

<p>Docket Number: 58-0117-1901 Effective Date: 2020 Sine die Rules Title: IDAPA 58.01.17, Recycled Water Rules Agency Contact and Phone: Mary Anne Nelson (208)373-0291</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</p> <p>Written Comment Deadline: 9/25/19</p> <p>Public Comments Received? [] Yes [X] No</p>
<p><u>Overview of Rulemaking</u></p> <p>This rulemaking adopts and re-publishes the following existing and previously approved and codified rule chapter under IDAPA 58 rules of the Department of Environmental Quality: IDAPA 58.01.17, Recycled Water Rules</p> <p>These rules were adopted by the Board as temporary on May 16, 2019, effective on June 30, 2019, and published in the Idaho Administrative Bulletin on July 3, 2019. The rules were published as proposed in the Idaho Administrative Bulletin on September 4, 2019.</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>



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

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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

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

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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