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Director

Legislative Services Office

Idaho State Legislature

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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: August 06, 2015

SUBJECT: Department of Environmental Quality

IDAPA 58.01.02 - Water Quality Standards - Proposed Rule (Docket No. 58-0102-1501)

1. IDAPA 58.01.02 - Water Quality Standards

The Department of Environmental Quality submits notice of proposed rule at IDAPA 58.01.02 - Water Quality Standards. According to the department, the purpose of the rulemaking is to add language to the standards that is consistent with the federal regulations for designating and revising uses assigned to waterbodies, providing basis for guidance on the use designation/revision process. The department notes that a Use Attainability Analysis (UAA) is required in order to revise or remove a designated beneficial use that is not an existing use on a waterbody. The department adds that it does not currently have language in the standards pertaining to the UAA process and therefore has no basis for a policy or guidance document on when a UAA is appropriate or how to perform a UAA. The department states that without guidance on when a UAA is required and the requirements of a successful UAA, a UAA is difficult and risky. The department also notes that in 2014, OPE submitted a report to JLOC recommending that the department complete its UAA guidance document. The department indicates that in its response to the report, it committed to completing the UAA guidance after a basis for UAA guidance was established in the standards. The proposed rule is intended to provide the basis for the completion of such guidance.

The department states that negotiated rulemaking was conducted and verifies 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 by the federal government. The rulemaking appears to be authorized pursuant to Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

cc: Department of Environmental Quality
Paula J. Wilson