

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS

DOCKET NO. 58-0102-1102

NOTICE OF INTENT TO PROMULGATE RULES - 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 Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided at the end of this notice.

MEETING SCHEDULE: The negotiated rulemaking meeting will be held as follows. Additional meetings may be scheduled if necessary. For information regarding participation by telephone or scheduling of additional meetings, contact the undersigned. Requests to participate by telephone must be made by June 17, 2011.

June 21, 2011, 10 a.m. to 12 noon Mountain Time

**Department of Environmental Quality
Conference Room A
1410 N. Hilton, Boise, Idaho**

PRELIMINARY DRAFT: By June 1, 2011, a preliminary draft of the rule can be obtained at http://www.deq.idaho.gov/rules/water/58_0102_1102_negotiated.cfm or by contacting Paula Wilson at paula.wilson@deq.idaho.gov, (208)373-0418.

DESCRIPTIVE SUMMARY: DEQ proposes to revise its Water Quality Standards, IDAPA 58.01.02, to include a site-specific temperature criterion for the Snake River to protect fall spawning of Chinook salmon from Hell's Canyon Dam to the Salmon River. This site-specific criterion would be a change from the current criterion of a maximum weekly maximum of 13° C from October 23rd through April 15th to a site-specific criterion of a maximum weekly maximum of 14.5° C from Oct 23rd through October 30th and a maximum weekly maximum of 13° C from October 31st through April 15th. The proposed rule change recognizes the declining thermal regime in the Snake River during the fall spawning season and that higher temperatures at the outset of the spawning season are both protective and supportive of the fall Chinook salmon spawning and incubation occurring in the Snake River during this time. This proposed rule change recognizes that a need to change the site-specific temperature criterion in the Snake River between the Hell's Canyon Dam and the confluence with the Salmon River exists. The current site-specific criterion of 13° C between October 23rd and April 15th is not regularly met during the first week of the fall spawning season and yet salmonid spawning and incubation is at the highest levels of the last two decades. The proposed rule changes the temperature criteria to an intermediate criterion of 14.5°C for eight days and then reduced to 13°C for the balance of the fall and early spring.

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. All who fish and recreate in the Snake River, Idaho Power Company who operates the Hell's Canyon Dam, and Native American tribes 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 2011 and then present the final proposal to the Idaho Board of Environmental Quality for adoption of a pending rule in the fall of 2011. If adopted by the Board, the pending rule will be reviewed by the 2012 Idaho Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: assistance on questions concerning this rulemaking, contact Don Essig at don.essig@deq.idaho.gov, (208)373-0119.

For those who cannot participate by attending the scheduled meeting, written comments may be submitted by mail,

fax or e-mail at the address below. Written comments on the preliminary draft rule must be received by June 24, 2011. 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 4th day of May, 2011.

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