

FINAL PROPOSAL
Dated October 23, 2018

WATER QUALITY STANDARDS, DOCKET NO. 58-0102-1803

The proposed rule was published in the Idaho Administrative Bulletin, September 5, 2018, Vol. 18-9, pages 453 through 455. The Department of Environmental Quality recommends that the Board take the following action:

IDAPA 58.01.02

Section 401	ADOPT AS REVISED
-------------	------------------

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 Idaho Code Sections 67-5224 and 67-5291.

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 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 the rulemaking, contact Brian Reese at 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/Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

**Revisions to Proposed Rule for Board Consideration, Docket No. 58-0102-1803
(dated October 23, 2018)**

The revisions made to the proposed rule are highlighted. Only the rule sections containing revisions are included.

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)

a. The temperature of the receiving water or of downstream waters will interfere with designated beneficial uses. (7-1-93)

b. Daily and seasonal temperature cycles characteristic of the water body are not maintained. (7-1-93)

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. (3-29-12)

Note: Submitted to EPA as a temporary rule on July 20, 2011, and as a final rule on August 7, 2012 (docket 58-0102-1101). This revision removed the numeric limits on point source induced changes in receiving water temperature. Until EPA approves this revision, the previous treatment requirements published in [2011 Idaho Administrative Code](#) continue to apply and are effective for CWA purposes. For more information, go to <http://www.deq.idaho.gov/epa-actions-on-proposed-standards>.

The previous treatment requirements published in 2011 Idaho Administrative Code are effective for CWA purposes until the date EPA issues written notification that the revisions in Docket Nos. 58-0102-1101 or 58-0102-1803 have been approved.

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 numeric criteria or the natural background conditions, whichever is greater.** (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.