

<p>Docket Number: <u>58-0108-1501</u> Effective Date: <u>2016 Sine die</u> Rules Title: <u>Idaho Rules for Public Drinking Water Systems</u> Agency Contact and Phone: <u>Jerri Henry, 373-0471</u></p>	<p style="text-align: center;">Public Notice</p> <p>Hearings: [] Yes [X] No Locations and Dates: N/A Written Comment Deadline: 7/3/15</p>
<p>Descriptive Summary of Rule as Initially proposed: This rulemaking has been initiated to adopt into state rules the federal Revised Total Coliform Rule (RTCR) (40 CFR 141, Subpart Y). The Environmental Protection Agency promulgated the RTCR on February 13, 2013. The RTCR is intended to increase public health protection through the reduction of potential pathways of entry for fecal contamination into public water distribution systems. To maintain primary enforcement authority, Idaho is required to adopt the RTCR by April 2016. The RTCR contains some options to negotiate.</p> <p>The RTCR establishes a maximum contaminant level (MCL) for E.coli and uses E.coli and total coliform positive results to initiate or 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 MCL and replaces it with a trigger level under which to perform an assessment. This rule also requires systems that operate seasonally to follow start-up procedures unless the system qualifies for an exemption from these procedures. Most of the substantive changes in the rule include performing assessments and changes in monitoring requirements.</p> <p>DEQ proposes to incorporate most of the RTCR by reference from 40 CFR 141, Subpart Y, which addresses the definitions, sample siting plans, MCLs, assessment triggers and requirements, as well as monitoring and reporting requirements. Incorporation by reference simplifies the overall rule and reduces agency costs for rulemaking.</p> <p>The negotiated rulemaking committee did discuss portions of the rule where options exist, which include 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.</p> <p>Additionally, there are some changes DEQ proposes to make to the Idaho Rules for Public Drinking Water Systems that are not associated with the RTCR. These 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.</p> <p>The Drinking Water Regulatory Summary is attached.</p> <p>DEQ recommends that the Board adopt the rule, as presented in the final proposal, as a pending rule with the final effective date coinciding with the adjournment <i>sine die</i> of the Second Regular Session of the Sixty-third Idaho Legislature. The rule is subject to review by the Legislature before becoming final and effective.</p>	<p>Negotiated Rule Making: [X] Yes [] No The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code § 67-5220 and IDAPA 58.01.23.810-815. The Notice of Negotiated Rulemaking was published in the April 2015 Idaho Administrative Bulletin, Vol. 15-4, and a preliminary draft rule was made available for public review. A meeting was held on April 22, 2015. Members of the public participated in this negotiated rulemaking process by attending the meeting. The negotiated rulemaking record, which includes the negotiated rule drafts, and documents distributed during the negotiated rulemaking process, is available at www.deq.idaho.gov/58-0108-1501.</p> <hr/> <p>Relevant Statutes: Idaho Code §§ 39-105, 39-107, 39-120, and 39-126</p> <p>Idaho Code § 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.</p> <p>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.</p>

Costs To the Agency: Minimal to none anticipated, rule is required to retain primacy in the drinking water program.

Costs To the Regulated Community: This rule will affect all 1,958 public water systems in Idaho. According to the Environmental Protection Agency's (EPA's) Economic Analysis for the Final Revised Total Coliform Rule (RTCRR), the majority of the costs associated with this rule will be incurred by performing either a Level 1 Assessment (basic review completed by the system owner or operator) or a Level 2 Assessment (in-depth review completed by a system operator or third party consultant). These costs to the system owner are reported to be offset by decreases in both routine and repeat monitoring as well as the reduction of the public notification requirements for non-acute Total Coliform Rule (TCR) maximum contaminant level (MCL) violations.

The Department estimates annual statewide savings for reduced analytical costs for system owners will be \$125,000. The costs associated with performing Level 1 and 2 assessments are estimated at \$37,000. The difference is expected to be an annual statewide savings of \$88,000.

During the first year of rule implementation, which will begin April 1, 2016, all public water system owners will be required to revise their total coliform site sampling plans with the costs estimated at \$118,000 statewide. Therefore, the estimated statewide total costs for the first year of implementation is expected to be $(118,000 - 88,000) = \$30,000$.

The second year of annual savings of \$88,000 will offset the first year costs of \$30,000. The second year of implementation will start to provide a net savings to the system owners, of \$58,000.

Temporary Rule	<input type="checkbox"/> Necessary to protect public health, safety or welfare <input type="checkbox"/> Compliance with deadlines in amendments to governing law or federal programs <input type="checkbox"/> Conferring a benefit
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Section	Section Title	Summary of Rule Changes Based on Public Comment
002.	Incorporation by Reference.	This section has not been changed. No comments received.
003.	Definitions.	This section has not been changed. No comments received.
100.	Monitoring.	This section has not been changed. No comments received. <i>On November 18, 2015, the Board of Environmental Quality revised this section before adoption of the pending rule.</i>
150.	Reporting, Public Notification, Recordkeeping.	This section has not been changed. No comments received.
300.	Filtration and Disinfection.	This section has not been changed. No comments received. <i>On November 18, 2015, the Board of Environmental Quality revised this section before adoption of the pending rule.</i>
303.	Sanitary Surveys for Public Water Systems Using Ground Water.	This section has not been changed. No comments received.
305.	Coliform Treatment Technique Triggers and Assessment Requirements for Protection Against Potential Fecal Contamination.	This section has not been changed. No comments received.
552.	Operating Criteria for Public Water Systems.	This section has not been changed. No comments received. <i>On November 18, 2015, the Board of Environmental Quality revised this section before adoption of the pending rule.</i>

DRINKING WATER REGULATORY SUMMARY
Revised Total Coliform Rule
Docket No. 58-0108-1501

Update incorporation of 40 CFR Part 141, National Primary Drinking Water Regulations

Citation: 40 CFR Part 141 revised as of July 1, 2015 is incorporated by reference into IDAPA 58.01.08.002 excluding annual monitoring provisions in 40 CFR Subpart Y (Revised Total Coliform Rule) and 40 CFR Subpart X (Aircraft Drinking Water Rule).

Date: CFR date July 1, 2015

Status: Final Rules

Title: National Primary Drinking Water Regulations

Summary: The current rulemaking updates and incorporates the 2011 version of 40 CFR 141, National Primary Drinking Water Regulations except Subpart X, the Aircraft Drinking Water Rule, which is implemented nationally by the Environmental Protection Agency. The drinking water program routinely incorporates new federal drinking water rules by reference. Incorporation by reference reduces costs to the state for publication, meets the stringency test for primacy approvals, provides consistency and uniformity of rule language, expedites staff time and resources in drafting rules, and because the citations are date specific and precisely identified, still allows for changes to the rules to be reviewed and approved through the rulemaking process.

Incorporation of 40 CFR 141, Subpart Y, Revised Total Coliform Rule

Citation: 78 FR 10269-10365 (40 CFR 141 Subpart Y)

Date: February 13, 2013 (Federal Effective Date: April 15, 2013; Compliance Date: April 1, 2016)

Status: Final Rule

Title: Revised Total Coliform Rule

Summary: In 2013, the Environmental Protection Agency promulgated revisions to the 1989 Total Coliform Rule to provide better public health protection. The improvements include adding a maximum contaminant level (MCL) for *E.coli* bacteria, requiring a find-and-fix approach to bacteria presence in drinking water, providing incentives such as reduced monitoring for improved operations, and requiring start-up procedures for seasonal systems.

The following IDAPA 58.01.08 sections include incorporation by reference specific to the Revised Total Coliform Rule:

- 003. Definitions.
- 100. Monitoring and Analytical Requirements (excluding annual monitoring provisions).
- 150. Reporting, Public Notification, Recordkeeping.
- 300. Filtration and Disinfection.
- 305. Coliform Treatment Technique Triggers and Assessment Requirements for Protection against Potential Fecal Contamination. (new section)