

**Department of Environmental Quality  
Water Quality Standards, IDAPA 58.01.02  
Docket No. 58-0102-1703**

**Negotiated Rulemaking Summary  
Idaho Code § 67-5220(3)(f)**

This rulemaking has been initiated to designate domestic water supply as a beneficial use in water bodies where the Safe Drinking Water Information System indicates an active surface water intake and where domestic water supply is not currently designated.

The Notice of Negotiated Rulemaking was published in the December 2017 issue of the Idaho Administrative Bulletin, and a preliminary draft rule was made available for public review. Meetings were held on December 19, 2017, and April 24, 2018. Key information was posted on the DEQ rulemaking web page and distributed to the public. Members of the public participated in the negotiated rulemaking process by attending the meetings and by submitting written comments.

All comments received during the negotiated rulemaking process were considered by DEQ when making decisions regarding development of the rule. For comments that were not incorporated into the draft rule, DEQ's response to those comments is attached. At the conclusion of the negotiated rulemaking process, DEQ formatted the final draft for publication as a proposed rule in the Idaho Administrative Bulletin. The negotiated rulemaking record, which includes the negotiated rule drafts, written public comments, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at [www.deq.idaho.gov/58-0102-1703](http://www.deq.idaho.gov/58-0102-1703).

**DEQ's Response to Comments/Negotiated Rulemaking Summary**  
**Docket No. 58-0102-1703**

1. PotlatchDeltic	4. Idaho Conservation League
2. Riley Stegner/ Stimson, Hancock, and Molpus	5. John Sherman, Fernwood DWS Operator
3. City of Meridian	

C o m m e n t #	Rule Section/ Subject Matter	C o m m e n t e r	Comment	Response
1.		1. 2.	Suggest adding language clarifying that use applies to waters used as supplies for <i>public water systems</i> , not just supplies; make explicit that the use applies to waters that are supplies for systems regulated under the SDWA and Idaho Drinking Water Rules.	<p>The intent of the revisions in the proposed rule was to clarify that meeting criteria for the DWS use does not mean that raw water could be safely consumed untreated directly from the surface water, but rather that some form of disinfection and treatment would be necessary for the water to be safe for human consumption.</p> <p>DEQ does not intend for DWS designations to only protect public water systems and to limit those protections to only the direct supply for water systems regulated under the Safe Drinking Water Act. Use designations are not limited to only the location where a use currently exists, but also serve as a water quality goal.</p> <p>The purpose of the definition at 100.03.a is to define the water quality expectation for the DWS use, not where that use applies. Use designations, in Sections 110 – 160, identify where the DWS use applies.</p> <p>Criteria set forth in Sections 200 (general surface water criteria), 210.b (numeric toxics criteria for the protection of human health), and 252 (criteria for water supply use designation) identify the water quality requirements for the use to be supported.</p>
2.		1.	Suggest following language: <i>a. Domestic (DWS): water quality appropriate for <u>use as untreated raw water (as defined under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems") for public drinking water systems' supplies</u> <del>after appropriate treatment.</del></i>	See Response to Comment #1 above.

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3.		2.	<p>Suggest following language:  <i>a. Domestic (DWS): water quality appropriate for use as untreated raw water (as defined under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems") for public drinking water systems <del>supplies after appropriate treatment.</del></i></p>	See Response to Comment #1 above.
4.		3.	<p>Suggest revising from <i>Domestic Water Supply</i> to <i>Drinking Water Supply</i> to make clear that does not apply to irrigation and stock watering; IDWR applies Domestic Water Rights to irrigation and stock watering- this is different than how DEQ defines Domestic Water Supply under 58.01.02.100.03.a.</p> <p>Suggest following modification to 100.03.a:</p> <p><i>Domestic (DWS): Raw water appropriate for that can be readily treated to meet drinking water supplies quality standards.  This definition applies for the purposes of the rules contained in IDAPA 58.01.02, "Water Quality Standards".</i></p>	<p>It is not necessary for DEQ and IDWR to use the same exact terminology.</p> <p>While IDWR and DEQ both use the term "Domestic" to describe waters, IDWR is concerned with the quantity of water, while DEQ is concerned with the quality of water. The definition of Domestic Purposes identified in Idaho Code § 42-111 is limited to those sections that pertain to water rights and reclamation as administered by the Idaho Department of Water Resources. DEQ's authority for administering water quality standards is found in Chapter 36, Title 39, Idaho Code.</p> <p>DEQ explicitly defines how DWS are defined in WQS under IDAPA 58.01.02 in Section 100.03. Further, DEQ defines separate uses for Agricultural Water Supply and Industrial Water Supply.</p> <p>See Response #1 above.</p>
5.		4.	<p>Suggest incorporation of EPA's Drinking Water Health Advisory guidelines for cyanotoxins as numeric water quality criteria.</p>	<p>The incorporation of draft health advisory guidelines as numeric cyanotoxin criteria is:</p> <ol style="list-style-type: none"> <li>1. Outside the scope of this rulemaking</li> <li>2. Not scientifically defensible</li> </ol> <p>DEQ will consider numeric cyanotoxin criteria when EPA provides final 304(a) guidance/recommendations. Until that time, it is not prudent for DEQ to adopt numeric criteria that are not supported by EPA as Water Quality Standards.</p>

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6.		5.	Support draft 2 revisions; question purpose as no agencies appear willing to enforce turbidity limits.	Please contact the Coeur d'Alene Regional Office when turbidity appears to be affected by logging practices in the watershed. DEQ will coordinate with Idaho Department of Lands to conduct the necessary assessment of practices and monitoring to assure compliance with Idaho Water Quality Standards and the Forest Practices Act. If water quality exceeds numeric turbidity standards, the water body may be listed as impaired for DWS by turbidity following data procedures outlined in IDAPA 58.01.02.054.03. BMP applications and other practices may need to be modified beyond what is required in order to comply with the WQS and any resulting TMDL that may be developed.