

# Negotiated Rulemaking Docket No. 58-0102-2001

## Revision of Idaho Bacteria Criteria

Michelle Dale

May 7, 2020



# Agenda

- Idaho Rulemaking Process
- Background
- Current Rule vs. Pre-2019
- Rulemaking Proposal Considerations
- Next Steps



# Idaho Rulemaking Process

- Idaho Administrative Procedure Act (Idaho Code Title 67, Chapter 52):
  - Negotiated



# Idaho Rulemaking Process

- Idaho Administrative Procedure Act (Idaho Code Title 67, Chapter 52):
  - Negotiated
  - Proposed



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- Idaho Administrative Procedure Act (Idaho Code Title 67, Chapter 52):
  - Negotiated
  - Proposed
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- Idaho Administrative Procedure Act (Idaho Code Title 67, Chapter 52):
  - Negotiated
  - Proposed
  - Pending
  - Final



# Idaho Rulemaking Process

- Idaho Administrative Procedure Act (Idaho Code Title 67, Chapter 52):
  - Negotiated
  - Proposed
  - Pending
  - Final
- EPA approval



# Background

- Federal regulations require states to consider EPA §304(a) recommendations as part of triennial review (40 CFR 131.20)
- Bacteria in recreational waters criteria published in 2012

|             |   |                        |
|-------------|---|------------------------|
| <b>2014</b> | Triennial Review:<br>consideration of revised §304(a) | <b>MEDIUM</b> priority |
| <b>2017</b> | Triennial Review:<br>consideration of revised §304(a) | <b>HIGH</b> priority   |





# Background

## 2018 rulemakings

- Adopt aquatic life criteria for acrolein, carbaryl, and diazinon in accordance with EPA's current §304(a) recommended criteria
- Adopt EPA's current §304(a) recommended criteria for bacteria and clarify the definition of recreational use

## 2019 Legislature

- Approved Rule Docket No. 58-0102-1802
- Approved April 2019





# Background

## 2018 rulemakings

- Adopt aquatic life criteria for acrolein, carbaryl, and diazinon in accordance with EPA's current §304(a) recommended criteria
- Adopt EPA's current §304(a) recommended criteria for bacteria

## 2019 Legislature

- Approved Rule Docket No. 58-0102-1802
- Approved April 2019

Delete Obsolete  
Rule Language



# Current Rule vs. Pre-2019

| Current Rule          |                      |         |                  |     |                       |
|-----------------------|----------------------|---------|------------------|-----|-----------------------|
|                       |                      |         | <sup>2</sup> SSM |     |                       |
|                       | <sup>1</sup> Geomean | STV     | PCR              | SCR | Public Swimming Beach |
| <b><i>E. coli</i></b> |                      |         |                  |     |                       |
| Magnitude (CFU/mL)    | 126                  | 410     | --               | --  | --                    |
| Duration              | 30 days              | 30 days |                  |     |                       |
| Frequency             | --                   | 10%     |                  |     |                       |
| <b>Enterococci</b>    |                      |         |                  |     |                       |
| Magnitude (CFU/mL)    | 35                   | 130     | --               | --  | --                    |
| Duration              | 30 days              | 30 days |                  |     |                       |
| Frequency             | --                   | 10%     |                  |     |                       |

| Pre-2019              |     |    |     |     |     |
|-----------------------|-----|----|-----|-----|-----|
| <b><i>E. coli</i></b> |     |    |     |     |     |
| Magnitude (org/100mL) | 126 | -- | 406 | 576 | 235 |
| <b>Enterococci</b>    | --  | -- | --  | --  | --  |

<sup>1</sup>Geometric Mean based on a minimum of 5 samples taken every 3 to 7 days over a 30-day period.

<sup>2</sup>Single sample maximum value (SSM) is not criteria, and exceedance of the SSM alone is not considered a criterion violation. Rather, it is considered a "trigger value" that initiates additional sampling.



# Rulemaking Proposal Considerations

- Beneficial use impairment determinations based on a single sample STV
- Based on 10% excursion frequency



# Rulemaking Proposal Considerations

Revision of STV as  
criteria for determining  
beneficial use support



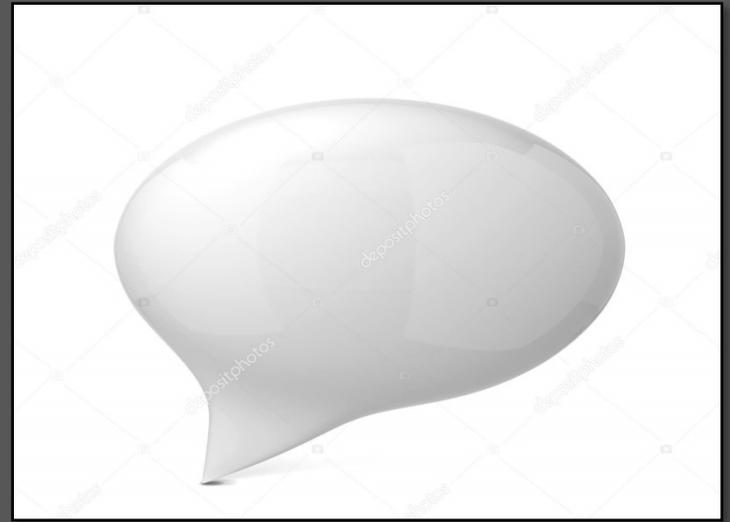
What  
Next?

PUBLIC COMMENTS  
WELCOME!

- Seeking public comments providing specific remedies or rule language
- Comments due May 18
  - Negotiated rulemaking on June 11, 2020



# SUBMIT A PUBLIC COMMENT



Contact Paula Wilson

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

