

<p><b>Docket Number:</b> <u>58-0102-1101</u>  <b>Effective Date:</b> <u>6/30/11 – temporary rule</u>  <b>Rules Title:</b> <u>Water Quality Standards</u>  <b>Agency Contact and Phone:</b> <u>Don Essig, 373-0119</u></p>	<p style="text-align: right;"><b>Public Notice</b></p> <p><b>Hearings:</b> N/A                      <input type="checkbox"/> Yes <input type="checkbox"/> No  <b>Locations and Dates:</b> N/A  <b>Written Comment Deadline:</b> N/A</p>
<p><b>Descriptive Summary of Rule:</b> As NPDES permits are coming up for renewal, the U.S. Environmental Protection Agency (EPA) has begun including thermal effluent limits in reissued permits. The City of Boise NPDES permit renewal is expected to be released as a draft in the summer of 2011 and will be based on current water quality standards unless they are revised promptly. Without this rule change, thermal effluent limits in NPDES permits and costs to meet those limits will be greater than needed to protect aquatic life resources.</p> <p>Two parts of Idaho’s water quality standards are likely to drive inordinate thermal treatment costs:</p> <ol style="list-style-type: none"> <li>1) excessive limits on water temperature rise in Subsections 401.01.c. and d. (aka thermal treatment requirements); and</li> <li>2) outdated numeric criteria to protect salmonid spawning.</li> </ol> <p>DEQ proposes to revise the Water Quality Standards, IDAPA 58.01.02, in two sections addressing temperature: 1) the thermal treatment requirements in Subsections 401.01.c. and d. which limit the rise in water temperature due to wastewater treatment plants, and 2) site-specific criteria for water temperature in Section 278 to protect salmonid spawning.</p> <p>The origin of Idaho’s thermal treatment requirements is unknown but is thought to be based on avoiding ‘thermal shock’ to fish and providing a level of protection that is largely redundant of and far in excess of that provided by ambient criteria. While ‘thermal shock’ can be an issue for fish, it is thought to occur when fish encounter abrupt temperature changes of 5-6°C or more, not 1-2°C. DEQ proposes to remove Subsections 401.01.c. and d. and rely on the retained language in Subsections 401.01.a. and b. to provide a more flexible means to address possible thermal shock on a case-by-case basis and to provide full protection from adverse effects of heated effluent in addition to protection provided to aquatic life by ambient temperature criteria in Section 250.</p> <p>Idaho’s current salmonid spawning criteria are based on recommendations from EPA made in the mid 1970s. EPA updated its recommendation regionally in 2003. While DEQ would like to adopt this recommendation statewide, questions about time periods in which the criterion would apply in various waterbodies across the state has lead DEQ at this time to scale back to a site-specific proposal. DEQ proposes to adopt EPA’s recommended criterion of 13°C as a maximum seven-day average of daily maximums as a site-specific criterion to protect salmonid spawning and incubation in the three waterbodies within the Lower Boise watershed (HUC 17050114) currently designated for salmonid spawning. The proposal specifies the time period for which the criterion applies to each waterbody and the species which are protected.</p> <p>DEQ recommends that the Board adopt the rule, as presented under Docket No. 58-0102-1101, as a temporary rule with an effective date of June 30, 2011.</p>	<p><b>Negotiated Rule Making:</b>            <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Sign-in sheet attached</p> <hr/> <p><b>Costs To the Agency:</b> None anticipated.</p> <p><b>Costs To the Regulated Community:</b> Potential future thermal treatment costs for NPDES permitted discharges are expected to be greatly reduced if this rule change is adopted.</p> <hr/> <p><b>Relevant Statutes:</b> Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code</p> <hr/> <p><b>Idaho Code § 39-107D Statement:</b> The standards included in this proposed rule are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.</p> <p><b>Temporary Rule Justification:</b> Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule confers a benefit. Adoption of a temporary rule would reduce thermal treatment costs for pending NPDES permit renewals.</p> <p><b>Fiscal Impact Statement:</b> 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>

Temporary Rule       Necessary to protect public health, safety or welfare  
                                  Compliance with deadlines in amendments to governing law or federal programs  
                                  Conferring a benefit

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Section	Section Title	Summary of Rule Changes Based on Public Comment
278	<b>Lower Boise River Subbasin, HUC 17050144</b>	N/A
401	<b>Point Source Wastewater Treatment Requirements</b>	N/A

## MEETING SIGN-IN SHEET

**Meeting Title: NEGOTIATED RULEMAKING**

**Water Quality Standards, Docket No. 58-0102-1101**

**Meeting Date and Location: 5/25/11 – Boise, Idaho**

**Phone participation: 373-0101/bridge 1**

Name	Affiliation	E-Mail Address
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