

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 Sections 67-5224 and 67-5291, Idaho Code.

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 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: N/A

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

Dated this 5th day of December, 2018.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706-1255
Phone: (208) 373-0418
Fax: (208)373-0481
paula.wilson@deq.idaho.gov

DOCKET NO. 58-0102-1802 - ADOPTION OF PENDING RULE

Substantive changes have been made to the pending rule.
Italicized red text that is *double underscored* is new text that has been added to the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
[Volume 18-9, September 5, 2018, pages 431 through 451](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and final approval by the 2019 Idaho State Legislature.

THE FOLLOWING IS THE TEXT OF THE AMENDED PENDING RULE FOR
DOCKET NO. 58-0102-1802

(Only those sections or subsections that have changed from the original proposed text are printed in this Bulletin following this notice.)

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.a.~~ *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)

[Subparagraph 251.02.a.i. through Subparagraph 251.02.b.ii.]

~~a.i.~~ 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~~ 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)()

~~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* counts per one hundred (100) ml; or ()

~~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.e. Enterococci. Waters designated for recreation are not to contain enterococci bacteria, used as indicators of human pathogens, in concentrations exceeding: (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 ~~Geometric Mean Criterion. Not to contain enterococci bacteria in concentrations exceeding a geometric mean of thirty-five (35) enterococci~~ 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)()

~~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 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 counts per one hundred (100) ml. (4-11-06)()