c	
41	1,1,1-Trichloroethane	71556			7,800 <u>#c</u>	170,000 <u>#c</u>	
42	1,1,2-Trichloroethane	79005		Y	0.59 <u>0.34</u> cl	16 <u>8.2</u> cl	
43	Trichloroethylene	79016		Y	2.5 <u>0.39</u> cl	30 <u>6.7</u> cl	
44	Vinyl Chloride	75014		Y	0.025 <u>0.013</u> cl	2.4 <u>1.6</u> cl	
45	2-Chlorophenol	95578			84 <u>19</u> c	150 <u>810</u> c	
46	2,4-Dichlorophenol	120832			77 <u>11</u> c	290 <u>55</u> c	
47	2,4-Dimethylphenol	105679			380 <u>80</u> c	850 <u>2,400</u> c	
48	2-Methyl-4,6-Dinitrophenol	534521			13 <u>1.1</u> c	280 <u>26</u> c	
49	2,4-Dinitrophenol	51285			69 <u>8</u> c	5300 <u>350</u> c	
50	2-Nitrophenol	88755					
51	4-Nitrophenol	100027					
52	3-Methyl-4-Chlorophenol	59507			360	2,200	
53	Pentachlorophenol	87865	20 m	13 m	Y 0.27 <u>0.023</u> cl	3.0 <u>0.027</u> cl	
54	Phenol	108952			24000 <u>2,500</u> c	1700000 <u>270,000</u> c	
55	2,4,6-Trichlorophenol	88062			Y 1.4 <u>1.5</u> cl	2.4 <u>2.6</u> cl	
56	Acenaphthene	83329			670 <u>78</u> c	990 <u>94</u> c	
57	Acenaphthylene	208968					
58	Anthracene	120127			8300 <u>340</u> c	40000 <u>370</u> c	
59	Benzidine	92875			Y 0.000086 <u>9.0E-05</u> cl	0.00020 <u>0.011</u> cl	
60	Benzo(a)Anthracene	56553			Y 0.0038 <u>0.0013</u> cl	0.018 <u>0.0014</u> cl	
61	Benzo(a)Pyrene	50328			Y 0.0038 <u>0.00013</u> cl	0.018 <u>0.00014</u> cl	
62	Benzo(b)Fluoranthene	205992			Y 0.0038 <u>0.0013</u> cl	0.018 <u>0.0014</u> cl	
63	Benzo(ghi)Perylene	191242					

A		B Aquatic life		C Human health for consumption of:		
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		B1	B2		C1	C2
64	Benzo(k)Fluoranthene	207089			0.0038 <u>0.013</u> cl	0.018 <u>0.014</u> cl
65	Bis(2-Chloroethoxy) Methane	111911				
66	Bis(2-Chloroethyl)Ether	111444			0.030 <u>0.019</u> cl	0.53 <u>2.2</u> cl
67	Bis(2-Chloroisopropyl) Ether	108601			1400 <u>150</u> c	65000 <u>3,500</u> c
68	Bis(2-Ethylhexyl) Phthalate	117817			1.2 <u>0.36</u> cl	2.2 <u>0.39</u> cl
69	4-Bromophenyl Phenyl Ether	101553				
70	Butylbenzyl Phthalate	85687			1500 <u>0.11</u> c	1900 <u>0.11</u> c
71	2-Chloronaphthalene	91587			1000 <u>880</u> c	1600 <u>1,100</u> c
72	4-Chlorophenyl Phenyl Ether	7005723				
73	Chrysene	218019			0.0038 <u>0.14</u> cl	0.018 <u>0.14</u> cl
74	Dibenzo (a,h) Anthracene	53703			0.0038 <u>0.00013</u> cl	0.018 <u>0.00014</u> cl
75	1,2-Dichlorobenzene	95501			420 <u>1,100</u> c	1300 <u>3,100</u> c
76	1,3-Dichlorobenzene	541731			320 <u>6.8</u> c	960 <u>11</u> c
77	1,4-Dichlorobenzene	106467			63 <u>250</u> c	190 <u>810</u> c
78	3,3'-Dichlorobenzidine	91941			0.024 <u>0.039</u> cl	0.028 <u>0.14</u> cl
79	Diethyl Phthalate	84662			17000 <u>620</u> c	44000 <u>700</u> c
80	Dimethyl Phthalate	131113			270000 <u>2,000</u> c	1100000 <u>2,000</u> c
81	Di-n-Butyl Phthalate	84742			2000 <u>27</u> c	4500 <u>27</u> c
82	2,4-Dinitrotoluene	121142			0.11 <u>0.030</u> cl	3.4 <u>1.6</u> cl
83	2,6-Dinitrotoluene	606202				
84	Di-n-Octyl Phthalate	117840				
85	1,2-Diphenylhydrazine	122667			0.036 <u>0.023</u> cl	0.20 <u>0.19</u> cl
86	Fluoranthene	206440			130 <u>20</u> c	140 <u>20</u> c
87	Fluorene	86737			1100 <u>51</u> c	5300 <u>58</u> c
88	Hexachlorobenzene	118741			0.00028 <u>6.0E-05</u> cl	0.00029 <u>6.0E-05</u> cl

A		B Aquatic life		C Human health for consumption of:				
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		B1	B2		C1	C2		
89	Hexachlorobutadiene	87683			0.44 <u>0.017</u>	cl	18 <u>0.017</u>	cl
90	Hexachloro-cyclopentadiene	77474			40 <u>3.7</u>	c	1100 <u>3.9</u>	c
91	Hexachloroethane	67721			1.4 <u>0.14</u>	cl	3.3 <u>0.15</u>	cl
92	Ideno (1,2,3-cd) Pyrene	193395			0.0038 <u>0.0014</u>	cl	0.018 <u>0.0014</u>	cl
93	Isophorone	78591			35 <u>22</u>	cl	960 <u>1,700</u>	cl
94	Naphthalene	91203						
95	Nitrobenzene	98953			17 <u>8.1</u>	c	690 <u>540</u>	c
96	N-Nitrosodimethylamine	62759			0.00069 <u>0.00040</u>	cl	3.0 <u>2.8</u>	cl
97	N-Nitrosodi-n-Propylamine	621647			0.0050 <u>0.0030</u>	cl	0.51 <u>0.49</u>	cl
98	N-Nitrosodiphenylamine	86306			3.32	cl	6.0 <u>5.8</u>	cl
99	Phenanthrene	85018						
100	Pyrene	129000			830 <u>26</u>	c	4000 <u>27</u>	c
101	1,2,4-Trichlorobenzene	120821			35 <u>0.11</u>	c	70 <u>0.11</u>	c
102	Aldrin	309002	3		0.000049 <u>5.1E-07</u>	cl	0.000050 <u>5.3E-07</u>	cl
103	alpha-BHC	319846			0.0026 <u>0.00040</u>	cl	0.0049 <u>0.00042</u>	cl
104	beta-BHC	319857			0.0097 <u>0.0084</u>	cl	0.017 <u>0.014</u>	cl
105	gamma-BHC (Lindane)	58899	2	0.08	0.98 <u>3.9</u>	lc	1.8 <u>4.2</u>	lc
106	delta-BHC	319868						
107	Chlordane	57749	2.4	0.0043	0.00080 <u>0.00024</u>	cl	0.00081 <u>0.00024</u>	cl
108	4,4'-DDT	50293	1.1	0.001	0.00022 <u>1.7E-05</u>	cl	0.00022 <u>1.7E-05</u>	cl
109	4,4'-DDE	72559			0.00022 <u>1.2E-05</u>	cl	0.00022 <u>1.2E-05</u>	cl
110	4,4'-DDD	72548			0.00031 <u>9.4E-05</u>	cl	0.00031 <u>9.8E-05</u>	cl

A		B Aquatic life				C Human health for consumption of:			
(Number) Compound	a CAS Number	b CMC (µg/L)	b CCC (µg/L)	Carcinogen?	Water & organisms fish (µg/L)		Organisms Fish only (µg/L)		
		B1	B2		C1		C2		
111	Dieldrin	60571	2.5	0.0019	Y	0.000052 8.8E-07	cl	0.000054 8.9E-07	cl
112	alpha-Endosulfan	959988	0.22	0.056		62 18	c	89 26	c
113	beta-Endosulfan	33213659	0.22	0.056		62 20	c	89 40	c
114	Endosulfan Sulfate	1031078				62 20	c	89 36	c
115	Endrin	72208	0.18	0.0023		0.059 0.026	c	0.060 0.026	c
116	Endrin Aldehyde	7421934				0.29 1.1	c	0.30 1.2	c
117	Heptachlor	76448	0.52	0.0038	Y	0.000079 4.1E-06	cl	0.000079 4.1E-06	cl
118	Heptachlor Epoxide	1024573	0.52	0.0038	Y	0.000039 2.6E-05	cl	0.000039 2.6E-05	cl
119	Polychlorinated Biphenyls PCBs:	n		0.014 n	Y	0.000064 6.1E-05	clo	0.000064 6.3E-05	clo
120	Toxaphene	8001352	0.73	0.0002	Y	0.00028 0.00064	cl	0.00028 0.00067	cl
121	Chlorine		19 k	11 k					
122	1,2,4,5-Tetrachlorobenzene	95943				0.049	c	0.050	c
123	2,4,5-Trichlorophenol	95954				310	c	560	c
124	Bis (Chloromethyl) Ether	542881			Y	9.0E-05	cl	0.018	cl
125	Chlorophenoxy Herbicide (2,4,5-TP) [Silvex]	93721				110	c	420	c
126	Chlorophenoxy Herbicide (2,4-D)	94757				800	c	13.000	c
127	Dinitrophenols	25550587				8.0	c	1.000	c
128	Hexachlorocyclohexane (HCH)-Technical	608731			Y	0.0075	cl	0.0096	cl
129	Methoxychlor	72435				0.016	c	0.016	c
130	Pentachlorobenzene	608935				0.085	c	0.089	c
Table Footnotes									

A		B Aquatic life		C Human health for consumption of:		
(Number) Compound	^a CAS Number	^b CMC (µg/L) B1	^b CCC (µg/L) B2	Carcinogen?	Water & organisms fish (µg/L) C1	Organisms Fish only (µg/L) C2
a. Chemical Abstracts Service (CAS) registry numbers which provide a unique identification for each chemical.						
b. See definitions of Acute Criteria (CMC) and Chronic Criteria (CCC), Section 010 of these rules.						
c. This criterion has been revised to reflect The Environmental Protection Agency's q1* or RfD, as contained in the Integrated Risk Information System (IRIS) as of May 17, 2002. The fish tissue bioconcentration factor (BCF) from the 1980 Ambient Water Quality Criteria document was retained in each case. This criterion is based on input values to human health criteria calculation specified in Idaho's Technical Support Document for Human Health Criteria Calculations - 2015.						
d. Inorganic forms only.						
e. Criteria for these metals are expressed as a function of the water effect ratio, WER, as defined in Subsection 210.03.c.iii. CMC = column B1 value X WER. CCC = column B2 value X WER.						
f. Criterion expressed as total recoverable (unfiltered) concentrations.						
g. No aquatic life criterion is adopted for inorganic mercury. However, the narrative criteria for toxics in Section 200 of these rules applies. The Department believes application of the human health criterion for methylmercury will be protective of aquatic life in most situations.						
h. No numeric human health criteria has been established for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the narrative criteria for toxics from Section 200 of these rules.						
i. Aquatic life criteria for these metals are a function of total hardness (mg/L as calcium carbonate), the pollutant's water effect ratio (WER) as defined in Subsection 210.03.c.iii. and multiplied by an appropriate dissolved conversion factor as defined in Subsection 210.02. For comparative purposes only, the example values displayed in this table are shown as dissolved metal and correspond to a total hardness of one hundred (100) mg/L and a water effect ratio of one (1.0).						
j. Criteria are expressed as weak acid dissociable (WAD) cyanide.						
k. Total chlorine residual concentrations.						
l. EPA guidance allows states to choose a risk factor from a range of 10 ⁻⁴ to 10 ⁻⁶ for the incremental increase in cancer risk used in human health criteria calculation. Idaho has chosen to base this criterion on carcinogenicity of 10 ⁻⁶ risk.						
m. Aquatic life criteria for pentachlorophenol are expressed as a function of pH, and are calculated as follows. Values displayed above in the table correspond to a pH of seven and eight tenths (7.8). CMC = exp(1.005(pH)-4.830) CCC = exp(1.005(pH)-5.290)						
n. PCBs are a class of chemicals which include Aroclors, 1242, 1254, 1221, 1232, 1248, 1260, and 1016, CAS numbers 53469219, 11097691, 11104282, 11141165, 12672296, 11096825 and 12674112 respectively. The aquatic life criteria apply to this set of PCBs.						
o. This criterion applies to total PCBs, (e.g. the sum of all congener, isomer, or Aroclor analyses).						

A		B Aquatic life		C Human health for consumption of:		
(Number) Compound	a CAS Number	b CMC (µg/L)	b CCC (µg/L)	Carcinogen?	Water & organisms fish (µg/L)	Organisms Fish only (µg/L)
		B1	B2		C1	C2
<p>p. This fish tissue residue criterion (TRC) for methylmercury is based on a human health reference dose (RfD) of 0.0001 mg/kg body weight-day; a relative source contribution (RSC) estimated to be 27% of the RfD; a human body weight (BW) of 70 kg (for adults); and a total fish consumption rate of 0.0175 kg/day for the general population, summed from trophic level (TL) breakdown of TL2 = 0.0038 kg fish/day + TL3 = 0.0080 kg fish/day + TL4 = 0.0057 kg fish/day. This is a criterion that is protective of the general population. A site-specific criterion or a criterion for a particular subpopulation may be calculated by using local or regional data, rather than the above default values, in the formula: $TRC = [BW \times \{RfD - (RSC \times RfD)\}] / \Sigma TL$. In waters inhabited by species listed as threatened or endangered under the Endangered Species Act or designated as their critical habitat, the Department will apply the human health fish tissue residue criterion for methylmercury to the highest trophic level available for sampling and analysis.</p>						
<p>q. <u>This criterion is based on the drinking water Maximum Containment Level (MCL).</u></p>						

(3-29-10)()

02. **Factors for Calculating Hardness Dependent Metals Criteria.** Hardness dependent metals criteria are calculated using values from the following table in the equations: (5-3-03)

- a. $CMC = WER \exp\{mA[\ln(\text{hardness})] + bA\}$ X Acute Conversion Factor. (5-3-03)
- b. $CCC = WER \exp\{mc[\ln(\text{hardness})] + bc\}$ X Chronic Conversion Factor.

Metal	mA	bA	mc	bc	aAcute Conversion Factor	aChronic Conversion Factor
Arsenic	b	b	b	b	1.0	1.0
Cadmium	0.8367	-3.560	0.6247	-3.344	0.944 see footnote a	0.909
Chromium (III)	0.819	3.7256	0.8190	0.6848	0.316	0.860
Chromium (VI)	b	b	b	b	0.982	0.962
Copper	0.9422	-1.464	0.8545	-1.465	0.960	0.960
Lead	1.273	-1.460	1.273	-4.705	0.791	0.791
Mercury	b	b	b	b	0.85	0.85
Nickel	0.846	2.255	0.8460	0.0584	0.998	0.997
Silver	1.72	-6.52	c	c	0.85	c
Zinc	0.8473	0.884	0.8473	0.884	0.978	0.986

Note to table: The term “exp” represents the base e exponential function.

Footnotes to table:

a. Conversion factors (CF) are from “Stephan, C. E. 1995. Derivation of conversion factors for the calculation of dissolved freshwater aquatic life criteria for metals. U.S. Environmental Protection Agency, Environmental Research Laboratory – Duluth.” The conversion factors for cadmium and lead are hardness-dependent and can be calculated for any hardness (see limitations in Subsection 210.03.b.i.) using the following equations. For comparative purposes, the conversion factors for a total hardness of one hundred (100) mg/L are shown in the table. The conversion factor shall not exceed one (1).

Cadmium

Acute: $CF = 1.136672 - [(\ln \text{hardness})(0.041838)]$ NOTE: The cadmium acute criterion equation was derived from dissolved metals toxicity data and thus requires no conversion; this conversion factor may be used to back calculate an equivalent total recoverable concentration.

Chronic: $CF = 1.101672 - [(\ln \text{hardness})(0.041838)]$

Lead (Acute and Chronic): $CF = 1.46203 - [(\ln \text{hardness})(0.145712)]$

b. Not applicable

c. No chronic criteria are available for silver.

(3-29-10)

03. Applicability. The criteria established in Section 210 are subject to the general rules of applicability in the same way and to the same extent as are the other numeric chemical criteria when applied to the same use classifications *including mixing zones, and low flow design discharge conditions below which numeric standards can be exceeded in flowing waters.* Mixing zones may be applied to toxic substance criteria subject to the limitations set forth in Section 060 and set out below. (5-3-03)()

a. For all waters for which the Department has determined mixing zones to be applicable, the toxic substance criteria apply at ~~the appropriate locations specified within or at~~ the boundary of the mixing zone(s) and beyond; ~~otherwise the~~ Absent an authorized mixing zone, the toxic substance criteria apply throughout the waterbody including at the end of any discharge pipe, canal or other discharge point. (4-11-06)()

b. Low flow design discharge conditions. Water quality-based effluent limits and mixing zones for toxic substances shall be based on the following low flows in perennial receiving streams. Numeric chemical standards can only criteria may be exceeded in perennial streams permitted discharges outside any applicable mixing zone only when flows are less than the following these values:

Aquatic Life		Human Health	
CMC (“acute” criteria)	1Q10 or 1B3	Non-carcinogens	30Q5 <u>Harmonic mean flow</u>
CCC (“chronic” criteria)	7Q10 or 4B3	Carcinogens	Harmonic mean flow

(4-11-06)()

i. Where “1Q10” is the lowest one-day flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

ii. Where “1B3” is biologically based and indicates an allowable exceedance of once every three (3) years. It may be determined by EPA’s computerized method (DFLOW model); (5-3-03)

iii. Where “7Q10” is the lowest average seven (7) consecutive day low flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

iv. Where “4B3” is biologically based and indicates an allowable exceedance for four (4) consecutive

days once every three (3) years. It may be determined by EPA's computerized method (DFLOW model); (5-3-03)

~~v. Where "30Q5" is the lowest average thirty (30) consecutive day low flow with an average recurrence frequency of once in five (5) years determined hydrologically; and (5-3-03)~~

vi. Where the harmonic mean flow is a long term mean flow value calculated by dividing the number of daily flows analyzed by the sum of the reciprocals of those daily flows. (5-3-03)

c. Application of aquatic life metals criteria. (5-3-03)()

i. For metals other than cadmium, for purposes of calculating hardness dependent aquatic life criteria from the equations in Subsection 210.02, the minimum hardness allowed for use in those equations shall not be less than twenty-five (25) mg/l, as calcium carbonate, even if the actual ambient hardness is less than twenty-five (25) mg/l as calcium carbonate. For cadmium, the minimum hardness for use in those equations shall not be less than ten (10) mg/l, as calcium carbonate. The maximum hardness allowed for use in those equations shall not be greater than four hundred (400) mg/l, as calcium carbonate, except as specified in Subsections 210.03.c.ii. and 210.03.c.iii., even if the actual ambient hardness is greater than four hundred (400) mg/l as calcium carbonate. (3-29-10)

ii. The hardness values used for calculating aquatic life criteria for metals at design discharge conditions shall be representative of the ambient hardnesses for a receiving water that occur at the design discharge conditions given in Subsection 210.03.b. (5-3-03)

iii. Except as otherwise noted, the aquatic life criteria for metals (compounds #1 through #13 in the criteria table of Subsection 210.02) are expressed as dissolved metal concentrations. Unless otherwise specified by the Department, dissolved concentrations are considered to be concentrations recovered from a sample which has passed through a forty-five hundredths (0.45) micron filter. For the purposes of calculating aquatic life criteria for metals from the equations in footnotes e. and i. in the criteria table in Subsection 210.01, the water effect ratio is computed as a specific pollutant's acute or chronic toxicity values measured in water from the site covered by the standard, divided by the respective acute or chronic toxicity value in laboratory dilution water. The water-effect ratio shall be assigned a value of one (1.0), except where the Department assigns a different value that protects the designated uses of the water body from the toxic effects of the pollutant, and is derived from suitable tests on sampled water representative of conditions in the affected water body, consistent with the design discharge conditions established in Subsection 210.03.b. For purposes of calculating water effects ratios, the term acute toxicity value is the toxicity test results, such as the concentration lethal one-half (1/2) of the test organisms (i.e., LC50) after ninety-six (96) hours of exposure (e.g., fish toxicity tests) or the effect concentration to one-half of the test organisms, (i.e., EC50) after forty-eight (48) hours of exposure (e.g., daphnia toxicity tests). For purposes of calculating water effects ratios, the term chronic value is the result from appropriate hypothesis testing or regression analysis of measurements of growth, reproduction, or survival from life cycle, partial life cycle, or early life stage tests. The determination of acute and chronic values shall be according to current standard protocols (e.g., those published by the American Society for Testing and Materials (ASTM)) or other comparable methods. For calculation of criteria using site-specific values for both the hardness and the water effect ratio, the hardness used in the equations in Subsection 210.02 shall be as required in Subsection 210.03.c.ii. Water hardness shall be calculated from the measured calcium and magnesium ions present, and the ratio of calcium to magnesium shall be approximately the same in laboratory toxicity testing water as in the site water, or be similar to average ratios of laboratory waters used to derive the criteria. (4-6-05)

iv. Implementation Guidance for the Idaho Mercury Water Quality Criteria. (4-6-05)

(1) The "Implementation Guidance for the Idaho Mercury Water Quality Criteria" describes in detail suggested methods for discharge related monitoring requirements, calculation of reasonable potential to exceed (RPTE) water quality criteria in determining need for mercury effluent limits, and use of fish tissue mercury data in calculating mercury load reductions. This guidance, or its updates, will provide assistance to the Department and the public when implementing the methylmercury criterion. The "Implementation Guidance for the Idaho Mercury Water Quality Criteria" also provides basic background information on mercury in the environment, the novelty of a fish tissue criterion for water quality, the connection between human health and aquatic life protection, and the relation of environmental programs outside of Clean Water Act programs to reducing mercury contamination of the environment. The "Implementation Guidance for the Idaho Mercury Water Quality Criteria" is available at the

Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706, and on the DEQ website at http://www.deq.idaho.gov/media/639808-idaho_mercury_wq_guidance.pdf. (4-6-05)

(2) The implementation of a fish tissue criterion in NPDES permits and TMDLs requires a non-traditional approach, as the basic criterion is not a concentration in water. In applying the methylmercury fish tissue criterion in the context of NPDES effluent limits and TMDL load reductions, the Department will assume change in fish tissue concentrations of methylmercury are proportional to change in water body loading of total mercury. Reasonable potential to exceed (RPTE) the fish tissue criterion for existing NPDES sources will be based on measured fish tissue concentrations potentially affected by the discharge exceeding a specified threshold value, based on uncertainty due to measurement variability. This threshold value is also used for TMDL decisions. Because measured fish tissue concentrations do not reflect the effect of proposed new or increased discharge of mercury, RPTE in these cases will be based upon an estimated fish tissue methylmercury concentration, using projected changes in waterbody loading of total mercury and a proportional response in fish tissue mercury. For the above purposes, mercury will be measured in the skinless filets of sport fish using techniques capable of detecting tissue concentrations down to point zero five (0.05) mg/kg. Total mercury analysis may be used, but will be assumed to be all methylmercury for purposes of implementing the criterion. (4-6-05)

d. Application of toxics criteria. ()

i. Frequency and duration for aquatic life toxics criteria. Column B1 criteria are concentrations not to be exceeded for a one-hour average more than once in three (3) years. Column B2 criteria are concentrations not to be exceeded for a four-day average more than once in three (3) years. (~~4-11-06~~)()

ii. Frequency and duration for human health toxics criteria. Columns C1 and C2 criteria are not to be exceeded based on an annual harmonic mean. ()

04. National Pollutant Discharge Elimination System Permitting. For the purposes of NPDES permitting, interpretation and implementation of metals criteria listed in Subsection 210.02 should be governed by the following standards, that are hereby incorporated by reference, in addition to other scientifically defensible methods deemed appropriate by the Department; provided, however, any identified conversion factors within these documents are not incorporated by reference. Metals criteria conversion factors are identified in Subsection 210.02 of this rule. (5-3-03)

a. “Guidance Document on Dissolved Criteria -- Expression of Aquatic Life Criteria,” EPA, October 1993, <http://www.deq.idaho.gov/media/827413-epa-guidance-dissolved-criteria-1093.pdf>. (4-5-00)

b. “Guidance Document on Dynamic Modeling and Translators,” EPA, August 1993, <http://www.deq.idaho.gov/media/827417-epa-guidance-dynamic-modeling-translators-0893.pdf>. (4-5-00)

c. “Guidance Document on Clean Analytical Techniques and Monitoring,” EPA, October 1993, <http://www.deq.idaho.gov/media/827421-epa-guidance-analytical-techniques-1093.pdf>. (4-5-00)

d. “Interim Guidance on Determination and Use of Water-Effect Ratios for Metals,” EPA, February 1994, <http://www.deq.idaho.gov/media/827409-epa-guidance-water-effect-ratios-for-metals-0294.pdf>. (4-5-00)

e. “Technical Support Document for Water Quality-Based Toxics Control.” EPA, March 1991. <http://www.deq.idaho.gov/media/60177101/58-0102-1201-epa-technical-support-document-1991.pdf>. ()

05. Development of Toxic Substance Criteria. (4-5-00)

a. Aquatic Life Communities Criteria. Numeric criteria for the protection of aquatic life uses not identified in these rules for toxic substances, may be derived by the Department from the following information: (4-5-00)

i. Site-specific criteria developed pursuant to Section 275; (4-5-00)

ii. Effluent biomonitoring, toxicity testing and whole-effluent toxicity determinations; (4-5-00)

- iii. The most recent recommended criteria defined in EPA's ~~Aquatic Toxicity Information Retrieval (ACQUIRE)~~ ECOTOX database. When using EPA recommended criteria to derive water quality criteria to protect aquatic life uses, the lowest observed effect concentrations (LOECs) shall be considered; or ~~(4-5-00)~~()
- iv. Scientific studies including, but not limited to, instream benthic assessment or rapid bioassessment. (4-5-00)
- b. Human Health Criteria. (4-5-00)
 - i. When numeric criteria for the protection of human health are not identified in these rules for toxic substances, quantifiable criteria may be derived by the Department ~~from the most recent recommended criteria~~ using best available science on toxicity thresholds (i.e. reference dose or cancer slope factor), such as defined in EPA's Integrated Risk Information System (IRIS) or other peer-reviewed source acceptable to the Department. ()
 - ii. When using ~~EPA recommended criteria~~ toxicity thresholds to derive water quality criteria to protect human health, a fish consumption rate ~~of seventeen point five (17.5) grams/day, a representative of the population to be protected, a mean adult body weight, and adult 90th percentile~~ water ingestion rate ~~of two (2) liters/day, a trophic level weighted BAF or BCF,~~ and a ~~hazard quotient of one (1) for non-carcinogens or a~~ cancer risk level of 10^{-6} ~~for carcinogens~~ shall be utilized. ~~(4-11-06)~~()

Note: In 2006, Idaho updated 167 human health criteria for 88 chemicals. On May 10, 2012, EPA disapproved Idaho's 2006 update of 167 human health criteria for toxic substances (see IDAPA 58.01.02.210.01) and the use of 17.5 g/day fish consumption rate for human health criteria. This action was based on EPA's judgment that the fish consumption rate used in criteria derivation was not adequately protective. As a result of this action, the fish consumption rate of 6.5 g/day published in the 2005 version of IDAPA 58.01.02.210.05.b.i. continues to apply and is effective for federal Clean Water Act purposes. For more information regarding this EPA disapproval, go to <http://www.deq.idaho.gov/epa-actions-on-proposed-standards>.

(BREAK IN CONTINUITY OF SECTIONS)

284. SOUTH FORK COEUR D'ALENE SUBBASIN, SUBSECTION 110.09, HUC 17010302, AQUATIC LIFE CRITERIA FOR CADMIUM, LEAD AND ZINC.

The following criteria are to be met dependent upon the hardness, expressed as mg/l of calcium carbonate, of the water. Criterion maximum concentrations (CMC), one (1) hour average concentrations, and criterion continuous concentrations (CCC), four (4) day average concentrations, of the dissolved metals (in µg/l) are not to exceed, more than once every three (3) years, the values calculated using the following equations: (3-15-02)

- 01. Cadmium.** (3-15-02)
 - a. $CMC = 0.973 \times e^{[(1.0166 \times \ln(\text{hardness})) - 3.924]}$ (3-15-02)
 - b. $CCC = [1.101672 - (\ln(\text{hardness}) \times 0.041838)] \times e^{[(0.7852 \times \ln(\text{hardness})) - 3.490]}$ (3-15-02)
- 02. Lead.** (3-15-02)
 - a. $CMC = e^{[(0.9402 \times \ln(\text{hardness})) + 1.1834]}$ (3-15-02)
 - b. $CCC = e^{[(0.9402 \times \ln(\text{hardness})) - 0.9875]}$ (3-15-02)
- 03. Zinc.** (3-15-02)
 - a. $CMC = e^{[(0.6624 \times \ln(\text{hardness})) + 2.2235]}$ (3-15-02)

- b. $CCC = e^{[(0.6624 \times \ln(\text{hardness})) + 2.2235]}$ (3-15-02)
- 04. Application.** (3-15-02)
- a. The maximum hardness allowed for use in the equations in Section 284 shall not be greater than four hundred (400) mg/l even if the actual ambient hardness is greater than four hundred (400) mg/l. (3-15-02)
- b. The criteria described in Section 284 apply to ~~the South Fork Coeur d'Alene River subbasin, units P-11 and P-13.~~ (3-15-02)
- ~~e. In addition to the waters listed in subsection 284.04.b, the criteria described in Section 284 apply to~~ all surface waters within the subbasin, except for natural lakes, for which the statewide criteria given in Section 210 apply. (3-15-02)()

(BREAK IN CONTINUITY OF SECTIONS)

400. RULES GOVERNING POINT SOURCE DISCHARGES.

- 01. Implementation Policy.** (7-1-93)
- a. As provided for in Subsection 080.01, and Sections 200, 210, 250, 251, 252, 253, 275, and 400 for point source discharges, failure to meet general or specific water quality criteria is a violation of the water quality standards. (4-5-00)
- b. No unauthorized discharge from a point source shall occur to waters of the state. (4-11-06)
- 02. Limitations to Point Source Restrictions.** So long as a point source discharge or wastewater treatment facility is regulated by the terms and conditions of an authorization pursuant to Subsection 080.02, a Board order, decree or compliance schedule, or a valid NPDES permit issued by the EPA, the discharge or facility will not be subject to additional restrictions or conditions based on Subsection 080.01 and Sections 200, 210, 250, 251, 252, and 253. (3-29-12)
- 03. Compliance Schedules for Water Quality-Based Effluent Limitations.** Discharge permits for point sources may incorporate compliance schedules which allow a discharger to phase in, over time, compliance with water quality-based effluent limitations when new limitations are in the permit for the first time. (3-15-02)
- 04. Wetlands Used for Wastewater Treatment.** (8-24-94)
- a. Waters contained within wetlands intentionally created from non-wetland sites for the purpose of wastewater or stormwater treatment, and operated in compliance with NPDES permit conditions, shall not be subject to the application of general water quality-based or site-specific criteria and standards. (8-24-94)
- b. Waters contained within wetlands intentionally created from non-wetland sites for the purpose of treatment of nonpoint sources of pollution, and operated in compliance with best management practices, shall not be subject to the application of general water quality-based or site specific criteria and standards. (8-24-94)
- c. Discharges from treatment systems described in Sections 400.04.a. and 400.04.b. to waters of the state are subject to all applicable rules and requirements governing such discharges. (8-24-94)
- 05. Flow Tiered NPDES Permit Limitations.** Discharge permits for point sources discharging to waters exhibiting unidirectional flow may incorporate tiered limitations for conventional and toxic constituents at the discretion of the department. (8-24-94)
- 06. Intake Credits for Water Quality-Based Effluent Limitations.** Discharge permits for point sources may incorporate intake credits for water quality-based effluent limits. These credits are subject to the limitations specified in IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program." ()