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Director

Legislative Services Office

Idaho State Legislature

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MEMORANDUM

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

FROM: Principal Legislative Research Analyst - Katharine Gerrity

DATE: July 08, 2015

SUBJECT: Department of Environmental Quality

IDAPA 58.01.08 - Idaho Rules for Public Drinking Water Systems - Proposed Rulemaking (Docket No. 58-0108-1501)

The Department of Environmental Quality submits notice of proposed rulemaking at IDAPA 58.01.08 - Idaho Rules for Public Drinking Water Systems. According to the department, the purpose of the rulemaking is to adopt into state rules the federal Revised Total Coliform Rule (RTCR) which was promulgated by the EPA in February of 2013. The department notes that in order to maintain primary enforcement authority, Idaho is required to adopt the RTCR by April of 2016. The department notes that the RTCR does contain some options to negotiate such as reduced monitoring provisions, qualifications of assessors for Level 2 assessments, criteria for waiving seasonal system start-up requirements, methods for consulting with the state and types of sanitary defects, all of which were discussed during the department's negotiated rulemaking process. The department indicates that the RTCR is intended to increase public health protections through the reduction of potential pathways of entry for fecal contamination into public water distribution systems.

The department states that the RTCR establishes a maximum contaminant level for E.coli and uses E.coli and total coliform positive results to trigger assessments and follow up corrections as a "find and fix" approach to address fecal contamination that could enter into the distribution system. The rule removes the total coliform maximum contaminant level and replaces it with a trigger level under which to perform an assessment. The department notes that the rule also requires systems that operate seasonally to follow start-up procedures unless the system qualifies for an exemption. The department goes on to state that most of the substantive changes in the rule include performing assessments and changes in monitoring requirements.

The department indicates that there are also some proposed changes in the rule that are not associated with the RTCR. The department states that the proposed changes should provide clarification and remove unnecessary requirements and include removing the lower temperature flow criteria for slow-sand filters, adding flushing as an adequate means to remove contamination following depressurization and providing clarifying language for the types of chemicals allowed in performing tracer studies to demonstrate disinfection contact time.

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The department confirms that the proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations. Negotiated rulemaking was conducted. The rulemaking appears to be authorized pursuant to Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

cc: Department of Environmental Quality
Paula J. Wilson