

**FINAL PROPOSAL**  
**Dated October 23, 2018**

WATER QUALITY STANDARDS, DOCKET NO. 58-0102-1802

The proposed rule was published in the Idaho Administrative Bulletin, September 5, 2018, Vol. 18-9, pages 431 through 451. The Department of Environmental Quality recommends that the Board take the following action:

IDAPA 58.01.02

Section 100	ADOPT AS PROPOSED
Section 210	ADOPT AS PROPOSED
Section 251	ADOPT AS REVISED

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**58.01.02 – WATER QUALITY STANDARDS**  
**DOCKET NO. 58-0102-1802**  
**NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the Idaho Board of Environmental Quality (Board) and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment *sine die* of the First Regular Session of the Sixty-fifth Idaho Legislature unless prior to that date the rule is rejected in whole or in part by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105, 39-107, and 39-3601 *et seq.*, Idaho Code.

**DESCRIPTIVE SUMMARY:** A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 5, 2018, Vol. 18-9, pages 431 through 451. After consideration of public comments, Section 251 has been revised. The remainder of the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at [www.deq.idaho.gov/58-0102-1802](http://www.deq.idaho.gov/58-0102-1802) or by contacting the undersigned.

**IDAHO CODE SECTION 39-107D STATEMENT:** This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

**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:  
Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning the rulemaking, contact Jason Pappani at [Jason.pappani@deq.idaho.gov](mailto:Jason.pappani@deq.idaho.gov), (208)373-0515.

Dated this 5<sup>th</sup> day of December, 2018

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](mailto:paula.wilson@deq.idaho.gov)

**Revisions to Proposed Rule for Board Consideration, Docket No. 58-0102-1802  
(dated October 23, 2018)**

The revisions made to the proposed rule are highlighted. Only the rule sections containing revisions are included.

**251. SURFACE WATER QUALITY CRITERIA FOR RECREATION USE DESIGNATIONS.**

Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.

**01. *E. Coli* Bacteria.** Waters designated for recreation are not to contain *E.coli* bacteria, used as indicators of human pathogens, in concentrations exceeding: (4-11-06)

**a.** Geometric Mean Criterion. Waters designated for primary or secondary contact recreation are not to contain *E. coli* bacteria in concentrations exceeding a geometric mean of one hundred twenty-six (126) *E. coli* organisms per one hundred (100) ml based on a minimum of five (5) samples taken every three (3) to seven (7) days over a thirty (30) day period. (4-11-06)

**b.** Use of Single Sample Values. A water sample exceeding the *E. coli* single sample maximums below indicates likely exceedance of the geometric mean criterion, but is not alone a violation of water quality standards. If a single sample exceeds the maximums set forth in Subsections 251.01.b.i., 251.01.b.ii., and 251.01.b.iii., then additional samples must be taken as specified in Subsection 251.01.c.: (4-11-06)

**i.** For waters designated as secondary contact recreation, a single sample maximum of five hundred seventy-six (576) *E. coli* organisms per one hundred (100) ml; or (4-11-06)

**ii.** For waters designated as primary contact recreation, a single sample maximum of four hundred six (406) *E. coli* organisms per one hundred (100) ml; or (4-11-06)

**iii.** For areas within waters designated for primary contact recreation that are additionally specified as public swimming beaches, a single sample maximum of two hundred thirty-five (235) *E. coli* organisms per one hundred (100) ml. Single sample counts above this value should be used in considering beach closures. (4-11-06)

**c.** Additional Sampling. When a single sample maximum, as set forth in Subsections 251.01.b.i., 251.01.b.ii., and 251.01.b.iii., is exceeded, additional samples should be taken to assess compliance with the geometric mean *E. coli* criteria in Subsection 251.01.a. Sufficient additional samples should be taken by the Department to calculate a geometric mean in accordance with Subsection 251.01.a. This provision does not require additional ambient monitoring responsibilities for dischargers. (4-11-06)

**251. SURFACE WATER QUALITY CRITERIA FOR RECREATION USE DESIGNATIONS.**

Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.

**01. Toxics Criteria.** Waters designated for recreation must meet the Fish Only water quality criteria set forth in Subsection 210.01.b.

**02. Fecal Indicators.** Waters designated for recreation must meet criteria for indicator organisms of fecal contamination. Either of the following indicator criterion would be considered sufficient for determining compliance with the fecal indicator criteria:

**01a. *E. Coli* Bacteria.** Waters designated for recreation are not to contain *E. coli* bacteria, used as indicators of human pathogens, in concentrations exceeding: (4-11-06)

**aj.** Geometric Mean Criterion. ~~Waters designated for primary or secondary contact recreation are~~ Not to contain *E. coli* bacteria in concentrations exceeding a geometric mean of one hundred twenty-six (126) *E. coli* organisms colony forming units (CFU) counts per one hundred (100) ml based on a minimum of five (5) samples taken every three (3) to seven (7) days over a thirty (30) day period; or (4-11-06)

**b.** ~~Use of Single Sample Values. A water sample exceeding the *E. coli* single sample maximums below indicates likely exceedance of the geometric mean criterion, but is not alone a violation of water quality standards. If a single sample exceeds the maximums set forth in Subsections 251.01.b.i., 251.01.b.ii., and~~

~~251.01.b.iii., then additional samples must be taken as specified in Subsection 251.01.c.: (4-11-06)~~

~~i. For waters designated as secondary contact recreation, a single sample maximum of five hundred seventy six (576) *E. coli* organisms per one hundred (100) ml; or (4-11-06)~~

~~ii. For waters designated as primary contact recreation, a single sample maximum of four hundred six (406) *E. coli* organisms per one hundred (100) ml; or (4-11-06)~~

~~iii. For areas within waters designated for primary contact recreation that are additionally specified as public swimming beaches, a single sample maximum of two hundred thirty five (235) *E. coli* organisms per one hundred (100) ml. Single sample counts above this value should be used in considering beach closures. (4-11-06)~~

~~c. Additional Sampling. When a single sample maximum, as set forth in Subsections 251.01.b.i., 251.01.b.ii., and 251.01.b.iii., is exceeded, additional samples should be taken to assess compliance with the geometric mean *E. coli* criteria in Subsection 251.01.a. Sufficient additional samples should be taken by the Department to calculate a geometric mean in accordance with Subsection 251.01.a. This provision does not require additional ambient monitoring responsibilities for dischargers. (4-11-06)~~

ii. Statistical Threshold Value (STV). No greater than ten percent (10%) of valid samples collected over a thirty (30) day period are to contain *E. coli* bacteria in concentrations exceeding an STV of four hundred and ten (410) *E. coli* CFU counts per one hundred (100) ml; or

b. Enterococci. Waters designated for recreation are not to contain enterococci bacteria, used as indicators of human pathogens, in concentrations exceeding:

i. Geometric Mean Criterion. Not to contain enterococci bacteria in concentrations exceeding a geometric mean of thirty-five (35) enterococci CFU counts per one hundred (100) ml based on a minimum of five (5) samples taken every three (3) to seven (7) days over a thirty (30) day period; or

ii. Statistical Threshold Value (STV). No greater than ten percent (10%) of valid samples collected over a thirty (30) day period are to contain enterococci bacteria in concentrations exceeding an STV of one hundred and thirty (130) enterococci CFU counts per one hundred (100) ml.