

# Department of Environmental Quality Overview & Update

Senate Resources and Environment Committee

January 23, 2023



STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

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# Major Federal Environmental Laws

- Clean Air Act
  - Clean Water Act
  - Safe Drinking Water Act
  - Solid Waste Disposal Act/Resource Conservation and Recovery Act
  - Comprehensive Environmental Response, Compensation, and Liability Act
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Laws above line in  
DEQ realm.

- National Environmental Policy Act
- Toxic Substance Control Act
- Federal Insecticide, Fungicide, and Rodenticide Act
- Endangered Species Act
- Etc.

Laws below line  
addressed by other  
agencies.



# Federal Environmental Laws

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## Common Themes:

1. Provide Specifically for State Delegation
2. Set Minimum Standards
3. Make Certain Activities Illegal
4. Include “Citizen” Suit Provisions

# Major Federal Environmental Laws that Idaho is Delegated (Primacy)

- Clean Air Act
- Clean Water Act
- Safe Drinking Water Act
- Solid Waste Disposal Act/Resource Conservation and Recovery Act

State Delegation is not an option:

- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

# Idaho DEQ's Program Implementation

- DEQ primacy must be authorized in Idaho Code
- Authorization often has stringency limitations
- Idaho Code 39-107(D)
- EPA must approve Idaho's programs

# Benefits to State Primacy

## Stringency

- Some Idaho Specific

## Flexibility

- Mixing Zones
- Monitoring Waivers
- Compliance Schedules

## Fines

- EPA Much Higher
- EPA Primary Tool
- Compliance Assistance

## Effectiveness

- Responsiveness
- Local Presence
- Better Environmental Protection
- Advocate for Idaho's Interest

# Incorporation by Reference

- Process is only used when it makes sense
  - We consult our stakeholder groups, including those that are regulated by our rules, and make sure we only incorporate by reference if it is the best option.
- Consistency
  - Facilities need to know what the current requirements are.
  - If our rules are out-of-date, and inconsistent with federal updates, it can create confusion but even more important, it puts the validity of our permits at risk.
- Permits are meant to provide protections
  - Protect the environment
  - Protect the permit holder

When there is a benefit for Idaho to write or own rules, we do.

# Agency Update

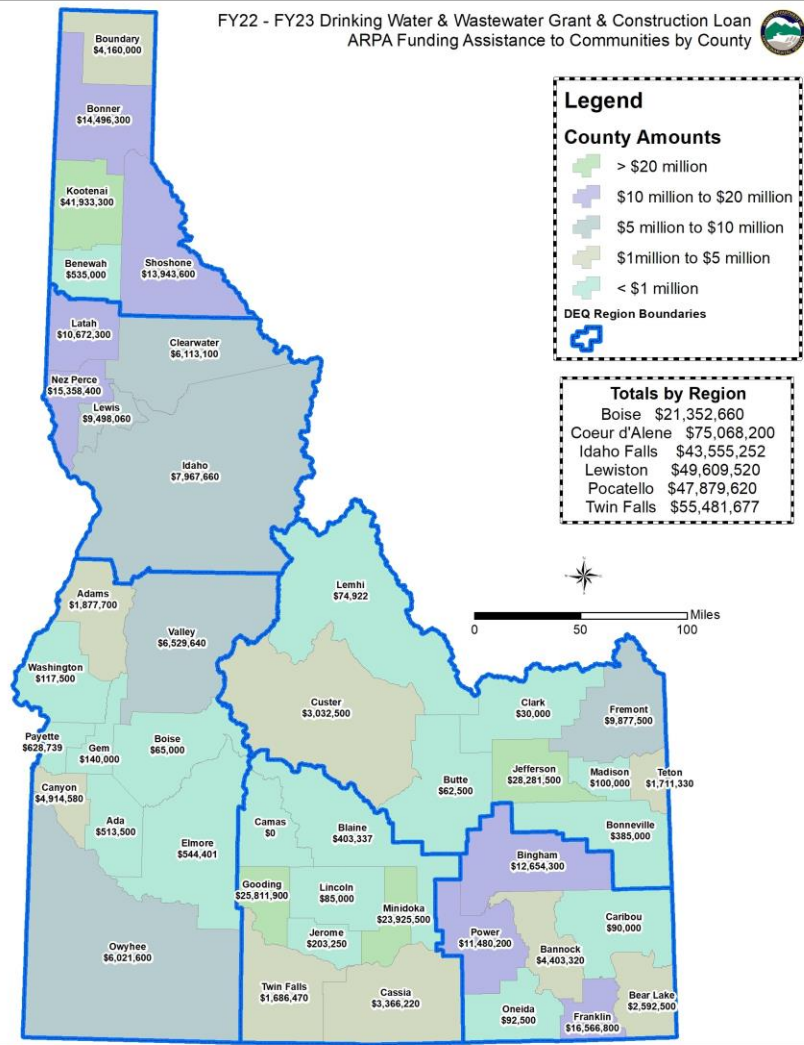
- Governor Little's Leading Idaho Initiative
  - Wastewater & Drinking Water Infrastructure for Small Communities
  - Clean water and contaminated site projects
  - Agricultural BMP
  - CAFO BMP
- Recent Federal Actions
  - Waters of the US Rulemaking
  - Water Quality Standards Development Rulemaking
  - PM2.5 National Ambient Air Quality Standard



# Wastewater & Drinking Water Infrastructure Funding

- \$300 million ARPA
  - 72 Construction Projects Eligible
    - 69 Projects Pursuing Funding
  - Eligibility Criteria "small systems that can't otherwise afford upgrades"
    - Systems serving 10,000 or less, MHI, monthly user rate, readiness to proceed
  - 105 Planning Grants Funded
- \$115 million additional in Governor's Budget Recommendation
  - \$92 million GF and \$23 million ARPA
  - Use same eligibility criteria as \$300 million ARPA





# ARPA Award Distribution

## Eligibility Criteria (based on intent language)

- Small systems - serving under 10,000
- Median household income limit (125% of statewide MHI)
- User rate (2%)
- Grant % is based on MHI/User Rate ratio (i.e. lower MHI and higher User Rate= more grant)

# Other Leading Idaho Investments

- Clean water and contaminated site projects
- \$70 million ARPA
  - Lake Coeur d'Alene nutrient reductions projects
  - Triumph Mine work
  - Solid Waste Projects
  - Contaminated Site Cleanup
- CAFO & Agricultural BMP Projects



# Recent Federal Actions

- **Waters of the US (WOTUS) Rulemaking**

EPA recently published a new WOTUS rule

- 2015 WOTUS Rule Finalized (Obama)
  - Idaho and others appealed—rule stayed.
- 2019 WOTUS Rule Repealed (Trump)
- 2020 Navigable Waters Protection Rule Finalized
- 2021 Vacation of NWPR (Biden)
- December 30, 2022, EPA and ACOE announced revised definition (published in Fed. Reg. 1/18/23)
- DEQ working on comments
- **Will be effective March 20, 2023**

- **Water Quality Standards**

EPA proposed a rule November 28, 2022, “to clarify and prescribe how state and federal water quality standards must protect aquatic and aquatic-dependent resources reserved to tribes...”

- Water quality standards must protect “unsuppressed use of any reserved resources.”
- May use historic fish consumption rates rather than current.
- DEQ working on comments
- **Comment period closes March 6, 2023.**

- **PM2.5 National Air Quality Standard**

# Questions?



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