

<p>Docket Number: <u>58-0102-1901</u> Effective Date: <u>2020 Sine die</u> Rules Title: <u>IDAPA 58.01.02, Water Quality Standards</u> Agency Contact and Phone: <u>Mary Anne Nelson (208)373-0291</u></p>	<p style="text-align: center;"><u>Public Participation</u></p> <p>Negotiated Rule Making? [] Yes [X] No</p> <p>Proposed Rule: 9/4/19 Idaho Administrative Bulletin</p> <p>Public Hearings? [] Yes [X] No Locations and Dates: N/A Notice of Meeting of the Idaho Board of Environmental Quality attached</p> <p>Written Comment Deadline: 10/4/19</p> <p>Public Comments Received? [] Yes [X] No</p>
<p><u>Overview of Rulemaking</u></p> <p>The purpose of this rulemaking is to revise Subsection 287.03 for consistency with recent EPA review and action regarding site-specific selenium criterion effective for Clean Water Act purposes.</p> <p>Under Docket No. 58-0102-1701, the state of Idaho promulgated new and revised selenium criteria for aquatic life. The rule was adopted by the Idaho Board of Environmental Quality in 2017, approved by the Idaho Legislature in 2018, and submitted to EPA for review on August 24, 2018. On July 9, 2019, EPA approved the final rule except for application of Subsection 287.03 to certain water bodies. Specifically, EPA disapproved the application of the site-specific criterion in Subsection 287.03 to North Fork Sage Creek, Pole Canyon Creek, and their tributaries. Until EPA approves the application of any new site-specific selenium criterion to North Fork Sage and Pole Canyon Creeks, and their tributaries, the criterion at Subsection 287.05 is the effective selenium criterion for Clean Water Act purposes in North Fork Sage Creek, Pole Canyon Creek, and their tributaries.</p> <p>Docket No. 58-0102-1701 was promulgated so that the existing rule, effective for Clean Water Act purposes, would remain in the Idaho Administrative Code until EPA approved the rule revisions. Notations explaining the effectiveness of the rule sections were also included. This proposed rule deletes the text and notations that are now obsolete due to EPA's review and action of Docket No. 58-0102-1701.</p>	<p><u>Interim Legislative Review of Proposed Rule Pursuant to Idaho Code § 67-5223</u></p> <p>Meetings Held? [] Yes [X] No Objections Filed? [] Yes [X] No</p> <p>Documentation from Legislative Services Office (LSO) attached: 10/3/19 Memo from LSO to Germane Joint Subcommittees 10/23/19 Letter from LSO to DEQ</p>
<p><u>DEQ's Recommendation for Adoption</u></p> <p>DEQ recommends that the Board adopt the rule, as presented in the final proposal, as a pending rule.</p>	<p><u>Costs To the Agency:</u> No additional costs to the agency.</p> <p><u>Costs To the Regulated Community:</u> No additional costs to the regulated community.</p>

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 – WATER QUALITY STANDARDS

DOCKET NO. 58-0102-1901

NOTICE OF MEETING OF THE IDAHO BOARD OF ENVIRONMENTAL QUALITY

NOTICE OF PUBLIC MEETING: Notice is hereby given that during the meeting scheduled for November 13 and 14, 2019, the Idaho Department of Environmental Quality (DEQ) will present Rule Docket No. 58-0102-1901 to the Idaho Board of Environmental Quality (Board) for adoption of a pending rule.

BOARD MEETING SCHEDULE:

PUBLIC MEETING
November 13 & 14, 2019
Call to Order at 9:00 a.m. (MST)
DEQ State Office
1410 N Hilton Street
Conference Rooms A & B
Boise, Idaho

The Board meeting agenda will be available on November 1, 2019, at <http://www.deq.idaho.gov/about-deq/board-of-environmental-quality/meetings/>.

The meeting location will be accessible to persons with disabilities, and language translators will be made available upon request. For those who cannot attend the meeting in person, arrangements for telephone conferencing can be made. To request accommodations for language translation or telephone conferencing, contact the undersigned by November 8, 2019.

DESCRIPTIVE SUMMARY: Proposed Rule Docket No. 58-0102-1901 was published in the Idaho Administrative Bulletin on September 4, 2019, **Vol. 19-9**, and is available at www.deq.idaho.gov/58-0102-1901. The written comment deadline for Docket No. 58-0102-1901 is October 4, 2019. After consideration of public comments, DEQ intends to present the final proposal to the Board for adoption of a pending rule. The public will have an opportunity to provide oral comments on the proposed rule during the Board meeting. The rule is expected to become final and effective upon the conclusion of the 2020 legislative session if adopted by the Board and approved by the Legislature.

Dated this 4th day of September, 2019.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
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Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

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

FROM: Deputy Division Manager - Katharine Gerrity

DATE: October 03, 2019

SUBJECT: Department of Environmental Quality

IDAPA 58.01.02 - Water Quality Standards - Proposed Rule (Docket No. 58-0102-1901)

IDAPA 58.01.03 - Individual/Subsurface Sewage Disposal Rules - Proposed Rule (Docket No. 58-0103-1902)

IDAPA 58.01.17 - Recycled Water Rules - Proposed Rule (Docket No. 58-0117-1901)

1. IDAPA 58.01.02 - Water Quality Standards

Summary and Stated Reasons for the Rule

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 revise Subsection 287.03 for consistency with recent EPA review and action regarding site-specific selenium criterion effective for Clean Water Act purposes. The department states that a rule was previously adopted in 2017 and approved by the legislature in 2018. The department notes that the EPA approved the final rule with the exception of Subsection 287.03 for North Fork Sage Creek, Pole Canyon Creek, and their tributaries. Until revisions to the subsection are approved, the department indicates that Subsection 287.05 is the effective criterion for the Clean Water Act for those bodies of water. The department states that the 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 / Fiscal Impact

The department states that negotiated rulemaking was not conducted due to the simple nature of the rulemaking.

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 39-105, 39-107, and Chapter 36, Title 39, Idaho Code.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
www.legislature.idaho.gov

2. IDAPA 58.01.03 - Individual/Subsurface Sewage Disposal Rules

Summary and Stated Reasons for the Rule

The Department of Environmental Quality submits notice of proposed rule at IDAPA 58.01.03 - Individual/Subsurface Sewage Disposal Rules. According to the department, the rulemaking is in response to the Red Tape Reduction Act. The department seeks to combine a previous chapter (Rules Governing the Cleaning of Septic Tanks, Sections 003 and 004) with the Individual/Subsurface Sewage Disposal Rules as new Sections 050 and 051. The department has provided a Section 39-107D statement in that the rules do regulate activities not regulated by the federal government. The department states that the rules regulate the installation of cottage site sewage treatment facilities and the issuance of pollution source permits and septic tank pumping permits under Title 39. The department adds that the rules also grant to the director the authority to issue pollution source permits, charges the director to enforce all laws, rules, regulations, and standards relating to environmental protection and health, and those relating to the storage, handling, and transportation of solids, liquids, and gases which may cause or contribute to water pollution. The department states that the rule also authorizes it to review for approval the plans and specifications for all proposed waste treatment facilities prior to their construction. The department provides a historical perspective of the rule and indicates that most of the rule has remained relatively unchanged since 1985.

Negotiated Rulemaking / Fiscal Impact

The department notes that negotiated rulemaking was not conducted because the rules were earlier adopted as temporary rules based on existing chapters that are republished and reauthorized.

Statutory Authority

The rulemaking appears to be authorized pursuant to Chapters 1 and 36, Title 39, Idaho Code.

3. IDAPA 58.01.17 - Recycled Water Rules

Summary and Stated Reasons for the Rule

The Department of Environmental Quality submits notice of proposed rule at IDAPA 58.01.17 - Recycled Water Rules. According to the department, this rule was adopted as a temporary rule effective June 30, 2019. The department has provided a Section 39-107D Statement. The department notes that the purpose of the rule is to ensure that the land application of recycled water does not harm public health or the environment or violate the department's water quality standards or ground water quality rule. The department indicates that the federal government does not specifically address recycled water land application

Negotiated Rulemaking / Fiscal Impact

The department indicates that negotiated rulemaking was not feasible due to the need to adopt the rules as temporary and based on the fact that the rules are being republished and reauthorized.

Statutory Authority

The rulemaking appears to be authorized pursuant to Chapter 1, Title 39, Idaho Code.

cc: Department of Environmental Quality
Paula J. Wilson

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.



Eric Milstead
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

October 23, 2019

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Id 83706-1255

Dear Paula J. Wilson:

The Senate and House Subcommittees for review of administrative rules have reviewed the proposed changes to the Department of Environmental Quality rules:

IDAPA 58.01.02 - Water Quality Standards - Proposed Rule - Docket No. 58-0102-1901

IDAPA 58.01.03 - Individual/Subsurface Sewage Disposal Rules - Proposed Rule - Docket No. 58-0103-1902

IDAPA 58.01.17 - Recycled Water Rules - Proposed Rule - Docket No. 58-0117-1901

No meeting will be held, and we are pleased to report that no objections will be filed.

Sincerely yours,

Katharine Gerrity
Deputy Division Manager

KAG/jk

cc:

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology