

**Water Quality Standards  
Docket No. 58-0102-1101  
Response to Public Comments**

Comment	DEQ Response
<p><b><u>Lisa Macchio, Office of Water and Watersheds, U.S. EPA Region 10, 1200 Sixth Ave., Ste. 900, Seattle, WA 98101-3140</u></b></p> <p>Thank you for the opportunity to provide the Environmental Protection Agency's (EPA) comments on Idaho's Docket No. 58-0102-1101. In this proposed rule the Idaho Department of Environmental Quality (DEQ) proposes to remove Subsection 401.01.c. and d. which provides additional temperature requirements for point source wastewater discharges into surface waters.</p> <p>The Agency recommends that Idaho retain an incremental temperature warming limit for point source discharges into waters with Endangered Species Act (ESA) listed salmonids. The EPA Region 10 Temperature Guidance (April, 2003) recommends that State's include temperature standards that limit the warming of waterbodies that are cooler than the numeric criteria. As explained in the Guidance (page 32-33), protecting waters cooler than the criteria are important to protect the temperature diversity in watersheds that support ESA listed salmonids.</p> <p>In Idaho's Notice of Rulemaking for this proposal, it is noted that the thermal treatment requirements in subsection 401.01.d may be to protect thermal shock, but the 1°C limit is overly stringent to protect against thermal shock. The EPA does not believe the purpose of 401.01.d is to protect against thermal shock. Rather, as discussed in the EPA Region 10 Temperature Guidance (pages 32-33) and in Idaho's April, 2003 Concepts and Recommendations for Using Natural Conditions Provisions of the Idaho Water Quality Standards document (pages 5-6) it is important to protect waters where and when they are colder than the numeric criteria.</p> <p>We, however, believe there may be alternatives to the current 1°C limit in subsection 401.01.d that may serve the purpose of protecting cold waters and avoid being overly stringent where and when the water is significantly colder than the criteria. The EPA recently approved a temperature standard in Washington that is based on a formula that sets the temperature limit based on the receiving water (28/(Temperature of the receiving water +7)). The EPA supports Idaho adopting a formula-based standard similar to Washington's.</p>	<p>Idaho has just recently been pointed to and evaluated the State of Washington's formula based, sliding scale limit on temperature change. Although this approach appears to have merit and may be useful in Idaho with adaptation, in our opinion we would need to reopen rule negotiations. That is not possible at this time so we would have to wait to a subsequent rulemaking. Therefore we are moving forward with the removal as proposed.</p> <p>Idaho appreciates the importance of maintaining temperature diversity. With the range of latitude and elevation in Idaho comes great diversity in stream temperatures. This is unlikely to change. There are very few point sources of heat in the headwaters and tributaries of waters used by ESA listed salmonids, and little chance of new ones. Furthermore, the need to meet downstream standards will - to the extent heat loads translate downstream - demand that diversity, i.e. that cooler upstream temperatures, are maintained.</p> <p>More specifically, although Idaho is removing its fixed numeric limits on temperature increase – which can impose very onerous chilling requirements on point sources if applied through the winter – we retain in our thermal treatment requirements narrative requirements that serve to</p>

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<p>Please accept the above comments into the public record as the EPA's formal written comments. If you have any questions please contact me at (206) 553-1834.</p>	<p>maintain thermal diversity:</p> <p><b>401.01. Temperature.</b> The wastewater must not affect the receiving water outside the mixing zone so that:</p> <ul style="list-style-type: none"> <li><b>a.</b> The temperature of the receiving water or of downstream waters will interfere with designated beneficial uses.</li> <li><b>b.</b> Daily and seasonal temperature cycles characteristic of the water body are not maintained.</li> </ul> <p>Paragraph <b>a</b> directs us to look at downstream thermal effects as mentioned above. We interpret paragraph <b>b</b> to mean effluent limits and TMDL load allocations should be based on critical conditions for meeting criteria. For example, by expressing thermal effluent limits as an average daily limit (not adjusted hourly) to meet average daily criteria (critical conditions) daily cycles are maintained. Similarly, setting a monthly limit based on the warmest time period (critical condition) within a season (i.e. spawning period, or summer for CWAL) and not adjusting thermal effluent limits monthly, will maintain seasonal cycles. Together this maintains the cooler temperatures that occur most of the time.</p>