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MEMORANDUM

TO: Rules Review Subcommittee of the Senate Resources & Environment Committee and the House Environment, Energy & Technology Committee

FROM: Principal Legislative Research Analyst - Katharine Gerrity

DATE: September 02, 2014

SUBJECT: Department of Environmental Quality

IDAPA 58.01.02 - Water Quality Standards - Proposed Rule (Docket No. 58-0102-1401)

The Department of Environmental Quality submits notice of proposed rule at IDAPA 58.01.02 - Water Quality Standards. According to the department, the purpose of the rulemaking is to update DEQ's Mixing Zone Policy to take into account modern tools for evaluating mixing and to provide greater clarity for DEQ and the regulated community. The department indicates that the current policy was adopted over twenty years ago and contains language that is outdated and/or is no longer relevant. The department states that since the inception of DEQ's policy, numerous updates to Idaho's water quality standards have been made and that some parts of the current rule need to be revised in order to meet the intent of related policies. The department adds that it has determined from working with dischargers that the current rule is ambiguous and does not clearly articulate mixing zone requirements. The department states that as technology and information availability have expanded and improved, the methods for establishing mixing zones have also changed. The department notes that proposed changes to the rule are reflective of current procedures and tools used to appraise the biological, chemical and physical properties of the receiving water and the proposed discharge in order to best establish mixing zones.

The department states that negotiated rulemaking was conducted. The department confirms that standards included in the rule are not broader in scope, nor more stringent than federal regulations, and do not regulate an activity not regulated by the federal government. The rulemaking appears to be authorized pursuant to Sections 39-105, 39-107 and 39-3601 et seq., Idaho Code.

cc: Department of Environmental Quality
Paula J. Wilson