

**IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY**

**58.01.02 – WATER QUALITY STANDARDS**

**DOCKET NO. 58-0102-2001**

**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 2021 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-sixth 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 2, 2020, [Vol. 20-9, pages 120 through 124](#).

After consideration of public comments, Subsection 251.02 has been revised. The remainder of the rule has been adopted as initially proposed. The board meeting documents can be obtained at [deq.idaho.gov/58-0102-2001](http://deq.idaho.gov/58-0102-2001) or by contacting the undersigned.

**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 technical questions concerning this rulemaking, contact the undersigned.

Dated this 19th day of November, 2020.

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**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR  
DOCKET NO. 58-0102-2001**

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

**Amendments made to the proposed rule are published in this pending rule in *red italicized double underscored text*.**

251. SURFACE WATER QUALITY CRITERIA FOR RECREATION USE DESIGNATIONS.

Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-~~4802~~2001 have been approved.

01. **Toxics Criteria.** Waters designated for recreation must meet the Fish Only water quality criteria set forth in Subsection 210.01.b. (4-11-19)

02. **Fecal Indicators.** Waters designated for recreation must meet criteria for indicator ~~organisms~~ bacteria of fecal contamination. Either of the following indicators ~~is~~ is sufficient for determining compliance with the fecal indicator criteria: (4-11-19)(    )

a. *E. Coli* Bacteria. (    )

i. Waters designated for recreation are not to contain *E. coli* bacteria, used as indicators of human pathogens, in concentrations exceeding: (4-11-06)

~~i.(1) Geometric Mean Criterion. Not to contain E. coli in concentrations exceeding a~~ Δ geometric mean of one hundred twenty-six (126) *E. coli* counts per one hundred (100) mL based on a minimum of five (5) samples taken every three (3) to ~~seven eleven (711)~~ seven eleven (711) days over a ~~thirty forty-five (3045)~~ thirty forty-five (3045) day period; or (4-11-19)(    )

~~ii.(2) SA statistical Threshold Value (STV). No greater than ten percent (10%) of valid samples collected over a thirty (30) day period are to contain E. coli bacteria in concentrations exceeding an STV~~ of four hundred and ten (410) *E. coli* counts per one hundred (100) mL; ~~or in more than ten percent (10%) of samples collected over a forty-five (45) day period. The Department will ensure samples collected represent the forty-five (45) day duration.~~ in more than ten percent (10%) of samples collected over a forty-five (45) day period. The Department will ensure samples collected represent the forty-five (45) day duration. (4-11-19)(    )

ii. For public swimming beaches, a single sample value of two hundred thirty-five (235) E. coli counts per one hundred (100) mL should be used in considering beach closures. (    )

b. Enterococci. Waters designated for recreation are not to contain enterococci bacteria, used as indicators of human pathogens, in concentrations exceeding: (4-11-19)

i. ~~Geometric Mean Criterion. Not to contain E. coli in concentrations exceeding a~~ Δ geometric mean of thirty-five (35) enterococci counts per one hundred (100) mL based on a minimum of five (5) samples taken every three (3) to ~~seven eleven (711)~~ seven eleven (711) days over a ~~thirty forty-five (3045)~~ thirty forty-five (3045) day period; or (4-11-19)(    )

ii. ~~SA statistical Threshold Value (STV). No greater than ten percent (10%) of valid samples collected over a thirty (30) day period are to contain enterococci bacteria in concentrations exceeding an STV~~ of one hundred and thirty (130) enterococci counts per one hundred (100) mL in more than ten percent (10%) of samples collected over forty-five (45) day period. The Department will ensure samples collected represent the forty-five (45) day duration. (4-11-19)(    )

c. For comparing permit effluent bacteria samples to the criteria, the averaging period shall be thirty (30) days or less based on a minimum of five (5) samples. (    )