

# IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-1501

### NOTICE OF NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality, Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

**METHOD OF PARTICIPATION:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the meetings at one of the following locations. The meeting locations will be connected by telephone and web conferencing. Information for submitting written comments is provided at the end of this notice.

**MEETING SCHEDULE:** The negotiated rulemaking meetings will be held as follows. Additional meetings will be scheduled if necessary. For information regarding individual participation by telephone and web conferencing or scheduling of additional meetings, contact the undersigned. Individuals interested in participating by telephone and web conferencing should contact the undersigned by the dates provided in the table below.

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#### **\*ORIGINATING LOCATION – LIVE MEETING\***

**DEQ State Office  
Conference Rooms A and B  
1410 N. Hilton, Boise, Idaho**

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**Wednesday, April 22, 2015**

**9 a.m. to 12:30 p.m. Mountain Time**

To make arrangements for individual participation  
by telephone and web conferencing, contact Paula Wilson at  
[paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov), (208)373-0418, by April 15, 2015

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#### **\*TELEPHONE AND WEB CONFERENCE LOCATIONS\***

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**DEQ Coeur d'Alene Regional Office  
2110 Ironwood Parkway  
Coeur d'Alene, Idaho**

**DEQ Idaho Falls Regional Office  
900 N. Skyline, Suite B  
Idaho Falls, Idaho**

**PRELIMINARY DRAFT:** By April 1, 2015, a preliminary draft of the rule can be obtained at [www.deq.idaho.gov/58-0108-1501](http://www.deq.idaho.gov/58-0108-1501) or by contacting Paula Wilson at [paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov), (208)373-0418.

**DESCRIPTIVE SUMMARY:** This rulemaking has been initiated to adopt into state rules the federal Revised Total Coliform Rule (RTCR) (40 CFR 141, Subpart Y). The Environmental Protection Agency promulgated the RTCR on February 13, 2013. The RTCR is intended to increase public health protection through the reduction of potential pathways of entry for fecal contamination into public water distribution systems. To maintain primary enforcement authority, Idaho is required to adopt the RTCR by April 2016. The RTCR contains some options to negotiate.

The RTCR establishes a maximum contaminant level (MCL) for E.coli and uses E.coli and total coliform positive results to initiate or trigger assessments and follow up corrections as a “find and fix” approach to address fecal contamination that could enter into the distribution system. The rule removes the total coliform MCL and replaces it with a trigger level under which to perform an assessment. This rule also requires systems that operate seasonally to follow start-up procedures unless the system qualifies for a waiver of these procedures. Most of the substantive changes in the rule include performing assessments and changes in monitoring requirements.

DEQ proposes to incorporate most of the RTCR by reference from 40 CFR 141, Subpart Y, which addresses the definitions, sample siting plans, MCLs, assessment triggers and requirements, as well as monitoring and reporting requirements. Incorporation by reference simplifies the overall rule and reduces agency costs for rulemaking.

DEQ proposes to negotiate where options exist in the rule, which include reduced monitoring provisions, qualifications of assessors for Level 2 Assessments, criteria for waiving seasonal system start-up requirements, methods for consulting with the state, and types of sanitary defects.

Additionally, there are some changes DEQ proposes to make to the Idaho Rules for Public Drinking Water Systems that are not associated with the RTCR. These changes should provide clarification and remove unnecessary requirements and include removing the lower temperature flow criteria for slow-sand filters, adding flushing as an adequate means to remove contamination following depressurization, and providing clarifying language for the types of chemicals allowed in performing tracer studies.

The text of the rule will be drafted by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Drinking water system owners and operators, developers, consultants, engineers, cities, counties, industry, drinking water professional organizations, and the public at large may be interested in participating in this rulemaking.

Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the summer of 2015 and then present the final proposal to the Idaho Board of Environmental Quality for adoption of a pending rule in the fall of 2015. If adopted by the Board, the rule will be reviewed by the 2016 Idaho Legislature.

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning this rulemaking, contact Jerri Henry at [jerri.henry@deq.idaho.gov](mailto:jerri.henry@deq.idaho.gov) or (208) 373-0212.

For those who cannot participate by attending the scheduled meeting, written comments may be submitted by mail, fax or email at the address below. Written comments on the preliminary draft rule must be received by April 30, 2015. For information regarding submission of written comments on subsequent drafts of the negotiated rule, to receive copies of submitted written comments, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 1st Day of April, 2015.

Paula J. Wilson  
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