

# IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.02 – WATER QUALITY STANDARDS

DOCKET NO. 58-0102-1803

### 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 453 through 455](#). After consideration of public comments, Section 401 has been revised. The Rulemaking and Public Comment Summary can be obtained at [www.deq.idaho.gov/58-0102-1803](http://www.deq.idaho.gov/58-0102-1803) 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 this rulemaking, contact Brian Reese at [brian.reese@deq.idaho.gov](mailto:brian.reese@deq.idaho.gov), (208) 373-0570.

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

### DOCKET NO. 58-0102-1803 - 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 453 through 455](#).

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. 58-0102-1803

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

**401. POINT SOURCE WASTEWATER TREATMENT REQUIREMENTS.**

Unless more stringent limitations are necessary to meet the applicable requirements of Sections 200 through 300, or unless specific exemptions are made pursuant to Subsection 080.02, wastewaters discharged into surface waters of the state must have the following characteristics: (4-11-06)

01. **Temperature.** The wastewater must not affect the receiving water outside the mixing zone so that: (7-1-93)

*[Paragraphs 401.01.c. and 401.01.d.]*

c. If temperature criteria for the designated aquatic life use are exceeded in the receiving waters upstream of the discharge due to natural background conditions, then wastewater must not raise the receiving water temperatures by more than three tenths (0.3) degrees C above the natural background conditions. ~~(3-29-12)~~ ( )

Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1803 have been approved.

d. If temperature criteria for the designated aquatic life use are exceeded in the receiving waters upstream of the discharge, then wastewater must not raise the receiving water temperatures by more than three tenths (0.3) degrees C above applicable numeric criteria. ( )

Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1803 have been approved.