

# IDAHO ADMINISTRATIVE BULLETIN

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# Preface

*The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a monthly compilation of all administrative rulemaking documents in Idaho. The Bulletin publishes the official rulemaking notices and administrative rule text of state agency rulemakings and other official documents as necessary.*

*State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of rulemaking activity through the Idaho Administrative Bulletin and the Legal Notice published monthly in local newspapers. The Legal Notice provides reasonable opportunity for public input, either oral or written, which may be presented to the agency within the time and manner specified in the Notice of Rulemaking published in the Bulletin. After the comment period closes, the agency considers fully all information submitted in regard to the rule. Comment periods are not provided in temporary or final rule-making activities.*

## **CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN**

*The Bulletin is cited by year and issue number. For example, Bulletin 07-1 refers to the first Bulletin issued in calendar year 2007; Bulletin 08-1 refers to the first Bulletin issued in calendar year 2008. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 08-1 refers to January 2008; Volume No. 08-2 refers to February 2008; and so forth. Example: The Bulletin published in January 2008 is cited as Volume 08-1. The December 2007 Bulletin is cited as Volume 07-12.*

## **RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE**

*The Idaho Administrative Code is published once a year and is a compilation or supplemental compilation of all final and enforceable administrative rules in effect in Idaho. In an effort to provide the reader with current, enforceable rules, temporary rules are also published in the Administrative Code. Temporary rules and final rules approved by the legislature during the legislative session, and published in the monthly Idaho Administrative Bulletin, supplement the Administrative Code. Negotiated, proposed, and pending rules are only published in the Bulletin and **not** printed in the Administrative Code.*

*To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Rulemaking Index of Idaho Administrative Rules**, printed in each Bulletin.*

## **TYPES OF RULEMAKINGS PUBLISHED IN THE ADMINISTRATIVE BULLETIN**

*The state of Idaho administrative rulemaking process, governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, comprises five distinct activities: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings involve all five. At a minimum, a rulemaking includes proposed, pending and final rulemaking. Many rules are adopted as temporary rules when they meet the required statutory criteria and agencies often engage in negotiated rulemaking at the beginning of the process to facilitate consensus building in controversial or complex rulemakings. In the majority of cases, the process begins with proposed rulemaking and ends with the final rulemaking. The following is a brief explanation of each type of administrative rule.*

### **NEGOTIATED RULEMAKING**

*Negotiated rulemaking is a process in which all interested parties and the agency seek consensus on the content of a rule. Agencies are encouraged, and in some cases required, to engage in this rulemaking activity whenever it is feasible to do so. Publication of a "Notice of Intent to Promulgate" a rule in the Administrative Bulletin by the agency is optional. This process should result in the formulation of a proposed and/or temporary rule.*

### ***PROPOSED RULEMAKING***

*A proposed rulemaking is an action by an agency wherein the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a "Notice of Proposed Rulemaking" in the Bulletin. This notice must include:*

- a) the specific statutory authority (from Idaho Code) for the rulemaking including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking;*
- b) a statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;*
- c) the text of the proposed rule prepared in legislative format;*
- d) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;*
- e) the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;*
- f) the manner in which persons may request an opportunity for an oral presentation as provided in Section 67-5222, Idaho Code; and*
- g) the deadline for public (written) comments on the proposed rule.*

*As stated, the text of the proposed rule must be published in the Bulletin. After meeting the statutory rulemaking criteria for a proposed rule, the agency may proceed to the pending rule stage. A proposed rule does not have an assigned effective date, even when published in conjunction with a temporary rule, and therefore, is not enforceable. An agency may vacate a proposed rulemaking if it decides not to proceed beyond the proposed rulemaking step, and stops the formal rulemaking process.*

### ***TEMPORARY RULEMAKING***

*Temporary rules may be adopted only when the governor finds that it is necessary for:*

- a) protection of the public health, safety, or welfare; or*
- b) compliance with deadlines in amendments to governing law or federal programs; or*
- c) conferring a benefit;*

*If a rulemaking meets any one or all of the above requirements, a rule may become effective before it has been submitted to the legislature for review and the agency may proceed and adopt a temporary rule. However, a temporary rule that imposes a fee or charge may be adopted only if the Governor finds that the fee or charge is necessary to avoid an immediate danger which justifies the imposition of the fee or charge.*

*A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is approved, amended, or modified by concurrent resolution or when the rule has been replaced by a final rule.*

*State law requires that the text of both a proposed rule and a temporary rule be published in the Administrative Bulletin. In cases where the text of the temporary rule is the same as the proposed rule, the rulemaking can be done concurrently as a proposed/temporary rule. Combining the rulemaking allows for a single publication of the text.*

*An agency may, at any time, rescind a temporary rule that has been adopted and is in effect. If the temporary rule is being replaced by a new temporary rule or if it has been published concurrently with a proposed rule that is being vacated, the agency, in most instances, should rescind the temporary rule.*

### **PENDING RULEMAKING**

*A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures and remains subject to legislative review before it becomes a final, enforceable rule.*

*When a pending rule is published in the Bulletin, the agency is required to include certain information in the "Notice of Pending Rulemaking". This includes:*

- a) a statement giving the reasons for adopting the rule;*
- b) a statement of any change between the text of the proposed rule and the pending rule with an explanation of the reasons for any changes;*
- c) the date the pending rule will become final and effective;*
- d) an identification of any portion of the rule imposing or increasing a fee or charge.*

*Agencies are required to republish the text of the rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule change is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule. With the permission of the Rules Coordinator, only the Section(s) that have changed from the proposed text are republished. If no changes have been made to the previously published text, it is not required to republish the text again and only the "Notice of Pending Rulemaking" is published.*

### **FINAL RULEMAKING**

*A final rule is a rule that has been adopted by an agency under the regular rulemaking procedures and is in effect and enforceable.*

*No pending rule adopted by an agency will become final and effective until it has been submitted to the legislature for review. Where the legislature finds that an agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution may be adopted to reject the rulemaking or any part thereof. A "Notice of Final Rule" must be published in the Bulletin for any rule that is rejected, amended, or modified by the legislature showing the changes made. A rule reviewed by the legislature and not rejected, amended or modified becomes final with no further legislative action. No rule shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. However, a rule that is final and effective may be applied retroactively, as provided in the rule.*

### **AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN**

*The Idaho Administrative Code and all monthly Bulletins are available for viewing and use by the public in all 44 county law libraries, state university and college and community college libraries, the state law library, the state library, the Public Libraries in Boise, Pocatello, Idaho Falls, Twin Falls, Lewiston and East Bonner County Library.*

## **SUBSCRIPTIONS AND DISTRIBUTION**

For subscription information and costs of publications, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-0306, telephone (208) 332-1820.

*The Idaho Administrative Bulletin* is an official monthly publication of the State of Idaho. Yearly subscriptions or individual copies are available for purchase.

*The Idaho Administrative Code*, is an annual compilation or supplemental compilation of all final and enforceable temporary administrative rules and includes a table of contents, reference guides, and a subject index.

*Individual Rule Chapters and Individual RuleMaking Dockets*, are specific portions of the Bulletin and Administrative Code produced on demand.

**Internet Access** - The Administrative Code and Administrative Bulletin are available on the Internet at the following address: <http://adm.idaho.gov/adminrules/>

## **HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN**

Rulemaking documents produced by state agencies and published in the *Idaho Administrative Bulletin* are organized by a numbering system. Each state agency has a two-digit identification code number known as the “**IDAPA**” number. (The “**IDAPA**” Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit “**TITLE**” number is assigned. There are “**CHAPTER**” numbers assigned within the Title and the rule text is divided among major sections with a number of subsections. An example IDAPA number is as follows:

### **IDAPA 38.05.01.200.02.c.ii.**

“**IDAPA**” refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.

“**38.**” refers to the Idaho Department of Administration

“**05.**” refers to Title 05, which is the Department of Administrations’s Division of Purchasing

“**01.**” refers to Chapter 01 of Title 05, “Rules of the Division of Purchasing”

“**200.**” refers to Major Section 200, “Content of the Invitation to Bid”

“**02.**” refers to Subsection 200.02.

“**c.**” refers to Subsection 200.02.c.

“**ii.**” refers to Subsection 200.02.c.ii.



## DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a "DOCKET NUMBER." The "Docket Number" is a series of numbers separated by a hyphen "-", (38-0501-0801). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket number:

### "DOCKET NO. 38-0501-0801"

"38-" denotes the agency's IDAPA number; in this case the Department of Administration.

"0501-" refers to the TITLE AND CHAPTER numbers of the agency rule being promulgated; in this case the Division of Purchasing (TITLE 05), Rules of the Division of Purchasing (Chapter 01).

"0801" denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rule-making action published in calendar year 2008. A subsequent rulemaking on this same rule chapter in calendar year 2008 would be designated as "0802". The docket number in this scenario would be 38-0501-0802.

Within each Docket, only the affected sections of chapters are printed. (See Sections Affected Index in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section "200" appears before Section "345" and so on). Whenever the sequence of the numbering is broken the following statement will appear:

(BREAK IN CONTINUITY OF SECTIONS)

## INTERNAL AND EXTERNAL CITATIONS TO ADMINISTRATIVE RULES IN THE CODE AND BULLETIN

When making a citation to another Section or Subsection of a rule that is part of the same rule, a typical internal citation may appear as follows:

*"...as found in Section 201 of this rule." OR "...in accordance with Subsection 201.06.c. of this rule."*

The citation may also include the IDAPA, Title, or Chapter number, as follows"

*"...in accordance with IDAPA 38.05.01.201..."*

"38" denotes the IDAPA number of the agency.

"05" denotes the TITLE number of the rule.

"01" denotes the Chapter number of the rule.

"201" denotes the main Section number of the rule to which the citation refers.

Citations made within a rule to a different rule chapter (external citation) should also include the name of the Department and the name of the rule chapter being referenced, as well as the IDAPA, Title, and Chapter numbers. The following is a typical example of an external citation to another rule chapter:

*"...as outlined in the Rules of the Department of Administration, IDAPA 38.04.04, "Rules Governing Capitol Mall Parking."*

**BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2008**

<b>Vol. No.</b>	<b>Monthly Issue of Bulletin</b>	<b>Closing Date for Agency Filing</b>	<b>Publication Date</b>	<b>21-day Comment Period End Date</b>
08-1	January 2008	<b>*November 14, 2007</b>	January 2, 2008	January 23, 2008
08-2	February 2008	January 4, 2008	February 6, 2008	February 27, 2008
08-3	March 2008	February 8, 2008	March 5, 2008	March 26, 2008
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08-9	September 2008	August 1, 2008	September 3, 2008	September 24, 2008
08-10	October 2008	<b>**August 20, 2008</b>	October 1, 2008	October 22, 2008
08-11	November 2008	October 3, 2008	November 5, 2008	November 26, 2008
08-12	December 2008	October 31, 2008	December 3, 2008	December 24, 2008

**BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2009**

<b>Vol. No.</b>	<b>Monthly Issue of Bulletin</b>	<b>Closing Date for Agency Filing</b>	<b>Publication Date</b>	<b>21-day Comment Period End Date</b>
09-1	January 2009	<b>*November 14, 2008</b>	January 7, 2009	January 28, 2009
09-2	February 2009	January 9, 2009	February 4, 2009	February 25, 2009
09-3	March 2009	February 6, 2009	March 4, 2009	March 25, 2009
09-4	April 2009	March 6, 2009	April 1, 2009	April 22, 2009
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09-6	June 2009	May 1, 2009	June 3, 2009	June 24, 2009
09-7	July 2009	May 29, 2009	July 1, 2009	July 22, 2009
09-8	August 2009	July 3, 2009	August 5, 2009	August 26, 2009
09-9	September 2009	July 31, 2009	September 2, 2009	September 23, 2009
09-10	October 2009	<b>**August 28, 2009</b>	October 7, 2009	October 28, 2009
09-11	November 2009	October 2, 2009	November 4, 2009	November 25, 2009
09-12	December 2009	November 6, 2009	December 2, 2009	December 23, 2009

***\*Last day to submit proposed rulemaking before moratorium begins and last day to submit pending rules to be reviewed by the legislature.***

***\*\*Last day to submit proposed rules in order to complete rulemaking for review by legislature.***

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<b>IDAPA 50</b>	<b>Pardons and Parole, Commission for</b>
<b>IDAPA 26</b>	<b>Parks and Recreation, Department of</b>
<b>IDAPA 27</b>	<b>Pharmacy, Board of</b>

<b>ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS</b>	
<b>IDAPA 29</b>	<b>Potato Commission, Idaho</b>
<b>IDAPA 55</b>	<b>Professional-Technical Education, Division of</b>
<b>IDAPA 59</b>	<b>Public Employee Retirement System of Idaho (PERSI)</b>
<b>IDAPA 41</b>	<b>Public Health Districts</b>
<b>IDAPA 31</b>	<b>Public Utilities Commission</b>
<b>IDAPA 56</b>	<b>Rangeland Resources Commission, Idaho</b>
<b>IDAPA 33</b>	<b>Real Estate Commission, Idaho</b>
<b>IDAPA 34</b>	<b>Secretary of State, Office of the</b>
<b>IDAPA 57</b>	<b>Sexual Offender Classification Board</b>
<b>IDAPA 49</b>	<b>Shorthand Reporters, Board of Certified</b>
<b>IDAPA 36</b>	<b>Tax Appeals, Board of</b>
<b>IDAPA 35</b>	<b>Tax Commission, State</b>
<b>IDAPA 54</b>	<b>Treasurer, Office of the State</b>
<b>IDAPA 21</b>	<b>Veterans Services, Division of</b>
<b>IDAPA 46</b>	<b>Veterinary Medical Examiners, Board of</b>
<b>IDAPA 47</b>	<b>Vocational Rehabilitation, Division of</b>
<b>IDAPA 37</b>	<b>Water Resources, Department of</b>
<b>IDAPA 42</b>	<b>Wheat Commission</b>

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2008-02**

**AUTHORIZING THE TRANSFER OF FUNDS TO THE DISASTER EMERGENCY ACCOUNT**

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*WHEREAS, tremendous financial obligations and expenses have been incurred by various departments, agencies, and counties in responding to and assisting in efforts to deal with the extreme threat to public safety, health, property and the environment posed by declared disaster emergencies in Idaho; and*

*WHEREAS, all funds in the Disaster Emergency Account created by title 46, section 1005A of the Idaho Code have or soon will be expended; and*

*WHEREAS, funds in the General Fund are available to transfer to the Disaster Emergency Account under the requirements set forth in 46-1005A(2)(b); and*

*WHEREAS, it is my judgment, as Governor of the State of Idaho, that any moneys transferred from the General Fund up to the limits provided below will not be required to support the current year's appropriations.*

*NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho do hereby order as follows:*

- 1. The State Controller is directed to transfer money from the General Fund to the Disaster Emergency Account in such amount and at such times as directed by me or my designee, the Administrator of the Division of Financial Management. In no event shall more than 3.3 million dollars (\$3,300,000) be transferred for the purposes of this executive order from the General Fund to the Disaster Emergency Account.*
- 2. In no event may the revenues made available under this Executive Order exceed one percent (1%) of the annual appropriation of the General Fund Account moneys for this fiscal year.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 30th day of May, in the year of our Lord two thousand and eight, and of the independence of the United States of America the two hundred thirty-second and of the Statehood of Idaho the one hundred eighteenth.*

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**C.L. "BUTCH" OTTER  
GOVERNOR**

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**BEN YSURSA  
SECRETARY OF STATE**

## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.03.03 - RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION

#### DOCKET NO. 02-0303-0801

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-3421, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Amend the Rules Governing Pesticide and Chemigation Use and Application to add a reference to the Code of Federal Regulations regarding pesticide containment requirements. Changes to the Code of Federal Regulations now require inspections of pesticide producing establishments, pesticide dealers and professional applicators to ensure that they are in compliance with federal pesticide containment requirements. This addition will allow the inspections to be completed with state credentials and reviewed by state officials. Pre-registration requirements for unusable pesticide collections are no longer required and will be deleted.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** 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 resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule incorporates by reference a federal rule that cannot be changed or revised.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact George Robinson, Ag Section Manager at (208) 332-8593.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 19th day of June, 2008.

Brian Oakey, Deputy Director  
Idaho State Department of Agriculture  
P.O. Box 790  
Boise, ID 83701  
Ph.: 208-332-8500  
Fax: 208-334-2170

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0303-0801

**007. INCORPORATION BY REFERENCE.**

**01. Incorporated Document.** IDAPA 02.03.03 incorporates by reference 40 CFR Part 165 Subpart E - Standards For Pesticide Containment Structures, Sections 165.80 through 165.97 as published in the Federal Register, Volume 71, Number 158, on August 16, 2006. ( )

**02. Availability of Documents.** Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701 or through the U.S. Government Printing Office at the following web address: <http://www.gpoaccess.gov/index.html>. ( )

~~0078.~~ -- 049. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. LICENSING PROFESSIONAL APPLICATORS AND PESTICIDE DEALERS.**

**01. Demonstration of Competence.** (3-20-97)

**a.** Professional applicators shall not recommend the application or make an application of any pesticide for any purpose, unless they have demonstrated competence for that purpose, which competence must be demonstrated by passing Department examinations and becoming licensed in the appropriate categories listed in Subsection 100.02. (3-20-97)

**b.** An applicant shall demonstrate competency in the following areas: (3-20-97)

**i.** Labels and labeling, including terminology, instructions, format, warnings and symbols. (3-20-97)

**ii.** Safety factors and procedures, including protective clothing and equipment, first aid, toxicity, symptoms of poisoning, storage, handling, transportation and disposal. (3-20-97)

**iii.** Laws, rules, and regulations governing pesticides. (3-20-97)

**iv.** Environmental considerations, including the effect of climate and physical or geographical factors on pesticides, and the effects of pesticides on the environment, and the animals and plants living in it. (3-20-97)

**v.** Mixing and loading, including interpretation of labels, safety precautions, compatibility of mixtures, and protection of the environment. (3-20-97)

**vi.** Methods of use or application, including types of equipment, calibration, application techniques, and prevention of drift and other types of pesticide migration. (3-20-97)

**vii.** Pests to be controlled, including identification, damage characteristics, biology and habitat. (3-20-97)

**viii.** Types of pesticides, including formulations, mode of action, toxicity, persistence, and hazards of use. (3-20-97)

**ix.** Chemigation practices involving the application of chemicals through irrigation systems, calibration, management, and equipment requirements. (4-5-00)

**x.** For use of the Livestock Protection Collar (LPC), in addition to the requirements of Subsection 100.01.b.i. through 100.01.b.viii., professional applicators shall have training in and knowledge of the following: (3-19-99)



- (1) Characteristics and habits of predatory animals, and particularly, coyotes. (3-19-99)
  - (2) Properties of the collars and of Sodium Fluoroacetate (Compound 1080). (3-19-99)
  - (3) Recordkeeping requirements set forth in Subsection 150.01 that will additionally include a record of each animal found poisoned or suspected of having been poisoned as a result of the use of Compound 1080, including target and non-target species. (3-19-99)
  - (4) The requirement for immediate reporting of suspected poisonings of non-target species and suspected poisonings of humans or domestic animals by the use of Compound 1080 to the United States Environmental Protection Agency (US EPA) and the Idaho State Department of Agriculture (ISDA). (3-19-99)
  - (5) How to properly dispose of animal remains, vegetation, or soil contaminated by a punctured LPC. (3-19-99)
  - (6) Practical treatment of Compound 1080 poisonings in humans and domestic animals. (3-19-99)
  - (7) Safe handling, attachment, and storage of LPC collars. (3-19-99)
  - (8) The requirement to post and maintain bilingual (English/Spanish or other second language appropriate for the region) signs at logical points of access to areas where LPCs are in use. (3-19-99)
  - (9) The requirement to perform inspections once every week to ensure that collars in use are accounted for, properly positioned, and intact. (3-19-99)
  - (10) Knowledge of alternative controls of predation. (4-5-00)
- xi. For use of the LPC, in addition to the requirements of Subsections 100.01.b.i. through 100.01.b.x., professional applicators shall have training in and the ability to: (3-19-99)
- (1) Recognize potential hazards to humans, domestic animals, and non-target wildlife from the use of the LPC. (3-19-99)
  - (2) Read and understand the labeling specific to the LPC. (3-19-99)
  - (3) Recognize general symptoms of poisoning by Compound 1080 in humans and domestic animals and take appropriate action. (3-19-99)
  - (4) Recognize where the LPC can be used safely and effectively and, conversely, where alternative methods of control would be more appropriate. (3-19-99)
  - (5) Assess damaged LPCs to determine which can be repaired and which must be disposed of properly. (3-19-99)
  - (6) Properly dispose of the LPCs. (3-19-99)
- 02. Certification.** A person shall be certified by passing Department examinations with a minimum of seventy percent (70%) in the applicable pesticide categories ~~of pesticides they apply.~~ (3-20-97)( )
- a.** Professional applicators shall be certified and licensed in one (1) or more of the following categories: (3-20-97)
- i. Law and Safety (LS). This shall include general knowledge of pesticides including proper use and disposal, product characteristics, first aid, labeling, and laws. Certification in this category is required when certifying in Subsections 100.02.a.ii. through 100.02.a.ix. (3-20-97)
  - ii. Agriculture. For persons conducting field crop applications. Agriculture Herbicide (AH).

Certification in this category shall also certify a person to make herbicide applications in rights-of-way, forests, and rangelands. Agriculture Insecticide/Fungicide (AI). Certification in this category shall also certify a person to make insecticide/fungicide applications in rights-of-way, forests, and rangelands. Soil Fumigation (SF). (4-5-00)

iii. Forest Environment (FE). For U.S. Forest Service and Bureau of Land Management personnel, contractors, and private industry personnel who control pests in forests and on rangelands. (3-20-97)

iv. Right-of-Way Herbicide (RW). For railroads, highway departments and others, for roadside weed control, soil sterilant herbicides, and weed control on public lands (non-crop). Certification in the Agricultural Herbicide category shall exempt the applicant from the need to certify in this category. (3-20-97)

v. Public Health Pest (PH). For abatement districts and others controlling mosquitoes and other public health pests. (3-20-97)

vi. Livestock Pest Control (LP). For persons treating livestock pests. (3-20-97)

vii. Ornamental Herbicide (OH). For persons conducting outside urban or residential herbicide applications, with the exception of soil sterilant applications (see Subsection 100.02.a.iv.). Ornamental Insecticide/Fungicide (OI). For persons doing outside urban or residential insecticide and fungicide applications, including exterior applications to residential, urban or commercial buildings, excluding structural destroying pests (see Subsection 100.02.a.ix.). (4-5-00)

viii. General Pest Control Operations (GP). For persons controlling pests in and around residential, commercial, or other buildings, excluding structural destroying pests. (3-20-97)

ix. Structural Destroying Pest (SP). For persons involved in the control of pests which destroy wooden structures, such as bridges, houses, offices, and warehouses. (3-20-97)

x. General Vertebrate Control (GV). For Wildlife Services (WS) personnel of the United States Department of Agriculture-Animal and Plant Health Inspection Service, for controlling vertebrates such as rodents, predators, and birds. (4-5-00)

xi. Rodent Control (RC). For rodent districts and others, for the control of field rodents. Certification in the General Pest Control category shall exempt the applicant from the need to certify in this category. (3-20-97)

xii. Aquatic Weed and Pest Control (AW). For irrigation districts, canal companies and others, for weed and pest control on aquatic sites. (4-5-00)

xiii. Seed Treatment (ST). For persons doing treatments to protect seeds used for plant reproduction. (3-20-97)

xiv. Commodity Pest Control (CP). For persons controlling pests in stored commodities. (3-20-97)

xv. Potato Cellar Pest Control (PC). For persons who apply sprout inhibitors in potato cellars. (3-20-97)

xvi. Wood Preservative (WP). For persons who apply wood preservatives. (3-20-97)

xvii. Pest Control Consultant-Statewide (SW). For persons who make recommendations or supply technical advice concerning the use of any pesticide for agricultural purposes. (3-20-97)

xviii. Demonstration and Research (DR). For persons who apply or supervise the use of restricted use pesticides at no charge to demonstrate the action of the pesticide or conduct research with restricted use pesticides. A person shall be eligible to license in this category by passing the Pest Control Consultant examination. (3-20-97)

xix. Chemigation (CH). For persons who apply chemicals through an irrigation system, excluding Aquatic Weed and Pest Control applicators (see Subsection 100.02.xii.). (4-5-00)

xx. Livestock Protection Collars (LPC). For use of Livestock Protection Collars (LPC) containing the restricted use pesticide Compound 1080 to control predatory coyotes. (3-19-99)

b. Pesticide Dealers shall be certified and licensed in any category listed in Subsection 100.02 that pertains to the types of restricted use pesticides sold or distributed. (3-23-98)

c. Persons with an active license category on June 30, 1996, shall retain said category under the rules which became effective on July 1, 1996, until the expiration of the certification period or suspension of the license by the Department. (3-23-98)

d. Mixer-Loaders. Effective December 31, 1998, mixer-loader licenses issued by the Department shall expire. No person shall act as a mixer-loader for a professional applicator without first obtaining annual training. (3-23-98)

i. Training shall be conducted and certified by the professional applicator who employs the mixer-loader. Certification of training shall be on a form prescribed by the Department and must include the signatures of both the mixer-loader and the professional applicator providing the training. (3-23-98)

ii. Training shall include areas relevant to the pesticide mixing and loading operation and instruction on the interpretation of pesticide labels, safety precautions, first aid, compatibility of mixtures, and protection of the environment. (3-23-98)

iii. Employers of mixer-loaders shall comply with federal and state laws related to hazardous occupations and shall provide and ensure the use of personal protective equipment required in the label directions. (3-23-98)

**03. Department Examination Procedures. (3-20-97)**

a. Examinations shall be administered by a designated agent. (3-20-97)

b. To pass a Department examination, professional applicators and pesticide dealers shall obtain a score of seventy percent (70%) or higher. (3-23-98)

c. Payment of examination fees shall be received by the Idaho Department of Agriculture before examination results may be released. (3-20-97)

d. A minimum waiting period of one (1) week shall be required before an applicant may retake an examination. (4-6-05)

**04. Licensing Periods and Recertification.** Beginning August 31, 2000, Pesticide Dealer licenses shall expire on August 31, of even numbered years and have a twenty-four (24) month duration. A Pesticide Dealer License application form shall accompany each new license or license renewal request. Professional applicator licenses shall be renewed by satisfying the recertification provisions of this section. Licenses belonging to professional applicators with last names beginning with A through L, inclusive, shall expire on the last day of the year in every odd-numbered year, and licenses belonging to professional applicators with last names beginning with M through Z, inclusive, shall expire on the last day of the year in every even-numbered year. Any professional applicator with less than thirteen (13) months in the licensing period shall not be required to obtain recertification credits during the initial licensing period. The recertification period for professional applicators shall be concurrent with their two (2) year licensing period. Recertification requirements may be accomplished by complying with either Subsection 100.04.a. or 100.04.b. (4-5-00)

a. A person shall accumulate recertification credits by attending Department-accredited pesticide instruction seminars. (3-20-97)

i. A minimum of fifteen (15) credits shall be earned by a professional applicator during each recertification period. (3-23-98)

ii. A completed request for accreditation of a seminar shall be received by the Department not less than thirty (30) days prior to the scheduled seminar. Such a request shall be submitted on a form prescribed by the Department. Under exceptional circumstances, as described in writing by the person requesting accreditation, the thirty (30) day requirement may be waived. (3-20-97)

iii. Credit will be given only for those parts of seminars that deal with pesticide subjects as listed in Subsection 100.01.b. No credit will be given for training given to persons to prepare them for initial certification. (3-20-97)

iv. The number of credits assigned in advance for a seminar, or a part of a seminar, shall be tentative, and may be revised by the Department if it is later found that the training does not comply with Subsection 100.04.a.iii. (3-20-97)

v. Effective July 1, 1998, a recertification credit shall be based upon one (1) credit for each one (1) hour of instruction, as described in Subsection 100.04.a.iii. Should an applicator's recertification period include credits earned prior to July 1, 1998, those credits based on one hundred fifty (150) minutes of instruction shall be converted to three (3) credits for recertification purposes. (3-23-98)

vi. Verification of attendance at a seminar shall be accomplished by validating the attendee's pesticide license, using a stamp, sticker, or other method approved by the Department. A designated agent shall ensure that such attendance records are properly completed. Verification of attendance must be submitted with the license renewal application. (3-20-97)

vii. If a person has accumulated more than fifteen (15) credits during the recertification period, the excess credits may not be carried over to the next recertification period. (3-23-98)

viii. Upon earning the recertification credits as described above, a person shall be considered by the Department to be recertified for the next recertification period corresponding with the next issuance of a license. (3-20-97)

**b.** A person shall pass the Department's recertification examinations for all categories in which a person intends to license. (3-20-97)

i. Recertification examinations may be taken by a professional applicator beginning the thirteenth month of the recertification period. (3-23-98)

ii. The examination procedures as outlined in Subsection 100.03 shall be followed. (3-23-98)

iii. In addition to examinations for categories listed under Subsections 100.02.a.ii. through 100.02.a.ix., a person must also pass a Law and Safety recertification examination. (3-23-98)

iv. Recertification shall not be achieved by passing an entry-level examination. (3-20-97)

v. Upon passing the recertification examination(s), a person shall be considered by the Department to be recertified for the next recertification period. (3-20-97)

**c.** Any person who fails to accumulate the required recertification credits prior to the expiration date of their license shall be required to pass the appropriate recertification examination(s) before being licensed. (3-20-97)

**05. Licensed Professional Applicator.** Only a licensed professional applicator shall operate or supervise the operation of commercial application equipment by being present during the time of operation. (3-20-97)

**06. Interim Exemption from Pesticide Dealer Licensing and Recordkeeping.** Until such time as the director promulgates specific rules pertaining to distribution of general use pesticides (GUPs), persons selling only

GUPs shall not be required to obtain a pesticide dealer license or maintain distribution records of these products. (3-30-01)

**(BREAK IN CONTINUITY OF SECTIONS)**

**850. UNUSABLE PESTICIDES COLLECTION AND DISPOSAL.**

**01. Authority.** The Director of the Idaho Department of Agriculture or designated agent may, if deemed necessary for the protection of the environment, take possession and dispose of canceled, suspended, or otherwise unusable pesticides. (3-20-97)

**02. Participant Transfer of Product Ownership.** Persons interested in transferring the ownership of their unusable pesticide products to the Department shall: (3-20-97)

~~a. Preregister the product on a form prescribed by the Department. (3-20-97)~~

~~b<sub>a</sub>.~~ Follow all applicable United States Department of Transportation regulations in the handling, loading, securing and transporting of their products. (3-20-97)

~~e<sub>b</sub>.~~ Over-pack all torn or leaky containers to prevent a release of product into the environment during transport. (3-20-97)

~~d<sub>c</sub>.~~ Sign a release, transferring the ownership of the product to the Department. (3-20-97)

~~e<sub>d</sub>.~~ Comply with all applicable federal, state and local laws, regulations and ordinances. (3-20-97)

**03. Department Possession for Disposal.** In order to take possession and dispose of unusable pesticide products, the Department shall: (3-20-97)

~~a. Preregister participants in the area where the collection site is located. (3-20-97)~~

~~b. Notify preregistered participants of pesticide products approved for collection and disposal. (3-20-97)~~

~~e<sub>a</sub>.~~ Secure appropriate collection site(s) in cooperation with local government and other organizations. (3-20-97)

~~e<sub>b</sub>.~~ Obtain an Environmental Protection Agency identification number as a hazardous waste generator. (3-20-97)

~~e<sub>c</sub>.~~ Provide and ensure the use of personal protective equipment for Department employees. (3-20-97)

~~f<sub>d</sub>.~~ Ensure that workers unload chemicals from participant's vehicle only in an area developed to contain possible spills. (3-20-97)

~~g<sub>e</sub>.~~ Sign a transfer of ownership, releasing the participant of the product. (3-20-97)

~~h<sub>f</sub>.~~ Transfer the unusable pesticide products as hazardous waste to a hazardous waste contractor(s) for transport and disposal. (3-20-97)

~~i<sub>g</sub>.~~ Comply with all applicable federal, state and local laws, regulations and ordinances. (3-20-97)

**04. Contract Transport and Disposal.** The contractor(s) providing for the transport and disposal of the hazardous waste shall: (3-20-97)

- a.** Provide a representative to participate in the collection site evaluation and selection process. (3-20-97)
- b.** Prepare the selected site collection area in such a manner as to contain possible spills. (3-20-97)
- c.** Certify to the Department that their employees handling the hazardous waste materials meet Occupational Safety and Health Administration safety and training requirements. (3-20-97)
- d.** Certify to the Department that their employees handling or transporting the hazardous waste materials meet United States Department of Transportation training requirements. (3-20-97)
- e.** Provide and ensure the use of personal protective equipment for their employees during collection events. (3-20-97)
- f.** Overpack the hazardous waste materials as required by the disposal facility and the United States Department of Transportation. (3-20-97)
- g.** Obtain and provide the Department with written approval for hazardous waste acceptance from the treatment, storage and disposal facility prior to the collection. (3-20-97)
- h.** Provide the manifest forms, labels and markings for the overpacked containers and provide the placards for the commercial hazardous waste transport vehicles. (3-20-97)
- i.** Label, manifest, mark, and placard the load for proper transportation. (3-20-97)
- j.** Transport hazardous waste materials to the approved disposal site(s). (3-20-97)
- k.** Certify to the Department that the commercial hazardous waste transporter: (3-20-97)

  - i. Is registered through the Environmental Protection Agency and possesses an Environmental Protection Agency identification number. (3-20-97)
  - ii. Is registered through the Environmental Protection Agency in each state through which the hazardous waste is transported. (3-20-97)
  - iii. Is registered with the United States Department of Transportation, Research and Special Programs Administration to transport hazardous waste. (3-20-97)
  - iv. Has obtained an Idaho Department of Transportation hazardous waste trip permit and hazardous materials endorsement. (3-20-97)
  - v. Has obtained a satisfactory safety rating from the United States Department of Transportation. (3-20-97)
- l.** Perform a final cleanup in such a manner as to ensure that the collection site is returned to its original condition. (3-20-97)
- m.** Provide complete documentation of collections, transportation and disposal to the Department in a timely manner. (3-20-97)
- n.** Comply with all applicable Federal, State and local laws, regulations, and ordinances. (3-20-97)

## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-0801

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-2710, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This change will update the incorporation by reference section to reflect the 2009 edition of the Official Publication of the Association of American Feed Control Officials (AAFCO) usually published in January or February of each year. This is a standard reference manual for feed control officials for the registration of animal feeds. It provides for consistency in the definition of feed ingredients and registration policies concerning feeds between states and the U.S. Food and Drug Administration when feeds are being registered.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** 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 resulting from this rulemaking:

There is no fiscal impact with the adoption of this rule change. This is a dedicated fund program.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simplicity of the changes.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Michael E. Cooper, Bureau Chief at (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 19th day of June, 2008.

Brian J. Oakey, Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701  
Phone: (208) 332-8500  
Fax: (208) 334-2170

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0602-0801

**004. INCORPORATION BY REFERENCE.**

Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.02 incorporates by reference: (3-30-07)

**01. The Association of American Feed Control Officials (AAFCO) Official Publication.** The Terms, Ingredient Definitions and Policies as published in the “2008~~9~~ Official Publication” of AAFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. (~~4-2-08~~)( )

**02. The Merck Index.** The “2006 Merck Index,” 14th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. (3-30-07)



**IDAPA 02 - DEPARTMENT OF AGRICULTURE**  
**02.06.12 - RULES PERTAINING TO THE IDAHO FERTILIZER LAW**  
**DOCKET NO. 02-0612-0801**  
**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-604, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This change will update the incorporation by reference section to reflect the 2009 edition of the Official Publication of the Association of American Plant Food Control Officials (AAPFCO) usually published in January or February of each year. These are standard reference manuals for fertilizer control officials for the registration of fertilizers. They provide for consistency in the definitions of chemicals, fertilizer ingredients, terms, and policies concerning fertilizer registration between states.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** 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 resulting from this rulemaking:

There is no fiscal impact with the adoption of this rule change.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simplicity of the changes.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Michael E. Cooper, Bureau Chief at (208) 332-8620.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 19th day of June, 2008.

Brian J. Oakey, Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701  
Phone: (208) 332-8500  
Fax: (208) 334-2170

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0612-0801**

**004. INCORPORATION BY REFERENCE.**

Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.12 incorporates by reference: (3-30-01)

**01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication.** The Terms, Ingredient Definitions, and Policies, as published in the "200~~89~~ Official Publication" of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder; or  
(~~4-2-08~~)( )

**02. The Merck Index.** The "2006 Merck Index," 14th Edition as published by Merck Research Laboratories Division of Merck & Co., Incorporated. (4-2-08)

## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.06.18 - RULES GOVERNING MINT ROOTSTOCK AND CLONE PRODUCTION

#### DOCKET NO. 02-0618-0801 (FEE RULE)

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is June 1, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 22-702 and 22-2006, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Mint Commission and industry representatives have requested that the Department change the time frame for the field inspections and triple the inspection rate from every thirty (30) rows to every ten (10) rows to provide better assurance that regulated pests and diseases are not present.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(a and c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The mint industry is concerned that the current inspection rate of every 30 rows is insufficient to detect mint diseases, such as Verticillium wilt. They request that the rate be tripled to every 10 rows and be conducted later in the growing season. The mint industry would like to have the new inspection criteria in place for the 2008 season.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Application for field inspection will increase from \$3 to \$5. The per acre inspection fee will increase from \$5 to \$15 per acre due to the increased amount of time that will be necessary to conduct inspections under the new time frame and procedures. Expected income will be an additional \$5,400 from the fee increase.

**FISCAL IMPACT:** 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:

This is a dedicated fund program and will not impact the General Fund.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking was requested by the Mint Commission and industry representatives. Since this change affects very few growers, informal negotiated rule making was held on January 4, 2008, with members of the Mint Commission and Industry. These temporary and proposed rules are the outcome of that meeting.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Michael E. Cooper, Bureau Chief at (208) 332-8620 or Garry West, Program Manager at (208) 736-2195.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 19th day of June, 2008.

Brian J. Oakey, Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701  
Phone: (208) 332-8500  
Fax: (208) 334-2170

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0618-0801**

**200. INSPECTION PROCEDURES.**

**01. Inspection Requests.** All requests for inspection shall be made prior to May 1 of each year on forms provided by the Department. (3-23-98)

**a.** Incomplete applications for inspection will not be accepted. (3-9-93)

**b.** No application for field inspection will be accepted after June 1 of each year except in the case of healthy clones. (3-23-98)

**02. First Field Inspection.** Mint fields submitted for inspection shall be inspected during active growth ~~in early June through mid July~~ prior to oil harvest, but not earlier than the third week of July and not later than the first week of August, by the Idaho Department of Agriculture inspector. The inspection protocol is as follows: ~~(3-23-98)~~(6-1-08)T

**a.** Inspectors shall walk the entire field at ~~thirty ten (310)~~ row intervals. ~~Inspector shall walk fields with less than thirty (30) rows at fifteen (15) row intervals.~~ (3-9-93)(6-1-08)T

**b.** The inspector shall wear rubber boots which are sanitized between each field. A ten percent (10%) solution of sodium hypochlorite shall be used to sanitize boots. (3-9-93)

**c.** The site of any sample taken for a Verticillium wilt determination shall be marked. (3-23-98)

**d.** Fields found with Verticillium wilt during the first inspection will result in the entire field being disapproved and permanently ineligible for certification purposes by the Department. (6-1-08)T

**03. Second Field Inspection.** Mint fields submitted for inspection shall be sampled after oil harvest or removal of foliage in early to mid September for the presence of the mint root borer. The sampling protocol is as follows: ~~(3-23-98)~~(6-1-08)T

**a.** Three (3) samples per five (5) acres will be collected. (3-23-98)

**b.** Sampling sites shall include areas of plant stress. (3-9-93)

**c.** In each sampling site one (1) square foot samples of mint roots and two (2) to three (3) inches of soil shall be selected. (3-9-93)

**d.** The mint roots and the soil in each sample shall be examined for evidence of regulated pests. (3-9-93)

- e. The site of any sample taken will be appropriately marked. (3-23-98)
- f. Fields found with Verticillium wilt during the second inspection will result in the entire field being disapproved by the Department and permanently ineligible for certification purposes, by the Department. (3-23-98)
- g. Fields with stem borer or other insects without control options (i.e., stem borer), will be disapproved by the Department for certification but, if proven clean at a later date, could again be considered for certification. (3-23-98)
- 04. Notification of Infestation.** The Idaho Department of Agriculture shall notify the grower immediately upon the completion of any test results for regulated pest(s). (3-23-98)
- 05. Issuance of Certified Defined Generation and In-State Defined Generation Transfer Permits.** (9-1-94)
- a. Restricted area as defined in Subsection 100.02: a certified defined generation transfer permit with the parent rootstock number will be issued for rootstock that meets the following requirements: (9-1-94)
- i. Roots shall be grown in restricted areas. (3-23-98)
- ii. Field submitted and inspected per Subsections 200.01 through 200.04. (3-23-98)
- iii. Zero (0) tolerance for regulated disease(s), insect(s) without effective control options (i.e., stem borer), and noxious weed(s). (3-23-98)
- iv. Levels of mint root borer infestation will be listed in the transfer permit. (3-23-98)
- b. Commercial production area as defined in Subsection 100.01: an in-state defined generation transfer permit with the parent rootstock number and level of mint root borer infestation issued for rootstock that meets the following requirements: (3-23-98)
- i. Field submitted and inspected per Subsections 200.01 through 200.04. (3-23-98)
- ii. Zero (0) tolerance for regulated disease(s), insect(s) without effective control options (i.e., stem borer), and noxious weed(s). (3-23-98)
- iii. Levels of mint root borer infestation will be listed in the transfer permit. (3-23-98)
- 06. Exemptions -- Issuance of In-State Transfer Numbers.** (9-1-94)
- a. Restricted area as defined in Subsection 100.02: rootstock found to be infested with noxious weed(s), shall not be eligible for a certified defined generation transfer permit for the current year. The Department of Agriculture will issue an in-state transfer number to allow the grower to plant rootstock within their farm for the purpose of controlling the infestation. The field must be submitted for inspection per Subsections 200.01 through 200.04. If the rootstock is found to be free of the noxious weed(s), the rootstock will be eligible for a certified defined generation transfer permit with parent rootstock number. The eligible rootstock will be assigned a certified defined generation transfer permit with parent rootstock number corresponding to the next generation had it not been denied certification the previous year. Rootstock denied certification two consecutive years shall not be eligible for future certification. (3-23-98)
- b. Commercial production area as defined in Subsection 100.01: rootstock found to be infested with a noxious weed(s) or insect(s) shall not be eligible for an in-state defined generation transfer permit for the current year. The Department of Agriculture will issue an in-state transfer number to allow the grower to plant the rootstock within their farm for the purpose of controlling the infestation. The field must be submitted for inspection per Subsections 200.01 through 200.04. If the rootstock is found to be free from the noxious weed(s) the rootstock will be eligible for an in-state defined generation transfer permit with parent rootstock number. The eligible rootstock will be assigned an in-state defined generation transfer permit corresponding to the next generation had it not been denied certification

the previous year. Rootstock denied certification two consecutive years shall not be eligible for future certification. (3-23-98)

**07. Laboratory Tests.** In the event visual examination reveals evidence of a regulated pest, laboratory tests, if necessary to determine the causal organism, will be conducted by the Idaho Department of Agriculture laboratory on official samples in addition to the field inspection. In the case of a disagreement between the state Department of Agriculture and the interested party concerning the identity of the regulated pest in question, the state Department of Agriculture will submit an official sample to any lab of the University of Idaho, for a final determination. (3-23-98)

**08. Transfer Permits and Resale.** (3-9-93)

**a.** It shall be the responsibility of each grower producing certified or in-state defined generation mint rootstock originating within the state to obtain transfer permits from the Department prior to moving planting stocks for resale. (~~3-9-93~~)(6-1-08)T

**b.** Each time a transfer permit is issued, the Idaho Department of Agriculture will send a copy and/or notification to the office of the Idaho Mint Commission. (3-23-98)

**201. MOVEMENT OF FARM EQUIPMENT.**

Farm equipment, including but not limited to tillage equipment, planters and digging equipment moving from the infested area into the restricted area shall be clean and free of soil to the satisfaction of the Director or ~~his~~ the Director's designated agent. (~~9-1-94~~)(6-1-08)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. AUTHORITY TO ENTER, INSPECT, AND CONTROL REQUIREMENTS.**

**01. Agent Authorization.** The Idaho Director of Agriculture or ~~his~~ the Director's designated agents are authorized to enter and inspect any and all mint plantings in the restricted area and any and all mint plantings that have been submitted for inspection. (~~3-23-98~~)(6-1-08)T

**02. Submission for Inspection.** Additionally, all mint planted in the restricted area shall be submitted to the Idaho Department of Agriculture for annual inspection. (3-23-98)

**301. -- 349. (RESERVED).**

**350. PENALTY.**

**01. Penalty.** Any person violating the provisions of these rules shall be subject to the penalty provisions of Title 22, Chapters 7 and 20, Idaho Code. (5-3-03)

**02. Destruction of Rootstock.** Restricted area as defined in Subsection 100.02: any field of mint rootstock determined to be infected with a regulated pest including those without control options ~~shall~~ may be destroyed to eliminate the regulated pest by or at the expense of the grower or landlord. Except if the county, or any portion thereof, as determined by the Department, in which a field of mint rootstock determined to be infected with the regulated disease(s) or infested with insects without control options is to be made part of the commercial production area, then destruction of the field shall not be required. The method of destruction shall include but not be limited to uprooting to expose and desiccate the rootstocks. All destruction shall have been completed by November 1st of each year. (~~5-3-03~~)(6-1-08)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**450. FEES AND CHARGES.**

Under provisions of Title 22, Chapter 7, Idaho Code, the fees and charges for inspections, certificates, and permits under these rules shall be as follows: (7-1-93)

**01. Transfer ~~Certificates~~ Permits.** For in-state sale or movement of certified or in-state defined generation rootstock: ten dollars (\$10) per ~~certificate~~ permit. (7-1-93)(6-1-08)T

**02. Field Inspections.** (7-1-93)

**a.** Application for field inspection: ~~three~~ five dollars (\$~~35~~) per field. (7-1-93)(6-1-08)T

**b.** Field inspection, collection of samples and examination of samples shall be assessed at a rate of ~~five~~ fifteen dollars (\$15) per acre per inspection. (7-1-93)(6-1-08)T

**c.** Travel costs and lodging shall be charged according to established state rates and policy. (7-1-93)

**d.** Every effort shall be made to schedule field inspections to insure the most efficient use of travel time. Charges for travel time will be charged on a prorated basis when more than one (1) farm is inspected during a trip. (7-1-93)

## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.06.31- NOXIOUS WEED FREE FORAGE AND STRAW CERTIFICATION RULES

DOCKET NO. 02-0631-0801

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is June 16, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-2403, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

ISDA is a member of the North American Weed Management Association (NAWMA). NAWMA has Noxious Weed Free Forage and Straw inspection standards. ISDA successfully incorporated the NAWMA noxious weed free forage and straw inspection standards into IDAPA 02.06.31 on March 21, 2007. On September 9, 2007, NAWMA voted to change the certification marking, from special blue and orange colored twine to special purple and yellow colored twine. ISDA must now amend its rules to follow the national standard.

The majority of Idaho producers will be forced to mark noxious weed-free bales with bale tags rather than certified twine for the 2008 growing season. ISDA still possesses a small amount (25% of the twine needed for 2008) of the blue/orange twine which the US Forest Service will honor indefinitely, however, ISDA can't get any more of the blue/orange twine this year because it is made to order once a year and that deadline has passed. ISDA has secured a sufficient quantity of the new purple/yellow twine for 2008. The certification twine is preferred by Idaho growers because it saves them time and money over manually attaching bale tags to each bale.

An Idaho manufacturer of twice-compressed forage bales has asked ISDA to revise the section pertaining to the specifications of the compressed forage bale binding material. As it is currently written, the specifications are technically not possible to obtain. This revision will benefit the hay manufacturer and any others that chose to participate the same way it benefits the growers that use certified twine; less time and money is spent to mark products certified. The manufacturer has stated that without the revision he can't afford the labor (he did this for one season) to manually attach the certification tags. This revision will also benefit the consumer, because conventional bales of noxious weed free forage and straw are typically only available in the late summer and fall. The certified compressed forage bales will be available year round in retail feed stores.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1) (b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Compliance with deadlines in amendments to governing law or federal programs and conferring a benefit.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: None

**FISCAL IMPACT:** 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: None.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes were to conform with the national standards of the North American Weed Management Association approved on September 24, 2007 and revised on May 15, 2008. Informal negotiated rulemaking



discussions were held with County Weed Superintendents, growers and industry representatives between the above mentioned dates.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Dan Safford, Noxious Weed Program Specialist at (208) 332-8592.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 19th day of June, 2008.

Brian J. Oakey, Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790, Boise, Idaho 83701  
Phone: (208) 332-8500  
Fax: (208) 334-2170

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0631-0801**

**010. DEFINITIONS.**

The definitions found in Section 22-2402, Idaho Code, apply to this chapter. In addition, as used in this chapter:

(7-1-94)

**01. Agent.** Any instrumentality or entity authorized by the director of the department, and acting on behalf of the department, to administer the provisions of this rule. Any designated agent shall act in an official capacity for the department and under the supervision of the director of the department. The principal purpose of the agent is to establish, conduct, and maintain a uniform and reasonable system of inspection and certification of forage and straw crops to determine if such crops are noxious weed free. (3-19-07)

**02. Approved Inspector.** An individual who has been accredited by the department or by the department's agent in the noxious weed free forage and straw certification program. (3-19-07)

**03. Bale.** A mechanically compressed package of forage or straw bound by string or wire, or other binding material. (3-19-07)

**04. Bale Tag.** A tag or label which is attached to the string or wire, or other binding material of a bale of certified forage or straw, and identifies the bale as being certified noxious weed free. (3-19-07)

**05. Certificate of Inspection.** A record of inspection issued by an approved inspector that states the results of a field or commodity inspection. The certificate shall document that the inspected field or commodity is Idaho ~~s~~State ~~n~~Noxious ~~w~~Weed ~~f~~Free, North American Noxious Weed Free, or that the field or commodity contains noxious weeds. ~~(3-19-07)~~(6-16-08)T

**06. Certification.** The process whereby an approved inspector conducts field or commodity inspections to determine that the field or commodity is noxious weed free. (3-19-07)

**07. Certification Markings.** Bale tags, blue and orange colored twine, purple and yellow colored

twine, compressed forage bale binding material, and forage cubes/pellets container tags/labels. ~~(3-19-07)~~(6-16-08)T

**08. Certified Compressed Forage Bale Binding Material.** An ISDA approved binding material which is attached to a compressed forage bale of certified noxious weed free forage and identifies the bale as being certified ~~as to the~~ North American ~~Noxious Weed Free~~ Standards. ~~(3-19-07)~~(6-16-08)T

**09. Compressed Forage Bale.** A bale that has been twice compressed, once in the field by a forage baler and then recompressed a second time and bound by string, wire or other binding material. (3-19-07)

**10. Department.** The Idaho State Department of Agriculture. (3-19-07)

**11. Field.** The land on which a forage or straw crop is grown and is not divided by streams, public roads, other crops, or other barriers. (3-19-07)

**12. Field Certification Inspection.** An on-site inspection of forage or straw in the field, and areas adjacent to the field, for the presence of noxious weeds. The inspection shall be conducted prior to cutting or harvesting. (3-19-07)

**13. Forage.** Alfalfa, grain, and grass hay, and/or combinations of alfalfa, grain, or grass hay; the term “forage” includes forage cubes, compressed forage bales, and pellets. (3-19-07)

**14. Forage Cubes.** Forage that is harvested from a field certified to North American Standards and is mechanically compacted into wafers or cubes. (3-19-07)

**15. Forage Cube/Pellet Tag.** A tag, ~~or~~ label, ~~or~~ statement which is attached ~~to~~ or printed on a container of certified noxious weed free forage cubes or pellets, and identifies the container as being certified ~~as to the~~ North American ~~Noxious Weed Free~~ Standards. ~~(3-19-07)~~(6-16-08)T

**16. Idaho State Noxious Weed Free.** Forage and straw inspected for weeds designated by the director as noxious as defined in Section 22-2402(15), Idaho Code, and determined to be free of such weeds. (3-19-07)

**17. Idaho State Noxious Weed Free Standards.** Forage and straw that meets the requirements Idaho State Noxious Weed Free. (3-19-07)

**18. North American Noxious Weed Free.** Forage and straw inspected for, and determined to be free of, weeds designated as noxious by the director as defined in Section 22-2402(15) Idaho Code and noxious weeds listed on the North American Weed List. (3-19-07)

**19. North American Weed Free Forage Certification Program.** The North American Weed Management Association standard for forage certification. (3-19-07)

**20. North American Twine.** ~~Blue Purple~~ and ~~orange~~ yellow colored twine that is used to mark bales as certified to the North American ~~Weed Free Forage~~ Standards. ~~(3-19-07)~~(6-16-08)T

**21. North American Standards.** Requirements of the North American Weed Free Forage Certification Program. (3-19-07)

**22. Noxious Weed Free.** No noxious weeds with viable seed, injurious portions, or propagating parts were found during inspection procedures. (3-19-07)

**23. Official Sample.** A sample taken by an approved inspector. (3-19-07)

**24. Pellets.** Forage that is harvested from a field certified to North American Standards and is manufactured into an agglomerated feed, formed by compacting and forcing through die openings by a mechanical process. (3-19-07)

**25. Straw.** The dried stalks or stems remaining after grain is harvested. (3-19-07)

**26. Transit Certificate.** A document completed by an approved inspector to authorize the movement of noxious weed free certified forage bales or straw bales into or through areas which require noxious weed free forage and straw certification. The transit certificate must be in the possession of the transporter. If individual bales are tagged with an approved bale tag, a transit certificate is not required. (3-19-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. VOLUNTARY NOXIOUS WEED FREE FORAGE AND STRAW CERTIFICATION PROGRAM.**

**01. Purpose.** The noxious weed free forage and straw certification program is a voluntary program, the purpose of which is to provide a means for the inspection and certification of forage and straw as noxious weed free. The program will be managed by the department and may be implemented through an agent of the department. The program will allow for the transportation, possession, storage, and sale of forage and straw into and through states which place regulations and restrictions on such commodities. The program is intended to reduce the exportation, importation, growth, and spread of noxious weeds. (3-19-07)

**02. Certifying Authority.** The department or its agent is the certifying authority. The certifying authority shall appoint, as needed, approved inspectors throughout the state, who may issue certificates of inspection. (3-10-00)

**03. Certification Training.** The department shall determine minimum training and accreditation standards for approved inspectors. Training will be provided annually by the department or its agent. Attendance at annual training will certify accreditation for the inspector for that calendar year. Approved inspectors will be issued a certificate of training for the calendar year. Annual training shall include: (3-19-07)

- a. Field inspection techniques and procedures; (3-19-07)
- b. ISDA and North American Noxious weed list plant identification; (3-19-07)
- c. ISDA and North American certification standards and guidelines; (3-19-07)
- d. Knowledge of weed management, including: (3-19-07)
  - i. Burning; (3-19-07)
  - ii. Mowing, cutting or roguing; (3-19-07)
  - iii. Mechanical methods; and (3-19-07)
  - iv. Herbicides. (3-19-07)
- e. Inspection forms. (3-19-07)

**04. Certification Program.** (3-10-00)

- a. The department or its agent shall: (3-10-00)
  - i. Coordinate forage and straw inspections within the state; (3-10-00)
  - ii. Select, train, and supervise persons who serve as approved inspectors; (3-10-00)
  - iii. Issue certificates of inspection, transit certificates, North American Twine, forage cubes/pellets tags/labels, certified compressed forage bale binding material, and bale tags to qualifying participants; (3-19-07)

- iv. Maintain a record of inspections performed and certificates and tags issued; (7-1-94)
- b.** Under the direction of the department or its agent an approved inspector may perform inspections and issue certificates of inspection, transit certificates, North American Twine, forage cubes/pellets tags/labels, and bale tags within the state at cost. (3-19-07)
- 05. Application for Certification.** (7-1-94)
- a.** Application for certification inspection shall be made on forms available from ~~the~~ the department or its agent and submitted to the department or its agent. ~~(3-10-00)~~(6-16-08)T
- b.** An applicant's signature on the application for certification is verification of the accuracy of the information submitted, and signifies the applicant's intent to comply with the post-certification and distribution requirements. (3-10-00)
- 06. Field Inspection Procedures.** (7-1-94)
- a.** Forage or straw shall be inspected within ten (10) days prior to harvest in the field of origin for each field and cutting to be certified. (3-19-07)
- b.** Each field inspected shall be identified by the name of the owner and a field name or number. The certification inspection may be performed on an entire field or a portion of a field, if the portion is plainly marked and identified prior to inspection. (3-10-00)
- c.** Field inspections must take place prior to any operation that will limit the approved inspector's ability to properly inspect and certify the field. Fields that have been cut or harvested prior to inspection are ineligible for certification. (3-19-07)
- d.** There shall be a minimum of two (2) entry points per field. (3-19-07)
- e.** There shall be minimum of one (1) entry point per each ten (10) acres. (3-19-07)
- f.** Each point of entry shall be at least one-hundred fifty (150) feet into the field, and each additional one-hundred fifty (150) feet traveled shall constitute an entry point. Travel shall be uninterrupted, proceeding through the field being inspected. (3-19-07)
- g.** The entire field border shall be physically inspected. (3-19-07)
- h.** The field inspection will include all ditches, fence rows, roads, easements, rights-of-way, or buffer zones surrounding the field. (3-19-07)
- i.** Forage which contains any noxious weeds as identified in Section 22-2402(15) or noxious weeds listed on the North American Noxious Weed List, may be certified if the following requirements are met: (3-19-07)
- i.
- Field upon which the forage was produced was treated to prevent seed formation or seed ripening to the degree that there is no danger of dissemination of the seed, or any injurious portion thereof from such noxious weeds, or undesirable plant species, or the propagating parts of the plant are not capable of producing a new plant; (3-19-07)
- ii. Noxious weed(s) were treated not later than rosette to bud stage, or boot stage for grass species classified as noxious weeds, prior to cutting or harvesting; and (3-19-07)
- iii. Treatment method can include, but is not limited to burning, mowing, cutting or roguing, mechanical methods, or chemicals. (3-19-07)
- j.** An inspection certificate shall document that the above requirements have been met. (3-19-07)

**k.** Baling equipment must be cleaned of any noxious weeds prior to harvesting certified forage. If the baling equipment is not cleaned, the first three (3) small square bales or the first large round or square bale produced shall be considered non-certified. (3-19-07)

**l.** Interstate shipment of baled forage and straw shall be accompanied by an original transit certificate issued by the approved inspector in the county of origin. The storage area shall also be inspected and shall be free of noxious weeds. (3-19-07)

**m.** An approved inspector may not inspect fields of which said inspector has ownership or financial interest. (3-19-07)

**07. Certification Standards.** After completing an inspection, the approved inspector shall complete a certificate of inspection. (3-10-00)

**a.** If the field or commodity inspected is certified as North American Noxious Weed Free, the approved inspector shall issue a certificate of inspection for that harvest or cutting. If the field or commodity contains North American Noxious Weeds, but does not contain Idaho State noxious weeds, it may be certified as Idaho State noxious weed free, and such certification shall be noted on the certificate of inspection. (3-19-07)

**b.** If the field or commodity inspected is certified as noxious weed free, as defined in these rules, the approved inspector may also issue, upon request, any of the following documents: (3-19-07)

**i.** Transit certificates. (7-1-94)

**ii.** Bale tags. (7-1-94)

**iii.** North American Twine only if the field or commodity is certified as North American Noxious Weed Free. (3-19-07)

**iv.** Forage cube/pellet tag/labels only if the field or commodity is certified as North American Noxious Weed Free. (3-19-07)

**v.** Certified compressed forage bale binding material only if the field or commodity is certified as North American Noxious Weed Free. (3-19-07)

**c.** Certificates of inspection, transit certificates and bale tags shall be on forms prescribed by the department or its agent. (3-10-00)

**d.** ~~Certificates of inspection, transit certificates, North American Twine, North American Noxious Weed Free Forage cubes/pellets tags/labels, certified compressed forage bale binding material,~~ and bale tags must be purchased from the department or its agent. ~~(3-19-07)~~(6-16-08)T

**08. Copy of Inspections and a List of Approved Inspectors.** Upon request, the agent shall provide the department with a copy of certificates of inspections issued and a current list of approved inspectors. (3-10-00)

**09. Reciprocity.** Forage or straw certified under a reciprocal agreement between the department and another state, and certified as North American Noxious Weed Free according to the other state's approved certification standards, may be shipped into the state of Idaho and shall be considered to meet the requirements of the Idaho program. (3-19-07)

**10. Exports.** Certification under these rules does not qualify a commodity for export from the United States. Applications for certification for export should be made directly to the Division of Plant Industries within the department. (3-10-00)

**11. Voluntary Posting.** After certification, a producer may post signs, or other forms of notification, on the certified commodity indicating that the commodity is certified as noxious weed free. (3-10-00)

**12. Post-Certification and Distribution Requirements.** After a producer's commodity has been inspected and certified, the producer shall: (3-19-07)

**a.** Take reasonable and prudent steps to protect the certified commodity from contamination; (7-1-94)

**b.** Keep the certified commodity separated from all uncertified commodity; (3-10-00)

**c.** Attach bale tags, certified compressed forage bale binding material, or North American Twine to each bale of certified forage or straw intended for sale as noxious weed free forage or straw prior to the bales leaving the producers stack yard or storage area; and (3-19-07)

**d.** Attach cube/pellet tag/label to each container of certified forage cubes/pellets intended for sale as noxious weed free forage prior to the containers leaving the producer's facility. (3-19-07)

**e.** Provide the shipper, trucker, or transporter with the appropriate number of transit certificates. (3-10-00)

**13. Cancellation for Failure to Comply.** Any person who provides false information on an application for inspection or who fails to comply with the post-certification and distribution requirements may, upon order of the director, be suspended for a period of up to two (2) years from participating in the forage and straw certification program. (7-1-94)

**14. Enforcement and Cancellation.** Harvested lots of forage or straw from certified fields may be checked at any time by an approved inspector. Manufactured lots of forage cubes, pellets, and compressed forage bales may be checked at any time by an approved inspector. Evidence that forage, straw, forage cubes/pellets, or compressed forage bales are not from a certified field or that any lot has not been protected from contamination shall be cause for cancellation of certification. (3-19-07)

**15. Misuse of Transit Certificate and Certification Markings.** Using a transit certificate or certification marking for forage from a field that has not been certified shall constitute a violation of these rules. (3-19-07)

**16. Certification Fees.** A minimum of thirty dollars (\$30) per inspection shall be charged for up to ten (10) acres, and three dollars (\$3) per acre thereafter, for fields up to ninety-nine (99) acres. Fields that are one-hundred (100) acres or larger in size, the fee is three dollars (\$3) per acre for the first one-hundred (100) acres and two dollars (\$2) per acre thereafter. The agent is authorized to assess a general fee of thirty dollars (\$30) per year to recover overhead costs. The agent may waive the general fee if the applicant has already been assessed a similar fee for other types of crop inspections. (3-19-07)

**101. -- 149. (RESERVED).**

**150. NORTH AMERICAN NOXIOUS WEED LIST.**

<b>Common Name</b>	<b>Scientific Name</b>
Absinth wormwood	<i>Artemisia absinthium</i>
Bermudagrass	<i>Cynodon dactylon</i>
Buffalobur	<i>Solanum rostratum</i>
Canada thistle	<i>Cirsium arvense</i>
Common burdock	<i>Arctium minus</i>
Common crupina	<i>Crupina vulgaris</i>
Common tansy	<i>Tanacetum vulgare</i>

Common Name	Scientific Name
Dalmatian toadflax	<i>Linaria dalmatica</i>
Diffuse knapweed	<i>Centaurea diffusa</i>
Dyers woad	<i>Isatis tinctoria</i>
Field bindweed	<i>Convolvulus arvensis</i>
Hemp (marijuana)	<i>Cannabis sativa</i>
Henbane, Black	<i>Hyoscyamus niger</i>
Hoary cress	<i>Cardaria spp.</i>
Horsenettle	<i>Solanum carolinense</i>
Houndstongue	<i>Cynoglossum officinale</i>
Johnsongrass	<i>Sorghum halepense</i>
Jointed goatgrass	<i>Aegilops cylindrica</i>
Leafy spurge	<i>Euphorbia esula</i>
Matgrass	<i>Nardus stricta</i>
Meadow knapweed	<i>Centaurea pratensis</i>
Medusahead	<i>Taeniatherum caput-medusae</i>
Milium	<i>Milium vernale</i>
Musk thistle	<i>Carduus nutans</i>
Orange hawkweed	<i>Hieracium aurantiacum</i>
Oxeye daisy	<i>Chrysanthemum leucanthemum</i>
Perennial pepperweed	<i>Lepidium latifolium</i>
Perennial sorghum	<i>Sorghum almum</i>
Perennial sowthistle	<i>Sonchus arvensis</i>
Plumeless thistle	<i>Carduus acanthoides</i>
Poison hemlock	<i>Conium maculatum</i>
Puncturevine	<i>Tribulus terrestris</i>
Purple loosestrife	<i>Lythrum salicaria</i>
Quackgrass	<i>Agropyron repens</i>
Rush skeletonweed	<i>Chondrilla juncea</i>
Russian knapweed	<i>Centaurea repens</i>
Scentless chamomile	<del><i>Anthemis arvensis</i></del> <i>Matricaria perforata</i>
Scotch broom	<i>Cytisus scoparius</i>
Scotch thistle	<i>Onopordum acanthium</i>
Sericea Lespedeza	<i>Lespedeza cuneata</i>
Silverleaf nightshade	<i>Solanum elaeagnifolium</i>

Common Name	Scientific Name
Skeletonleaf bursage	<i>Ambrosia tomentosa</i>
Spotted knapweed	<i>Centaurea maculosa</i>
Squarrose knapweed	<i>Centaurea virgata</i>
St. Johnswort	<i>Hypericum perforatum</i>
Sulfur cinquefoil	<i>Potentilla recta</i>
Syrian beancaper	<i>Zygophyllum fabago</i>
Tansy ragwort	<i>Senecio jacobaea</i>
Toothed spurge	<i>Euphorbia dentata</i>
Wild oats	<i>Avena fatua</i>
Wild proso millet	<i>Panicum miliaceum</i>
Yellow hawkweed	<i>Hieracium pratense</i>
Yellow starthistle	<i>Centaurea solstitialis</i>
Yellow toadflax	<i>Linaria vulgaris</i>

~~(3-19-07)~~(6-16-08)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**250. CERTIFICATION MARKING.**

Each certified bale or container shall be marked by one (1) of the following: (3-19-07)

**01. North American Twine.** Only one (1) strand is required per bale. (3-19-07)

**02. Forage Tag.** The following information shall be shown on baled forage and straw:  
~~(3-19-07)~~(6-16-08)T

**a.** The words - “North American Weed Free Forage Certification Program” or “Idaho State Noxious Weed Free Forage & Straw Certification Program”;  
(3-19-07)

**b.** Bale tag serial number; (3-19-07)

**c.** County of origin identification; (3-19-07)

**d.** ISDA emblem; (3-19-07)

**e.** ISDA telephone number; and (3-19-07)

**f.** A statement that the product is “Certified to the North American Standards” or “Certified to the Idaho State Noxious Weed Free Standards.” (3-19-07)

**03. Forage Cube/Pellet Tag/Label.** Certification tags/labels shall be attached to or a statement with the following information shall be printed on each container of noxious weed free product: (3-19-07)

**a.** The words - “North American Weed Free Forage Certification Program”; (3-19-07)



- b.** ISDA forage manufacturer identification number; (3-19-07)
- c.** ISDA emblem; (3-19-07)
- d.** ISDA telephone number; and (3-19-07)
- e.** A statement that the product is “Certified to the North American Standards.” (3-19-07)

**04. Certified Compressed Forage Bale Binding Material.** The following information shall be printed in ~~blue~~ purple ink on ~~orange~~ yellow binding material. Two (2) consecutive vertical purple lines approximately one-eighth of an inch (1/8”) wide, spaced approximately one and one-quarter inches (1 1/4”) apart, placed before and after written text which includes the acronym “ISDA NWFFS” and can include the manufacturer’s name.

~~(3-19-07)~~(6-16-08)T

- ~~**a.** The words “North American Weed Free Forage Certification Program”;~~ ~~(3-19-07)~~
- ~~**b.** ISDA forage manufacturer identification number;~~ ~~(3-19-07)~~
- ~~**c.** ISDA emblem;~~ ~~(3-19-07)~~
- ~~**d.** ISDA telephone number; and~~ ~~(3-19-07)~~
- ~~**e.** A statement that the product is “Certified to the North American Standards.”~~ ~~(3-19-07)~~

## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.06.41 - RULES PERTAINING TO THE IDAHO SOIL AND PLANT AMENDMENT ACT OF 2001

#### DOCKET NO. 02-0641-0801

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-2204, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This change will update the incorporation by reference section to reflect the 2009 edition of the Official Publication of the Association of American Plant Food Control Officials (AAPFCO) usually published in January or February of each year. These are standard reference manuals for fertilizer control officials for the registration of soil and plant amendments. They provide for consistency in the definitions of chemicals, soil and plant amendment ingredients, terms and policies concerning soil and plant amendment registration between states.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** 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 resulting from this rulemaking:

There is no fiscal impact with the adoption of this rule change. This is a dedicated fund program.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simplicity of the changes.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Michael E. Cooper, Bureau Chief at (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 19th day of June, 2008.

Brian J. Oakey, Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701  
Phone: (208) 332-8500  
Fax: (208) 334-2170

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0641-0801

**004. INCORPORATION BY REFERENCE.**

Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.41 incorporates by reference: (4-6-05)

**01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication.**

The terms, ingredient definitions and policies as published in the "2008~~9~~ Official Publication" of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder.

~~(4-2-08)~~( )

**02. The Merck Index.** The "2006 Merck Index," 14th Edition, as published by Merck Research

Laboratories Division of Merck & Co., Incorporated. (4-2-08)

## **IDAPA 07 - DIVISION OF BUILDING SAFETY**

### **07.01.03 - RULES OF ELECTRICAL LICENSING AND REGISTRATION - GENERAL**

#### **DOCKET NO. 07-0103-0801**

#### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1003 and 54-1006, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking is intended to prevent the growing practice of unlicensed contractors advertising their services and holding themselves out to the public that they are available to perform electrical contracting services. The rule is being amended to include any person or entity that advertises electrical contracting services among those that are considered to be acting or attempting to act as an electrical contractor requiring a license.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** 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 resulting from this rulemaking: None.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of the proposed rule change.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 3rd day of July, 2008.

Steve Keys, Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St., Meridian, ID 83642  
Phone: (208) 332-8986 - Fax: (208) 855-2164

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#### **THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0103-0801**

#### **015. ELECTRICAL CONTRACTOR**

##### **01. Qualifications for Electrical Contractor.**

(4-7-91)

**a.** On and after July 1, 2008, except as hereinafter provided, any person, partnership, company, firm, association, or corporation shall be eligible to apply for an electrical contractor license upon the following requirements: (4-2-08)

**i.** Applicant shall have at least one (1) full-time employee who holds a valid master electrician license issued by the Electrical Bureau. Licensed electrical contractors who are current and active prior to July 1, 2008, shall not be required to have a master electrician as the supervising electrician until a new supervising electrician is designated. A master electrician license will be required for a new supervising electrician designated after July 1, 2008. (4-2-08)

**ii.** The master electrician shall be designated the supervising electrician and shall be available during working hours to carry out the duties of supervising, as set forth herein, and who will be responsible for supervision of electrical installations made by said company, firm, association, or corporation as provided by Section 54-1010, Idaho Code. (4-2-08)

**iii.** An individual electrical contractor may act as his own supervising master electrician upon the condition that he holds a valid master electrician license. (4-2-08)

**iv.** Applicant must pass a contractor examination administered by the Bureau or its designee. Any applicant which purports to be a non-individual (such as, corporation, partnership, company, firm, or association), must designate in writing an individual to represent the partnership, company, etc., for examination purposes. Any such designee shall be a full-time supervisory employee and may not represent any other applicant for an electrical contractor's license. (4-2-08)

**v.** Applicant shall provide proof of liability insurance to the Bureau in the amount of three hundred thousand dollars (\$300,000) from an insurance company licensed to do business in the state of Idaho. The liability insurance shall be in effect for the duration of the applicant's contractor licensing period. (4-2-08)

**vi.** Applicant shall provide to the Bureau proof of Idaho's worker's compensation insurance unless specifically exempt from Idaho law. Bureau will provide written confirmation of exemption status. (4-2-08)

**b.** Any person designated under Paragraph 015.01.a. of these rules, and the contractor he represents, shall each notify the Bureau in writing if the supervising master's working relationship with the contractor has been terminated. Each notice must be filed with the Bureau within ten (10) days of the date of termination. If the supervising master's relationship with the contractor is terminated, the contractor's license is void within ninety (90) days unless another supervising master is qualified by the Bureau. (4-2-08)

**02. Required Signatures on Application.** An application for an electrical contractor license shall be signed by the applicant or by the official representative of the partnership, company, firm, association, or corporation making the application. The application shall be countersigned by the supervising master electrician. (4-2-08)

**03. Electrical Contracting Work Defined.** An electrical contractor license issued by the Division of Building Safety must be obtained prior to acting or attempting to act as an electrical contractor in Idaho. (4-5-00)

**a.** Electrical contracting work includes electrical maintenance or repair work, in addition to new electrical installations, unless such work is expressly exempted by Section 54-1016, Idaho Code. (4-5-00)

**b.** Any person or entity providing performing or offering to provide perform electrical contracting services, including, but not limited to, advertising or submitting a bid shall be considered as acting or attempting to act as an electrical contractor and shall be required to be licensed. For the purposes of Section 015, advertising shall include, but not be limited to: newspaper, telephone directory, community flier ads or notices, telephone, television, radio, internet, business card, or door-to-door solicitations. (4-5-00)( )

**c.** Any person or entity, not otherwise exempt, who performs or offers to perform electrical contracting work, is acting as an electrical contractor, whether or not any compensation is received. (4-5-00)

**d.** Registered general contractors who submit a bid on a multi-trade construction project that includes

a licensed electrical contractor's pricing shall not be considered to be acting or attempting to act as an electrical contractor. ( )

**04. Previous Revocation.** Any applicant for an electrical contractor license who has previously had his electrical contractor license revoked for cause, as provided by Section 54-1009, Idaho Code, shall be considered as unfit and unqualified to receive a new electrical contractor license so long as such cause for revocation is continuing and of such nature that correction can be made by the applicant. (1-14-87)

**05. Reviving an Expired License.** Any applicant for an electrical contractor license who has allowed his license to expire and seeks to revive it under the provisions of Section 54-1013, Idaho Code, may be denied a license as unfit and unqualified if, while operating under the license prior to expiration, he violates any of the laws or rules applicable to electrical contractors. (4-1-91)

**06. Qualification and Duties for Supervising Journeyman or Master.** (4-2-08)

**a.** A master electrician shall not be considered as qualified to countersign an electrical contractor license application as the supervising master, nor shall said application be approved if he does countersign said application as the supervising master, if said master has had his Idaho electrical contractor license revoked for cause under Section 54-1009, Idaho Code. (4-2-08)

**b.** A supervising master shall not countersign for more than one (1) contractor. (4-2-08)

**c.** A journeyman who is a full time employee of a company, corporation, firm or association with an industrial account may sign as supervising journeyman for that industrial account in addition to signing as supervising journeyman for his own contractor's license so long as the journeyman is listed as the owner and complies with the provisions of Paragraphs 015.01.a. and 015.01.b. of these rules (7-1-97)

**d.** Duties include: assuring that all electrical work substantially complies with the National Electrical Code and other electrical installation laws and rules of the state, and that proper electrical safety procedures are followed; assuring that all electrical labels, permits, and licenses required to perform electrical work are used; assuring compliance with correction notices issued by the Bureau. (4-2-08)

**07. Failure to Correct Defects in Electrical Installations.** If a master countersigns an electrical contractor license application pursuant to Subsection 015.03 of these rules and thereafter willfully fails to correct defects in electrical installations he made or supervised, and such defects are within his power to correct and are not the fault of the contractor, then the Electrical Bureau shall have the power to suspend or revoke said master's license pursuant to Section 54-1009, Idaho Code. (4-2-08)

**08. Overcharging of Fees.** It shall be grounds for suspension or revocation of an electrical contractor license if he charges and collects from the property owner an electrical permit or inspection fee which is higher than the fee actually in effect at the time of such charging and collection, pursuant to the current Electrical Laws and Rules of the Division of Building Safety, Electrical Bureau, and the fee remitted by the contractor to the Bureau is less than the fee actually charged and collected by him. (4-6-83)

**09. Termination of Supervising Master or Contractor Designee.** (4-2-08)

**a.** Any person designated under Paragraph 015.09.a. of these rules, and the contractor he represents, shall each notify the Bureau in writing if the supervising master's working relationship with the contractor has been terminated. Each notice must be filed with the Bureau within ten (10) days of the date of termination. If the supervising master's relationship with the contractor is terminated, the contractor's license is void within ninety (90) days unless another supervising journeyman is qualified by the Bureau. (4-2-08)

**b.** Any person designated under Paragraph 015.09.a. of these rules, and the contractor he represents, shall each notify the Bureau in writing if the designee's working relationship with the contractor has been terminated. Each notice must be filed with the Bureau within ten (10) days of the date of termination. If the designee's relationship with the contractor is terminated, the contractor's license is void within ninety (90) days unless another duly qualified designee passes the electrical contractor's examination on behalf of the contractor. (9-1-94)

**IDAPA 07 - DIVISION OF BUILDING SAFETY**  
**07.02.04 - RULES GOVERNING PLUMBING SAFETY INSPECTIONS**  
**DOCKET NO. 07-0204-0801**  
**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2606, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008. The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule changes will allow for the use of a single sticker for multiple inspections, from multiple trades, and will remove the color limitation from the Plumbing Bureau, eliminating unnecessary expense associated with multicolored inspection tags and allowing flexibility in the placement of the tags.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** 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 resulting from this rulemaking: None.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of the proposed rule change.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 26th day of June, 2008.

Steve Keys, Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, ID 83642  
Phone: (208) 332-8986  
Fax: (208) 855-2164

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0204-0801**

**011. REQUIRED INSPECTIONS.**

**01. Ground Work Inspection Tags.** ~~Yellow~~ For ground work to be covered, with acceptance by the

inspector. A ~~yellow~~ tag will be attached in a prominent location, preferably to a vertical riser. (~~8-25-88~~)( )

**02. Rough-In Inspection Tags.** ~~Green:~~ For rough-in, prior to covering or concealing with acceptance by the inspector. A ~~green~~ tag will be ~~attached to the sink waste pipe~~ placed in a prominent location. (~~6-4-76~~)( )

**03. Final Inspection Tags.** ~~Blue:~~ For final, attached when the plumbing as specified on the permit is complete and conforms to the requirements of the code. (~~6-4-76~~)( )

**04. Inspection Tags for Unacceptable Plumbing.** Red: Not acceptable, and when attached to the plumbing system means that the plumbing is not acceptable and that corrections will be required. Also, a reinspection and reinspection fee shall be required. (6-4-76)



## IDAPA 07 - DIVISION OF BUILDING SAFETY

### 07.03.01 - RULES OF BUILDING SAFETY

DOCKET NO. 07-0301-0801

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is June 17, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 39-4107 and 39-4109, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Effective March 30, 2007, the Building Code Board's rulemaking adopting the 2006 editions of three international building codes was approved by the Idaho Legislature. However, the 2007 Legislature also passed House Bill No. 137 that inadvertently re-established the 2003 versions of two of these codes in Section 39-4109, Idaho Code. Unfortunately, this discrepancy was not caught at the time and both the state and local jurisdictions have been applying the 2006 editions of all three codes in reliance upon the Legislature's approval of the 2007 rulemaking. Interested parties attempted to address this situation legislatively during the 2008 session; however, the limited timeframe available precluded a solution. To address this issue until consensus legislation can be brought before the 2009 Legislature, the Board needs to exercise its statutory authority pursuant to Section 39-4107(1), Idaho Code, to readopt these later editions of two of the international codes, effective immediately. Furthermore, the rulemaking is necessary to adopt the 2006 International Existing Building Code, thereby updating this code and correcting an inaccurate statutory reference to the "existing 2003 International Building Code." This rule adopts and incorporates by reference the 2006 editions of the International Building Code, International Residential Code and International Existing Building Code.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This temporary rulemaking is necessary to protect the public health, safety, and welfare.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** 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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 3rd day of July, 2008.

Steve Keys, Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, ID 83642  
Phone: (208) 332-8986  
Fax: (208) 855-2164

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0301-0801**

**004. ADOPTION AND INCORPORATION BY REFERENCE.**

Under the provisions of Section 39-4109, Idaho Code, the following codes are hereby adopted and incorporated by reference into IDAPA 07.03.01, "Rules of Building Safety," Division of Building Safety. Copies of these documents may be reviewed at the office of the Division of Building Safety. The referenced codes may be obtained from International Code Council, 5360 Workman Mill Road, Whittier, California 90601-2298 or <http://www.iccsafe.org>.

~~(3-30-07)~~(6-17-08)T

- |                       |   |                                 |
|-----------------------|---|---------------------------------|
| <b>01.</b>            | <b>International Building Code.</b> 2006 Edition.                       | <del>(3-30-07)</del> (6-17-08)T |
| <b>02.</b>            | <b>International Residential Code.</b> 2006 Edition.                    | <del>(3-30-07)</del> (6-17-08)T |
| <del><b>03.</b></del> | <del><b>International Energy Conservation Code.</b> 2006 Edition.</del> | <del>(3-30-07)</del>            |
| <b>03.</b>            | <b>International Existing Building Code.</b> 2006 Edition.              | (6-17-08)T                      |

**OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR  
IDAHO DEPARTMENT OF ADMINISTRATION**

**IDAPA 08 - STATE BOARD OF EDUCATION**

**08.02.03 - RULES GOVERNING THOROUGHNESS**

**DOCKET NO. 08-0203-0800**

**NOTICE OF CORRECTION TO FINAL RULE**

**AUTHORITY:** In compliance with Sections 67-5204, 67-5224, and 67-5291, Idaho Code, notice is hereby given that the Office of the Administrative Rules Coordinator is correcting a transcription error that occurred during the publication of the 2008 Idaho Administrative Code.

**CORRECTION:** The following is a brief explanation of the correction being made:

This notice corrects a transcription error made during the publication of the 2008 Idaho Administrative Code. In IDAPA 08.02.03, "Rules Governing Thoroughness" of the State Board of Education, Sections 105 and 107 were amended in two separate rulemakings. Some of the codified changes that were approved as final during the 2008 legislative session under Docket No. 08-0203-0704 were not included in the final version of the 2008 Administrative Code. Docket No. 08-0203-0704 was published in the October 3, 2007, Idaho Administrative Bulletin, Volume 07-10, Book 1, pages 196 through 216. A subsequent rulemaking adopting a temporary rule and affecting the same sections of the rule was published under Docket No. 08-0203-0801 in the February 6, 2008 Idaho Administrative Bulletin, Volume 08-2, pages 16 through 20. The text of Docket No. 08-0203-0704 was inadvertently omitted from the 2008 Administrative Code and only the text of the temporary rule of Docket No. 08-0203-0801 was included final printed version of the 2008 Idaho Administrative Code.

This notice corrects this error and hereby reinstates the text as promulgated under Docket No. 08-0203-0704 and approved as final by the 2008 Legislature in accordance with Sections 67-5224 and 67-5291, Idaho Code.

**EFFECTIVE DATE:** The effective dates of the affected Sections are the original effective dates on which the rules were promulgated and adopted in compliance with Title 67, Chapter 52, Idaho Code.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this correction notice or the text of the rule, contact Dennis Stevenson at (208) 332-1820.

DATED this 17th day of July, 2008.

Dennis R. Stevenson  
Administrative Rules Coordinator  
Office of the Administrative Rules Coordinator  
Department of Administration  
PO Box 83720, Boise, ID 83720-0306  
Phone: (208) 332-1820  
Fax: (208) 332-1895

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**THE FOLLOWING IS THE FINAL RULE TEXT OF IDAPA 08.02.03, SECTIONS 105 AND 107, AS PROMULGATED AND APPROVED FOR INCLUSION IN THE 2008 IDAHO ADMINISTRATIVE CODE.**

**105. GRADUATION FROM HIGH SCHOOL.**

A student must meet all of the following requirements before the student will be eligible to graduate from an Idaho high school: (4-11-06)

**01. Credit Requirements.** (3-30-07)

**a.** (Effective for all students that graduate prior to January 1, 2013.) Each students shall demonstrate achievement in the CORE and other required subjects to include forty-two (42) semester credits, one (1) semester equaling one-half (1/2) year. (3-30-07)

**b.** (Effective for all students that enter the ninth grade in the fall of 2009 or later.) Each student shall complete the requirements found in Section 107 and other subjects to include forty-six (46) semester credits, one (1) semester equaling one-half (1/2) year. (3-30-07)

**02. Achievement Standards.** Each student shall meet locally established subject area standards (using state content standards as minimum requirements) demonstrated through various measures of accountability including examinations or other measures. (4-2-08)

**03. Proficiency.** Each student shall achieve a proficient or advanced score on the Grade 10 Idaho Standards Achievement Test (ISAT) in math, reading and language usage in order to graduate. Effective on January 1, 2012, each student shall also achieve a proficient or advanced score on the science portion of the ISAT in order to graduate. A student who does not attain at least a proficient score prior to graduation may appeal to the school district or LEA, and shall be given an opportunity to demonstrate proficiency of the content standards through some other locally established mechanism. All locally established mechanisms used to demonstrate proficiency shall be forwarded to the State Board of Education for review and information. Districts with alternate measures on file with the Board on the effective date of this rule must re-submit their plans to the Board. Alternate mechanisms must be re-submitted to the Board when changes are made in their plans. (10-12-07)T

**a.** Before entering an alternate measure, the student must be: (4-2-08)

**i.** Enrolled in a special education program and have an Individual Education Plan (IEP), or (3-20-04)

**ii.** Enrolled in an Limited English Proficient (LEP) program for three (3) academic years or less, or (3-20-04)

**iii.** Enrolled in the fall semester of the senior year. (3-20-04)

**b.** The measure must be aligned at a minimum to tenth grade state content standards; (3-20-04)

**c.** The measure must be aligned to the state content standards for the subject matter in question; (3-20-04)

**d.** The measure must be valid and reliable; and (3-20-04)

**e.** Ninety percent (90%) of the criteria of the measure, or combination of measures, must be based on academic proficiency and performance. (3-20-04)

**04. Foreign Exchange Students.** Foreign exchange students may be eligible for graduation by completing a comparable program as approved by the school district or LEA. (4-11-06)

**05. Special Education Students.** A student who is eligible for special education services under the Individuals With Disabilities Education Improvement Act must, with the assistance of the student's Individualized Education Program (IEP) team, refer to the current Idaho Special Education Manual for guidance in addressing graduation requirements. (4-11-06)

**(BREAK IN CONTINUITY OF SECTIONS)**

**107. HIGH SCHOOL GRADUATION REQUIREMENTS.**

**01. Requirements.** (Effective for all students that graduate prior to January 31, 2013.) The State minimum graduation requirement for all Idaho public high schools is forty-two (42) semester credits and a proficient or advanced score on the ISAT. The core of instruction required by the State Board of Education is twenty-five (25) semester credits. Local school districts may establish graduation requirements beyond the state minimum. The local school district has the responsibility to provide education opportunities that meet the needs of students in both academic and professional-technical areas. It is the intent of the State Board of Education to give local school districts the flexibility to provide rigorous and challenging curriculum that is consistent with the needs of students and the desire of their local patrons. (4-2-08)

**02. Requirements.** (Effective for all students that enter the ninth grade in the fall of 2009 or later.) The State minimum graduation requirement for all Idaho public high schools requires that a student take a minimum of forty-six (46) semester credits and achieve a proficient or advanced score on the ISAT, as described in Subsection 105.03. (10-12-07)T

- a. Twenty-nine (29) semester credits are required as listed in Subsections 107.03 through 107.08; and (3-30-07)
- b. A minimum of seventeen (17) elective credits. (3-30-07)
- c. All credit-bearing classes must be aligned with state high school standards in the content areas for which standards exist. (3-30-07)

**d.** Local school districts or LEAs may establish graduation requirements beyond the state minimum. The local school district or LEA has the responsibility to provide educational opportunities that meet the needs of students in both academic and professional technical areas. It is the intent of the State Board of Education to give local school districts the flexibility to provide rigorous and challenging curriculum that is consistent with the needs of students and the desire of their local patrons. (3-30-07)

**03. Secondary Language Arts and Communication.** Eight (8) credits required that includes four (4) years of instruction in English, each year will consist of language study, composition, and literature. One (1) credit of instruction in communications including oral communication and technological applications that includes a course in speech, a course in debate, or a sequence of instructional activities that meet the state high school communications standards requirements. (3-30-07)

**04. Mathematics.** (3-30-07)

**a.** Mathematics. (Effective for all students that graduate prior to January 31, 2013.) Eight (8) credits required, a minimum of four (4) credits in math and four (4) credits in science, two (2) of which will be laboratory based. Secondary mathematics includes Applied Mathematics, Business Mathematics, Algebra, Geometry, Trigonometry, Fundamentals of Calculus, Probability and Statistics, Discrete Mathematics, and courses in mathematical problem solving and reasoning. Secondary sciences will include instruction in applied sciences, earth and space sciences, physical sciences, and life sciences. (3-30-07)

**b.** Mathematics. (Effective for all students that enter the ninth grade in the fall of 2009 or later.) Six (6) credits required. Secondary mathematics shall include instruction in the following areas: (3-30-07)

i. Two (2) semesters of Algebra I or courses that meet Algebra I standards as approved by the State Department of Education; (3-30-07)

ii. Two (2) semesters of Geometry or courses that meet Geometry standards as approved by the State Department of Education; and (3-30-07)

- iii. Two (2) semesters of mathematics of the student's choice. (3-30-07)
- iv. Two (2) semesters of the required six (6) credits of mathematics must be taken in the last year of high school. (3-30-07)
- c. If a student completes any required high school course with a grade of C or higher before entering grade nine (9), and if that course meets the same standards that are required in high school, then the student has met the high school content area requirement. However, the student must complete six (6) credits of high school math in addition to the courses completed in middle school. (3-30-07)
- 05. Science.** (Effective for all students that enter the ninth grade in the fall of 2009 or later.) Six (6) credits required. (3-30-07)
- a. Secondary sciences shall include instruction in the following areas: (3-30-07)
- i. Biology; (3-30-07)
- ii. Physical science or chemistry; and (3-30-07)
- iii. Earth, space, environment, or approved applied science. (3-30-07)
- b. Four (4) credits of courses outlined in Subsection 107.05.a. must be laboratory based. (3-30-07)
- c. If a student completes any required high school course with a grade of C or higher before entering grade nine (9), and if that course meets the same standards that are required in high school, then the student has met the high school content area requirement. However, the student must complete six (6) credits of high school science in addition to the courses completed in middle school. (3-30-07)
- 06. Social Studies.** (Five (5) credits required), including government (two (2) credits), United States history (two (2) credits), and economics (one (1) credit). Current world affairs and geography will be integrated into all social studies instruction. Courses such as geography, sociology, world affairs, and world history may be offered as electives, not to be counted as a social studies requirement. (4-11-06)
- 07. Humanities.** (Two (2) credits required). A course in interdisciplinary humanities, visual and performing arts, or world language. Other courses such as literature, history, philosophy, architecture, or comparative world religions may satisfy the humanities standards if the course syllabus is approved by the State Department of Education as being aligned with the Humanities Standards. (4-11-06)
- 08. Health/Wellness.** (One (1) credit required). A course focusing on positive health habits. (7-1-00)
- 09. College Entrance Examination.** (Effective for all students that enter the ninth grade in the fall of 2009 or later.) A student must take one (1) of the following college entrance examinations before the end of the student's eleventh grade year: COMPASS, ACT or SAT. Scores must be included in the Learning Plan. (3-30-07)
- 10. Senior Project.** (Effective for all students that enter the ninth grade in the fall of 2009 or later.) A student shall complete a senior project that shall include a research paper and oral presentation by the end of grade twelve (12). (3-30-07)
- 11. Assessment.** A student must achieve a proficient or advanced score on the Grade 10 ISAT in the tenth, eleventh, or twelfth grade in math reading and language usage. Effective on January 1, 2012, each student shall also achieve a proficient or advanced score on the science portion of the ISAT in order to graduate. A student is not required to achieve a proficient or advanced score on the ISAT if: (10-12-07)T
- a. A student received a proficient or advanced score on an exit exam from another state that requires a standards-based exam for graduation. The state's exit exam shall be approved by the State Board of Education, and must measure skills at the tenth grade level or above and be in comparable subject areas to the ISAT; (4-11-06)

- b.** A student completes another measure established by a school district or LEA and received by the Board as outlined in Subsection 105.03; or (4-2-08)
- c.** A student has an IEP that outlines alternate requirements for graduation. (4-11-06)
- d.** Calendar year of 2007. A student is not required to achieve a proficient or advanced score on the ISAT if: (3-30-07)

  - i. A student took the ISAT and was within three (3) RIT points of proficiency; (4-11-06)
  - ii. A student has an IEP that outlines alternate requirements for graduation or adaptations are recommended on the test; (4-11-06)
  - iii. A student is considered an LEP student through a score determined on a language proficiency test and has been in an LEP program for three (3) academic years or less; (4-11-06)
  - iv. A student received a proficient or advanced score on an exit exam from another state that requires a standards-based exam for graduation. The state exit exams must be approved by the State Board of Education, measure skills at the tenth grade level or above and be in comparable subject areas to the ISAT; or (4-11-06)
  - v. A student appeals for another measure approved by the school district or LEA as outlined in Subsection 105.03. (4-11-06)
- e.** Calendar year of 2008 and subsequent classes. A student is not required to achieve a proficient or advanced score on the ISAT if: (3-30-07)

  - i. A student has an IEP that outlines alternate requirements for graduation or adaptations are recommended on the test; (3-30-07)
  - ii. A student is considered an LEP student through a score determined on a language proficiency test and has been in an LEP program for three (3) academic years or less; (3-30-07)
  - iii. A student received a proficient or advanced score on an exit exam from another state that requires a standards-based exam for graduation. The state exit exams must be approved by the State Board of Education, measure skills at the tenth grade level or above and be in comparable subject areas to the ISAT; or (3-30-07)
  - iv. A student appeals for another measure approved by the school district or LEA as outlined in Subsection 105.03. (3-30-07)

## **IDAPA 09 - DEPARTMENT OF LABOR**

### **09.01.08 - RULES ON DISCLOSURE OF INFORMATION**

#### **DOCKET NO. 09-0108-0801**

#### **NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 72-1333 and 72-1342, Idaho Code, and 20 CFR part 603.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

IDAPA 09.01.08 is being changed to add required sections, provide for public inspection of records, make changes to definitions and provide for access to information by individuals, employers, agents, attorneys and elected officials.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with deadlines in federal regulation.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

20 CFR 603.8 requires the Department to charge persons requesting Employment Security information for the actual costs of disclosures that are not for Employment Security purposes. No costs will be charged for de minimis requests. The Department's failure to comply with the requirements of 20 CFR part 603 would cause the loss of federal funding for Idaho's Unemployment Insurance program.

**FISCAL IMPACT:** 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:

There will be no impact on the general fund as a result of this rule change.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is being changed to comply with federal regulations and a recent statutory change during the 2008 legislative session.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Bob Fick, Communications & Legislative Liaison, 332-3570 ext. 3628.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 3rd of July, 2008.



Bob Fick  
Communications & Legislative Liaison  
Department of Labor  
317 W. Main St., Boise, ID 83735  
Phone 332-3570 ext. 3628  
Fax 334-6455

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0108-0801**

**IDAPA 09**  
**TITLE 01**  
**CHAPTER 08**

**09.01.08 - RULES ON DISCLOSURE OF EMPLOYMENT SECURITY INFORMATION**

**000. LEGAL AUTHORITY.**

These rules are promulgated under the legal authority of Sections 72-1333 and 72-1342, Idaho Code. (7-1-08)T

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as IDAPA 09.01.08, "Rules on Disclosure of Employment Security Information." (7-1-08)T

**02. Scope.** These rules address disclosure of employment security information, as defined in Section 9-340C(7), Idaho Code, by the Idaho Department of Labor. These rules comply with the requirements of 20 CFR Part 603, "Confidentiality and Disclosure of State Unemployment Compensation Information," as well as the Idaho Public Records Act, Chapter 3, Title 9, Idaho Code. (7-1-08)T

**002. WRITTEN INTERPRETATIONS.**

Explanations for rule changes are available for public inspection at the Idaho Department of Labor, 317 W. Main Street, Boise, Idaho 83735. (7-1-08)T

**003. ADMINISTRATIVE APPEALS.**

There is no administrative appeal under these rules. Appeals of denials of requests for Department records are governed by the provisions of the Idaho Public Records Act, Chapter 3, Title 9, Idaho Code. (7-1-08)T

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into this rule. (7-1-08)T

**005. OFFICE - OFFICE HOURS - MAILING ADDRESS AND STREET ADDRESS.**

The principle place of business of the Department of Labor is in Boise, Idaho. (7-1-08)T

**01. Street Address and Hours.** The office is located at, 317 W. Main St., Boise, Idaho 83735, and is open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. (7-1-08)T

**02. Mailing Address.** The mailing address is: Department of Labor, 317 W. Main St., Boise, Idaho, 83735. (7-1-08)T

**03. Telephone.** The telephone of the office is (208) 332-3570. The facsimile number of the office is

(208) 334-6455.

(7-1-08)T

**006. PUBLIC RECORDS ACT COMPLIANCE.**

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records.

(7-1-08)T

**007. -- 009. (RESERVED).**

**010. PUBLIC EMPLOYEE DEFINITIONS.**

These terms shall have the following meanings when used in these rules, in interpretations, in forms, and in other official documents issued by the Idaho Department of Labor.

(7-1-08)T

**01. Agent.** One who acts for or in the place of an individual or employer by the authority of that individual or employer.

(7-1-08)T

**02. Payment in Advance.** Full payment of all costs before or at the time that employment security information is disclosed to a recipient.

(7-1-08)T

**03. Public Official.** For the purpose of disclosure of employment security information to public employees officials in the performance of their public official duties, in accordance with Section 72-1342, Idaho Code "public employee official" is defined as a person employed in the civil service of the an official, agency, or public entity within the executive branch of federal government, a state, or local government, or an agent or contractor thereof, who or which has responsibility for administering or enforcing a law, including research related to the law being administered, or a political subdivision thereof an elected official in federal, state, or local government. Reference Section 72-1342, Idaho Code.

(12-24-93)(7-1-08)T

**011. ACCESS BY PERSONS TO INFORMATION PERTAINING TO THEM.**

**01. Individual or Employer.** Individuals or employers may access employment security information pertaining to them, subject to the procedures and restrictions contained in the Idaho Public Records Act, Chapter 3, Title 9, Idaho Code, and the reimbursement provisions in Section 020 of these rules. Unless the disclosure is for the purposes of the Employment Security Law, Chapter 13, Title 72, Idaho Code, the Department will not comply with requests for disclosure of records to an individual or employer on an ongoing basis, and only existing records in the Department's custody as of the date of receipt of the request will be disclosed, not records that may be created in the future.

(7-1-08)T

**02. Attorney.** An attorney representing a party for the purposes of the Employment Security Law need only submit a letter on letterhead to the Department confirming the attorney's representation of the party, for an Employment Security Law purpose, to access any employment security information that would be available to the attorney's client. If the attorney is not representing the client for the purposes of the Employment Security Law, the attorney must provide an informed consent release, in the same manner and with the same restrictions as an agent in Subsection 011.04 of these rules, in order to access any employment security information that would be available to the client.

(7-1-08)T

**03. Elected Official.** An elected official performing constituent services who requests employment security information on behalf of an individual or employer may access any employment security information related to the inquiry that would be available to the constituent if the elected official presents reasonable evidence that the constituent has authorized the disclosure. Such reasonable evidence may include a letter or written record of a telephone request for assistance from the constituent.

(7-1-08)T

**04. Agent.** An agent of an individual or employer must provide an informed consent release that meets the requirements of Subsection 013.01 of these rules, in order to access any employment security information that would be available to the individual or employer. If the disclosure is for the purposes of the Employment Security Law and it is impossible or impracticable to obtain an informed consent release, the agent must provide clear and convincing evidence, as determined by the Department, that the agent is authorized to act on behalf of the individual or employer in order to access any employment security information that would be available to the individual or employer. Unless the disclosure is for the purposes of the Employment Security Law, the Department will not comply

with requests for disclosure of records to an agent on an ongoing basis, and only existing records in the Department's custody as of the date of receipt of the request will be disclosed pursuant to the informed consent release, not records that may be created in the future. (7-1-08)T

**0142. DISCLOSURE TO PUBLIC ~~EMPLOYEE ACCESS TO INFORMATION~~ OFFICIALS.**

Employment security information obtained from any employer or individual pursuant to the administration of Idaho's Employment Security Law which reveals the individual's or the employer's identity in any manner may be released disclosed by the director or his or her the director's authorized representative to the following public employees officials or to an agent or contractor of the following agencies only public officials, for use in the performance of official duties: (12-1-93)(7-1-08)T

**01. Required by Federal Law.** Any public agency to whom the ~~d~~Department is required by federal law to disclose information, under the terms and restrictions required by federal law; (5-25-94)(7-1-08)T

**02. Reciprocal Disclosures.** Any public agency where reciprocal disclosures from such agency to the ~~d~~Department will reasonably assist in the collection of contributions and payments in lieu of contributions. (5-25-94)(7-1-08)T

**03. Of Benefit to Department.** Any public agency to whom disclosure of ~~d~~Department information would be consistent with the mission of the ~~d~~Department or of benefit to the ~~d~~Department, as determined by the director. (5-25-94)(7-1-08)T

**04. Written Agreement.** Any release of information to ~~the foregoing~~ public employees officials under Subsections 012.02 and 012.03, of these rules, must be made pursuant to a written ~~contract or a letter of~~ agreement signed by both the director of the requesting agency or ~~his or her the director's~~ authorized representative and the director of the Department ~~of Employment~~. If an agent or contractor is to obtain or access information on behalf of a requesting agency, the director of the requesting agency or the director's authorized representative must sign the agreement and the requesting agency will be held responsible for ensuring that the agent or contractor complies with all security requirements of the agreement. Reference Section 72-1342, Idaho Code. (12-1-93)(7-1-08)T

**05. Agency Subpoena.** ~~Information may be supplied to a public employee in response to and after service of a public agency subpoena that is reasonable in nature and scope. This provision does not apply to subpoenas served on behalf of private parties to civil or criminal proceedings to which the Department is not a party.~~  
**Terms and Conditions of Written Agreement.** The interagency agreement must contain the following provisions: (5-25-94)(7-1-08)T

**a.** A description of the specific information to be furnished by the Department and the purpose(s) for which the information is sought and will be used; (7-1-08)T

**b.** A statement that those who request or receive information under the agreement will be limited to those individuals, identified by name and/or job title, with a need to access it for the purpose(s) specified in the agreement; (7-1-08)T

**c.** The methods and timing, if the disclosure is to be made more than once, including the format to be used; (7-1-08)T

**d.** Provisions for the timely payment of the Department's billed costs as required by Subsection 020.02 of these rules, including the Department's costs of performing on-site inspections to ensure compliance with State and Federal law and the requirements of the agreement; (7-1-08)T

**e.** Provisions for safeguarding the information disclosed, including the following requirements: (7-1-08)T

**i.** Recipient will use the information only for purposes authorized by law and specified in the agreement; (7-1-08)T

**ii.** Recipient will store the information in a place physically secure from access by unauthorized

persons: (7-1-08)T

iii. Recipient will store and process the information maintained in electronic format in such a way that unauthorized persons cannot obtain the information by any means: (7-1-08)T

iv. Recipient will undertake precautions to ensure that only authorized personnel are given access to the information stored in computer systems: (7-1-08)T

v. Recipient will instruct all personnel having access to the information about the confidentiality requirements in the agreement and the civil and criminal penalties in Sections 72-1372 and 72-1374, Idaho Code, for unauthorized disclosure of the information, sign an acknowledgment that this has been done and stating that all personnel will adhere to the confidentiality requirements, and fully and promptly report to the Department any breach of the confidentiality requirements: (7-1-08)T

vi. Recipient will dispose of the information and any copies made by the requesting agency or its agent or contractor after the purpose(s) of the disclosure has been served, except for information possessed by any court, by destroying the information or returning it to the Department, as directed by the Department, and will not retain the information with personal identifiers for any longer period of time than the Department deems appropriate; and (7-1-08)T

vii. Recipient will redisclose the information only as provided in the agreement or as required by State or Federal law. (7-1-08)T

f. Provisions for on-site inspections of the requesting agency and/or its agent or contractor by the Department to ensure compliance with State and Federal law and the requirements of the agreement; (7-1-08)T

g. Provisions for the immediate suspension of the agreement, including disclosures being processed, if the Department determines that the requesting agency or its agent or contractor is not adhering to the requirements of the agreement, including timely payment of the Department's billed costs, and that further disclosures will not occur until the Department is satisfied that corrective action has been taken and there will be no further breach; (7-1-08)T

h. Provisions for the termination of the agreement if, after a breach of the agreement, prompt and satisfactory corrective action is not taken, and for the immediate surrender to the Department of all employment security information, including copies in any form, obtained under the agreement by the requesting agency and/or its agent or contractor; and (7-1-08)T

i. Provisions for the Department to take any remedial action permitted under State or Federal law to enforce the agreement, including seeking damages, penalties, restitution, and attorneys fees and costs incurred by the Department for the pursuit of any breaches of the agreement and required enforcement. (7-1-08)T

**06. Exception for Certain Federal Agencies.** These requirements do not apply to disclosures of employment security information to a Federal agency which the U.S. Department of Labor has determined, by notice in the Federal Register, to have in place safeguards adequate to satisfy the confidentiality requirement of Section 303(a)(1) of the Social Security Act, and an appropriate method of paying or reimbursing the Department for any costs involved in such disclosures. (7-1-08)T

**067. Threat to Safety Concerns.** Employment security information may be ~~supplied~~ disclosed to a public ~~employee of an agency~~ official contacted for assistance when the safety of Department staff or property ~~has been threatened~~ may be at risk. Such disclosures are considered necessary for the proper administration of programs under the Employment Security Law and may be made without a written agreement or a subpoena from the public official. (5-25-94)(7-1-08)T

**013. DISCLOSURE TO THIRD PARTIES WITH WRITTEN, INFORMED CONSENT.**  
A person may agree, through written, informed consent, to allow a third party to obtain employment security information pertaining to the person from the Department, subject to the following terms and conditions: (7-1-08)T

- 01. Informed Consent Release.** (7-1-08)T
- a.** An informed consent release must be signed by the person providing informed consent and dated within one (1) year of the date of the request for access to the records. (7-1-08)T
- b.** In the document, the person providing informed consent must: (7-1-08)T
- i.** Specifically identify the records to be disclosed; (7-1-08)T
- ii.** Acknowledge that Department files will be accessed to obtain the records; (7-1-08)T
- iii.** List all third parties who are authorized to access the person's information; and (7-1-08)T
- iv.** Indicate the specific purpose(s) of the disclosure and state that the records will be used only for the specified purpose(s). If the disclosure is not for the purposes of the Employment Security Law, Chapter 13, Title 72, Idaho Code, the purpose(s) specified must be either to provide a service or benefit to the person providing informed consent that the person expects to receive as a result of providing informed consent or to carry out the administration or evaluation of a public program to which the informed consent release pertains. (7-1-08)T
- c.** Unless the disclosure is for the purposes of the Employment Security Law, the Department will not comply with requests for disclosure of records to a third party on an ongoing basis, and only existing records in the Department's custody as of the date of receipt of the request will be disclosed pursuant to the informed consent release, not records that may be created in the future. (7-1-08)T
- 02. Agreement by Third Party.** Before the Department will disclose employment security information to a third party pursuant to an informed consent release, the third party must sign an agreement containing the following provisions: (7-1-08)T
- a.** A description of the specific information to be furnished by the Department and the purpose(s) for which the information is sought and will be used, as specified in the informed consent release; (7-1-08)T
- b.** A statement that those who request or receive information under the agreement will be limited to those individuals, identified by name, with a need to access it for the purpose(s) specified in the informed consent release; (7-1-08)T
- c.** The method for the disclosure, including the format to be used; (7-1-08)T
- d.** Provisions for the payment of the Department's costs of disclosure as required by Subsection 020.02 of these rules, including the Department's costs of performing audits to ensure compliance with State and Federal law and the requirements of the agreement; (7-1-08)T
- e.** Provisions for safeguarding the information disclosed, including the following requirements: (7-1-08)T
- i.** Recipient will use the information only for purposes authorized by law and specified in the informed consent release; (7-1-08)T
- ii.** Recipient will store the information in a place physically secure from access by unauthorized persons; (7-1-08)T
- iii.** Recipient will store and process the information maintained in electronic format in such a way that unauthorized persons cannot obtain the information by any means; (7-1-08)T
- iv.** Recipient will undertake precautions to ensure that only authorized personnel are given access to the information stored in computer systems; (7-1-08)T
- v.** Recipient will instruct all personnel having access to the information about the confidentiality

requirements in the agreement and the civil and criminal penalties in Sections 72-1372 and 72-1374, Idaho Code, for unauthorized disclosure of the information, sign an acknowledgment that this has been done and stating that all personnel will adhere to the confidentiality requirements, and fully and promptly report to the Department any breach of the confidentiality requirements; (7-1-08)T

vi. Recipient will dispose of the information and any copies made by the recipient after the purpose(s) of the disclosure has been served, except for information possessed by any court, by destroying the information or returning it to the Department, as directed by the Department, and will not retain the information with personal identifiers for any longer period of time than the Department deems appropriate; and (7-1-08)T

vii. Recipient will redisclose the information only as authorized under the informed consent release and for the purpose(s) specified in the release or as required by State or Federal law. (7-1-08)T

f. Provisions for on-site audits of the recipient by the Department as the Department may deem necessary to ensure compliance with State and Federal law and the requirements of the agreement; (7-1-08)T

g. Provisions for the immediate suspension of the agreement if the Department determines that the recipient is not adhering to the requirements of the agreement; (7-1-08)T

h. Provisions for the termination of the agreement if, after a breach of the agreement prompt and satisfactory corrective action is not taken, and for the immediate surrender to the Department of all employment security information, including copies in any form, obtained under the agreement by the recipient; (7-1-08)T

i. An acknowledgment by the recipient that the agreement is governed by the laws of the State of Idaho, and that the civil and criminal penalties in Sections 72-1372 and 72-1374, Idaho Code, apply to any unauthorized disclosure of the information no matter where the unauthorized disclosure may occur; and (7-1-08)T

j. Provisions for the Department to take any remedial action permitted under State or Federal law to enforce the agreement, including seeking damages, penalties, restitution, and attorneys fees and costs incurred by the Department for any breaches of the agreement and required enforcement. (7-1-08)T

**03. Department's Right to Audit.** After a third party receives employment security information pursuant to an informed consent release, the Department may perform an on-site audit of the third party to ensure that the information is not being used for any unauthorized purpose. (7-1-08)T

**014. -- 019. (RESERVED).**

**020. COSTS OF DISCLOSURE.**

Unless the disclosure of employment security information is for the purposes of the Employment Security Law, Chapter 13, Title 72, Idaho Code, the party requesting the disclosure must reimburse the Department's costs of disclosure, including staff time and processing costs, as follows: (7-1-08)T

**01. Private Party.** If the requestor is not a public official, there must be reimbursement in advance to the Department unless the disclosure involves only an incidental amount of staff time and nominal processing costs. (7-1-08)T

**02. Public Official.** If the requestor is a public official, payment to reimburse the Department may be made in advance or by way of billing invoice, as determined by the director, unless the disclosure involves only an incidental amount of staff time and nominal processing costs or there is a reciprocal cost arrangement with the public official. The Department may enter into a reciprocal cost arrangement with a public official when the relative benefits received by each agency through information sharing are approximately equal. (7-1-08)T

**021. SUBPOENAS OF EMPLOYMENT SECURITY INFORMATION.**

**01. Subpoena from Public Official.** Employment security information may be supplied to a public official with subpoena authority after the Department receives a subpoena that is reasonable in nature and scope from the public official. This provision does not apply to subpoenas served on behalf of private parties to civil or criminal

proceedings to which the Department is not a party.

(7-1-08)T

**02. Subpoena from Private Party.** If the Department is served with a subpoena on behalf of a private party to a civil or criminal proceeding to which the Department is not a party and the private party is not entitled to access the information pursuant to Section 011 of these rules, the Department will move to quash the subpoena and attempt to recover costs if other means of avoiding unauthorized disclosure of the information have been unsuccessful or the court has not already ruled on the disclosure.

(7-1-08)T

**022. RECORDS REQUESTS SUBMITTED BY ELECTRONIC MAIL.**

The Department will accept records requests sent via electronic mail only at records requests@labor.idaho.gov. Records requests sent to any other Department electronic mail address will not be accepted. A person making a records request in writing or via electronic mail must include the requestor's name, mailing address, and telephone number. If the request is for employment security information, the person may be required to provide identification to the Department. For security reasons, the Department will not disclose employment security information via electronic mail.

(7-1-08)T

**0423. -- 999. (RESERVED).**

**IDAPA 09 - DEPARTMENT OF LABOR**

**09.01.35 - UNEMPLOYMENT INSURANCE TAX ADMINISTRATION RULES**

**DOCKET NO. 09-0135-0801**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 72-1333, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

IDAPA 09.01.35.221.01 is being changed to delete "continuity of business activity" and insert "transfer of trade or business" to accurately reflect statutory language found in Section 72-1351A, Idaho Code. The statutory reference in this section is also being changed to Section 72-1351A, Idaho Code.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** 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 resulting from this rulemaking: There will be no impact on the general fund as a result of this rule change.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the agency determined it was not feasible due to of the simple nature of the change.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Don Arnold, Unemployment Insurance Compliance Bureau Chief, (208) 332-3570 ext. 3258.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 3rd of July, 2008.

Don Arnold  
Unemployment Insurance Compliance Bureau Chief  
Department of Labor  
317 W. Main St., Boise, ID 83735  
(208) 332-3570 ext. 3258  
Fax: (208) 334-6301

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-0801**

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into this rule.

( )



**005. OFFICE - OFFICE HOURS - MAILING ADDRESS AND STREET ADDRESS.**

The principle place of business of the Department of Labor is in Boise, Idaho. ( )

**01. Street Address and Hours.** The office is located at, 317 W. Main St., Boise, Idaho 83735, and is open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. ( )

**02. Mailing Address.** The mailing address is: Department of Labor, 317 W. Main St., Boise, Idaho, 83735. ( )

**03. Telephone.** The telephone of the office is (208) 332-3570. The facsimile number of the office is (208) 334-6455. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ( )

**0047. -- 010. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**221. TRANSFER OF EXPERIENCE RATING.**

Upon request, employers shall be informed of the requirements for transferring an experience rating record. Notification shall be issued to interested parties when an experience rating record transfer request is made. Ref. Sec. 72-1351, Idaho Code. (4-11-06)

**01. Mandatory Transfer of Rate.** An experience rating record transfer shall be mandatory if there is a *continuity of business activity* transfer of trade or business and ownership or management or control is substantially the same between the predecessor and successor. The parties in interest shall be notified of such transfer of experience as determined from the facts applicable to the case. Such determination may be appealed as provided in Ref. Sec. 72-1351A, 72-1361, Idaho Code. (~~4-11-06~~)( )

**02. Partial Experience Rate Transfers.** The following method is used to compute the pro-rata share of the experience rate account that is to be transferred from the predecessor to a successor. The pro-rata share is determined by dividing the gross payroll associated with the portion of the business acquired by the total gross payroll for the entire business operations for the same time period. The time period upon which this computation is based is the four (4) most recently completed quarters as reported by the predecessor prior to the date of acquisition or change in entity. (4-11-06)

**03. Continued Predecessor Employment for Liquidation.** When a total transfer of experience rating record has been completed and it is found that the predecessor employer continues to have employment in connection with the liquidation of his business, such employer shall continue to pay contributions at the assigned rate for the period of liquidation but not to extend beyond the balance of the rate year. Ref. Sec. 72-1351, Idaho Code. (3-19-99)

**04. Management or Ownership or Control Substantially the Same.** For the purposes of Sections 72-1351(5)(a) and (b), Idaho Code, in determining whether the ownership or management or control of a successor is substantially the same as the ownership or management or control of the predecessor factors to be considered include, but are not limited to, the extent of policy making authority, the involvement in daily management of operations, the supervision over the workforce, the percentage of ownership of shares or assets, and the involvement on boards of directors or other controlling bodies. (4-11-06)

**05. Wage Paid by Predecessor.** The successor employer may use wages paid by the predecessor employer to arrive at the wage base for purposes of calculating taxable wages only when the experience rate of a predecessor employer has been transferred to a successor employer. Ref. Sec. 72-1349(1), 72-1351(5), and 72-1350(8), Idaho Code. (4-11-06)

## IDAPA 11 - IDAHO STATE POLICE

### 11.11.05 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR IDAHO DEPARTMENT OF JUVENILE CORRECTIONS DIRECT CARE STAFF

DOCKET NO. 11-1105-0801

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-5107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the June 4, 2008 Idaho Administrative Bulletin, Vol. 08-6, pages 50 through 55.

**FISCAL IMPACT:** 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: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Trish Christy at (208) 884-7253.

DATED this 30th day of June, 2008.

Jeffrey J. Black  
Executive Director  
Idaho State Police/Peace Officer Standards and Training  
700 S. Stratford Dr.  
Meridian, ID 83642  
P.O. Box 700  
Meridian, ID 83680-0700  
(208) 884-7251/(208) 884-7295 (FAX)

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#### DOCKET NO. 11-1105-0801 - ADOPTION OF PENDING RULE

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-06, June 4, 2008, pages 50 through 55.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.**

## **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

### **16.03.01 - ELIGIBILITY FOR HEALTH CARE ASSISTANCE FOR FAMILIES AND CHILDREN**

#### **DOCKET NO. 16-0301-0801**

#### **NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective dates of this temporary rule are December 26, 2007, January 28, 2008, and July 1, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202, 56-203, Idaho Code, and Public Laws 110-161, and 110-181.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The federal government imposed new laws that confer benefits for two new immigration classifications for certain Afghan and Iraqi immigrants. These immigrants previously worked for the United States and would be facing ongoing threats if they were to stay in their own country. The rules for medical assistance are being aligned with these federal regulations allowing special immigrants eligibility for health care.

These rules are also being amended to align provisions for Transitional Medicaid with federal law which requires the participant to report quarterly and will delete procedural language from the rules.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate because of changes to federal regulations and it confers a benefit to special immigrants for health care.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

The anticipated fiscal impact to the state general fund related to the special immigrants rulemaking is \$332,947, which is 30% of federal matching funds.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes were required by federal law and confer a benefit.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Peggy Cook at (208) 334-5969.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 26th day of June, 2008.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0301-0801**

**220. CITIZENSHIP AND QUALIFIED NON-CITIZEN REQUIREMENTS.**

To be eligible, an individual must be a member of one (1) of the following groups: (3-30-07)

- 01. U.S. Citizen.** A U.S. Citizen; (3-30-07)
- 02. U.S. National, National of American Samoa or Swain's Island.** A U. S. national, or a national of American Samoa or Swain's Island. (3-30-07)
- 03. Child Born Outside the U.S.** A child born outside the U.S., as defined in Public Law 106-395, is considered a citizen if all of the following conditions are met: (3-30-07)
  - a.** At least one (1) parent is a U.S. Citizen. The parent can be a citizen by birth or naturalization. This includes an adoptive parent; (3-30-07)
  - b.** The child is residing permanently in the U.S. in the legal and physical custody of a parent who is a U.S. Citizen; (3-30-07)
  - c.** The child is under eighteen (18) years of age; (3-30-07)
  - d.** The child is a lawful permanent resident; and (3-30-07)
  - e.** If the child is an adoptive child, the child was residing in the U.S. at the time the parent was naturalized and was in the legal and physical custody of the adoptive parent. (3-30-07)
- 04. Full-Time Active Duty U.S. Armed Forces Member.** A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) who is currently on full-time active duty with the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard, or a spouse or unmarried dependent child of the U.S. Armed Forces member; (3-30-07)
- 05. Veteran of the U.S. Armed Forces.** A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) who were honorably discharged from the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy, or U.S. Coast Guard for a reason other than their citizenship status, or a spouse, including a surviving spouse who has not remarried, or an unmarried dependent child of the veteran; (3-30-07)
- 06. Non-Citizen Entering the U.S. Before August 22, 1996.** A non-citizen who entered the U.S. before August 22, 1996, who is currently a qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c), who remained continuously present in the U.S. until he became a qualified non-citizen; (3-30-07)
- 07. Non-Citizen Entering On or After August 22, 1996.** A non-citizen who entered the U.S. on or after August 22, 1996, and who is: (3-30-07)

- a.** A refugee admitted into the U.S. under 8 U.S.C. 1157, and can be eligible for seven (7) years from their date of entry; (3-30-07)
- b.** An asylee granted asylum into the U.S. under 8 U.S.C. 1158, and can be eligible for seven (7) years from the date their asylee status is assigned; (3-30-07)
- c.** An individual whose deportation or removal from the U.S. has been withheld under 8 U.S.C. 1253 or 1231(b)(3) as amended by Section 305(a) of Division C of Public Law 104-208, and can be eligible for seven (7) years from the date their deportation or removal was withheld; (3-30-07)
- d.** An Amerasian immigrant admitted into the U.S. under 8 U.S.C. 1612(b)(2)(A)(i)(V), and can be eligible for seven (7) years from the date of entry; or (3-30-07)
- e.** A Cuban or Haitian entrant to the U.S. under Section 501(e) of the Refugee Assistance Act under Section 501(e) of P.L. 96-422 (1980), and can be eligible for seven (7) years from their date of entry; (3-30-07)
- 08. Qualified Non-Citizen Entering On or After August 22, 1996.** A qualified non-citizen under 8 U.S.C. 1641(b) or (c), who entered the U.S. on or after August 22, 1996, and who has held a qualified non-citizen status for at least five (5) years; (3-30-07)
- 09. American Indian Born in Canada.** An American Indian born in Canada, under 8 U.S.C. 1359; (3-30-07)
- 10. American Indian Born Outside the U.S.** An American Indian born outside of the U.S., who is a member of a U.S. federally recognized tribe under 25 U.S.C. 450 b(e); (3-30-07)
- 11. Qualified Non-Citizen Child Receiving Federal Foster Care.** A qualified non-citizen child as defined in 8 U.S.C. 1641(b) or (c), and receiving federal foster care assistance; and (3-30-07)
- 12. Victim of Severe Form of Trafficking.** A victim of a severe form of trafficking in persons, as defined in 22 U.S.C. 7102(13); who meets one (1) of the following: (3-30-07)
- a.** Is under the age of eighteen (18) years; or (3-30-07)
- b.** Is certified by the U.S. Department of Health and Human Services as willing to assist in the investigation and prosecution of a severe form of trafficking in persons; and (3-30-07)
- i.** Has made a bona fide application for a temporary visa under 8 U.S.C. 1104(a)(15)(T), which has not been denied; or (3-30-07)
- ii.** Is remaining in the U.S. to assist the U.S. Attorney General in the prosecution of traffickers in persons. (3-30-07)
- 13. Afghan Special Immigrants.** Afghan special immigrants, as defined in Public Law 110-161, who have special immigration status after December 26, 2007, are eligible for six (6) months from the date they enter into the U.S. as a special immigrant or the date they convert to the special immigrant status. (12-26-07)T
- 14. Iraqi Special Immigrants.** An Iraqi special immigrant, as defined in Public Law 110-181, who has special immigration status after January 28, 2008, is eligible for eight (8) months from the date they enter the U.S. as a special immigrant or the date they convert to the special immigrant status. (1-28-08)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**251. SPONSOR DEEMING.**

Income and resources of a legal non-citizen's sponsor and the sponsor's spouse are counted in determining eligibility. Sponsor deeming is not required for the following non-citizens: ~~(3-30-07)~~(12-26-07)T

- a. Afghan special immigrants as described in Section 220 of these rules; or (12-26-07)T
- b. Iraqi special immigrants as described in Section 220 of these rules. (1-28-08)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**421. TRANSITIONAL MEDICAID.**

Individuals and families who were eligible for Title XIX ~~Medicaid coverage under the~~ AFDC-related ~~coverage groups are~~ Medicaid may be eligible for Transitional Medicaid if the family income exceeds ~~limits because of a reason~~ the AFDC payment standard listed in ~~Subsections 421.01 through 421.03~~ 411 of ~~this~~ these rules. ~~The family must have received AFDC related Medicaid in Idaho in three (3) of the six (6) months before the month they became ineligible unless the family meets the condition in Subsection 421.01 of this rule. Eligible families may receive Transitional Medicaid~~ A family may be eligible for up to twelve (12) continuous months of Transitional Medicaid, if any one (1) of the conditions in Subsections 421.01 through 421.03 of this rule is met. ~~(4-2-08)~~(7-1-08)T

**01. Idaho TAFI Income and Income from Employment.** Family income exceeds ~~limits~~ the payment standard because they have Idaho TAFI income and income from employment. ~~The family must have received AFDC-related Medicaid in Idaho the month prior to the month they became ineligible for AFDC-related Medicaid.~~ ~~(4-2-08)~~(7-1-08)T

**02. Employment Income Increased.** Family income exceeds ~~limits~~ the payment standard because employment income increased. ~~The family must have received AFDC-related Medicaid in Idaho three (3) of the past six (6) months prior to the month they became ineligible for AFDC-related Medicaid.~~ ~~(4-2-08)~~(7-1-08)T

**03. No Longer Entitled to a Disregard Expired.** Family income exceeds ~~limits~~ the payment standard because the ~~thirty dollar (\$30) plus one third (1/3) or the thirty dollar (\$30)~~ family is no longer entitled to a disregard ~~expired~~ listed in Subsections 395.02 or 395.03 of these rules. ~~The family must have received AFDC-related Medicaid in Idaho three (3) of the past six (6) months prior to the month they became ineligible for AFDC-related Medicaid.~~ ~~(4-2-08)~~(7-1-08)T

**422. TRANSITIONAL MEDICAID NOTICE REQUIREMENTS (RESERVED).**

~~The participant must be provided notice during Transitional Medicaid as described in Subsections 422.01 and 422.02.~~ ~~(4-2-08)~~

~~**01. Required Notice During First Six Months of Transitional Medicaid.** The Department will notify the participant of the reporting requirements and the option for months seven (7) through twelve (12) of Transitional Medicaid. The Department will send the notice and the report form in month three (3) and month six (6) of Transitional Medicaid.~~ ~~(4-2-08)~~

~~**02. Required Notice During Second Six Months of Transitional Medicaid.** The Department will notify the participant of reporting requirements. The Department will send the notice and the report form in month nine (9) of TM.~~ ~~(4-2-08)~~

**423. TRANSITIONAL MEDICAID REPORTING REQUIREMENT.**

~~Families receiving~~ To continue to receive Transitional Medicaid ~~are mailed three (3) for~~ months seven (7) through twelve (12), the family must complete and return three (3) quarterly reports ~~forms during the twelve (12) Transitional Medicaid months. Families must complete and return the reports as listed in Subsections 423.01 through 423.03.~~ Each report must include the family gross earnings, expenses for dependent care needed for employment, and any change to the family composition. Proof of monthly earnings and dependent care expenses must be provided with each report. ~~(4-2-08)~~(7-1-08)T

~~01. **First Report.** The family must complete and return the report only if changes have occurred in earnings, household composition or work-related child care costs. The first report is due by day twenty-one (21) of TM month four (4). The report covers TM months one (1) through three (3). (4-2-08)~~

~~02. **Second Report.** The family must complete and return the report only if changes have occurred in earnings, household composition or work-related child care costs. The second report is due by day twenty-one (21) of TM month seven (7). The report covers TM months four (4) through six (6). (4-2-08)~~

~~03. **Third Report.** The family must complete and return the report only if changes have occurred in earnings, household composition or work-related child care costs. The third report is due by day twenty-one (21) of Transitional Medicaid month ten (10). The report covers Transitional Medicaid months seven (7) through nine (9). (4-2-08)~~

**424. INCOME TESTS FOR TRANSITIONAL MEDICAID.**

*When a family reports changes in earnings, household composition or child care costs, eligibility to receive months seven (7) through twelve (12) of Transitional Medicaid must be evaluated using the income tests listed in Section 424. Use the steps in Table 424.01 for the first income test, done at the end of month seven (7) of Transitional Medicaid. Use steps in Table 424.02 for the second income test, done at the end of month ten (10) of Transitional Medicaid. (4-2-08)*

**01. ~~First Transitional Medicaid Income; Test Done at the End of Month Seven.~~**

<b><del>TABLE 424.01 – FIRST TRANSITIONAL MEDICAID INCOME TEST, DONE AT THE END OF MONTH SEVEN (7)</del></b>	
<b><del>STEP</del></b>	<b><del>ACTION</del></b>
<del>Step 1.</del>	<del>Add the gross monthly earnings from months four (4) through six (6) of Transitional Medicaid.</del>
<del>Step 2.</del>	<del>Subtract allowable child care costs from months four (4) through six (6) of Transitional Medicaid from the total gross earnings. Allowable child care costs are costs necessary for the employment of the caretaker relative, not paid by another party.</del>
<del>Step 3.</del>	<del>Divide the result of the computation in Step 2 by three (3). The result is the average monthly earnings.</del>
<del>Step 4.</del>	<del>Select the Federal Poverty Guideline amount for the family size and multiply that amount by one hundred eighty-five percent (185%).</del>
<del>Step 5.</del>	<del>Compare the average monthly earnings from Step 3 with the product of Step 4. If the average monthly earnings in Step 3 exceed the amount computed in Step 4, close Transitional Medicaid. Adequate notice is required.</del>

~~The family's reported earnings, less dependant care expenses necessary for employment, must not exceed one-hundred and eighty-five percent (185%) of the FPG for the family size. (4-2-08)(7-1-08)T~~

**02. ~~Second Transitional Medicaid Income Test, Done at the End of Month Ten.~~**

<b><del>TABLE 424.02 – SECOND TRANSITIONAL MEDICAID INCOME TEST, DONE AT THE END OF MONTH TEN (10)</del></b>	
<b><del>STEP</del></b>	<b><del>ACTION</del></b>
<del>Step 1.</del>	<del>If the caretaker relative reports earnings in each of months seven (7) through nine (9) Transitional Medicaid eligibility continues. If no earnings go to Step 2.</del>

*Step 2. If no earnings are reported for any of months seven (7) through nine (9) of Transitional Medicaid, determine if the caretaker relative has good cause for the lack of earnings. Use the criteria in Subsection 419.03. If good cause does not exist, close Transitional Medicaid. Ten (10) day advance notice is required.*

(4-2-08)

- 032. Good Cause for Lack of Earnings.** Good cause for lack of earnings includes, but is not limited to: (4-2-08)
- a. Family crisis. (4-2-08)
  - b. Court required appearance or incarceration. (4-2-08)
  - c. Loss of transportation where no other means of transportation is readily accessible. (4-2-08)
  - d. Loss of child care arrangements. (4-2-08)
  - e. Involuntary loss of employment. (4-2-08)
  - f. Illness. (4-2-08)

**(BREAK IN CONTINUITY OF SECTIONS)**

**525. CONTINUOUS HEALTH CARE ASSISTANCE ELIGIBILITY FOR CHILDREN UNDER AGE NINETEEN.**

Children under age nineteen (19), who are found eligible in an initial determination or a renewal, remain eligible for a period of twelve (12) months. The twelve (12) month continuous eligibility period does not apply if, for any reason, eligibility was determined incorrectly. (3-30-07)

**01. Reasons Continuous Eligibility Ends.** Continuous eligibility for children stops for one (1) of the following reasons: (3-30-07)

- a. The child is no longer an Idaho resident; or (3-30-07)
- b. The child dies; or (3-30-07)
- c. The participant requests closure; or (3-30-07)
- d. The child turns nineteen (19) years of age as defined in Subsection 010.05 of these rules. (3-30-07)

**02. Children Not Eligible for Continuous Eligibility.** Children are not eligible for continuous eligibility for one (1) of the following reasons: (3-30-07)

- a. A child is approved for emergency medical services; ~~or~~ (~~3-30-07~~)(12-26-07)T
- b. A child is approved for pregnancy-related services; ~~or~~ (~~3-30-07~~)(12-26-07)T
- c. A child is an Afghan special immigrant and is approved for six (6) months; or (12-26-07)T
- d. A child is an Iraqi special immigrant and is approved for eight (8) months. (1-28-08)T



**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO**  
**DOCKET NO. 16-0304-0802**  
**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is December 26, 2007.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 56-203, Idaho Code, and Public Laws 110-161, and 110-181.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The federal government imposed new laws that confer benefits for two new immigration classifications for certain Afghan and Iraqi immigrants. These immigrants previously worked for the United States and would be facing ongoing threats if they were to stay in their own country. The Food Stamp rules are being aligned with these federal regulations allowing special immigrants eligibility for food stamp assistance.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate because of changes to federal regulations and it confers a benefit to special immigrants for food stamp participation.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes were required by federal law and confer a benefit.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Rosie Andueza (208) 334-5553.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 27th day of June, 2008.

Sherri Kovach  
Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor

P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0304-0802**

**204. CITIZENSHIP AND QUALIFIED NON-CITIZEN REQUIREMENTS.**

To be eligible for Food Stamps, an individual must meet the requirements specified in 7 CFR 273.4, "Citizenship and alien status;" ~~and~~ in accordance with Public Law 107-171 "Farm Security and Rural Investment Act of 2002," Title IV - Nutrition Programs, Subtitle D - Miscellaneous, Section 4401, regarding the partial restoration of benefits to legal immigrants; and regarding special immigrants, Public Law 110-161, effective December 26, 2007, and Public Law 110-181, effective January 28, 2008. (~~3-20-04~~)(12-26-07)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED,**  
**BLIND, AND DISABLED (AABD)**

**DOCKET NO. 16-0305-0801**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective dates of these temporary rules are December 26, 2007, and January 28, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 56-202, Idaho Code, and Public Laws 110-161, and 110-181.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The federal government imposed new laws that confer benefits for two new immigration classifications for certain Afghan and Iraqi immigrants. These immigrants previously worked for the United States and would be facing ongoing threats if they were to stay in their own country. The rules covering eligibility for the aged, blind, or disabled are being aligned with these federal regulations allowing special immigrants eligibility for benefits under this program.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate because of changes to federal regulations and it confers a benefit to special immigrants for aid to the aged, blind, or disabled.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

The anticipated fiscal impact to the state general fund related to this rulemaking is \$58,108 which is 30% of federal matching funds.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes were required by federal law and confer a benefit.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Peggy Cook at (208) 334-5969.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 26th day of June, 2008.

Sherri Kovach  
Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor

P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0305-0801**

**106. CITIZENSHIP AND QUALIFIED NON-CITIZEN REQUIREMENTS.**

To be eligible, an individual must be a member of one (1) of the groups listed in Subsections 106.01 through 106.157 of these rules. An individual must also provide proof of identity as provided in Section 105 of these rules.

~~(3-30-07)~~(1-28-08)T

- 01. U.S. Citizen.** A U.S. Citizen. (3-30-07)
- 02. U.S. National, National of American Samoa or Swain's Island.** A U. S. National, National of American Samoa or Swain's Island. (3-30-07)
- 03. Child Born Outside the U.S.** A child born outside the U.S., as defined in Public Law 106-395, is considered a citizen if all of the following conditions are met: (3-30-07)
- a.** At least one (1) parent is a U.S. Citizen. The parent can be a citizen by birth or naturalization. This includes an adoptive parent; (3-30-07)
- b.** The child is residing permanently in the U.S. in the legal and physical custody of a parent who is a U.S. Citizen; (3-30-07)
- c.** The child is under eighteen (18) years of age; (3-30-07)
- d.** The child is a lawful permanent resident; and (3-30-07)
- e.** If the child is an adoptive child, the child was residing in the U.S. at the time the parent was naturalized and was in the legal and physical custody of the adoptive parent. (3-30-07)
- 04. Full-Time Active Duty U.S. Armed Forces Member.** A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) currently on full-time active duty with the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard, or a spouse or unmarried dependent child of the U.S. Armed Forces member. (3-30-07)
- 05. Veteran of the U.S. Armed Forces.** A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) honorably discharged from the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard for a reason other than their citizenship status or a spouse, including a surviving spouse who has not remarried, or an unmarried dependent child of the veteran. (3-30-07)
- 06. Non-Citizen Entering the U.S. Before August 22, 1996.** A non-citizen who entered the U.S. before August 22, 1996, and is currently a qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) and remained continuously present in the U.S. until they became a qualified alien. (3-30-07)
- 07. Non-Citizen Entering on or After August 22, 1996.** A non-citizen who entered on or after August 22, 1996, and; (3-30-07)
- a.** Is a refugee admitted into the U.S. under 8 U.S.C. 1157, and can be eligible for seven (7) years from their date of entry; (3-30-07)
- b.** Is an asylee granted asylum into the U.S. under 8 U.S.C. 1158, and can be eligible for seven (7) years from the date their asylee status is assigned; (3-30-07)
- c.** Is an individual whose deportation or removal from the U.S. has been withheld under 8 U.S.C. 1253 or 1231(b)(3) as amended by Section 305(a) of Division C of Public Law 104-208, and can be eligible for seven (7) years from the date their deportation or removal was withheld; (3-30-07)
- d.** Is an Amerasian immigrant admitted into the U.S. under 8 U.S.C. 1612(b)(2)(A)(i)(V), and can be

eligible for seven (7) years from the date of entry; or (3-20-04)

**e.** Is a Cuban or Haitian entrant to the U.S. under Section 501(e) of the Refugee Assistance Act, and can be eligible for seven (7) years from their date of entry. (3-30-07)

**08. Qualified Non-Citizen Entering on or After August 22, 1996.** A qualified non-citizen under 8 U.S.C. 1641(b) or (c), entering the U.S. on or after August 22, 1996, and who has held a qualified non-citizen status for at least five (5) years. (3-30-07)

**09. American Indian Born in Canada.** An American Indian born in Canada under 8 U.S.C. 1359. (3-30-07)

**10. American Indian Born Outside the U.S.** An American Indian born outside of the U.S., and is a member of a U.S. federally recognized tribe under 25 U.S.C. 450 b(e). (3-30-07)

**11. Qualified Non-Citizen Child Receiving Federal Foster Care.** A qualified non-citizen child as defined in 8 U.S.C. 1641(b) or (c), and receiving federal foster care assistance. (3-30-07)

**12. Victim of Severe Form of Trafficking.** A victim of a severe form of trafficking in persons, as defined in 22 U.S.C. 7102(13); who meets one (1) of the following: (3-20-04)

**a.** Is under the age of eighteen (18) years; or (3-20-04)

**b.** Is certified by the U.S. Department of Health and Human Services as willing to assist in the investigation and prosecution of a severe form of trafficking in persons; and (3-20-04)

**i.** Has made a bona fide application for a temporary visa under 8 U.S.C. 1104(a)(15)(T), which has not been denied; or (3-20-04)

**ii.** Is remaining in the U.S. to assist the U.S. Attorney General in the prosecution of traffickers in persons. (3-30-07)

**13. Qualified Non-Citizen Receiving Supplement Security Income (SSI).** A qualified non-citizen under 8 U.S.C. 1641(b) or (c), and is receiving SSI; or (3-20-04)

**14. Permanent Resident Receiving AABD Cash On August 22, 1996.** A permanent resident receiving AABD cash on August 22, 1996. (3-20-04)

**15. Afghan Special Immigrants.** Afghan special immigrants, as defined in Public Law 110-161, who have special immigration status after December 26, 2007, are eligible for six (6) months from the date they enter into the U.S. as a special immigrant or the date they convert to the special immigrant status. (12-26-07)T

**16. Iraqi Special Immigrants.** An Iraqi special immigrant, as defined in Public Law 110-181, who has special immigration status after January 28, 2008, is eligible for eight (8) months from the date they enter the U.S. as a special immigrant or the date they convert to the special immigrant status. (1-28-08)T

**157. Individuals Not Meeting the Citizenship or Qualified Non-Citizen Requirements.** Individuals who do not meet the citizenship or qualified non-citizen requirements in Subsections 106.01 through 106.14~~6~~ of this rule, may be eligible for emergency medical services if they meet all other conditions of eligibility. (~~3-30-07~~)(1-28-08)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.06 - RULES GOVERNING REFUGEE MEDICAL ASSISTANCE**  
**DOCKET NO. 16-0306-0801**  
**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective dates of these temporary rules are December 26, 2007, and January 28, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202, 56-203, Idaho Code, and Public Laws 110-161, and 110-181.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The federal government imposed new laws that confer benefits for two new immigration classifications for certain Afghan and Iraqi immigrants. These immigrants previously worked for the United States and would be facing ongoing threats if they were to stay in their own country. The rules covering refugee medical assistance are being aligned with these federal regulations for Afghan and Iraqi special immigrants to be eligible for assistance.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate because of changes to federal regulations and it confers a benefit to special immigrants for medical assistance.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes were required by federal law and confer a benefit.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Peggy Cook at (208) 334-5969.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 26th day of June, 2008.

Sherri Kovach  
Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor

P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0306-0801**

**100. IDENTIFICATION OF REFUGEES.**

**01. Refugee Immigration Status.** A person has refugee status for purposes of assistance under the Refugee Medical Assistance Program if he is one (1) of the following: (4-2-08)

**a.** A person from Cambodia, Laos, or Vietnam who has a Form I-94 indicating that the person has been paroled under Section 212(d)(5) of the Immigration and Nationality Act (INA). The I-94 must clearly indicate that the person has been paroled as a refugee or asylee. (4-2-08)

**b.** A person from Cuba who is present in the United States, and who has an I-94 indicating that the person has been paroled under Section 212(d)(5) of the INA. The I-94 must clearly indicate that the person has been paroled as a refugee or asylee. (4-2-08)

**c.** A person from any country who has Form I-94 indicating that the person has been: (4-2-08)

**i.** Paroled under Section 212(d)(5) of the INA as a refugee or asylee; or (4-2-08)

**ii.** Admitted as a conditional entrant under Section 203(a)(7) of the INA; or (4-2-08)

**iii.** Admitted as a refugee under Section 207 of INA; or (4-2-08)

**iv.** Granted asylum under Section 208 of INA; or (4-2-08)

**d.** A person who entered the United States and has Form I-151 or I-551 showing that his status has been subsequently adjusted from one (1) of the statuses in Subsection 100.02.c. of this rule to that of permanent resident alien, provided he can document his previous status. (4-2-08)

**e.** A child born in the United States to eligible refugee parent(s) with whom he lives. (4-2-08)

**f.** An Amerasian together with close family members who entered the United States beginning March 20, 1988, in immigrant status through the Orderly Departure Program. Close family members who are eligible refugees under this provision are limited to: (4-2-08)

**i.** The Amerasian's spouse and child(ren); (4-2-08)

**ii.** The mother of an unmarried Amerasian and such mother's spouse and child(ren); and (4-2-08)

**iii.** A person who has acted as the parent of an unmarried Amerasian and that person's spouse and child(ren). (4-2-08)

**02. Afghan Special Immigrants.** Afghan special immigrants, as defined in Public Law 110-161, who have special immigration status after December 26, 2007, are eligible for six (6) months from the date they enter into the U.S. as a special immigrant or the date they convert to the special immigrant status. (12-26-07)T

**03. Iraqi Special Immigrants.** An Iraqi special immigrant, as defined in Public Law 110-181, who has special immigration status after January 28, 2008, is eligible for eight (8) months from the date they enter the U.S. as a special immigrant or the date they convert to the special immigrant status. (1-28-08)T

**024. Other Factors in Determining Eligibility for the Refugee Medical Assistance Program.** (4-2-08)

**a.** An applicant who has applied for, but has not been granted asylum, is not eligible. (4-2-08)

- b.** A person who entered the United States as a resident alien is not eligible. (4-2-08)
- c.** A Form I-94 which shows a person has been paroled into the United States under Section 212(d)(5) of the INA must clearly indicate that the person has been paroled as a “Refugee” or “Asylee” if such form was issued: (4-2-08)

  - i.** To a person from Cambodia, Laos, or Vietnam before October 1, 1997, in accordance with P.L. 106-429, Section 101(a), as amended by P.L. 108-447; or (4-2-08)
  - ii.** To a person from Cuba; or (4-2-08)
  - iii.** To a person from any other country at any time. (4-2-08)
- d.** A person whose status is Cuban/Haitian Entrant must have his eligibility for benefits under the Refugee Medical Assistance Program determined under Sections 125 and 200 of these rules. (4-2-08)
- e.** An Amerasian or close family member admitted as an immigrant but eligible for Refugee Medical Assistance as though he were a refugee must have either of the following documents verifying his status: (4-2-08)

  - i.** A temporary identification document, Form I-94 stamped “Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until (expiration date). Employment authorized.” The back of Form I-94 contains the stamped word “Admitted” and is coded AM1, AM2, or AM3; or (4-2-08)
  - ii.** A permanent identification document, Form I-551 coded AM6, AM7, or AM8. (4-2-08)



## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)

DOCKET NO. 16-0308-0802

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective dates of these temporary rules are December 26, 2007, and January 28, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 56-202, Idaho Code, 45 CFR Parts 260-265, Public Laws 110-161 and 110-081.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The federal government imposed new laws that confer benefits for two new immigration classifications for certain Afghan and Iraqi immigrants. These immigrants previously worked for the United States and would be facing ongoing threats if they were to stay in their own country. The rules for temporary assistance for families are being aligned with these federal regulations allowing special immigrants eligibility for assistance.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate because of changes to federal regulations and it confers a benefit to special immigrants for temporary assistance.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes were required by federal law and confer a benefit.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Genie Sue Weppner (208) 334-5656.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 26th day of June, 2008.

Sherri Kovach  
Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor

P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0308-0802**

**131. CITIZENSHIP AND QUALIFIED NON-CITIZEN CRITERIA.**

To be eligible, an individual must be a member of one (1) of the groups listed in Subsections 131.01 through 131.109 of this rule. ~~(3-20-04)~~(1-28-08)T

- 01. U.S. Citizen.** A U.S. Citizen; or (3-20-04)
- 02. U.S. National, National of American Samoa or Swains Island.** A U. S. National, National of American Samoa or Swains Island; or (3-20-04)
- 03. Full-Time Active Duty U.S. Armed Forces Member.** A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) currently on full-time active duty with the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard, or a spouse or unmarried dependent child of the U.S. Armed Forces member; or (3-20-04)
- 04. Veteran of the U.S. Armed Forces.** A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) honorably discharged from the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard for a reason other than their citizenship status or a spouse, including a surviving spouse who has not remarried, or an unmarried dependent child of the veteran; or (3-20-04)
- 05. Non-Citizen Entering the U.S. Before August 22, 1996.** A non-citizen who entered the U.S. before August 22, 1996, and is currently a qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c); or (3-20-04)
- 06. Non-Citizen Entering on or After August 22, 1996.** A non-citizen who entered on or after August 22, 1996, and (3-20-04)
- a.** Is a refugee admitted into the U.S. under 8 U.S.C. 1157, and can be eligible for seven (7) years from their date of entry; or (3-20-04)
- b.** Is an asylee granted asylum into the U.S. under 8 U.S.C. 1158, and can be eligible for seven (7) years from the date their asylee status is assigned; or (3-20-04)
- c.** Is an individual whose deportation or removal from the U.S. has been withheld under 8 U.S.C. 1253 or 1231(b)(3) as amended by Section 305(a) of Division C of Public Law 104-208, and can be eligible for seven (7) years from the date their deportation or removal was withheld; or (3-20-04)
- d.** Is an Amerasian immigrant admitted into the U.S. under 8 U.S.C. 1612(b)(2)(A)(i)(V), and can be eligible for seven (7) years from the date of entry; or (3-20-04)
- e.** Is a Cuban or Haitian entrant to the U.S. under Section 501(e) of the Refugee Assistance Act, and can be eligible for seven (7) years from their date of entry; or (3-20-04)
- 07. Qualified Non-Citizen Entering on or After August 22, 1996.** A qualified non-citizen under 8 U.S.C. 1641(b) or (c), entering the U.S. on or after August 22, 1996, and who has had a qualified non-citizen status for at least five (5) years; or (3-20-04)
- 08. Victim of Severe Form of Trafficking.** A victim of a severe form of trafficking in persons, as defined in 22 U.S.C. 7102(13); who meets one (1) of the following: (3-20-04)
- a.** Is under the age of eighteen (18) years; or (3-20-04)
- b.** Is certified by the U.S. Department of Health and Human Services as willing to assist in the investigation and prosecution of a severe form of trafficking in persons; and (3-20-04)

i. Has made a bona fide application for a temporary visa under 8 U.S.C. 1104(a)(15)(T), which has not been denied; or (3-20-04)

ii. Is remaining in the U.S. to assist the U.S. Attorney General in the prosecution of traffickers in persons. (3-20-04)

**09. Afghan Special Immigrants.** Afghan special immigrants, as defined in Public Law 110-161, who have special immigration status after December 26, 2007, are eligible for six (6) months from the date they enter into the U.S. as a special immigrant or the date they convert to the special immigrant status. (12-26-07)T

**10. Iraqi Special Immigrants.** An Iraqi special immigrant, as defined in Public Law 110-181, who has special immigration status after January 28, 2008, is eligible for eight (8) months from the date they enter the U.S. as a special immigrant or the date they convert to the special immigrant status. (1-28-08)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.04.03 - FEES FOR COMMUNITY MENTAL HEALTH SERVICES**

**DOCKET NO. 16-0403-0801 (CHAPTER REPEAL)**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-3133, 39-3137, and 56-1007, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the January 2, 2008, Idaho Administrative Bulletin, Vol. 08-1, page 127.

**FISCAL IMPACT:** 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:

This rulemaking has no anticipated fiscal impact to state general funds.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Scott Tiffany at (208) 332-7243.

DATED this 23rd day of June, 2008.

Sherri Kovach  
Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**DOCKET NO. 16-0403-0801 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-1, January 2, 2008, page 127.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.05.03 - RULES GOVERNING CONTESTED CASE PROCEEDINGS**  
**AND DECLARATORY RULINGS**

**DOCKET NO. 16-0503-0801**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 16-107, 56-133, 56-135, 56-202, 56-204A, 56-216, 56-1003, 56-1004, and 56-1005, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Wednesday, August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

A new administrative review option for child protection cases is being added to align with changes being proposed in IDAPA 16.06.01, "Rules Governing Family and Children's Services." As requested by the Legislature, this will provide for a review process prior to a person's name being entered into the Child Protection Central Registry.

A new administrative review option is being added for Intensive Behavioral Intervention (IBI) to provide an option for informal resolution of disputes related to certification, billing, or reimbursement.

A new appeal process is being added that is specific to the Infant Toddler Program. This process will better ensure that the federal due process requirements under the "Individuals with Disabilities Education Act" (IDEA) are followed for the Infant Toddler Program.

The chapter is also being updated to reflect recent changes in terminology, practice, and statute, including:

1. Revisions to the sections at the beginning of the chapter required by the Office of Administrative Rules;
2. Revisions to Board provisions including changing the number of days an appellant has to file a petition for a Board review to 14 days (same as a Director review) and adding a provision that allows the Board chair to determine whether the Board needs a transcript of a hearing on which they are going to hear oral argument;
3. Clarification that a Medicaid review conference must be held within 28 days of the request for an administrative review (in such a conference the disputing parties clarify and attempt to resolve the issues of contention). This provision prevents appellants from making lengthy delays in the administrative review process; and
4. Addition of other minor clarifications and corrections to existing text.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes and additions proposed are mostly technical and non-controversial in nature (e.g., additional due process provisions) and are primarily updates that reflect recent changes in terminology, practice, and statute, as well as minor clarifications and corrections.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jeanne Goodenough at (208) 334-5537.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, August 27, 2008.

DATED this 2nd day of July, 2008.

Sherri Kovach, Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0503-0801**

**000. LEGAL AUTHORITY.**

The Idaho Legislature has granted the Director of the Department of Health and Welfare and the Board of Health and Welfare the power and authority to conduct contested case proceedings and issue declaratory rulings, and to adopt rules governing such proceedings under Sections 16-107, 56-133, 56-135, 56-202, ~~56-203~~, 56-204A, 56-216, 56-1003, 56-1004, and 56-1005, Idaho Code. (~~4-11-06~~)(\_\_\_\_)

**001. TITLE AND SCOPE.**

**01. Title.** ~~These~~ title of these rules ~~are to be cited fully as Idaho Department of Health and Welfare Rules,~~ is IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (~~3-30-01~~)(\_\_\_\_)

**02. Scope.** These rules establish standards for petitions for rulemaking and declaratory rulings, and the conduct of contested cases. ~~Contested cases include appeals from providers of medical assistance and other services, and appeals relating to individuals' benefits administered through the Division of Welfare, child support license suspension hearings, denial of a criminal history exemption, and tobacco citations pursuant to Sections 39-5705 and 39-5708, Idaho Code.~~ (~~3-30-01~~)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS AND ABBREVIATIONS.**

**01. Administrative Review.** An informal review by a Division Administrator or designee, to determine whether a Department decision is correct. (\_\_\_\_)

~~02.~~ **Appellant.** A person or entity who files an appeal of Department action or inaction. (3-30-01)

~~03.~~ **Board.** The Idaho Board of Health and Welfare. (3-30-01)

~~034.~~ **Department.** The Idaho Department of Health and Welfare. (3-30-01)

- 045.**     **Director.** The Director of the Department of Health and Welfare. (3-30-01)
- 056.**     **Hearing Officer.** The person designated to preside over a particular hearing and any related proceedings. (3-30-01)
- 067.**     **IPV.** Intentional program violation. (3-30-01)
- 078.**     **Intervenor.** Any person, other than an appellant or the Department, who requests to be admitted as a party in an appeal. (3-30-01)
- 089.**     **Party.** An appellant, the Department and an intervenor, if intervention is permitted. (3-30-01)

**(BREAK IN CONTINUITY OF SECTIONS)**

**101.     FILING OF APPEALS.**

Appeals must be filed in writing and state the appellant's name, address and phone number, and the remedy requested, except that appeals of action relating to ~~Division of Welfare programs listed in Section 200 of these rules~~ Food Stamps may be made verbally to Department staff by an individual or representative. Appeals should be accompanied by a copy of the decision that is the subject of the appeal and state the reason for disagreement with the Department's action. Unless otherwise provided by statute or these rules, individuals who are aggrieved by a Department decision have twenty-eight (28) days from the date the decision is mailed to file an appeal. An appeal is filed when it is received by the Department or postmarked within the time limits set forth in these rules. (~~4-11-06~~)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**108.     CONSOLIDATED HEARING.**

When there are multiple appeals or a group appeal involving the same change in law, rules, or policy, the hearing officer will hold a consolidated hearing. ( )

**1089. -- 119.     (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**130.     OPEN HEARINGS.**

All contested case hearings are open to the public, unless ordered closed in the discretion of the hearing officer due to the sensitive nature of the hearing. The hearing officer can order that individuals be identified by initials or an alias if necessary to protect their privacy. At the discretion of the hearing officer, ~~W~~witnesses may testify by telephone or other electronic means, provided the examination and responses are audible to all parties. (~~3-30-01~~)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**132.     BURDEN OF PROOF -- INDIVIDUAL BENEFIT CASES.**

The Department has the burden of proof if the action being appealed is to limit, reduce or terminate services or benefits; establish an overpayment or disqualification; revoke or limit a license; or to contest a tobacco violation under Sections 39-5705 and 39-5708, Idaho Code. In a child support matter, the Department must first establish that

arrearages are sufficient for child support enforcement action. The appellant has the burden of proof on all other issues, including establishing eligibility for a program, service or license; seeking an exemption required due to criminal history or abuse registry information; or seeking to avoid license suspension, asset seizure, or other enforcement actions for failure to pay child support. (4-11-06)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**151. PETITION FOR REVIEW BY BOARD OF HEALTH AND WELFARE.**

In cases under the jurisdiction of the Board, either party may file a petition for review with the Administrative Procedures Section not later than ~~twenty-eight~~ fourteen (28~~14~~) days from the date the preliminary order was mailed. The request must identify all legal and factual bases of disagreement with the preliminary order. The Administrative Procedures Section will establish a schedule for the submission of briefs and if allowed, oral argument. Appellant must provide a transcript of the hearing before the hearing officer unless the appeal involves only questions of law. The Board chair or designee will determine whether a transcript of the hearing is needed and, if so, one will be provided by the party who requests review of the preliminary order. The Board members will exercise all of the decision-making power they would have had if they had presided over the hearing. (4-11-06)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**200. DIVISION OF WELFARE - APPEALS.**

The provisions of this section of rules govern the conduct of individual benefit hearings to determine eligibility for benefits or services in the Division of Welfare, including IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)," IDAPA 16.03.08, "Rules Governing Temporary Assistance for Families in Idaho," IDAPA 16.03.04, "Rules Governing the Food Stamp Program in Idaho," IDAPA 16.06.12, "Rules Governing the Idaho Child Care Program (ICCP)," IDAPA 16.04.14, "Rules Governing the Low Income Energy Assistance Program," IDAPA 16.04.02, "Idaho Telecommunication Service Assistance Program Rules," IDAPA 16.04.12, "Rules Governing the Individual and Family Grant Programs," and IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." (3-30-01)(\_\_\_\_)

**201. DIVISION OF WELFARE - TIME FOR FILING APPEAL.**

A decision issued by the Department in a Division of Welfare program will be final and effective unless an individual or representative appeals within thirty (30) days from the date the decision was mailed, except that a recipient or applicant for Food Stamps has ninety (90) days to appeal. An individual or representative may also appeal when the Department delays in making an eligibility decision or making payment beyond the limits specified in the particular program within thirty (30) days after the action would have been taken if the Department had acted in a timely manner. (4-11-06)(\_\_\_\_)

**202. DIVISION OF WELFARE - INFORMAL CONFERENCE.**

An appellant or representative has the right to request an informal conference with the Department or Community Action Agency before the hearing date. This conference may be used to resolve the issue informally or to provide the appellant with information about the hearing or actions. The conference will not affect the appellant's right to a hearing or the time limits for the hearing. After the conference, the hearing will be held unless the appellant withdraws the appeal, or the Department withdraws the action contested by the appellant. (4-11-06)(\_\_\_\_)

**203. DIVISION OF WELFARE - WITHDRAWAL OF AN APPEAL.**

An appellant or representative may withdraw an appeal upon written request to the hearing officer. (3-30-01)(\_\_\_\_)

**204. DIVISION OF WELFARE - TIME LIMITS FOR COMPLETING HEARINGS.**

The Department must conduct the hearing relating to an individual's benefits and take action within ninety (90) days from the date the hearing request is received. When the hearing request concerns the computed amount of the Community Spouse Resource Allowance, the hearing will be held within thirty (30) days from the date the hearing request is received. The Department will expedite hearing requests from appellants such as migrant farm workers



who are planning to move before the hearing decision would normally be reached. (4-11-06)( )

**205. DIVISION OF WELFARE - APPEAL OF AUTOMATIC ADJUSTMENTS.**

An appeal will be dismissed if the hearing officer determines that the sole issue is an automatic grant adjustment, change in rule that affects benefit amount or eligibility, or reduction of Medicaid services under state or federal law.

(4-11-06)( )

**206. CONSOLIDATED HEARING (RESERVED).**

~~When there are multiple appeals or a group appeal involving same change in law, rules, or policy, the hearing officer will hold a consolidated hearing.~~

(4-11-06)

**207. DIVISION OF WELFARE - POSTPONEMENT OF FOOD STAMP HEARINGS.**

An appellant may request, and be granted a postponement of a hearing, not to exceed thirty (30) days. The time limit for the Department's response ~~shall~~ will be extended for as many days as the hearing is postponed. (4-11-06)( )

**208. -- 249. (RESERVED).**

**250. DIVISION OF WELFARE - FOOD STAMPS DISQUALIFICATION HEARINGS.**

A disqualification hearing will be scheduled when the Department has evidence that an individual has allegedly committed one (1) or more acts of intentional program violations (IPV).

(4-11-06)( )

**251. DIVISION OF WELFARE - COMBINING DISQUALIFICATION HEARING AND BENEFIT HEARING.**

The hearing officer must consolidate a hearing regarding benefits or overpayment and a disqualification hearing if the issues are the same or related. The appellant must be notified that the hearings will be combined. (4-11-06)( )

**252. DIVISION OF WELFARE - RIGHT NOT TO TESTIFY.**

The hearing officer must advise the appellant that he may refuse to answer questions during a disqualification hearing.

(4-11-06)( )

**253. DIVISION OF WELFARE - FAILURE TO APPEAR.**

If an appellant or representative fails to appear at a disqualification hearing or cannot be located, the hearing will be conducted in his absence. The Department must present proof that advance notice of the hearing was mailed to the appellant's last known address. The hearing officer must consider the evidence and determine if an IPV occurred based solely on the information provided by the Department. The appellant has ten (10) days from the date of the scheduled hearing to show good cause for failure to appear. If an IPV had been established, but the hearing officer determines the appellant had good cause for not appearing, the previous decision will be void and a new hearing will be conducted. The previous hearing officer may conduct the new hearing.

(4-11-06)( )

**254. DIVISION OF WELFARE - STANDARD FOR DETERMINING INTENTIONAL PROGRAM VIOLATIONS.**

The determination that an intentional program violation has been committed must be established by clear and convincing evidence that the appellant committed or intended to commit an IPV.

(4-11-06)( )

**255. -- 2997. (RESERVED).**

**298. DIVISION OF WELFARE - BUREAU OF CHILD SUPPORT.**

A notice of license suspension becomes final and effective unless an individual or a representative files an appeal within twenty-one (21) days from the date the decision is mailed. ( )

**299. (RESERVED).**

**300. DIVISION OF MEDICAID - REQUEST FOR ADMINISTRATIVE REVIEW.**

An action relating to licensure or certification, billing or reimbursement is final and effective unless the provider or facility requests in writing an administrative review within twenty-eight (28) days after the notice is mailed. The request must be signed by the licensed administrator of the facility or by the provider, identify the challenged

decision, and state specifically the grounds for its contention that the decision was erroneous. The parties must clarify and attempt to resolve the issues at the review conference, which must be held within twenty-eight (28) days after the request for the administrative review. If the Department determines that additional documentation is needed to resolve the issues, a second session of the conference may be scheduled. ~~A written decision by~~ The Department will ~~be furnished~~ provide a written decision to the facility or provider. (4-11-06)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**401. DIVISION OF HEALTH - REPORTABLE DISEASES.**

An order for isolation or quarantine is a final agency action as set forth in Section 56-1003(7), Idaho Code. Any Other orders or restrictions as specified in IDAPA 16.02.10, "Idaho Reportable Diseases," ~~Section 065,~~ becomes final and effective unless an appeal is filed within five (5) working days after the effective date of the order or restriction.

(4-11-06)( )

**01. Conduct of Hearing.** The Department may take whatever precautions and make whatever arrangements are necessary for the conduct of such hearing to insure that the health of participants and the public is not jeopardized. (3-30-01)

**02. Review.** Any person directly affected by an order or restriction may file exceptions to the Director's determination, which will be reviewed by the Board. The order or restriction remains effective unless rescinded by the Board. (4-11-06)

**402. DIVISION OF HEALTH - FOOD ESTABLISHMENTS.**

Appeal procedures will be as provided ~~in Section 861,~~ under IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments-," Section 861.

(4-11-06)( )

**403. -- ~~499.~~ (RESERVED).**

**500. DIVISION OF FAMILY AND COMMUNITY SERVICES - CHILD PROTECTION CENTRAL REGISTRY ADMINISTRATIVE REVIEW.**

A substantiated incident of child abuse, neglect, or abandonment will automatically become effective and be placed on the Child Protection Central Registry unless the individual identified in the notification files a request for an administrative review within twenty-eight (28) days from the date on the notification. The request for an administrative review must be mailed to the Family and Community Services (FACS) Division Administrator at the address listed in Subsection 006.02 of these rules. ( )

**01. Content of Request.** The request for an administrative review must identify the notification being protested and explain the reasons for disagreement. Additional information may be provided for the Administrator's consideration. ( )

**02. Administrative Review.** The FACS Division Administrator will consider all available information and determine whether the incident was erroneously determined to be "substantiated." The Administrator will furnish a written decision to the individual. ( )

**501. DIVISION OF FAMILY AND COMMUNITY SERVICES - INTENSIVE BEHAVIORAL INTERVENTION (IBI) ADMINISTRATIVE REVIEW.**

**01. Request for Administrative Review.** An action relating to certification, billing, or reimbursement is final and effective unless the provider requests in writing an administrative review within twenty-eight (28) days after the notice is mailed. The request must be signed by the provider, identify the challenged decision, and state specifically the grounds for its contention that the decision was erroneous. The parties must clarify and attempt to resolve the issues at the review conference, which must be held within twenty-eight (28) days after the request for the administrative review. If the Department determines that additional documentation is needed to resolve the issues, a second session of the conference may be scheduled. The Department will provide a written decision to the facility or

provider. ( )

**02. Scope of Appeal Hearing.** If the Department's decision after the administrative review is appealed, only issues and documentation that were presented in the administrative review will be admissible in the appeal hearing. ( )

**502. DIVISION OF FAMILY AND COMMUNITY SERVICES - INFANT TODDLER PROGRAM - INDIVIDUAL CHILD COMPLAINTS.**

**01. Individual Child Complaints.** Parents or providers may request a hearing if they disagree with decisions regarding the identification, evaluation, or placement of a child, or, with the provision of appropriate early intervention services. A request must be filed with the Administrative Procedures Section identified in Section 005 of these rules, within twenty-eight (28) days from the date the decision is issued. The request for a hearing must identify: ( )

**a.** The child's name, home address, and the early intervention program serving the child; ( )

**b.** A statement identifying the facts and the reason for disagreement with the decision; ( )

**c.** The name of the provider who is serving the child; ( )

**d.** A proposed resolution; and ( )

**e.** A dated signature of the person who is submitting the request. ( )

**02. Mediation.** The Department must offer mediation services at Department expense, which must be held within thirty (30) days after the request for a hearing. A qualified and impartial mediator who is trained in effective mediation techniques will meet at a location convenient to both parties to help them find a solution to the complaint in an informal, non-adversarial atmosphere. ( )

**a.** The parties must sign a confidentiality agreement before these discussions. Information discussed in the mediation cannot be used in any subsequent proceeding. ( )

**b.** If there is a resolution, both parties must sign a mediation agreement, which is enforceable in state or federal court. ( )

**03. Due Process Hearings.** The hearing must be held and a written decision mailed within thirty (30) days from the receipt of the request for a hearing, whether or not mediation occurs. The hearing officer may bar any party from introducing a relevant evaluation or recommendation that has not been disclosed at least five (5) calendar days before the hearing, unless the other party consents. ( )

**a.** Current Services. Appropriate early intervention services that are being provided at the time of the decision will continue unless the parties agree otherwise. ( )

**b.** Initial Application. If the decision involves an application for initial services, any services that are not in dispute must be provided. ( )

**503. DIVISION OF FAMILY AND COMMUNITY SERVICES - INFANT TODDLER PROGRAM - ADMINISTRATIVE COMPLAINTS.**

**01. Filing of Complaint.** An individual or organization, including those from another State, may file a written, signed complaint against any public or private service provider, alleging a violation of the Part C program and regulations at 34 CFR Part 303. The complaint must identify what requirement has been violated and the facts upon which the complaint is based. Complaints can include an allegation that a provider failed to implement the decision after a hearing. The complaint must be filed with the Administrative Procedures Section identified in Section 005 of these rules within one (1) year of the alleged violation, except in the following circumstances: ( )

- a.** If there is a continuing violation for that child or other children; or ( )
- b.** If the complaint requests reimbursement or corrective action for a violation that occurred not more than three (3) years prior to the date the complaint is received by the public agency. ( )
- 02. Investigation and Decision.** Upon receipt, the Department has sixty (60) days, unless exceptional circumstances exist, to: ( )
- a.** Investigate the complaint, including conducting an independent, on-site investigation if necessary; ( )
- b.** Receive additional information about the complaint; ( )
- c.** Make an independent determination whether a violation occurred; ( )
- d.** Issue a written decision with findings, conclusions, and an explanation for the decision. ( )
- 03. Resolution.** If the Department concludes that appropriate services were or are not being provided, the decision must address remedial action including, if appropriate, the award of monetary reimbursement or corrective action appropriate to the needs of the child and family, technical assistance, and negotiation. The Department must also address appropriate future services for all infants and toddlers with disabilities and their families. ( )
- 04. Extent of Review.** No issue that is being addressed in the hearing process can be dealt with in the administrative complaint until the conclusion of the hearing. Any issue that is not part of the hearing must be resolved within the sixty (60) day review time. Issues that have already been decided in the hearing are final and binding on the complainant. ( )
- 504. -- 999. (RESERVED).**

## IDAPA 16 - DEPARTMENT OF HEALTH AND WEPARE

### 16.06.13 - RULES GOVERNING EMERGENCY ASSISTANCE FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0613-0801

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-201, 56-202(b), Idaho Code, and Title IV-A of the Social Security Act.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule changes will simplify, streamline, and increase the efficiency of the administration of Emergency Assistance (EA) funds by updating the definition section, clarifying conditions that make up an emergency condition, clarifying who is the service population, reducing the complexity of eligibility criteria, and ensuring compliance with federal law.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: NA

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the April 2, 2008 Idaho Administrative Bulletin, Volume 08-4, page 20.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Scott Burlingame at (208) 332-7385.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 19th day of June, 2008.

Sherri Kovach  
Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0613-0801

**010. DEFINITIONS AND ABBREVIATIONS.**

**01. Adult Relatives.** Any non-parent individual over the age of eighteen (18) years, who is related to the eligible child in any of the following ways: ( )

**a.** ~~Brother, sister, aunt, uncle, nephew, niece, first cousin or first cousin once removed, or one (1) of these relationships prefixed by "grand" or "great," or;~~ ( )

**b.** ~~One (1) of these the following~~ relationships by half-blood; a step-parent, step-sibling, or the spouse of a relative by marriage, even if the marriage has ended. (3-20-04)( )

**02. Authorization Assessment.** A standardized assessment conducted by the Department within the first thirty (30) days following the date of application for emergency assistance. (3-20-04)

**03. Child.** ~~An person from birth to his eighteenth birthday~~ individual less than eighteen (18) years of age. (3-20-04)( )

**04. Child Protection Services.** Authorities to whom an individual reports the potential, alleged or actual abuse, abandonment or neglect of a child, in accordance with the provisions of Title 16, Chapter 16, Idaho Code, known as the "Child Protective Act." (3-20-04)

**05. Department.** The Idaho Department of Health and Welfare, or its designee. (3-20-04)

**06. Designated Staff.** Department staff who provide direct services to families and children. (3-20-04)

**07. Destitution.** A state of being in extreme need from lacking possessions or resources. ( )

**078. Emergency Assistance.** Funding through Title IV-A for social services, emergency payments, and placement payments authorized by the Department and designed to meet short-term, non-recurrent emergency needs of families with children. (3-20-04)

**089. Federal Poverty Guideline.** Poverty guidelines issued each year in the Federal Register by the Department of Health and Human Services used to determine financial eligibility for certain state and federal programs. These guidelines may be accessed at the Internet website "http://aspe.os.dhhs.gov/poverty/." (3-20-04)

**109. Needy Family.** Two hundred percent (200%) of poverty as defined in the Federal Poverty Guidelines, or insufficient resources immediately available to meet the child's basic needs and which threatens the child's safety, stability, or well-being. (3-20-04)

**101. Respite Care.** Time limited care provided to children. Respite care is utilized in circumstances which require short term, temporary placement of a child from the home of their usual caregiver to that of another licensed or agency approved family. In general, the duration of a respite placement is from one (1) to fourteen (14) days. (3-20-04)

**142. Service Period.** ~~Is~~ The thirty (30) day authorization assessment period and up to ninety (90) days following the assessment period. (3-20-04)( )

**123. Youth.** ~~An person~~ individual between eighteen (18) years of age and ~~his~~ twenty-first birthday one (21) years of age. (3-20-04)( )

**011. -- 099. (RESERVED).**

**100. EMERGENCY CONDITION.**

**01. Reporting or Referral of an Emergency Condition.** A family is assessed for an emergency condition when the Department receives a report, referral or service request indicating an emergency condition exists

as described in Subsection 100.02 of these rules. (3-20-04)

**02. Emergency Condition.** A family has an emergency condition when any of the following exists: (3-20-04)

**a.** A child is in immediate danger of a life-threatening or emergency situation. See IDAPA 16.06.01, "Rules Governing Family and Children's Services," Subsection 554.01. (3-20-04)

**b.** A child is suspected of being abused, including physical or sexual, or serious physical or medical neglect has been reported. See IDAPA 16.06.01, "Rules Governing Family and Children's Services," Subsection 554.01. (3-20-04)

**c.** A child ~~is in a vulnerable situation because of the lack of parental care or insufficient resources immediately available to meet his basic needs and the~~ or youth has unmet short-term basic needs ~~may be a threat to~~ affecting the child's health, safety, ~~stability~~, or well-being ~~that place the child at risk of destitution as defined in Section 010 of these rules.~~ (3-20-04)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. EMERGENCY ASSISTANCE PAYMENTS.**

Emergency assistance payments are ~~non-recurrent~~, short-term benefits for specific emergency conditions that are provided to assist a family with an eligible child or youth. These payments are not intended to meet ongoing and recurrent needs that will extend beyond the one hundred twenty (120) -day service period. (3-20-04)( )

**01. Emergency Payments.** Emergency payments will be made to purchase goods and services relating to the emergency condition. (3-20-04)

~~**02. Placement Payments.** Placement payments may be made for shelter care, foster care, residential or group care for a child and may include food, clothing and supervision unless the child has assistance provided under Title IV-E funding.~~ (3-20-04)

~~**03. Non-Allowable Payments.** Emergency assistance funds may not be used to pay for the following:~~ (3-20-04)

**a.** Medical services reimbursable by Medicaid regardless of whether the individual is receiving or eligible for Medicaid. (3-20-04)

**b.** Services provided to meet a family's on going basic needs including housing, food, clothing, transportation and household goods that extend beyond the one hundred twenty (120) days. (3-20-04)

**c.** Services available through other community resources. (3-20-04)

**d.** Child care that is not considered respite care. (3-20-04)

**e.** Medical or automobile insurance. (3-20-04)

**f.** Down payment or purchases of vehicles or real property. (3-20-04)

**04. Funding Restrictions.** The Department may take action to reduce emergency assistance payments when available funding is insufficient. (3-20-04)

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.07.10 - BEHAVIORAL HEALTH DEVELOPMENT GRANTS**

**DOCKET NO. 16-0710-0801**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-3133, 39-3134A, and 39-3136, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the January 2, 2008, Idaho Administrative Bulletin, Vol. 08-1, pages 140 through 148.

**FISCAL IMPACT:** 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:

Funds for these grants are set and appropriated by the Legislature. This rulemaking has no anticipated additional fiscal impact to the Department.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Scott Tiffany at (208) 332-7243.

DATED this 23rd day of June, 2008.

Sherri Kovach  
Program Supervisor  
DHW - Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
kovachs@dhw.idaho.gov e-mail

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**DOCKET NO. 16-0710-0801 - ADOPTION OF PENDING RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-1, January 2, 2008, pages 140 through 148.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.**



## IDAPA 18 - DEPARTMENT OF INSURANCE

### 18.01.09 - SENIOR CONSUMER PROTECTION IN ANNUITY TRANSACTIONS

DOCKET NO. 18-0109-0801

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 41-211 and 41-1940, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking amends an existing rule governing sales of annuity products to make the rule applicable to all consumers rather than just senior consumers. This change was made necessary by the enactment of House Bill 411, which amended the law upon which this rule is based to extend annuity sales protections to all consumers.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reason: The rule is being amended to reflect a change to the governing law that takes effect July 1, 2008.

**FEE SUMMARY:** The following is a descriptive summary of the fee or charge being imposed or increased: The rule does not impose or increase a fee.

**FISCAL IMPACT:** 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 resulting from this rulemaking: No fiscal impact.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the change is required by a change to the governing law.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Shad Priest, 208-334-4214.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 26th day of June, 2008.

William W. Deal, Director  
Idaho Department of Insurance  
700 West State Street, 3<sup>rd</sup> Floor  
Boise, Idaho 83720-0043  
Phone: (208) 334-4250  
Fax: (208) 334-4398

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0109-0801

18.01.09 - ~~SENIOR~~ CONSUMER PROTECTION IN ANNUITY TRANSACTIONS

(BREAK IN CONTINUITY OF SECTIONS)

001. TITLE AND SCOPE.

01. **Title.** The title of this chapter is IDAPA 18.01.09 - ~~Senior~~ Consumer Protection in Annuity Transactions. (4-11-06)(7-1-08)T

~~02.~~ **Propose.** ~~The purpose of this rule is to set forth standards and procedures for recommendations to senior consumers that result in a transaction involving annuity products so that the insurance needs and financial objectives of senior consumers at the time of the transaction are appropriately addressed.~~ (4-11-06)

032. **Scope.** This rule shall apply to any recommendation to purchase or exchange an annuity made to a ~~senior~~ consumer by a producer, or an insurer where no producer is involved, that results in the purchase or exchange recommended. (4-11-06)(7-1-08)T

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

01. **Incorporated Documents.** IDAPA 18.01.09, "~~Senior~~ Consumer Protection in Annuity Transactions," adopts and incorporates by reference the following documents; (4-11-06)(7-1-08)T

a. United States Code, Title 29 - Labor, Chapter 18 - Employee Retirement and Income Security Act (ERISA). (4-11-06)

b. United States Code, Title 26 – Internal Revenue Code. (4-11-06)

c. NASD Manual Conduct Rules pertaining to suitability, specifically Rule 2310. Recommendations to Customers (Suitability) as amended. (4-11-06)

02. **Availability of Referenced Documents.** Printed copies of the documents described in Subsections 004.01.a. and 004.01.b. are available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954 as well as from the Department; the telephone number is (202) 512-1800, and electronic copies are available at <http://straylight.law.cornell.edu/uscode/>. Printed copies of the documents described in Subsection 004.01.c. are available from the Department and electronic copies are available from <http://nasd.complinet.com/nasd/display/index.html>. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

As used in this rule, unless the context requires otherwise, the following words shall have the following meanings: (4-11-06)

**01. Annuity.** A fixed annuity or variable annuity that is individually solicited, whether the product is classified as an individual or group annuity. (4-11-06)

**02. Insurer.** Includes every person engaged as indemnitor, surety or contractor in the business of entering into contracts of insurance or of annuity. (4-11-06)

**03. Producer.** A person required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities. (4-11-06)

**04. Recommendation.** Advice provided by a producer, or an insurer where no producer is involved, to an individual ~~senior~~ consumer that results in a purchase or exchange of an annuity in accordance with that advice. (4-11-06)(7-1-08)T

~~**05. Senior Consumer.** A person sixty five (65) years of age or older. In the event of a joint purchase by more than one party, the purchaser(s) will be considered to be a senior consumer if any of the parties is age sixty five (65) or older. (4-11-06)~~

**011. EXEMPTIONS.**

Unless otherwise specifically included, this rule shall not apply to recommendations of annuity purchases or exchanges involving (4-11-06)

**01. Direct Response Solicitations.** A response to a direct solicitation where there is no recommendation made based on information collected from the ~~senior~~ consumer pursuant to this rule; (4-11-06)(7-1-08)T

**02. Contracts Used to Fund.** (4-11-06)

**a.** An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA) as amended; (4-11-06)

**b.** A plan described by Sections 401(a), 401(k), 403(b), 408(k), or 408(p) of the Internal Revenue Code (IRC), as amended, if established or maintained by an employer; (4-11-06)

**c.** A government or church plan defined in Section 414 of the IRC, as amended, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC, as amended; (4-11-06)

**d.** A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor; (4-11-06)

**e.** Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; (4-11-06)

**f.** Formal prepaid funeral contracts; or (4-11-06)

**g.** Contracts used to fund funeral and related funeral expenses. (4-11-06)

**012. -- 014. (RESERVED).**

**015. DUTIES OF INSURERS AND OF PRODUCERS.**

**01. General Rule.** In recommending to a ~~senior~~ consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the producer, or the insurer where no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the ~~senior~~ consumer on the basis of the facts disclosed by the ~~senior~~ consumer as to his or her investments and other insurance products and as to his or her financial situation and needs. (4-11-06)(7-1-08)T

**02. Collection of Information.** Prior to a recommendation to a ~~senior~~ consumer of a purchase or exchange of an annuity, a producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain information concerning: ~~(4-11-06)(7-1-08)T~~

a. The ~~senior~~ consumer's financial status; ~~(4-11-06)(7-1-08)T~~

b. The ~~senior~~ consumer's tax status; ~~(4-11-06)(7-1-08)T~~

c. The ~~senior~~ consumer's investment objectives; and ~~(4-11-06)(7-1-08)T~~

d. Such other information used or considered to be reasonable by the producer, or the insurer where no producer is involved, in making recommendations to the ~~senior~~ consumer. ~~(4-11-06)(7-1-08)T~~

**03. Exceptions.** (4-11-06)

a. Except as provided under Subsection 015.03.b., neither a producer, nor an insurer where no producer is involved, shall have any obligation to a ~~senior~~ consumer under Subsection 015.01 related to any recommendation if a consumer: ~~(4-11-06)(7-1-08)T~~

i. Refuses to provide relevant information requested by the insurer or producer. (4-11-06)

ii. Decides to enter into an insurance transaction that is not based on a recommendation of the insurer or producer; or (4-11-06)

iii. Fails to provide complete or accurate information. (4-11-06)

b. If a producer, or the insurer where no producer is involved, sells an annuity to a ~~senior~~ consumer that is not the product recommended, the producer or insurer where no producer is involved, must: ~~(4-11-06)(7-1-08)T~~

i. Document that the recommendation was not accepted as presented; and (4-11-06)

ii. Obtain the signature of the ~~senior~~ consumer evidencing the rejection or modification of the recommendation. ~~(4-11-06)(7-1-08)T~~

**016. SUPERVISORY DUTIES OF INSURER.**

**01. Written Procedures.** An insurer shall either assure that a system to supervise recommendations that is reasonably designed to achieve compliance with this rule is established and maintained by complying with Subsections 016.02 and 016.03, or shall establish and maintain such a system itself, which system shall include, but not be limited to: (4-11-06)

a. Maintaining written procedures; and (4-11-06)

b. Conducting periodic reviews of records that are reasonably designed to assist in detecting and preventing violations of this rule. (4-11-06)

**02. Third Party.** An insurer may contract with a third party, including a general agent or independent agency, to establish and maintain a system of supervision as required by Subsection 016.01 with respect to insurance producers under contract with or employed by the third party. (4-11-06)

**03. Third Party Contracting.** An insurer shall make reasonable inquiry to assure that the third party contracting under Subsection 016.02 is performing the functions required under Subsection 016.01 and shall take such action as is reasonable under the circumstances to enforce the contractual obligation to perform the functions. An insurer may comply with its obligation to make reasonable inquiry by doing all of the following: (4-11-06)

a. Annually obtaining a certification from a third party senior manager who has responsibility for the

delegated functions that the manager has a reasonable basis to represent, and does represent, that the third party is performing the required functions; and (4-11-06)

**b.** Based on reasonable selection criteria, periodically selecting third parties contracting under Subsection 016.02 for a review to determine whether the third parties are performing the required functions. The insurer shall perform those procedures to conduct the review that are reasonable under the circumstances. (4-11-06)

**04. Complies with the Requirements to Supervise.** An insurer that contracts with a third party pursuant to Subsection 016.02 and that complies with the requirements to supervise in Subsection 016.03 shall have fulfilled its responsibilities under Subsection 016.01. (4-11-06)

**05. Insurer, General Agent or Independent Agency.** An insurer, general agent or independent agency is not required by Subsection 016.01 to: (4-11-06)

**a.** Review, or provide for review of, all producer solicited transactions; or (4-11-06)

**b.** Include in its system of supervision a producer's recommendations to ~~senior~~ consumers of products other than the annuities offered by the insurer, general agent or independent agency. ~~(4-11-06)~~(7-1-08)T

**06. Unable to Meet the Certification Criteria.** A general agent or independent agency contracting with an insurer pursuant to Subsection 016.02 shall promptly, when requested by the insurer pursuant to Subsection 016.03, give a certification as described in Subsection 016.03.a. or give a clear statement that it is unable to meet the certification criteria. (4-11-06)

**a.** No person may provide a certification under Subsection 016.03.a. unless: (4-11-06)

**i.** The person is a senior manager with responsibility for the delegated functions; and (4-11-06)

**ii.** The person has a reasonable basis for making the certification. (4-11-06)

**07. Director's Ability to Enforce the Provisions.** Compliance with the NASD Conduct Rules pertaining to suitability shall satisfy the requirements under Sections 015 and 016 for the recommendation of variable annuities. However, nothing in Section 016 shall limit the director's ability to enforce the provisions of this rule. (4-11-06)

**017. -- 020. (RESERVED).**

**021. RECORDKEEPING.**

**01. Maintaining Records.** The insurer, general agent, independent agency and producer shall maintain or be able to make available to the director records of the information collected from the ~~senior~~ consumer and other information used in making the recommendations that were the basis for insurance transactions, as long as the contract remains in force. An insurer is permitted, but shall not be required, to maintain documentation on behalf of a producer, except as noted in Subsection 021.02. ~~(4-11-06)~~(7-1-08)T

**02. Termination.** If the producer terminates the appointment with the insurer or his license, the producer must remit copies of all records as described under Subsection 021.01 to the insurer within twenty-one (21) days of termination. (4-11-06)

**03. Form.** Records required to be maintained by this rule may be maintained in paper, photographic, microprocess, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document. (4-11-06)

## IDAPA 18 - DEPARTMENT OF INSURANCE

### 18.01.44 - SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES

DOCKET NO. 18-0144-0801

#### NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 41-211 and 41-401, Idaho Code.

**MEETING SCHEDULE:** Interested persons should contact the undersigned for the date, time and place of any public meetings to discuss this rulemaking.

**METHOD OF PARTICIPATION:** Persons wishing to participate in the informal negotiated rulemaking must do the following:

Contact the undersigned by mail, e-mail, phone or in person at the address shown below.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The Department proposes to amend IDAPA 18.01.44, "Schedule of Fees, Licenses and Miscellaneous Charges," to impose a filing fee for policy rates and forms submitted for filing in paper form. Insurers making paper filings of ten or fewer policy rates and forms per year will not be charged a fee; however, a fee of \$20 will be charged for each paper policy rate or form filed in excess of ten. The fee will not apply to any filings made electronically. The proposed fee is in response to the extra costs to the Department associated with handling and converting paper filings to electronic format for storage and access. It will also encourage insurers that are not using electronic filing to take advantage of that option. The use of electronic filing provides conveniences to the insurer and eliminates the need for Department staff to convert paper forms to electronic format.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact: Shad Priest at 208/334-4214.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 18, 2008.

Dated this 26th day of June, 2008.

Shad Priest  
Deputy Director  
Idaho Department of Insurance  
700 W. State St - 3rd floor  
P.O. Box 83720  
Boise ID 83720-0043  
Phone: 208/334-4214  
Fax: 208/334-4398  
Email: shad.priest@doi.idaho.gov

**IDAPA 18 - DEPARTMENT OF INSURANCE**

**18.01.62 - ANNUAL AUDITED FINANCIAL REPORTS**

**DOCKET NO. 18-0162-0801**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 41-211, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The rule is being renamed "Annual Financial Reporting" and revised to require that insurers comply with certain best practices related to auditor independence, corporate governance and internal control over financial reporting. These amendments are necessary in order to comply with the National Association of Insurance Commissioners (NAIC) Model Audit Rule, which is required to be in place by 2010 for states to meet NAIC Accreditation Standards. The amendments also include the addition of required sections to the chapter to conform to the Office of Administrative Rules guidelines.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** 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: N/A

**NEGOTIATED RULEMAKING:** In compliance with IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this change is being made in order to adopt a model standard developed by the NAIC with the participation of interested parties nationally.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this proposed rule, contact Martha Smith, Senior Financial Examiner, Idaho Department of Insurance, at 208/334-4315.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 30th day of May, 2008.

William W. Deal, Director  
Idaho Department of Insurance  
700 West State Street, 3rd Floor  
Boise, ID 83720-0043  
208-334-4250 (Voice)  
208-334-4398 (Fax)

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0162-0801**

IDAPA 18  
TITLE 01  
CHAPTER 62

18.01.62 - ANNUAL ~~AUDITED~~ FINANCIAL REPORTSING

(BREAK IN CONTINUITY OF SECTIONS)

001. TITLE AND SCOPE.

**01.** Title. This rule shall be cited as IDAPA 18.01.62, "Annual Financial Reporting." ( )

**02.** Scope. The purpose of this rule is to improve the Idaho Insurance Department's surveillance of the financial condition of insurers by requiring: (1) an annual ~~examination by independent certified public accountants~~ audit of the financial statements reporting the financial position and the results of operations of insurers by independent certified public accountants; (2) Communication of Internal Control Related Matters Noted in an Audit; and (3) Management's Report of Internal Control over Financial Reporting. Every insurer as defined in Section 0104 shall be subject to this rule ~~chapter~~. Insurers having direct premiums written in this state of less than one million dollars (\$1,000,000) in any calendar year and less than one thousand (1,000) policyholders or certificate holders of ~~directly~~ written policies nationwide at the end of such calendar year shall be exempt from ~~these~~ this rules for such year (unless the director makes a specific finding that compliance is necessary for the director to carry out statutory responsibilities) except that insurers having assumed premiums pursuant to contracts ~~and/or~~ treaties of reinsurance of one million dollars (\$1,000,000) or more, or both, will not be so exempt. Foreign or alien insurers filing the audited financial reports in another state, pursuant to ~~such~~ that other state's requirement for filing of audited financial reports which has been found by the director to be substantially similar to the requirements herein, are exempt from Section 011 through Section 020 of this rule ~~chapter~~ if conditions of Subsection 001.02.a. or 001.02.b., of this rule apply:  
(7-1-93)( )

**01a.** ~~Filing of Audited Financial Report, Report on Significant Deficiencies in Internal Controls, and Accountant's Letter of Qualification.~~ A copy of the Audited ~~F~~inancial ~~R~~eport, ~~Report on Significant Deficiencies in Internal Controls~~ Communication of Internal Control Related Matters Noted in an Audit, and the Accountant's Letter of Qualifications ~~which~~ that are filed with ~~such~~ the other state are filed with the ~~D~~irector in accordance with the filing dates specified in Sections 011, 018, and 019 respectively (Canadian insurers may submit accountants' reports as filed with the ~~Canadian Dominion Department of Insurance~~ Office of the Superintendent of Financial Institutions, Canada).  
(7-1-99)( )

**02b.** ~~Filing of Notification of Adverse Financial Condition Report.~~ A copy of any Notification of Adverse Financial Condition Report filed with ~~such~~ the other state is filed with the director within the time specified in Section 017. This rule ~~chapter~~ shall not prohibit, preclude or in any way limit the ~~D~~irector of Insurance from ordering, conducting ~~and/or~~ performing examinations of insurers pursuant to the provisions of Title 41 of the Idaho Code and the rules ~~and~~ of the Idaho Department of Insurance and the practices and procedures of the Idaho Department of Insurance.  
(7-1-93)( )

**c.** Foreign or alien insurers required to file Management's Report of Internal Control over Financial Reporting in another state are exempt from filing the Report in this state provided the other state has substantially similar reporting requirements and the Report is filed with the director of the other state within the time specified.  
( )

**d.** This rule shall not prohibit, preclude or in any way limit the director of Insurance from ordering, conducting or performing examinations of insurers pursuant to the provisions of Title 41 of the Idaho Code and the rules of the Idaho Department of Insurance and the practices and procedures of the Idaho Department of Insurance.  
( )



**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements which pertain to the interpretation of this rule, or to the documentation of compliance with this rule. These documents will be available for public inspection and copying in accordance with the public records act. ( )

**003. ADMINISTRATIVE APPEALS.**

All administrative appeals shall be governed by Title 41, Chapter 2, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General - General Provisions." ( )

**004. INCORPORATION BY REFERENCE.**

This rule incorporates by reference the full text of the National Association of Insurance Commissioners Financial Condition Examiners Handbook and the National Association of Insurance Commissioners Annual Statement Instructions and Accounting Practices and Procedures Manual, pursuant to Sections 41-223 and 47-335, Idaho Code. Copies may be viewed at: ( )

**01. Department.** Idaho Department of Insurance, 700 West State Street, 3rd Floor, Boise, Idaho 83720-0043; ( )

**02. Industry Documents.** NAIC Executive Headquarters, 2301 McGee Street, Suite 800 Kansas City, MO 64108-2662. <http://www.naic.org>. ( )

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS AND WEB SITE.**

**01. Office Hours.** The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ( )

**02. Mailing Address.** The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. ( )

**03. Street Address.** The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. ( )

**04. Web Site Address.** The department's web address is <http://www.doi.idaho.gov>. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

Any records associated with this rule are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ( )

~~0027.~~ -- ~~0039.~~ (RESERVED).

**0104. DEFINITIONS.**

~~01-~~ **Audited Financial Report.** "Audited financial report" means and includes those items specified in Section 012 of this chapter. (7-1-93)

**021. Accountant and Independent Certified Public Accountant.** "Accountant" ~~and~~ or "Independent Certified Public Accountant" means an independent certified public accountant or accounting firm in good standing with the American Institute of ~~CPAs~~ Certified Public Accountants [AICPA] and in all states in which they are licensed to practice; for Canadian and British companies, it means a Canadian-chartered or British-chartered accountant. (7-1-99)( )

**02. Affiliate.** An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. ( )

**03. Audit Committee.** "Audit committee" means a committee (or equivalent body) established by the

board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or Group of insurers, and audits of financial statements of the insurer or Group of insurers. The Audit committee of any entity that controls a Group of insurers may be deemed to be the Audit committee for one (1) or more of these controlled insurers solely for the purposes of this rule at the election of the controlling person. Refer to Subsection 021.05 of this rule, for exercising this election. If an Audit committee is not designated by the insurer, the insurer's entire board of directors shall constitute the Audit committee. ( )

**04. Audited Financial Report.** "Audited financial report" means and includes those items specified in Section 012 of this rule. ( )

**045. Indemnification.** "Indemnification" means an agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing or other misrepresentations made by the insurer or its representatives. (5-3-03)

**06. Independent Board Member.** "Independent board member" has the same meaning as described in Subsection 021.03 of this rule. ( )

**037. Insurer.** "Insurer" means a licensed insurer as defined in Section 41-110, Idaho Code; hospital and professional service corporations as defined in Chapter 34, Title 41, Idaho Code; hospital liability trusts as defined in Chapter 37, Title 41, Idaho Code; managed care organizations as defined in Chapter 39, Title 41, Idaho Code; self-funded health care plans as defined in Chapter 40, Title 41, Idaho Code; Joint Public Agency Self-Funded Health Care Plan as defined in Title 41, Chapter 41, Idaho Code; county mutuals as defined in Title 41, Chapter 31, Idaho Code; reciprocal insurers as defined in Chapter 29, Title 41, Idaho Code; fraternal benefit societies as defined in Chapter 31, Title 41, Idaho Code; and authorized/accredited reinsurers as defined in Section 41-514(b), Idaho Code. (7-1-99)( )

**08. Group of Insurers.** "Group of insurers" means those licensed insurers included in the reporting requirements of Title 41, Chapter 38, Idaho Code, or a set of insurers as identified by management, for the purpose of assessing the effectiveness of Internal control over financial reporting. ( )

**09. Internal Control over Financial Reporting.** "Internal control over financial reporting" means a process effected by an entity's board of directors, management and other personnel designed to provide reasonable assurance regarding the reliability of the financial statements, such as those items specified in Subsections 012.02 through 012.07 of this rule, and includes those policies and procedures that: ( )

**a.** Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets; ( )

**b.** Provide reasonable assurance that transactions are recorded as necessary to permit preparation of the financial statements, such as those items specified in Subsections 012.02 through 012.07 of this rule, and that receipts and expenditures are being made only in accordance with authorizations of management and directors; and ( )

**c.** Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of assets that could have a material effect on the financial statements, such as those items specified in Subsections 012.02 through 012.07 of this rule. ( )

**10. SEC.** "SEC" means the United States Securities and Exchange Commission. ( )

**11. Section 404.** "Section 404" means Section 404 of the Sarbanes-Oxley Act of 2002 and the SEC's rules and regulations promulgated thereunder. ( )

**12. Section 404 Report.** "Section 404 Report" means management's report on "internal control over financial reporting" as defined by the SEC and the related attestation report of the independent certified public accountant as described in Section 3A. ( )

**13. SOX Compliant Entity.** “SOX Compliant Entity” means an entity that either is required to be compliant with, or voluntarily is compliant with, all of the following provisions of the Sarbanes-Oxley Act of 2002: ( )

**a.** The preapproval requirements of Section 201 (Section 10A(i) of the Securities Exchange Act of 1934); ( )

**b.** The Audit committee independence requirements of Section 301 (Section 10A(m)(3) of the Securities Exchange Act of 1934); and ( )

**c.** The Internal control over financial reporting requirements of Section 404 (Item 308 of SEC Regulation S-K). ( )

~~005. 010. (RESERVED).~~

**011. GENERAL REQUIREMENTS RELATED TO FILING AND EXTENSIONS FOR FILING OF ANNUAL AUDITED FINANCIAL REPORTS AND AUDIT COMMITTEE APPOINTMENT.**

**01. Annual Audit Filing Date.** All insurers shall have an annual audit by an independent certified public accountant and shall file an audited financial report with the director on or before June 1 for the year ended December 31 immediately preceding. The ~~D~~director may require an insurer to file an audited financial report earlier than June 1 with ninety (90) days advance notice to the insurer. ( )

**02. Request for Extension.** Extensions of the June 1 filing date may be granted by the director for thirty (30) day periods upon a showing by the insurer and its independent certified public accountant of the reasons for requesting such extension and determination by the director of good cause for an extension. The request for extension must be submitted in writing not less than ten (10) days prior to the due date in sufficient detail to permit the director to make an informed decision with respect to the requested extension. ~~(7-1-98)~~( )

**03. Management’s Report of Internal Control over Financial Reporting.** If an extension is granted in accordance with the provisions in Subsection 011.02 of this rule, a similar extension of thirty (30) days is granted to the filing of Management’s Report of Internal Control over Financial Reporting. ( )

**04. Designation of Audit Committee.** Every insurer required to file an annual audited financial report pursuant to this chapter shall designate a group of individuals as constituting its Audit committee, as defined in Section 010. The Audit committee of an entity that controls an insurer may be deemed to be the insurer’s Audit committee for purposes of this rule at the election of the controlling person. ( )

**012. CONTENTS OF ANNUAL AUDITED FINANCIAL REPORT.**

The Annual Audited ~~F~~financial ~~R~~report shall report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows and changes in capital and surplus for the year then ended in conformity with statutory accounting practices prescribed, or otherwise permitted, by the Department of Insurance of the state of domicile. The annual Audited ~~F~~financial ~~R~~report shall include the following: ~~(7-1-93)~~( )

**01. Report of Independent Certified Public Accountant.** Report of independent certified public accountant; ~~(7-1-93)~~( )

**02. Balance Sheet.** Balance sheet reporting admitted assets, liabilities, capital and surplus; (7-1-93)

**03. Statement of Operations.** Statement of operations; (7-1-93)

**04. Statement of Cash Flows.** Statement of cash flows; ~~(7-1-93)~~( )

**05. Statement of Changes in Capital and Surplus.** Statement of changes in capital and surplus; (7-1-93)

**06. Notes to Financial Statements.** These notes shall be those required by the appropriate NAIC

Annual Statement Instructions and NAIC Accounting Practices and Procedures Manual. The notes shall ~~also~~ include a reconciliation of differences, if any, between the audited statutory financial statements and the ~~Annual Statement~~ filed pursuant to Section 41-335, Idaho Code, or other applicable section of Idaho Code with a written description of the nature of these differences. (7-1-99)(\_\_\_\_)

**07. Form of Financial Statements.** The financial statements included in the ~~A~~ audited ~~F~~ financial ~~R~~ report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the ~~Annual Statement~~ of the insurer filed with the director, and the financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. (However, in the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.) (7-1-93)(\_\_\_\_)

**013. DESIGNATION OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.**

**01. Registration with the Director.** Each insurer required by this rule to file an annual audited financial report must within sixty (60) days after becoming subject to ~~such the~~ requirement, register with the ~~D~~ director in writing the name and address of the independent certified public accountant or accounting firm (~~generally referred to in this rule as the "accountant"~~) retained to conduct the annual audit set forth in this rule. Insurers not retaining an independent certified public accountant on the effective date of this rule shall register the name and address of their retained independent certified public accountant not less than six (6) months before the date when the first audited financial report is to be filed. (\_\_\_\_)

**02. Letter of Awareness.** The insurer shall obtain a letter from the accountant, and file a copy with the director stating that the accountant is aware of the provisions of the Insurance Code and the Rules of the Insurance Department of the state of domicile that relate to accounting and financial matters and affirming that he will express his opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that Department, specifying such exceptions as he may believe appropriate. (\_\_\_\_)

**03. Dismissal or Resignation.** If an accountant who was the accountant for the immediately preceding filed audited financial report is dismissed or resigns, the insurer shall within five (5) business days notify the Department of this event. The insurer shall also furnish the director with a separate letter within ten (10) business days of the above notification stating whether in the twenty-four (24) months preceding such event there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure; which disagreements, if not resolved to the satisfaction of the former accountant, would have caused him to make reference to the subject matter of the disagreement in connection with his opinion. The disagreements required to be reported in response to this rule include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this section are those that occur at the decision-making level, ~~i.e.,~~ such as between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report. The insurer shall also in writing request ~~such the~~ former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for which he does not agree; and the insurer shall furnish such responsive letter from the former accountant to the ~~D~~ director together with its own. (7-1-93)(\_\_\_\_)

**014. QUALIFICATIONS OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.**

**01. In Good Standing.** The ~~D~~ director shall not recognize any person or firm as a qualified independent certified public accountant that is not in good standing with the ~~American Institute of~~ AICPAs and in all states in which the accountant is licensed to practice, or, for a Canadian or British company, that is not a chartered accountant; or has either directly or indirectly entered into an agreement of indemnity or release from liability (collectively referred to as indemnification) with respect to the audit of the insurer. (7-1-93)(\_\_\_\_)

**02. Conformance with Ethical and Professional Standards.** Except as otherwise provided ~~herein in~~ this rule, the director shall recognize an independent certified public accountant as qualified as long as he ~~or she~~ conforms to the standards of his ~~or her~~ profession, as contained in the Code of Professional Ethics of the ~~American Institute of Certified Public Accountants~~ AICPA and Rules and Regulations and Code of Ethics and Rules of Professional Conduct of the Idaho Board of Public Accountancy, or similar code. (5-3-03)(\_\_\_\_)

**03. Resolution of Disputes and Delinquency Proceedings.** A qualified independent certified public accountant may enter into an agreement with an insurer to have disputes relating to an audit resolved by mediation or arbitration. However, in the event of a delinquency proceeding commenced against the insurer under Title 41, Chapter 33, the mediation or arbitration provisions shall operate at the option of the statutory successor. ( )

**034. Capacity to Render Report for Consecutive Years.** ~~No~~ The lead (or coordinating) audit partner ~~or other person responsible for rendering a report~~ (having primary responsibility for the audit) may not act in the capacity for more than ~~seven~~ five (75) consecutive years. ~~Following period of service such~~ The person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of ~~not~~ five (25) consecutive years. An insurer may make application to the ~~D~~director for relief from the above rotation requirement on the basis of unusual circumstances. This application should be made at least thirty (30) days before the end of the calendar year. The ~~D~~director may consider the following factors in determining if the relief should be granted: (7-1-99)( )

- a. Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm; (7-1-93)
- b. Premium volume of the insurer; or (7-1-93)
- c. Number of jurisdictions in which the insurer transacts business. ~~The requirements of Subsection 014.03 shall become effective two (2) years after the enactment of this chapter.~~ (7-1-93)( )

**05. Relief from Limitation on Consecutive Appointment of Lead Partner.** The insurer shall file, with its annual statement filing, the approval for relief from Subsection 014.04 of this rule, with the states that it is licensed in or doing business in and with the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC. ( )

**046. Grounds for Not Recognizing as Qualified.** The director shall ~~not~~ neither recognize as a qualified independent certified public accountant, nor accept any annual Audited ~~F~~financial ~~R~~report, prepared in whole or in part by, any natural person who: (7-1-93)( )

- a. Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Sections 1961- to 1968, or any dishonest conduct or practices under federal or state law; (7-1-99)( )
- b. Has been found to have violated the insurance laws of this state with respect to any previous reports submitted under this rule; or (5-3-03)( )
- c. Has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this rule; ~~or~~ (5-3-03)( )
- ~~d. Has either directly or indirectly entered into an agreement of indemnity or release from liability (collectively referred to as indemnification) with respect to the audit of the insurer. (5-3-03)~~

**057. Hearings.** The director of ~~f~~insurance may, as provided in Chapter 52, Title 67 and Chapter 2, Title 41, Idaho Code and IDAPA 04.01.11, hold a hearing to determine whether an independent certified public accountant is qualified and, considering the evidence presented, may rule that the accountant is not qualified for purposes of expressing his opinion on the financial statements in the annual Audited ~~F~~financial ~~R~~report made pursuant to this rule and require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this rule ~~chapter~~. (7-1-93)( )

**06- Delinquency Proceeding.** ~~A qualified independent certified public accountant may enter into an agreement with an insurer to have disputes relating to an audit resolved by mediation or arbitration. However, in the event of a delinquency proceeding commenced against the insurer under Title 41, Chapter 33, Idaho Code, the mediation or arbitration provisions shall operate at the option of the statutory successor. (5-3-03)~~

**08. Prohibited Services.** The director shall not recognize as a qualified independent certified public accountant, nor accept an annual audited financial report, prepared in whole or in part by an accountant who provides to an insurer, contemporaneously with the audit, the following non-audit services: ( )

**a.** Bookkeeping or other services related to the accounting records or financial statements of the insurer; ( )

**b.** Financial information systems design and implementation; ( )

**c.** Appraisal or valuation services, fairness opinions, or contribution-in-kind reports. ( )

**d.** Actuarially-oriented advisory services involving the determination of amounts recorded in the financial statements. The accountant may assist an insurer in understanding the methods, assumptions and inputs used in the determination of amounts recorded in the financial statement only if it is reasonable to conclude that the services provided will not be subject to audit procedures during an audit of the insurer's financial statements. An accountant's actuary may also issue an actuarial opinion or certification ("opinion") on an insurer's reserves if the following conditions have been met: ( )

**i.** Neither the accountant nor the accountant's actuary has performed any management functions or made any management decisions; ( )

**ii.** The insurer has competent personnel (or engages a third party actuary) to estimate the reserves for which management takes responsibility; and ( )

**iii.** The accountant's actuary tests the reasonableness of the reserves after the insurer's management has determined the amount of the reserves; ( )

**e.** Internal audit outsourcing services; ( )

**f.** Management functions or human resources; ( )

**g.** Broker or dealer, investment adviser, or investment banking services; ( )

**h.** Legal services or expert services unrelated to the audit; or ( )

**i.** Any other services that the director determines, by rule, are impermissible. ( )

**09. Principles of Independence.** In general, the principles of independence with respect to services provided by the qualified independent certified public accountant are largely predicated on three (3) basic principles, violations of which would impair the accountant's independence. The principles are that the accountant: ( )

**a.** Cannot function in the role of management; ( )

**b.** Cannot audit his own work; and ( )

**c.** Cannot serve in an advocacy role for the insurer. ( )

**10. Exemption from Prohibited Services.** Insurers having direct written and assumed premiums of less than one hundred million dollars (\$100,000,000) in any calendar year may request an exemption from Subsection 014.08 of this rule. The insurer shall file with the director a written statement discussing the reasons why the insurer should be exempt from these provisions. If the director finds, upon review of this statement, that compliance with this regulation would constitute a financial or organizational hardship upon the insurer, an exemption may be granted. ( )

**11. Permitted Non-Audit Services.** A qualified independent certified public accountant who performs the audit may engage in other non-audit services, including tax services, that are not described in Subsection 014.08 of this rule, or that do not conflict with Subsection 014.09 of this rule, only if the activity is approved in advance by

the Audit committee, in accordance with Subsection 014.12 of this rule. ( )

**12. Preapproval Required by Audit Committee.** All auditing services and non-audit services provided to an insurer by the qualified independent certified public accountant of the insurer shall be preapproved by the Audit committee. The preapproval requirement is waived with respect to non-audit services if the insurer is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity; or ( )

**a.** The aggregate amount of all such non-audit services provided to the insurer constitutes not more than five percent (5%) of the total amount of fees paid by the insurer to its qualified independent certified public accountant during the fiscal year in which the non-audit services are provided; ( )

**b.** The services were not recognized by the insurer at the time of the engagement to be non-audit services; and ( )

**c.** The services are promptly brought to the attention of the Audit committee and approved prior to the completion of the audit by the Audit committee or by one (1) or more members of the Audit committee who are the members of the board of directors to whom authority to grant such approvals has been delegated by the Audit committee. ( )

**13. Delegation by Audit Committee.** The Audit committee may delegate to one (1) or more designated members of the Audit committee the authority to grant the preapprovals required by Subsection 014.12 of this rule. The decisions of any member to whom this authority is delegated shall be presented to the full Audit committee at each of its scheduled meetings. ( )

**14. Prior Employment Prohibited.** The director shall not recognize an independent certified public accountant as qualified for a particular insurer if a member of the board, president, chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for that insurer, was employed by the independent certified public accountant and participated in the audit of that insurer during the one (1) year period preceding the date that the most current statutory opinion is due. Subsection 014.14 of this rule, shall only apply to partners and senior managers involved in the audit. ( )

**a.** An insurer may make application to the director for relief from Subsection 014.14 of this rule, on the basis of unusual circumstances. ( )

**b.** The insurer shall file, with its annual statement filing, the approval for relief from Subsection 014.14 of this rule, with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC. ( )

**015. CONSOLIDATED OR COMBINED AUDITS.**

An insurer may make written application to the ~~D~~director for approval to file audited consolidated or combined financial statements in lieu of separate annual audited financial statements if the insurer is part of a group of insurance companies ~~which that~~ utilizes a pooling or one hundred percent (100%) reinsurance agreement that affects the solvency and integrity of the insurer's reserves and such insurer cedes all of its direct and assumed business to the pool. In such cases, a columnar consolidating or combining worksheet shall be filed with the report, as follows:

(7-1-93)( )

**01. Worksheet.** Amounts shown on the consolidated or combined Audited ~~F~~financial ~~R~~report shall be shown on the worksheet; (7-1-93)( )

**02. Separate Amounts.** Amounts for each insurer subject to this section shall be stated separately; (7-1-93)( )

**03. Noninsurance Operations.** Noninsurance operations may be shown on the worksheet on a combined or individual basis; (7-1-93)( )

**04. Explanations of Consolidating and Eliminating Entries.** Explanations of consolidating and

eliminating entries shall be included; and

(7-1-93)( )

**05. Reconciliation.** A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the Annual Statement of the insurers.

(7-1-93)( )

**016. SCOPE OF AUDIT AND REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.**

Financial statements furnished pursuant to Section 012 hereof shall be ~~audited~~ examined by ~~an~~ the independent certified public accountant. ~~The audit of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards. The independent certified public accountant should obtain an understanding of internal control sufficient to plan the audit. To the extent required by the standards of his profession, for those insurers required to file a Management's Report of Internal Control over Financial Reporting pursuant to Section 023, the independent certified public accountant should consider (as that term is defined in generally accepted auditing standards) the most recently available report in planning and performing the audit of the statutory financial statements.~~ Consideration ~~should also~~ shall be given to ~~such~~ the other procedures illustrated in the Financial Condition Examiner's Handbook promulgated by the National Association of Insurance Commissioners as the independent certified public accountant deems necessary.

(7-1-93)( )

**017. NOTIFICATION OF ADVERSE FINANCIAL CONDITION.**

~~An~~ The insurer required to furnish ~~an~~ the annual Audited ~~Financial~~ Report shall require the independent certified public accountant to report, in writing, within five (5) business days to the board of directors or its ~~Audit~~ committee any determination by the independent certified public accountant that the insurer has materially misstated its financial condition as reported to the director as of the balance sheet date currently under examination audit or that the insurer does not meet the minimum capital and surplus requirements of ~~the~~ Title 41, Idaho Insurance Statute Code, as of that date. An insurer ~~who~~ that has received a report pursuant to this paragraph shall forward a copy of the report to the ~~Director~~ within five (5) business days of receipt of ~~such~~ the report and shall provide the independent certified public accountant making the report with evidence of the report being furnished to the ~~Director~~. If the independent certified public accountant fails to receive such evidence within the required five (5) business day period, the independent certified public accountant shall furnish to the ~~Director~~ a copy of its report within the next five (5) business days. No independent certified public accountant shall be liable in any manner to any person for any statement made in connection with Section 017 if ~~such~~ the statement is made in good faith in compliance with Section 017. If the accountant, subsequent to the date of the Audited ~~Financial~~ Report filed pursuant to this rule, becomes aware of facts which might have affected his report, the ~~Department~~ director notes the obligation of the accountant to take action as prescribed ~~in Volume 1, Section AU 561 of the Professional Standards of the American Institute of Certified Public Accountants~~ by the standards of his profession.

(7-1-99)( )

**018. ~~REPORT ON SIGNIFICANT DEFICIENCIES IN INTERNAL CONTROLS~~ COMMUNICATION OF INTERNAL CONTROL RELATED MATTERS NOTED IN AN AUDIT.**

In addition to the annual audited financial ~~statements~~ report, each insurer shall furnish the director with a written ~~report prepared by the accountant describing significant deficiencies in the insurer's~~ communication as to any unremediated material weaknesses in its ~~Internal control structure over financial reporting noted by the accountant~~ during the audit. ~~SAS No. 60, Communication of Internal Control Structure Matters Noted in An Audit (AU Section 325 of the Professional Standards of the American Institute of Certified Public Accountants) requires an accountant to communicate significant deficiencies (known as "reportable conditions") noted during a financial statement audit to the appropriate parties within an entity. A "none" report should be issued if the accountant does not identify significant deficiencies. The Report on Significant Deficiencies in Internal Controls is to be filed with the Audited Financial Report.~~ Such communication shall be prepared by the accountant within sixty (60) days after the filing of the annual audited financial report, and shall contain a description of any unremediated material weakness (as the term material weakness is defined by the standards of his profession) as of December 31 immediately preceding (so as to coincide with the audited financial report discussed in Subsection 011.01, of this rule) in the insurer's Internal control over financial reporting noted by the accountant during the course of their audit of the financial statements. If no unremediated material weaknesses were noted, the communication should so state. The insurer is required to provide a description of the remedial actions taken or proposed to correct significant deficiencies unremediated material weaknesses, if such the actions are not described in the accountant's report communication.

(7-1-99)( )

**019. ACCOUNTANT'S LETTER OF QUALIFICATION.**

The accountant shall furnish the insurer in connection with, and for inclusion in, the filing of the annual audited



financial report, a letter stating:

(7-1-93)( )

**01. Independence.** That the accountant is independent with respect to the insurer and conforms to the standards of his ~~or her~~ profession as contained in the Code of Professional Ethics and pronouncements of the ~~American Institute of Certified Public Accountants~~ AICPA and the Rules of Professional Conduct of the Idaho Board of Public Accountancy, or similar code; (7-1-93)( )

**02. Background and Experience.** The background and experience in general, and the experience in audits of insurers of the staff assigned to the engagement and whether each is an independent certified public accountant. Nothing within this rule shall be construed as prohibiting the accountant from utilizing such staff as he ~~or she~~ deems appropriate where use is consistent with the standards prescribed by generally accepted auditing standards; (7-1-93)( )

**03. Compliance with Rule.** That the accountant understands the annual audited financial report and his opinion thereon will be filed in compliance with this rule and that the director will be relying on this information in the monitoring and regulation of the financial position of insurers; (7-1-99)( )

**04. Consent to Requirements of Section 020.** That the accountant consents to the requirements of Section 020 of this rule and that the accountant consents and agrees to make available for review by the ~~D~~director, ~~his~~ or the director's designee or ~~his~~ appointed agent, the workpapers, as defined in Section 020; (7-1-93)( )

**05. Properly Licensed.** A representation that the accountant is properly licensed by an appropriate state licensing authority and is a member in good standing in the ~~American Institute of Certified Public Accountants~~ AICPA; and (7-1-93)( )

**06. Compliance with Section 014.** A representation that the accountant is in compliance with the requirements of Section 014 of this rule. (7-1-93)

**020. DEFINITION, AVAILABILITY AND MAINTENANCE OF ~~CPA~~ CERTIFIED PUBLIC ACCOUNTANTS WORKPAPERS.**

Workpapers are the records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to ~~his examination~~ the accountant's audit of the financial statements of an insurer. Workpapers, accordingly, may include audit planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of his ~~examination~~ audit of the financial statements of an insurer and which support ~~his~~ the accountant's opinion ~~thereof~~. Every insurer required to file an Audited ~~F~~financial ~~R~~report pursuant to this rule, shall require the accountant to make available for review by the insurance ~~D~~department examiners, all workpapers prepared in the conduct of the accountant's ~~examination~~ audit and any communications related to the audit between the accountant and the insurer, at the office of the insurer, at the ~~f~~insurance ~~D~~department or at any other reasonable place designated by the director. The insurer shall require that the accountant retain the audit workpapers and communications until the ~~f~~insurance ~~D~~department has filed a ~~R~~report on ~~E~~xamination covering the period of the audit but no longer than seven (7) years from the date of the audit report. In the conduct of the aforementioned periodic review by the insurance ~~D~~department examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the ~~D~~department. Such reviews by the ~~D~~department examiners shall be considered investigations and all working papers and communications obtained during the course of such investigations shall be afforded the same confidentiality as other ~~investigative~~ examination workpapers generated by the ~~D~~department. (7-1-99)( )

**021. REQUIREMENTS FOR AUDIT COMMITTEES.**

This section shall not apply to foreign or alien insurers licensed in this state or an insurer that is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity. ( )

**01. Responsibility.** The Audit committee shall be directly responsible for the appointment, compensation and oversight of the work of any accountant (including resolution of disagreements between management and the accountant regarding financial reporting) for the purpose of preparing or issuing the audited financial report or related work pursuant to this chapter. Each accountant shall report directly to the Audit committee. ( )

**02. Corporate Membership.** Each member of the Audit committee shall be a member of the board of directors of the insurer or a member of the board of directors of an entity elected pursuant to Subsection 021.05 and Section 010 of this rule. ( )

**03. Independence.** In order to be considered independent for purposes of Section 021, a member of the Audit committee may not, other than in his capacity as a member of the Audit committee, the board of directors, or any other board committee, accept any consulting, advisory or other compensatory fee from the entity or be an affiliated person of the entity or any subsidiary thereof. However, if law requires board participation by otherwise non-independent members, that law shall prevail and such members may participate in the Audit committee and be designated as independent for Audit committee purposes, unless they are an officer or employee of the insurer or one (1) of its affiliates. ( )

**04. Continuation of Service.** If a member of the Audit committee ceases to be independent for reasons outside the member's reasonable control, that person, with notice by the responsible entity to the director, may remain an Audit committee member of the responsible entity until the earlier of the next annual meeting of the responsible entity or one (1) year from the occurrence of the event that caused the member to be no longer independent. ( )

**05. Controlling Person.** To exercise the election of the controlling person to designate the Audit committee for purposes of this rule, the ultimate controlling person shall provide written notice to the directors of insurance of the affected insurers. Notification shall be made timely prior to the issuance of the statutory audit report and include a description of the basis for the election. The election can be changed through notice to the director by the insurer, which shall include a description of the basis for the change. The election shall remain in effect for perpetuity, until rescinded. ( )

**06. Accountant's Reports to Audit Committee.** The Audit committee shall require the accountant that performs for an insurer any audit required by this rule to timely report to the Audit committee in accordance with the standards of his profession. If an insurer is a member of an insurance holding company system, the reports required by Subsection 021.06 of this rule, may be provided to the Audit committee on an aggregate basis for insurers in the holding company system, provided that any substantial differences among insurers in the system are identified to the Audit committee. The accountant's reports shall include: ( )

**a.** All significant accounting policies and material permitted practices; ( )

**b.** All material alternative treatments of financial information within statutory accounting principles that have been discussed with management officials of the insurer, ramifications of the use of the alternative disclosures and treatments, and the treatment preferred by the accountant; and ( )

**c.** Other material written communications between the accountant and the management of the insurer, such as any management letter or schedule of unadjusted differences. ( )

**07. Required Proportion of Independent Audit Committee Members.** The proportion of independent Audit committee members shall meet or exceed the following criteria: ( )

<b>Prior Calendar Year Direct Written and Assumed Premiums</b>		
<b>\$0 - \$300,000,000</b>	<b>Over \$300,000,000 - \$500,000,000</b>	<b>Over \$500,000,000</b>
<u>No minimum requirements. See also Note A and B.</u>	<u>Majority (50% or more) of members shall be independent. See also Note A and B.</u>	<u>Supermajority of members (75% or more) shall be independent. See also Note A.</u>

**Prior Calendar Year Direct Written and Assumed Premiums**

**Note A:** The director has authority afforded by state law to require the entity's board to enact improvements to the independence of the Audit committee membership if the insurer is in a RBC action level event, meets one or more of the standards of an insurer deemed to be in hazardous financial condition, or otherwise exhibits qualities of a troubled insurer.

**Note B:** All insurers with less than \$500,000,000 in prior year direct written and assumed premiums are encouraged to structure their Audit committees with at least a supermajority of independent Audit committee members.

**Note C:** Prior calendar year direct written and assumed premiums shall be the combined total of direct premiums and assumed premiums from non-affiliates for the reporting entities.

( )

**08. Hardship Waiver.** An insurer with direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than five hundred million dollars (\$500,000,000) may make application to the director for a waiver from the Section 021 requirements based upon hardship. The insurer shall file, with its annual statement filing, the approval for relief from Section 021 with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC. ( )

**022. CONDUCT OF INSURER IN CONNECTION WITH THE PREPARATION OF REQUIRED REPORTS AND DOCUMENTS.**

**01. False or Misleading Statements.** No director or officer of an insurer shall, directly or indirectly make or cause to be made a materially false or misleading statement to an accountant in connection with any audit, review or communication required under this chapter. ( )

**02. Omissions.** No director or officer of an insurer shall, directly or indirectly omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which the statements were made, not misleading to an accountant in connection with any audit, review or communication required under this chapter. ( )

**03. Coercion.** No officer or director of an insurer, or any other person acting under the direction thereof, shall directly or indirectly take any action to coerce, manipulate, mislead or fraudulently influence any accountant engaged in the performance of an audit pursuant to this chapter if that person knew or should have known that the action, if successful, could result in rendering the insurer's financial statements materially misleading. For purposes of Subsection 022.03 of this rule, actions that, "if successful, could result in rendering the insurer's financial statements materially misleading" include, but are not limited to, actions taken at any time with respect to the professional engagement period to coerce, manipulate, mislead or fraudulently influence an accountant: ( )

**a.** To issue or reissue a report on an insurer's financial statements that is not warranted in the circumstances (due to material violations of statutory accounting principles prescribed by the director, generally accepted auditing standards, or other professional or regulatory standards); ( )

**b.** Not to perform audit, review or other procedures required by generally accepted auditing standards or other professional standards; ( )

**c.** Not to withdraw an issued report; or ( )

**d.** Not to communicate matters to an insurer's Audit committee. ( )

**023. MANAGEMENT'S REPORT OF INTERNAL CONTROL OVER FINANCIAL REPORTING.**

**01. Premium Threshold.** Every insurer required to file an audited financial report pursuant to this chapter that has annual direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of five hundred million dollars (\$500,000,000) or more shall prepare a report of the insurer's or Group of insurers' Internal control over financial reporting, as these terms are defined in Section 010. The report shall be filed with the director along with the Communication of Internal Control Related Matters Noted in an Audit described under Section 018. Management's Report of Internal Control over Financial Reporting shall be as of December 31 immediately preceding. ( )

**02. RBC Level or Other Event.** Notwithstanding the premium threshold in Subsection 023.01 of this rule, the director may require an insurer to file Management's Report of Internal Control over Financial Reporting if the insurer is in any RBC level event, or meets any one (1) or more of the standards of an insurer deemed to be in hazardous financial condition as defined in IDAPA 18.01.66, "Director's Authority for Companies Deemed to be in Hazardous Financial Condition." ( )

**03. Section 404.** An insurer or a Group of insurers may file its or its parent's Section 404 Report and an addendum in satisfaction of this Section 023 requirement provided that those internal controls of the insurer or Group of insurers having a material impact on the preparation of the insurer's or Group of insurers' audited statutory financial statements (those items included in Subsections 012.02 through 012.07 of this rule) were included in the scope of the Section 404 Report. The addendum shall be a positive statement by management that there are no material processes with respect to the preparation of the insurer's or Group of insurers' audited statutory financial statements (those items included in Subsections 012.02 through 012.07 of this rule) excluded from the Section 404 Report. If there are internal controls of the insurer or Group of insurers that have a material impact on the preparation of the insurer's or Group of insurers' audited statutory financial statements and those internal controls were not included in the scope of the Section 404 Report, the insurer or Group of insurers may either file: ( )

**a.** A Section 023 report; or ( )

**b.** The Section 404 Report and a Section 023 report for those internal controls that have a material impact on the preparation of the insurer's or Group of insurers' audited statutory financial statements not covered by the Section 404 Report, providing the insurer or Group of insurers is: ( )

**i.** Directly subject to Section 404; ( )

**ii.** Part of a holding company system whose parent is directly subject to Section 404; ( )

**iii.** Not directly subject to Section 404 but is a SOX Compliant Entity; or ( )

**iv.** A member of a holding company system whose parent is not directly subject to Section 404 but is a SOX Compliant Entity. ( )

**04. Required Elements.** Management's Report of Internal Control over Financial Reporting shall include: ( )

**a.** A statement that management is responsible for establishing and maintaining adequate Internal control over financial reporting; ( )

**b.** A statement that management has established Internal control over financial reporting and an assertion, to the best of management's knowledge and belief, after diligent inquiry, as to whether its Internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles; ( )

**c.** A statement that briefly describes the approach or processes by which management evaluated the effectiveness of its Internal control over financial reporting; and ( )

**d.** A statement that briefly describes the scope of work that is included and whether any internal controls were excluded; ( )

**e.** Disclosure of any unremediated material weaknesses in the Internal control over financial reporting identified by management as of December 31 immediately preceding. Management is not permitted to conclude that the Internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles if there is one (1) or more unremediated material weaknesses in its Internal control over financial reporting; ( )

**f.** A statement regarding the inherent limitations of internal control systems; and ( )

**g.** Signatures of the chief executive officer and the chief financial officer (or equivalent position/title). ( )

**05. Documentation by Management.** Management shall document and make available upon financial condition examination the basis upon which its assertions, required in Subsection 023.04 of this rule, are made. Management may base its assertions, in part, upon its review, monitoring and testing of internal controls undertaken in the normal course of its activities. Management shall have discretion as to the nature of the internal control framework used, and the nature and extent of documentation, in order to make its assertion in a cost effective manner and, as such, may include assembly of or reference to existing documentation. Management's Report on Internal Control over Financial Reporting, required by Subsection 023.01 of this rule, and any documentation provided in support thereof during the course of a financial condition examination, shall be kept confidential by the Idaho Department of Insurance. ( )

#### **024. EXEMPTIONS AND EFFECTIVE DATES.**

**01. Exemptions Not Otherwise Provided.** Upon written application of any insurer, the director may grant an exemption from compliance with any and all provisions of this rule if the ~~D~~director finds, upon review of the application, that compliance with this rule would constitute a financial or organizational hardship upon the insurer. An exemption may be granted at any time and from time to time for a specified period or periods. Within ten (10) days from a denial of an insurer's written request for an exemption from this chapter, ~~such~~ the insurer may request in writing a hearing on its application for an exemption. ~~Such~~ The hearing shall be held in accordance with the Rules of the IDAPA 04.01.11, "Idaho Department of Insurance Rules of Administrative Procedure of the Attorney General," pertaining to administrative hearing procedures. ( )

**02. Domestic Insurer Effective Dates:** Domestic insurers retaining a certified public accountant on the effective date of this rule ~~chapter~~ who qualifies as independent shall comply with this rule ~~chapter~~ for the year ending December 31, ~~1992~~ 2010, and each year thereafter unless the ~~D~~director permits otherwise. Domestic insurers not retaining a certified public accountant on the effective date of this rule who qualifies as independent may meet the following schedule for compliance unless the ~~D~~director permits otherwise. (7-1-93)( )

**01a. Effective Date:** As of December 31, ~~1992~~ 2010, file with the ~~D~~director an audited financial report: (7-1-93)( )

**a. Report of independent certified public accountant:** For the year ending December 31, 2011 and each year thereafter, such insurers shall file with the director all reports and communication required by this chapter. (7-1-93)( )

**b. Audited balance sheet:** (7-1-93)

**c. Notes to audited balance sheet:** (7-1-93)

**023. Effective Date Foreign Insurers.** ~~For the year ended December 31, 1993, and each year thereafter, such insurers shall file with the Director all reports required by this rule.~~ Foreign insurers shall comply with this rule for the year ending December 31, ~~1992~~ 2010, and each year thereafter, unless the ~~D~~director permits otherwise. (7-1-93)( )

**04. Alternate Effective Date for Subsection 014.04 [Capacity to Render Report for Consecutive Years].** The requirements of Subsection 014.04 of this rule, shall be in effect for audits of the year beginning January 1, 2010 and thereafter. ( )

**05. Alternate Effective Date for Section 021 [Requirements for Audit Committees].** The requirements of Section 021 are to be in effect January 1, 2010. An insurer or Group of insurers that is not required to have independent Audit committee members or only a majority of independent Audit committee members (as opposed to a supermajority) because the total written and assumed premium is below the threshold and subsequently becomes subject to one (1) of the independence requirements due to changes in premium shall have one (1) year following the year the threshold is exceeded (but not earlier than January 1, 2010) to comply with the independence requirements. Likewise, an insurer that becomes subject to one (1) of the independence requirements as a result of a business combination shall have one (1) calendar year following the date of acquisition or combination to comply with the independence requirements. ( )

**06. Effective Date for Section 023 [Management's Report of Internal Control Over Financial Reporting].** The requirements of Section 023 are effective beginning with the reporting period ending December 31, 2010 and each year thereafter. An insurer or Group of insurers that is not required to file a report because the total written premium is below the threshold and subsequently becomes subject to the reporting requirements shall have two (2) years following the year the threshold is exceeded (but not earlier than December 31, 2010) to file a report. Likewise, an insurer acquired in a business combination shall have two (2) calendar years following the date of acquisition or combination to comply with the reporting requirements. ( )

**0225. CANADIAN AND BRITISH COMPANIES.**

**01. Annual Audited Financial Report.** In the case of Canadian and British insurers, the annual audited financial report shall be defined as the annual statement of total business on the form filed by such companies with their ~~domestic~~ supervision authority duly audited by an independent chartered accountant. (7-1-93)( )

**02. Letter Required in Section 013.** For such insurers, the letter required in Section 013 shall state that the accountant is aware of the requirements relating to the annual ~~A~~ audited statement filed with the director pursuant to section 011 and shall affirm that the opinion expressed is in conformity with such requirements. (7-1-93)( )

**~~023. SEVERABILITY PROVISION.~~**

~~If any section or portion of a section of this rule chapter or the applicability thereof to any person or circumstances is held invalid by a court, the remainder of the rule chapter or the applicability of such provision to other persons or circumstances shall not be affected thereby. (7-1-99)~~

**0246. -- 999. (RESERVED).**

## **IDAPA 21 - DIVISION OF VETERANS SERVICES**

### **21.01.05 - RULES GOVERNING MEDICAL TRANSPORTATION PAYMENT FOR WHEELCHAIR CONFINED VETERANS**

**DOCKET NO. 21-0105-0801**

#### **NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is August 6, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 65-202, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The expenses for operating a transportation service have escalated recently. This rule change increases the reimbursement to transportation providers for transporting disabled veterans to medical providers.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The rule change confers a benefit on disabled veterans and transportation providers. The increase in reimbursement will attract new providers and retain current providers.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** 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:

This rule will increase the reimbursement for veterans' transportation. Reimbursement will not exceed the appropriation for the program.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking, the simple nature of the proposed rule change, and the benefit being conferred on affected interests.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Jim Adams, Administrative Support Manager, (208) 246-8770.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 6th day of June, 2008.

David E. Brasuell  
Administrator  
Division of Veterans Services  
320 Collins Road  
Boise, ID 83702  
Phone: (208) 334-3511; fax (208) 334-2627

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0105-0801**

**014. PAYMENT.**

**01. Payment Amount.** Payment pursuant to these rules shall not exceed ~~one~~ two hundred dollars (\$~~200~~) for transportation to and from a medical appointment or ~~fifty~~ one hundred dollars (\$~~5100~~) for transportation to or from a medical appointment. (~~5-3-03~~)(8-6-08)T

**02. Payment Voucher.** Upon approval of an application, the Division will provide a voucher to the eligible veteran. (3-30-07)

**03. Payment.** The Division will reimburse the veteran for covered transportation upon submission by the veteran of a voucher and a corresponding receipt from a commercial carrier. With prior approval, the Division will make payment for covered transportation provided to an eligible veteran directly to the commercial carrier upon submission by the commercial carrier of the voucher and a corresponding receipt from the commercial carrier. A corresponding receipt shall mean a receipt containing information confirming the charges are for the covered transportation for which the Division issued the voucher. (3-30-07)



## **IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

### **24.15.01 - RULES OF THE IDAHO LICENSING BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS**

#### **DOCKET NO. 24-1501-0801 (FEE RULE)**

#### **NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 54-3404, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The 2008 Legislature approved HB376 which establishes an associate marriage and family therapist license. Rules 230 and 232 are new sections outlining the qualifications and limits on practice. Rule 240 adds language for the examination requirement. Rule 245 adds associate marriage and family therapist (AMFT) licensure to the section for interns. Rule 250 adds the AMFT application and licensure fees to the fee schedule. Finally, Rule 425 adds the requirement for continuing education for this new license. This license will be held while gaining the supervised work experience required for the marriage and family therapist license.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1) (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The 2008 Legislature approved HB376 which establishes an associate marriage and family therapist license. Rules 230 and 232 are new sections outlining the qualifications and limits on practice. Rule 240 adds language for the examination requirement. Rule 245 adds associate marriage and family therapist (AMFT) licensure to the section for interns. Rule 250 adds the AMFT application and licensure fees to the fee schedule. Finally, Rule 425 adds the requirement for continuing education for this new license. This license will be held while gaining the supervised work experience required for the marriage and family therapist license.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

The 2008 Legislature approved HB376 which creates a status for associate marriage and family therapists. A \$75 application fee and a \$75 original license fee is being added to the fee schedule to comply with the law which goes into effect July 1, 2008. The fee is authorized by Section 54-3411, Idaho Code.

**FISCAL IMPACT:** 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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because these changes are necessary to be in compliance with changes to Title 54, Chapter 34.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 23rd day of June, 2008.

Tana Cory, Bureau Chief  
Bureau of Occupational Licenses  
1109 Main St. Ste. 220, Boise, ID 83702  
(208) 334-3233 Ph. (208) 334-3945, fax

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1501-0801**

**226. -- ~~237~~29. (RESERVED).**

**230. QUALIFICATIONS FOR ASSOCIATE MARRIAGE AND FAMILY THERAPIST (RULE 230).**

The following requirements must be met for associate marriage and family therapist licensure: (7-1-08)T

**01. Graduate Degree.** Possess a graduate degree as outlined in Section 54-3405B(1), Idaho Code. (7-1-08)T

**02. Practicum.** Must meet the requirements as outlined in Section 54-3405B(2), Idaho Code. (7-1-08)T

**03. Examination.** Successful passage of the National Marital and Family Therapy Examination as approved by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB). (7-1-08)T

**231. (RESERVED).**

**232. ASSOCIATE MARRIAGE AND FAMILY THERAPIST PRACTICE (RULE 232).**

A licensed associate marriage and family therapist shall only practice under supervision in compliance with the requirements and limitation of Subsection 238.03 of these rules. (7-1-08)T

**233. -- 237. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**240. EXAMINATION FOR LICENSURE (RULE 240).**

Licensure as a counselor, clinical counselor, associate marriage and family therapist, or marriage and family therapist shall be restricted to persons who have successfully completed the required written examination. (~~3-30-06~~)(7-1-08)T

**01. Examination.** (3-30-06)

**a.** All counselor applicants are required to successfully pass the National Counselor Examination prepared by the National Board of Certified Counselors (NBCC). (3-30-06)

**b.** All clinical counselor applicants are required to successfully pass the National Clinical Mental Health Counselor Examination (NCMHCE) prepared by the National Board of Certified Counselors (NBCC). (3-30-06)

**c.** All associate marriage and family therapist applicants are required to successfully pass the National Marital and Family Therapy Examination as approved by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB). (~~3-30-06~~)(7-1-08)T

**d.** All marriage and family therapist applicants are required to successfully pass the National Marital and Family Therapy Examination as approved by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB). (7-1-08)T

**02. Time and Place.** The examination will be conducted at a time and place specified by the Board or the examining entity. (3-30-06)

**03. Successful Passage.** Successful passage of the examination is defined as achievement of the passing score set by the preparer of the examination. Reexamination shall consist of the entire examination. (3-30-06)

**241. -- 244. (RESERVED).**

**245. REGISTERED INTERNS (RULE 245).**

An individual pursuing Idaho licensure as a Professional Counselor may register with the Board as an Intern. An individual pursuing Idaho licensure as a Marriage and Family Therapist shall be licensed as an Associate Marriage and Family Therapist or register prior to commencement of supervised experience with the Board as an Intern in compliance with section 54-3402, Idaho Code. (~~3-26-08~~)(7-1-08)T

**01. Requirements for Registration.** (4-2-03)

**a.** Possess a graduate degree in counseling, marriage and family therapy, or a closely related field from an accredited university or college. (4-2-03)

**b.** Be actively pursuing postgraduate supervised experience. (4-2-03)

**c.** Designate a supervisor who is registered as a supervisor or who is otherwise approved to provide marriage and family therapy supervision as defined in Section 54-3405C, Idaho Code, and who shall be responsible to provide supervision. (3-20-04)

**02. Registration.** An individual applying for registration as a Counselor Intern or Marriage and Family Therapist Intern shall fully complete the application form as established by the Board and submit the designated fee as adopted by Board rule. (4-2-03)

**03. Practice.** (4-2-03)

**a.** A Registered Intern may only practice counseling or marriage and family therapy under the direct supervision of a Counselor Supervisor or Marriage and Family Therapist Supervisor who shall be responsible to ensure that a Registered Intern is competent to practice such counseling or marriage and family therapy as may be provided. (4-2-03)

**b.** Only a Registered Intern may use the title Counselor Intern or Marriage and Family Therapist Intern. (4-2-03)

**c.** An individual shall not practice as an intern for more than four (4) years from the original date of registration. (4-2-03)

**246. -- 249. (RESERVED).**

**250. FEES (RULE 250).**

**01. Application Fee.** Application fee: (7-1-97)

- a. Professional Counselor -- seventy-five dollars (\$75). (3-13-02)
- b. Clinical Professional Counselor -- seventy-five dollars (\$75). (3-13-02)
- c. Marriage and Family Therapist -- seventy-five dollars (\$75). (3-13-02)
- d. Associate Marriage and Family Therapist -- seventy-five dollars (\$75). (7-1-08)T
- ~~d.e.~~ Intern Registration -- twenty-five dollars (\$25). (4-2-03)

**02. Professional Counselor and Marriage and Family Therapist Examination or Reexamination Fee.** The Professional Counselor and Marriage and Family Therapist license examination or reexamination fee shall be the fee as set by the provider of the approved examination plus an administration fee of twenty-five dollars (\$25). (3-30-06)

**03. Original License Fee.** Original license fee for Professional Counselor, ~~or~~ Clinical Professional Counselor, Associate Marriage and Family Therapist, or Marriage and Family Therapist -- seventy-five dollars (\$75). (~~4-6-05~~)(7-1-08)T

**04. Annual Renewal Fee.** Annual license renewal fee for Professional Counselor, Clinical Professional Counselor, Associate Marriage and Family Therapist, or Marriage and Family Therapist -- one hundred dollars (\$100). (~~3-19-07~~)(7-1-08)T

**05. Annual Renewal Fee for Inactive License.** Annual license renewal fee for inactive Professional Counselor, Clinical Professional Counselor, Associate Marriage and Family Therapist, or Marriage and Family Therapist -- fifty dollars (\$50). (~~3-26-08~~)(7-1-08)T

**06. Annual Renewal Fee for Senior Status.** Annual license renewal fee for senior Professional Counselor, Clinical Professional Counselor, Associate Marriage and Family Therapist, or Marriage and Family Therapist -- sixty dollars (\$60). (~~3-26-08~~)(7-1-08)T

**07. Fees are Non-Refundable.** All fees are non-refundable. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**425. CONTINUING EDUCATION (RULE 425).**

Every person holding an Idaho license as a Professional Counselor, Clinical Professional Counselor, Associate Marriage and Family Therapist, or a Marriage and Family Therapist must annually complete twenty (20) contact hours of continuing education prior to license renewal. (~~3-30-06~~)(7-1-08)T

**01. Contact Hours.** The contact hours of continuing education shall be obtained in areas of study germane to the practice for which the license is issued as approved by the Board. No less than three (3) contact hours for each renewal period shall be in ethics. (3-30-06)

**02. Documentation of Attendance.** It shall be necessary for the applicant to provide documentation verifying attendance by securing authorized signatures or other documentation from the course instructors, providers, or sponsoring institution substantiating any hours attended by the applicant. This documentation must be maintained by the applicant and provided to the Board upon request by the Board or its agent. (4-2-03)

**03. Excess Hours.** Continuing education hours accumulated during the twelve (12) months immediately preceding the license expiration date may be applied toward meeting the continuing education requirement for the next license renewal. No more than five (5) hours in excess of the required twenty (20) hours shall be carried forward. Excess hours may be used only during the next renewal period and may not be carried forward more than one (1) time. (4-2-03)

**04. Compliance Audit.** The Board may conduct random continuing education audits of those persons required to obtain continuing education in order to renew a license and require that proof acceptable to the Board of meeting the continuing education requirement be submitted to the Bureau. Failure to provide proof of meeting the continuing education upon request of the Board shall be grounds for disciplinary action in accordance with section 54-3407, Idaho Code. (4-2-03)

**05. Special Exemption.** The Board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. The licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. There is no continuing education required of those holding a current inactive license. (3-26-08)

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.19.01 - RULES OF THE BOARD OF EXAMINERS OF RESIDENTIAL**  
**CARE FACILITY ADMINISTRATORS**

**DOCKET NO. 24-1901-0801**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-4205, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The 2008 Legislature approved HB492 which was brought by the Idaho Health Care Association. Rule 300 reflects this law change and allows the Board to approve exams other than the National Association of Board of Examiners of Long Term Care Administrators (NAB) exam. It also addresses that an open book exam to test on Idaho law and rules, in accordance with current law, will be given. Finally, it updates the reference to the association under Rule 400. IDALA no longer exists and IHCA/ICAL has taken its place.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(a) and (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The 2008 Legislature approved HB492 which was brought by the Idaho Health Care Association. Rule 300 reflects this law change and allows the Board to approve exams other than the National Association of Board of Examiners of Long Term Care Administrators (NAB) exam. It also addresses that an open book exam to test on Idaho law and rules, in accordance with current law, will be given. Finally, it updates the reference to the association under Rule 400. IDALA no longer exists and IHCA/ICAL has taken its place.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** 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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this change is necessary due to passage of HB492 in the 2008 session.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 26th day of June, 2008.

Tana Cory  
Bureau Chief  
Bureau of Occupational Licenses  
1109 Main St., STE 220  
Boise, ID 83702  
(208) 334-3233 phone  
(208) 334-3945 fax

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1901-0801**

**300. EXAMINATIONS (RULE 300).**

**01. Examination.** The Board approves the following examinations for licensure: (7-1-08)T

~~01a. Examination.~~ The ~~examination shall be the~~ Residential Care Facility Administrators examination developed and administered by the National Association of Boards of Examiners of Long Term Care Administrators (NAB) and an open book examination of law and rules governing residential care administrators in Idaho. ~~Examination shall be administered at least semi-annually at such times and places as determined by NAB. The~~ passing score for the NAB examination shall be determined by NAB. An applicant for examination shall be required to register with NAB and pay any required examination fees directly to NAB. The passing score for the open book examination shall be seventy-five percent (75%). (3-15-02)(7-1-08)T

~~02b. Application and Deadline Date for Filing.~~ An applicant for examination shall be required to register with NAB and pay any required examination fees directly to NAB. Other examinations as approved by the Board. (5-3-03)(7-1-08)T

~~03. Individuals Who Have Special Needs.~~ Individuals who have special needs as defined by the American Disabilities Act must specify those needs or required services directly to NAB to receive consideration for reasonable accommodation. (5-3-03)

~~04. Passing Score on Exam.~~ An examination is passed by obtaining a passing score as determined by NAB. The application file of applicants who fail to pass the examination within two (2) years from the date of the first examination will be terminated and the applicant will be required to begin the process as a new applicant except that no further temporary permits will be granted. (5-3-03)

**301. -- 399. (RESERVED).**

**400. EDUCATIONAL AND TRAINING REQUIREMENTS (RULE 400).**

**01. Approved Course.** (5-3-03)

**a.** The Certification Program for Residential Care Facility Administrators course, administered by the Idaho Assisted Living Association (IDALA) or the Assisted Living Federation of America (ALFA) Idaho Health Care Association (IHCA)/Idaho Center for Assisted Living (ICAL), is the approved courses of study to qualify for licensure. (5-3-03)(7-1-08)T

**b.** Any Certification Program for Residential Care Facility Administrators provided by a state or national Residential Care Facility Administrator organization or a nationally or regionally accredited college or university shall be an approved course of study to qualify for licensure. (5-3-03)

**02. Approval of Other Courses.** Applicants may, in lieu of completion of the Certification Program for Residential Care Facility Administrators, submit official documentation of successful completion of relevant courses. These courses must be approved by the Board before equivalency will be given. (3-30-06)

## IDAPA 30 - IDAHO COMMISSION FOR LIBRARIES

### 30.01.01 - RULES OF THE IDAHO COMMISSION FOR LIBRARIES GOVERNING THE USE OF COMMISSION SERVICES

DOCKET NO. 30-0101-0801

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 33-2503 and 33-2505C, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These proposed rules are necessary to carry out the provisions of Senate Bill No. 1321, passed by the 2008 Idaho Legislature, concerning a digital repository of state publications. The proposed rules provide a mechanism for operating a digital repository of state publications including authority and exemptions.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These proposed rules are necessary in order to be in compliance with amendments made by the 2008 Idaho Legislature to Title 33, Chapter 25, Idaho Code, concerning a digital repository of state publications.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** 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:

State agencies complying with the current depository requirements will undoubtedly experience a decrease in expenditures as a result of the digital repository requirements as well as an increase in the reach of their state publications. Estimated costs for the Commission for Libraries to implement the digital repository are \$202,000 for the first year, and \$132,000 ongoing funds to maintain:

1. Capital - \$30,000 (OT) for server, storage, UPS, etc.
2. Operating - \$50,000 (\$40,000 OT) for content management license; and
3. Personnel - \$122,000 ongoing for 1 FTE Librarian and 2 FTE OS2.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to bring the rules of the Idaho Commission for Libraries in compliance with amendments made by the 2008 Idaho Legislature to Title 33, Chapter 25, Idaho Code, concerning a digital repository of state publications.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Ann Joslin, State Librarian, (208) 334-2150.



Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 6th day of June, 2008.

Ann Joslin, State Librarian  
Idaho Commission for Libraries  
325 W. State St.  
P. O. Box 83720, Boise, ID 83702  
Phone: (208) 334-2150 / Fax: (208) 334-4016

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 30-0101-0801**

**031. -- 039. (RESERVED).**

**040. DIGITAL REPOSITORY OF STATE PUBLICATIONS.**

All state publications intended for distribution to the public must be deposited with the Commission according to Section 33-2505, Idaho Code. (7-1-08)T

**01. Exemption Authority.** The Board may grant exemptions from Section 33-2505, Idaho Code, in the interest of economy and efficiency. (7-1-08)T

**02. Bases for Exemption.** Exemptions include, but are not limited to: (7-1-08)T

**a.** Any publication specifically exempted by statute; or (7-1-08)T

**b.** Any publication or class of publications exempted by the Board. (7-1-08)T

**03. Exemption Requests.** State agencies may petition for the exemption of a specific publication or a class of publications using approved forms provided by the Commission. The request shall: (7-1-08)T

**a.** Name the requesting state agency and a designated contact; (7-1-08)T

**b.** Clearly identify the publication or class of publications; and (7-1-08)T

**c.** Explain the rationale for exemption. (7-1-08)T

**04. Request for Exemption by State Librarian.** The State Librarian may request the exemption of a specific publication or a class of publications based on the ability of the Commission to capture or process said materials. The request shall: (7-1-08)T

**a.** Name the publishing state agency; (7-1-08)T

**b.** Clearly identify the publication or class of publications; and (7-1-08)T

**c.** Explain the rationale for exemption. (7-1-08)T

**05. Filing Exemption Requests.** Exemption requests shall be filed with the Commission not less than

sixty (60) days prior to a regularly scheduled Board meeting. (7-1-08)T

**06. Board Action on Exemption Requests.** The Board shall grant or deny exemption requests, determine an expiration date, and provide written notification of its decision to the publishing state agency within thirty (30) days of its decision. (7-1-08)T

**07. Annual Report.** The State Librarian shall submit an annual report of all exemptions to the Board. (7-1-08)T

**08. Review of Exemptions.** Exemptions shall be reviewed by the Board at least sixty (60) days prior to the expiration date. State agencies shall be notified by the Commission of any change in exemption status within thirty (30) days of Board action. (7-1-08)T

**041. -- 999. (RESERVED).**

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.02.07 - RULES GOVERNING TITLING OF SALVAGE, SPECIALLY CONSTRUCTED, AND RECONSTRUCTED MOTOR VEHICLES

DOCKET NO. 39-0207-0801

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 49-201, 49-507, and 49-525, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rule-making:

This rule is being amended to comply with the provisions of House Bills 364 and 365, 2008 legislative session, which change the processes and procedures for the titling of vehicles which have been declared salvage or total loss. Changes provide that disclosure will be required upon sale of a vehicle which had been declared salvage or is branded as rebuilt salvage. This change streamlines the process for titling and eliminates inspections and portions of the rule no longer required, which simplifies the process for branding of such vehicles as "rebuilt salvage." This rule also clarifies and defines what a brand is, and when it shall be used. It eliminates motorcycles, trailers, and vessels as exceptions for the purpose of declaring salvage vehicles, and will require a branded title of rebuilt salvage for these types of vehicles, as well. It provides for a number of definitions and clarifies that assembled and replica vehicles must meet federal safety standards and emission requirements in effect for the model year being titled.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with House Bills 364 and 365, from the 2008 Legislative Session.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not applicable.

**FISCAL IMPACT:** 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.

**NEGOTIATED RULEMAKING:** In compliance with IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rulemaking is required for compliance with changes to Idaho Code in House Bills 364 and 365, from the 2008 Legislative Session.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Daryl Marler, Dealer Operations Supervisor, 334-8684.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 3rd day of July, 2008.

Linda L. Emry, Administrative Rules Coordinator  
Budget, Policy, and Intergovernmental Relations  
Idaho Transportation Department  
3311 West State Street  
P.O. Box 7129, Boise ID 83707-1129  
Phone - 208-334-8810  
FAX - 208-332-4107

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0207-0801**

**39.02.07 - RULES GOVERNING TITLING OF SALVAGE, SPECIALLY CONSTRUCTED,  
REPLICA AND RECONSTRUCTED REBUILT SALVAGE MOTOR VEHICLES**

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as IDAPA 39.02.07 "Rules Governing Titling of Salvage, Specially Constructed, Replica and Reconstructed Rebuilt Salvage Motor Vehicles." (3-30-07)(7-1-08)T

**02. Scope.** These rules identify requirements for the classification and titling of motor vehicles defined as reconstructed or repaired, rebuilt salvage, or specially constructed, pursuant to Section 49-123(2)(1)(m) ~~and~~ (n) (o) and (p), Idaho Code. (3-30-07)(7-1-08)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.**

**01. Street and Mailing Address.** The Idaho Transportation Department maintains a central office for motor vehicle investigations in Boise at 3311 W. State Street with a mailing address of P.O. Box 7129, Boise ID 83707-1129. (3-30-07)

**02. Office Hours.** Daily office hours are 8:00 a.m. to 5:00 p.m. except Saturday, Sunday and state holidays. (3-30-07)

**03. Telephone and FAX Numbers.** The central office may be contacted during office hours by phone at 208-334-8663 or by fax at 208-334-8658. Requests will be directed to the appropriate ~~inspector~~ motor vehicle investigator by location. (3-30-07)(7-1-08)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS.**

**01. ~~Major Component Parts.~~** ~~The six (6) major component parts which are commonly used to reconstruct a motor vehicle shall be defined solely for reconstruction purposes as follows. (For the purpose of determining major component part damage that requires repair or replacement on salvage vehicles, an inspector may disregard minor damage to cosmetic exterior trim and sheet metal body panels that do not affect the structural~~

~~integrity of the vehicle.~~ **Assembled Vehicle.** A vehicle which has been constructed using parts from two (2) or more vehicles and has the same appearance as a vehicle that was manufactured under a specific make and model by a manufacturer. Changes may include frame and/or cab changes. See Section 301 for title application requirements.

~~(3-30-07)(7-1-08)T~~

~~a. Front/Front End Assembly/Front Clip/Nose Section. An integrated section of body structural component parts located forward of the firewall, i.e. front fender apron, front side member, front suspension cross member, hood lock brace, front cross member, radiator side support (side baffle), radiator upper support, hood and other such parts that may be pertinent to this section and not including a frame section.~~ (1-1-90)

**b02. Body/Center Passenger Area.** The center structure, either of a unibody or frame-type passenger vehicle, consisting of a unit of sheet metal and structural components that extends from the firewall to the back of the rear seat or to the factory seam separating the rear section or the centerline of the rear wheels, i.e. cowl panel, dash panel, floor pans, center side body panels, side rails, rocker panels, and other such component parts that may be pertinent to this section. ~~This major component shall not include the top/roof section of the passenger compartment.~~

~~(11-1-94)(7-1-08)T~~

~~e. Top/Roof of Passenger Compartment. The top/roof section consisting of sheet metal severing the vehicle joining at the windshield, side and rear window posts, i.e. center pillar upper outer reinforcement, roof side inner rail, roof side outer rail, roof drip channel, roof side inner panel and other such component parts that may be pertinent to this section.~~ (11-1-94)

~~d. Rear/Rear Clip. The complete rear sheet metal section and structural components formed by severing the vehicle across the floor behind the rear seat, or at the factory seam separating the center passenger section or through the centerline of the rear wheels, i.e. upper back panel, luggage compartment door hinge arm, quarter wheel house panel, quarter panel, lower back panel, rear valance panel, rear floor pan, rear seat cushion support brace, rear floor side panel, rear deck lid, rear floor no. 1 cross member, and other such component parts that may be pertinent to this section.~~ (11-1-94)

**f03. Cab.** The passenger compartment of a common truck or pickup truck. It is a unit of sheet metal and structural components including the top/roof and the cowl which may or may not include glass, instrumentation, steering column and seat. (11-1-94)

**e04. Frame.** The heavy metal structure that supports the auto body and other external component parts on body over-frame constructed vehicles only. ~~For the purposes of this section, damage that is evident between the centerline of the front wheels and the centerline of the rear wheels will be considered major component damage to the frame. Damage to the ends of the frame, front and rear will be considered as minor damage, easily repaired and not considered as major component damage. The typical bolt on stub frame used on a semi unitized vehicle will not be considered a separate major component part.~~ (1-1-90)(7-1-08)T

**02. Market Value.** ~~The market value is the value of the vehicle, prior to the vehicle receiving damage from the incident that caused the vehicle to be declared salvage. This value will be determined by reference to an official used car guide. For purpose of the rule, Known Market Value, Fair Market Value, Retail Market Value, Actual Cash Value, and Market Value are the same and will be referred to as "Market Value."~~ (3-30-07)

**03. Primary Damage.** ~~Local damage that occurs at the point of impact on the vehicle.~~ (7-1-90)

**04. Secondary Damage.** ~~Damage that occurs due to misplaced energy that causes stresses in suspension and/or body dimensions at areas other than the primary impact zone. If the secondary damage area can be repaired or replaced within a six (6) hour period, as indicated in a recognized collision estimating guide, the damage will not be counted as a section or major component part while inspecting for branding considerations.~~ (7-1-90)

**05. Significant Parts.** ~~For the purpose of this rule, the significant parts are all replaced parts that will require a bill of sale or traceable invoice from the former owner identifying the part by vehicle identification number and identifying the seller by name and address. These parts are the front fenders, hood, doors, bumpers, quarter panels, decklid, tailgate or hatchback (whichever is present).~~ **Replica Street Rod.** A vehicle made to replicate any

pre-1949 vehicles which has had a significant drive train update from a more modern vehicle. Changes may include engine, transmission, rear axle and other suspension components. The body will resemble the same as the manufacturer's original issue. See Section 301 for title application requirements. ~~(7-1-90)~~(7-1-08)T

**06. Replica Vehicle.** A vehicle made to replicate any vehicle previously manufactured, using metal, fiberglass, or other composite matters. Replica vehicles must look like the original vehicle being replicated but may use a more modern drive train. At a minimum, replica vehicles shall meet the same federal motor vehicle safety and emission standards in effect for the year and type of vehicle being replicated, pursuant to Section 49-123(2)(n), Idaho Code. See Section 301 for title application requirements. (7-1-08)T

**07. Street Rod Vehicle.** Any pre-1949 manufactured vehicle which has had a significant drive train update from a more modern vehicle. Changes may include engine, transmission, rear axle, and other suspension components. The body will be the same as the manufacturer's original issue. See Section 301 for title application requirements. (7-1-08)T

**011. -- 099. (RESERVED).**

**100. SPECIALLY CONSTRUCTED VEHICLES.**

**01. Specially Constructed Vehicle Examples.** Some examples of specially constructed vehicles are: Custom built vehicles, such as ~~dune buggies~~, kit conversions, homemade camp trailers, ~~and~~ other homemade trailers that exceed two thousand (2,000) pounds unladen weight, motorcycles, vessels, snowmobiles, and effective January 1, 2009, slide-in truck-mounted campers. ~~(1-1-90)~~(7-1-08)T

**02. Engine, ~~Frame, and Running Gear~~ Changes.** A vehicle that has an engine of a different make, model or year from the body, frame and running gear is not considered a specially constructed vehicle. These vehicles retain the original title and identification designation. ~~(1-1-90)~~(7-1-08)T

**03. Title Application ~~Instructions~~ Requirements.** ~~(1-1-90)~~(7-1-08)T

**a.** The applicant must provide proof of ownership for all significant parts that are replaced, such as frame, body, and other parts that carry vehicle identification numbers. The ~~frame~~ body must have a properly released title and a bill of sale from the former owner. The ~~body~~ frame only may be transferred with a bill of sale given by the legal owner showing the vehicle identification number (VIN). Other significant parts that are replaced must be verified by traceable invoices identifying the part or parts from an established new or used parts outlet. If the other significant parts are purchased from a private party, a bill of sale showing seller's name and address is required. A Manufacturer's Certificate of Origin (MCO) must accompany the documents for manufactured kits or if no MCO is issued, a factory invoice or bill of sale from the selling dealer is acceptable. ~~(1-1-90)~~(7-1-08)T

**b.** The model year will be the year that the specially constructed vehicle was first titled as a specially constructed vehicle. (1-1-90)

**c.** The make as shown on the certificate of title of a specially constructed vehicle will be identified as SPNCN and the certificate of title will be branded "SPECIALLY CONSTRUCTED." (1-1-90)

**d.** When the vehicle is in operating condition ~~and in compliance with Chapter 9, Title 49, Idaho Code,~~ an inspection by ~~an authorized inspector~~ a motor vehicle investigator is required. A fee of twenty-five dollars (\$25) is required for this inspection and the preparation of the statement of fact and indemnifying affidavit. In addition, if a vehicle identification number is assigned, the fee required by Section 49-202(2)(j), Idaho Code, will be charged. If the vehicle is eligible to be registered for road use, the owner shall complete a self certification on a form prescribed by the department stating that the vehicle is in compliance with Chapter 9, Title 49, Idaho Code, and meets the Federal Motor Vehicle Safety Standards in effect for the model year. ~~(11-1-94)~~(7-1-08)T

**101. -- 199. (RESERVED).**

**200. ~~RECONSTRUCTED VEHICLES OR REPAIRED~~ REBUILT SALVAGE VEHICLES.**

**01. ~~Reconstructed or Repaired~~ Rebuilt Salvage Vehicle.** A ~~reconstructed or repaired~~ rebuilt salvage vehicle, as defined by Section 49-123 (2)(1), Idaho Code, is: ~~(3-30-07)(7-1-08)T~~

**a.** Every "Salvage or Total Loss Vehicle" that has been rebuilt, ~~reconstructed, repaired, or restored~~ in compliance with Chapter 9, Title 49, Idaho Code, as regulated by Sections 49-524 and 49-525, Idaho Code; or ~~(3-30-07)(7-1-08)T~~

**b.** Every vehicle that is coming into Idaho from another jurisdiction on a Salvage Certificate or other equivalent document showing evidence of a total loss payoff such as a bill of sale from an insurance company; ~~salvage bill of sale~~ or other documentation indicating that the vehicle may have been ~~severely damaged~~ a salvage or total loss vehicle shall be considered salvage. These vehicles may not be operated on Idaho highways until rebuilt, ~~reconstructed, repaired, or restored~~ in compliance with Chapter 9, Title 49, Idaho Code, ~~and shall be considered salvage.~~ They shall be issued an Idaho Salvage Certificate ~~and if they are five (5) years old or less, or had a known market value in excess of six thousand dollars (\$6,000) prior to damage, they must be inspected prior to repair.~~ If any vehicle described in Subsection 200.01, of this rule, is received by a "salvage pool;" (as described in Section 49-120(4), Idaho Code), a salvage certificate of title must be issued, prior to sale; ~~or~~ Any vehicle which has been declared junk, pursuant to Sections 49-516 and 49-522, Idaho Code, or is coming from another jurisdiction with a similar endorsement, or is designated by the owner or the insurance company as parts only, destroyed, or dismantled, may not be rebuilt for on-road use. ~~(3-30-07)(7-1-08)T~~

~~**e.** All other vehicles which have been reconstructed by the use of a kit designed to be used to construct an exact replica of a vehicle which was previously constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles including vehicles meeting the definition of a "Street Rod" in 49-120(26), Idaho Code, will receive a "Reconstructed Vehicle" title brand but do not require a "Reconstructed Vehicle" decal. Large trucks rebuilt by the use of a glider kit are not considered to be "Reconstructed Vehicles" under this rule.~~ ~~(11-1-94)~~

~~**02. ~~Reconstructed or Repaired Vehicle, Exemptions.~~ Motorcycles, motor homes, trailers, all terrain vehicles and snowmachines are not considered to be reconstructed or repaired vehicles under this rule, regardless of damage, and do not require the issuance of a salvage certificate of title.**~~ ~~(11-1-94)~~

~~**032. Title Application ~~Instructions For Vehicles More Than Five Years Old and Having a Known Market Value of Six Thousand Dollars or Less.~~ Requirements for Vehicles Defined as Salvage and Rebuilt Salvage Vehicles:**~~ ~~(3-30-07)(7-1-08)T~~

**a.** The applicant must provide a written affirmation statement which includes the vehicle information, vehicle identification numbers, salvage date, and the work done personally by the owner or supervised by the owner to restore the vehicle to the operating condition that existed prior to the event causing the vehicle to be salvaged. ~~(3-30-07)(7-1-08)T~~

**b.** In the event that the applicant did not personally repair the vehicle or supervise its repair, but another party performed the repairs, the applicant shall certify to the best of his knowledge the name of the party that did repair the vehicle or personally supervised its repair. This certification shall be made on a salvage vehicle affidavit statement. ~~(3-30-07)(7-1-08)T~~

**c.** In the event that repairs were not necessary to bring the vehicle to operating condition pursuant to Chapter 9, Title 49, Idaho Code, the applicant shall certify this on a salvage vehicle affidavit statement. ~~(3-30-07)(7-1-08)T~~

**d.** The applicant must sign an indemnifying affidavit statement agreeing to defend the title in all legal disputes arising out of his possession of the title to the vehicle, and attesting to the fact that all information contained in the affidavit or statement and its attachments are true and correct. ~~(3-30-07)(7-1-08)T~~

**e.** The new Idaho title issued will be branded "REBUILT SALVAGE." Such notation will remain on the title and on all subsequent transfers of the title. ~~(7-1-08)T~~

~~**04. Title Application Instructions for Vehicles With an Age of Five Years or Less or Having a Known**~~

~~Market Value in Excess of Six Thousand Dollars.~~

~~(3-30-07)~~

~~a. The applicant must provide proof of ownership for all significant parts used in the construction. Documentation requirements are as follows: The title or titles to the vehicles that were used in the construction; the frame requires the title properly released by the legal owner; and traceable bills of sale or invoices from new or used parts outlets or bills of sale from previous legal owners for all major component and significant parts, except the frame, are acceptable.~~

~~(3-30-07)~~

~~b. When the vehicle is in operating condition and in compliance with Chapter 9, Title 49, Idaho Code, the applicant must submit the vehicle for inspection. The inspector will inspect the VIN(s) and determine if the VIN(s) on the vehicle are properly represented by available titles and/or bills of sale.~~

~~(11-1-94)~~

~~c. The model year and make of the vehicle will be determined in order of priority as follows: Previous primary ownership documents, i.e. certificate of title or salvage certificate to the body; visual identification; or use the frame identification number.~~

~~(1-1-90)~~

~~d. The inspector shall: Assist in preparing an indemnifying affidavit in conjunction with the possessor of the vehicle; And advise the affiant that it is his obligation to insure that the vehicle is maintained in compliance with Chapter 9, Title 49, Idaho Code and that he is agreeing to defend the vehicle in all legal disputes arising out of his possession of the vehicle.~~

~~(11-1-94)~~

~~e. The inspector or county assessor's deputy shall assist the applicant in preparing an application for title.~~

~~(11-1-94)~~

~~05. **Inspection Fee.** The inspector will charge a fee of twenty five dollars (\$25) for the inspection and preparation of the documents. If a VIN assignment is made, the fee required by Section 49-202(2)(j), Idaho Code, will also be charged.~~

~~(3-30-07)~~

~~06. **Idaho Title Branded.** The new Idaho title produced will be branded "RECONSTRUCTED VEHICLE" or "REPAIRED VEHICLE" depending on the severity of the damage. Such notation will remain on the title on all subsequent transfers of the title.~~

~~(11-1-94)~~

~~07. **Repaired Vehicle Branded.** If the vehicle is a "salvage vehicle," as defined by Section 49-123(2)(m), Idaho Code, and the inspector determines that one (1) major component part has damage and requires repair or replacement, a second or final inspection is required for the purpose of attaching a "REPAIRED VEHICLE" decal, verification of ownership of all major components and significant parts and collection of the fee required by Section 49-525(3)(b), Idaho Code. The "REPAIRED VEHICLE" decal shall be attached in the vicinity of the driver's door jamb/"B" post, and must be attached prior to application for title.~~

~~(3-30-07)~~

~~08. **Reconstructed Vehicle Branded.** If the vehicle is a "salvage vehicle," as defined by Section 49-123(2)(m), Idaho Code, and the inspector determines that two (2) or more major component parts are damaged and require repair or replacement, or the vehicle sustained "Flood Damage" as shown in the ownership documentation or insurance adjuster's report, a second or final inspection is required for the purpose of attaching a "RECONSTRUCTED VEHICLE" decal, verification of ownership of all major components and significant parts and collection of the fee required by Section 49-525-3(b), Idaho Code. The "RECONSTRUCTED VEHICLE" decal shall be attached in the vicinity of the driver's door jamb/"B" post, and must be attached prior to application for title.~~

~~(3-30-07)~~

~~093. **Salvage Vehicle Damaged Out-of-State.** If a vehicle that is titled in Idaho is damaged in another state or jurisdiction to the extent that the vehicle becomes a "salvage vehicle" as defined by Section 49-123(2)(m), Idaho Code, and the vehicle is not going to be returned to Idaho, the owner or insurer must, upon determining the vehicle to be salvage, notify the purchaser and the department in writing of the salvage status, and that if this vehicle returns to Idaho, the vehicle and the title will be branded "RECONSTRUCTED VEHICLE" or "REPAIRED VEHICLE," as appropriate "Rebuilt Salvage" or carry another jurisdiction's comparable brand forward. If the vehicle has been repaired prior to major component inspection by an authorized vehicle inspector, the vehicle and the certificate of title shall be marked "RECONSTRUCTED VEHICLE."~~

~~(3-30-07)(7-1-08)T~~



~~10. Salvage Vehicle Age Determination. The age of a salvage vehicle shall be determined by subtracting the model year of the vehicle from the year the damaged vehicle was declared salvage, as evidenced by the salvage certificate, salvage bill of sale, or other documentation showing evidence that the vehicle has been declared salvage. A vehicle may not age out of the salvage vehicle process, regardless of the date of inspection or application. (11-1-94)~~

~~201. SPECIALTY VEHICLE MAJOR COMPONENT CONSIDERATION.~~

~~01. Van Side/Utility/Sport Vehicles. Some vans/utility/sport vehicles have a division of the REAR END SECTION. The right side and the left side with the inner structure will be considered separate major component parts, if factory seam exists. (NOTE: There are generally six (6) major component parts to a van/utility/sport vehicles.) (11-1-94)~~

~~a. NOSE/FRONT END—Which is everything forward of the firewall/cowl. (11-1-94)~~

~~b. BODY/CENTER PASSENGER AREA—Which is the compartment extending from the firewall back to the rear seat or the factory seam separating the rear sections or the centerline of the rear wheels, and not including the roof section. (11-1-94)~~

~~c. TOP/ROOF OF PASSENGER AREA—The top/roof section consists of sheet metal and structural components covering the passenger area of the vehicle and joining at the windshield, side and rear window post factory connection. (11-1-94)~~

~~d. RIGHT REAR END—Which is the right side, including the inner structure behind the right door opening back to the right rear door and the right side of the floor pan behind the rear factory seam or the centerline of the rear wheels. (11-1-94)~~

~~e. LEFT REAR END—Which is the left side, including the inner structure behind the left door, opening back to the left rear door and the left side of the floor pan behind the rear factory seam or the centerline of the rear wheels. (11-1-94)~~

~~f. FRAME—Treated the same as in a passenger vehicle. (11-1-94)~~

~~02. Pickup—(NOTE: There are generally three (3) major component parts to a pickup.) (11-1-94)~~

~~a. NOSE—Which is everything forward of the firewall/cowl. (11-1-94)~~

~~b. CAB—Which is considered as one separate unit. (11-1-94)~~

~~c. FRAME—This is treated the same as a passenger vehicle. Anything forward of the front wheel center and anything rearward of the back wheel center is exempt. (11-1-94)~~

~~d. SPECIAL CONSIDERATION—If the PICKUP has a box/bed that is attached to the cab or body of the vehicle, such as in the El Camino, Subaru Brat, and certain VW Pickups, the rear quarter panels will be treated as rear clips and counted as a separate major component part. (11-1-94)~~

~~202. MAJOR COMPONENT PARTS CHALLENGE.~~

~~Procedure to follow upon receiving a challenge to a major component parts determination. (11-1-94)~~

~~01. If Applicant Questions Determination. If an applicant wishes to question the salvage vehicle major component parts determination, the person shall send a written request to the Idaho Transportation Department, Division of Motor Vehicles, at the Boise address within thirty (30) days of the determination and prior to beginning to rebuild the vehicle. (7-1-96)~~

~~02. Appointment of Hearing Officer. The department shall appoint a hearing officer to review the major component parts determination and to make a final determination after receiving testimony from the department and the applicant. (11-1-94)~~

~~03. Final Determination. The major component parts determination hearing officer shall make the final determination of the major component parts damage, subject to a contested case proceeding. (11-1-94)~~

2031. -- 299. (RESERVED).

300. GLIDER KITS.

01. Title Application ~~Instructions~~ Requirements. (~~1-1-90~~)(7-1-08)T

a. A Manufacturer's Certificate of Origin (MCO) for the glider kit must be submitted with the application for title. (~~3-30-07~~)(7-1-08)T

b. If the applicant dismantles a vehicle presently titled to the applicant and uses the significant parts with the glider kit, a statement of fact will be prepared, identifying the significant parts by identifying numbers. If the significant parts were purchased separately, a bill of sale or invoice from the new or used parts outlet is required. If the major component parts were purchased from a private owner, a bill of sale is required. (1-1-90)

c. If the frame and cab that the parts were stripped from will never be used again, i.e., frame and cab destroyed, not salvageable, the title must be surrendered with the application. If the frame or cab can be used again, the ~~inspector~~ motor vehicle investigator will mark the title "frame only" or "cab only" and note such in the statement of fact. (~~11-1-94~~)(7-1-08)T

d. The vehicle must be completely assembled and meet the requirements of Chapter 9, Title 49, Idaho Code, and the federal motor vehicle safety standards in effect for the model year at the time of inspection. (~~11-1-94~~)(7-1-08)T

02. Assignment of VIN. The VIN will be the number assigned to the kit by the manufacturer. In the absence of such number, the ~~inspector~~ motor vehicle investigator will assign a VIN. (~~11-1-94~~)(7-1-08)T

03. Model Year. The model year will be the year of the kit, determined by priority in the following order: (7-1-90)

a. Seventeen (17) digit VIN year designator; (11-1-94)

b. Designation of model year shown on an approved Manufacturer Certificate of Origin (MCO); or (~~3-30-07~~)(7-1-08)T

c. Written statement from the manufacturer. (11-1-94)

04. Make of Vehicle. The make of the vehicle will be the name of the manufacturer of the glider kit. (1-1-90)

05. Title Branded. The designation "GLIDER KIT VEHICLE" will be branded on the title. (7-1-90)

06. Inspection Fee. The ~~inspector~~ motor vehicle investigator will charge a fee of twenty-five dollars (\$25) for the inspection and preparation of documents. If a VIN assignment is made, the fee required by Section 49-202(2)(i), Idaho Code, will also be charged. (~~11-1-94~~)(7-1-08)T

**301. TITLE APPLICATION REQUIREMENTS FOR REPLICA, STREET RODS, REPLICA STREET RODS, AND ASSEMBLED VEHICLES.**

01. **Applicant Must Provide Proof of Ownership.** The applicant must provide proof of ownership for all significant parts that are used in replicating or assembling the vehicle. The body must have a properly released title and a bill of sale from the previous owner. The frame only may be transferred with a copy of a bill of sale given by the legal owner showing the vehicle identification number (VIN). Other significant parts that are used must be verified by traceable invoices identifying the part or parts from an established new or used parts outlet. If the other significant

parts are purchased from a private party, a bill of sale showing the seller's name and address is required. A Manufacturer's Certificate of Origin (MCO) must accompany the documents for manufactured kits or if no MCO was issued, a factory invoice or bill of sale from the selling dealer is acceptable. (7-1-08)T

**02. Model Year for Replica Vehicles.** The model year for replica vehicles will be the year that the vehicle replicates. The model year for assembled vehicles will be the model year of the vehicle body. (7-1-08)T

**03. Inspection by a Motor Vehicle Investigator.** When the vehicle is in operating condition an inspection by a motor vehicle investigator is required. A fee of twenty-five dollars (\$25) is required for this inspection and the preparation of the statement of fact and indemnifying statement. In addition, if a vehicle identification number is assigned, the fee required by Section 49-202(2)(j), Idaho Code, will be charged. If the vehicle is eligible to be registered for road use, the owner shall complete a self certification form prescribed by the department stating that the vehicle is in compliance with Chapter 9, Title 49, Idaho Code, and meets the federal motor vehicle safety and emission standards in effect for the model year and type of vehicle. (7-1-08)T

~~3045.~~ -- 399. (RESERVED).

**400. BRANDING.**

**01. Brand Disclosure Definition.** A description on a certificate of title, as determined by the department or the equivalent agency of another jurisdiction, which indicates and advises future owners and interested parties that: (7-1-08)T

**a.** The vehicle has or has had a relevant physical condition, modification, construction, alteration or history of use; or (7-1-08)T

**b.** Past or present ownership of the vehicle could not be clearly established to the satisfaction of the department or the equivalent agency of another jurisdiction. (7-1-08)T

**02. Brand Disclosure.** (7-1-08)T

**a.** Upon sale by a dealer of any salvage or total loss vehicle or branded vehicle or branded certificate of title, disclosure of the vehicle's salvage or branded status, shall be conspicuously disclosed to the buyer and a record must be maintained by the dealer. Disclosure may be made on a form as provided by the department for a report of sale. The buyer must sign that they have received disclosure of the vehicle brand. Proof of disclosure must be submitted to the department. (~~3-30-07~~)(7-1-08)T

**b.** Upon sale by a private party of any salvage or total loss vehicle or branded vehicle or branded certificate of title, disclosure of the vehicle's salvage or branded status, shall be conspicuously disclosed to the buyer. (7-1-08)T

**023. Branding Time Frame.** Each branded vehicle and branded certificate of title shall retain that brand throughout the existence of the vehicle regardless of its age or value. (1-1-90)

**034. Brands Removed.** If any salvage vehicle leaves the state of Idaho with or without an Idaho salvage certificate of title, ~~or if the vehicle had a regular Idaho title showing any brand such as "RECONSTRUCTED VEHICLE," "REPAIRED VEHICLE," "SPECIALLY CONSTRUCTED," "GLIDER KIT VEHICLE," or "JUNK ONLY," and/or a physical "RECONSTRUCTED VEHICLE" or "REPAIRED VEHICLE" decal~~ and such vehicle returns to Idaho, ~~without any of the aforementioned brands or decals, all inspections and fees will once again be required and the brands and decals will be replaced as required by~~ it will once again be subject to the requirements under Idaho Code and this rule. If any vehicle leaves the state of Idaho with a regular Idaho title showing any brand and such vehicle returns to Idaho without the brand or an equivalent brand from another jurisdiction, the original Idaho brand will be replaced on the new Idaho title. (~~7-1-96~~)(7-1-08)T

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**

**39.02.60 - RULES GOVERNING LICENSE PLATE PROVISIONS**

**DOCKET NO. 39-0260-0801**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rule-making procedures have been initiated. The action is authorized pursuant to Section 49-201, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rule-making:

This rule is being amended to comply with the provisions of House Bill 602, 2008 Legislative Session, to address the new plate type to be issued to all-terrain vehicles, utility type vehicles, and off-road motorbikes, to be known as an "Idaho Restricted Vehicle," and the process for the new plate type and validation by registration through Parks and Recreation. It also adds the ability to issue a temporary (30-day) registration when the automated system is not available. Clarification is established in the acceptability of personalized plate messages, as well as defining the length of personalized plate messages to include spaces as part of the message.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with House Bill 602, from the 2008 Legislative Session.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not applicable.

**FISCAL IMPACT:** 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.

**NEGOTIATED RULEMAKING:** In compliance with IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rulemaking is required for compliance with changes to Idaho Code in House Bill 602, from the 2008 Legislative Session.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Tom Fry, Registration Program Supervisor, 334-8679.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 3rd day of July, 2008.

Linda L. Emry, Administrative Rules Coordinator  
Budget, Policy, and Intergovernmental Relations  
Idaho Transportation Department  
3311 West State Street

P O Box 7129  
Boise ID 83707-1129  
Phone - 208-334-8810  
FAX - 208-332-4107

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0260-0801

**012. TEMPORARY REGISTRATION FOR NEW, REPLACEMENT, OR REISSUED LICENSE PLATES.**

**01. Temporary Registration.** Upon receipt of payment for required registration and program fees, a forty-five (45) day temporary registration may be issued, indicating "license plates on order." This option will be used whenever license plates are required to be manufactured after the registration transaction has been completed. The temporary registration shall provide proof that the vehicle has been registered and fees have been paid, and the vehicle may be operated until new plates have been received by the registrant. At the discretion of the department, more than one (1) forty-five (45) day temporary registration may be issued, if needed, in order to manufacture license plates. (4-2-08)

**02. Placement of Temporary Registration Document.** The forty-five (45) day temporary registration document shall be displayed in the rear window of the vehicle for which it is issued. When issued to a convertible, motorcycle, or other vehicle in which it is not possible to display in the rear window, the temporary registration must be conspicuously displayed where the number and expiration date of the permit may be easily read, and where it is protected from exposure to weather conditions, which would render it illegible. (4-2-08)

**03. Issuance of Manually Completed Temporary Registrations When Automated System is Unavailable.** Upon receipt of payment for required registration and program fees, the county may issue a manual temporary registration for thirty (30) days, through use of a temporary form provided by the department, in the event the automated system is unavailable. When the system resumes normal operation, the county office shall enter such registration information, and produce the registration form and validation decals and mail to the registered applicant. The manual temporary registration form shall be displayed in the rear window of the vehicle for which it is issued. When issued to a convertible, motorcycle, or other vehicle in which it is not possible to display in the rear window, the temporary registration must be conspicuously displayed where the number and expiration date of the permit may be easily read, and where it is protected from exposure to weather conditions, which would render it illegible. (7-1-08)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**101. LICENSE PLATE PROVISIONS FOR RESTRICTED VEHICLE PLATES.**

Per Section 49-402 (4), Idaho Code, the Idaho Transportation Department shall provide restricted vehicle plates to county offices for issuance to all-terrain vehicles, utility type vehicles, and motorbikes. Per Section 49-443(1), Idaho Code, such plates shall be four inch by seven inch (4" x 7") plates, shall be printed with a combination of letters and numbers as determined by the department, and shall be printed in black on a white reflective background. Plates shall be printed with "Idaho Restricted Vehicle" on the top and no other inscription. The plate shall also have a decal placed in the lower left-hand corner indicating the year it is required to be re-placed. The plate shall not be valid without the registration sticker, issued pursuant to Section 67-7122, Idaho Code, being affixed to the lower right-hand corner of the plate. Idaho restricted vehicle plates may not be personalized. (7-1-08)T

~~102.~~ -- 149. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**202. PROVISIONS FOR PERSONALIZED LICENSE PLATES.**

**01. Special Characters or Marks.** No special characters, or punctuation marks, may be used for personalized messages on license plates. (1-3-92)

**a.** Up to seven (7) letters or any combination of seven (7) letters and numbers and spaces (no half spaces) may be used for personalized messages on eligible six inch by twelve inch (6" x 12") license plates.

~~(4-2-08)~~(7-1-08)T

**b.** Up to six (6) letters or any combination of six (6) letters and numbers and spaces (no half spaces) may be used for personalized messages on four inch by seven inch (4" x 7") motorcycle plates.

~~(4-2-08)~~(7-1-08)T

**c.** Up to six (6) letters or any combination of six (6) letters and numbers and spaces (no half spaces) may be used for personalized messages on specialty program license plates.

~~(4-2-08)~~(7-1-08)T

**d.** Disability six inch by twelve inch (6" x 12") plates will display the international handicapped symbol followed by up to five (5) letters, numbers, and spaces in the personalized message. Disability four inch by seven inch (4" x 7") motorcycle plates will display the international handicapped symbol followed by up to four (4) letters, numbers, and spaces (no half spaces) in the personalized message.

~~(4-2-08)~~(7-1-08)T

**02. Issue of Personalized Plates.** Personalized plates can be issued only to vehicles if no specific wording is required on the plate to identify the purpose for which the vehicle is registered. Personalized plates will not be issued if such plates would jeopardize the integrity of unique plate identification requirements. Examples include but are not limited to:

(1-3-92)

**a.** Commercial vehicles registered under the International Registration Plan (IRP), because the designators PRP are required to be printed on the plate;

(1-3-92)

**b.** Vehicles for which the designators "PRP" are required to be printed on the plate to identify the use;  
and

(4-2-08)

**c.** Utility, horse, or enclosed car hauling trailers with RV facilities or boat trailers.

(4-2-08)

**03. Specific Requests.** Requests for specific plate letters and/or numbers will be issued on a first come, first served basis. In the event of a request for the same plate by more than one (1) individual, the request with the earliest postmark, e-mail transmission time, or fax transmission time will prevail. If the postmarks are the same, the date stamped upon arrival at the Department will prevail. Applications submitted at county assessors' offices will not be considered valid until stamped in by the Department. Telephone requests will not be accepted.

(4-2-08)

**04. Lack of Current Plates.** When an applicant for personalized plates does not have current regular number plates:

(1-3-92)

**a.** The Department may issue a thirty (30) day temporary registration to allow time for the billing process for personalized plates. The fee for each thirty (30) day temporary registration shall be as required by Section 49-523, Idaho Code.

(4-2-08)

**b.** The Department may, upon payment of all required fees, issue a temporary registration document as provided in Section 012 of these rules.

(4-2-08)

**05. Credits.** When personalized plates are issued before an applicant's current registration is expired, credit will be given for unexpired registration fees only.

(1-3-92)

**06. Renewing Plates.** The applicant will have the choice of renewing existing personalized plates with validation stickers or ordering a new set of plates at the time of renewal. If new plates are requested, the plate fee will be charged in addition to all other fees that are due. New plates must be purchased every seven (7) years as provided in Section 49-443, Idaho Code.

(4-2-08)

**07. Transfer of Plates.** When personalized plates are issued, the vehicle's regular number plates may be transferred to another vehicle belonging to the owner. If registration credit is given from the regular number plates to the personalized, the regular number plate registration is canceled.

(1-3-92)

**08. Acceptability of Plates Message.** Acceptability of the personalized license plate message and issuance, denial or cancellation will be determined by the Department based on the following criteria: (1-3-92)

**a.** The combination of numbers and letters requested or combinations of same may not duplicate an existing combination in use. (1-3-92)

**b.** The message, in any language, may not carry a sexual connotation nor consist of a term that is considered to be one of: obscenity; contempt; prejudice; hostility; insult; racial degradation; ethnical degradation; profanity; or refers to bodily functions, bodily fluids, or intimate body parts; or vulgarity as defined in dictionaries of general use, including, but not limited to, Webster's Unabridged Dictionary and the Harper & Row New Dictionary of American Slang. ~~(4-2-08)~~(7-1-08)T

**c.** The criteria in Paragraph 202.08.b. of these rules is not to be considered an exhaustive list. A compilation of offensive or obscene words, terms or letter/number combinations gathered from the experience of Idaho and other states may also be used as a guide. (4-2-08)

**d.** When a complaint is received from the public concerning an issued plate, the name of the caller will not be recorded nor, if known, revealed. (1-3-92)

**e.** Final determination regarding applications for questionable messages or cancellation of issued plates will be made by the Division of Motor Vehicles. The determination process shall include a first review by technical staff, followed by a second review by supervisory and management staff. An applicant does, however, have a right to a hearing on the decision. (4-2-08)

**09. Message Preferences.** Applicants may submit three (3) message preferences including the specific meaning of each. The first choice that is available and acceptable will be issued. If none of the preferences are available or acceptable, the applicant will be notified by return mail. (4-2-08)

**10. Recalled Plates.** Personalized plates may be recalled by the Department for the following reasons: (1-3-92)

**a.** Error in manufacturing; or (1-3-92)

**b.** Clerical error. (1-3-92)

**c.** Unacceptable personalized messages as outlined in Paragraph 202.08.b. of these rules. (4-2-08)

**11. Unexpired Fees.** If a set of personalized plates is recalled, the personalized plate program fee, unexpired portion of the registration fee, E.M.S. fee, plate fee, (if plates are returned to the department), and all other applicable special plate fees, will be refunded or transferred to a new issue of personalized plates. (4-2-08)

**12. Expired Plates.** Personalized plates that are allowed to expire shall become immediately available for reissue to another applicant. There is no grace period. (1-3-92)

# IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0802

### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(1) of the Clean Air Act.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this proposed rulemaking will be held as follows:

**Tuesday - September 9, 2008 - 4 p.m.**

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

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

**DESCRIPTIVE SUMMARY:** This rulemaking is necessary to ensure that the Rules for the Control of Air Pollution in Idaho are consistent with federal regulations. This proposed rule updates citations to federal regulations incorporated by reference at Sections 008 and 107 to include those revised as of July 1, 2008.

Members of the regulated community who may be subject to Idaho's air quality rules as well as special interest groups, public officials, or members of the public who have an interest in the regulations of air emissions from sources in Idaho may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality at the October 2008 Board meeting for adoption as a pending rule. The rule is expected to be final and effective upon adjournment of the 2009 legislative session if adopted by the Board and approved by the Legislature.

**NEGOTIATED RULEMAKING:** Due to the nature of this rulemaking, negotiations were not held.

**IDAHO CODE SECTION 39-107D STATEMENT:** This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

**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 AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440 or martin.bauer@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 9, 2008.

DATED this 3rd day of July, 2008.



Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton  
Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
paula.wilson@deq.idaho.gov

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0101-0802**

**008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 386.**

- 01. Affected States.** All States: (5-1-94)
- a.** Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)
- b.** That are within fifty (50) miles of the Tier I source. (5-1-94)
- 02. Allowance.** An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one (1) ton of sulfur dioxide. (5-1-94)
- 03. Applicable Requirement.** All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (5-1-94)
- a.** Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (5-1-94)
- b.** Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (4-5-00)
- c.** Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (5-1-94)
- d.** Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)
- e.** Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)
- f.** Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128 of these rules; (3-23-98)
- g.** Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)
- h.** Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (5-1-94)

**i.** Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (5-1-94)

**j.** Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 324. (5-1-94)

**04. Designated Representative.** A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (5-1-94)

**05. Draft Permit.** The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (5-1-94)

**06. Emergency.** For the purposes of Section 332, an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (4-5-00)

**07. Final Permit.** The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (5-1-94)

**08. General Permit.** A Tier I permit issued pursuant to Section 335. (3-23-98)

**09. Insignificant Activity.** Those activities that qualify as insignificant in accordance with Section 317. (3-23-98)

**10. Major Facility.** A facility (as defined in Section 006) is major if the facility meets any of the following criteria: (3-23-98)

**a.** For hazardous air pollutants: (3-23-98)

**i.** The facility emits or has the potential to emit ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

**ii.** The facility emits or has the potential to emit twenty-five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

**b.** For non-attainment areas: (3-23-98)

**i.** The facility is located in a "serious" particulate matter (PM-10) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM-10. (5-1-94)

**ii.** The facility is located in a "serious" carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide. (5-1-94)

iii. The facility is located in an ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds. (5-1-94)

iv. The facility is located in an ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen shall not be included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2) if the area is "marginal" or "moderate," one hundred (100) tpy or more, if the area is "serious," fifty (50) tpy or more, if the area is "severe," twenty-five (25) tpy or more, and if the area is "extreme," ten (10) tpy or more. (3-23-98)

c. The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant. The fugitive emissions shall not be considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: (4-11-06)

i. Designated facilities. (3-23-98)

ii. All other source categories regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, but only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. (4-5-00)

**11. Part 70.** Unless specified otherwise in this chapter, all definitions adopted under 40 CFR Part 70, revised as of July 1, 2007~~8~~, are hereby incorporated by reference. (~~4-2-08~~)(      )

**12. Permit Revision.** Any permit modification, administrative amendment or reopening. (3-19-99)

**13. Phase II Source.** A source that is subject to emissions reduction requirements of 42 U.S.C. Section 7651 through 7651o and shall have the meaning given to it pursuant to those sections. (5-1-94)

**14. Phase II Unit.** A unit that is subject to emissions reduction requirements of 42 U.S.C. Sections 7651 through 7651o and the term shall have the meaning given to it pursuant to those sections. (5-1-94)

**15. Proposed Permit.** The version of a permit that the Department proposes to issue and forwards to the EPA for review. (5-1-94)

**16. Section 502(b)(10) Changes.** Changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements. (3-19-99)

**17. Tier I Operating Permit.** Any permit covering a Tier I source that is issued, renewed, amended, or revised pursuant to Sections 300 through 386. (3-19-99)

**(BREAK IN CONTINUITY OF SECTIONS)**

**107. INCORPORATIONS BY REFERENCE.**

**01. General.** Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-1-94)

**02. Availability of Referenced Material.** Copies of the documents incorporated by reference into these rules are available at the following locations: (5-1-94)

- and
- a. All federal publications: U.S. Government Printing Office, <http://www.gpoaccess.gov/index.html>; (3-20-04)
  - b. All documents herein incorporated by reference: (7-1-97)
  - 0502. i. Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373- (7-1-97)
  - ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)
- 03. Documents Incorporated by Reference.** The following documents are incorporated by reference into these rules: (5-1-94)
- a. Requirements for Preparation, Adoption, and Submittal of Implementation Plans and Appendix W to Part 51--Guideline on Air Quality Models. 40 CFR Part 51 revised as of July 1, 2007~~8~~. The following portions of 40 CFR Part 51 are expressly excluded from any incorporation by reference into these rules: (~~4-2-08~~)(    )
    - i. All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, except that 40 CFR 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules; and (3-30-07)
    - ii. Appendix Y to Part 51, Guidelines for BART Determinations Under the Regional Haze Rule. (3-30-07)
  - b. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 2007~~8~~. (~~4-2-08~~)(    )
  - c. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, Protection of Visibility, 40 CFR 51.301, 51.304(a), 51.307, and 51.308, revised as of July 1, 2007~~8~~. (~~4-2-08~~)(    )
  - d. Approval and Promulgation of Implementation Plans, 40 CFR Part 52 revised as of July 1, 2007~~8~~. (~~4-2-08~~)(    )
  - 2007~~8~~. e. Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, 2007~~8~~. (~~4-2-08~~)(    )
  - f. Ambient Air Quality Surveillance, Quality Assurance Requirements for Prevention of Significant Deterioration (PSD Air Monitoring), 40 CFR Part 58, Appendix B, revised as of July 1, 2007~~8~~. (~~4-2-08~~)(    )
  - g. Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 2007~~8~~. (~~4-2-08~~)(    )
  - 2007~~8~~. h. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, 2007~~8~~. (~~4-2-08~~)(    )
  - i. National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 2007~~8~~. (~~4-2-08~~)(    )
  - j. Compliance Assurance Monitoring, 40 CFR Part 64, revised as of July 1, 2007~~8~~. (~~4-2-08~~)(    )
  - k. Permits, 40 CFR Part 72, revised as of July 1, 2007~~8~~. (~~4-2-08~~)(    )
  - l. Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 2007~~8~~. (~~4-2-08~~)(    )
  - m. Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 2007~~8~~. (~~4-2-08~~)(    )

- n.** Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-19-99)
- o.** Determining Conformity of Federal Actions to State or Federal Implementation Plans: Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, 40 CFR Part 93, Subpart A, Sections 93.100 through 93.129, revised as of July 1, 2007~~8~~, except that Sections 93.102(c), 93.104(d), 93.104(e)(2), 93.105, 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1), and 93.124(b) are expressly omitted from the incorporation by reference. (~~4-2-08~~)(\_\_\_\_)
- p.** The final rule for Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units, 70 Fed. Reg. 28,606 (May 18, 2005), corrected at 70 Fed. Reg. 51,266 the final rule for Standards of Performance for Electric Utility Steam Generating Units, Industrial-Commercial-Institutional Steam Generating Units, and Small Industrial-Commercial-Institutional Steam Generating Units, only as it applies to coal fired electric steam generating units as defined in 40 CFR 60.24, 71 Fed. Reg. 9865 (February 27, 2006); Revision of December 2000 Clean Air Act Section 112(n) Finding Regarding Electric Utility Steam Generating Units; and Standards of Performance for New and Existing Electric Utility Steam Generating Units: Reconsideration, 71 Fed. Reg. 33,388 (June 9, 2006) are expressly excluded from any incorporation by reference into these rules. (3-30-07)

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

**58.01.03 - INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES**

**DOCKET NO. 58-0103-0801**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this proposed rule will be held as follows. The hearing will take place simultaneously and the following hearing locations will be connected by telephone.

<b>Thursday - August 28, 2008 - 3:30 p.m. Mountain Time</b>	
<b>DEPARTMENT OF ENVIRONMENTAL QUALITY</b>	
<b>Conference Room B, 1410 N. Hilton Boise, Idaho</b>	<b>2110 Ironwood Parkway Coeur d'Alene, Idaho</b>
<b>1118 F Street Lewiston, Idaho</b>	<b>1363 Fillmore Twin Falls, Idaho</b>
<b>444 Hospital Way #300 Pocatello, Idaho</b>	<b>900 N. Skyline, Suite B Idaho Falls, Idaho</b>

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

**DESCRIPTIVE SUMMARY:** The purpose of this rulemaking is to provide for a revised method to estimate wastewater flow from single family dwellings that is more consistent with domestic water usage statewide. The proposed revisions would provide for a more refined soil classification system which will allow more precise sizing of drainfields. The rule would also provide a definition of "bedroom" and "module" to assist understanding and applicability of the rule within the regulated community.

The proposed rule includes the following:

1. Add a definition for the terms "bedroom" and "module";
2. Revise the wastewater flow rates for single family dwellings (Subsection 007.08);
3. Refine the soil classification system from 3 to 6 soil types (Subsections 008.02 and 008.03); and
4. Revise the maximum total square feet of trench (Subsection 008.04). In order to be in balance with the increased wastewater flow rates, it is necessary to increase the maximum allowable size for a standard drainfield.

Local government, property owners, representatives of the building construction industry, and the public at large may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality at the October or November 2008 Board meeting for adoption as a pending rule. The rule is expected to be final and effective upon the conclusion of the 2009 legislative session if adopted by the Board and approved by the Legislature.

**NEGOTIATED RULEMAKING:** The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.810-

815. On May 7, 2008, the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol. 08-5, pages 63 and 64, and a preliminary draft rule was made available for public review. Meetings were held on May 22, June 5, and June 19, 2008. Several members of the public participated in this negotiated rulemaking process by attending the meetings and by submitting written comments.

**IDAHO CODE SECTION 39-107D STATEMENT:** Section 39-107D, Idaho Code, provides that the Department of Environmental Quality (DEQ) must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations. There is no federal law or regulation that is comparable to the proposed rule. Therefore, the proposed changes to the rule are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which “proposes to regulate an activity not regulated by the federal government.” This proposed rule regulates an activity not regulated by the federal government. The following is a summary of additional information required by Sections 39-107D(3) and (4), Idaho Code. Information relating to Section 39-107D(2) has also been provided.

***Section 39-107D(2), Idaho Code. To the degree that a department action is based on science, the department shall utilize (a) the best available peer reviewed science and supporting studies conducted in accordance with sound objective scientific practices, and (b) data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justifies use of the data.***

The requirements set forth in the proposed rule are based on studies and analyses conducted by the health districts, the DEQ, the U.S. Environmental Protection Agency (EPA), and national wastewater organizations that indicate the requirements are protective of human health and the environment and reduce the risk of human exposure to sewage, wastewater effluent, and associated pathogens. The referenced studies and analyses will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

***Section 39-107D(3)(a), Idaho Code. Identification of each population or receptor addressed by an estimate of public health effects or environmental effects.***

The proposed rule, in particular the changes in rates of wastewater flow from single family dwellings, are expected to have both public health and environmental effects. The populations affected by the proposed rule include applicants for individual septic system permits, system installers, single family dwellings on individual septic systems, users of nearby drinking water supply wells, and other users of down-gradient beneficial uses of ground water and surface water.

***Section 39-107D(3)(b) and (c), Idaho Code. Identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk.***

The expected risk of exposure to sewage, wastewater effluent, and associated pathogens for the potentially affected populations listed above is reduced by addressing undersized septic system drainfields. The current rule wastewater flow estimates account for average flows from single family dwellings and were based on national studies conducted in the 1970s. This data, and the current rules, do not adequately take into account peak flows, were not based on usage data specific to Idaho, and do not accurately reflect household usage today. As a result, the current rules underestimate wastewater flow and have resulted in failing drainfields. Failed drainfields expose the affected populations described above to potential pathogens from open sewage and wastewater effluent.

The expected risk for contamination of ground water and surface water is also reduced. The increased flow estimates in the proposed rule result in slightly larger drainfields for standard systems. The chance of drainfield failure is reduced by the larger drainfields. Hydraulic overloading of soils will be reduced by distributing the wastewater effluent over the larger drainfield, thereby reducing the risk of ground water contamination. Overland flow of sewage and wastewater effluent into surface water bodies will likewise be reduced by properly sizing drainfields.

***Section 39-107D(3)(d), Idaho Code. Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty.***

There is uncertainty inherent in the process of identifying wastewater flows from single family dwellings. For

instance, usage may be highly variable from person to person, and the number of persons in a household is difficult to predict. The new flow rates introduce a peaking factor that accounts for peak flows expected at the system, thereby addressing this uncertainty. Using peak flows instead of average flows adds a margin of safety during normal flow conditions.

The estimation of wastewater flow rates in the current rule are based on average wastewater flows from national studies conducted in the 1970s. Prior to the collection of flow data in 2008, there was uncertainty as to how actual usage in Idaho compared to these national estimates. While some uncertainty remains, the 2008 Idaho-specific data provides more accuracy and reduces overall uncertainty inherent in estimating flows. Reducing uncertainty in the flow rates allows for the proposed rule to more accurately size drainfields. Since the 2008 data indicates the current rule underestimate flows, the proposed rule is expected to improve drainfield life and reduce early drainfield failure.

***Section 39-107D(3)(e), Idaho Code. Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data.***

The requirements set forth in this proposed rule are based upon studies and analyses conducted by the health districts, the DEQ, the EPA, and national wastewater organizations that indicate the requirements will reduce the risk of exposure to sewage, wastewater effluent, and associated pathogens for the populations listed above. The proposed rule is also expected to more adequately protect ground water and surface water from contamination resulting from failed drainfields. The referenced studies and analysis will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

**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, SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning the proposed rulemaking, contact AJ Maupin at [aj.maupin@deq.idaho.gov](mailto:aj.maupin@deq.idaho.gov), (208)373-0167.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before September 3, 2008.

Dated this 3rd day of July, 2008.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton/Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov)

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0103-0801**

**003. DEFINITIONS.**

For the purposes of these rules, the following definitions apply. (5-7-93)

**01. Abandoned System.** A system which has ceased to receive blackwaste or wastewater due to diversion of those wastes to another treatment system or due to termination of waste flow. (10-1-90)

**02. Alternative System.** Any system for which the Department has issued design guidelines or which



the Director judges to be a simple modification of a standard system. (10-1-90)

**03. Authorized or Approved.** The state of being sanctioned or acceptable to the Director as stated in a written document. (10-1-90)

**04. Bedroom.** ( )

**a.** Any room within a dwelling that is used primarily for sleeping and consists of the following elements: ( )

**i.** Floor space of at least one hundred (100) square feet; ( )

**ii.** Provides privacy to the occupants; ( )

**iii.** One (1) or more interior means of ingress/egress, not through a room already classified as a bedroom; and ( )

**iv.** One (1) or more windows or additional means of ingress/egress that meet jurisdictional building code requirement(s) applicable to bedrooms. ( )

**b.** Any room shall be considered as a portion of an adjoining room when at least one-half (1/2) of the area of the common wall is open and unobstructed. ( )

**c.** An unfinished basement shall qualify as a minimum of one (1) bedroom so long as Subsections 003.04.a.iii. and 003.04.a.iv. are satisfied. ( )

**d.** A room identified on building plans that meets the conditions of Subsection 003.04.a., such as a "den," "study," "office," "library," "sewing room," or "craft room," shall be considered a bonus room. A bonus room shall be considered a bedroom except as follows: ( )

**i.** Dwellings with four (4) or five (5) bedrooms will be allowed one (1) bonus room not to be counted as a bedroom; or ( )

**ii.** Dwellings with six (6) or more bedrooms will be allowed two (2) bonus rooms not to be counted as bedrooms. ( )

**045. Blackwaste.** Human body waste, specifically excreta or urine. This includes toilet paper and other products used in the practice of personal hygiene. (10-1-90)

**056. Blackwater.** A wastewater whose principal pollutant is blackwaste; a combination of blackwaste and water. (10-1-90)

**067. Board.** Idaho State Board Of Environmental Quality. (10-1-90)

**078. Building Sewer.** The extension of the building drain beginning five (5) feet outside the inner face of the building wall. (10-1-90)

**089. Central System.** Any system which receives blackwaste or wastewater in volumes exceeding twenty-five hundred (2,500) gallons per day; any system which receives blackwaste or wastewater from more than two (2) dwelling units or more than two (2) buildings under separate ownership. (10-1-90)

**0910. Construct.** To make, form, excavate, alter, expand, repair, or install a system, and, their derivations. (5-7-93)

**101. Director.** The Director of the Idaho Department of Environmental Quality or the Director's designee or authorized agent. (10-1-90)

- ~~142.~~ **Existing System.** Any system which was installed prior to the effective date of these rules. (5-7-93)
- ~~123.~~ **Expand.** To enlarge any nonfailing system. (10-1-90)
- ~~134.~~ **Failing System.** Any system which exhibits one (1) or more of the following characteristics: (10-1-90)
- a.** The system does not meet the intent of these rules as stated in Subsection 004.01. (5-7-93)
- b.** The system fails to accept blackwaste and wastewater. (10-1-90)
- c.** The system discharges blackwaste or wastewater into the waters of the State or onto the ground surface. (10-1-90)
- ~~145.~~ **Ground Water.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (5-7-93)
- ~~156.~~ **High Groundwater Level -- Normal, Seasonal.** High ground water level may be established by the presence of low chroma mottles, actual ground water monitoring or historic records. (5-7-93)
- a.** The normal high groundwater level is the highest elevation of ground water that is maintained or exceeded for a continuous period of six (6) weeks a year. (5-7-93)
- b.** The seasonal high groundwater level is the highest elevation of ground water that is maintained or exceeded for a continuous period of one (1) week a year. (5-7-93)
- ~~167.~~ **High Water Mark.** The line which the water impresses on the soil by covering it for sufficient periods of time to prevent the growth of terrestrial vegetation. (10-1-90)
- ~~178.~~ **Individual System.** Any standard, alternative or subsurface system which is not a central system. (10-1-90)
- ~~189.~~ **Install.** To excavate or to put in place a system or a component of a system. (10-1-90)
- ~~1920.~~ **Installer.** Any person, corporation, or firm engaged in the business of excavation for, or the construction of individual or subsurface sewage disposal systems in the State. (10-1-90)
- ~~201.~~ **Large Soil Absorption System.** A large soil absorption system is a subsurface sewage disposal system designed to receive two thousand five hundred (2,500) gallons of wastewater or more per day, including where the total wastewater flow from the entire proposed project exceeds two thousand five hundred (2,500) gallons per day but the flow is separated into absorption modules which receive less than two thousand five hundred (2,500) gallons per day. (5-7-93)
- ~~212.~~ **Limiting Layer.** A characteristic subsurface layer or material which will severely limit the capability of the soil to treat or absorb wastewater including, but not limited to, water tables, fractured bedrock, fissured bedrock, excessively permeable material and relatively impermeable material. (10-1-90)
- ~~23.~~ **Module.** A module shall consist of one (1) primary drainfield, one (1) secondary drainfield with a design flow equal to that of the primary drainfield, and one (1) replacement area in accordance with Subsection 004.06. The primary drainfield in any module may be designed for flows up to a maximum of ten thousand (10,000) gallons per day and shall not receive more than ten thousand (10,000) gallons per day. ( )
- ~~224.~~ **Mottling.** Irregular areas of different color in the soil that vary in contrast, density, number and size. Mottling generally indicates poor aeration and impeded drainage. (5-7-93)
- ~~235.~~ **New System.** A system which is or might be authorized or approved on or after the effective date of

these rules. (5-7-93)

**246. Nondischarging System.** Any system which is designed and constructed to prevent the discharge of blackwaste or wastewater. (10-1-90)

**257. Permit.** An individual or subsurface system installation permit or installer's registration permit. (10-1-90)

**268. Pollutants.** Any chemical, biological, or physical substance whether it be solid, liquid, gas, or a quality thereof, which if released into the environment can, by itself or in combination with other substances, create a public nuisance or render that environment harmful, detrimental, or injurious to public health, safety or welfare or to domestic, commercial, industrial, agricultural, recreational, aesthetic, or other beneficial uses. (10-1-90)

**279. Public System.** Any system owned by a county, city, special service district, or other governmental entity or Indian tribe having the authority to dispose of blackwaste or wastewater; a municipal wastewater treatment facility. (10-1-90)

**2830. Repair.** To remake, reform, replace, or enlarge a failing system or any component thereof as is necessary to restore proper operation. (10-1-90)

**2931. Scarp.** The side of a hill, canyon, ditch, river bank, roadcut or other geological feature characterized by a slope of forty-five (45) degrees or more from the horizontal. (10-1-90)

**302. Sewage.** Sewage has the same meaning as wastewater. (10-1-90)

**343. Soil Texture.** The relative proportion of sand, silt, and clay particles in a mass of soil. (10-1-90)

**324. Standard System.** Any system recognized by the Board through the adoption of design and construction regulations. (10-1-90)

**335. Subsurface System.** Any system with a point of discharge beneath the earth's surface. (10-1-90)

**346. Surface Water - Intermittent, Permanent, Temporary.** (7-1-93)

**a.** Any waters of the State which flow or are contained in natural or man-made depressions in the earth's surface. This includes, but is not limited to, lakes, streams, canals, and ditches. (10-1-90)

**b.** An intermittent surface water exists continuously for a period of more than two (2) months but not more than six (6) months a year. (10-1-90)

**c.** A permanent surface water exists continuously for a period of more than six (6) months a year. (10-1-90)

**d.** A temporary surface water exists continuously for a period of less than two (2) months a year. (10-1-90)

**357. System.** Beginning at the point of entry physically connected piping, treatment devices, receptacles, structures, or areas of land designed, used or dedicated to convey, store, stabilize, neutralize, treat, or dispose of blackwaste or wastewater. (10-1-90)

**368. Wastewater.** Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any groundwater, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, grey water or commercial or industrial pollutants; and sewage. (10-1-90)

**379. Waters of the State.** All the accumulations of water, surface and underground, natural and

artificial, public and private or parts thereof which are wholly or partially within, which flow through or border upon the state of Idaho. (10-1-90)

~~3840.~~ **Water Table.** The surface of an aquifer. (10-1-90)

**(BREAK IN CONTINUITY OF SECTIONS)**

**007. SEPTIC TANKS DESIGN AND CONSTRUCTION STANDARDS.**

**01. Materials.** New septic tanks will be constructed of concrete, or other materials approved by the Director. Steel tanks are unacceptable. (10-1-90)

**02. Construction Requirements.** All septic tanks will be water tight, constructed of sound, durable materials and not subject to excessive corrosion, decay, frost damage or cracking. (10-1-90)

**03. Concrete Septic Tanks.** New concrete septic tanks will at a minimum meet the following requirements: (10-1-90)

**a.** The walls and floor must be at least two and one-half (2 1/2) inches thick if adequately reinforced and at least six (6) inches thick if not reinforced. (10-1-90)

**b.** Concrete lids or covers must be at least three (3) inches thick and adequately reinforced. (10-1-90)

**c.** The floor and at least a six (6) inch vertical portion of the walls of a poured tank must be poured at the same time (monolithic pour). (10-1-90)

**d.** Wall sections poured separately must have interlocking joints on joining edge. (10-1-90)

**e.** All concrete outlet baffles must be finished with an asphalt or other protective coating. (10-1-90)

**04. Horizontal Dimension Limit.** No interior horizontal dimension of a septic tank or compartment may be less than two (2) feet. (10-1-90)

**05. Liquid Depth.** The liquid depth shall be at least two and one-half (2 1/2) feet but not greater than five (5) feet. (10-1-90)

**06. Manufactured Tank Markings.** Septic tanks manufactured in accordance with a specified design approved by the Director, will be legibly and indelibly marked with the manufacturer's name or trademark, total liquid capacity and shall indicate the tank's inlet and outlet. (10-1-90)

**07. Minimum Tank Capacities.** (7-1-93)

**a.** Tanks serving one (1) or two (2) single dwelling units:

MINIMUM CAPACITY PER DWELLING UNIT	
Number of Bedrooms	Minimum Liquid Capacity (Gallons)
1 or 2	900
3 or 4	1,000

For each bedroom over four (4) add two hundred fifty (250) gallons. (10-1-90)

**b.** Tanks serving all other flows. Septic tank capacity shall be equal to two (2) times the average daily

flow as determined from Subsection 007.08. The minimum tank capacity shall be seven hundred and fifty (750) gallons. (12-31-91)

**08. Wastewater Flows from Various Establishments in Gallons Per Day.**

<b>ESTABLISHMENTS</b>	
Single Family Dwelling and Mobile Homes:	<u>250/Unit</u>
<del>3 1 &amp; 2 bedrooms: Add/subtract 50 gallons/bedroom</del>	<u>300</u>
<u>3 bedrooms</u>	<u>350</u>
<u>4 bedrooms</u>	<u>450</u>
<u>5 bedrooms</u>	<u>550</u>
<u>6 or more bedrooms</u>	<u>650 + 50 gpd/bedroom</u>
<b>MULTIPLE RESIDENTIAL</b>	
Hotel:	
With Private Baths	60/Bedspace
Without Private Baths	40/Bedspace
Motel:	40/Bedspace
With Kitchenette	60/Bedspace
Boarding House:	150/Bedspace
Add for each nonresident	25
Rooming House/Bunk House	40/Resident
Staff Resident	40/Staff
Nonresident	15/Staff
Apartments	250/Unit
<b>INSTITUTIONAL</b>	
Assembly Hall/Meeting House	2/Seat
Church:	3/Seat
With Kitchen	7/Seat
Hospital:	250/Bedspace
Kitchen only	25/Bedspace
Laundry only	40/Bedspace
Nursing Home/Rest Home	125/Bedspace
Day School:	
Without Showers	20/Student
With Showers	25/Student
With Cafeteria, add	3/Student
Staff-Resident	40/Staff
Nonresident	20/Staff
<b>FOOD SERVICE</b>	
Conventional Service:	
Toilet & Kitchen Wastes	13/Meal
Kitchen Wastes	3.3/Meal
Take Out or Single Service	2/Meal

<b>ESTABLISHMENTS</b>	
Dining Hall: Toilet & Kitchen Wastes Kitchen Wastes	8/Meal 3.3/Meal
Drinking Establishment	2/Person
Food Service Employee	15/Employee
<b>COMMERCIAL AND INDUSTRIAL</b>	
Bowling Alley	125/Lane
Laundry - Self Service	50/Wash
Public Transportation Terminal	5/Fare
Service Station	10/Vehicle
Car Wash: 1st Bay Additional Bays	50/Vehicle 1000 500 each
Shopping Center (No food/laundry)	1/Pkg.Sp.
Theaters (including Concession Stand): Auditorium Drive-in	5/Seat 10/Space
Offices	20/Employee
Factories: No Showers With Showers Add for Cafeteria	25/Employee 35/Employee 5/Employee
Stores	2/Employee
Public Restrooms	
<b>SEASONAL AND RECREATIONAL</b>	
Fairground (Peak Daily Attend)	1/Person
Stadium	2/Seat
Swimming Pool: Toilet & Shower Wastes	10/Person
Parks & Camps (Day Use): Toilet & Shower Wastes	15/Person
Roadside Rest Area: Toilet & Shower Wastes Toilet Waste	10/Person 5/Person
Overnight Accommodation: Central Toilet Central Toilet & Shower	25/Person 35/Person
Designated Camp Area: Toilet & Shower Wastes Toilet Wastes	90/Space 65/Space

<b>ESTABLISHMENTS</b>	
Seasonal Camp	50/Space
Luxury Cabin	75/Person
Travel Trailer Park with Sewer & Water Hook-up	125/Space
Construction Camp	50/Person
Resort Camps	50/Person
Luxury Camps	100/Person
Country Clubs Resident Member	100/Member
Add for Nonresident Member	25/Person
Public Restrooms:	
Toilet Wastes	5/Person
Toilet & Shower Wastes	15/Person

(10-1-90)( )

**09. Total Volume.** The total volume of a septic tank will at a minimum be one hundred fifteen percent (115%) of its liquid capacity. (10-1-90)

**10. Inlets.** (7-1-93)

**a.** The inlet into the tank will be at least four (4) inches in diameter and enter the tank three (3) inches above the liquid level. (10-1-90)

**b.** The inlet of the septic tank and each compartment will be submerged by means of a vented tee or baffle. (10-1-90)

**c.** Vented tees or baffles will extend above the liquid level seven (7) inches or more but not closer than one (1) inch to the top of the tank. (10-1-90)

**d.** Tees should not extend horizontally into the tank beyond two (2) times the diameter of the inlet. (10-1-90)

**11. Outlets.** (7-1-93)

**a.** The outlet of the tank will be at least four (4) inches in diameter. (10-1-90)

**b.** The outlet of the septic tank and each compartment will be submerged by means of a vented tee or baffle. (10-1-90)

**c.** Vented tees and baffles will extend above the liquid level seven (7) inches or more above the liquid level but no closer than one (1) inch to the inside top of the tank. (10-1-90)

**d.** Tees and baffles will extend below the liquid level to a depth where forty percent (40%) of the tank's liquid volume is above the bottom of the tee or baffle. For vertical walled rectangular tanks, this point is at forty percent (40%) of the liquid depth. In horizontal cylindrical tanks this point is about thirty-five percent (35%) of the liquid depth. (10-1-90)

**e.** Tees and baffles should not extend horizontally into the tank beyond two (2) times the diameter of the outlet. (10-1-90)

**12. Scum Storage.** A septic tank will provide an air space above the liquid level which will be equal to

or greater than fifteen percent (15%) of the tank's liquid capacity. For horizontal cylindrical tanks, this condition is met when the bottom of the outlet port is located at nineteen percent (19%) of the tank's diameter when measured from the inside top of the tank. (10-1-90)

**13. Manholes.** Access to each septic tank or compartment shall be provided by a manhole twenty (20) inches in minimum dimension or a removable cover of equivalent size. Each manhole cover will be provided with a corrosion resistant strap or handle to facilitate removal. (10-1-90)

**14. Inspection Ports.** An inspection port measuring at least eight (8) inches in its minimum dimension will be placed above each inlet and outlet. Manholes may be substituted for inspection ports. (10-1-90)

**15. Split Flows.** The wastewater from a single building sewer or sewer line may not be divided and discharged into more than one (1) septic tank or compartment. (10-1-90)

**16. Multiple Tank or Compartment Capacity.** Multiple septic tanks or compartmented septic tanks connected in series may be used so long as the sum of their liquid capacities is at least equal to the minimum tank capacity computed in Subsection 007.07 and the initial tank or compartment has a liquid capacity of more than one-half (1/2) but no more than two-thirds (2/3) of the total liquid capacity of the septic tank facility. (12-31-91)

**17. Minimum Separation Distances Between Septic Tanks and Features of Concern.**

Features of Concern		Minimum Distance to Septic Tank in Feet
Well or Spring or Suction Line	Public Water	100
	Other	50
Water Distribution Line	Public Water	25
	Other	10
Permanent or Intermittent Surface Water		50
Temporary Surface Water		25
Downslope Cut or Scarp		25
Dwelling Foundation or Building		5
Property Line		5
Seasonal High Water Level (Vertically from Top of Tank)		2

(10-1-90)

**18. Installation of Manufactured Tanks.** If written installation instructions are provided by the manufacturer of a septic tank, those instructions relative to the stability and integrity of the tank are to be followed unless otherwise specified in the installation permit of these rules. (5-7-93)

**19. Manhole Extension.** If the top of the septic tank is to be located more than twenty-four (24) inches below the finished grade, manholes will be extended to within eighteen (18) inches of the finished grade. (10-1-90)

**20. Sectional Tanks.** Sectional tanks will be joined in a manner that will insure that the tank is watertight. (10-1-90)

**21. Inlet and Outlet Piping.** Unless otherwise specified in the installation permit, piping to and from a septic tank or dosing chamber, to points three (3) feet beyond the tank excavation shall be of a material approved by the Director. The following materials are required: (5-7-93)

- a. ABS schedule forty (40) or material of equal or greater strength piping shall be used to span the



excavations for the septic tank and dosing chamber. (5-7-93)

**b.** ASTM-D-3033 or 3034 plastic pipe may be used to span the septic tank and dosing chamber if the excavation is compacted with fill material. (5-7-93)

**i.** The fill material must be granular, clean and compacted to ninety percent (90%) standard proctor density. (5-7-93)

**ii.** Placement of ASTM-D-3033 or 3034 on undisturbed earth is suitable, but in no installation shall there be less than twelve (12) inches of cover over the pipe. (5-7-93)

**22. Effluent Pipe Separation Distances.** Effluent pipes shall not be installed closer than fifty (50) feet from a well. (5-7-93)

**23. Septic Tank Abandonment.** Responsibility of properly abandoning a septic tank shall remain with the property owner. Septic tanks shall be abandoned in accordance with the following: (5-7-93)

**a.** Disconnection of the inlet and outlet piping; (5-7-93)

**b.** Pumping of the scum and septage with approved disposal; (5-7-93)

**c.** Filling the septic tank with earthen materials; or (5-7-93)

**d.** Physically destroying the septic tank or removing the septic tank from the ground. (5-7-93)

**008. STANDARD SUBSURFACE DISPOSAL FACILITY DESIGN AND CONSTRUCTION.**

**01. Standard Drainfield.** A drainfield consisting of an effluent sewer, one (1) or more aggregate filled trenches and a gravity flow wastewater distribution system. These standards will be the basis of acceptable design and configuration. Overall dimensions of a specific facility will depend upon site characteristics and the volume of wastewater. (10-1-90)

**02. Site Suitability.** The area in which a standard drainfield is to be constructed must meet the conditions stated in this subsection: (10-1-90)

**a.** Slope. The natural slope of the site will not exceed twenty percent (20%). (10-1-90)

**b.** Soil types. Suitable soil types must be present at depths corresponding with the sidewalls of the proposed drainfield and at depths which will be between the bottom of the proposed drainfield and any limiting soil layer (effective soil depth).

Design Soil Group	Design Soil Subgroup	Soil Textural Classification	USDA Field Test Textural Classification	
Unsuitable		Gravel (>95%)	10 Mesh	
		Coarse Sand(>95%)	10-35 Mesh	Sand
A	A-1	Medium Sand	35-60 Mesh	Sand
	A-2a	Medium Sand	Poorly Graded	Sand
	A-2b	Fine Sand	65-140 Mesh	Sand
		Loamy Sand		Sand

Design Soil Group	Design Soil Subgroup	Soil Textural Classification	USDA Field Test Textural Classification		
<b>B</b>	<u>B-1</u>	Very Fine Sand	140-270 Mesh	Sand	
		Sandy Loam		Sandy Loam	
		Very Fine <del>Sandy</del> Loamy-Sand		Sandy Loam	
	<u>B-2</u>	Loam			
		Silt Loam		Silt Loam	
		<u>Sandy Clay Loam</u>	( <u>&lt;27% Clay</u> )		
<b>C</b>	<u>C-1</u>	Silt		Silt Loam	
		<del>Clay Loam</del>		<del>Clay Loam</del>	
		Sandy Clay Loam	( <u>&gt;27% Clay</u> )	Clay Loam	
		Silty Clay Loam		Clay Loam	
	<u>C-2</u>	<u>Clay Loam</u>		<u>Clay Loam</u>	
	<b>Unsuitable</b>		Sandy Clay	( <u>&gt;35% Clay</u> )	Clay
		Silty Clay	( <u>&gt;40% Clay</u> )	Clay	
		Clay		Clay	
		Clay soils with high shrink/swell potential		Clay	
		Organic mucks			
		Claypan, Duripan, <u>Hardpan</u>			
		<del>Hardpan</del>			

(10-1-90)( )

c. Effective Soil Depths. Effective soil depths, in feet, below the bottom of the drainfield must be equal to or greater than those values listed in the following table.

EFFECTIVE SOIL DEPTHS TABLE						
Site Conditions	Design		Soil		Group	
	<u>A-1</u>	<del>B</del> <u>A-2</u>	<del>C</del> <u>B-1</u>	<u>B-2</u>	<u>C-1</u>	<u>C-2</u>
Limiting Layer						
Impermeable Layer	4	4	4	<u>4</u>	4	<u>4</u>
Fractured Bedrock, Fissured Bedrock or Extremely Permeable Material	6	<u>4.5</u>	<u>3.4</u>	<u>3</u>	<u>3</u>	<u>2.5</u>
Normal High Groundwater Level	6	<u>4.5</u>	<u>3.4</u>	<u>3</u>	<u>3</u>	<u>2.5</u>
Seasonal High Groundwater Level	1	1	1	<u>1</u>	1	<u>1</u>

(5-7-93)( )

**d.** Separation Distances. The drainfield must be located so that the separation distances given be maintained or exceeded according to the following Table:

Feature of Interest	Soil Types All	A	B	C
Public Water Supply	100			
All Other Domestic Water Supplies including Springs and Suction Lines	100			
Water Distribution Lines: Pressure Suction	25 100			
Permanent or Intermittent Surface Water other than Irrigation Canals & Ditches		300	200	100
Temporary Surface Water and Irrigation Canals and Ditches	50			
Downslope Cut or Scarp: Impermeable Layer Above Base Impermeable Layer Below Base		75 50	50 25	50 25
Building Foundations: Crawl Space or Slab Basement	10 20			
Property Line	5			

(5-7-93)

**03. Subsurface Disposal Facility Sizing.** The size of a subsurface disposal system will be determined by the following procedures: (10-1-90)

**a.** Daily flow estimates should be determined in the same manner as are flow estimates for septic tank sizing in Subsection 007.08. (5-7-93)

**b.** The total required absorption area is obtained by dividing the estimated daily flow by a value below.

Design Soil Group	A-1	<del>B</del> A-2a	<del>C</del> A-2b	B-1	B-2	C-1	C-2
Absorption Area - Gallons/Square Foot/Day	1.02	<del>0.5</del> 1.0	<del>0.275</del>	0.6	0.45	0.3	0.2

(10-1-90)( )

**c.** Required Area. The size of an acceptable site must be large enough to construct two (2) complete drainfields in which each are sized to receive one hundred percent (100%) of the design wastewater flow. (10-1-90)

**04. Standard Subsurface Disposal Facility Specifications.** The following table presents additional design specifications for new subsurface sewage disposal facilities.

SUBSURFACE DISPOSAL FACILITY TABLE	
Item	All Soil Groups
Length of Individual Distribution Laterals	100 Feet Maximum
Grade of Distribution Laterals and Trench Bottoms	Level
Width of Trenches	1 Foot Minimum 6 Feet Maximum
Depth of Trenches	2 Feet Minimum 4 Feet Maximum
Total Square Feet of Trench for <u>A and B Soils</u>	1500 Sq.ft. Max.
Total Square Feet of Trench for <u>C Soils</u>	<u>2250 Sq. ft. Max.</u>
Undisturbed Earth Between Trenches	6 Feet Minimum
Undisturbed Earth Between Septic Tank and Trenches	6 Feet Minimum
Depth of Aggregate:	
Total	12 In. Minimum
Over Distribution Laterals	2 In. Minimum
Under Distribution Laterals	6 In. Minimum
Depth of Soil Over Top of Aggregate	12 In. Minimum

(10-1-90)( )

**05. Wastewater Distribution.** Systems shall be installed to maintain equal or serial effluent distribution. (10-1-90)

**06. Excavation.** Trenches will not be excavated during the period of high soil moisture content when that moisture promotes smearing and compaction of the soil. (10-1-90)

**07. Soil Barrier.** The aggregate will be covered throughout with untreated building paper, a synthetic filter fabric (geotextile), a three (3) inch layer of straw or other acceptable permeable material. (10-1-90)

**08. Aggregate.** The trench aggregate shall be crushed rock, gravel, or other acceptable, durable and inert material which is, free of fines, and has an effective diameter from one-half (1/2) to two and one-half (2 1/2) inches. (10-1-90)

**09. Impermeable Surface Barrier.** No treatment area trench or replacement area shall be covered by an impermeable surface barrier, such as tar paper, asphalt or tarmac or be used for parking or driving on or in any way compacted and shall be adequately protected from such activities. (5-7-93)

**10. Standard Absorption Bed.** Absorption bed disposal facilities may be considered when a site is suitable for a standard subsurface disposal facility except that it is not large enough. (10-1-90)

**a. General Requirements.** Except as specified in this section, rules and regulations applicable to a standard subsurface disposal system are applicable to an absorption bed facility. (10-1-90)

**b. Slope Limitation.** Sites with slopes in excess of eight percent (8%) are not suitable for absorption bed facilities. (10-1-90)

**c. Vehicular Traffic.** Rubber tired vehicles must not be driven on the bottom surface of any bed excavation. (10-1-90)

**d.** Distribution Lateral Spacing. Distribution laterals within a bed must be spaced on not greater than six (6) feet centers nor may any sidewall be more than three (3) feet from a distribution lateral. (10-1-90)

**11. Seepage Pit.** Seepage pit disposal facilities may be used on a case by case basis within the boundaries of District Health Department Seven when an applicant can demonstrate to the district director's satisfaction that the soils and depth to ground water are sufficient to prevent ground water contamination. The district director shall document all such cases. (4-2-91)L

**a.** General Requirements. Except as specified in Subsection 008.11.b., rules and regulations applicable to a standard subsurface disposal system are applicable to a seepage pit. (12-31-91)

**b.** Other conditions for approval, sizing and construction will be as provided for in the seepage pit section of the Technical Guidance Manual for Individual and Subsurface Sewage Disposal, except that the site size restriction in condition two (2) of the Conditions for Approval will not apply. (10-1-90)

**12. Failing Subsurface Sewage Disposal System.** If the Director determines that the public's health is at risk from a failed septic system and that the replacement of a failing subsurface sewage disposal system cannot meet the current rules and regulations, then the replacement system must meet the intent of the rules and regulations by utilizing a standard subsurface sewage disposal design or alternative system design as specified by the Director. (5-7-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**013. LARGE SOIL ABSORPTION SYSTEM DESIGN AND CONSTRUCTION.**

**01. Site Investigation.** A site investigation for a large soil absorption system by a soil scientist and/or hydrogeologist may be required by the Director for review and approval and shall be coordinated with the Director. Soil and site investigations shall conclude that the effluent will not adversely impact or harm the waters of the State. (5-7-93)

**02. Installation Permit Plans.** Installation permit application plans, as outlined in Subsection 005.04, for a large soil absorption system submitted for approval shall include provisions for inspections of the work during construction by the design engineer or his designee and/or by the Director. (5-7-93)

**03. Module Size Flow.** ~~The maximum size of any subsurface sewage disposal module shall be ten thousand (10,000) gallons per day. Developments~~ Large soil absorption systems with greater than ten thousand (10,000) gallons per day flow shall be divided ~~the system~~ into absorption modules ~~designed for ten thousand (10,000) gallons per day or less.~~ (5-7-93)(\_\_\_\_)

**04. Standard Large Soil Absorption System Design Specifications.** (5-7-93)

**a.** All design elements and applications rates shall be arrived at by sound engineering practice and shall be provided by a professional engineer licensed by the state of Idaho and specializing in environmental or sanitary engineering. (5-7-93)

**b.** Within thirty (30) days of system installation completion the design engineer shall provide either as-built plans or a certificate that the system has been installed in substantial compliance with the installation permit application plans. (5-7-93)

**c.** Effective Soil Depths. Effective soil depths, in feet, below the bottom of the absorption module to the site conditions must be equal to or greater than the following table:

<b>TABLE -- EFFECTIVE SOIL DEPTHS</b>			
<b>Site Conditions</b>	<b>Design</b>	<b>Soil</b>	<b>Group</b>
<b>Limiting Layer</b>	<b>A</b>	<b>B</b>	<b>C</b>
Impermeable Layer	8	8	8
Fractured Bedrock, Fissured Bedrock or Extremely Permeable Material	12	8	6
Normal High Groundwater Level	12	8	6
Seasonal High Groundwater Level	2	2	2

(5-7-93)

**d.** Separation Distances. The disposal area absorption module must be located so that the following separation distances given, in feet, are maintained or exceeded as outlined in the following table:

<b>TABLE -- SEPARATION DISTANCES</b>			
<b>Feature of Interest</b>	<b>Design</b>	<b>Soil</b>	<b>Group</b>
	<b>A</b>	<b>B</b>	<b>C</b>
<b>All Domestic Water Supplies</b>			
Sewage Volume - 2,500-5,000 GPD	250	200	150
Sewage Volume - 5,000-10,000 GPD	300	250	200
<b>Property Lines</b>			
Sewage Volume - 2,500-5,000 GPD	50	50	50
Sewage Volume - 5,000-10,000 GPD	75	75	75
<b>Building Foundations - Basements</b>			
Sewage Volume - 2,500-5,000 GPD	50	50	50
Sewage Volume - 5,000-10,000 GPD	75	75	75
<b>Downslope Cut or Scarp</b>			
Impermeable Layer - Below Base	100	50	50
Separation Distance - Between Modules	12	12	12

(5-7-93)

**e.** No large soil absorption system shall be installed above a downslope scarp or cut unless it can be demonstrated that the installation will not result in effluent surfacing at the cut or scarp. (5-7-93)

**f.** A minimum of two (2) disposal systems will be installed, each sized to accept the daily design flow, and a replacement area equal to the size of one (1) disposal system will be reserved. (5-7-93)

**g.** The vertical and horizontal hydraulic limits of the receiving soils shall be established and flows shall not exceed such limits so as to avoid hydraulically overloading any absorption module and replacement area. (5-7-93)

- h.** The distribution system must be pressurized with a duplex dosing system. (5-7-93)
- i.** A geotextile filter fabric shall cover the aggregate. (5-7-93)
- j.** An in-line effluent filter between an extended treatment system or lagoon system and the large soil absorption area shall be installed. (5-7-93)
- k.** Observation pipes shall be installed to the bottom of the drainrock throughout the drainfield. (5-7-93)
- l.** Pneumatic tired machinery travel over the excavated infiltrative surface is prohibited. (5-7-93)
- m.** The drainfield disposal area shall be constructed to allow for surface drainage and to prevent ponding of surface water. Before the system is put into operation the absorption module disposal area shall be seeded with typical lawn grasses and/or other appropriate shallow rooted vegetation. (5-7-93)
- 05. Large Septic Tanks.** Large Septic Tanks shall be constructed according to Section 007, except as outlined in this Subsection: (5-7-93)

  - a.** Length to width ratios shall be maintained at least at a three to one (3:1) ratio. (5-7-93)
  - b.** Tank inlet shall allow for even distribution of the influent across the width of the tank. (5-7-93)
  - c.** The width to liquid depth ratio shall be between one to one (1:1) and two and one-quarter to one (2.25:1). (5-7-93)
- 06. Monitoring and Reporting.** Before an installation permit is issued, a monitoring and reporting plan shall be approved by the Director and shall contain the following minimum criteria: (5-7-93)

  - a.** Monthly recording and inspection for ponding in all observation pipes. (5-7-93)
  - b.** Monthly recording of influent flows based on lapse time meter and/or event meter of the dosing system. (5-7-93)
  - c.** Monthly recording of groundwater elevation measurements at all monitoring wells if high seasonal groundwater is within fifteen (15) feet of the ground surface. (5-7-93)
  - d.** Semi-annual groundwater monitoring at all monitoring wells. (5-7-93)
  - e.** Monitoring shall conform to the requirements of all federal, state, and local rules and regulations. (5-7-93)
  - f.** An annual "Large Soil Absorption System Report" shall be filed with the Director no later than January 31 of each year for the last twelve (12) month period and shall include section on operation, maintenance and monthly and annual monitoring data. (5-7-93)
- 07. Operation and Maintenance.** Before an installation permit is issued, an operation and maintenance plan shall be approved by the Director and shall contain the following minimum criteria: (5-7-93)

  - a.** Annual or more frequent rotation of the disposal systems, and whenever ponding is noted. (5-7-93)
  - b.** A detailed operation and maintenance manual, fully describing and locating all elements of the system and outlining maintenance procedures needed for operation of the system and who will be responsible for system maintenance, shall be submitted to the Director prior to system use. (5-7-93)
  - c.** A maintenance entity shall be specified to provide continued operation and maintenance. Approval of the entity shall be made by the Director prior to issuance of an installation permit. (5-7-93)

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-0801

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized by Chapters 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e) and Section 39-4404, Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

**PUBLIC HEARING SCHEDULE:** No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before August 20, 2008. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** Idaho's Rules and Standards for Hazardous Waste are updated annually to maintain consistency with the U.S. Environmental Protection Agency's federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). Idaho has historically adopted both required and optional federal regulations so that Idaho's hazardous waste rules are the same as federal requirements. Optional federal regulations usually allow more flexibility to the regulated community; required federal regulations are necessary to maintain program primacy. Adoption by reference allows the Department of Environmental Quality (DEQ) to keep its rules up to date with federal regulation changes and minimizes the EPA Region 10 effort needed to keep Idaho's authorization current. Adoption by reference also simplifies compliance for the regulated community.

This proposed rule updates the federal regulations incorporated by reference to include those revised as of July 1, 2008. In addition, this proposed rule includes new Section 017 to include 40 CFR Part 278, Criteria For The Management Of Granular Mine Tailings (CHAT) In Asphalt Concrete And Portland Cement Concrete In Transportation Construction Projects Funded In Whole Or In Part By Federal Funds.

Groups interested in hazardous waste and handlers of hazardous waste including generators, transporters, and treatment, storage, and disposal facilities may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality at the October 2008 Board meeting for adoption as a pending rule. The rule is expected to be final and effective upon the conclusion of the 2009 legislative session if adopted by the Board and approved by the Legislature.

**NEGOTIATED RULEMAKING:** Due to the nature of this rulemaking, negotiations were not held.

**IDAHO CODE SECTION 39-107D STATEMENT:** This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

**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, SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning the proposed rulemaking, contact John Brueck, john.brueck@deq.idaho.gov, (208)373-0458.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before September 3, 2008.



Dated this 3rd day of July, 2008.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton/Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
paula.wilson@deq.idaho.gov

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0105-0801**

**002. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.**

Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260 - 268, 270, 273, 278, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 2007~~8~~, including any notes and appendices therein, unless expressly provided otherwise in these rules. (~~4-2-08~~)(    )

**01. Exceptions.** Nothing in 40 CFR Parts 260 - 268, 270, 273, 278, 279 or Part 124 as pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, the National Pollution Discharge Elimination System (NPDES) under the Clean Water Act or Prevention of Significant Deterioration Program (PSD) under the Clean Air Act is adopted or included by reference herein. (~~3-30-07~~)(    )

**02. Availability of Referenced Material.** The federal regulations adopted by reference throughout these rules are maintained at the following locations: (7-2-97)

- a. U.S. Government Printing Office, <http://www.gpoaccess.gov/index.html>; and (3-20-04)
- b. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051, (208)334-3316; and (7-2-97)
- c. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502. (7-2-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**004. HAZARDOUS WASTE MANAGEMENT SYSTEM.**

40 CFR Part 260 and all Subparts, except 40 CFR 260.2, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2007~~8~~. For purposes of 40 CFR 260.10, in the definition of hazardous waste constituent, "Administrator" shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 260.20, "Federal Register" shall be defined as the Idaho Administrative Bulletin. (~~4-2-08~~)(    )

**005. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.**

40 CFR Part 261 and all Subparts, except the language "in the Region where the sample is collected" in 40 CFR 261.4(e)(3)(iii), except remanded waste codes "K064, K065, K066, K090 and K091" listed in 40 CFR Part 261 Appendix VII, and except 40 CFR 261.23(a)(8), are herein incorporated by reference as provided in 40 CFR, revised

as of July 1, 2007~~8~~. For purposes of 40 CFR 261.10 and 40 CFR 261.11, "Administrator" shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 261.41(a), Regional Administrator shall be defined as U.S. Environmental Protection Agency Region 10 Regional Administrator. Copies of advance notification required under this section should also be sent to the Director. For purposes of 40 CFR 261.4(b)(11)(ii), 40 CFR 261.39(a)(5), and 40 CFR 261 Appendix IX, "EPA" shall be defined as the U.S. Environmental Protection Agency.

(4-2-08)(\_\_\_\_)

**01. Excluded Wastes.** Chemically Stabilized Electric Arc Furnace Dust (CSEAFD) generated by Envirosafe Services of Idaho, Inc. (ESII) at ESII's facility in Grand View, Idaho using the Super Detox(R) treatment process as modified by ESII and that is disposed of in a Subtitle D or Subtitle C landfill is excluded from the lists of hazardous waste provided ESII implements a program that meets the following conditions: (3-16-96)

**a. Verification Testing Requirements.** Sample Collection and analyses, including quality control procedures, conducted pursuant to Subsections 005.01.b. and 005.01.c., must be performed according to SW-846 methodologies and the RCRA Part B permit, including future revisions. (3-16-96)

**b. Initial Verification Testing.** (3-16-96)

i. For purposes of Subsections 005.01.b., "new source" shall mean any generator of Electric Arc Furnace Dust (EAFD), EPA and Idaho Department of Environmental Quality Hazardous Waste No. KO61, whose waste has not previously been processed by ESII using the Super Detox(R) treatment process resulting in processed EAFD which has been subjected to initial verification testing and has demonstrated compliance with the delisting levels specified in Subsection 005.01.d. (3-16-96)

ii. Prior to the initial treatment of any new source of EAFD, ESII must notify the Department in writing. The written notification shall include: (3-16-96)

(1) The waste profile information; and (3-16-96)

(2) The name and address of the generator. (3-16-96)

iii. The first four (4) consecutive batches treated must be sampled in accordance with Subsection 005.01.a. Each of the four (4) samples shall be analyzed to determine if the CSEAFD generated meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

iv. If the initial verification testing demonstrates that the CSEAFD samples meet the delisting levels specified in Subsection 005.01.d., ESII shall submit the operational and analytical test data, including quality control information, to the Department, in accordance with Subsection 005.01.f. Subsequent to such data submittal, the CSEAFD generated from EAFD originating from the new source shall be considered delisted. (3-16-96)

v. CSEAFD generated by ESII from EAFD originating from a new source shall be managed as hazardous waste in accordance with Subtitle C of RCRA until: (3-16-96)

(1) Initial verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d.; and (3-16-96)

(2) The operational and analytical test data is submitted to the Department pursuant to Subsection 005.01.b.iv. (3-16-96)

vi. For purposes of Subsections 005.01.b. and 005.01.c., "batch" shall mean the CSEAFD which results from a single treatment episode in a full scale mixing vessel. (3-16-96)

**c. Subsequent Verification Testing.** (3-16-96)

i. Subsequent to initial verification testing, ESII shall collect a representative sample, in accordance with Subsection 005.01.a., from each batch of CSEAFD generated by ESII. ESII may, at its discretion, conduct subsequent verification testing on composite samples. In no event shall a composite sample consist of representative

samples from more than twenty (20) batches of CSEAFD. (3-16-96)

ii. The samples shall be analyzed prior to disposal of each batch of CSEAFD to determine if the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

iii. Each batch of CSEAFD generated by ESII shall be subjected to subsequent verification testing no later than thirty (30) days after it is generated by ESII. (3-16-96)

iv. If the levels of constituents measured in a sample, or composite sample, of CSEAFD do not exceed the levels set forth in Subsection 005.01.d., then any batch of CSEAFD which contributed to the sample that does not exceed the levels set forth in Subsection 005.01.d. is non-hazardous and may be managed and/or disposed of in a Subtitle D or Subtitle C landfill. (3-16-96)

v. If the constituent levels in a sample, or composite sample, exceed any of the delisting levels set forth in Subsection 005.01.d., then ESII must submit written notification of the results of the analysis to the Department within fifteen (15) days from receiving the final analytical results, and any CSEAFD which contributed to the sample must be: (3-16-96)

(1) Retested, and retreated if necessary, until it meets the levels set forth in Subsection 005.01.d.; or (3-16-96)

(2) Managed and disposed of in accordance with Subtitle C of RCRA. (3-16-96)

vi. Each batch of CSEAFD shall be managed as hazardous waste in accordance with Subtitle C of RCRA until subsequent verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

**d. Delisting Levels.** (3-16-96)

i. All leachable concentrations for these metals must not exceed the following levels (mg/l):

antimony	0.06	mercury	0.009
arsenic	0.50	nickel	1
barium	7.60	selenium	0.16
beryllium	0.010	silver	0.30
cadmium	0.050	thallium	0.020
chromium	0.33	vanadium	2
lead	0.15	zinc	70

(3-16-96)

ii. Metal concentrations must be measured in the waste leachate by the method specified in 40 CFR Part 261.24. (3-16-96)

**e. Modification of Treatment Process.** (3-16-96)

i. If ESII makes a decision to modify the Super Detox(R) treatment process from the description of the process as set forth in ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995, ESII shall notify the Department in writing prior to implementing the modification. (3-16-96)

ii. After ESII's receipt of written approval from the Department, and subject to any conditions included with the approval, ESII may implement the proposed modification. (3-16-96)

iii. If ESII modifies its treatment process without first receiving written approval from the Department, this exclusion of waste will be void from the time the process was modified. (3-16-96)

iv. ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995 is available at the Department of Environmental Quality, Permits and Enforcement, 1410 N. Hilton, Boise, Idaho 83706. (3-16-96)

f. Records and Data Retention and Submittal. (3-16-96)

i. Records of disposal site, operating conditions and analytical data from verification testing must be compiled, summarized, and maintained at ESII's Grand View facility for a minimum of five (5) years from the date the records or data are generated. (3-16-96)

ii. The records and data maintained by ESII must be furnished upon request to the Department or EPA. (3-16-96)

iii. Failure to submit requested records or data within ten (10) business days of receipt of a written request or failure to maintain the required records and data on site for the specified time, will be considered by the Department, at its discretion, sufficient basis to revoke the exclusion to the extent directed by the Department. (3-16-96)

iv. All records or data submitted to the Department must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the records or data submitted: "Under civil and/or criminal penalty of law for the making or submission of false or fraudulent statements or representations, I certify that the information contained in or accompanying this document is true, accurate, and complete. As to any identified sections of this document for which I cannot personally verify the truth and accuracy, I certify as the ESII official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete. In the event that any of this information is determined by the Department in its sole discretion to be false, inaccurate, or incomplete, and upon conveyance of this fact to ESII, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the Department and that ESII will be liable for any actions taken in contravention of ESII's RCRA and CERCLA obligations premised upon ESII's reliance on the void exclusion." (3-16-96)

g. Facility Merger and Name Change. On May 4, 2001, the Department was notified of a stock transfer that resulted in ESII's facility merging with American Ecology. This created a name change from EnviroSAFE Services of Idaho, Inc. (ESII) to US Ecology Idaho, Inc. effective May 1, 2001. All references to EnviroSAFE Services of Idaho, Inc. or ESII now refer to US Ecology Idaho, Inc. (3-15-02)

**006. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE.**

**01. Incorporation by Reference.** 40 CFR Part 262 and all Subparts, except for the language "for the Region in which the generator is located" in 40 CFR 262.42(a)(2) and 40 CFR 262.42(b), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2007. For purposes of 40 CFR 262.55, 262.56, and 262.57(b), "Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. Copies of advance notification, annual reports, and exception reports, required under those sections, shall also be provided to the Director. For purposes of 40 CFR 262.21, 262.51, 262.53, 262.54(e), 262.54(g)(1), 262.60, and 262.85(g), EPA shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR Part 262 Subparts E, F, H, and 40 CFR 262.41(a)(4), "United States or U.S." shall be defined as the United States. (4-2-08)( )

**02. Generator Emergency Notification.** In addition to the emergency notification required by 40 CFR 265.56(d)(2), 262.34(d)(5)(iv)(C), (see 40 CFR 262.34(a)(4)), 263.30(c)(1), and 264.56(d)(2), the emergency coordinator must also immediately notify the State Communications Center by telephone, 1-800-632-8000, to file an identical report. (3-15-02)

**007. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.**

40 CFR Part 263 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2007~~8~~. For purposes of 40 CFR 263.20(g), 263.20(g)(1), 263.20(g)(4), 263.21(a)(4), and 263.22(d), "United States" shall be defined as the United States. ~~(4-2-08)~~(\_\_\_\_)

**008. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.**

40 CFR Part 264 and all Subparts (excluding 40 CFR 264.1(f), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f) and 264.1080(g)) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2007~~8~~. For purposes of 40 CFR Subsection 264.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 264.71(a)(3) and 264.1082(c)(4)(ii), "EPA" shall be defined as the U.S. Environmental Protection Agency. ~~(4-2-08)~~(\_\_\_\_)

**009. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.**

40 CFR Part 265, and all Subparts (excluding Subpart R, 40 CFR 265.1(c)(4), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g)) and except the language contained in 40 CFR 265.340(b)(2) as replaced with, "The following requirements continue to apply even when the owner or operator has demonstrated compliance with the MACT requirements of part 63, subpart EEE of this chapter: 40 CFR 265.351 (closure) and the applicable requirements of Subparts A through H, BB and CC of this part," are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2007~~8~~. For purposes of 40 CFR Subsection 265.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 265.71(a)(3) and 265.1083(c)(4)(ii), "EPA" shall be defined as the U.S. Environmental Protection Agency. ~~(4-2-08)~~(\_\_\_\_)

**010. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE FACILITIES.**

40 CFR Part 266 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2007~~8~~. ~~(4-2-08)~~(\_\_\_\_)

**011. LAND DISPOSAL RESTRICTIONS.**

40 CFR Part 268 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2007~~8~~, except for 40 CFR 268.1(e)(3), 268.5, 268.6, 268.13, 268.42(b), and 268.44(a) through (g). The authority for implementing the provisions of these excluded sections remains with the EPA. However, the requirements of Sections 39-4403(17) and 39-4423, Idaho Code, shall be applied in all cases where these requirements are more stringent than the federal standards. If the Administrator of the EPA grants a case-by-case variance pursuant to 40 CFR 268.5, that variance will simultaneously create the same case-by-case variance to the equivalent requirement of these rules. For purposes of 40 CFR 268.2(j) "EPA" shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR 268.40(b), "Administrator" shall be defined as U.S. Environmental Protection Agency Administrator. In 40 CFR 268.7(a)(9)(iii), "D009" is excluded, (from lab packs as noted in 40 CFR Part 268 Appendix IV.) In 40 CFR 268.48(a), the entry for "2,4,6-Tribromophenol" is excluded. ~~(4-2-08)~~(\_\_\_\_)

**012. HAZARDOUS WASTE PERMIT PROGRAM.**

40 CFR Part 270 and all Subparts, except 40 CFR 270.12(a) and 40 CFR 270.14(b)(18), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2007~~8~~. For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.10(e)(3), 270.10(f)(2), 270.10(f)(3), 270.10(g), 270.11(a)(3), 270.32(a), 270.32(b)(2), 270.32(c), 270.51, 270.72(a)(5), and 270.72(b)(5), "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator respectively. ~~(4-2-08)~~(\_\_\_\_)

**013. PROCEDURES FOR DECISION-MAKING (STATE PROCEDURES FOR RCRA OR HWMA PERMIT APPLICATIONS).**

40 CFR Part 124, Subparts A, B and G are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2007~~8~~, except that 40 CFR 124.19, the fourth sentence of 40 CFR 124.31(a), the third sentence of 40 CFR 124.32(a), and the second sentence of 40 CFR 124.33(a) are expressly omitted from the incorporation by reference of each of those subsections. For purposes of 40 CFR 124.6(e), 124.10(b), and 124.10(c)(1)(ii) "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the

U.S. Environmental Protection Agency Region 10 Regional Administrator, respectively.

~~(4-2-08)~~(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**015. STANDARDS FOR THE MANAGEMENT OF USED OIL.**

**01. Incorporation by Reference.** 40 CFR Part 279 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2007~~8~~. For purposes of 40 CFR 279.43(c)(3)(ii) "Director" shall be defined as the Director, U.S.DOT Office of Hazardous Materials Regulation. ~~(4-2-08)~~(\_\_\_\_)

**02. Used Oil as a Dust Suppressant.** 40 CFR Part 279 contains a prohibition on the use of used oil as a dust suppressant at 279.82(a), however, States may petition EPA to allow the use of used oil as a dust suppressant. Members of the public may petition the State to make this application to EPA. This petition to the State must:

(2-11-94)

**a.** Be submitted to the Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706-1255; and (2-11-94)

**b.** Demonstrate how the requirements of 40 CFR 279.82(b) will be met. (2-11-94)

**016. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.**

40 CFR Part 273 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2007~~8~~. For purposes of 40 CFR 273.32(a)(3), "EPA" shall be defined as the U.S. Environmental Protection Agency.

~~(4-2-08)~~(\_\_\_\_)

**017. ~~(RESERVED)~~ CRITERIA FOR THE MANAGEMENT OF GRANULAR MINE TAILINGS (CHAT) IN ASPHALT CONCRETE AND PORTLAND CEMENT CONCRETE IN TRANSPORTATION CONSTRUCTION PROJECTS FUNDED IN WHOLE OR IN PART BY FEDERAL FUNDS.**

40 CFR Part 278 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2008. (\_\_\_\_)

**018. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE FACILITIES OPERATING UNDER A STANDARDIZED PERMIT.**

40 CFR Part 267 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2007~~8~~. ~~(4-2-08)~~(\_\_\_\_)

# IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0801

### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

**PUBLIC HEARING SCHEDULE:** No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before August 20, 2008. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Under the provisions of IDAPA 58.01.08, Idaho Rules for Public Drinking Water Systems, a water main extension, whether approved for construction by the Department of Environmental Quality (DEQ) or by a qualified licensed professional engineer (QLPE), is a material modification to the public water system. The current rules also specify that all portions of the existing system that are affected by the water main extension must be in compliance with the rules in effect at the time the project is reviewed and approved. This requirement could in some cases require upgrades to existing parts of the water system to meet criteria for pumping redundancy, standby power, fire flow, and other applicable rule requirements such as completion of a facility plan.

The objective of this rulemaking is to modify the recently updated Idaho Rules for Public Drinking Water Systems so that the engineering community can approve simple water main extensions as intended by 2005 Senate Bill 1220 and as codified at Section 39-118, Idaho Code. The proposed rules define a simple water main extension as a new or replacement water main(s) that is connected to existing water main facilities and does not require the addition of system components designed to control quantity or pressure, including, but not limited to, booster stations, new sources, pressure reducing stations, or reservoirs; and continues to provide the required pressure and quantity for the system.

The following list sets out the major issues included in the proposed rules:

1. Add and/or revise definitions (Section 003) and revise rule sections as necessary;
2. Clarify Section 500, Demonstration of Technical, Financial, and Managerial Capacity;
3. Revise Section 501, General Design Requirements for Public Drinking Water Systems;
4. Modify the content of facility plans and preliminary engineering reports contained in Sections 502 and 503, respectively;
5. Revise Section 504, Review of Plans and Specifications;
6. Clarify separation requirements for sources of contamination from public drinking water wells (Sections 510-512, and 900);
7. Modify sections regarding spring sources and ground water sources (Sections 513 and 514);
8. Clarify Section 531, Design Standards for Chemical Application;
9. Add and clarify design requirements for drinking water distribution systems (Section 542);
10. Further define storage structures and facilities (Section 544); and
11. Clarify several operating criteria for public drinking water systems (Section 552).

This proposed rule also includes any necessary corrections that are typographical and nonsubstantive in nature (e.g., making corrections for consistency with other sections in this rule chapter, IDAPA 58.01.16, Wastewater Rules, and other DEQ rules). These changes were made based on feedback from the regulated community and DEQ staff who routinely use the rules.

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 commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality at the October 2008 Board meeting for adoption as a pending rule. The rule is expected to be final and effective upon the conclusion of the 2009 legislative session if adopted by the Board and approved by the Legislature.

**NEGOTIATED RULEMAKING:** The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.810-815. On April 2, 2008, the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol. 08-4, pages 35 and 36, and a preliminary draft rule was made available for public review. Meetings were held on April 22, May 6, and May 20, 2008. Several members of the public participated in this negotiated rulemaking process by attending the meetings and by submitting written comments.

**IDAHO CODE SECTION 39-107D STATEMENT:** Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations, or which propose to regulate an activity not regulated by the federal government. There is no federal law or regulation that is comparable to plan and specification review and facility standard provisions set forth in these rules. Therefore, the changes to the rules are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which “proposes to regulate an activity not regulated by the federal government.” The engineering standards for design, construction, and operation of public drinking water systems regulate activities that are not regulated by the federal government. These rules address the review and approval of plans and specifications for public drinking water systems and the standard by which the agency does the review and approval. This is not an activity regulated by the federal government. Therefore, Section 39-107D, Idaho Code, applies.

Section 39-107D(3), Idaho Code, provides that any rule subject to 39-107D that proposes a standard necessary to protect human health and the environment must also include in the rulemaking record and in the notice of rulemaking additional information. This additional information includes any estimates of risk accomplished, identification of populations or receptors addressed by any estimates, and other information related to an estimation of risk. These rules include facility and design standards which are intended to protect human health and the environment. The standards, however, are for the design and construction of public drinking water facilities. The rules are not based upon any express estimate or analysis of risk to public health or the environment. Instead, the facility and design standards are based upon guidelines set forth in documents, such as the “Recommended Standards for Water Works” and the “American Water Works Association Standards,” that are generally accepted and used throughout the United States by engineers and state regulators.

**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, SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning the proposed rulemaking, contact Michael Stambulis at michael.stambulis@deq.idaho.gov, (208)373-0123.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before September 3, 2008.

Dated this 3rd day of July, 2008.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton/Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
paula.wilson@deq.idaho.gov



THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0108-0801

**003. DEFINITIONS.**

The definitions set forth in 40 CFR 141.2, revised as of July 1, 2006, are herein incorporated by reference except for the definition of the terms “action level,” “disinfection,” “noncommunity water system,” and “person.” (4-2-08)

**01. Action Level.** The concentration of lead or copper in water that determines, in some cases, whether a water system must install corrosion control treatment, monitor source water, replace lead service lines, or undertake a public education program. (12-10-92)

**02. Administrator.** The Administrator of the United States Environmental Protection Agency. (4-5-00)

**03. Annual Samples.** Samples that are required once per calendar year. (12-10-92)

**04. Annular Opening.** As used in well construction, this term refers to the nominal inside diameter of the borehole minus the outside diameter of the casing divided by two (2). (3-30-07)

**05. Aquifer.** A geological formation of permeable saturated material, such as rock, sand, gravel, etc., capable of yielding an economic quantity of water to wells and springs. (5-3-03)

**06. Available.** Based on system size, complexity, and source water quality, a properly licensed operator must be on site or able to be contacted as needed to initiate the appropriate action in a timely manner. (4-6-05)

**07. Average Day Demand.** The volume of water used by a system on an average day based on a one (1) year period. See also the definition of Water Demand in these rules. ~~(3-30-07)~~(\_\_\_\_)

**08. Backflow.** The reverse from normal flow direction in a plumbing system or water system caused by back pressure or back siphonage. (12-10-92)

**09. Bag Filters.** Pressure-driven separation devices that remove particulate matter larger than one (1) micrometer using an engineered porous filtration media. They are typically constructed of a non-rigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to the outside. (4-2-08)

**10. Bank Filtration.** A water treatment process that uses a well to recover surface water that has naturally infiltrated into ground water through a river bed or bank(s). Infiltration is typically enhanced by the hydraulic gradient imposed by a nearby pumping water supply or other well(s). (4-2-08)

**11. Board.** The Idaho Board of Environmental Quality. (5-3-03)

**12. Capacity.** The capabilities required of a public drinking water system in order to achieve and maintain compliance with these rules and the requirements of the federal Safe Drinking Water Act. It is divided into three (3) main elements: (4-5-00)

**a.** Technical capacity means the system has the physical infrastructure to consistently meet drinking water quality standards and treatment requirements and is able to meet the requirements of routine and emergency operations. It further means the ability of system personnel to adequately operate and maintain the system and to otherwise implement technical knowledge. Training of operator(s) is required, as appropriate, for the system size and complexity. (4-6-05)

**b.** Financial capacity means the financial resources of the water system, including an appropriate budget; rate structure; cash reserves sufficient for current operation and maintenance, future needs and emergency situations; and adequate fiscal controls. ~~(4-5-00)~~(\_\_\_\_)

**c.** Managerial capacity means that the management structure of the water system embodies the

aspects of water ~~treatment~~ system operations, including, but not limited to; ~~(4-5-00)~~(\_\_\_\_)

- i. Short and long range planning; (4-5-00)
- ii. Personnel management; (4-5-00)
- iii. Fiduciary responsibility; (4-5-00)
- iv. Emergency response; (4-5-00)
- v. Customer responsiveness; (4-5-00)
- vi. Source water protection; (4-5-00)
- vii. Administrative functions such as billing and consumer awareness; and (4-5-00)
- viii. Ability to meet the intent of the federal Safe Drinking Water Act. (4-5-00)

**13. Cartridge Filters.** Pressure-driven separation devices that remove particulate matter larger than one (1) micrometer using an engineered porous filtration media. They are typically constructed as rigid or semi-rigid, self-supporting filter elements housed in pressure vessels in which flow is from the outside of the cartridge to the inside. (4-2-08)

**14. Combined Distribution System.** The interconnected distribution system consisting of the distribution systems of wholesale systems and of the consecutive systems that receive finished water. (4-2-08)

**15. Community Water System.** A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. See also the definition of a Public Drinking Water System in these rules. ~~(12-10-92)~~(\_\_\_\_)

**16. Components of Finished Water Storage.** Storage is available to serve the system if the storage structure or facility is elevated sufficiently or is equipped with sufficient booster pumping capability to pressurize the system. Components of finished water storage are further defined as: ~~(3-30-07)~~(\_\_\_\_)

**a. Dead Storage.** Storage that is either not available for use in the system or can provide only substandard flows and pressures. (3-30-07)

**b. Effective Storage.** Effective storage is all storage other than dead storage and is made up of the additive components described in ~~Paragraphs 003-12.c. through 003-12.f. of this Subsection.~~ ~~(3-30-07)~~(\_\_\_\_)

**c. Operational Storage.** Operational storage supplies water when, under normal conditions, the sources are off. This component is the larger of; (3-30-07)

i. The volume required to prevent excess pump cycling and ensure that the following volume components are full and ready for use when needed; or (3-30-07)

ii. The volume needed to compensate for the sensitivity of the water level sensors. (3-30-07)

**d. Equalization Storage.** Storage of finished water in sufficient quantity to compensate for the difference between a water system's maximum pumping capacity and peak hour demand. (3-30-07)

**e. Fire Suppression Storage.** The water needed to support fire flow in those systems that provide it. (3-30-07)

**f. Standby Storage.** Standby storage provides a measure of reliability or safety factor should sources fail or when unusual conditions impose higher than anticipated demands. Normally used for emergency operation, if standby power is not provided, to provide water for eight (8) hours of operation at average day demand.

(3-30-07)( )

**17. Composite Correction Program (CCP).** A systematic approach to identifying opportunities for improving the performance of water treatment and implementing changes that will capitalize on these opportunities. The CCP consists of two (2) elements: (4-5-00)

**a. Comprehensive Performance Evaluation (CPE).** A thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation, and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. The CPE must consist of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report. (4-5-00)

**b. Comprehensive Technical Assistance (CTA).** The implementation phase that is carried out if the CPE results indicate improved performance potential. During the CTA phase, the system must identify and systematically address plant-specific factors. The CTA consists of follow-up to the CPE results, implementation of process control priority setting techniques, and maintaining long term involvement to systematically train staff and administrators. (4-5-00)

**18. Compositing of Samples.** The mixing of up to five (5) samples by the laboratory. (4-5-00)

**19. Confining Layer.** A nearly impermeable subsurface stratum which is located adjacent to one (1) or more aquifers and does not yield a significant quantity of water to a well. (5-3-03)

**20. Confirmation Sample.** A sample of water taken from the same point in the system as the original sample and at a time as soon as possible after the original sample was taken. (12-10-92)

**21. Connection.** Each structure, facility, or single family residence which is connected to a water system, and which is or could be used for domestic purposes, is considered a single connection. Multi-family dwellings and apartment, condominium, and office complexes are considered single connections unless individual units are billed separately for water by the water system, in which case each such unit shall be considered a single connection. (10-1-93)

**22. Consecutive System.** A public water system that receives some or all of its finished water from one (1) or more wholesale systems. Delivery may be through a direct connection or through the distribution system of one (1) or more consecutive systems. (4-2-08)

**23. Consumer.** Any person served by a public water system. (12-10-92)

**24. Consumer Confidence Report (CCR).** An annual report that community water systems must deliver to their customers. The reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. (4-5-00)

**25. Contaminant.** Any physical, chemical, biological, or radiological substance or matter in water. (12-10-92)

**26. Cross Connection.** Any actual or potential connection or piping arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable water system used water, water from any source other than an approved public water system, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Cross connections include bypass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices which, or because of which "backflow" can or may occur. (10-1-93)

**27. Dead End Main.** A distribution main of any diameter and length that does not loop back into the distribution system. (3-30-07)

28. Dead Storage. Storage that is either not available for use in the system or can provide only substandard flows and pressures. See also the definition of Components of Finished Water Storage in these rules. ( )

289. Department. The Idaho Department of Environmental Quality. (12-10-92)

2930. Director. The Director of the Department of Environmental Quality or his designee. (12-10-92)

301. Disinfection. Introduction of chlorine or other agent or process approved by the Department, in sufficient concentration or dosage, and for the time required to kill or inactivate pathogenic and indicator organisms. (3-30-07)

312. Disinfection Profile. A summary of daily Giardia lamblia inactivation through the drinking water treatment plant. The procedure for developing a disinfection profile is contained in 40 CFR 141.172 and 40 CFR 141.530-141.536. (5-3-03)

323. Distribution System. Any combination of pipes, tanks, pumps, and other equipment which delivers water from the source(s), ~~and/or~~ treatment facility(ies), or a combination of source(s) and treatment facility(ies) to the consumer. Chlorination may be considered as a function of a distribution system. ~~(3-16-04)~~( )

334. Drinking Water. Means "water for human consumption." (3-30-07)

345. Drinking Water System. All mains, pipes, and structures through which water is obtained and distributed, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use. (12-10-92)

356. Dual Sample Set. A set of two (2) samples collected at the same time and same location, with one (1) sample analyzed for TTHM and the other sample analyzed for HAA5. Dual sample sets are collected for the purposes of conducting an Initial Distribution System Evaluation (40 CFR Part 141, Subpart U) and for determining compliance with the TTHM and HAA5 MCLs under the Stage 2 Disinfection Byproducts Requirements (40 CFR Part 141, Subpart V). (4-2-08)

367. DWIMS. Idaho Department of Environmental Quality Drinking Water Information Management System. Replaced by SDWISS April 2001. (3-15-02)

38. Effective Storage. Effective storage is all storage other than dead storage and is made up of the additive components described in Paragraphs c. through f. of the definition Components of Finished Water Storage in these rules. ( )

379. Enhanced Coagulation. The addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment. Conventional filtration treatment is defined in 40 CFR 141.2. (5-3-03)

3840. Enhanced Softening. The improved removal of disinfection byproduct precursors by precipitative softening. (4-5-00)

41. Equalization Storage. Storage of finished water in sufficient quantity to compensate for the difference between a water system's maximum pumping capacity and peak hour demand. See also the definition of Components of Finished Water Storage in these rules. ( )

42. Equivalent Dwelling Unit (EDU). A unit of measure that standardizes all land use types (housing, retail, office, etc.) to the level of demand created by a single-family detached housing unit within a water system. The demand for one (1) equivalent dwelling unit is equivalent to the amount of water provided to the average single-family detached housing unit within a water system. For example, a business designed to use three (3) times as much water as an average single-family detached housing unit would have a demand of three (3) equivalent dwelling units.

( )

**3943. Exemption.** A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only if the system demonstrates to the satisfaction of the Department that the system cannot comply due to compelling factors and the deferment does not cause an unreasonable risk to public health. (12-10-92)

**404. Facility Plan.** The facility plan for a public drinking water system describes the overall system, including sources of water, treatment processes and facilities, pumping stations and distribution piping, finished water storage, and waste disposal. It is a comprehensive planning document for infrastructure and includes a plan for the future of the system/facility, including upgrades and additions. It is usually updated on a regular basis due to anticipated or unanticipated growth patterns, regulatory requirements, or other infrastructure needs. A facility plan is sometimes referred to as a master plan or facilities planning study. In general, a facility plan is an overall system-wide plan as opposed to a project specific plan. (3-30-07)

**445. Facility Standards and Design Standards.** Facility standards and design standards are described in Sections 500 through 552 of these rules. Facility and design standards found in Sections 500 through 552 of these rules must be followed in the planning, design, construction, and review of public drinking water facilities. (3-30-07)

**426. Fee Assessment.** A charge assessed on public drinking water systems based on a rate structure calculated by system size. (10-1-93)

**437. Filter Profile.** A graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed. (4-5-00)

**448. Finished Water.** Water that is introduced into the distribution system of a public water system and is intended for distribution and consumption without further treatment, except as necessary to maintain water quality in the distribution system (e.g., booster disinfection, addition of corrosion control chemicals). (4-2-08)

**49. Finished Water Storage Structures or Facilities.** Finished water storage structures or facilities are defined as: ( )

**a. Above-ground storage structure or facility.** A finished water storage structure or facility with a bottom elevation above normal ground surface. ( )

**b. Ground-level storage structure or facility.** A finished water storage structure or facility with a bottom elevation at normal ground surface. ( )

**c. Partially buried storage structure or facility.** A finished water storage structure or facility with a bottom elevation below normal ground surface and any portion of the structure or facility above normal ground surface. ( )

**d. Below-ground storage structure or facility.** A finished water storage structure or facility with a bottom elevation and top elevation below normal ground surface. ( )

**450. Fire Flow Capacity.** The water system capacity, in addition to maximum day demand, that is available for fire fighting purposes within the water system or distribution system pressure zone. Adequacy of the water system fire flow capacity is determined by the local fire authority. (3-30-07)

**51. Fire Suppression Storage.** The water needed to support fire flow in those systems that provide it. See also the definition of Components of Finished Water Storage in these rules. ( )

**52. Fixture Protection.** The practice of installing backflow prevention assemblies or devices to isolate one (1) or more cross connections within a customer's facility. ( )

**4653. Flowing Stream.** As used in the Long Term 2 Enhanced Surface Water Treatment Rule (40 CFR

Part 141, Subpart W), this term means a course of running water flowing in a definite channel. (4-2-08)

~~4754.~~ **GAC10.** Granular activated carbon filter beds with an empty bed contact time of ten (10) minutes based on average daily flow day demand and a carbon reactivation frequency of every one hundred eighty (180) days, except that the reactivation frequency for GAC10 used as a best available technology for compliance with MCLs established in the Stage 2 Disinfection Byproducts Requirements (40 CFR Part 141, Subpart V) shall be one hundred twenty (120) days. (~~4-2-08~~)(    )

~~4855.~~ **GAC20.** Granular activated carbon filter beds with an empty-bed contact time of twenty (20) minutes based on average daily flow and a carbon reactivation frequency of every two hundred forty (240) days. (4-2-08)

~~4956.~~ **Groundwater System.** A public water system which is supplied exclusively by a groundwater source or sources. (12-10-92)

~~507.~~ **Groundwater Under the Direct Influence of Surface Water.** Any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as *Giardia lamblia* or *Cryptosporidium*, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence must be determined for individual sources in accordance with criteria established by the State. The State determination of direct influence may be based on site-specific measurements of water quality, ~~and/or~~ documentation of well construction characteristics and geology with field evaluation, or a combination of water quality and documentation. (~~5-3-03~~)(    )

~~518.~~ **Haloacetic Acids (Five) (HAA5).** The sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid) rounded to two (2) significant figures after addition. (4-5-00)

~~529.~~ **Health Hazards.** Any condition which creates, or may create, a danger to the consumer's health. Health hazards may consist of, but are not limited to, design, construction, operational, structural, collection, storage, distribution, monitoring, treatment or water quality elements of a public water system. See also the definition of Significant Deficiency, which refers to a health hazard identified during a sanitary survey. (5-3-03)

~~5360.~~ **Inorganic.** Generally refers to compounds that do not contain carbon and hydrogen. (12-10-92)

~~61.~~ **Internal or In-Plant Isolation.** The practice of installing backflow prevention assemblies to protect an area within a water customer's facility from contaminating another part of the facility. (    )

~~5462.~~ **Laboratory Certification Reciprocity.** Acceptance of a laboratory certification made by another state. Laboratory reciprocity may be granted to laboratories outside of Idaho after application, proof of home state certification, and EPA performance evaluation results are submitted and reviewed. Reciprocity must be renewed after a time specified by the Idaho Laboratory Certification Officer to remain valid. (4-5-00)

~~5563.~~ **Lake/Reservoir.** As used in the Long Term 2 Enhanced Surface Water Treatment Rule (40 CFR Part 141, Subpart W), this term means a natural or man-made basin or hollow on the Earth's surface in which water collects or is stored that may or may not have a current or single direction of flow. (4-2-08)

~~564.~~ **License.** A physical document issued by the Idaho Bureau of Occupational Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code. (4-6-05)

~~5765.~~ **Locational Running Annual Average (LRAA).** The average of sample analytical results for samples taken at a particular monitoring location during the previous four (4) calendar quarters, as set forth in the Stage 2 Disinfection Byproducts Requirements (40 CFR Part 141, Subpart V). (4-2-08)

~~5866.~~ **Log.** Logarithm to the base ten (10). (12-10-92)

~~5967.~~ **Material Deviation.** A change from the design plans that significantly alters the type or location of facilities, requires engineering judgment to design, or impacts the public safety or welfare. (4-11-06)

~~608.~~ **Material Modification.** *For the purpose of plan and specification review requirements as specified in Subsection 504.03,* ~~†~~ Those modifications of an existing public water system that are intended to increase system capacity or alter the methods or processes employed. Any project that adds source water to a system, increases the pumping capacity of a system, increases the potential population served by the system or the number of service connections within the system, adds new or alters existing drinking water system components, or effects the water demand of the system is considered to be increasing system capacity or altering the methods or processes employed. Maintenance and repair performed on the system and the replacement of valves, pumps, or other similar items with new items of the same size and type are not considered a material modification. (~~3-30-07~~)(      )

~~649.~~ **Maximum Contaminant Level (MCL).** The maximum permissible level of a contaminant in water which is delivered to any user of a public water system. (3-30-07)

~~6270.~~ **Maximum Day Demand-Rate.** The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest for the design year. See also the definition of Water Demand in these rules. (~~3-30-07~~)(      )

~~71.~~ **Maximum Pumping Capacity.** The pumping capacity with the largest source or pump out of service. (      )

~~6372.~~ **Maximum Residual Disinfectant Level (MRDL).** A level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a public water system is in compliance with the MRDL, when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a public water system is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two (2) consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as maximum contaminant levels under Section 1412 of the Safe Drinking Water Act. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in 40 CFR 141.65, operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections. (4-5-00)

~~6473.~~ **Maximum Residual Disinfectant Level Goal (MRDLG).** The maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are nonenforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants. (4-5-00)

~~6574.~~ **Membrane Filtration.** A pressure or vacuum driven separation process in which particulate matter larger than one (1) micrometer is rejected by an engineered barrier, primarily through a size-exclusion mechanism, and which has a measurable removal efficiency of a target organism that can be verified through the application of a direct integrity test. This definition includes the common membrane technologies of microfiltration, ultrafiltration, nanofiltration, and reverse osmosis. (4-2-08)

~~6675.~~ **Method Detection Limit (MDL).** The lowest concentration which can be determined to be greater than zero with ninety-nine percent (99%) confidence, for a particular analytical method. (12-10-92)

~~676.~~ **New System.** Any water system that meets, for the first time, the definition of a public water system provided in Section 1401 of the federal Safe Drinking Water Act (42 U.S.C. Section 300f). This includes systems that are entirely new construction and previously unregulated systems that are expanding. (4-5-00)

~~6877.~~ **Noncommunity Water System.** A public water system that is not a community water system. A non-community water system is either a transient noncommunity water system or a non-transient noncommunity water system. See also the definition of a Public Drinking Water System in these rules. (~~4-5-00~~)(      )

~~6978.~~ **Non-Potable Mains.** The pipelines that collect and convey non-potable discharges from or to multiple service connections. (4-11-06)

~~709.~~ **Non-Potable Services.** The pipelines that convey non-potable discharges from individual facilities to a connection with the non-potable main. This term also refers to pipelines that convey non-potable water from a pressurized irrigation system, reclaimed wastewater system, and other non-potable systems to individual consumers. (4-11-06)

~~7180.~~ **Nontransient Noncommunity Water System.** A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. See also the definition of a Public Drinking Water System in these rules. (~~12-10-92~~)(      )

~~7281.~~ **Nuclear Facility.** Factories, processing plants or other installations in which fissionable material is processed, nuclear reactors are operated, or spent (used) fuel material is processed, or stored. (12-10-92)

~~7382.~~ **Operating Shift.** That period of time during which water system operator decisions that affect public health are necessary for proper operation of the system. (4-5-00)

~~83.~~ **Operational Storage.** Operational storage supplies water when, under normal conditions, the sources are off. This component is the larger of the volume required to prevent excess pump cycling and ensure that the following volume components are full and ready for use when needed or the volume needed to compensate for the sensitivity of the water level sensors. See also the definition of Components of Finished Water Storage in these rules. (      )

~~784.~~ **Owner/Purveyor of Water/Supplier of Water.** The person, company, corporation, association, or other organizational entity which holds legal title to the public water system, who provides, or intends to provide, drinking water to the customers, ~~and/or~~ and who is ultimately responsible for the public water system operation. (~~4-6-05~~)(      )

~~785.~~ **Peak Hour Demand.** The highest hourly flow, excluding fire flow, that a water system or distribution system pressure zone is likely to experience in the design year. See also the definition of Water Demand in these rules. (~~3-30-07~~)(      )

~~786.~~ **Person.** A human being, municipality, or other governmental or political subdivision or other public agency, or public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of the foregoing or other legal entity. (12-10-92)

~~787.~~ **Pesticides.** Substances which meet the criteria for regulation pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and any regulations adopted pursuant to FIFRA. For example, pesticides include, but are not limited to insecticides, fungicides, rodenticides, herbicides, and algacides. (12-10-92)

~~788.~~ **Plant.** A physical facility where drinking water or wastewater is treated or processed. (3-30-07)

~~789.~~ **Plant Intake.** The works or structures at the head of a conduit through which water is diverted from a source (e.g., river or lake) into the treatment plant. (4-2-08)

~~820.~~ **Point of Use (POU) Treatment Device.** A treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap. (3-30-07)

~~821.~~ **Point of Use (POU) Treatment System.** A collection of POU treatment devices. (3-30-07)

~~822.~~ **Potable Mains.** Pipelines that deliver potable water to multiple service connections. (3-30-07)

~~823.~~ **Potable Services.** Pipelines that convey potable water from a connection to the potable water main to individual consumers. (3-30-07)



**894. Preliminary Engineering Report.** The preliminary engineering report for a public drinking water system facility is a report that addresses specific portions of the system or facility for which modifications are being designed. Modifications may include, but are not limited to, significant changes to existing processes or facilities, system expansion, addition of treatment, or installation of other processes and facilities. This report addresses specific purpose and scope, design requirements, alternative solutions, costs, operation and maintenance requirements, and other requirements as described in Section 503. Preliminary engineering reports are generally project specific as opposed to an overall system-wide plan, such as a facility plan. However, the preliminary engineering report shall describe modifications to the facility plan that may be required as a result of the proposed project. (3-30-07)

**95. Premise Isolation or Containment.** The practice of separating the customer's premise from the purveyor's system by means of a backflow prevention assembly installed on the service line before any distribution takes place. ( )

**8596. Presedimentation.** A preliminary treatment process used to remove gravel, sand, and other particulate material from the source water through settling before the water enters the primary clarification and filtration processes in a treatment plant. (4-2-08)

**8697. Public Notice.** The notification of public water system consumers of information pertaining to that water system including information regarding water quality or compliance status of the water system. (12-10-92)

**8798. Public Drinking Water System.** A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "noncommunity water system;" as further defined as: (4-6-05)( )

**a. Community water system.** A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. ( )

**b. Noncommunity water system.** A public water system that is not a community water system. A noncommunity water system is either a transient noncommunity water system or a non-transient noncommunity water system. ( )

**c. Nontransient noncommunity water system.** A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. ( )

**d. Transient noncommunity public water system.** A noncommunity water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. ( )

**8899. Public Water System/Water System/System.** Means "public drinking water system." (4-5-00)

**89100. Pump House.** An above-grade structure containing important water system components, such as a well, hydropneumatic tank, booster pump, pump controls, flow meter, well discharge line, or a treatment unit. Pump houses are often called well houses in common usage, even though in modern construction these structures may not contain either a well or a pump. These terms are used interchangeably in national standards and trade publications. (3-30-07)

**101. Qualified Licensed Professional Engineer (OLPE).** A professional engineer licensed by the state of Idaho; qualified by education or experience in the specific technical fields involved in these rules; and retained or employed by a city, county, quasi-municipal corporation, or regulated public utility for the purposes of plan and specification review. ( )

**9102. Quasi-Municipal Corporation.** A public entity, other than community government, created or authorized by the legislature to aid the state in, or to take charge of, some public or state work for the general welfare. For the purpose of these rules, this term refers to drinking water districts. (4-11-06)

**9103. Regulated Public Utility.** For the purpose of these rules, any public water system that falls under the jurisdiction of the Idaho Public Utilities Commission and is subject to the rules thereof. (3-30-07)

**92104. Repeat Compliance Period.** Any subsequent compliance period after the initial compliance period. (12-10-92)

**93105. Responsible Charge (RC).** Responsible Charge means, active, daily on-site ~~and/or~~ on-call responsibility for the performance of operations or active, on-going, on-site, ~~and~~ or on-call direction of employees and assistants. (~~4-5-00~~)(      )

**94106. Responsible Charge Operator.** An operator of a public drinking water system, designated by the system owner, who holds a valid license at a class equal to or greater than the drinking water system classification, who is in responsible charge of the public drinking water system. (4-6-05)

**95107. Reviewing Authority.** For those projects requiring preconstruction approval by the Department, the Department is the reviewing authority. For those projects allowing for preconstruction approval by others, pursuant to Subsection 504.03.b. of these rules, the qualified Idaho licensed professional engineer (QLPE) is also the reviewing authority. (~~3-30-07~~)(      )

**96108. Sampling Point.** The location in a public water system from which a sample is drawn. (12-10-92)

**97.109 Sanitary Defects.** Any faulty structural condition which may allow the water supply to become contaminated. (12-10-92)

**98110. Sanitary Survey.** An onsite review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water. The sanitary survey will include, but is not limited to the following elements: (4-5-00)

- a. Source; (4-5-00)
- b. Treatment; (4-5-00)
- c. Distribution system; (4-5-00)
- d. Finished water storage; (4-5-00)
- e. Pumps, pump facilities, and controls; (4-5-00)
- f. Monitoring and reporting and data verification; (4-5-00)
- g. System management and operation; and (4-5-00)
- h. Operator compliance with state requirements. (4-5-00)

**99111. SDWIS-State.** An acronym that stands for “Safe Drinking Water Information System-State Version.” It is a software package developed under contract to the U.S. Environmental Protection Agency and used by a majority of U.S. states to collect, maintain, and report data about regulated public water systems. See also the definition of DWIMS. (5-3-03)

**10012. Sewage.** The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (3-30-07)

**1013. Significant Deficiency.** As identified during a sanitary survey, any defect in a system's design, operation, maintenance, or administration, as well as any failure or malfunction of any system component, that the Department or its agent determines to cause, or have potential to cause, risk to health or safety, or that could affect the reliable delivery of safe drinking water. See also the definition of Health Hazards. (5-3-03)

**114. Simple Water Main Extension.** New or replacement water main(s) that require plan and specification review per these rules and that is connected to existing water main facilities and does not require the addition of system components designed to control quantity or pressure, including, but not limited to, booster stations, new sources, pressure reducing stations, or reservoirs; and continues to provide the pressure and quantity requirements of Subsection 552.01. ( )

**10215. Special Irrigation District.** An irrigation district in existence prior to May 18, 1994 that provides primarily agricultural service through a piped water system with only incidental residential or similar use where the system or the residential or similar users of the system comply with the exclusion provisions in Section 1401(4)(B)(i)(II) or (III) of the Safe Drinking Water Act. (4-6-05)

**10316. Spring.** A source of water which flows from a laterally percolating water table's intersection with the surface or from a geological fault that allows the flow of water from an artesian aquifer. (12-10-92)

**117. Standby Storage.** Standby storage provides a measure of reliability or safety factor should sources fail or when unusual conditions impose higher than anticipated demands. See also the definition of Components of Finished Water Storage in these rules. ( )

**118. Substantially Modified.** The Department shall consider a public water system to be substantially modified when, as the result of one (1) or more projects, there is a combined increase of twenty-five percent (25%) or more above the system's existing configuration in the population served or number of service connections, the total length of transmission and distribution water mains, and the peak or average water demand. ( )

**10419. Substitute Responsible Charge Operator.** An operator of a public drinking water system who holds a valid license at a class equal to or greater than the drinking water system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. (4-6-05)

**10520. Surface Water System.** A public water system which is supplied by one (1) or more surface water sources or groundwater sources under the direct influence of surface water. Also called subpart H systems in applicable sections of 40 CFR Part 141. (4-5-00)

**10621. SUVA (Specific Ultraviolet Absorption).** SUVA means Specific Ultraviolet Absorption at two hundred fifty-four (254) nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wave length of two hundred fifty-four (254) nm (UV254) (in m=1) by its concentration of dissolved organic carbon (DOC) (in mg/l). (3-30-07)

**10722. Total Organic Carbon (TOC).** Total organic carbon in mg/l measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two (2) significant figures. (4-5-00)

**10823. Total Trihalomethanes (TTHM).** The sum of the concentration in milligrams per liter of the trihalomethane compounds (trichloromethane [chloroform], dibromochloromethane, bromodichloromethane and tribromomethane [bromoform]), rounded to two (2) significant figures. (4-2-08)

**10924. Transient Noncommunity Public Water System.** A noncommunity water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. See also the definition of a Public Drinking Water System in these rules. (~~3-30-07~~)( )

**11025. Treatment Facility.** Any place(s) where a public drinking water system or nontransient noncommunity water system alters the physical or chemical characteristics of the drinking water. Chlorination may

be considered as a function of a distribution system. (4-5-00)

**1426. Turbidity.** A measure of the interference of light passage through water, or visual depth restriction due to the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light scattering and absorbing properties of a water sample. Turbidity is measured by the Nephelometric method. (12-10-92)

**1427. Two-Stage Lime Softening.** A process in which chemical addition and hardness precipitation occur in each of two (2) distinct unit clarification processes in series prior to filtration. (4-2-08)

**1428. Uncovered Finished Water Storage Facility.** A tank, reservoir, or other facility that is directly open to the atmosphere and used to store water that will undergo no further treatment to reduce microbial pathogens except residual disinfection. (4-2-08)

**1429. Unregulated Contaminant.** Any substance that may affect the quality of water but for which a maximum contaminant level or treatment technique has not been established. (12-10-92)

**130. Use Assessment.** For the purpose of obtaining a waiver from certain monitoring requirements, a use assessment is an evaluation as to whether synthetic organic contaminants are being or have been used, manufactured, transported, stored, or disposed of in the watershed for surface water or the zone of influence for ground water. ( )

**14531. Variance.** A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only when the system demonstrates to the satisfaction of the Department that the raw water characteristics prevent compliance with the MCL or requirement after installation of the best available technology or treatment technique and the deterrent does not cause an unreasonable risk to public health. (12-10-92)

**14632. Very Small Public Drinking Water System.** A Community or Nontransient Noncommunity Public Water System that serves five hundred (500) persons or less and has no treatment other than disinfection or has only treatment which does not require any chemical treatment, process adjustment, backwashing or media regeneration by an operator (e.g. calcium carbonate filters, granular activated carbon filters, cartridge filters, ion exchangers). (4-5-00)

**14733. Volatile Organic Chemicals (VOCs).** VOCs are lightweight organic compounds that vaporize or evaporate easily. (10-1-93)

**14834. Vulnerability Assessment.** A determination of the risk of future contamination of a public drinking water supply. (12-10-92)

**14935. Waiver.** (12-10-92)

**a.** For the purposes of these rules, except Sections 500 through 552, “waiver” means the Department approval of a temporary reduction in sampling requirements for a particular contaminant. (3-30-07)

**b.** For purposes of Sections 500 through 552, “waiver” means a dismissal of any requirement of compliance. (3-30-07)

**c.** For the purposes of Section 010, “waiver” means the deferral of a fee assessment for a public drinking water system. (10-1-93)

**12036. Wastewater.** Unless otherwise specified, sewage, industrial waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present. (3-30-07)

**12437. Water for Human Consumption.** Water that is used by humans for drinking, bathing for purposes of personal hygiene (including hand-washing), showering, cooking, dishwashing, and maintaining oral hygiene. In

common usage, the terms “culinary water,” “drinking water,” and “potable water” are frequently used as synonyms. (5-3-03)

**138. Water Demand.** The volume of water requested by system users to satisfy their needs. Water demand can be further categorized as: ( )

**a. Average day demand.** The volume of water used by a system on an average day based on a one (1) year period. ( )

**b. Maximum day demand.** The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest for the design year. ( )

**c. Peak hour demand.** The highest hourly flow, excluding fire flow, that a water system or distribution system pressure zone is likely to experience in the design year. ( )

~~1239.~~ **Water Main.** A pipe within a public water system which is under the control of the system operator and conveys water to two (2) or more service connections or conveys water to a fire hydrant. The collection of water mains within a given water supply is called the distribution system. (5-3-03)( )

~~123.~~ **Water Main Extension.** As used in Subsection 504.03, an extension of the distribution system of an existing public water system that does not require a booster pumping station and is intended to increase the service area of the water system. (3-30-07)

**1240. Watershed.** The land area from which water flows into a stream or other body of water which drains the area. (3-30-07)

**12541. Wholesale System.** A public water system that treats source water as necessary to produce finished water and then delivers some or all of that finished water to another public water system. Delivery may be through a direct connection or through the distribution system of one (1) or more consecutive systems. (4-2-08)

**(BREAK IN CONTINUITY OF SECTIONS)**

**007. DISAPPROVAL DESIGNATION.**

The Department or its agent may assign a disapproved designation to a public water system when: (5-3-03)

**01. Defects.** There are design ~~and~~ or construction defects; or some combination of design and construction defects; or (12-10-92)( )

**02. Operating Procedures.** Operating procedures constitute a health hazard; or (12-10-92)

**03. Quality.** Physical, chemical, microbiological or radiological quality does not meet the requirements of these rules; or (10-1-93)

**04. Monitoring.** The required monitoring as specified in these rules has not been conducted; or (10-1-93)

**05. Unapproved Source.** An unapproved source of drinking water is used or the system is interconnected with a disapproved water system. (12-10-92)

**06. Non-Payment of Annual Fee Assessment.** The annual drinking water system fee assessment is not paid as set forth in Section 010. (7-1-97)

**07. Public Notification.** The Department may require the owner of a water system that has been given a disapproval designation to notify the public. The manner, content, and timing of this notification will be determined

by the Department. This requirement is in addition to any public notification requirements set forth in Section 150 that may also apply to the disapproved system. (5-3-03)

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. FEE SCHEDULE FOR PUBLIC DRINKING WATER SYSTEMS.**

All regulated public drinking water systems shall pay an annual drinking water system fee. The fee shall be assessed to regulated public drinking water systems as provided in this section. (10-1-93)

**01. Effective Date.** Annual fees shall be paid for each fee year beginning October 1, 1993, and continuing for each succeeding year. (10-1-93)

**02. Fee Schedule.** (10-1-93)

**a.** Community and Nontransient noncommunity public drinking water systems shall pay an annual fee according to the following fee schedule:

Number of Connections	Fee
1 to 20	\$100
21 to 184	\$5 per connection, not to exceed a total of \$735 per system
185 to 3,663	\$4 per connection, not to exceed a total of \$10,988 per system
3,664 or more	\$3 per connection

(7-1-97)

**b.** The annual fee for transient public drinking water systems is twenty-five dollars (\$25). (10-1-93)

**c.** New public drinking water systems formed after October 1 will not pay a fee until the following October. (10-1-93)

**03. Fee Assessment.** (10-1-93)

**a.** An annual fee assessment will be generated for each community and nontransient noncommunity public drinking water system listed in the Department's Safe Drinking Water Information System (SDWISS). (3-15-02)

**b.** Community and nontransient noncommunity public drinking water systems will be notified each year of the official number of connections listed in SDWISS. Systems will have at least one (1) month to notify the Department if the number of connections listed in SDWISS is not in agreement with the system's records. (3-15-02)

**c.** The official number of connections listed in SDWISS following each yearly update, as required in Subsection 010.03.b., will be used to calculate the annual fee for community and nontransient noncommunity public drinking water systems for the next fee year of October 1 through September 30. (3-15-02)

**04. Billing.** An annual fee shall be assessed and a statement will be mailed to all community, nontransient noncommunity, and transient public drinking water systems listed in SDWISS by the Department on or before September 1 of each year. (3-15-02)

**05. Payment.** (10-1-93)

**a.** Payment of the annual fee shall be due on October 1, unless it is a Saturday, a Sunday, or a legal

holiday, in which event the payment shall be due on the successive business day. Fees paid by check or money order shall be made payable to the Idaho Department of Environmental Quality and sent to 1410 North Hilton Street, Boise, ID 83706-1255. (10-1-93)

**b.** If a public water system consists of two hundred fifty (250) connections or more, the system may request to divide its annual fee payment into equal monthly or quarterly installments by submitting a request to the Department on the proper request form provided with the initial billing statement. (10-1-93)

**c.** The Department will notify applicable systems, in writing, of approval or denial of a requested monthly or quarterly installment plan within ten (10) business days of the Department receiving such a request. (10-1-93)

**d.** If a public water system has been approved to pay monthly installments then each installment shall be due by the first day of each month, unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment shall be due on the successive business day. (10-1-93)

**e.** If a public water system has been approved to pay quarterly installments then each installment shall be due by the first day of the month of each quarter (October 1, January 1, April 1, and July 1), unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment shall be due on the first successive business day. (10-1-93)

**06. Delinquent Unpaid Fees.** A public water system will be delinquent in payment if its annual fee assessment has not been received by the Department by November 1; or if having first opted to pay monthly or quarterly installments, its monthly or quarterly installment has not been received by the Department by the last day of the month in which the monthly or quarterly payment is due. (10-1-93)

**07. Suspension of Services and Disapproval Designation.** (7-1-97)

**a.** For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of ninety (90) days, technical services provided by the Department may be suspended except for the following: (7-1-97)

- i. Issuance of monitoring waivers; (7-1-97)
- ii. Review and processing of engineering reports; and (7-1-97)
- iii. Review of plans and specifications for design and construction as set forth in Sections 501 through 552. (3-30-07)

**b.** For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of one hundred and eighty (180) days, the Department may suspend all technical services provided by the Department including any of the following: (7-1-97)

- i. Review and processing of engineering reports; (7-1-97)
- ii. Review of plans and specifications for design and construction as set forth in Sections 501 through 552; (3-30-07)
- iii. Renewal of monitoring waivers; or (7-1-97)
- iv. Granting of new monitoring waivers. (7-1-97)

**c.** For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of one hundred and eighty (180) days, the Department may disapprove the public water system pursuant to Subsection 007.06. (7-1-97)

**08. Reinstatement of Suspended Services and Approval Status.** For any public water system for

~~which delinquency of fee payment, pursuant to Subsection 010.07, has resulted in the suspension of technical services, and/or the disapproval of a public water system, or both, pursuant to Subsection 010.07 may be reinstated continuation of technical services, reinstatement of public water system approval, or both, will occur upon payment of delinquent annual fee assessments.~~ (7-1-97)(\_\_\_\_)

**09. Enforcement Action.** Nothing in Section 010 waives the Department's right to undertake an enforcement action at any time, including seeking penalties, as provided in Section 39-108, Idaho Code. (7-1-97)

**10. Responsibility to Comply.** Subsection 010.07 shall in no way relieve any system from its obligation to comply with all applicable state and federal drinking water statutes, rules, regulations, or orders. (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**013. USE OF GUIDANCE.**

Guidance documents referenced in these rules are to be used to assist both designers and reviewers in determining a reasonable way to achieve compliance with the rules. Nothing in these rules makes the use of a particular guidance or guidance document mandatory. If the plans and specifications comply with applicable facility and design standards as set out in these rules, Section 39-118, Idaho Code, requires that the ~~reviewing authority~~ Department not substitute ~~his or her~~ its judgment for that of the design engineer concerning the manner of compliance. If the design engineer needs assistance as to how to comply with a particular rule, the design engineer may use the referenced guidance documents for that assistance. However, the design engineer may also use other guidance or provide documentation to substantiate his or her own professional judgment. (3-30-07)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. MONITORING AND ANALYTICAL REQUIREMENTS.**

- 01. Microbiological Contaminant Sampling and Analytical Requirements.** (10-1-93)
- a.** 40 CFR 141.21, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)
- b.** The Department may reduce the total coliform monitoring frequency for community water systems serving twenty-five (25) to one thousand (1000) persons, as specified in 40 CFR 141.21(a)(2) and Subsection 100.01. The Department may allow community water systems serving twenty-five (25) to one thousand (1000) persons to reduce the total coliform monitoring frequency to once per quarter when; (12-10-92)
- i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)
- ii. There has been no history of total coliform contamination in it's current configuration; and (10-1-93)
- iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)
- iv. A sanitary survey has been conducted within the past five (5) years which indicates to the Department that there are no deficiencies which could affect microbial quality; and (12-10-92)
- v. The system uses only a groundwater source that is protected. (12-10-92)
- c.** The Department may reduce the total coliform monitoring frequency for noncommunity water



systems serving less than one thousand (1000) persons as specified in 40 CFR 141.21(a)(3)(i) and Subsection 100.01. The Department may allow noncommunity water systems serving less than one thousand (1000) persons to reduce the total coliform monitoring frequency to once per year when; (12-10-92)

- i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)
  - ii. No coliforms have been detected in the last three (3) years of monitoring; and (12-10-92)
  - iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)
  - iv. A sanitary survey has been conducted within the past five (5) years which indicates to the Department that there are no deficiencies which could affect microbial quality; and (12-10-92)
  - v. The system uses only a groundwater source that is protected. (12-10-92)
- d.** The Department may reduce the total coliform monitoring frequency for noncommunity water systems serving more than one thousand (1000) persons during any month the system serves one thousand (1000) persons or fewer as specified in 40 CFR 141.21(a)(3)(ii) and Subsection 100.01. The Department will allow noncommunity water systems serving more than one thousand (1000) persons to reduce the total coliform monitoring frequency for any month the system serves one thousand (1000) persons or fewer, down to a minimum of one (1) sample per year, provided; (10-1-93)
- i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)
  - ii. No coliforms have been detected in the last three (3) years of monitoring; and (12-10-92)
  - iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)
  - iv. A sanitary survey has been conducted within the past five (5) years which indicates that there are no deficiencies which could effect microbial quality; and (12-10-92)
  - v. The system uses only a groundwater source that is protected. (12-10-92)
- e.** A system must collect repeat samples within twenty-four (24) hours of notification of positive results as specified in 40 CFR 141.21(b) and Subsection 100.01. The Department may allow a system to delay collection of repeat samples if the system; (12-10-92)
- i. Identifies the cause of the contamination; (12-10-92)
  - ii. Is making progress towards correcting the problem; (12-10-92)
  - iii. Submits a written request to delay collecting repeat samples and a written statement admitting an acute MCL violation; (12-10-92)
  - iv. Follows public notification requirements specified under 40 CFR Part 141, Subpart Q, revised as of July 1, 2006, for Tier 1 MCL violations including notice for consumers to boil their water; (4-2-08)
  - v. Continues to collect the regularly scheduled number of routine samples; (12-10-92)
  - vi. Collects all repeat samples immediately following correction of the problem; and (12-10-92)
  - vii. Collects five (5) routine samples during the month following the end of the violation as required under 40 CFR 141.21 (b)(5), unless waived as allowed under that paragraph. (12-10-92)

**02. Turbidity Sampling and Analytical Requirements.** 40 CFR 141.22, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

**03. Inorganic Chemical Sampling and Analytical Requirements.** 40 CFR 141.23, revised as of July 1, 2004, is herein incorporated by reference. (4-6-05)

**04. Organic Chemicals Other Than Total Trihalometranes, Sampling and Analytical Requirements.** 40 CFR 141.24, revised as of July 1, 2004, is herein incorporated by reference. (4-6-05)

**05. Analytical Methods for Radioactivity.** 40 CFR 141.25, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

**06. Monitoring Frequency and Compliance Requirements for Radioactivity in Community Water Systems.** 40CFR 141.26, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

**07. Waivers and Vulnerability Assessments.** (10-1-93)

**a.** Waivers from sampling requirements in Subsections 100.03, 100.04, 200.01, ~~551.011~~, 503.11 and ~~551.012~~, 503.12 may be available to all systems for all contaminants except nitrate, nitrite, arsenic and trihalomethanes; and are based upon a vulnerability assessment, use assessment, ~~and/or~~ the analytical results of previous sampling, or some combination of vulnerability assessment, use assessment, and analytical results. (10-1-93)( )

**b.** There are two (2) general types of monitoring waivers: (12-10-92)

**i.** Waivers based exclusively upon previous analytical data (12-10-92)

**ii.** Waivers based on a use or vulnerability assessment. (12-10-92)

**c.** Waivers are to be made by the Department on a contaminant specific basis and must be in writing. (12-10-92)

**d.** Vulnerability assessments may be conducted by the Department, the water system, or a third party organization. The Department shall approve or disapprove all vulnerability assessments in writing. (12-10-92)

**e.** Water systems which do not receive waivers shall sample at the required initial and repeat monitoring frequencies. (12-10-92)

**f.** If a system elects to request a waiver from monitoring, it shall do so in writing at least sixty (60) days prior to the required monitoring deadline date. (10-1-93)

**08. Initial Monitoring Schedule.** In addition to the requirements specified in 40 CFR 141.23, revised as of July 1, 2004, 40 CFR 141.24, revised as of July 1, 2004, and 40 CFR 141.40, revised as of July 1, 2001, initial monitoring must be completed according to the following schedule unless otherwise specified by the Department: (4-6-05)

**a.** Public water systems serving more than one hundred (100) people must conduct initial monitoring before January 1, 1995 except that: (10-1-93)

**i.** Initial monitoring for nitrate and nitrite must be completed before January 1, 1994 for all surface water sources serving transient noncommunity public water systems and for all ground water sources serving any public water system. (10-1-93)

**ii.** Initial monitoring for nitrate and nitrite must be completed before April 1, 1993 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

iii. Initial monitoring required under 40 CFR 141.23(c) must be completed before January 1, 1994 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

b. Public water systems serving one hundred (100) or less people must conduct initial monitoring before January 1, 1996 except that: (10-1-93)

i. Initial monitoring for nitrate and nitrite must be completed before January 1, 1994 for all surface water sources serving transient noncommunity public water systems and for all ground water sources serving a public water system. (10-1-93)

ii. Initial monitoring for nitrate and nitrite must be completed before April 1, 1993 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

iii. Initial monitoring required under 40 CFR 141.23(c) must be completed before January 1, 1994 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

**09. Alternate Analytical Techniques.** 40 CFR 141.27 is herein incorporated by reference. (10-1-93)

**10. Approved Laboratories.** All analyses conducted pursuant to this chapter, except those listed below, shall be performed in laboratories certified or granted reciprocity by the Department. The following analyses shall be conducted by the public water system in accordance with the procedures approved in Idaho Department of Health and Welfare Rules, IDAPA 16.02.13, Subsection 008.02, "Rules Governing Certification of Idaho Water Quality Laboratories." (10-1-93)

a. pH; (12-10-92)

b. Turbidity (Nephelometric method only); (12-10-92)

c. Daily analysis for fluoride; (12-10-92)

d. Temperature; and (12-10-92)

e. Disinfectant residuals, except ozone, which shall be analyzed using the Indigo Method or an acceptable automated method pursuant to Subsection 300.05.c. (12-10-92)

**11. Consecutive Water System.** 40 CFR 141.29 is herein incorporated by reference. (10-1-93)

**12. Total Trihalomethane Sampling, Analytical and Other Requirements.** 40 CFR 141.30, revised as of July 1, 2001, is herein incorporated by reference. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. FILTRATION AND DISINFECTION.**

**01. General Requirements.** 40 CFR 141.70, revised as of July 1, 2002, is herein incorporated by reference. Each public water system using a surface water source or ground water source directly influenced by surface water shall be operated by personnel, as specified in Sections 553 and 554, who have met state requirements for licensing of water system operators. (4-6-05)

**02. Criteria for Avoiding Filtration.** 40 CFR 141.71, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

**03. Disinfection.** 40 CFR 141.72 is herein incorporated by reference. (10-1-93)

a. In addition to the disinfection requirements in 40 CFR 141.72, each system with a surface water source or groundwater source directly influenced by surface water shall maintain a minimum of at least two-tenths (0.2) parts per million of chlorine in the treated water after an actual contact time of at least thirty (30) minutes at ~~maximum peak~~ hourly demand before delivery to the first customer. (12-10-92)(    )

b. The Department may allow a system to utilize automatic shut-off of water to the distribution system whenever total disinfectant residual is less than two-tenths (0.2) mg/l rather than provide redundant disinfection components and auxiliary power as required in 40 CFR 141.72(a)(2). An automatic water shut-off may be used if the system demonstrates to the satisfaction of the Department that, at all times, a minimum of twenty (20) psi pressure and adequate fire flow can be maintained in the distribution system when water delivery is shut-off to the distribution system and, at all times, minimum Giardia lamblia and virus inactivation removal rates can be achieved prior to the first customer. (12-10-92)

c. Each system which provides filtration treatment must provide disinfection treatment such that filtration plus disinfection provide at least ninety-nine and nine tenths percent (99.9%) inactivation/~~and/or~~ removal of Giardia lamblia cysts and ninety-nine and ninety-nine one hundredths percent (99.99%) inactivation/~~and/or~~ removal of viruses as specified in 40 CFR 141.72 and Section 300. However, in all cases the disinfection portion of the treatment train shall be designed to provide not less than five tenths (0.5) log Giardia inactivation, irrespective of the Giardia removal credit awarded to the filtration portion of the treatment train. (5-3-03)(    )

i. Each system which provides filtration treatment shall submit engineering evaluations, ~~and/or~~ other documentation, or some combination of engineering evaluations and other documentation as required by the Department to demonstrate ongoing compliance with Subsection 300.03.c. (7-1-97)(    )

ii. The Department will establish filtration removal credit on a system-by-system basis. Unless otherwise demonstrated to the satisfaction of the Department, the maximum log removal ~~and/or inactivation~~ credit allowed for filtration is as follows:

Maximum Log Removal		
Filtration Type	Giardia	Viruses
Conventional	2.5	2.0
Direct	2.0	1.0
Slow sand	2.0	2.0
Diatomaceous earth	2.0	1.0
Membrane	3.0	1.0
Alternate technology	2.0	0

(5-3-03)(    )

iii. Filtration removal credit shall be granted for filtration treatment provided the system is; (12-10-92)

(1) Operated in accordance with the Operations Plan specified in Subsection 552.03.a.; and (12-10-92)

(2) The system is in compliance with the turbidity performance criteria specified under 40 CFR 141.73; and (12-10-92)

(3) Coagulant chemicals must be added and coagulation and flocculation unit process must be used at all times during which conventional and direct filtration treatment plants are in operation; and (12-10-92)

(4) Slow sand filters are operated at a rate not to exceed one-tenth (0.1) gallons per minute per square foot; and (12-10-92)

(5) Diatomaceous earth filters are operated at a rate not to exceed one and one-half (1.5) gallons per minute per square foot. (12-10-92)

**04. Filtration.** 40 CFR 141.73, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

**05. Analytical and Monitoring Requirements.** 40 CFR 141.74, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

**a.** Each public water system which provides filtration treatment shall monitor as follows: (12-10-92)

i. Each day the system is in operation, the purveyor shall determine the total level of inactivation of *Giardia lamblia* cysts and viruses achieved through disinfection based on CT99.9 values provided in 40 CFR 141.74(b)(3) (Tables 1.1 through 1.6, 2.1 and 3.1). (12-10-92)

ii. At least once per day, the system shall monitor the following parameters to determine the total inactivation ratio achieved through disinfection: (12-10-92)

(1) Temperature of the disinfected water at each residual disinfectant concentration sampling point; and (12-10-92)

(2) If using chlorine, the pH of the disinfected water at each chlorine residual sampling point. (12-10-92)

(3) The disinfectant contact time, "T," must be determined each day during peak ~~hourly flow~~ demand. Disinfectant contact time, "T," in pipelines used for *Giardia lamblia* and virus inactivation shall be calculated by dividing the internal volume of the pipe by the peak ~~hourly~~ flow rate through that pipe. Disinfectant contact time, "T," for all other system components used for *Giardia lamblia* and virus inactivation shall be determined by tracer studies or equivalent methods. (~~12-10-92~~)(    )

(4) The residual disinfectant concentrations at each residual disinfectant sampling point at or before the first customer, must be determined each day during peak ~~hourly flow~~ demand, or at other times approved by the Department. (~~12-10-92~~)(    )

iii. The purveyor may demonstrate to the Department, based on a Department approved on-site disinfection challenge study protocol, that the system is achieving disinfection requirements specified in Subsection 300.03 utilizing CT99.9 values other than those specified in 40 CFR 141.74(b)(3) (Tables 2.1 and 3.1) for ozone, chlorine dioxide, and chloramine. (10-1-93)

iv. The total inactivation ratio shall be calculated as follows: (12-10-92)

(1) If the system applies disinfectant at only one (1) point, the system shall determine the total inactivation ratio by either of the two (2) following methods: (12-10-92)

(a) One inactivation ratio (CT<sub>calc</sub>/CT<sub>99.9</sub>) is determined at/or before the first customer during peak ~~hourly flow~~ demand; or (~~12-10-92~~)(    )

(b) Sequential inactivation ratios are calculated between the point of disinfectant application and a point at or before the first customer during peak ~~hourly flow~~ demand. The following method must be used to calculate the total inactivation ratio: (~~12-10-92~~)(    )

(i) Step 1: Determine (CT<sub>calc</sub>/CT<sub>99.9</sub>) for each sequence. (12-10-92)

(ii) Step 2: Add the (CT<sub>calc</sub>/CT<sub>99.9</sub>) values for all sequences. The result is the total inactivation ratio. (12-10-92)

(2) If the system uses more than one point of disinfectant application at or before the first customer, the system must determine the CT value of each disinfection sequence immediately prior to the next point of disinfectant

application during peak hourly flow demand. The sum of the (CT<sub>calc</sub>/CT<sub>99.9</sub>) values from all sequences is the total inactivation ratio. (CT<sub>calc</sub>/CT<sub>99.9</sub>) must be determined by the methods described in 40 CFR 141.74(b)(4)(i)(B).  
(12-10-92)( )

v. Log removal credit for disinfection shall be determined by multiplying the total inactivation ratio by three (3). (12-10-92)

vi. The Department may reduce the CT monitoring requirements specified under Section 300, for any system which demonstrates that the required inactivation levels are consistently exceeded. Reduced CT monitoring shall be allowed only where the reduction in monitoring will not endanger the health of consumers served by the water system. (12-10-92)

b. Residual disinfectant concentrations for ozone must be measured using the Indigo Method, or automated methods may be used if approved as provided for in 40 CFR 141.74(a)(5) and Subsection 300.05. Automated methods for ozone measurement must be approved by the Department. (4-6-05)

c. As provided for in 40 CFR 141.74(b), the Department may specify interim monitoring requirements for systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed. Until filtration is installed, systems shall conduct monitoring for turbidity and disinfectant residuals as follows unless otherwise specified by the Departments; (12-10-92)

i. Disinfectant residual concentrations entering the distribution system shall be measured at the following minimum frequencies, and samples must be taken at evenly spaced intervals throughout the workday.

Minimum Frequencies	
Population	Samples/day
Less than 500	1
501 - 1000	2
1,001 - 2,500	3
Greater than 2501	4

(12-10-92)

ii. Turbidity shall be measured at least once per day at the entry point to the distribution system. (12-10-92)

iii. The Department may, at its discretion, reduce the turbidity monitoring frequency for any noncommunity system which demonstrates to the satisfaction of the Department: (12-10-92)

(1) A free chlorine residual of two-tenths (0.2) part per million is maintained throughout the distribution system; (12-10-92)

(2) The water source is well protected; (12-10-92)

(3) The total coliform MCL is not exceeded; and (12-10-92)

(4) No significant health risk is present. (12-10-92)

d. The Department may allow systems with surface water sources or groundwater sources under the direct influence of surface water, to substitute continuous turbidity monitoring for grab sample monitoring as specified in 40 CFR 141.74(b)(2) and 40 CFR 141.74(c)(1) and Subsection 300.05. The Department may allow continuous turbidity monitoring provided the continuous turbidimeter is operated, maintained, standardized and calibrated per the manufacturers recommendations. For purposes of determining compliance with turbidity

performance criteria, discrete values must be recorded every four (4) hours water is supplied to the distribution system. (10-1-93)

**e.** The Department may allow systems using both a surface water source(s), or groundwater source(s) under the direct influence of surface water, and one (1) or more groundwater sources, to measure disinfectant residual at points other than the total coliform sampling points, as specified in 40 CFR 141.74(b)(6)(i) and 40 CFR 141.74(c)(3)(i) and Subsection 300.05. The Department may allow alternate sampling points provided the system submits an acceptable alternate monitoring plan to the Department in advance of the monitoring requirement. (10-1-93)

**f.** The Department may allow a reduced turbidity monitoring frequency for systems using slow sand filtration or technology other than conventional, direct, or diatomaceous earth filtration, as specified in 40 CFR 141.74(c)(1) and Subsection 300.05. To be considered for a reduced turbidity monitoring frequency, a system must submit a written request to the Department in advance of the monitoring requirement. (12-10-92)

**06. Reporting and Recordkeeping.** 40 CFR 141.75, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

**a.** As provided in 40 CFR 141.75(a), revised as of July 1, 2001, and Section 300, the Department may establish interim reporting requirements for systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed as specified in 40 CFR 141.75(a), revised as of July 1, 2001, and as referred to in Subsection 300.06. Until filtration treatment is installed, systems required to install filtration treatment shall report as follows: (3-15-02)

**i.** The purveyor shall immediately report to the Department via telephone or other equally rapid means, but no later than the end of the next business day, the following information: (12-10-92)

- (1) The occurrence of a waterborne disease outbreak potentially attributable to that water system; (12-10-92)
- (2) Any turbidity measurement which exceeds five (5) NTU; and (12-10-92)
- (3) Any result indicating that the disinfectant residual concentration entering the distribution system is below two-tenths (0.2) mg/l free chlorine. (12-10-92)

**ii.** The purveyor shall report to the Department within ten (10) days after the end of each month the system serves water to the public the following monitoring information using a Department-approved form: (12-10-92)

- (1) Turbidity monitoring information; and (12-10-92)
- (2) Disinfectant residual concentrations entering the distribution system. (12-10-92)

**iii.** Personnel qualified under Subsection 300.01 shall complete and sign the monthly report forms submitted to the Department as required in Subsection 300.06. (12-10-92)

**b.** In addition to the reporting requirements in 40 CFR 141.75(b), revised as of July 1, 2001, pertaining to systems with filtration treatment, each public water system which provides filtration treatment must report the level of *Giardia lamblia* and virus inactivation ~~and/or~~ removal achieved each day by filtration and disinfection. (3-15-02)( )

**07. Recycle Provisions.** 40 CFR 141.76, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

**a.** The Department shall evaluate recycling records kept by water systems pursuant to 40 CFR 141.76 during sanitary surveys, comprehensive performance evaluations, or other inspections. (5-3-03)

b. The Department may require a system to modify recycling practices if it can be shown that these practices adversely affect the ability of the system to meet surface water treatment requirements. (5-3-03)

**(BREAK IN CONTINUITY OF SECTIONS)**

**450. USE OF NON-CENTRALIZED TREATMENT DEVICES.**

**01. Point of Entry Devices.** 40 CFR 141.100, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

**02. Point of Use (POU) Treatment Devices.** (3-30-07)

a. A public water system may use point of use (POU) treatment in order to achieve compliance with certain maximum contaminant levels (MCL) or treatment techniques, in accordance with Subsection 450.02.b., when the following conditions are met: (3-30-07)

i. A program for long-term operation, maintenance, and monitoring of the POU treatment system is approved by the Department, pursuant to Section 450.02.d. (3-30-07)

ii. The public water system or a vendor of POU treatment devices under contract with the public water system shall own, control, and maintain the POU treatment system to ensure proper operation and maintenance and compliance with the MCL or treatment technique. (3-30-07)

iii. Each POU treatment device is equipped with a mechanical warning mechanism to ensure that customers are automatically notified of operational problems. (3-30-07)

iv. The POU treatment device must be certified by an accredited American National Standards Institute (ANSI) certification body to meet applicable ANSI/National Sanitation Foundation (NSF) Standards. (3-30-07)

b. POU treatment devices shall not be used to achieve compliance with a MCL or treatment technique requirement for a microbial contaminant or an indicator of a microbial contaminant. Community water systems may not use POU treatment devices to achieve compliance with a nitrate MCL. (3-30-07)

c. The Department will waive the Subsection 551.04 plan and specification requirements ~~as described in Subsection 551.04~~ relating to material modifications for the following systems only to ~~that the~~ extent that the material modification proposed is limited to the installation ~~and/or~~ use of a POU treatment device(s): ~~(3-30-07)( )~~

i. Community water systems serving two hundred (200) or fewer service connections. (3-30-07)

ii. Non-transient non-community water systems. (3-30-07)

iii. Transient non-community water systems. (3-30-07)

iv. Community water systems serving more than two hundred (200) service connections if approved by the Department through the waiver process outlined in Subsection 005.01.a. (3-30-07)

d. A public water system must obtain written approval by the Department before installation of a POU treatment device for the purpose of achieving compliance with a MCL or treatment technique. The public water system shall submit the following documentation for approval to the Department: (3-30-07)

i. Information identifying the public water system name and number, total number of service connections, contaminant(s) to be treated, type of POU treatment device to be installed, manufacturer and model



number of the POU treatment device, type and function of the mechanical warning mechanism (performance indicator) on the POU treatment device, certification verification for ANSI/NSF, installer qualifications, and a proposed date for installation of the POU treatment device(s). (3-30-07)

ii. The manufacturer's specifications for the POU treatment device including demonstration that the POU treatment device is suited for the water chemistry of the public water system and contaminant(s) of concern and is of sufficient design and capacity for the particular application. (3-30-07)

iii. Information relating to how other drinking water dispensing units, such as instant hot water dispensers and refrigerator water and ice dispensers, whose primary function is to provide drinking water, will be provided with treated water. If water is transported from a POU treatment device to another drinking water dispensing unit, the conducting tube shall be of non-reactive material. (3-30-07)

iv. For non-transient non-community water systems and transient non-community water systems, demonstration that the drinking water dispensing units are located in areas adequate to protect public health. (3-30-07)

v. Demonstration that all POU treatment devices are owned, controlled, and maintained by the public water system or by a vendor of POU treatment devices under contract with the public water system. (3-30-07)

vi. A sampling plan identifying the location of all service connections and demonstrating how the system will ensure that all POU treatment devices are sampled for compliance with the contaminant(s) being treated during every compliance period or at a frequency designated by the state. (3-30-07)

vii. Documentation that a customer at each service connection has agreed to installation and use of a POU treatment device and has granted access for installation, maintenance, and sampling. (3-30-07)

viii. A plan that describes how the public water system will address any non-compliance with Subsection 450.02.d.vii. (3-30-07)

ix. A maintenance plan that demonstrates how on-going maintenance activities will be performed and on what frequency, including: frequency of treatment media replacements, frequency of POU treatment device replacements, periodic verification that the mechanical warning device is functional, schedule of planned maintenance activities, plan of how the system will address unscheduled maintenance problems, and a plan and method of waste disposal. (3-30-07)

x. Documentation that the system meets the current requirements for a certified operator pursuant to Section 554. (3-30-07)

xi. A plan for on-going education and outreach to the customers of the public water system, including rental customers, on POU treatment and health effects of the contaminant(s) of concern. (3-30-07)

xii. A plan for how the system will ensure real estate disclosures for the POU treatment system. (3-30-07)

xiii. A statement of recognition that failure to maintain compliance with the MCL, or the failure to operate and maintain compliance with a POU treatment system as approved by the Department, may necessitate installation of centralized treatment. (3-30-07)

e. Within thirty (30) days of installing the approved POU treatment system, the public water system shall notify the Department in writing that the POU treatment system was installed as approved by the Department. (3-30-07)

f. Within thirty (30) days of installing the approved POU treatment system, the public water system shall submit samples from each POU treatment device to a certified laboratory for the contaminant(s) being treated by the POU treatment device. The samples shall be used to demonstrate initial compliance with the MCL. (3-30-07)

**g.** The water system owner or operator must maintain records for a POU treatment system. Records shall be submitted to the Department at a frequency and in a format specified by the Department. Records shall include: (3-30-07)

- i. Requirements of Subsection 450.02.d.; (3-30-07)
- ii. All sampling performed on the POU treatment devices; (3-30-07)
- iii. Maintenance logs and schedules; (3-30-07)
- iv. Log of installed units; and (3-30-07)
- v. Contracts, lease agreements, or other legal documents with vendors and consumers. (3-30-07)

**03. Use of Bottled Water.** 40 CFR 141.101, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**500. FACILITY AND DESIGN STANDARDS: DEMONSTRATION OF TECHNICAL, FINANCIAL, AND MANAGERIAL CAPACITY OF PUBLIC DRINKING WATER SYSTEMS.**

No person shall proceed, or cause to proceed, with construction of a new community or nontransient, noncommunity drinking water system until it has been demonstrated to the Department that the water system will have adequate technical, financial, and managerial capacity, as defined in Section 003 of these rules. With the exception of water sources, demonstration of capacity shall be submitted to the Department prior to or concurrent with the submittal of plans and specifications, as required in Section 39-118, Idaho Code, and Subsection 504.03 of these rules. Plans and specifications for water sources may be submitted to the Department prior to demonstration of capacity for the water system. The Department shall issue its approval of the new system capacity demonstration in writing.

~~(3-30-07)~~(\_\_\_\_)

**01. Technical Capacity.** In order to meet this requirement, the public water system shall submit documentation to demonstrate the following: (4-5-00)

**a.** The system meets the relevant design, construction, and operating requirements ~~through 552~~ *of Sections 501 through 552* of these rules; ~~(3-30-07)~~(\_\_\_\_)

- b.** The system has an adequate and consistent source of water; (4-5-00)
- c.** A plan is in place to protect the water source and deal with emergencies; (4-5-00)
- d.** A plan exists for replacement or improvement of infrastructure as necessary; and (4-5-00)

**e.** The system has trained personnel with an understanding of the technical and operational characteristics of the system. (5-3-03)

**02. Financial Capacity.** A demonstration of financial capacity must include but is not limited to the following information: (4-5-00)

**a.** Documentation that organizational and financial arrangements are adequate to construct and operate the public water system in accordance with these rules ~~(see Sections 501 through 552)~~. This information can be provided by submitting estimated construction, operation, and maintenance costs, letters of credit, or other access to financial capital through public or private sources and, if available, a certified financial statement;

~~(3-30-07)~~(\_\_\_\_)

**b.** Demonstration of revenue sufficiency, that includes but is not limited to billing and collection procedures; a proposed rate structure which ~~is affordable and ensures~~ demonstrates the availability of operating funds, revenues for depreciation and reserves, and the ability to accrue a capital replacement fund. A preliminary operating budget shall be provided; and (4-5-00)(\_\_\_\_)

**c.** Adequate fiscal controls must be demonstrated. (4-5-00)

**03. Managerial Capacity.** In order to demonstrate adequate managerial capacity, the owner ~~and/or~~ operator of a new drinking water system shall submit at least the following information to the Department: (4-5-00)(\_\_\_\_)

**a.** Clear documentation of legal ownership and any plans that may exist for transfer of that ownership ~~or upon~~ completion of construction or after a period of operation; (4-5-00)(\_\_\_\_)

**b.** The name, address, and telephone number of the person who will be accountable for ensuring that the water system is in compliance with these rules; (4-5-00)

**c.** The name, address, and telephone number of the ~~system~~ responsible charge operator; (4-5-00)(\_\_\_\_)

**d.** A description of the manner in which the water system will be managed. Information such as By-laws, restrictive covenants, articles of incorporation, or procedures and policy manuals which describe the management organizational structure ~~are a means of shall be provided~~ ed this information; (4-5-00)(\_\_\_\_)

**e.** A ~~description~~ recommendation of staffing ~~should be provided~~ qualifications, including training, experience, certification or licensing, and continuing education ~~completed by the water system staff~~; (4-5-00)(\_\_\_\_)

**f.** An explanation of how the water system will establish and maintain effective communications and relationships between the water system management, its customers, professional service providers, and any applicable regulatory agencies; and (4-5-00)

**g.** Evidence of planning for future growth, equipment repair and maintenance, and long term replacement of system components. (4-5-00)

**04. Submittal Form.** The Department shall provide a standard form to be used in preparing a new system capacity demonstration. The submittal form and general guidance on how to prepare a new system capacity document is provided in, "How to Demonstrate Financial, Technical, and Managerial Capacity in New Public Water Systems." This document may be requested from the Department and is available at [http://www.deq.idaho.gov/water/assist\\_business/pws/publications.cfm](http://www.deq.idaho.gov/water/assist_business/pws/publications.cfm). (4-5-00)(\_\_\_\_)

**05. Expanding Systems.** A public water system which comes into existence as a result of growth in population or number of service connections within a previously unregulated system will be considered a new system under these rules and is subject to all design, construction and operating requirements herein. (4-5-00)

**06. Consolidation.** In demonstrating new system capacity, the owner of the proposed new system must investigate the feasibility of obtaining water service from an established public water system. If such service is available, but the owner elects to proceed with an independent system, the owner must explain why this choice is in the public interest in terms of environmental protection, affordability to water users, and protection of public health. (4-5-00)

**07. Exclusion.** New public water systems which are public utilities as defined in Sections 61-104 (Corporation), 61-124 (Water System), 61-125 (Water Corporation), and 61-129 (Public Utility), Idaho Code, must meet the regulatory requirements of the Idaho Public Utilities Commission (IPUC) in Chapter 1, Title 61, Idaho Code, Public Utilities Law, and IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission." Such water systems will not be required to meet any requirements of this Section which are in conflict with the provisions and requirements of the IPUC. (4-5-00)

**501. FACILITY AND DESIGN STANDARDS: GENERAL DESIGN REQUIREMENTS FOR PUBLIC DRINKING WATER SYSTEMS.**

Unless otherwise specified by the Department, the design of new drinking water systems, or modifications to existing, public drinking water systems, shall be in conformance with the facility and design standards set forth in Sections 006 and 500 through 552 of these rules. The following general design requirements shall apply as applicable for the type of water system and the treatment or other processes employed. (3-30-07)

**01. Materials Used in Construction.** ~~Unless otherwise authorized by the Department on a site-specific basis, materials~~ Products that are used to construct public drinking water systems and have water contact surfaces shall conform to applicable AWWA standards and ~~or~~ be certified by an accredited ANSI certification body to meet applicable ANSI/NSF standards 53 and 61, referenced in Subsection 002.02, where products meeting such AWWA and ANSI/NSF standards exist. In the absence of such products, products meeting applicable product standards and acceptable to the reviewing authority may be selected. Corrosion control shall be taken into account during all aspects of public water system design. (3-30-07)(\_\_\_\_)

**02. Additives Used in Operation.** No chemical or other substance shall be added to drinking water, nor shall any process be utilized to treat drinking water, unless specifically approved by the Department. All chemicals shall conform to applicable AWWA standards and be certified by an accredited ANSI certification body to meet ANSI/NSF Standard 60, referenced in Subsection 002.02. (3-30-07)

**03. Design Basis.** The system, including the water source and treatment facilities, shall be designed to provide either peak hour demand of the system or ~~peak daily pumping~~ maximum day demand plus equalization storage at the design year. (3-30-07)(\_\_\_\_)

- 04. Design of Treatment Facilities.** Design of treatment facilities shall address: (3-30-07)
- a. Functional aspects of facility layout and provisions for future facility expansion; (3-30-07)
  - b. Provision for expansion of waste treatment and disposal facilities; (3-30-07)
  - c. Roads constructed to provide year-round access by vehicles and equipment needed for repair and maintenance; (3-30-07)
  - d. Site grading and drainage; and (3-30-07)
  - e. Chemical delivery. (3-30-07)

- 05. Design of Buildings.** The design of buildings that are a part of public drinking water systems shall provide for: (3-30-07)
- a. Adequate ventilation, lighting, heating, and air conditioning; (3-30-07)
  - b. Adequate drainage; (3-30-07)
  - c. Dehumidification equipment, if necessary; (3-30-07)
  - d. Accessibility of equipment for operation, servicing, and removal; (3-30-07)
  - e. Flexibility and convenience of operation and safety of operators; and (3-30-07)
  - f. Separate room(s) for chemical storage and feed equipment ~~to reduce~~ that may be required based on type of chemicals and associated hazards and dust problems. (3-30-07)(\_\_\_\_)

**06. Electrical.** Main switch gear electrical controls shall be located above grade, in areas not subject to flooding. All electrical work shall conform to the requirements of the National Electrical Code or to relevant state/~~and/or~~ local codes. The National Electrical Code is available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, (617)770-3000, <http://www.nfpa.org>. (3-30-07)(\_\_\_\_)

**07. Reliability and Emergency Operation.** New community water systems constructed after April 15, 2007 are required to have sufficient dedicated on-site standby power, with automatic switch-over capability, ~~and~~ or standby storage so that water may be treated and supplied to pressurize the entire distribution system during power outages. During a power outage, the water system shall be able to meet the operating pressure requirements of Subsection 552.01.b. for a minimum of eight (8) hours at average day demand plus fire flow where provided. A minimum of eight (8) hours of fuel storage shall be located on site unless an equivalent plan is authorized by the Department. Standby power provided in a public drinking water system shall be coordinated with the standby power that is provided in the wastewater collection and treatment system. (3-30-07)(\_\_\_\_)

**a.** The Department may require the installation of standby power or storage facilities in existing systems if the frequency and duration of power outages a system experiences constitute a health hazard. (3-30-07)

**b.** Existing community public water systems that are substantially modified after April 15, 2007 shall meet the requirements of Subsection 501.07. in those portions of the system affected by the modifications. (3-30-07)

~~*i. For the purposes of Subsection 501.07., the Department shall consider a system to be substantially modified when there is a combined increase of twenty five percent (25%) or more above the system's existing configuration in the following factors:*~~ (3-30-07)

~~(1) Population served or number of service connections. (3-30-07)~~

~~(2) Total length of transmission and distribution water mains. (3-30-07)~~

~~(3) Peak or average water demand per connection. (3-30-07)~~

**ii.** New sources and booster pumps intended to increase system capacity shall be provided with standby power or equivalent. (3-30-07)

**ed.** For both new and existing public water systems, the Department may reduce the requirements of Subsection 501.07 if the system can demonstrate the capacity to adequately protect public health during a power outage. Any decision by the Department will be based on, but not limited to, the following considerations: (3-30-07)

**i.** An adequate emergency response and operation plan and the capacity to implement that plan. (3-30-07)

**ii.** The adequacy of the system's cross connection control program and the capacity to protect public health in the event of a system wide depressurization. (3-30-07)

**iii.** Demonstration of historical and projected reliability of the electrical power supplied to the water system. (3-30-07)

**iv.** A strategy for providing information to the public during power outages, including instructions to stop irrigation, boil water, etc., until notified otherwise. (3-30-07)

**v.** The level of reliability acceptable to consumers. This can be accomplished with either a vote of the majority of consumers for privately owned and operated systems or a decision by the governing body for publicly governed systems. (3-30-07)

**vi.** Other considerations that may be pertinent, including connections to other public water systems, agreements to provide water in emergency situations, and the availability of dedicated portable auxiliary power. (3-30-07)

**08. On-Site Analysis and Testing Capabilities.** Each public water system shall have equipment and facilities for routine testing necessary to ensure proper operation. Equipment selection shall be based on the characteristics of the raw water source and the complexity of the treatment process involved. (3-30-07)

**09. Sample Taps.** Sample taps shall be provided so that water samples can be obtained from each water source and from appropriate locations in each unit operation of treatment, and from the finished water. Taps shall be consistent with sampling needs and shall not be of the petcock type. Taps owned by the water system and used for obtaining samples for bacteriological analysis shall be of the smooth-nosed type without interior or exterior threads, shall not be of the mixing type, and shall not have a screen, aerator, or other such appurtenance. (3-30-07)

**10. Facility Potable Water Supply.** The facility water supply service line and the plant finished water sample tap shall be supplied from a source of finished water at a point where all chemicals have been thoroughly mixed, and the required disinfectant contact time, if applicable, has been achieved. There shall be no cross connections between the facility water supply service line and any piping, troughs, tanks, or other treatment units containing wastewater, treatment chemicals, raw or partially treated water. (3-30-07)

**11. Meters.** All water supplies shall have an acceptable means of measuring the flow from each source, the wash water, the recycled water, any blended water of different quality, and the finished water. (3-30-07)

**12. Operation and Maintenance Manual.** An operation and maintenance manual or manuals shall be provided for all public water systems. The manual shall include, but is not limited to, the following contents: daily operating instructions, operator safety procedures, location of valves and other key system features, parts list and parts order form, and information for contacting the water system operator. An operational trouble-shooting section shall be supplied to the water works as part of any proprietary unit installed in system facilities. (3-30-07)

**13. Start-Up Training.** Provisions shall be made for operator instruction at the start-up of a new plant or pumping station. (3-30-07)

**14. Safety.** Consideration shall be given to the protection of maintenance personnel and visitors from typical and foreseeable hazards in accordance with the engineering standards of care. The design shall comply with all applicable safety codes and regulations that may include the Uniform Building Code, Uniform Fire Code, National Fire Protection Association Standards, and state and federal OSHA standards. Items to be considered include, but are not limited to, noise arresters, noise protection, confined space entry, protective equipment and clothing, gas masks, safety showers and eye washes, handrails and guards, warning signs, smoke detectors, toxic gas detectors and fire extinguishers. (3-30-07)

**15. Security.** Appropriate design measures to help ensure the security of water system facilities shall be incorporated. Such measures, at a minimum, shall include means to lock all exterior doorways, windows, gates and other entrances to source, treatment, pumping stations, and water storage facilities. (3-30-07)

**16. Other Regulations.** Consideration must be given to the design requirements of other federal, state, and local regulatory agencies for items such as safety requirements, special designs for the handicapped, plumbing and electrical codes, and construction in the flood plain. (3-30-07)

**17. Ground Water Source Redundancy.** New community water systems served by ground water shall have a minimum of two (2) sources if they are intended to serve more than twenty-five (25) connections or equivalent dwelling units (EDUs). Under normal operating conditions, with any source out of service, the remaining source(s) shall be capable of providing either the peak hour demand of the system or a minimum of the maximum day demand plus equalization storage. See Subsection 501.18 for general design and redundancy requirements concerning fire flow capacity. ( )

**178. Redundant Fire Flow Capacity.** (3-30-07)

**a.** Public water systems that provide fire flow shall be designed to provide maximum day demand plus fire flow *instead of peak hour demand plus fire flow. This allowance is made because distribution pressures can be expected to fall during a fire event and overall demand would be less than peak hour.* Pumping systems supporting fire flow capacity must be designed so that fire flow may be provided with ~~the largest~~ any pump out of service. (3-30-07)( )

**b.** The requirement for redundant pumping capacity specified in Subsection 501.178.a. may be reduced to the extent that fire suppression storage is provided in sufficient quantity to meet some or all of fire flow

demands. Where fire suppression storage is not provided, the requirement for fire flow pumping redundancy may be reduced or eliminated if the following conditions are met: (3-30-07)(\_\_\_\_)

i. The local fire authority states in writing that the fire flow capacity of the system is acceptable and is compatible with the water demand of existing and planned fire fighting equipment and fire fighting practices in the area served by the system. (3-30-07)

ii. In a manner appropriate to the system type and situation, positive notification is provided to customers that describes the design of the system's fire fighting capability and explains how it differs from the requirements of Subsection 501.178.a. The notice shall indicate that the local fire authority has provided written acceptance of the system's fire flow capacity. (3-30-07)(\_\_\_\_)

**502. FACILITY AND DESIGN STANDARDS: FACILITY PLANS.**

See the definition of Facility Plan in Section 003.

(3-30-07)

**01. Facility Plans Required.** All new public drinking water systems, and existing public drinking water systems undergoing material modification or expansion, are required to have a current facility plan that shall address all applicable issues specifically required in Sections 500 through 552 of these rules including, but not limited to, hydraulic capacity, treatment capacity, standby power, redundancy, fire flows, project financing, and operation and maintenance considerations sufficiently to determine the effects of the project on the overall infrastructure. ~~Material modification or expansion that requires a facility plan includes upgraded, or rehabilitated public drinking water system facilities.~~ Facility plans must address the entire potential service area of the project. Facility plans ~~are~~ may not be required for ~~minor or routine distribution system~~ simple water main extension projects as detailed in Subsections 502.01.a. and 502.01.b. Determination of projects that are considered to be minor or routine shall be made by the Department based on a review of the owner's recommendations and accompanying rationale. (3-30-07)(\_\_\_\_)

**a.** Department-reviewed simple water main extension projects. A facility plan is not required if the Department is provided documentation supporting the ability of the purveyor to provide service for the simple water main extension without adding system components designed to control quantity or pressure to the system and while continuing to provide the pressure and quantity requirements of Subsection 552.01. Documentation may be in the form of: (\_\_\_\_)

i. Hydraulic modeling; (\_\_\_\_)

ii. Usage data and flow calculations; (\_\_\_\_)

iii. Declining balance reports that demonstrate the system has the capacity to supply the service area of the system served by the extension; or (\_\_\_\_)

iv. Other documentation acceptable to the Department. (\_\_\_\_)

**b.** Qualified Licensed Professional Engineer (QLPE)-reviewed Simple Water Main Extension Projects. A Department-approved facility plan is not required to be in place prior to the QLPE approving a simple water main extension pursuant to Subsection 504.03.b., provided that the service area of the system served by the extension is in compliance with the facility and design standards in Sections 500 through 552 of these rules. If the Department has not approved a facility plan for the system which includes the proposed simple water main extension, then the system purveyor or the QLPE shall provide with the transmittal letter documentation supporting the ability of the purveyor to provide service for the simple water main extension without adding system components designed to control quantity or pressure to the system and while continuing to provide the pressure and quantity requirements of Subsection 552.01. The purveyor shall provide this documentation to the QLPE as necessary. Documentation may be in the form of: (\_\_\_\_)

i. Hydraulic modeling; (\_\_\_\_)

ii. Usage data and flow calculations; (\_\_\_\_)

iii. Declining balance reports that demonstrate the system has the capacity to supply the service area of

the system served by the extension; or ( )

iv. Other documentation acceptable to the Department. ( )

**02. Submittal to the Department.** When required, ~~Facility plans shall be submitted to the Department for review and approval prior to the submission of plans and specifications for a project related to the facility plan. *In the case of water main extensions reviewed by a qualified Idaho licensed professional engineer pursuant to Subsection 504.03.b., an updated facility plan shall be submitted to the Department for review and approval unless the reviewing authority already has a Department approved facility plan in his possession.*~~ (3-30-07)( )

**03. ~~Facility Plan Contents.~~** ~~The facility plan must include sufficient detail to demonstrate that the proposed project meets applicable criteria. The facility plan generally addresses the overall system wide plan. The facility plan shall identify and evaluate problems related to the drinking water system; assemble basic information; present criteria and assumptions; examine alternative solutions with preliminary layouts and cost estimates; describe financing methods; set forth anticipated charges for users; review organizational and staffing requirements; offer a conclusion with a proposed project for client consideration; and outline official actions and procedures to implement the project. If the project is funded by the state revolving fund or a grant, other requirements may also apply. See IDAPA 58.01.20, "Rules for Administration of Drinking Water Loan Program," and IDAPA 58.01.22, "Rules for Administration of Planning Grants for Public Drinking Water Facilities." A checklist, which can be used as guidance, can be found at [http://www.deq.idaho.gov/water/permits\\_forms/forms/drinking\\_water/form\\_i\\_report\\_checklist.pdf](http://www.deq.idaho.gov/water/permits_forms/forms/drinking_water/form_i_report_checklist.pdf). The guidance document is for Department grant and loan projects, but may be used in part or in whole as a guide to assist in the development of a facility plan for any proposed project. **Engineer's Seal Required.** Facility plans submitted to the Department shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer.~~ (3-30-07)( )

**04. ~~Engineer's Seal Required.~~** ~~Facility plans submitted to the Department shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. **Facility Plan Contents.** The facility plan shall include basic information, criteria and assumptions, and alternative solutions with preliminary layouts and cost estimates as applicable. The facility plan is intended to address system wide growth, to identify system deficiencies, and to lay out a plan for system upgrades and expansion.~~ (3-30-07)( )

**a.** New public water system facility plan. The minimum requirements for a facility plan for a new public water system are listed in Subsections 502.04.a.i. through 502.04.a.viii. If specific items listed in Subsections 502.04.a.i. through 502.04.a.viii. are not applicable to a particular system, then the submitting engineer shall state this in the facility plan and state the reason why the requirement is not applicable. The facility plan must also include sufficient detail to support applicable requirements of Sections 501 through 552. ( )

i. Location. A general description and location of the system. ( )

ii. Population. The estimated design population of the system including the number of connections and the number of EDUs proposed. ( )

iii. Sources of Water. Adequacy, quality, and availability of sources of water for potable use and a description of the non-potable irrigation system. ( )

iv. Treatment. Identify and describe any anticipated treatment. ( )

v. Water Quantity. Design data for domestic, irrigation, fire fighting, commercial, or industrial water uses, including peak hour, maximum day, and average day demands. ( )

vi. Storage. Include the size and location of any anticipated storage structures. ( )

vii. Operating Pressure. Pressure ranges for all flow conditions prescribed by these rules. ( )

viii. Sewage. Describe the sewage collection system and sewage treatment works, with reference to their relationship to existing or proposed water works structures which may affect the operation of the water supply



system, or which may affect the quality of the supply. ( )

**b.** Existing public water system facility plan. The minimum requirements for a facility plan for an existing public water system must include Subsections 502.04.b.i. through 502.04.b.vii. as well as Subsections 502.04.a.i. through 502.04.a.viii. If specific items listed in Subsections 502.04.b.i. through 502.04.b.vii. or Subsections 502.04.a.i. through 502.04.a.viii. are not applicable to a particular facility plan, then the submitting engineer shall state this in the facility plan and state the reason why the requirement is not applicable. The facility plan must also include sufficient detail to support applicable requirements of Sections 501 through 552. ( )

**i.** Hydraulic analysis. A computer analysis of the hydraulics of the distribution system if requested by the Department; any analysis of an existing distribution system shall be properly calibrated. The type or sophistication of analysis shall be dependent on the type of system. ( )

**ii.** Identify and evaluate problems related to the drinking water system. ( )

**iii.** Describe financing methods. ( )

**iv.** Set forth anticipated charges for users. ( )

**v.** Review organizational and staffing requirements. ( )

**vi.** Offer a project(s) recommendation for client consideration. ( )

**vii.** Outline official actions and procedures to implement the project. ( )

**c.** **Public Water System Facility Plan funded by the State Revolving Fund.** If the project is funded by the state revolving fund or a state grant, the facility plan must meet the requirements of Subsections 502.04.a. and 502.04.b., and other requirements that may also apply. See IDAPA 58.01.20, "Rules for Administration of Drinking Water Loan Program," and IDAPA 58.01.22, "Rules for Administration of Planning Grants for Public Drinking Water Facilities." ( )

**d.** **Facility Plan Guidance.** A checklist, which can be used as guidance, can be found at [http://www.deq.idaho.gov/water/permits/forms/drinking\\_water/form\\_i\\_report\\_checklist.pdf](http://www.deq.idaho.gov/water/permits/forms/drinking_water/form_i_report_checklist.pdf). The guidance document is for Department grant and loan projects, but may be used in part or in whole as a guide to assist in the development of any facility plan. ( )

### 503. FACILITY AND DESIGN STANDARDS: PRELIMINARY ENGINEERING REPORTS.

See the definition of Preliminary Engineering Report in Section 003. ~~For all new water systems or material modifications to existing water systems, a preliminary engineering report shall be submitted to the Department for review and approval, or other reviewing authority in the case of water main extensions, prior to the submittal of plans and specifications as required in Subsection 504.03. Preliminary engineering reports are not required for minor or routine distribution system projects designed under a facility plan. This report shall provide the following:~~ Preliminary engineering reports are required for all new water systems or material modifications to existing water systems that require plan and specification review and approval pursuant to Subsection 504.03. Preliminary engineering reports must be completed for all major water system projects including, but not limited to, source, pump station, pressure control, storage, and treatment projects. Preliminary engineering reports are not required for simple water main extensions that are approved in accordance with Subsections 502.01.a. or 502.01.b. (3-30-07)( )

**01.** **Submittal to Reviewing Authority.** Preliminary engineering reports shall be submitted to the Department for review and must be approved by the Department prior to the submission of plans and specifications. The Department may allow well construction plans and specifications to be submitted concurrently with a preliminary engineering report for these projects. ( )

**042.** **Engineer's Seal Required.** Preliminary engineering reports submitted to the Department shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. The Department will accept the seal of an Idaho licensed professional geologist on preliminary reports for well source, spring source, or infiltration gallery site reports, and for well construction. (3-30-07)( )

- 02.** Location. A general description and location of the project. (3-30-07)
- 03.** Population. ~~The estimated design population of the project.~~ **Preliminary Engineering Report Contents.** The preliminary engineering report must include sufficient detail to demonstrate the proposed project meets applicable criteria. The items included in Subsections 503.03.a. through 503.03.p., and all applicable issues and items specifically required in Sections 500 through 552, shall be addressed in detail. As applicable, a preliminary engineering report shall also identify and evaluate drinking water related problems, assemble basic information, present criteria and assumptions, examine alternative solutions with preliminary layouts and cost estimates, offer a conclusion with a proposed project, and outline official actions and procedures to implement the project. If specific items in Subsections 503.03.a. through 503.03.p. are not applicable to a particular design, then the designer shall state this in the preliminary engineering report and state the reason why it is not applicable. Items adequately addressed in the facility plan under which the project is being designed may be addressed by reference for purposes of the preliminary engineering report. (3-30-07)(\_\_\_\_)
- a.** Existing System. A general description of the existing system. (\_\_\_\_)
- b.** Location. A general description and location of the project. (\_\_\_\_)
- c.** Size. The estimated system size based on number of persons, number of connections, or number of EDUs served or impacted by the project. (\_\_\_\_)
- 04d.** Water Quantity. Design data for domestic, irrigation, fire fighting, commercial and industrial water uses, including peak hourly, ~~peak daily~~ maximum day, and average day demands. (3-30-07)(\_\_\_\_)
- 05e.** Storage. Storage requirements. (3-30-07)
- 06f.** Operating Pressure. Pressure ranges for ~~normal and peak~~ all flow conditions prescribed by these rules. (3-30-07)(\_\_\_\_)
- 07g.** Hydraulic Analysis. A computer analysis of the hydraulics of the distribution system if requested by the Department; any analysis of an existing distribution system shall be properly calibrated. The type and/or sophistication of analysis shall be dependent on the type of system. (3-30-07)(\_\_\_\_)
- 08h.** Sources of Water. Adequacy, quality and availability of sources of water. A water system that is to be served by a separate non-potable irrigation system must provide documentation ~~of legal water rights and~~ to demonstrate the actual availability of water in sufficient quantity to ensure that the irrigation system will not compete with or in any way diminish the source of water for the potable water system. (3-30-07)(\_\_\_\_)
- 09i.** Sewage. Describe the sewage collection system and sewage treatment works, with special reference to their relationship to existing or proposed water works structures which may affect the operation of the water supply system, or which may affect the quality of the supply. (3-30-07)
- 10j.** Treatment Wastes. Characterize the various wastes from the water treatment processes and, if applicable, their volumes, constituents, and proposed treatment and disposal. If discharging to a sanitary sewage system, verify that the system is capable of handling the flow to the treatment works and that the treatment works is capable and willing to accept the additional loading. (3-30-07)
- k.** Monitoring Results. Unless unobtainable, as in the case of a ground water source for a new public water system, monitoring results shall be included for any project that adds capacity, treatment, or has the potential to affect the water quality of the existing system. (\_\_\_\_)
- 11i.** ~~Monitoring Results—~~ Community Systems. Results of analysis for total coliform, inorganic chemical contaminants, organic chemicals, and radionuclide contaminants set forth in Subsections 050.01, 050.02, 050.05, 100.01, 100.03, 100.04, 100.05, and 100.06, unless analysis is waived pursuant to Subsection 100.07. (3-30-07)(\_\_\_\_)

~~12~~ii. ~~Monitoring Results~~— Nontransient noncommunity systems. Results of analysis for total coliform and inorganic and organic chemical contaminants listed in Subsections 050.01, 050.02, 100.01, 100.03, 100.04, unless analysis is waived pursuant to Subsection 100.07. (3-30-07)(\_\_\_\_)

~~13~~iii. ~~Monitoring Results~~— Transient noncommunity systems. Results of a total coliform, nitrite, and nitrate analysis listed in Subsections 050.01, 100.01 and 100.03. (3-30-07)(\_\_\_\_)

~~14~~iv. Turbidity. For any system supplied by surface water or groundwater under the direct influence of surface water, results of turbidity analysis listed in Subsection 100.02. (3-30-07)

~~15.~~ ~~Evaluation of Surface Water Influence.~~ *For all new ground water sources, including but not limited to wells, springs, and infiltration galleries, systems shall supply information as required by the Department to determine if these sources are under the direct influence of surface water. This requirement shall also apply to any existing ground water source that is found to be at risk of surface water influence during a field survey conducted by the Department.* (3-30-07)

~~16~~i. Potential contamination. Identify sources of contamination near proposed sources of water and describe how the sources will be protected. (3-30-07)

~~17~~m. Flooding. Mechanisms for protection of the system from flooding. (3-30-07)

~~18~~n. Additional information - Surface water. In addition to the items listed in Subsections 503.043.a. through 503.4703.m., the following information must be provided for proposed surface water sources and ground water sources under the direct influence of surface water: (3-30-07)

~~a~~i. Hydrological and historical stream flow data. (3-30-07)

~~b~~ii. A copy of the ~~water right(s)~~ appropriate permit(s) or application(s) from the Idaho Department of Water Resources regarding authorization to appropriate public waters of the state of Idaho in sufficient quantity to meet the design requirements of the system. (3-30-07)(\_\_\_\_)

~~e~~iii. Anticipated turbidity ranges, high and low. (3-30-07)

~~d~~iv. Treatment selection process and alternative evaluations. (3-30-07)

~~e~~v. Assessment of the degree of control the water system will be able to exercise over the watershed. (3-30-07)

~~f~~vi. Projected future uses of impoundments or reservoirs within the watershed. (3-30-07)

~~g~~vii. Assess degree of hazard to the supply by agricultural, industrial, recreational, and residential activities in the watershed, and by accidental spillage of materials that may be toxic, harmful or detrimental to treatment processes. (3-30-07)

~~h~~viii. Assess all waste discharges and activities that could impact the water supply. The location of each waste discharge shall be shown on a scale map. (3-30-07)

~~i~~x. Obtain source water samples over a sufficient period of time to assess the microbiological, physical, chemical and radiological characteristics of the water. (3-30-07)

~~j~~x. Consideration of currents, wind and ice conditions, and the effect of confluent streams. (3-30-07)

~~19~~o. Additional Information - Ground Water. (3-30-07)

~~a-~~ In addition to the items listed in Subsections 503.043.a. through 503.4703.m., the following information must be provided for a proposed ground water source: (3-30-07)(\_\_\_\_)

- i. A site evaluation report as required in Section 510 for wells and Section 514 for springs. (3-30-07)
- ii. Dimensions of the well lot and location of source. Include geographical coordinates of the source location. (3-30-07)
- iii. Underground geological data and existing well logs. (3-30-07)
- ~~bi~~iv. If the water is to be treated, summarize the adequacy of proposed processes and unit parameters for the treatment of the specific water. Bench scale testing, pilot studies, or demonstrations of treatment adequacy may be required. (3-30-07)

~~ev~~. A copy of the ~~water right(s)~~ appropriate permit(s) or application(s) from the Idaho Department of Water Resources regarding authorization to appropriate public waters of the state of Idaho in sufficient quantity to meet the design requirements of the system. (3-30-07)

~~vi~~. Evaluation of surface water influence. For all new ground water sources, including but not limited to wells, springs, and infiltration galleries, systems shall supply information as required by the Department to determine if these sources are under the direct influence of surface water. This requirement shall also apply to any existing ground water source that is found to be at risk of surface water influence during a field survey conducted by the Department. ( )

~~20p~~. Soils and ground water levels. Generally discuss soil, ground water conditions, and potential building foundation problems, including a description of: (3-30-07)

~~ei~~. The character of the soil through which water mains are to be laid. (3-30-07)

~~bii~~. Characteristics of the soil, water table, and geological substrate that may affect the design and construction of the foundations of proposed structures. (3-30-07)

~~eiii~~. The approximate elevation of ground water in relation to subsurface structures. (3-30-07)

**504. FACILITY AND DESIGN STANDARDS: REVIEW OF PLANS AND SPECIFICATIONS.**

The facility and design standards set forth in these rules shall be applied in the review of plans and specifications for public water system facilities. If design issues are not addressed by the facility and design standards set out in these rules, then guidance documents, some of which are listed in Subsection 002.02., shall be used as guidance in the design and review of plans and specifications for public drinking water facilities. See also Section 013. (3-30-07)

**01. Ownership.** Documentation of the ownership and responsibility for operating the proposed system shall be made available to the Department prior to or concurrent with the submittal of plans and specifications as required in Subsection 504.03. The documentation must show organization and financial arrangements adequate to assure construction, operation and maintenance of the system according to these rules. Documentation shall also include the name of the water system, the name, address, and phone number of the supplier of water, the system size, and the name, address, and phone number of the system operator. (3-30-07)

**02. Connection to an Existing System.** If the proposed project is to be connected to an existing public water system, a letter from the purveyor must be submitted to the Department stating that the purveyor will be able to provide services to the proposed project. The Department may require documentation supporting the ability of the purveyor to provide service to the new system without diminishing quality of service to existing customers. This letter must be submitted prior to or concurrent with the submittal of plans and specifications as required in Subsection 504.03. (3-30-07)

**03. Plans and Specifications Required.** (3-30-07)

**a.** Prior to construction of new public drinking water systems, new drinking water systems designed to serve ten (10) or more service connections, or material modifications of existing public water systems, plans and specifications must be submitted to the Department for review and approval. If construction does not commence within twelve (12) months of the Department's final approval, the Department may require re-submittal of all or part

of the plans and specifications.

(3-30-07)

**b.** Plans and specifications for simple water main extensions shall not require pre-construction approval by the Department when such extensions will be owned and operated by a city, county, quasi-municipal corporation or regulated public utility, provided that such plans and specifications are reviewed and approved by a qualified Idaho licensed professional engineer QLPE who was not involved in the preparation of the plans and specifications being reviewed to verify compliance with the requirements of these rules prior to initiation of construction. Any plans and specifications approved pursuant to Subsection 504.03.b. shall be transmitted to the Department at the time construction is authorized along with a statement that the plans comply with the requirements of these rules and that construction has been authorized by the city, county, quasi-municipal corporation or regulated public utility that will own and operate the system and shall be marked or stamped as "Approved for Construction." Along with the plans and specifications, the transmittal must include the items listed in Subsections 504.03.b.i. through 504.03.b.vii. The plans and specifications must be sealed, signed, and dated by the professional engineer in responsible charge of their preparation, and the approval or transmittal letter must be sealed, signed, and dated by the QLPE that is approving the plans and specifications. (3-30-07)( )

**i.** A statement that the author of the transmittal letter is the QLPE representing the city, county, quasi-municipal corporation or regulated public entity. ( )

**ii.** A statement that the extension project complies with the current facility plan or preliminary engineering report, or a statement that the water system has adequate capacity. Please see Subsection 502.01.a. for further information. ( )

**iii.** A statement from the city, county, quasi-municipal corporation or regulated public entity or its authorized agent that the water system purveyor will serve the project. ( )

**iv.** A statement from the city, county, quasi-municipal corporation or regulated public entity or its authorized agent that the water system purveyor will own and operate the project after construction is complete. ( )

**v.** A statement by the QLPE that the plans and specifications are approved for construction. ( )

**vi.** A statement by the QLPE that the plans and specifications comply with the facility standards within these rules. ( )

**vii.** A statement recommending whether sanitary restrictions can be released or should remain in force. ( )

**c.** Subsections 504.03.c.i. through 504.03.c.vi. outline the projects which QLPEs may approve and which QLPEs may not approve. ( )

**i.** A QLPE may approve plans and specifications for simple water main extensions that are able to connect to an existing water system owned by a city, county, quasi-municipal corporation, or regulated public utility at the time the extension is approved for construction by the QLPE. ( )

**ii.** A QLPE may approve plans for simple water main extensions which will connect to an existing water system, but are unable to connect to the system at the time the extension is approved for construction by the QLPE, provided sanitary restrictions remain in force for the proposed extension. ( )

**iii.** A QLPE may not approve plans and specifications which include mechanical systems such as booster stations. ( )

**iv.** A QLPE may not approve plans and specifications for projects which the QLPE was the design engineer or otherwise involved in the design. ( )

**v.** A QLPE employed by a city, county, quasi-municipal corporation, or regulated public utility may approve a design that was prepared by a subordinate engineer or an engineer from a separate design group within the

city, county, quasi-municipal corporation, or regulated public utility. ( )

vi. A QLPE who is not employed by a city, county, quasi-municipal corporation, or regulated public utility, but is retained by a city, county, quasi-municipal corporation, or regulated public utility for the purpose of plan and specification review may not approve projects designed by the company with which the QLPE is employed. ( )

**ed.** At the discretion of the city, county, quasi-municipal corporation or regulated public utility, the plans addressed by Subsection 504.03.b. may be referred to the Department for review and approval prior to initiation of construction. (3-30-07)

**de.** New or updated operation and maintenance manual or manuals, as required in Subsection 501.12, shall be submitted to the Department for review and approval prior to start-up of the new or modified public water system. (3-30-07)

**04. Criteria for Review.** The Department shall review plans and specifications to determine compliance with these rules and engineering standards of care. If the plans and specifications comply with these rules and engineering standards of care, the Department shall not substitute its judgment for that of the owner's design engineer concerning the manner of compliance with the rule. (3-30-07)

**05. Schedule for Review.** The Department shall review plans and specifications and endeavor to resolve design issues within forty-two (42) calendar days of submittal such that approval can be granted. If the Department and applicant have not resolved design issues within forty-two (42) calendar days or at any time thereafter, the applicant may file a written demand to the Department for a decision. Upon receipt of such written demand, the Department shall deliver a written decision to the applicant within no more than seven (7) calendar days explaining any reasons for disapproval. The Department shall maintain records of all written demands for decision made pursuant to Subsection 504.05 with such records including the final decision rendered and the timeliness thereof. (3-30-07)

**06. Engineer's Seal Required.** Plans and specifications submitted to the department shall bear the imprint of an Idaho licensed professional engineer's seal; except that the Department will accept the seal of an Idaho licensed professional geologist on the following: (3-30-07)

**a.** Well source, spring source, or infiltration gallery site evaluation reports, as specified in Subsections 510 and 514. (3-30-07)

**b.** Plans and specifications for well construction and results of field inspection and testing, as specified in Section 510. (3-30-07)

**07. Contents of Plans and Specifications.** Plans and specifications shall, where pertinent, provide the following: (3-30-07)

**a.** General layout, including: (3-30-07)

i. Suitable title. (3-30-07)

ii. Name of municipality or other entity or person responsible for the water supply. (3-30-07)

iii. Area or institution to be served. (3-30-07)

iv. Scale of drawings. (3-30-07)

v. North arrow. (3-30-07)

vi. Datum used. (3-30-07)

vii. General boundaries of municipality or area to be served. (3-30-07)

- viii. Date, name, and address of the designing engineer. (3-30-07)
- ix. Legible prints suitable for reproduction. (3-30-07)
- x. Location and size of existing water mains, if applicable. (3-30-07)
- xi. For systems undergoing material modification, location and nature of existing water works structures and appurtenances affecting the proposed improvements. (3-30-07)
- b.** Detailed plans, including: (3-30-07)
  - i. Stream crossings, providing profiles with elevations of the stream bed and the estimated normal and extreme high and, where appropriate, low water levels. (3-30-07)
  - ii. Location and size of the property to be used for the development with respect to known references such as roads, streams, section lines, or streets. (3-30-07)
  - iii. Topography and arrangement of present or planned wells or structures. (3-30-07)
  - iv. Elevations of the one hundred (100) year flood level in relation to the floor of structures, upper termination of protective casings, and grade surrounding facilities. (3-30-07)
  - v. Details of well construction, including diameter and depth of drill holes, casing and liner diameters and depths, grouting depths, elevations, and designation of geological formations, water levels and other data as specified in Section 510. (3-30-07)
  - vi. Location of all known existing and potential sources of pollution within five hundred (500) feet of water sources or underground treated storage facilities. (3-30-07)
  - vii. Size, length, and materials of proposed water mains. (3-30-07)
  - viii. Location of existing or proposed streets; water sources, ponds, lakes, and drains; storm sanitary, combined and house sewers; septic tanks, disposal fields and cesspools. (3-30-07)
  - ix. Schematic flow diagrams and hydraulic profiles showing the flow through various plant units. (3-30-07)
  - x. Piping in sufficient detail to show flow through the plant including waste lines. (3-30-07)
  - xi. Locations of all chemical storage areas, chemical feeding equipment, and points of chemical application. (3-30-07)
  - xii. All appurtenances, specific structures, equipment, water treatment plant waste disposal units and points of discharge having any relationship to the plans for water mains or water works structures. (3-30-07)
  - xiii. Locations of sanitary or other facilities, such as lavatories, showers, toilets, and lockers, when applicable or required by the Department. (3-30-07)
  - xiv. Locations, dimensions, and elevations of all proposed plant facilities. (3-30-07)
  - xv. Locations of all sampling taps owned by the water system. (3-30-07)
  - xvi. Adequate description of any significant features not otherwise covered by the specifications that may impact public safety or welfare. (3-30-07)
- c.** Complete, detailed technical specifications shall be supplied for the proposed project, including:

(3-30-07)

i. A program for keeping existing water works facilities in operation during construction of additional facilities so as to minimize interruption of service. (3-30-07)

ii. Laboratory facilities and equipment. (3-30-07)

iii. Description of chemical feeding equipment. (3-30-07)

iv. Procedures for flushing, disinfection and testing, as needed, prior to placing the project in service. All wells, pipes, tanks, and equipment which can convey or store potable water shall be disinfected in accordance with AWWA Standards, incorporated into these rules at Subsection 002.01. Plans or specifications shall outline the procedure and include the disinfectant dosage, contact time, and method of testing the results of this procedure. (3-30-07)

v. Materials or proprietary equipment for sanitary or other facilities, including any necessary backflow or back-siphonage protection. (3-30-07)

d. Complete design criteria, as set forth in these rules. (3-30-07)

e. The Department may require additional information which is not part of the construction drawings, including, but not limited to, head loss calculations, proprietary technical data, and copies of contracts. (3-30-07)

**08. Notification of Material Deviations.** As set forth in Subsection 504.03, during construction or modification, the reviewing authority must be notified of any material deviation from the approved plans. The reviewing authority's prior written approval is required before any material deviation is allowed. (3-30-07)

**09. Record Plans and Specifications Required.** ( )

**a.** Within thirty (30) calendar days of the completion of construction of facilities for which plans are required to be reviewed pursuant to Subsection 504.03, record plans and specifications based on information provided by the construction contractor and field observations made by the engineer or the engineer's designee depicting the actual construction of facilities performed, must be submitted to the Department by the engineer representing the city, county, quasi-municipal corporation or regulated public utility that owns the project, or by the design engineer or owner-designated substitute engineer if the facilities will not be owned and operated by a city, county, quasi-municipal corporation or regulated public utility. Such submittal by the professional engineer must confirm material compliance with the approved plans and specifications or disclose any material deviations therefrom. If the construction does not materially deviate from the approved plans and specifications, the owner may have a statement to that effect prepared by an Idaho licensed professional engineer and filed with the Department in lieu of submitting a complete and accurate set of record drawings. (3-30-07)

**b.** Record plans and specifications, or a statement submitted in lieu of record plans and specifications, must be sealed, signed, and dated by the professional engineer in responsible charge of their preparation. ( )

**c.** The Department will accept the seal of an Idaho licensed professional geologist on record plans and specifications, or a statement bearing the seal of an Idaho licensed professional geologist in lieu of record plans and specifications, for record plans and specifications for well construction and results of field inspection and testing, as specified in Section 510. ( )

**10. Exception.** The Department may waive the plan and specification approval required of any particular facility or category of facilities when doing so will have no significant impact on public health or the environment. (3-30-07)

**11. Requirement to Have Approved Plans and Specifications and Approval Letter On-Site During Construction.** It is the responsibility of the owner to maintain one (1) copy of the approved plans and specifications and the approval letter from the reviewing authority on-site during construction at all times. (3-30-07)



**12. Construction.** Except as provided in Subsection 504.03.b., no construction shall commence until all of the necessary approvals have been received from the Department. The owner shall provide for the inspection of the construction of a public drinking water system facility by an Idaho licensed professional engineer to the extent required to confirm material compliance with the approved plans and to produce accurate record documents as required by Subsection 504.09. (3-30-07)

**505. -- 509. (RESERVED).**

**510. FACILITY AND DESIGN STANDARDS: SITING AND CONSTRUCTION OF WELLS.**

Written approval by the Department is required before water from any new or reconstructed well may be served to the public. Any supplier of water for a public water system served by one (1) or more wells shall ensure that the following requirements are met: (3-30-07)

**01. Site Approval.** Prior to drilling, the site of a public water system well must be approved in writing by the Department. The Department shall require the supplier of water to submit a well site evaluation report that takes into account the proposed size, depth, and location of the well. The evaluation may include, but is not limited to the following types of information: (3-30-07)

- a.** An evaluation of the potability and quality of anticipated groundwater. (5-3-03)
- b.** Identification of the known aquifers and the extent of each aquifer, based on the stratigraphy, sedimentation, and geologic structure beneath the proposed well site. (5-3-03)
- c.** An estimate of hydrologic and geologic properties of each aquifer and confining layers. (5-3-03)
- d.** Prediction of the sources of water to be extracted by the well and the drawdown of existing wells, springs, and surface water bodies that may be caused by pumping the proposed well. This prediction may be based on analytical or numerical models as determined by the Idaho Department of Water Resources permitting process. (3-30-07)
- e.** Demonstration of the extent of the capture zone of the well, based on the well's design discharge and on aquifer geology, using estimates of hydraulic conductivity and storativity. (5-3-03)
- f.** Description of potential sources of contamination within five hundred (500) feet of the well site. (5-3-03)

**02. Location.** Each well shall be staked by the design engineer or licensed professional geologist prior to drilling, be located a minimum of fifty (50) feet from the nearest property line, be located a minimum of fifty (50) feet from any potential source of contamination, and be no closer to specified sources of contamination than set forth in Subsection 900.01. In vulnerable settings, the Department may require engineering or hydrologic analysis to determine if the required setback distance is adequate to prevent contamination. (~~3-30-07~~)(\_\_\_\_)

**03. Construction Standards.** In addition to meeting the requirements of these rules, all wells shall be constructed in accordance with IDAPA 37.03.09, "Well Construction Standards Rules," and related rules and laws administered by the Idaho Department of Water Resources. All wells shall comply with the drilling permit requirements of Section 42-235, Idaho Code. (5-3-03)

- a.** Casing that meets the requirements set forth in Subsection 900.032 (Table 32). The use of plastic well casing for public water system wells may be considered on a case-by-case basis. Plastic casing shall meet or exceed ASTM Standard F480-02 and ANSI/NSF Standard 61. (~~3-30-07~~)(\_\_\_\_)
- b.** Public water system wells shall have no less than fifty-eight (58) feet of annular seal of not less than one and one-half (1 ½) inches thickness as measured from land surface to the bottom of the seal unless: (3-30-07)
  - i.** It can be demonstrated to the Department's satisfaction that there is a confining layer at lesser depth that is capable of preventing unwanted water from reaching the intake zone of the well; or (5-3-03)

- ii. The best and most practical aquifer at a particular site is less than fifty-eight (58) feet deep; or; (5-3-03)
- iii. The Department specifies a different annular seal depth based on local hydrologic conditions. (5-3-03)
- iv. More stringent standards are required by applicable Rules of the Idaho Water Resources Board, referenced in Subsection 002.02. (3-30-07)
- c. Specifications shall include allowable tolerances for plumbness and alignment in accordance with AWWA Standards, incorporated by reference into these rules at Subsection 002.01, or as otherwise approved by the Department. If the well fails to meet these requirements, it may be accepted by the Department if it does not interfere with the installation or operation of the pump or uniform placement of grout. (3-30-07)
- d. Geological data shall be collected at each pronounced change in formation and shall be recorded in the driller's log. Supplemental data includes, but is not limited to, accurate geographical location such as latitude and longitude or GIS coordinates, and other information on accurate records of drillhole diameters and depths, assembled order of size and length of casing, screens and liners, grouting depths, formations penetrated, and water levels. (3-30-07)
- e. The owner of each well shall retain all records pertaining to each well until the well has been properly abandoned. (3-30-07)
- f. Wells with intake screens shall: (3-30-07)
  - i. Be constructed of materials resistant to damage by chemical action of ground water or cleaning operations. (3-30-07)
  - ii. Have openings based on sieve analysis of formation ~~and~~ or gravel pack materials. ~~(3-30-07)~~(\_\_\_\_)
  - iii. Have sufficient length and diameter to provide adequate specific capacity and aperture entrance velocity not to exceed point three (0.3) feet per second, or as otherwise approved by the Department. (3-30-07)
  - iv. Be installed so that the pumping water level remains above the screen under all operating conditions, or otherwise approved by the Department. Where a bottom plate or sump is utilized, it shall be of the same material as the screen, or as otherwise approved by the Department. Where a washdown assembly, tailpipe or sump is used below the screen, it may be made of a different material than the screen. (3-30-07)
- g. Permanent well casing shall be surrounded by a minimum of one and one-half (1 ½) inches of grout to the depth required by Subsection 510.03.~~ab.~~ of these rules, or by the Rules of the Idaho Water Resources Board referenced in Subsection 002.02, whichever is ~~more stringent~~ greater. All casing identified in plans and specifications as temporary casing shall be removed prior to well completion. ~~(3-30-07)~~(\_\_\_\_)
  - i. Neat cement grout consisting of cement that conforms to AWWA Standard A-100, and water, with not more than six (6) gallons of water per ninety-four (94) pounds of cement, shall be used for one and one-half (1 ½) inch openings. Additives may be used to enhance effectiveness and are subject to approval by the reviewing authority and the Idaho Department of Water Resources on a case-by-case basis. (3-30-07)
  - ii. Bentonite grout shall have a solids content not less than twenty-five (25) percent by weight when mixed with water and be specifically manufactured for use in sealing of well casing. Bentonite grout shall not contain weighting agents to increase solids content. Bentonite grout shall not be used above the water table. All bentonite grout shall be installed by positive displacement from the bottom up through a tremmie or float shoe. (3-30-07)
  - iii. Where a dry annular space is to be sealed, a minimum of two (2) inches on all sides of the casing shall be required to place bentonite to depths not greater than one hundred (100) feet, using #8 mesh granular bentonite. All dry pour granular bentonite shall be tagged at appropriate intervals to verify placement. If a bridge

occurs, a tremmie pipe shall be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips shall be of sufficient size to accommodate proper placement for the existing subsurface conditions. (3-30-07)

iv. Dry granular bentonite used in wells where a dry annular space is to be sealed with depths greater than one hundred (100) feet shall require an annulus of at least three (3) inches on all sides of the casing, or as approved by the reviewing authority and the Idaho Department of Water Resources. If a bridge occurs, a tremmie pipe shall be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips shall be of sufficient size to accommodate proper placement for the existing subsurface conditions. (3-30-07)

v. All chip bentonite seals installed through water shall only be used in annular spaces of at least four (4) inches on all sides of the casing. If a bridge occurs, a tremmie pipe shall be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips shall be of sufficient size to accommodate proper placement for the existing subsurface conditions. Chip bentonite seals installed through water shall be: (3-30-07)

(1) Installed in accordance with manufacturer's specifications; or (3-30-07)

(2) Installed by pouring chips over a one-quarter (1/4) inch mesh screen for three-eighths (3/8) inch chips to remove fines to prevent bridging at the water table; or (3-30-07)

(3) Installed using coated pellets to retard hydration if approved by the reviewing authority and the Idaho Department of Water Resources. (3-30-07)

vi. Concrete may be approved on a case-by-case basis by the reviewing authority and the Idaho Department of Water Resources. Upon such approval, the approved method shall use a six (6) sack minus one-half (1/2) inch Portland cement concrete and shall be installed by positive displacement from the bottom up through a tremmie pipe. (3-30-07)

**04. Disinfection.** All tools, bits, pipe, and other materials to be inserted in the borehole shall be cleaned and disinfected in accordance with the Well Construction Standards and permitting requirements of the Idaho Water Resources Board, referenced in Subsection 002.02 This applies to new well construction and repair of existing wells. (3-30-07)

**05. Information Required.** Upon completion of a groundwater source, and prior to its use as drinking water, the following information and data must be submitted by the water system to the Department: (3-30-07)

a. A copy of all well logs; (12-10-92)

b. Results of test pumping, as specified in Section 510; (3-30-07)

c. As constructed plans showing at least the following: (12-10-92)

i. Annular seal, including depth and sealant material used and method of application; (5-3-03)

ii. Casing perforations, results of sieve analysis used in designing screens installed in sand or gravel aquifers, gravel packs; and (5-3-03)

iii. Pump location; and (12-10-92)

iv. For community water systems, a permanent means for measuring water level. All equipment required for conducting water level measurements shall be purchased and made available to the water system operator at the time well construction is completed. Where pneumatic or electronic water level measuring equipment is used, it shall be made using corrosion resistant materials attached firmly to the drop pipe or pump column and in such a manner as to prevent entrance of foreign materials. (3-30-07)

d. Other information as may be specified by the Department. (12-10-92)

e. Sampling results for iron, manganese, corrosivity, and other secondary contaminants specified by

the Department. Other monitoring requirements are specified in Subsections ~~503~~ 510.05.e.i. through 510.05.e.iii.  
(3-30-07)( )

i. Community Systems. Results of analysis for total coliform, inorganic chemical contaminants, organic chemicals, and radionuclide contaminants set forth in Subsections 050.01, 050.02, 050.05, 100.01, 100.03, 100.04, 100.05, and 100.06, unless analysis is waived pursuant to Subsection 100.07. ( )

ii. Nontransient Noncommunity Systems. Results of analysis for total coliform and inorganic and organic chemical contaminants listed in Subsections 050.01, 050.02, 100.01, 100.03, 100.04, unless analysis is waived pursuant to Subsection 100.07. ( )

iii. Transient Noncommunity Systems. Results of a total coliform, nitrite, and nitrate analysis listed in Subsections 050.01, 100.01 and 100.03. ( )

**06. Test Pumping.** Upon completion of a ground water source, test pumping shall be conducted in accordance with the following procedures to meet the specified requirements: (12-10-92)

**a.** The well shall be test pumped at the desired yield (design capacity) of the well for at least twenty-four (24) consecutive hours after the drawdown trend has stabilized, as determined by the supervising engineer or geologist. Alternatively, the well may be pumped at a rate of one hundred fifty percent (150%) of the desired yield for at least six (6) continuous hours after the drawdown trend has stabilized, as determined by the supervising engineer or geologist. The field pumping equipment must be capable of maintaining a constant rate of discharge during the test. Discharge water must be piped an adequate distance to prevent recharge of the well during the test. If the well fails the test protocol, design of the water system shall be re-evaluated and submitted to the Department for approval. (3-30-07)

**b.** Upon completion of well development, the well shall be tested for sand production. Fifteen (15) minutes after the start of the test pumping (at or above the design production rate), the sand content of a new well shall not be more than five (5) parts per million. Sand production shall be measured by a centrifugal sand sampler or other means acceptable to the Department. If sand production exceeds five (5) ppm, the well shall be screened gravel packed, or re-developed. (3-30-07)

**c.** The following data shall be provided: (5-3-03)

i. Static water level in the well prior to test pumping; (5-3-03)

ii. Well yield in gpm and duration of the pump test, including a discussion of any discrepancy between the desired yield and the yield observed during the test; (5-3-03)

iii. Water level in the well recorded at regular intervals during pumping; (5-3-03)

iv. Profile of water level recovery from the pumping level projected to the original static water level. (5-3-03)

v. Depth at which the test pump was positioned in the well; (5-3-03)

vi. Test pump capacity and head characteristics; (5-3-03)

vii. Sand production data. (5-3-03)

viii. Any available results of analysis based on the drawdown and recovery test pertaining to aquifer properties, sustained yield, and boundary conditions affecting drawdown. (5-3-03)

**d.** The Department may allow the use of other pump test protocols that are generally accepted by engineering firms with specialized experience in well construction, by the well drilling industry, or as described in national standards (such as ANSI/AWWA A100-97), as long as the minimum data specified in Subsection 510.06.c. are provided. The Department welcomes more extensive data about the well, such as step-drawdown evaluations used

in determining well capacity for test pumping purposes, zone of influence calculations, and any other information that may be of use in source protection activities or in routine water system operations. (3-30-07)

e. Where aquifer yield, sustainability, or water quality are questionable, the Department, at its discretion, may require additional site specific investigations that could include test well construction, long-term pumping tests, or other means to demonstrate that the aquifer is sufficient to meet the long-term water requirements of the project. (4-11-06)

**07. Conversion of ~~Irrigation~~ Non-Public Water System Wells for Public Water System Use.** Any ~~irrigation~~ existing well constructed for use other than as a public water system source may be considered for use as a public water system source on a case-by-case basis. The owner of such a well must demonstrate to the Department's satisfaction that the well site conforms to the requirements of Subsections 510.01, 510.02, and Section 512, the well is constructed in a manner that is protective of public health and that both the quantity and quality of water produced by the well meet public water system standards set forth in these rules. (~~3-30-07~~)(\_\_\_\_)

**08. Observation Wells.** If observation wells are used and are intended to remain in service after completion of the water supply well, the observation wells shall be constructed in accordance with the requirements for permanent wells and be protected at the upper terminal to preclude entrance of foreign materials. See Rules of the Idaho Water Resources Board referenced in Subsection 002.02. (3-30-07)

**09. Well Abandonment.** Any water supply well that will no longer be used must be abandoned by sealing the borehole carefully to prevent pollution of the ground water, eliminate any physical hazard, conserve aquifer yield, maintain confined head conditions in artesian wells, and prevent mixing of waters from different aquifers. The objective of proper well abandonment procedures is to restore, as far as possible, the original hydrogeologic conditions. The services of a licensed well driller are required. Instructions for abandoning various types of wells may be obtained from the Idaho Department of Water Resources. See Rules of the Idaho Water Resources Board referenced in Subsection 002.02. (3-30-07)

**511. FACILITY AND DESIGN STANDARDS: WELL PUMPS, DISCHARGE PIPING, AND APPURTENANCES.**

**01. Sample Tap Required.** A ~~smooth-nosed~~ sample tap suitable for collecting bacteriological samples shall be provided on the discharge piping from every well at a point where pressure is maintained but prior to any treatment. This sample tap shall be of the smooth-nosed type without interior or exterior threads, shall not be of the mixing or petcock type, and shall not have a screen, aerator, or other such appurtenance. The sample tap for collecting bacteriological samples may be used for other sampling purposes. In addition, threaded hose bib taps may also be used for collecting samples, other than bacteriological samples, if equipped with an appropriate backflow prevention device as may be necessary to protect the public water system from contamination. (~~3-30-07~~)(\_\_\_\_)

**02. Discharge Piping.** The discharge line shall be equipped with the necessary valves and appurtenances to allow a well to be pumped to waste at the design capacity of the well via an approved air gap at a location prior to the first service connection, and shall meet the following requirements: (3-30-07)

- a. Be designed to minimize friction loss. (3-30-07)
- b. Have control valves and appurtenances located above the pump house floor when an above-ground discharge is provided. (3-30-07)
- c. Be protected against contamination. (3-30-07)
- d. Vertical turbine pumps shall be equipped with an air release-vacuum relief valve, or equivalent, located upstream from the check valve, with exhaust/relief piping terminating in a down-turned position at least eighteen (18) inches above the floor and covered with a twenty-four (24) mesh corrosion resistant screen. (3-30-07)
- e. Have all exposed piping, valves and appurtenances protected against physical damage and freezing. (3-30-07)

- f. Be properly anchored to prevent movement, and protected against surge or water hammer. (3-30-07)
- 03. Pressure Gauge Required.** A pressure gauge shall be provided at all installations. (3-30-07)
- 04. Flow Meter and Check Valve.** Unless otherwise approved by the Department, an instantaneous and totalizing flow meter equipped with nonvolatile memory shall be installed on the discharge line of each well. An accessible check valve, which is not located in the pump column, shall be installed in the discharge line of each well between the pump and the shut-off valve. ~~(3-30-07)~~(\_\_\_\_)
- 05. Well Vent.** All wells shall be vented, unless it can be demonstrated that the drawdown under maximum pumping conditions will not exceed ten (10) feet, with the open end of the vent screened and terminated downward at least eighteen (18) inches above the final ground surface. (3-30-07)
- 06. Casings and Sanitary Well Caps.** The following requirements apply to well casings and sanitary caps:
- a. Casings shall extend a minimum of eighteen (18) inches above the final ground surface and, if the well is located within a pump house, twelve (12) inches above the pump house floor. If local hydrological conditions require that a well be located in an area subject to flooding, the Department may require extension of the casing to extend above the one hundred (100) year or highest known flood level. (3-30-07)
- b. Wells shall be cased and provided with a sanitary cap in such a manner that surface water cannot enter the well. (3-30-07)
- 07. Well Houses.** For regulatory purposes, a well house is considered a pump house as defined in Section 003. Well houses must meet the requirements for pump houses as set forth in Section 541. (3-30-07)
- 08. Pitless Adapters and Units.** Pitless adapters or pitless units: (3-30-07)
- a. Shall be of the type marked approved by the National Sanitation Foundation or Pitless Adapter Division of the Water Systems Council. (12-10-92)
- b. Shall be designed, constructed and installed to be watertight including the cap, cover, casing extension and other attachments. (12-10-92)
- c. Shall be field tested for leaks before being put into service. The procedure outlined in "Manual of Individual and Non-Public Water Supply Systems," referenced in Subsection 002.02, or other procedure approved by the Department shall be followed. (3-30-07)
- d. Pitless adapters with a two (2) inch or smaller discharge line shall be provided with a swing joint outside the pitless adapter unit to reduce strain, deformation, and possible leakage of the pitless seal caused by settling soils in the trench. The orientation of swing joints shall be such that any settling that occurs will tighten the threads. The hole in the casing shall be cut with a saw rather than a torch with an opening large enough to allow seating of gaskets. (3-30-07)
- e. Shall be provided with a contamination-proof entrance connection for electrical cable. (3-30-07)
- f. In the case of pitless adapters: (3-30-07)
- i. Threaded adapters shall be installed by drilling a hole not more than one quarter (1/4) inch larger than the outer diameter of the pitless shank. No torch-cut holes shall be accepted. The orientation of swing joints shall be such that any settling that occurs will tighten the threads. (3-30-07)
- ii. The only field welding permitted will be that needed to connect a pitless adapter to the casing. (3-30-07)

- g.** In the case of pitless units: (3-30-07)
- i. Shall be shop-fabricated from the point of connection with the well casing to the unit cap or cover. (3-30-07)
- ii. Shall be constructed of materials and weight at least equivalent to and compatible with the well casing. (3-30-07)
- iii. Shall be threaded or welded to the well casing. Threaded units shall be installed by drilling a hole not more than one quarter (1/4) inch larger than the outer diameter of the pitless shank. No torch-cut holes shall be accepted. If the connection to the casing is by field weld, the shop-assembled unit must be designed specifically for field welding to the casing. (3-30-07)
- iv. Shall terminate at least eighteen (18) inches above final ground elevation or three (3) feet above the 100-year flood level or the highest known flood elevation, whichever is higher, or as otherwise approved by the Department. (3-30-07)
- v. Shall be provided with access to disinfect the well. (3-30-07)
- vi. Shall have field connection to the lateral discharge from the pitless unit of threaded, flanged, or mechanical joint connection. (3-30-07)

**09. Wells Not Allowed in Pits.** Wells shall not be located in pits. Exceptions to this requirement will be granted by the Department if the well was constructed prior to November 5, 1964, and the installation is constructed or reconstructed in accordance with the requirements of the Department to provide watertight construction of pit walls and floors, floor drains and acceptable pit covers. (3-30-07)

**10. Discharge Pumps.** Discharge pumps shall be subject to the following requirements: (3-30-07)

- a.** Line shaft pumps shall. (3-30-07)
- i. Have the casing firmly connected to the pump structure or have the casing inserted into a recess extending at least one-half (1/2) inch into the pump base. (3-30-07)
- ii. Have the pump foundation and base designed to prevent water from coming into contact with the joint. (3-30-07)
- iii. Use lubricants that meet ANSI/NSF Standard 61. (3-30-07)
- b.** When a submersible pump is used: (3-30-07)
- i. The top of the casing shall be effectively sealed against the entrance of water under all conditions of vibration or movement of conductors or cables. (3-30-07)
- ii. The electrical cable shall be firmly attached to the drop pipe at twenty-one (21) foot intervals or less, or at each coupling or joint. (3-30-07)

**512. FACILITY AND DESIGN STANDARDS: WELL LOT.**

A well lot shall be provided for wells constructed after November 1, 1977. The well lot shall be owned in fee simple by the supplier of water or controlled by lease or easement with a term of not less than the useful life of the well and be large enough to provide a minimum distance of fifty (50) feet between the well and the nearest property line. (3-30-07)

**01. Use of Chemicals on the Well Lot.** No pesticides, herbicides, or fertilizers shall be applied to a well lot without prior approval from the Department. (3-30-07)

**02. Storage of Hazardous Materials on the Well Lot.** No pesticides, herbicides, fertilizers, portable

containers of petroleum products, or other materials known to be toxic or hazardous shall be stored on a well lot, except that: (3-30-07)

a. An internal combustion engine to drive either a generator for emergency standby power or a pump to provide fire flows, and an associated fuel tank, may be placed on the well lot. (5-3-03)

b. A propane or natural gas powered generator is preferable to reduce risk of fuel spillage. (5-3-03)

c. If a diesel or gasoline-fueled engine is used, the fuel tank and connecting piping must be approved by the Underwriter's Laboratory, Inc., double-walled, meet the requirements of the local fire jurisdiction, and include both spill prevention and overflow protection features. The tank must be above ground and may be contained within the structural base of the generator unit. A licensed water system operator shall be present during filling of the tank following a period of usage, or during periodic extraction and replacement of outdated fuel. (4-6-05)

d. Should the internal combustion engine be located within the pump house, the floor of the pump house shall be constructed so as to contain all petroleum drips and spills so that they will not be able to reach the floor drain(s). Engine exhaust shall be directly discharged outside the pump house. (3-30-07)

e. A spill containment structure shall surround all fuel tanks and be sized to contain at least one hundred ten percent (110%) of the fuel tank volume. The Department may require additional containment capacity in settings where accumulation of snow, ice, or rain water could be expected to diminish the usable capacity of the structure. (4-6-05)

**03. Location of Hydrants.** Hydrants of the frost free type shall be placed in the buried piping system at a minimum of five (5) feet away from the well casing to prevent drain water from accumulating and/or compromising the grout seal surrounding the well casing. (3-30-07)(\_\_\_\_)

**513. FACILITY AND DESIGN STANDARDS: NUMBER OF GROUND WATER SOURCES REQUIRED – EXISTING SYSTEMS.**

~~New~~ Existing community water systems served by ground water and ~~constructed after July 1, 1985, or existing community water systems served by ground water that are substantially modified after July, 2002, shall have a minimum of two (2) sources if they are intended~~ intending to serve more than twenty-five (25) homes connections or equivalent dwelling units are subject to the following requirements for the number of ground water sources required. Under normal operating conditions, with any source out of service, the remaining source or sources shall be capable of providing either the peak hour demand of the system or maximum day demand plus equalization storage. See Subsection 501.17 for general design requirements concerning fire flow capacity. For the purpose of Section 513 only, the Department shall consider a system to be "substantially modified" when there is a combined increase of twenty five percent (25%) or more above the system's existing configuration in the following factors: (3-30-07)(\_\_\_\_)

**01. ~~Population Served or Number of Service Connections~~ Existing System with All Sources Constructed Prior to July 1, 1985.** A community water system served by ground water and with all existing sources constructed prior to July 1, 1985 will be required to comply with Subsection 501.17 upon substantially modifying the system after July 2002. (3-30-07)(\_\_\_\_)

**02. ~~Length of Water Mains~~ Existing System with Any Sources Constructed After July 1, 1985.** A community water system served by ground water with any sources constructed after July 1, 1985 is required to comply with Subsection 501.17 when a modification is made to the system which increases the population served or number of service connections, increases the length of transmission and distribution water mains, or increases the peak or average water demand. (3-30-07)(\_\_\_\_)

**03. ~~Peak or Average Water Demand Per Connection.~~** (3-30-07)

**514. FACILITY AND DESIGN STANDARDS: SPRING SOURCES.**

Written approval by the Department is required before water from any new or reconstructed spring source may be served to the public. For new spring sources, the Department may require a site evaluation report as set forth for wells in Section 510. Any supplier of water for a public water system served by one (1) or more springs shall ensure that the



following requirements are met: (3-30-07)

**01. Protection of the Spring.** Springs shall be housed in a permanent structure and protected from contamination including the entry of surface water, animals, and dust. The spring box shall be equipped with a screened overflow. The inlet shall be screened and located above the floor of the collection chamber. (3-30-07)

**02. Access to Spring Box.** ~~A watertight and locking access port shall be provided.~~ Each spring box access port shall be elevated at least twenty-four (24) inches above the top of the box or covering sod, whichever is higher. Each access shall be fitted with a solid water tight cover which overlaps a framed opening and extends down around the frame at least two (2) inches. The frame shall be at least four (4) inches high and shall have a locking device. (3-30-07)( )

**03. Sample Tap Required.** A sample tap suitable for collecting bacteriological samples shall be provided. This sample tap shall be of the smooth-nosed type without interior or exterior threads, shall not be of the mixing or petcock type, and shall not have a screen, aerator, or other such appurtenance. The sample tap for collecting bacteriological samples may be used for other sampling purposes. In addition, threaded hose bib taps may also be used for collecting samples, other than bacteriological samples, if equipped with an appropriate backflow prevention device as may be necessary to protect the public water system from contamination. (3-30-07)( )

**04. Flow Measurement.** A flow meter or other flow measuring device shall be provided. (3-30-07)

**05. Protected Area.** The entire area within a one hundred (100) foot radius of the spring box shall be owned by the supplier of water or controlled by a long term lease, fenced to prevent trespass of livestock and void of buildings, dwellings and sources of contamination. Surface water shall be diverted from this area. (3-30-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**518. FACILITY AND DESIGN STANDARDS: ADDITIONAL DESIGN CRITERIA FOR SURFACE WATER TREATMENT.**

Performance criteria for surface water treatment facilities are specified in National Primary Drinking Water Regulations, as set forth in Sections 300, 301, and 310 of these rules. Surface water treatment systems must comply with applicable general design requirements in Section 503. In addition, the following design requirements apply specifically to surface water treatment facilities: (3-30-07)

**01. Engineering Design Requirements.** The system shall ensure that filtration and disinfection facilities for surface water or groundwater directly influenced by surface water sources are designed, constructed and operated in accordance with all applicable engineering practices designated by the Department. The design of the water treatment plant must consider the worst raw water quality conditions that are likely to occur during the life of the facility. (3-30-07)

**02. Removal of Pathogens.** Filtration facilities (excluding disinfection) shall be designed, constructed and operated to achieve at least two (2) log removal of *Giardia lamblia* cysts, two (2) log removal of *Cryptosporidium* oocysts, and one (1) log removal of viruses, except as allowed under Subsection 518.09.b. (3-30-07)

**03. Disinfection.** Disinfection facilities shall be designed, constructed and operated so as to achieve at least point five zero (0.50) log inactivation of *Giardia lamblia* cysts; and (3-30-07)

- a. Two (2) log inactivation of viruses if using conventional and slow sand filtration technology; or (12-10-92)
- b. Three (3) log inactivation of viruses if using direct and diatomaceous earth filtration technology; or (12-10-92)
- c. Four (4) log inactivation of viruses if using alternate filtration technology. (12-10-92)

- d.** Four (4) log inactivation of viruses if filtration treatment is not used. (10-1-93)
- 04. Enhanced Disinfection.** Higher levels of disinfection than specified under Subsection 5168.03 may be required by the Department in order to provide adequate protection against giardia and viruses. (~~3-30-07~~)(\_\_\_\_)
- 05. Filter to Waste.** For plants constructed after December 31, 1992, each filter unit must be capable of filter to waste. For plants constructed prior to December 31, 1992, each filter unit must be capable of filter to waste unless the system demonstrates through continuous turbidity monitoring or other means acceptable to the Department that water quality is not adversely affected following filter backwashing, cleaning or media replacement. (3-30-07)
- 06. Continuous Turbidity Monitoring.** For conventional, direct, membrane, and diatomaceous earth filtration technology, equipment must be provided to continuously measure the turbidity of each filter unit. (3-30-07)
- 07. Continuous Monitoring of Disinfectant.** Equipment must be provided and operated for continuous measurement of disinfectant residual prior to entry to the distribution system, unless the system serves fewer than three thousand three hundred (3,300) people. (3-30-07)
- 08. Continuous Operation Required.** Diatomaceous earth filtration facilities shall include an alternate power source with automatic startup and alarm, or be designed in a manner to ensure continuous operation. (3-30-07)
- 09. Acceptable Technology.** The purveyor shall select a filtration technology acceptable to the Department. (3-30-07)
- a.** Conventional, direct, membrane, slow sand and diatomaceous earth filtration technologies are generally acceptable to the Department on a case-by-case basis. (5-3-03)
- b.** Alternate filtration technologies may be acceptable if the purveyor demonstrates all of the following to the satisfaction of the Department: (12-10-92)
- i.** That the filtration technology: (12-10-92)
- (1) Is certified and listed by the National Sanitation Foundation (NSF) under Standard 53, Drinking Water Treatment Units - Health Effects, as achieving the NSF criteria for cyst reduction; or (12-10-92)
- (2) Removes at least ninety-nine percent (99%) (two (2) logs) of *Cryptosporidium* oocysts or surrogate particles and removes or inactivates at least ninety-nine percent (99%) (two (2) logs) of *Giardia lamblia* cysts or *Giardia lamblia* cyst surrogate particles in a challenge study acceptable to the Department. (3-30-07)
- ii.** Based on field studies or other means acceptable to the Department, it must be demonstrated that the filtration technology has the following capabilities: (3-30-07)
- (1) In combination with disinfection treatment, consistently achieves at least ninety-nine percent (99%) (two (2) logs) removal of *Cryptosporidium* oocysts or surrogate particles and at least ninety-nine and nine tenths percent (99.9%) (three (3) logs) removal or inactivation of *Giardia lamblia* cysts and ninety-nine and ninety-nine hundredths percent (99.99%) (four (4) logs) removal or inactivation of viruses; and (3-30-07)
- (2) Meets the turbidity performance requirements of 40 CFR 141.73 (b). (12-10-92)
- 10. Pilot Studies.** The system shall conduct pilot studies in accordance with the following requirements for all proposed filtration facilities and structural modifications to existing filtration facilities, unless the Department modifies the requirements in writing: (12-10-92)
- a.** The system shall obtain the Department's approval of the pilot study plan before the pilot filter is constructed and before the pilot study is undertaken. (12-10-92)

- b. The design and operation of the pilot study shall be overseen by an Idaho licensed professional engineer. (3-30-07)
- c. The system's pilot study plan shall identify at a minimum: (12-10-92)
  - i. The objectives of the pilot study; (12-10-92)
  - ii. Pilot filter design; (12-10-92)
  - iii. Water quality and operational parameters to monitor; (12-10-92)
  - iv. Amount of data to collect; and (12-10-92)
  - v. Qualifications of the pilot plant operator. (10-1-93)
- d. The system shall ensure that the pilot study is: (12-10-92)
  - i. Conducted to simulate conditions of the proposed full-scale design; (12-10-92)
  - ii. Conducted for at least twelve (12) consecutive months or for a shorter period upon approval by the Department; (5-3-03)
  - iii. Conducted to evaluate the reliability of the treatment system to achieve applicable water quality treatment criteria specified for filtration systems in 40 CFR 141.72 and 40 CFR 141.73; and (12-10-92)
  - iv. Designed and operated in accordance with good engineering practices documented in references acceptable to the Department. (12-10-92)

**11. Redundant Disinfection.** Surface water systems constructed after July 1, 1985, are required to install redundant disinfection components or maintain a backup unit on site as required to maintain constant application of disinfectant whenever water is being delivered to the distribution system. (3-30-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**520. FACILITY AND DESIGN STANDARDS: SURFACE WATER TREATMENT: CLARIFICATION PROCESSES.**

Treatment facilities designed to include clarification for processing surface water shall meet the following requirements: (3-30-07)

**01. Two Units Required.** A minimum of two (2) units shall be provided for flocculation and sedimentation. (3-30-07)

**02. Parallel or Serial Operation.** The units shall be capable of being operated either in series or parallel where softening is performed. (3-30-07)

**03. Independent Units.** The units shall be constructed in such a way that each can be taken out of service without disrupting operation, and with drains or pumps sized to allow dewatering in a reasonable period of time. (3-30-07)

**04. Manual Start-Up.** The units shall be started manually following shutdown. (3-30-07)

**05. Pre-Treatment.** Waters exhibiting high turbidity may require pretreatment, usually sedimentation with or without the addition of coagulation chemicals. When presedimentation is provided, the following

requirements must be met: (3-30-07)

**a.** Incoming water shall be dispersed across the full width of the line of travel as quickly as possible. Short circuiting must be prevented. (3-30-07)

**b.** Provisions for bypassing pre-sedimentation basins shall be included. (3-30-07)

**06. Rapid Mix.** Rapid mix shall mean the rapid dispersion of chemicals throughout the water to be treated, usually by violent agitation. The engineer shall submit the design basis for the velocity gradient (G value) selected, considering the chemicals to be added and water temperature, color and other related water quality parameters. Basins or mixing chambers shall be equipped with devices capable of providing adequate mixing for all treatment flow rates. (3-30-07)

**07. Flocculation.** Flocculation shall mean the gathering together of fine particles in water by gentle mixing after the addition of coagulant chemicals to form larger particles. (3-30-07)

**a.** Basin inlet and outlet design shall minimize short-circuiting and destruction of floc. A drain, pumps, or a combination of both drain and ~~or~~ pumps shall be provided to ~~handle~~ accomplish dewatering and sludge removal. (3-30-07)( )

**b.** The flow-through velocity shall not be less than one-half (0.5) nor greater than one and one-half (1.5) feet per minute with a detention time for floc formation of at least thirty (30) minutes unless otherwise approved by the Department. (3-30-07)

**c.** Agitators shall be driven by variable speed drives. (3-30-07)

**d.** Flocculation and sedimentation basins shall be as close together as possible. The velocity of flocculated water through pipes or conduits to settling basins shall be not less than one-half (0.5) nor greater than one and one-half (1.5) feet per second. Allowances must be made to minimize turbulence at bends and changes in direction. (3-30-07)

**08. Small Systems May Use Baffling.** Baffling may be used to provide for flocculation in small plants upon approval by the Department. (3-30-07)

**09. Sedimentation Units.** The following criteria apply to conventional sedimentation units: (3-30-07)

**a.** A minimum of two (2) hours of settling time shall be provided following flocculation unless adequate settling in less time can be demonstrated. (3-30-07)

**b.** Inlets shall be designed to distribute the water equally and at uniform velocities. (3-30-07)

**c.** Outlet weirs or submerged orifices shall maintain velocities suitable for settling in the basin and minimize short-circuiting. Outlet weirs shall be designed so that the rate of flow over the outlet weirs or through the submerged orifices shall not exceed twenty-thousand (20,000) gallons per day per foot of the outlet launder. The entrance velocity through the submerged orifices shall not exceed one-half (0.5) feet per second. (3-30-07)

**d.** The velocity through settling basins shall not exceed one-half (0.5) feet per minute. The basins must be designed to minimize short-circuiting. Fixed or adjustable baffles must be provided as necessary to achieve the maximum potential for clarification. (3-30-07)

**e.** When an overflow weir or pipe is provided the overflow shall discharge by gravity with a free fall at a location where the discharge will be noted. (3-30-07)

**f.** Adequate sludge collection equipment that ensures proper basin coverage shall be provided and basins must be provided with a means for dewatering. (3-30-07)

**g.** Flushing lines or hydrants shall be provided and must be equipped with backflow prevention

devices acceptable to the Department. (3-30-07)

**h.** Sludge removal design shall provide that sludge pipes are not less than three (3) inches in diameter and arranged so as to facilitate cleaning. Entrance to sludge withdrawal piping shall be designed to prevent clogging. Provision shall be made for the operator to observe and sample sludge being withdrawn from the unit. (3-30-07)

**i.** Sludge shall be disposed of in accordance with applicable regulations, as set forth in Section 540. (3-30-07)

**10. Solids Contact Clarifiers.** Solids contact clarifiers are generally acceptable for combined softening and clarification where water characteristics, especially temperature, do not fluctuate rapidly, flow rates are uniform and operation is continuous. A minimum of two (2) units are required for surface water treatment. (3-30-07)

**a.** Chemicals shall be applied at such points and by such means as to ensure satisfactory mixing of the chemicals with the water. (3-30-07)

**b.** Unless otherwise approved by the Department, a rapid mix device or chamber ahead of the solids contact clarifier is required to assure proper mixing of the chemicals applied. Mixing devices employed shall be constructed so as to provide good mixing of the raw water with previously formed sludge particles and prevent deposition of solids in the mixing zone. (3-30-07)

**c.** Flocculation equipment shall be adjustable as to speed, pitch, or a combination of speed and/or pitch and must provide for coagulation in a separate chamber or baffled zone within the unit. ~~(3-30-07)~~( )

**d.** Sludge removal design shall provide that sludge pipes are not less than three (3) inches in diameter and arranged so as to facilitate cleaning. Entrance to sludge withdrawal piping shall be designed to prevent clogging. Provision shall be made for the operator to observe and sample sludge being withdrawn from the unit. (3-30-07)

**e.** Blow-off outlets and drains must terminate and discharge at places acceptable to the Department in regard to control of potential cross connections. Cross connection control must be included for the potable water lines used to backflush sludge lines. (3-30-07)

**f.** The detention time shall be established on the basis of the raw water characteristics and other local conditions that affect the operation of the unit. The Department may request data to support decisions made with respect to detention times. The Department may alter detention time requirements. (3-30-07)

**g.** Controls for sludge withdrawal which minimize water losses shall be provided. (3-30-07)

**h.** Unless otherwise approved by the Department, weirs shall be adjustable and at least equivalent in length to the perimeter of the tank. Weir loading shall not exceed ten (10) gallons per minute per foot of weir length for units used as clarifiers or twenty (20) gallons per minute per foot of weir length for units used for softening. Where orifices are used, the loading rates per foot of launder rates shall be equivalent to weir loadings. Either shall produce uniform rising rates over the entire area of the tank. (3-30-07)

**i.** Upflow rates shall not exceed one (1) gallon per minute per square foot of area at the sludge separation line for units used as clarifiers or one and three-quarters (1.75) gallons per minute per foot of area at the slurry separation line for units used as softeners. The Department may consider higher rates if supporting data is provided. (3-30-07)

**11. Settler Units.** Settler units consisting of variously shaped tubes or plates installed in multiple layers and at an angle to the flow may be used for sedimentation following flocculation. (3-30-07)

**a.** Inlets and outlets shall be designed to maintain velocities suitable for settling in the basin and to minimize short-circuiting. Plate units shall be designed to minimize unequal distribution across the units. (3-30-07)

**b.** Drain piping from the settler units must be sized to facilitate a quick flush of the settler units and to prevent flooding other portions of the plant. (3-30-07)

c. Although most units will be located within a plant, outdoor installations must provide sufficient freeboard above the top of settlers to prevent freezing in the units. (3-30-07)

d. Water shall be applied to tube settlers at a maximum rate of two (2) gallons per minute per square foot of cross-sectional area for tube settlers, unless higher rates are justified through pilot plant or in-plant demonstration studies. (3-30-07)

e. Water shall be applied to plate settlers at a maximum plate loading rate of one-half (0.5) gallons per minute per square foot, based on eighty (80) percent of the projected horizontal plate area. (3-30-07)

f. Flushing lines shall be provided to facilitate maintenance and must be properly protected against backflow or back siphonage. (3-30-07)

**12. High Rate Clarification.** High rate clarification processes may be approved upon demonstrating satisfactory performance under on-site pilot plant conditions or documentation of full scale plant operation with similar raw water quality conditions. Reductions in detention times and/or increases in weir loading rates shall be justified. Examples of such processes include dissolved air flotation, ballasted flocculation, contact flocculation/clarification, and helical upflow. (3-30-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**522. FACILITY AND DESIGN STANDARDS: SURFACE WATER TREATMENT: FILTRATION USING DIATOMACEOUS EARTH.**

The use of these filters may be considered for application to surface waters with low turbidity and low bacterial contamination, and may be used for iron removal for ground waters providing the removal is effective and the water is of satisfactory sanitary quality before treatment. (3-30-07)

**01. Conditions of Use.** Diatomaceous earth filters are expressly excluded from consideration for the following conditions: (3-30-07)

a. Bacteria removal; (3-30-07)

b. Color removal; (3-30-07)

c. Turbidity removal where either the gross quantity of turbidity is high or the turbidity exhibits poor filterability characteristics; or (3-30-07)

d. Filtration of waters with high algae counts. (3-30-07)

**02. Treated Water Storage.** Treated water storage capacity in excess of normal requirements shall be provided to allow operation of the filters at a uniform rate during all conditions of system demand at or below the approved filtration rate, and guarantee continuity of service during adverse raw water conditions without by-passing the system. (3-30-07)

**03. Number of Units.** The requirements of Subsection 57-821.03 shall apply to diatomaceous earth filtration. (~~3-30-07~~)( )

**04. Precoat.** A uniform precoat shall be applied hydraulically to each septum by introducing a slurry to the tank influent line and employing a filter-to-waste recirculation system. (3-30-07)

**05. Body Feed.** A body feed system to apply additional amounts of diatomaceous earth slurry during the filter run is required to avoid short filter runs or excessive head losses. (3-30-07)

- a.** The rate of body feed is dependent on raw water quality and characteristics and must be determined in the pilot plant study. (3-30-07)
- b.** Continuous mixing of the body feed slurry is required. (3-30-07)
- 06. Filtration Requirements.** (3-30-07)

  - a.** Rate of filtration shall be controlled by a positive means. (3-30-07)
  - b.** Head loss shall not exceed thirty (30) psi for pressure diatomaceous earth filters, or a vacuum of fifteen (15) inches of mercury for a vacuum system. (3-30-07)
  - c.** A recirculation or holding pump shall be employed to maintain differential pressure across the filter when the unit is not in operation in order to prevent the filter cake from dropping off the filter elements. A minimum recirculation rate of one-tenth (0.1) gallon per minute per square foot of filter area shall be provided. (3-30-07)
  - d.** The septum or filter elements shall be structurally capable of withstanding maximum pressure and velocity variations during filtration and backwash cycles, and shall be spaced such that no less than one (1) inch is provided between elements or between any element and a wall. (3-30-07)
  - e.** The filter influent shall be designed to prevent scour of the diatomaceous earth from the filter element. (3-30-07)
- 07. Backwash.** A satisfactory method to thoroughly remove and dispose of spent filter cake shall be provided. (3-30-07)
- 08. Appurtenances.** The following shall be provided for every filter: (3-30-07)

  - a.** Sampling taps for raw and filtered water. (3-30-07)
  - b.** Loss of head or differential pressure gauge. (3-30-07)
  - c.** Rate-of-flow indicator. (3-30-07)
  - d.** A throttling valve used to reduce rates below normal during adverse raw water conditions. (3-30-07)
  - e.** Evaluation of the need for body feed, recirculation, and any other pumps. (3-30-07)
  - f.** Provisions for filtering to waste with appropriate measures for backflow prevention. (3-30-07)
- 09. Monitoring.** A continuous monitoring turbidimeter with recorder is required on each filter effluent for plants treating surface water. (3-30-07)

**523. FACILITY AND DESIGN STANDARDS: SURFACE WATER TREATMENT: SLOW SAND FILTRATION.**

The use of these filters shall require prior engineering studies to demonstrate the adequacy and suitability of this method of filtration for the specific water supply. Slow Sand Filtration and Diatomaceous Earth Filtration for Small Water Systems, Manual on Slow Sand Filtration, and Slow Sand Filtration referenced in Subsection 002.02, may be used as guidance in design of slow sand filtration facilities. (3-30-07)

**01. Quality of Raw Water.** Slow rate gravity filtration shall be limited to waters having maximum turbidities of ten (10) nephelometric units and maximum color of fifteen (15) units; such turbidity must not be attributable to colloidal clay. Raw water quality data must include examinations for algae. (3-30-07)

**02. Number of Units.** At least two (2) units shall be provided. Where only two (2) units are provided, each shall be capable of meeting the plant design capacity (normally the projected maximum daily demand) at the

approved filtration rate. Where more than two (2) filter units are provided, the filters shall be capable of meeting the plant design capacity at the approved filtration rate with one filter removed from service. (3-30-07)

**03. Structural Details and Hydraulics.** Slow rate gravity filters shall be so designed as to provide a cover, unless otherwise approved by the Department, headroom to permit normal movement by operating personnel for scraping and sand removal operations, adequate access hatches and access ports for handling of sand and for ventilation, filtration to waste, an overflow at the maximum filter water level, and protection from freezing. (3-30-07)

**04. Underdrains.** Each filter unit shall be equipped with a main drain and an adequate number of lateral underdrains to collect the filtered water. The underdrains shall be so spaced that the maximum velocity of the water flow in the underdrain will not exceed three-fourths (0.75) feet per second. The maximum spacing of laterals shall not exceed three (3) feet if pipe laterals are used. (3-30-07)

**05. Filter Material.** The following requirements apply: (3-30-07)

**a.** ~~Graded gravel layers beneath filter sand shall have a minimum depth of thirty (30) inches.~~ A minimum depth of thirty (30) inches of filter sand shall be placed on graded gravel layers. (~~3-30-07~~)( )

**b.** The effective size shall be between fifteen hundredths (0.15) of a millimeter and thirty-five hundredths (0.35) of a millimeter. Larger sizes may be considered by the Department based on the results of pilot testing. (3-30-07)

**c.** The uniformity coefficient shall not exceed three point zero (3.0). (3-30-07)

**d.** The sand shall be cleaned and washed free from foreign matter. (3-30-07)

**e.** The sand shall be rebedded to the original minimum depth of thirty (30) inches when scraping has reduced the bed depth to no less than twenty-four (24) inches. Where sand is to be reused in order to provide biological seeding and shortening of the ripening process, rebedding shall utilize a "throw over" technique whereby new sand is placed on the support gravel and existing sand is replaced on top of the new sand. The maximum filtration rate shall not exceed zero point one (0.1) gallon per minute per square foot. (~~3-30-07~~)( )

**06. Filter Sand Support.** ( )

**a.** A three (3)-inch layer of sand shall be used as a supporting media for filter sand. The supporting sand shall have an effective size of zero point eight (0.8) millimeters to two point zero (2.0) millimeters and a uniformity coefficient not greater than one point seven (1.7). ( )

**b.** Gravel shall consist of cleaned and washed, hard, durable, rounded rock particles and shall not include flat or elongated particles. The coarsest gravel shall be two and one-half (2.5) inches in size when the gravel rests directly on a lateral system and must extend above the top of the perforated laterals. Not less than four (4) layers of gravel shall be provided in accordance with the size and depth distribution specified in the table below. Reduction of gravel depths and other size gradations may be considered upon justification to the Department.

<u>Size of Gravel</u>	<u>Depth</u>
<u>2 1/2 to 1 1/2 inches</u>	<u>5 to 8 inches</u>
<u>1 1/2 to 3/4 inches</u>	<u>3 to 5 inches</u>
<u>3/4 to 1/2 inches</u>	<u>3 to 5 inches</u>
<u>1/2 to 3/16 inches</u>	<u>2 to 3 inches</u>
<u>3/16 to 3/32 inches</u>	<u>2 to 3 inches</u>

( )



**067. Depth of Water Over Filter Beds.** The design shall provide a depth of at least three (3) to six (6) feet of water over the sand. Influent water shall not scour the sand surface. (3-30-07)

**078. Control Appurtenances.** Each filter shall be equipped with a loss of head gauge, an orifice, Venturi meter, or other suitable means of discharge measurement installed on each filter to control the rate of filtration, and an effluent pipe designed to maintain the water level above the top of the filter sand. (3-30-07)

**089. Ripening.** Slow sand filters shall be operated to waste after scraping or rebedding during a ripening period until the filter effluent turbidity falls to consistently below the regulated drinking water standard established for the system. (3-30-07)

**0910. Supernatant Drain Required.** Filter beds shall be equipped with a supernatant drain to allow for quick removal of water standing over sand that has become impermeable because it requires scraping or rebedding. (3-30-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**530. FACILITY AND DESIGN STANDARDS: DISINFECTION OF DRINKING WATER.**

Disinfection may be accomplished with gas and liquid chlorine, calcium or sodium hypochlorites, chlorine dioxide, ozone, or ultraviolet light. Other disinfecting agents will be considered, providing reliable application equipment is available and testing procedures for a residual are recognized in "Standard Methods for the Examination of Water and Wastewater," referenced in Subsection 002.02, or an equivalent means of measuring effectiveness exists. The required amount of primary disinfection needed shall be specified by the Department. Consideration must be given to the formation of disinfection by-products (DBP) when selecting the disinfectant. See Section 531, Facility Design Standards - Design Standards for Chemical Application. (3-30-07)

**01. Chlorination.** (3-30-07)

**a.** Chlorination equipment shall meet the following requirements: (3-30-07)

i. Solution-feed gas chlorinators or hypochlorite feeders of the positive displacement type must be provided. (3-30-07)

ii. Standby or backup equipment of sufficient capacity shall be available to replace the largest unit. Spare parts shall be ~~made available on hand~~ to replace parts subject to wear and breakage. (~~3-30-07~~)( )

iii. Automatic proportioning chlorinators will be required where the rate of flow or chlorine demand is not reasonably constant. (3-30-07)

iv. Each eductor (submerged jet pump) must be selected for the point of application with particular attention given to the quantity of chlorine to be added, the maximum injector waterflow, the total discharge back pressure, the injector operating pressure, and the size of the chlorine solution line. (3-30-07)

v. The chlorine solution injector/diffuser must be compatible with the point of application to provide a rapid and thorough mix with all the water being treated. (3-30-07)

vi. Automatic switch-over of chlorination treatment units shall be provided, where necessary, to assure continuous disinfection. ( )

**b.** Contact time and point of application requirements are as follows: (3-30-07)

i. Contact time sufficient to achieve the inactivation of target pathogens under the expected range of raw water pH and temperature variation must be demonstrated through tracer studies or other evaluations acceptable to the Department. Appendix E of EPA Guidance Manual for Compliance with the Filtration and Disinfection

Requirements for Public Water Systems Using Surface Water Sources, referenced in Section 002.02, contains tables that may be used as guidance to develop contact time requirements for specific target organisms and disinfectants. Additional baffling can be added to new or existing basins to minimize short circuiting and increase contact time.

(3-30-07)

ii. At plants treating surface water, except slow sand filtration systems, provisions shall be made for applying the disinfectant to the raw water, settled water, filtered water, and water entering the distribution system. Disinfectant application equipment shall be controlled by a flow sensing device so that injection of the disinfectant will not continue when the flow of water stops.

(3-30-07)

iii. At a minimum, at plants treating ground water, provisions shall be made for applying the disinfectant to the ~~detention basin~~ contact chamber inlet and water entering the distribution system. ~~(3-30-07)~~(\_\_\_\_)

c. Chlorine residual test equipment recognized in the "Standard Methods for the Examination of Water and Wastewater," referenced in Subsection 002.02, shall be provided for use by the operator. All surface water treatment plants that serve a population greater than three thousand three hundred (3,300) must have equipment to measure chlorine residuals continuously entering the distribution system. A sample tap shall be provided to measure chlorine residual and shall be located at a point after receiving the required contact time and at or prior to the first service connection. ~~(3-30-07)~~(\_\_\_\_)

d. Chlorinator piping requirements: (3-30-07)

i. Cross connection protection: The chlorinator water supply piping shall be designed to prevent contamination of the treated water supply by sources of questionable quality. At all facilities treating surface water, pre- and post-chlorination systems must be independent to prevent possible siphoning of partially treated water into the clear well. The water supply to each eductor shall have a separate shut-off valve. No master shut-off valve will be allowed.

(3-30-07)

ii. The pipes carrying elemental liquid or dry gaseous chlorine under pressure must be Schedule 80 seamless steel tubing or other materials recommended by the Chlorine Institute (never use PVC). Rubber, PVC, polyethylene, or other materials recommended by the Chlorine Institute must be used for chlorine solution piping and fittings. Nylon products are not acceptable for any part of the chlorine solution piping system.

(3-30-07)

**02. Disinfection with Ozone.** Systems that are required to maintain a disinfectant residual in the distribution system shall supplement ozone disinfection with a chemical disinfectant.

(3-30-07)

a. The following are requirements for feed gas preparation: (3-30-07)

i. Feed gas can be air, oxygen enriched air, or high purity oxygen. Sources of high purity oxygen include purchased liquid oxygen conforming with AWWA Standard B-304; on site generation using cryogenic air separation; or temperature, pressure or vacuum swing (adsorptive separation) technology. In all cases, the design engineer must ensure that the maximum dew point of -76°F (-60°C) will not be exceeded at any time.

(3-30-07)

ii. Air compression: (3-30-07)

(1) Air compressors shall be of the liquid-ring or rotary lobe, oil-less, positive displacement type for smaller systems or dry rotary screw compressors for larger systems.

(3-30-07)

(2) The air compressors shall have the capacity to simultaneously provide for maximum ozone demand, provide the air flow required for purging the desiccant dryers (where required) and allow for standby capacity.

(3-30-07)

(3) Air feed for the compressor shall be drawn from a point protected from rain, condensation, mist, fog and contaminated air sources to minimize moisture and hydrocarbon content of the air supply.

(3-30-07)

(4) A compressed air after-cooler, ~~and/or~~ entrainment separator, or a combination of the two (2) with automatic drain shall be provided prior to the dryers to reduce the water vapor.

~~(3-30-07)~~(\_\_\_\_)

- (5) A back-up air compressor must be provided so that ozone generation is not interrupted in the event of a break-down. (3-30-07)
- iii. Air drying: (3-30-07)
- (1) Dry, dust-free and oil-free feed gas must be provided to the ozone generator. Dry gas is essential to prevent formation of nitric acid, to increase the efficiency of ozone generation and to prevent damage to the generator dielectrics. Sufficient drying to a maximum dew point of -76°F (-60°C) must be provided at the end of the drying cycle. (3-30-07)
- (2) Drying for high pressure systems may be accomplished using heatless desiccant dryers only. For low pressure systems, a refrigeration air dryer in series with heat-reactivated desiccant dryers shall be used. (3-30-07)
- (3) A refrigeration dryer capable of reducing inlet air temperature to 40°F (4°C) shall be provided for low pressure air preparation systems. The dryer can be of the compressed refrigerant type or chilled water type. (3-30-07)
- (4) For heat-reactivated desiccant dryers, the unit shall contain two (2) desiccant filled towers complete with pressure relief valves, two (2) four-way valves and a heater. In addition, external type dryers shall have a cooler unit and blowers. The size of the unit shall be such that the specified dew point will be achieved during a minimum adsorption cycle time of sixteen (16) hours while operating at the maximum expected moisture loading conditions. (3-30-07)
- (5) Multiple air dryers shall be provided so that the ozone generation is not interrupted in the event of dryer breakdown. (3-30-07)
- (6) Each dryer shall be capable of venting “dry” gas to the atmosphere, prior to the ozone generator, to allow start-up when other dryers are “on-line.” (3-30-07)
- iv. Air filters: (3-30-07)
- (1) Air filters shall be provided on the suction side of the air compressors, between the air compressors and the dryers and between the dryers and the ozone generators. (3-30-07)
- (2) The filter before the desiccant dryers shall be of the coalescing type and be capable of removing aerosol and particulates larger than 0.3 microns in diameter. The filter after the desiccant dryer shall be of the particulate type and be capable of removing all particulates greater than 0.1 microns in diameter, or smaller if specified by the generator manufacturer. (3-30-07)
- v. Piping in the air preparation system can be common grade steel, seamless copper, stainless steel or galvanized steel. The piping must be designed to withstand the maximum pressures in the air preparation system. (3-30-07)
- b.** The following requirements apply to the ozone generator: (3-30-07)
- i. Capacity. (3-30-07)
- (1) The production rating of the ozone generators shall be stated in pounds per day and kWhr per pound at a maximum cooling water temperature and maximum ozone concentration. (3-30-07)
- (2) The design shall ensure that the minimum concentration of ozone in the generator exit gas will not be less than one (1) percent (by weight). (3-30-07)
- (3) Generators shall be sized to have sufficient reserve capacity so that the system does not operate at peak capacity for extended periods of time resulting in premature breakdown of the dielectrics. (3-30-07)

- (4) The production rate of ozone generators will decrease as the temperature of the coolant increases. If there is to be a variation in the supply temperature of the coolant throughout the year, then pertinent data shall be used to determine production changes due to the temperature change of the supplied coolant. The design shall ensure that the generators can produce the required ozone at maximum coolant temperature. (3-30-07)
- (5) Appropriate ozone generator backup equipment must be provided. (3-30-07)
- ii. Electrical. The generators can be low, medium or high frequency type. Specifications shall require that the transformers, electronic circuitry and other electrical hardware be proven, high quality components designed for ozone service. (3-30-07)
- iii. Cooling. Adequate cooling shall be provided. The cooling water must be properly treated to minimize corrosion, scaling and microbiological fouling of the water side of the tubes. Where cooling water is treated, cross connection control shall be provided to prevent contamination of the potable water supply. (3-30-07)
- iv. Materials. To prevent corrosion, the ozone generator shell and tubes shall be constructed of Type 316L stainless steel. (3-30-07)
- c. The following requirements apply to ozone contactors: (3-30-07)
- i. Bubble diffusers. (3-30-07)
- (1) Where disinfection is the primary application, a minimum of two (2) contact chambers each equipped with baffles to prevent short circuiting and induce countercurrent flow shall be provided. Ozone shall be applied using porous-tube or dome diffusers. (3-30-07)
- (2) The minimum contact time shall be ten (10) minutes. A shorter contact time (CT) may be approved by the Department if justified by appropriate design and "CT" considerations. (3-30-07)
- (3) Where taste and odor control is of concern, multiple application points and contactors shall be considered. (3-30-07)
- (4) Contactors shall be separate closed vessels that have no common walls with adjacent rooms. The contactor must be kept under negative pressure and sufficient ozone monitors shall be provided to protect worker safety. (3-30-07)
- (5) Contact vessels can be made of reinforced concrete, stainless steel, fiberglass or other material which will be stable in the presence of residual ozone and ozone in the gas phase above the water level. If contact vessels are made of reinforced concrete, all reinforcement bars shall be covered with a minimum of one and one-half (1.5) inches of concrete. (3-30-07)
- (6) Where necessary, a system shall be provided between the contactor and the off-gas destruct unit to remove froth from the air and return the other to the contactor or other location acceptable to the reviewing authority. If foaming is expected to be excessive, then a potable water spray system shall be placed in the contactor head space. (3-30-07)
- (7) All openings into the contactor for pipe connections, hatchways, etc. shall be properly sealed using welds or ozone resistant gaskets such as Teflon or Hypalon. (3-30-07)
- (8) Multiple sampling ports shall be provided to enable sampling of each compartment's effluent water and to confirm "CT" calculations. (3-30-07)
- (9) A pressure/vacuum relief valve shall be provided in the contactor and piped to a location where there will be no damage to the destruction unit. (3-30-07)
- (10) The depth of water in bubble diffuser contactors shall be a minimum of eighteen (18) feet. The contactor shall also have a minimum of three (3) feet of freeboard to allow for foaming. (3-30-07)

- (11) All contactors shall have provisions for cleaning, maintenance and drainage of the contactor. Each contactor compartment shall also be equipped with an access hatchway. (3-30-07)
- (12) Aeration diffusers shall be fully serviceable by either cleaning or replacement. (3-30-07)
- ii. Other contactors, such as the venturi or aspirating turbine mixer contactor, may be approved by the Department provided adequate ozone transfer is achieved and the required contact times and residuals can be met and verified. (3-30-07)
- d.** The following requirements apply to ozone destruction units: (3-30-07)
- i. A system for treating the final off-gas from each contactor must be provided in order to meet safety and air quality standards. Acceptable systems include thermal destruction and thermal/catalytic destruction units. (3-30-07)
- ii. The maximum allowable ozone concentration in the discharge is 0.1 ppm (by volume). (3-30-07)
- iii. At least two (2) units shall be provided which are each capable of handling the entire gas flow. (3-30-07)
- iv. Exhaust blowers shall be provided in order to draw off-gas from the contactor into the destruct unit. (3-30-07)
- v. Catalysts must be protected from froth, moisture and other impurities which may harm the catalyst. (3-30-07)
- vi. The catalyst and heating elements shall be located where they can easily be reached for maintenance. (3-30-07)
- e.** Piping materials: Only low carbon 304L and 316L stainless steels shall be used for ozone service with 316L preferred. (3-30-07)
- f.** The following requirements apply to joints and connections: (3-30-07)
- i. Connections on piping used for ozone service are to be welded where possible. (3-30-07)
- ii. Connections with meters, valves or other equipment are to be made with flanged joints with ozone resistant gaskets, such as Teflon or Hypalon. Screwed fittings shall not be used because of their tendency to leak. (3-30-07)
- iii. A positive closing plug or butterfly valve plus a leak-proof check valve shall be provided in the piping between the generator and the contactor to prevent moisture reaching the generator. (3-30-07)
- g.** The following requirements apply to instrumentation: (3-30-07)
- i. Pressure gauges shall be provided at the discharge from the air compressor, at the inlet to the refrigeration dryers, at the inlet and outlet of the desiccant dryers, at the inlet to the ozone generators and contactors, and at the inlet to the ozone destruction unit. (3-30-07)
- ii. Each generator shall have a trip which shuts down the generator when the wattage exceeds a certain preset level. (3-30-07)
- iii. Dew point monitors shall be provided for measuring the moisture of the feed gas from the desiccant dryers. Where there is potential for moisture entering the ozone generator from downstream of the unit or where moisture accumulation can occur in the generator during shutdown, post-generator dew point monitors shall be used. (3-30-07)

iv. Air flow meters shall be provided for measuring air flow from the desiccant dryers to each of the other ozone generators, air flow to each contactor, and purge air flow to the desiccant dryers. (3-30-07)

v. Temperature gauges shall be provided for the inlet and outlet of the ozone cooling water and the inlet and outlet of the ozone generator feed gas and, if necessary, for the inlet and outlet of the ozone power supply cooling water. (3-30-07)

vi. Water flow meters shall be installed to monitor the flow of cooling water to the ozone generators and, if necessary, to the ozone power supply. (3-30-07)

vii. Ozone monitors shall be installed to measure ozone concentration in both the feed-gas and off-gas from the contactor and in the off-gas from the destruct unit. For disinfection systems, monitors shall also be provided for monitoring ozone residuals in the water. The number and location of ozone residual monitors shall be such that the amount of time that the water is in contact with the ozone residual can be determined. (3-30-07)

viii. A minimum of one ambient ozone monitor shall be installed in the vicinity of the contactor and a minimum of one shall be installed in the vicinity of the generator. Ozone monitors shall also be installed in any areas where ozone gas may accumulate. (3-30-07)

**h.** Safety requirements are as follows: (3-30-07)

i. The maximum allowable ozone concentration in the air to which workers may be exposed must not exceed one-tenth part per million (0.1 ppm) by volume. (3-30-07)

ii. Noise levels resulting from the operating equipment of the ozonation system shall be controlled to within acceptable limits by special room construction and equipment isolation. (3-30-07)

iii. Emergency exhaust fans must be provided in the rooms containing the ozone generators to remove ozone gas if leakage occurs. (3-30-07)

iv. A sign shall be posted indicating "No smoking, oxygen in use" at all entrances to the treatment plant. In addition, no flammable or combustible materials shall be stored within the oxygen generator areas. (3-30-07)

**03. Disinfection with Chlorine Dioxide.** Chlorine dioxide may be considered as a primary and residual disinfectant, a pre-oxidant to control tastes and odors, to oxidize iron and manganese, and to control hydrogen sulfide and phenolic compounds. When choosing chlorine dioxide, consideration must be given to formation of the regulated by-products, chlorite and chlorate. (3-30-07)

**a.** Chlorine dioxide generation equipment shall be factory assembled pre-engineered units with a minimum efficiency of ninety-five (95) percent. The excess free chlorine shall not exceed three (3) percent of the theoretical stoichiometric concentration required. (3-30-07)

**b.** Other design requirements include: (3-30-07)

i. The design shall comply with all applicable portions of Subsections 530.01.a. through 530.01.d. (3-30-07)

ii. The maximum residual disinfectant level allowed shall be zero point eight (0.8) milligrams per liter (mg/l), even for short term exposures. (3-30-07)

iii. Notification of a change in disinfection practices and the schedule for the changes shall be made known to the public; particularly to hospitals, kidney dialysis facilities and fish breeders, as chlorine dioxide and its by-products may have effects similar to chloramines. (3-30-07)

**04. Other Disinfecting Agents.** Proposals for use of disinfecting agents other than those listed shall be

submitted to the Department for approval prior to preparation of final plans and specifications. (3-30-07)

**531. FACILITY DESIGN STANDARDS: DESIGN STANDARDS FOR CHEMICAL APPLICATION.**

- 01. General Equipment Design.** General equipment design shall be such that: (3-30-07)
  - a.** Feeders will be able to supply, at all times, the necessary amounts of chemicals at an accurate rate, throughout the range of feed. (3-30-07)
  - b.** Chemical-contact materials and surfaces are resistant to the aggressiveness of the chemical solution. (3-30-07)
  - c.** Corrosive chemicals are introduced in such a manner as to minimize potential for corrosion. (3-30-07)
  - d.** Chemicals that are incompatible are not stored or handled together. At facilities where more than one (1) chemical is stored or handled, tanks and pipelines shall be clearly labeled to identify the chemical they contain. (3-30-07)
  - e.** All chemicals are conducted from the feeder to the point of application in separate conduits. (3-30-07)
  - f.** Chemical feeders are as near as practical to the feed point. (3-30-07)
  - g.** Chemical feeders and pumps shall operate at no lower than twenty percent (20%) of the feed range unless two fully independent adjustment mechanisms such as pump pulse rate and stroke length are fitted when the pump shall operate at no lower than ten percent (10%) of the rated maximum. (3-30-07)
  - h.** Spare parts shall be on hand for parts of feeders that are subject to frequent wear and damage. ( )
  - i.** Redundant chemical feeders with automatic switchover shall be provided when necessary to ensure adequate treatment. ( )
- 02. Facility Design.** (3-30-07)
  - a.** Where chemical feed is necessary for the protection of the supply, such as disinfection, coagulation or other essential processes, a minimum of two feeders shall be provided and a separate feeder shall be used for each chemical applied. (3-30-07)
  - b.** Chemical application control systems shall meet the following requirements: (3-30-07)
    - i.** Feeders may be manually or automatically controlled, with automatic controls being designed so as to allow override by manual controls. (3-30-07)
    - ii.** Chemical feeders shall be controlled by a flow sensing device so that injection of the chemicals will not continue when the flow of water stops. (3-30-07)
    - iii.** Chemical feed rates shall be proportional to flow. (3-30-07)
    - iv.** A means to measure water flow must be provided in order to determine chemical feed rates. (3-30-07)
    - v.** Provisions shall be made for measuring the quantities of chemicals used. (3-30-07)
    - vi.** Weighing scales shall be provided for weighing cylinders at all plants utilizing chlorine gas, fluoride solution feed. (3-30-07)

- vii. Weighing scales shall be capable of providing reasonable precision in relation to average daily dose. ~~(3-30-07)~~(\_\_\_\_) (3-30-07)
- viii. Where conditions warrant, for example with rapidly fluctuating intake turbidity, coagulant and coagulant aid addition may be made according to turbidity, streaming current or other sensed parameter. (3-30-07)
- c. Dry chemical feeders shall measure chemicals volumetrically or gravimetrically, provide adequate solution water and agitation of the chemical in the solution pot, and completely enclose chemicals to prevent emission of dust to the operating room. (3-30-07)
- d. Positive displacement type solution feed pumps must be capable of operating at the required maximum head conditions found at the point of injection. (3-30-07)
- e. Liquid chemical feeders shall be such that chemical solutions cannot be siphoned or overfed into the water supply, by assuring discharge at a point of positive pressure, or providing vacuum relief, or providing a suitable air gap, or providing other suitable means or combinations as necessary. (3-30-07)
- f. Cross connection control must be provided to assure that the following requirements are satisfied. (3-30-07)
- i. The service water lines discharging to solution tanks shall be properly protected from backflow ~~as required in Subsection 900.02 (Table 2).~~ ~~(3-30-07)~~(\_\_\_\_) (3-30-07)
- ii. No direct connection exists between any sewer and a drain or overflow from the feeder, solution chamber or tank by providing that all drains terminate at least six (6) inches or two pipe diameters, whichever is greater, above the overflow rim of a receiving sump, conduit or waste receptacle. (3-30-07)
- g. Chemical feed equipment shall be readily accessible for servicing, repair, and observation of operation. (3-30-07)
- h. In-plant water supply for chemical mixing shall be: (3-30-07)
- i. Ample in quantity and adequate in pressure. (3-30-07)
- ii. Provided with means for measurement when preparing specific solution concentrations by dilution. (3-30-07)
- iii. Properly treated for hardness, when necessary. (3-30-07)
- iv. Properly protected against backflow. (3-30-07)
- v. Obtained from a location sufficiently downstream of any chemical feed point to assure adequate mixing. (3-30-07)
- i. Chemical storage facilities shall satisfy the following requirements: (3-30-07)
- i. Storage tanks and pipelines for liquid chemicals shall be specified for use with individual chemicals and not used for different chemicals. Off-loading areas must be clearly labeled to prevent accidental cross-contamination. (3-30-07)
- ii. Chemicals shall be stored in covered or unopened shipping containers, unless the chemical is transferred into an approved storage unit. (3-30-07)
- ~~iii. Liquid chemical storage tanks must have a liquid level indicator and have an overflow and a receiving basin capable of receiving accidental spills or overflows without uncontrolled discharge; a common receiving basin may be provided for each group of compatible chemicals, that provides sufficient containment volume~~



~~to prevent accidental discharge in the event of failure of the largest tank.~~ (3-30-07)

- j. ~~Solution~~ Bulk liquid storage tanks shall comply with the following requirements: (3-30-07)( )
- i. A means which is consistent with the nature of the chemical solution shall be provided in a solution tank to maintain a uniform strength of solution. Continuous agitation shall be provided to maintain slurries in suspension. (3-30-07)
- ii. Means shall be provided to measure the liquid level in the tank. (3-30-07)
- iii. ~~Chemical solutions~~ Bulk liquid storage tanks shall be kept covered. ~~Large~~ Bulk liquid storage tanks with access openings shall have such openings curbed and fitted with overhanging covers. (3-30-07)( )
- iv. Subsurface locations for ~~solution~~ bulk liquid storage tanks shall be free from sources of possible contamination, and assure positive drainage for ground waters, accumulated water, chemical spills and overflows. (3-30-07)( )
- v. Bulk liquid storage tanks shall be vented, but shall not vent through vents common with day tanks. Acid storage tanks must be vented to the outside atmosphere, but not through vents in common with day tanks. (3-30-07)( )
- vi. Each bulk liquid storage tank shall be provided with a valved drain, protected against backflow ~~in accordance with Subsection 900.02 (Table 2).~~ (3-30-07)( )
- vii. ~~Solution tanks shall be located and protective curbing provided so that chemicals from equipment failure, spillage or accidental drainage shall not enter the water in conduits, treatment or storage basins.~~ Bulk liquid storage tanks shall have an overflow that is turned downward with the end screened, has a free fall discharge, and is located where noticeable. (3-30-07)( )
- viii. Bulk liquid storage tanks shall be provided with secondary containment so that chemicals from equipment failure, spillage, or accidental drainage shall be fully contained. A common receiving basin may be provided for each group of compatible chemicals. The bulk liquid storage tank basin or the common receiving basin shall provide a secondary containment volume sufficient to hold the volume of the largest storage tank. Piping shall be designed to minimize or contain chemical spills in the event of pipe ruptures. ( )
- ix. Where chemical feed is necessary for the protection of the supply, a means to assure continuity of chemical supply while servicing a bulk liquid storage tank shall be provided. ( )
- k. Day tanks are subject to the requirements in Subsections 531.02.k.i. through 531.02.k.iv. For the purposes of Section 531, day tanks are defined as liquid chemical tanks holding no more than a thirty (30) hour chemical supply. ( )
- i. Day tanks shall be provided where bulk storage of liquid chemicals are provided. The Department may allow chemicals to be fed directly from shipping containers no larger than fifty-five (55) gallons. ( )
- ii. Day tanks shall meet all the requirements of Subsection 531.02.j., with the exception of Subsection 531.02.j.viii. Shipping containers do not require overflow pipes or drains as required by Subsection 531.02.j. and are not subject to the requirements of Subsection 531.02.j.viii. ( )
- iii. Where feasible, secondary containment shall be provided so that chemicals from equipment failure, spillage, or accidental drainage of day tanks shall be fully contained. A common receiving basin may be provided for each group of compatible chemicals. The common receiving basin shall provide a secondary containment volume sufficient to hold the volume of the largest storage tank. If secondary containment is not feasible, day tanks shall be located and protective curbing provided so that chemicals from equipment failure, spillage, or accidental drainage of day tanks shall not enter the water in conduits, treatment, or storage basins. ( )
- iv. Day tanks and the tank refilling line entry points shall be clearly labeled with the name of the

chemical contained. ( )

- ~~kl.~~ Provisions shall be made for measuring quantities of chemicals used to prepare feed solutions. (3-30-07)
- ~~lm.~~ Vents from feeders, storage facilities and equipment exhaust shall discharge to the outside atmosphere above grade and remote from air intakes. (3-30-07)
- 03. Chemicals.** Chemical shipping containers shall be fully labeled to include chemical name, purity and concentration, supplier name and address, and evidence of ANSI/NSF certification where applicable. (3-30-07)
- 04. Safety Requirements for Chemical Facilities.** (3-30-07)

  - a.** The following requirements apply to chlorine gas feed and storage rooms: (3-30-07)

    - i. Each storage room shall be enclosed and separated from other operating areas. They shall be constructed in such a manner that all openings between the chlorine room and the remainder of the plant are sealed, and provided with doors equipped with panic hardware, assuring ready means of exit and opening outward only to the building exterior. (3-30-07)
    - ii. Each room shall be provided with a shatter resistant inspection window installed in an interior wall. (3-30-07)
    - iii. Each room shall have a ventilating fan with a capacity which provides one (1) complete air change per minute when the room is occupied. Where this is not appropriate due to the size of the room, a lesser rate may be allowed by the Department on a site specific basis. (3-30-07)
    - iv. The ventilating fan shall take suction near the floor as far as practical from the door and air inlet, with the point of discharge so located as not to contaminate air inlets to any rooms or structures. Air inlets shall be through louvers near the ceiling. (3-30-07)
    - v. Louvers for chlorine room air intake and exhaust shall facilitate airtight closure. (3-30-07)
    - vi. Separate switches for the fan and lights shall be located outside of the chlorine room and at the inspection window. Outside switches shall be protected from vandalism. A signal light indicating fan operation shall be provided at each entrance when the fan can be controlled from more than one (1) point. (3-30-07)
    - vii. Vents from feeders and storage shall discharge to the outside atmosphere, above grade. (3-30-07)
    - viii. Where provided, floor drains shall discharge to the outside of the building and shall not be connected to other internal or external drainage systems. (3-30-07)
    - ix. Chlorinator rooms shall be heated to sixty degrees fahrenheit (60°F) and be protected from excessive heat. Cylinders and gas lines shall be protected from temperatures above that of the feed equipment. (3-30-07)
    - x. Pressurized chlorine feed lines shall not carry chlorine gas beyond the chlorinator room. (3-30-07)
    - xi. Critical isolation valves shall be conspicuously marked and access kept unobstructed. (3-30-07)
    - xii. All chlorine rooms, buildings, and areas shall be posted with a prominent danger sign warning of the presence of chlorine. (3-30-07)
    - xiii. Full and empty cylinders of chlorine gas shall be isolated from operating areas and stored in definitely assigned places away from elevators, stairs, or gangways. They shall be restrained in position to prevent being knocked over or damaged by passing or falling objects. In addition, they shall be stored in rooms separate from ammonia storage, out of direct sunlight, and at least twenty (20) feet from highly combustible materials. Cylinders shall not be kept in unventilated enclosures such as lockers and cupboards. (3-30-07)

**b.** Where acids and caustics are used, they shall be kept in closed corrosion-resistant shipping containers or storage units. Acids and caustics shall not be handled in open vessels, but shall be pumped in undiluted form from original containers through suitable hose to the point of treatment or to a covered day tank. (3-30-07)

**c.** Sodium chlorite for chlorine dioxide generation. Proposals for the storage and use of sodium chlorite shall be approved by the Department prior to the preparation of final plans and specifications. Provisions shall be made for proper storage and handling of sodium chlorite to eliminate any danger of fire or explosion associated with its oxidizing nature. (3-30-07)

**i.** Chlorite (sodium chlorite) shall be stored by itself in a separate room. It must be stored away from organic materials. The storage structure shall be constructed of noncombustible materials. If the storage structure must be located in an area where a fire may occur, water must be available to keep the sodium chlorite area cool enough to prevent heat-induced explosive decomposition of the chlorite. (3-30-07)

**ii.** Care shall be taken to prevent spillage. An emergency plan of operation shall be available for the clean up of any spillage. Storage drums shall be thoroughly flushed prior to recycling or disposal. (3-30-07)

**d.** Where ammonium hydroxide is used, an exhaust fan shall be installed to withdraw air from high points in the room and makeup air shall be allowed to enter at a low point. The feed pump, regulators, and lines shall be fitted with pressure relief vents discharging outside the building away from any air intake and with water purge lines leading back to the headspace of the bulk storage tank. (3-30-07)

**e.** Where anhydrous ammonia is used, the storage and feed systems (including heaters where required) shall be enclosed and separated from other work areas and constructed of corrosion resistant materials. (3-30-07)

**i.** Pressurized ammonia feed lines shall be restricted to the ammonia room. (3-30-07)

**ii.** An emergency air exhaust system, as described in Subsection 531.04.a., but with an elevated intake, shall be provided in the ammonia storage room. (3-30-07)

**iii.** Leak detection systems shall be fitted in all areas through which ammonia is piped. (3-30-07)

**iv.** Special vacuum breaker/regulator provisions must be made to avoid potentially violent results of backflow of water into cylinders or storage tanks. (3-30-07)

**v.** Consideration shall be given to the provision of an emergency gas scrubber capable of absorbing the entire contents of the largest ammonia storage unit whenever there is a risk to the public as a result of potential ammonia leaks. (3-30-07)

**05. Operator Safety.** The Idaho General Safety and Health Standards, referenced in Subsection 002.02, may be used as guidance in designing facilities to ensure the safety of operators. The following requirements are in addition to the requirements of Subsection 501.12. (3-30-07)

**a.** Respiratory protection equipment, meeting the requirements of the National Institute for Occupational Safety and Health (NIOSH) shall be available where chlorine gas is handled, and shall be stored at a convenient heated location, but not inside any room where chlorine is used or stored. The units shall use compressed air, have at least a thirty (30) minute capacity, and be compatible with or exactly the same as units used by the fire department responsible for the plant. (3-30-07)

**b.** Chlorine leak detection. A bottle of concentrated ammonium hydroxide (fifty-six (56) per cent ammonia solution) shall be available for chlorine leak detection. Where ton containers are used, a leak repair kit approved by the Chlorine Institute shall be provided. (3-30-07)

**c.** Protective equipment. (3-30-07)

- i. At least one pair of rubber gloves, a dust respirator of a type certified by NIOSH for toxic dusts, an apron or other protective clothing, and goggles or face mask shall be provided for each operator. (3-30-07)
- ii. A deluge shower and eyewashing device shall be installed where strong acids and alkalis are used or stored. A water holding tank that will allow water to come to room temperature shall be installed in the water line feeding the deluge shower and eyewashing device. Other methods of water tempering will be considered on an individual basis. ~~(3-30-07)( )~~
- iii. ~~A water holding tank that will allow water to come to room temperature shall be installed in the water line feeding the deluge shower and eyewashing device. Other methods of water tempering will be considered on an individual basis.~~ For chemicals other than strong acids and alkalis, an appropriate eye washing device or station shall be provided. ~~(3-30-07)( )~~
- iv. Other protective equipment shall be provided as necessary. (3-30-07)

**06. Design Requirements for Specific Applications.** In addition to Subsection 531.01 through 531.03, the following design requirements apply for the specific applications within Subsection 531.06 of this rule. ~~(3-30-07)( )~~

- a. Sodium chlorite for chlorine dioxide generation. Positive displacement feeders shall be provided. Tubing for conveying sodium chlorite or chlorine dioxide solutions shall be Type 1 PVC, polyethylene or materials recommended by the manufacturer. Chemical feeders may be installed in chlorine rooms if sufficient space is provided. Otherwise, facilities meeting the requirements of chlorine rooms shall be provided. Feed lines shall be installed in a manner to prevent formation of gas pockets and shall terminate at a point of positive pressure. Check valves shall be provided to prevent the backflow of chlorine into the sodium chlorite line. (3-30-07)
- b. ~~Sodium h~~Hypochlorite facilities shall meet the following requirements: ~~(3-30-07)( )~~
  - i. ~~Sodium h~~Hypochlorite shall be stored in the original shipping containers or in ~~sodium~~ hypochlorite compatible containers. Storage containers or tanks shall be sited out of the sunlight in a cool and ventilated area. ~~(3-30-07)( )~~
  - ii. Stored hypochlorite shall be pumped undiluted to the point of addition. Where dilution is unavoidable, deionized or softened water shall be used. (3-30-07)
  - iii. Storage areas, tanks, and pipe work shall be designed to avoid the possibility of uncontrolled discharges and a sufficient amount of appropriately selected spill absorbent shall be stored on-site. (3-30-07)
  - iv. ~~Sodium h~~Hypochlorite feeders shall be positive displacement pumps with compatible materials for wetted surfaces. ~~(3-30-07)( )~~
  - v. To avoid air locking in smaller installations, small diameter suction lines shall be used with foot valves and degassing pump heads. In larger installations flooded suction shall be used with pipe work arranged to ease escape of gas bubbles. Calibration tubes or mass flow monitors which allow for direct physical checking of actual feed rates shall be fitted. (3-30-07)
  - vi. Injectors shall be made removable for regular cleaning where hard water is to be treated. (3-30-07)
- c. When ammonium sulfate is used, the tank and dosing equipment contact surfaces shall be made of corrosion resistant non-metallic materials. Provision shall be made for removal of the agitator after dissolving the solid. The tank shall be fitted with a lid and vented outdoors. Injection of the solution should take place in the center of treated water flow at a location where there is high velocity movement. (3-30-07)
- d. When aqua ammonia (ammonium hydroxide) is used, the feed pumps and storage shall be enclosed and separated from other operating areas. The aqua ammonia room shall be equipped as required for chlorinator rooms with the following changes: (3-30-07)

- i. A corrosion resistant, closed, unpressurized tank shall be used for bulk storage, vented through an inert liquid trap to a high point outside and an incompatible connector, or lockout provisions shall be made to prevent accidental addition of other chemicals to the storage tank. (3-30-07)
- ii. The storage tank shall be ~~fitted either with cooling/refrigeration and/or with provision without opening the system to dilute and mix the contents with water~~ designed to avoid conditions where temperature increases cause the ammonia vapor pressure over the aqua ammonia to exceed atmospheric pressure. This capability can be provided by cooling/refrigeration or diluting or mixing the contents with water without opening the system. (3-30-07)( )
- iii. The aqua ammonia shall be conveyed direct from storage to the treated water stream injector without the use of a carrier water stream unless the carrier stream is softened. (3-30-07)
- iv. The point of delivery to the main water stream shall be placed in a region of turbulent water flow. (3-30-07)
- v. Provisions shall be made for easy access for removal of calcium scale deposits from the injector. (3-30-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**533. FACILITY AND DESIGN STANDARDS: DESIGN STANDARDS FOR TASTE AND ODOR CONTROL.**

Provision shall be made for the control of taste and odor. Chemicals shall be added sufficiently ahead of other treatment processes to assure adequate contact time for an effective and economical use of the chemicals. Where severe taste and odor problems are encountered, in-plant ~~and/or~~ studies, pilot plant studies, or both in-plant and pilot plant studies may be required. (3-30-07)( )

**01. Chlorination.** When using chlorination as a method of taste and odor control adequate contact time must be provided to complete the chemical reactions involved. (3-30-07)

**02. Chlorine Dioxide.** Provisions shall be made for proper storing and handling of the sodium chlorite, so as to eliminate any danger of explosion. (3-30-07)

**03. Powdered Activated Carbon.** (3-30-07)

**a.** The carbon can be added as a pre-mixed slurry or by means of a dry-feed machine as long as the carbon is properly wetted. (3-30-07)

**b.** Continuous agitation or resuspension equipment is necessary to keep the carbon from depositing in the slurry storage tank. (3-30-07)

**c.** Provision shall be made for adequate dust control. (3-30-07)

**d.** Powdered activated carbon shall be handled as a potentially combustible material. (3-30-07)

**04. Granular Activated Carbon.** Replacement of anthracite with GAC may be considered as a control measure for geosmin and methyl isoborneol (MIB) taste and odors from algae blooms in surface water applications. Demonstration studies are required by the Department. (3-30-07)

**05. Copper Sulfate and Other Copper Compounds.** Continuous or periodic treatment of surface water with copper compounds to kill algae or other growths shall be controlled to prevent copper in excess of one point zero (1.0) milligrams per liter as copper in the plant effluent or distribution system. Care shall be taken to assure an even distribution of the chemical within the treatment area. (3-30-07)

**06. Potassium Permanganate.** Application of potassium permanganate may be considered, providing the treatment shall be designed so that the products of the reaction are not visible in the finished water. (3-30-07)

**07. Ozone.** Ozonation may be used as a means of taste and odor control. Adequate contact time must be provided to complete the chemical reactions involved. (3-30-07)

**08. Other Methods.** Other methods of taste and odor control shall be made only after pilot plant tests and approval of the Department. (3-30-07)

**534. FACILITY AND DESIGN STANDARDS: AERATION PROCESSES.**

Public water systems that install aeration treatment are subject to the Rules of the Department of Environmental Quality, IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." The system owner or the design engineer shall contact one of the Department's regional offices for information on obtaining a permit or an exemption for the emissions resulting from the aeration process. General information may be found at [http://www.deq.idaho.gov/air/prog\\_issues/toxics/overview.cfm#tap](http://www.deq.idaho.gov/air/prog_issues/toxics/overview.cfm#tap). (3-30-07)

**01. Natural Draft Aeration.** Design shall provide: (3-30-07)

**a.** Perforations in the distribution pan three sixteenths to one-half ( $3/16 - 1/2$ ) inches in diameter, spaced one to three (1-3) inches on centers to maintain a six (6) inch water depth. (3-30-07)

**b.** For distribution of water uniformly over the top tray. (3-30-07)

**c.** Discharge through a series of three (3) or more trays with separation of trays not less than twelve (12) inches. (3-30-07)

**d.** Loading at a rate of one to five (1-5) gallons per minute for each square foot of total tray area. (3-30-07)

**e.** Trays with slotted, heavy wire (1/2 inch openings) mesh or perforated bottoms. (3-30-07)

**f.** Construction of durable material resistant to aggressiveness of the water and dissolved gases. (3-30-07)

**g.** Protection from insects by twenty-four (24) mesh screen. (3-30-07)

**02. Forced or Induced Draft Aeration.** Devices shall be designed to: (3-30-07)

**a.** Include a blower with a weatherproof motor in a tight housing and screened enclosure. (3-30-07)

**b.** Ensure adequate counter current of air through the enclosed aerator column. (3-30-07)

**c.** Exhaust air directly to the outside atmosphere. (3-30-07)

**d.** Include a down-turned and twenty-four (24) mesh screened air outlet and inlet. (3-30-07)

**e.** Be such that air introduced in the column shall be as free from obnoxious fumes, dust, and dirt as possible. (3-30-07)

**f.** Be such that sections of the aerator can be easily reached or removed for maintenance of the interior or installed in a separate aerator room. (3-30-07)

**g.** Provide loading at a rate of one to five (1-5) gallons per minute for each square foot of total tray area. (3-30-07)

**h.** Ensure that the water outlet is adequately sealed to prevent unwarranted loss of air. (3-30-07)

- i.** Discharge through a series of five (5) or more trays with separation of trays not less than six (6) inches or as approved by the Department. (3-30-07)
- j.** Provide distribution of water uniformly over the top tray. (3-30-07)
- k.** Be of durable material resistant to the aggressiveness of the water and dissolved gases. (3-30-07)
- 03. Spray Aeration.** Design shall provide: (3-30-07)

  - a.** A hydraulic head of between five (5) and twenty-five (25) feet. (3-30-07)
  - b.** Nozzles, with the size, number, and spacing of the nozzles being dependent on the flowrate, space, and the amount of head available. (3-30-07)
  - c.** Nozzle diameters in the range of one (1) to one and one-half (1.5) inches to minimize clogging. (3-30-07)
  - d.** An enclosed basin to contain the spray. Any openings for ventilation must be protected with a twenty-four (24) mesh screen. (3-30-07)
- 04. Pressure Aeration.** Pressure aeration may be used for oxidation purposes only if the pilot plant study indicates the method is applicable; it is not acceptable for removal of dissolved gases. Filters following pressure aeration must have adequate exhaust devices for release of air. Pressure aeration devices shall be designed to give thorough mixing of compressed air with water being treated and provide screened and filtered air, free of obnoxious fumes, dust, dirt and other contaminants. (3-30-07)
- 05. Packed Tower Aeration.** Packed tower aeration may be used for the removal of volatile organic chemicals, trihalomethanes, carbon dioxide, and radon. Final design shall be based on the results of pilot studies and be approved by the Department. (3-30-07)

  - a.** Process design criteria. (3-30-07)

    - i.** Justification for the design parameters selected (i.e., height and diameter of unit, air to water ratio, packing depth, surface loading rate, etc.) shall be provided to the Department for review. The pilot study shall evaluate a variety of loading rates and air to water ratios at the peak contaminant concentration. Special consideration shall be given to removal efficiencies when multiple contaminations occur. Where there is considerable past performance data on the contaminant to be treated and there is a concentration level similar to previous projects, the Department may approve the process design based on use of appropriate calculations without pilot testing. (3-30-07)
    - ii.** The tower shall be designed to reduce contaminants to below the maximum contaminant level and to the lowest practical level. (3-30-07)
    - iii.** The type and size of the packing used in the full scale unit shall be the same as that used in the pilot study. (3-30-07)
    - iv.** The maximum air to water ratio for which credit will be given is 80:1. (3-30-07)
    - v.** The design shall consider potential fouling problems from calcium carbonate and iron precipitation and from bacterial growth. It may be necessary to provide pretreatment. Disinfection capability shall be provided prior to and after packed tower aeration. (3-30-07)
    - vi.** The effects of temperature shall be considered. (3-30-07)
    - vii.** Redundant packed tower aeration capacity at the design flowrate shall be provided. (3-30-07)
  - b.** The tower may be constructed of stainless steel, concrete, aluminum, fiberglass or plastic.

Uncoated carbon steel is not allowed. Towers constructed of light-weight materials shall be provided with adequate support to prevent damage from wind. Packing materials shall be resistant to the aggressiveness of the water, dissolved gases and cleaning materials and shall be suitable for contact with potable water. (3-30-07)

- c. Water flow system. (3-30-07)
  - i. Water shall be distributed uniformly at the top of the tower using spray nozzles or orifice-type distributor trays that prevent short circuiting. (3-30-07)
  - ii. A mist eliminator shall be provided above the water distributor system. (3-30-07)
  - iii. A side wiper redistribution ring shall be provided at least every ten (10) feet in order to prevent water channeling along the tower wall and short circuiting. (3-30-07)
  - iv. Sample taps shall be provided in the influent and effluent piping. The sample taps shall satisfy the requirements of Subsection 501.09. ~~(3-30-07)~~ ( )
  - v. The effluent sump, if provided, shall have easy access for cleaning purposes and be equipped with a drain valve. The drain shall not be connected directly to any storm or sanitary sewer. (3-30-07)
  - vi. The design shall prevent freezing of the influent riser and effluent piping when the unit is not operating. (3-30-07)
  - vii. The water flow to each tower shall be metered. (3-30-07)
  - viii. An overflow line shall be provided which discharges twelve (12) to fourteen (14) inches above a splash pad or drainage inlet. Proper drainage shall be provided to prevent flooding of the area. (3-30-07)
  - ix. Means shall be provided to prevent flooding of the air blower. (3-30-07)
- d. Air flow system. (3-30-07)
  - i. The air inlet to the blower and the tower discharge vent shall be down-turned and protected with a non-corrodible twenty-four (24) mesh screen to prevent contamination from extraneous matter. (3-30-07)
  - ii. The air inlet shall be in a protected location. (3-30-07)
  - iii. An air flow meter shall be provided on the influent air line or an alternative method to determine the air flow shall be provided. (3-30-07)
  - iv. A positive air flow sensing device and a pressure gauge must be installed on the air influent line. The positive air flow sensing device must be a part of an automatic control system which will turn off the influent water if positive air flow is not detected. The pressure gauge will serve as an indicator of fouling buildup. (3-30-07)
  - v. A backup motor for the air blower must be readily available. (3-30-07)
- e. Other features that shall be provided: (3-30-07)
  - i. A sufficient number of access ports with a minimum diameter of twenty-four (24) inches to facilitate inspection, media replacement, media cleaning and maintenance of the interior. (3-30-07)
  - ii. A method of cleaning the packing material when iron, manganese, or calcium carbonate fouling may occur. (3-30-07)
  - iii. Tower effluent collection and pumping wells constructed to clearwell standards. (3-30-07)
  - iv. Provisions for extending the tower height without major reconstruction. (3-30-07)



- v. No bypass shall be provided unless specifically approved by the Department. (3-30-07)
- vi. Disinfection and adequate contact time after the water has passed through the tower and prior to the distribution system. (3-30-07)
- vii. Adequate packing support to allow free flow of water and to prevent deformation with deep packing heights. (3-30-07)
- viii. Operation of the blower and disinfectant feeder equipment during power failures. (3-30-07)
- ix. Adequate foundation to support the tower and lateral support to prevent overturning due to wind loading. (3-30-07)
- x. Fencing and locking gate to prevent vandalism. (3-30-07)
- xi. An access ladder with safety cage for inspection of the aerator including the exhaust port and demister. (3-30-07)
- xii. Electrical interconnection between blower, disinfectant feeder and supply pump. (3-30-07)

**06. Other Methods of Aeration.** Other methods of aeration may be used if applicable to the treatment needs. Such methods include but are not restricted to spraying, diffused air, cascades and mechanical aeration. The treatment processes are subject to the approval of the Department. (3-30-07)

**07. Protection of Aerators.** All aerators except those discharging to lime softening or clarification plants shall be protected from contamination by birds, insects, wind borne debris, rainfall and water draining off the exterior of the aerator. (3-30-07)

**08. Disinfection.** Ground water supplies exposed to the atmosphere by aeration must receive disinfection as the minimum additional treatment. (3-30-07)

**535. FACILITY AND DESIGN STANDARDS: DESIGN STANDARDS FOR IRON AND MANGANESE CONTROL SYSTEMS.**

Iron and manganese control, as used herein, refers solely to treatment processes designed specifically for this purpose. The treatment process used will depend upon the character of the raw water. The selection of one (1) or more treatment processes must meet specific local conditions as determined by engineering investigations, including chemical analyses of representative samples of water to be treated, and receive the approval of the Department. The Department may require a pilot plant study in order to gather all information pertinent to the design. (3-30-07)

**01. Removal by Oxidation, Detention and Filtration.** (3-30-07)

**a.** Oxidation may be by aeration or by chemical oxidation with chlorine, potassium permanganate, ozone or chlorine dioxide. (3-30-07)

**b.** Detention time: (3-30-07)

i. A minimum detention time of thirty (30) minutes shall be provided following aeration to ensure that the oxidation reactions are as complete as possible. This minimum detention may be omitted only where a pilot plant study indicates no need for detention. The detention basin may be designed as a holding tank without provisions for sludge collection but with sufficient baffling to prevent short circuiting. (3-30-07)

ii. Sedimentation basins shall be provided when treating water with high iron ~~and~~ or manganese content, or where chemical coagulation is used to reduce the load on the filters. Provisions for sludge removal shall be made. (~~3-30-07~~)(      )

**c.** Filtration. Rapid rate pressure filters are normally used for iron and manganese removal. Pressure

filters shall not be used in the filtration of surface or other polluted waters or following lime-soda softening. (3-30-07)

i. The rate of filtration shall not exceed three (3) gallons per minute per square foot of filter area except where in-plant testing as approved by the Department has demonstrated satisfactory results at higher rates. (3-30-07)

ii. The filters shall be designed to provide for: (3-30-07)

(1) Loss of head gauges on the inlet and outlet pipes of each battery of filters. (3-30-07)

(2) An easily readable meter or flow indicator on each battery of filters. (3-30-07)

(3) Filtration and backwashing of each filter individually with an arrangement of piping as simple as possible to accomplish these purposes. (3-30-07)

(4) Minimum side wall shell height of five (5) feet. A corresponding reduction in side wall height is acceptable where proprietary bottoms permit reduction of the gravel depth. (3-30-07)

(5) The top of the wash water collectors to be at least eighteen (18) inches above the surface of the media, (3-30-07)

(6) The underdrain system to efficiently collect the filtered water and to uniformly distribute the backwash water at a rate not less than fifteen (15) gallons per minute per square foot of filter area. (3-30-07)

(7) Backwash flow indicators and controls that are easily readable while operating the control valves. (3-30-07)

(8) An air release valve on the highest point of each filter. (3-30-07)

(9) An accessible manhole to facilitate inspection and repairs for filters thirty-six (36) inches or more in diameter. Sufficient handholds shall be provided for filters less than thirty-six (36) inches in diameter. (3-30-07)

(10) A means to observe the wastewater during backwashing and construction to prevent cross connection. (3-30-07)

**02. Removal by Manganese Coated Media Filtration.** This process consists of a continuous or batch feed of potassium permanganate to the influent of a manganese coated media filter. (3-30-07)

a. Other oxidizing agents or processes such as chlorination or aeration may be used prior to the permanganate feed to reduce the cost of the chemical. (3-30-07)

b. An anthracite media cap of at least six (6) inches or more as required by the Department shall be provided over manganese coated media. (3-30-07)

c. Normal filtration rate shall be three (3) gallons per minute per square foot. (3-30-07)

d. Normal wash rate shall be eight (8) to ten (10) gallons per minute per square foot with manganese greensand and fifteen (15) to twenty (20) gallons per minute with manganese coated media. (3-30-07)

e. Sample taps shall be provided prior to application of permanganate, immediately ahead of filtration, at points between the anthracite media, and at the filter effluent. The sample taps shall satisfy the requirements of Subsection 501.09. (~~3-30-07~~)( )

**03. Removal by Ion Exchange.** This process is not acceptable where either the raw water or wash water contains dissolved oxygen or other oxidants. (3-30-07)

**04. Biological Removal.** Biofiltration to remove manganese, ~~and/or iron, or a combination of manganese and iron~~ requires on-site piloting testing to establish effectiveness. The final filter design shall be based on the on-site pilot plant studies. (3-30-07)(\_\_\_\_)

**05. Sequestration by Polyphosphates.** This process shall not be used when iron, manganese or a combination thereof exceeds one point zero (1.0) mg/l. The total phosphate applied shall not exceed ten (10) mg/l as PO<sub>4</sub>. Where phosphate treatment is used, satisfactory chlorine residuals shall be maintained in the distribution system. Possible adverse affects on corrosion must be addressed when phosphate addition is proposed for iron sequestering. (3-30-07)

**a.** Stock phosphate solution must be kept covered and disinfected by carrying approximately ten (10) mg/l free chlorine residual unless the phosphate is not able to support bacterial growth and the phosphate is being fed from the covered shipping container. Phosphate solutions having a pH of two point zero (2.0) or less may also be exempted from this requirement by the Department. (3-30-07)

**b.** Polyphosphates shall not be applied ahead of iron and manganese removal treatment. The point of application shall be prior to any aeration, oxidation or disinfection if no iron or manganese removal treatment is provided. (3-30-07)

**06. Sequestration by Sodium Silicates.** Sodium silicate sequestration of iron and manganese is allowed only for ground water supplies prior to air contact. On-site pilot tests are required to determine the suitability of sodium silicate for the particular water and the minimum feed needed. Rapid oxidation of the metal ions such as by chlorine or chlorine dioxide must accompany or closely precede the sodium silicate addition. (3-30-07)

**a.** Sodium silicate addition is applicable to waters containing up to two (2) mg/l of iron, manganese or combination thereof. (3-30-07)

**b.** Chlorine residuals shall be maintained throughout the distribution system to prevent biological breakdown of the sequestered iron. (3-30-07)

**c.** The amount of silicate added shall be limited to twenty (20) mg/l as SiO<sub>2</sub>, but the amount of added and naturally occurring silicate shall not exceed sixty (60) mg/l as SiO<sub>2</sub>. (3-30-07)

**d.** Sodium silicate shall not be applied ahead of iron or manganese removal treatment. (3-30-07)

**07. Sampling Taps.** Smooth-nosed sampling taps shall be provided for control purposes. Taps shall be located on each raw water source, each treatment unit influent and each treatment unit effluent. The sample taps shall satisfy the requirements of Subsection 501.09. (3-30-07)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**537. FACILITY AND DESIGN STANDARDS: DESIGN STANDARDS FOR STABILIZATION.**

Water that is unstable due either to natural causes or to subsequent treatment shall be stabilized. The expected treated water quality shall be evaluated to determine what, if any, treatment is necessary. (3-30-07)

**01. Carbon Dioxide Addition.** (3-30-07)

**a.** Recarbonation basin design shall provide the following: (3-30-07)

i. A total detention time of twenty (20) minutes. (3-30-07)

ii. A mixing compartment having a detention time of at least three (3) minutes. (3-30-07)

iii. A reaction compartment. (3-30-07)

iv. The mixing and reaction compartments shall have a depth sufficient to provide a diffuser submergence of not less than seven and one half (7.5) feet and no greater than the manufacturer's recommendation. (3-30-07)

b. Where liquid carbon dioxide is used, adequate precautions must be taken to prevent carbon dioxide from entering the plant from the recarbonation process. (3-30-07)

c. Recarbonation tanks shall be located outside or be sealed and vented to the outside with adequate seals and adequate purge flow of air to ensure workers safety. (3-30-07)

d. Provisions shall be made for draining the recarbonation basin and removing sludge. (3-30-07)

**02. Phosphates.** The feeding of phosphates may be used for sequestering calcium, for corrosion control, and in conjunction with alkali feed following ion exchange softening. (3-30-07)

a. Stock phosphate solution must be kept covered and disinfected by carrying approximately ten (10) mg/l free chlorine residual unless the phosphate is not able to support bacterial growth and the phosphate is being fed from the covered shipping container. Phosphate solutions having a pH of two point zero (2.0) or less are exempted from this requirement. (3-30-07)

b. Satisfactory chlorine residuals shall be maintained in the distribution system when phosphates are used. (3-30-07)

**03. Split Treatment.** Raw water may be blended with lime-softened water to partially stabilize the water prior to secondary clarification and filtration. Treatment plants designed to utilize split treatment shall also contain facilities for further stabilization by other methods. (3-30-07)

**04. Water Unstable Due to Biochemical Action in Distribution System.** Unstable water resulting from the bacterial decomposition of organic matter in water (especially in dead end mains), the biochemical action within tubercles, and the reduction of sulfates to sulfides shall be prevented by the maintenance of a free ~~and/or~~ combined chlorine residual throughout the distribution system. (~~3-30-07~~)( )

**538. – 539. (RESERVED).**

**540. FACILITY AND DESIGN STANDARDS: DESIGN STANDARDS FOR TREATMENT AND DISPOSAL OF WASTE RESIDUALS.**

Provisions must be made for proper disposal of water treatment plant waste such as sanitary, laboratory, clarification sludge, softening sludge, iron sludge, filter backwash water, and liquid concentrates. In locating waste disposal facilities, due consideration shall be given to preventing potential contamination of the water supply. (3-30-07)

**01. Sanitary Waste.** The sanitary waste from water treatment plants, pumping stations, and other waterworks installations must receive treatment. Waste from these facilities shall be discharged directly to a sanitary sewer system, when available and feasible, or to an adequate on-site waste treatment facility approved under the provisions of IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." (3-30-07)

**02. Liquid Concentrates.** (3-30-07)

a. Waste from ion exchange plants, demineralization plants, reverse osmosis, or other plants which produce liquid concentrates may be disposed of by the following methods: (3-30-07)

i. Liquid concentrates that contain radionuclides must be further treated to remove the radioactive constituents as sludge. See Subsection 540.03.e. for disposal requirements for sludge that contains radionuclides. The residual liquids from which radionuclides have been removed may be disposed of in accordance with Subsections 540.02.a.ii. through 540.02.a.v. (3-30-07)

ii. Controlled discharge to a stream or other receiving water body if adequate dilution is available.

Such discharge will require a National Pollution Elimination System Permit from the U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, WA 98101, Telephone (206) 553-1200. (3-30-07)

iii. Liquid concentrates may be discharged to a sanitary sewer, if available and feasible. Acceptance of such waste must be approved by the sewer authority. (3-30-07)

iv. Subsurface disposal or land application of liquid concentrates may be permitted, but only if such discharge meets the requirements of ~~the~~ IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules" for subsurface disposal ~~and/or the requirements of~~ IDAPA 58.01.17, "Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater" for land application. (~~3-30-07~~)(      )

v. Liquid concentrates may be discharged to an injection well if in accordance with Rules of the Idaho Water Resources Board, IDAPA 37.03.03 "Rules and Minimum Standards for the Construction and Use of Injection Wells," referenced in Subsection 002.02. (3-30-07)

b. Should the nature of the liquid concentrate cause it to be ineligible for permitted discharge as described in Subsection 540.02.a., further onsite treatment of the liquid concentrate may be required in order to produce sludge and liquid waste that will meet the permit criteria for one (1) or more of the disposal options. (3-30-07)

**03. Sludge Waste.** Sludge is the solid waste resulting from coagulation, precipitation, or passive settling of liquid concentrates. Depending on composition, liquids remaining after sludge removal may be disposed of by methods described in Subsection 540.02, recycled through the treatment plant, or may be pure enough to be unregulated. The following methods of treatment and disposal apply to sludge: (3-30-07)

a. Precipitative Softening Sludge. (3-30-07)

i. At least two (2) temporary storage lagoons must be provided in order to give flexibility in operation. Provisions must be made for convenient cleaning. An acceptable means of final sludge disposal must be provided. (3-30-07)

ii. Liquid or dewatered precipitative softening sludge may be applied to farm land if heavy metals or other contaminants do not exceed the requirements of IDAPA 58.01.02, "Water Quality Standards." (3-30-07)

iii. Dewatered precipitative softening sludge may be disposed of in a sanitary landfill in accordance with the requirements of IDAPA 58.01.06, "Solid Waste Management Rules." Acceptance of such waste is at the discretion of the landfill authority. (3-30-07)

b. Alum or Ferric Sludge. (3-30-07)

i. Temporary storage lagoons must contain at least two (2) compartments to facilitate independent filling and dewatering operations. Mechanical concentration may be considered. If mechanical dewatering is used, it shall be preceded by sludge concentration and chemical pre-treatment. A pilot plant study is required before the design of a mechanical dewatering installation. (3-30-07)

ii. Alum or ferric sludge may be discharged to a sanitary sewer if available and feasible. Acceptance of such waste must be approved by the sewer authority. (3-30-07)

iii. Dewatered alum or ferric sludge may be disposed of in a sanitary landfill in accordance with the requirements of IDAPA 58.01.06, "Solid Waste Management Rules." Acceptance of such waste is at the discretion of the landfill authority. (3-30-07)

iv. Alum or ferric sludge may be disposed of by land application if the permitting requirements of IDAPA 58.01.02, "Water Quality Standards," and IDAPA 58.01.17, "Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater," are met. (3-30-07)

v. Water removed from alum or ferric sludge may be disposed of in the same manner as liquid

- concentrates, as described in Subsection 540.02. (3-30-07)
- c.** Red Water. Red water is the waste filter wash water from iron and manganese removal plants. (3-30-07)

    - i.** If sand filters are used they shall have the following features: (3-30-07)

      - (1) Total filter area shall be sufficient to adequately dewater applied solids. Unless the filter is small enough to be cleaned and returned to service in one (1) day, two (2) or more cells are required. (3-30-07)
      - (2) The “red water” filter shall have sufficient capacity to contain, above the level of the sand, the entire volume of wash water produced by washing all of the production filters in the plant, unless the production filters are washed on a rotating schedule and the flow through the production filters is regulated by true rate of flow controllers. Then sufficient volume shall be provided to properly dispose of the wash water involved. (3-30-07)
      - (3) Where freezing is a problem, provisions should be made for covering the filters during the winter months. (3-30-07)
      - (4) “Red water” filters shall not have common walls with finished water. (3-30-07)
    - ii.** Subsurface infiltration lagoons may be permitted, but only if such discharge meets the requirements of IDAPA 58.01.03, “Individual/Subsurface Sewage Disposal Rules.” (3-30-07)
    - iii.** “Red water” may be discharged to a sanitary sewer if available and feasible. Acceptance of such waste must be approved by the sewer authority. Design shall prevent cross connections and there shall be no common walls between potable and non-potable water. (3-30-07)
  - d.** Filter Backwash Water. (3-30-07)

    - i.** Recycling is permitted if the backwash waters are returned to the head of the treatment plant or another entry point if supported by engineering studies. Backwash water shall be held for a sufficient time prior to recycling to allow solids to settle out. (3-30-07)
    - ii.** Dewatered sludge from backwash water clarification processes may be disposed of in a sanitary landfill in accordance with the requirements of IDAPA 58.01.06, “Solid Waste Management Rules.” Acceptance of such waste must be approved by the landfill authority. (3-30-07)
  - e.** Radioactive Sludge. Waste residuals containing radioactive substances, including, but not limited to granular activated carbon used for radon removal or ion-exchange regeneration waste from uranium removal, must be disposed of in accordance with IDAPA 58.01.10, “Rules Regulating the Disposal of Radioactive Materials Not Regulated Under The Atomic Energy Act of 1954, As Amended.” (3-30-07)

    - i.** The buildup of radioactive materials such as uranium or radon and its decay products shall be considered and adequate shielding and safeguards shall be provided for operators and visitors. (3-30-07)
    - ii.** Waste residuals containing naturally occurring radioactive materials that have been concentrated by human activities must be disposed of in an approved hazardous waste landfill (Class D), in accordance with the IDAPA 58.01.10, “Rules Regulating the Disposal of Radioactive Materials not Regulated Under the Atomic Energy Act of 1954, as Amended,” and IDAPA 58.01.06, “Solid Waste Management Rules.” (3-30-07)
    - iii.** Waste residuals containing greater than point zero five (.05) percent by weight of uranium are subject to licensing and disposal under the regulations of the U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011, Phone 817-860-8299. (3-30-07)
  - f.** Arsenic Sludge. Solid waste residuals containing arsenic at a concentration less than five (5) mg/l may be disposed of at a sanitary landfill if permitted under IDAPA 58.01.06, “Solid Waste Management Rules.” Solid waste containing arsenic at a concentration greater than five (5) mg/l must be disposed of at an approved hazardous

waste landfill. Liquid wastes generated by arsenic treatment processes are subject to the handling and disposal requirements for liquid concentrates, as discussed under Subsection 540.02. (3-30-07)

**04. Spent Media.** Exhausted ion exchange media, adsorption media, disposable filters, and other components of treatment processes that contain concentrated contaminants shall be disposed of in accordance with IDAPA 58.01.06, "Solid Waste Management Rules," and/or IDAPA 58.01.10, "Rules Regulating the Disposal of Radioactive Materials not Regulated Under the Atomic Energy Act of 1954, as Amended." (3-30-07)

**541. FACILITY AND DESIGN STANDARDS - PUMPING FACILITIES.**

Pumping facilities shall be designed to maintain the sanitary quality of pumped water. (3-30-07)

**01. Pump Houses.** The following requirements apply to pump houses as defined in Section 003 unless it can be shown that some or all of these requirements are not needed to protect the combination of system components in a given structure: (3-30-07)

**a.** Pump houses shall be readily accessible for operation, maintenance, and repair at all times and under all weather conditions unless permitted to be out of service for a period of inaccessibility. (3-30-07)

**b.** Pump houses shall be protected from flooding and shall be adequately drained. The ground surface shall be graded so as to lead surface drainage away from the pump house. The floor surface shall be at least six (6) inches above the final ground surface. (3-30-07)

**c.** Pump houses shall be of durable construction, fire and weather resistant, and with outward-opening doors. All underground structures shall be waterproofed. (3-30-07)

**d.** Provisions shall be made for adequate heating for the comfort of the operator and the safe and efficient operation of the equipment. In pump houses not occupied by personnel, only enough heat need be provided to prevent freezing of equipment or treatment processes. (3-30-07)

**e.** Ventilation shall conform to existing local and/or state codes. Adequate ventilation shall be provided for all pumping stations for operator comfort and dissipation of excess heat and moisture from the equipment. In all cases, measures must be taken to minimize corrosion of metallic and electrical components. (3-30-07)

**f.** Pump houses shall be provided with a locking door or access to prohibit unauthorized entrance and shall be protected to prevent vandalism and entrance by animals. Plans and specifications for pump houses must provide enough detail to enable the reviewing engineer to determine that the facility is secure, safe, accessible, and that it conforms to electrical and plumbing codes. (3-30-07)

**g.** Pump houses shall be kept clean and in good repair and shall not be used to store toxic or hazardous materials other than those materials required for treatment processes. (3-30-07)

**h.** A suitable outlet shall be provided for drainage from pump glands without discharging onto the floor. (3-30-07)

**i.** Floor drains shall not be connected to sewers, storm drains, chlorination room drains, or any other source of contamination. Sumps for pump house floor drains shall not be closer than thirty (30) feet from any well. (3-30-07)

**j.** Adequate space shall be provided for the installation of potential additional units and for the safe and efficient servicing of all equipment. (~~3-30-07~~)(\_\_\_\_)

**k.** Suction basins shall be watertight, have floors sloped to permit removal of water and settled solids, be covered or otherwise protected against contamination, and have two (2) pumping compartments or other means to allow the suction basin to be taken out of service for inspection maintenance or repair. (3-30-07)

**l.** Pump houses shall be designed to allow efficient equipment servicing. Crain-ways, hoist beams,

eyebolts, or other adequate facilities for servicing or removal of pumps, motors or other heavy equipment shall be provided. Openings in floors, roofs or wherever else shall be provided as needed for removal of heavy or bulky equipment. (3-30-07)

**m.** All remote controlled stations shall be electrically operated and controlled and shall have signaling apparatus of proven performance. Signaling apparatus shall report automatically when the station is out of service. (3-30-07)

**n.** Any threaded hose bib installed in the pump house must be equipped with an appropriate backflow prevention device. (3-30-07)

**02. Pumping Units.** At least two (2) pumping units shall be provided for raw water and surface source pumps. Pumps using seals containing mercury shall not be used in public drinking water system facilities. With any pump out of service, the remaining pump or pumps shall be capable of providing the peak hour demand of the system or a minimum of the maximum day demand plus equalization storage. See Subsection 501.178 for general design requirements concerning fire flow capacity and Subsection 501.07 regarding reliability and emergency operation. The pumping units shall meet the following requirements: (3-30-07)( )

**a.** The pumps shall have ample capacity to supply the maximum demand against the required pressure without dangerous overloading. (3-30-07)

**b.** The pumps shall be driven by prime movers able to meet the maximum horsepower condition of the pumps. (3-30-07)

**c.** The pumps shall be provided with readily available spare parts and tools. (3-30-07)

**d.** The pumps shall be served by control equipment that has proper heater and overload protection for air temperature encountered. (3-30-07)

**e.** Suction lift shall be avoided if possible. When suction lift is used, it shall be within the limits allowed by the manufacturer of the pumps, and provision shall be made for priming the pumps. (3-30-07)

**f.** Prime water must not be of lesser sanitary quality than that of the water being pumped. Means shall be provided to prevent either backpressure or backsiphonage backflow. When an air-operated ejector is used, the screened intake shall draw clean air from a point at least ten (10) feet above the ground or other source of possible contamination, unless the air is filtered by an apparatus approved by the reviewing authority. Vacuum priming may be used. (3-30-07)

**03. Appurtenances.** The following appurtenances shall be provided for all water pumps with the exception of well pumps. The requirements for well pumps are provided in Section 511. (3-30-07)

**a.** Pumps shall be adequately valved to permit satisfactory operation, maintenance and repair of the equipment. If foot valves are necessary, they shall have a net valve area of at least two and one-half (2.5) times the area of the suction pipe and they shall be screened. Each pump shall have ~~a positive-acting~~ an accessible check valve on the discharge side between the pump and the shut-off valve. Surge relief measures shall be designed to minimize hydraulic transients. (3-30-07)( )

**b.** In general, piping shall be designed so that it will have watertight joints, be protected against surge or water hammer, be provided with suitable restraints where necessary, be designed so that friction losses will be minimized, and not be subject to contamination. Each pump shall have an individual suction line or the suction lines shall be manifolded such that they will ensure similar hydraulic and operating conditions. (3-30-07)

**c.** Each pump station shall have a standard pressure gauge on its discharge line and suction line. (3-30-07)

**d.** Water seals shall not be supplied with water of a lesser sanitary quality than that of the water being pumped. Where pumps are sealed with potable water and are pumping water of lesser sanitary quality, the seal shall:



(3-30-07)

i. Be provided with either an approved reduced pressure principle backflow preventer or a break tank open to atmospheric pressure, (3-30-07)

ii. Where a break tank is provided, have an air gap of at least six (6) inches or two (2) pipe diameters, whichever is greater, between the feeder line and the flood rim of the tank. (3-30-07)

e. Pumps, their prime movers, and accessories shall be controlled in such a manner that they will operate at rated capacity without dangerous overload. Where two (2) or more pumps are installed, provision shall be made for alternation. Provision shall be made to prevent energizing the motor in the event of a backspin cycle. Equipment shall be provided or other arrangements made to prevent surge pressures from activating controls which switch on pumps or activate other equipment outside the normal design cycle of operation. (3-30-07)

**04. Booster Pumps.** In addition to other applicable requirements in Section 541, booster pumps must comply with the following: (3-30-07)

a. In-line booster pumps shall maintain an operating pressure that is consistent with the requirements specified in Subsection 552.01, and shall be supplied with an automatic cutoff when intake pressure is less than or equal to five (5) psi. (3-30-07)

b. Booster pumps with a suction line directly connected to any storage reservoirs shall be protected by an automatic cutoff to prevent pump damage and avoid excessive reservoir drawdown. (3-30-07)

c. Each booster pumping station shall contain not less than two (2) pumps with capacities such that peak hour demand, or a minimum of the maximum day demand plus equalization storage, can be satisfied with ~~the largest~~ any pump out of service. See Subsection 501.178 for general design requirements concerning fire flow capacity. (~~3-30-07~~)(      )

#### 542. FACILITY AND DESIGN STANDARDS - DISTRIBUTION SYSTEM.

**01. Protection from Contamination.** The distribution system shall be protected from contamination and be designed to prevent contamination by steam condensate or cooling water from engine jackets or other heat exchange devices. (3-30-07)

**02. Installation of Water Mains.** Division 400 of "Idaho Standards for Public Works Construction," referenced in Subsection 002.02, may be used as guidance for installation of water mains. In addition, the following provisions shall apply: (3-30-07)

a. Installed pipe shall be pressure tested and leakage tested in accordance with the applicable AWWA Standards, incorporated by reference into these rules at Subsection 002.01. (3-30-07)

b. New, cleaned, and repaired water mains shall be disinfected in accordance with AWWA Standard C651, incorporated by reference into these rules at Subsection 002.01. The specifications shall include detailed procedures for the adequate flushing, disinfection, and microbiological testing of all water mains. (3-30-07)

c. In areas where aggressive soil conditions are suspected or known to exist, analyses shall be performed to determine the actual aggressiveness of the soil. If soils are found to be aggressive, action shall be taken to protect metallic joint restraints and the water main, such as encasement in polyethylene, provision of cathodic protection, or use of corrosion resistant materials. (3-30-07)

d. The Department must approve any interconnection between potable water supplies, taking into account differences in water quality between the two systems. (3-30-07)

e. A continuous and uniform bedding shall be provided in the trench for all buried pipe. Backfill material shall be tamped in layers around the pipe and to a sufficient height above the pipe to adequately support and protect the pipe. Stones found in the trench shall be removed for a depth of at least six (6) inches below the bottom of

the pipe. (3-30-07)

f. Water mains shall be covered with sufficient earth or other insulation to prevent freezing. (3-30-07)

g. All tees, bends, plugs and hydrants shall be provided with reaction blocking, tie rods or joints designed to prevent movement. (3-30-07)

**03. Pressure Relief Valves.** All pumps connected directly to the distribution system shall be designed in conjunction with a water pressure relief valve of type, size, and material approved by the Department unless the Department approves another method that will prevent excessive pressure development. (3-30-07)

**04. Flow Meter Required.** All source pumps and booster pumps connected directly to the distribution system shall have an instantaneous and totalizing flow meter, installed in accordance with manufacture's specifications, unless deemed unnecessary by the Department in a particular application. The Department may require larger water systems to provide a means of automatically recording the total water pumped. (3-30-07)

**05. Pipe and Jointing Materials.** Pipe and jointing materials comply with the standards set forth in Subsection 501.01. Pipe shall be manufactured of materials resistant internally and externally to corrosion and not imparting tastes, odors, color, or any contaminant into the system. Where distribution systems are installed in areas of ground water contaminated by organic compounds: (3-30-07)

a. Pipe and joint materials which do not allow permeation of the organic compounds shall be used; and (4-11-06)

b. Non-permeable materials shall be used for all portions of the system including pipe, joint materials, hydrant leads, and service connections. (4-11-06)

**06. Size of Water Mains.** When fire hydrants are provided, they shall not be connected to water mains smaller than six (6) inches in diameter, and fire hydrants shall not be installed unless fireflow volumes are available. If fire flow is not provided, water mains shall be no less than three (3) inches in diameter. Any departure from this minimum standard shall be supported by hydraulic analysis and detailed projections of water use. (3-30-07)

**07. Separation of Potable and Non-Potable Pipelines.** The relation between potable and non-potable ~~water~~ pipelines shall be as ~~follows:~~ described in Subsections 542.07.a. through 542.07.c. The Department will use the Memorandum of Understanding with the Plumbing Bureau as guidance in determining the relative responsibilities for reviewing service lines. The conditions of Subsections 542.07.a. and 542.07.b. shall apply to all potable services constructed or reconstructed after April 15, 2007 and where the Department or the OLPE is the reviewing authority. (3-30-07)( )

a. ~~Non-potable mains in relation to potable mains~~ Parallel installation requirements. (3-30-07)( )

i. ~~Parallel installation requirements:~~ Potable mains in relation to non-potable mains. (4-11-06)( )

(1) Greater than ten (10) feet separation: no ~~conditions~~ additional requirements based on separation distance. (4-11-06)( )

(2) Ten (10) feet to six (6) feet separation: separate trenches, with potable main above non-potable main, and non-potable main ~~to be~~ constructed with potable water class pipe. (4-11-06)( )

(3) Less than six (6) feet separation: design engineer to submit data to the Department for review and approval showing that this installation will protect public health and the environment and non-potable main to be constructed of potable water class pipe. (4-11-06)

(4) Non-potable mains are prohibited from being located in the same trench as potable mains. (3-30-07)

(5) Pressure sewage mains shall be no closer horizontally than ten (10) feet from potable mains.

(3-30-07)

ii. ~~Non-potable mains crossing potable water mains requirements:~~ New potable services in relation to non-potable services, new potable services in relation to non-potable mains, and new non-potable services in relation to potable mains. (4-11-06)(\_\_\_\_)

(1) ~~Eighteen (18) inches or more vertical separation with potable water main above non-potable main. Non-potable main joint to be as far as possible from the potable water main.~~ Greater than six (6) feet separation: no additional requirements based on separation distance. (4-11-06)(\_\_\_\_)

(2) ~~Less than eighteen (18) inches vertical separation: Non-potable main constructed with potable water class pipe for a minimum of ten (10) feet either side of potable main with a single twenty (20) foot section of potable water class pipe centered on the crossing, or sleeve non-potable or potable main with potable water class pipe for ten (10) feet either side of crossing. Use of concrete slurry encasement is not allowed as a substitute for sleeving. If potable main is below non-potable main, the non-potable main must also be supported through the crossing to prevent settling.~~ Less than six (6) feet separation: design engineer to submit data that this installation will protect public health and the environment and non-potable service constructed with potable water class pipe. (3-30-07)(\_\_\_\_)

(3) ~~Pressure sewage mains shall be no closer vertically than eighteen (18) inches from potable mains.~~ New potable services are prohibited from being located in the same trench as non-potable mains or non-potable services. (3-30-07)(\_\_\_\_)

b. ~~New potable services in relation to non-potable services and new potable services in relation to non-potable mains. The Department will use the Memorandum of Understanding with the Plumbing Bureau as guidance in determining the relative responsibilities for reviewing service lines. The following conditions shall apply to all potable services constructed or reconstructed after April 15, 2007 and where the Department or the qualified Idaho licensed professional engineer is the reviewing authority.~~ Requirements for potable water mains or services crossing non-potable water mains or services. For the purposes of this section, the term "pipeline" applies to both mains and services. (3-30-07)(\_\_\_\_)

i. ~~Parallel installation requirements:~~ If there is eighteen (18) inches or more vertical separation with the potable water pipeline above the non-potable pipeline, then the non-potable pipeline joint must be as far as possible from the non-potable water pipeline. (4-11-06)(\_\_\_\_)

(1) ~~Greater than six (6) feet separation: no conditions.~~ (4-11-06)

(2) ~~Less than six (6) feet separation: design engineer to submit data that this installation will protect public health and the environment and non-potable service constructed with potable water class pipe.~~ (4-11-06)

(3) ~~New potable services are prohibited from being located in the same trench as non-potable mains or non-potable services.~~ (3-30-07)

ii. ~~Non-potable services crossing potable services or potable mains requirements:~~ If there is eighteen (18) inches or more vertical separation with the potable water pipeline below the non-potable pipeline, then the potable pipeline joint must be as far as possible from the non-potable pipeline, and the non-potable pipeline must be supported through the crossing to prevent settling. (3-30-07)(\_\_\_\_)

iii. Less than eighteen (18) inches vertical separation: (\_\_\_\_)

(1) ~~Eighteen (18) inches or more vertical separation with potable service or main above non-potable service; non-potable joint as far as possible from crossing.~~ Potable pipeline joint to be as far as possible from the non-potable pipeline; and either: (3-30-07)(\_\_\_\_)

(2a) ~~Less than eighteen (18) inches vertical separation or potable service or main below non-potable service; non-potable service or main constructed with potable water class pipe and non-potable joint as far as possible from crossing, or sleeve non-potable service or main with potable water class pipe for ten (10) feet either~~

~~side of crossing. Use of concrete slurry encasement is not allowed as a substitute for sleeving. Non-potable pipeline constructed with potable water class pipe for a minimum of ten (10) feet either side of potable pipeline with a single twenty (20) foot section of potable water class pipe centered on the crossing; or~~ (3-30-07)( )

(b) ~~Sleeve non-potable or potable pipeline with potable water class pipe for ten (10) feet either side of crossing. Use of hydraulic cementitious materials such as concrete, controlled density fill, and concrete slurry encasement is not allowed as a substitute for sleeving.~~ ( )

(2) ~~If potable pipeline is below non-potable pipeline, the non-potable pipeline must also be supported through the crossing to prevent settling.~~ ( )

iv. ~~Pressure sewage mains shall be no closer vertically than eighteen (18) inches from potable mains.~~ ( )

c. Existing potable services in relation to new non-potable mains, ~~and~~ existing non-potable services in relation to new potable mains, ~~and existing potable services in relation to new non-potable services~~ shall meet the requirements of Subsection 542.07.b., where practical, based on cost, construction factors, and public health significance. If the Department determines that there are significant health concerns with these services, such as where a large existing service serves an apartment building or a shopping center, then the design shall conform with Subsection 542.07.b. (3-30-07)( )

**08. Separation from Subsurface Wastewater Systems and Other Sources of Contamination.** A minimum horizontal distance of twenty-five (25) feet shall be maintained between any potable water pipe and a septic tank or subsurface wastewater disposal system. Guidance on separation from other potential sources of contamination, such as stormwater facilities, may be found at [www.deq.idaho.gov/water/assist\\_business/engineers/checklists/guidance\\_separation\\_distances.pdf](http://www.deq.idaho.gov/water/assist_business/engineers/checklists/guidance_separation_distances.pdf). (3-30-07)

**09. Dead End Mains.** All dead end water mains shall be equipped with a means of flushing and shall be flushed at least semiannually at a water velocity of two and one-half (2.5) feet per second. (3-30-07)

a. Dead ends shall be minimized by making appropriate tie-ins whenever practical in order to provide increased reliability of service and reduce head loss. (4-11-06)

b. No water main flushing device shall be directly connected to any sewer. (4-11-06)

**10. Repair of Leaks.** Leaking water mains shall be repaired or replaced upon discovery and disinfected in accordance with American Water Works Association (AWWA) Standards, incorporated by reference into these rules at Subsection 002.01. (3-30-07)

**11. Separation from Structures.** Water mains shall be separated by at least five (5) feet from buildings, industrial facilities, and other permanent structures. (3-30-07)

**12. Meter Vault Required.** All new public water systems shall include a meter vault at each service connection. A lockable shut-off valve shall be installed in the meter vault. This requirement shall also apply to extensions of the distribution system of existing public water systems. (3-30-07)

**13. Minimum Pressure at Building Sites.** ~~All new public water systems that are constructed~~ Any public water system constructed or undergoing material modification where topographical relief may affect water pressure at the customers' premises shall provide the Department with an analysis which demonstrates that the pressure at each designated building site will be at least forty (40) psi, based on dynamic pressure in the main, as set forth in Subsections 552.01.b.i. and 552.01.b.ii., plus a static compensation from the elevation of the main to the elevation of each building site. (3-30-07)( )

a. If forty (40) psi cannot be provided at each designated building site, the Department may require that reasonable effort be made to provide notification to existing and potential customers of the expected pressure. (5-3-03)

b. The Department will not authorize a service connection at any designated building site where analysis indicates that pressure will be less than twenty (20) psi static pressure (or twenty-six point five (26.5) psi for two (2) story buildings). (5-3-03)

14. **Isolation Valves.** A sufficient number of valves shall be provided on water mains to minimize inconvenience and sanitary hazards during repairs. (3-30-07)

15. **Air Relief Valves.** At high points in water mains where air can accumulate, provisions shall be made to remove the air by means of combination vacuum relief/air release valves. In lieu of combination vacuum relief/air release valves, vacuum relief and air release functions in the pipeline may be adequately handled by approved appurtenances such as fire hydrants. ( )

a. The open end of an air relief pipe shall be extended to at least one (1) foot above grade and provided with a screened, downward-facing elbow. When an air vent cannot be practically installed above ground, the vent may be below grade provided that the below grade chamber is rated for appropriate traffic loading in traffic areas and the chamber is drained to daylight. ( )

b. Discharge piping from air relief valves shall not connect directly to any storm drain, storm sewer, or sanitary sewer. ( )

156. **Backflow Protection.** Automatic air relief valves shall be equipped with a means of backflow protection. (3-30-07)

167. **Surface Water Crossings.** For the purposes of Subsection 542.17, surface water is defined as all surface accumulations of water, natural or artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. This includes, but is not limited to, rivers, streams, canals, ditches, lakes, and ponds. Surface water crossings, whether over or under water, shall be constructed as follows: (3-30-07)( )

a. Above water crossings: the pipe shall be adequately supported and anchored, protected from damage and freezing, and shall be accessible for repair or replacement. (4-11-06)

b. Under water crossings: A minimum cover of two (2) feet shall be provided over the pipe. When crossing a water course that is greater than fifteen (15) feet in width, the following shall be provided: (4-11-06)

i. The pipe shall be of special construction, having flexible, restrained, or welded water-tight joints; and (4-11-06)

ii. Valves shall be provided at both ends of water crossings so that the section can be isolated for testing or repair; the valves shall be easily accessible and not subject to flooding; and (4-11-06)

iii. Permanent taps or other provisions to allow insertion of a small meter to determine leakage and obtain water samples shall be made on each side of the valve closest to the supply source. (4-11-06)

**543. FACILITY AND DESIGN STANDARDS - CROSS CONNECTION CONTROL.**

There shall be no connection between the distribution system and any pipes, pumps, hydrants, water loading stations, or tanks whereby unsafe water or other contaminating materials may be discharged or drawn into a public water system. The water purveyor is responsible through its cross connection control program to take reasonable and prudent measures to protect the water system against contamination and pollution from cross connections through premise isolation or containment, internal or in-plant isolation, fixture protection, or some combination of premise isolation, internal isolation, and fixture protection. (3-30-07)( )

01. ~~Double Check Valve Testable Assemblies.~~ If All double check valve backflow prevention assemblies, and/or reduced pressure principle backflow prevention assemblies, are spill resistant vacuum breakers, and pressure vacuum breakers used, they must pass a performance test conducted by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research. In addition, they all double check valve backflow prevention assemblies and reduced pressure principle backflow prevention assemblies used shall meet

American Water Works Association (AWWA) Standards C-510 or C-511, incorporated by reference into these rules at Subsection 002.01, or an equivalent standard approved by the Department. (3-30-07)(\_\_\_\_)

**02. Atmospheric Vacuum Breakers.** ~~If All~~ atmospheric vacuum breakers ~~and/or pressure vacuum breakers are~~ used, ~~they~~ shall be marked approved either by the International Association of Plumbing and Mechanical Officials (IAPMO) or by the American Society of Sanitation Engineers (ASSE). ~~Pressure vacuum breakers must pass a performance test conducted by the University of Southern California Foundation for Cross Connection Control and Hydraulic Research.~~ (3-30-07)(\_\_\_\_)

**03. Resilient Seated Shutoff Valves.** Resilient seated shutoff valves shall be used when double check valve backflow prevention assemblies, reduced pressure principle backflow prevention assemblies, and pressure vacuum breakers are installed. (3-30-07)

**04. Reference Assembly Selection-Chart.** ~~Reference may be made to a selection chart~~ Appropriate and adequate backflow prevention assemblies for various facilities, fixtures, equipment, and uses of water provided in Subsection 900.02 (Table 2) must be selected either from the Pacific Northwest Cross Connection Control Manual, the Uniform Plumbing Code, the Environmental Protection Agency's Cross Connection Control Manual, the USC Manual of Cross Connection Control or other sources deemed acceptable by the Department. The selected assembly must comply with local ordinances. (3-30-07)(\_\_\_\_)

**544. FACILITY AND DESIGN STANDARDS: GENERAL DESIGN OF FINISHED WATER STORAGE.** The materials and designs used for finished water storage structures shall provide stability and durability as well as protect the quality of the stored water. Finished water storage structures shall be designed to maintain water circulation and prevent water stagnation. Steel structures and facilities such as steel tanks, standpipes, reservoirs, and elevated tanks shall be designed and constructed in accordance with applicable AWWA Standards, incorporated by reference into these rules at Subsection 002.01. Other materials of construction are acceptable when properly designed to meet the requirements of Section 544. (3-30-07)(\_\_\_\_)

**01. Sizing.** Storage facilities shall have sufficient capacity, as determined from engineering studies that consider peak flows, fire flow capacity, and analysis of the need for various components of finished storage as defined under the term "Components of Finished Water Storage" in Section 003. The requirement for storage may be reduced when the source and treatment facilities have sufficient capacity with standby power to supply peak demands of the system. (3-30-07)

**02. Location.** Storage facilities shall be located in a manner that protects against contamination, ensures structural stability, ~~and~~ protects against flooding, and provides year-round access by vehicles and equipment needed for repair and maintenance. (3-30-07)(\_\_\_\_)

**a.** If the bottom elevation of a storage reservoir must be below normal ground surface, it shall be placed above the seasonal high ground water table. (3-30-07)

**b.** ~~Sewers, drains~~ Non-potable mains and services, standing water, and similar sources of possible contamination must be kept at least fifty (50) feet from the reservoir any partially buried or below-ground storage structure or facility, except that gravity sewers non-potable mains and services constructed of potable water main quality class pipe are allowed as close as twenty (20) feet from the reservoir a partially buried or below-ground storage structure or facility. Partially buried or below-ground storage structures or facilities shall be located a minimum of fifty (50) feet from the nearest property line. (3-30-07)(\_\_\_\_)

**c.** No public water supply storage tank shall be located within five hundred (500) feet of any municipal or industrial wastewater treatment plant or any land which is spray irrigated with wastewater or used for sludge disposal. (3-30-07)

**d.** The top of a partially buried storage structure shall not be less than two (2) feet above normal ground surface. (3-30-07)

**e.** Ground-level or elevated storage structures or facilities shall be located a minimum of twenty (20) feet from the nearest property line and a minimum of twenty (20) feet from any potential source of contamination.

( )

**03. Protection from Contamination.** All finished water storage structures shall have suitable watertight roofs which exclude birds, animals, insects, and excessive dust. The installation of appurtenances, such as antennas, shall be done in a manner that ensures no damage to the tank, coatings or water quality, or corrects any damage that occurred. (3-30-07)

**04. Protection from Trespassers.** Fencing, locks on access manholes, and other necessary precautions shall be provided to prevent trespassing, vandalism, and sabotage. (3-30-07)

**05. Drains.** No drain on a water storage structure may have a direct connection to a sewer or storm drain. The design shall allow draining the storage facility for cleaning or maintenance without causing loss of pressure in the distribution system. (3-30-07)

**06. Overflow.** Overflow pipes of any storage structure or facility shall discharge to daylight in a way that will preclude the possibility of backflow to the reservoir and, where practical, be provided with an expanded metal screen installed within the pipe that will exclude rodents and deter vandalism. The overflow pipe shall be of sufficient diameter to permit waste of water in excess of the filling rate. The overflow shall discharge over a drainage inlet structure or a splash plate and, when practical, discharge at an elevation between twelve (12) and twenty-four (24) inches above the receiving surface. (3-30-07)( )

**a.** When an internal overflow pipe is used on ~~elevated~~ above-ground tanks, it shall be located in the access tube. (3-30-07)( )

**b.** The overflow for ~~a~~ ground-level, storage reservoir partially buried, or below-ground storage structures or facilities shall ~~open downward and~~ have a vertical section of pipe at least two (2) pipe diameters in length and either: ( )

**i.** ~~Be~~ Be screened with a twenty-four (24) mesh noncorrodible screen installed within the pipe when practical; or an expanded metal screen installed within the pipe plus a weighted flapper valve or check; or ( )

**ii.** Be an equivalent system acceptable to the Department. A splash pan or similar provision to prevent erosion shall be provided at the base of the overflow. (3-30-07)( )

**e.** ~~The overflow pipe shall be of sufficient diameter to permit waste of water in excess of the filling rate. The overflow shall be brought down to an elevation between twelve (12) and twenty-four (24) inches above ground surface and discharge over a drainage inlet structure or a splash plate.~~ (3-30-07)

**07. Access.** Finished water storage structures shall be designed with reasonably convenient access to the interior for cleaning and maintenance. At least two (2) manholes shall be provided above the waterline at each water compartment where space permits. (3-30-07)

**a.** The following access requirements apply to ~~elevated~~ above-ground storage structures; (3-30-07)( )

**i.** At least one (1) of the access manholes shall be framed at least four (4) inches above the surface of the roof at the opening. The manholes shall be fitted with a solid water tight cover which overlaps the framed opening and extends down around the frame at least two (2) inches, shall be hinged on one side, and shall have a locking device. (3-30-07)

**ii.** All other manholes or access ways shall be bolted and gasketed according to the requirements of the reviewing authority, or shall meet the requirements of the Subsection 544.07.a.i. (3-30-07)

**b.** The following access requirements apply to ground-level, partially buried, or below-ground storage structures: (3-30-07)( )

**i.** Each manhole shall be elevated at least twenty-four (24) inches above the top of the tank or

covering sod, whichever is higher. (3-30-07)

ii. Each manhole shall be fitted with a solid water tight cover which overlaps a framed opening and extends down around the frame at least two (2) inches. The frame shall be at least four (4) inches high. Each cover shall be hinged on one side, and shall have a locking device. (3-30-07)

**08. Vents.** Finished water storage structures shall be vented. The overflow pipe shall not be considered a vent. Open construction between the sidewall and roof is not permissible. Vents shall: (3-30-07)

a. Prevent the entrance of surface water and rainwater and extend twelve (12) inches above the roof. (3-30-07)

b. Exclude birds and animals. (3-30-07)

c. Exclude insects and dust, as much as this function can be made compatible with effective venting. (3-30-07)

d. On ground-level, partially buried, or below-ground structures, open downward with the opening at least twenty-four (24) inches above the roof or sod and covered with twenty-four (24) mesh non-corrodible screen. The screen shall be installed within the pipe at a location least susceptible to vandalism. ~~(3-30-07)~~(\_\_\_\_)

e. On ~~elevated~~ above-ground tanks and standpipes, open downward, and be fitted with four (4) mesh non-corrodible screen. ~~(3-30-07)~~(\_\_\_\_)

**09. Roof and Sidewall.** The roof and sidewalls of all water storage structures must be watertight with no openings except properly constructed vents, manholes, overflows, risers, drains, pump mountings, control ports, or piping for inflow and outflow. Particular attention shall be given to the sealing of roof structures which are not integral to the tank body. (3-30-07)

a. Any pipes running through the roof or sidewall of a metal storage structure must be welded, or properly gasketed. In concrete tanks, these pipes shall be connected to standard wall castings which were poured in place during the forming of the concrete. (3-30-07)

b. Openings in the roof of a storage structure designed to accommodate control apparatus or pump columns shall be curbed and sleeved with proper additional shielding to prevent contamination from surface or floor drainage. (3-30-07)

c. The roof of the storage structure shall be sloped to facilitate drainage. Downspout pipes shall not enter or pass through the reservoir. Parapets, or similar construction which would tend to hold water and snow on the roof, will not be approved unless adequate waterproofing and drainage are provided. (3-30-07)

d. Reservoirs with pre-cast concrete roof structures must be made watertight with the use of a waterproof membrane or similar product. (3-30-07)

**10. Construction Materials.** Materials used in storage facility construction shall meet the requirements for water contact surfaces set forth in Subsection 501.01. Porous materials such as wood or concrete block are not acceptable for use in storage construction. (3-30-07)

**11. Protection from Freezing.** Finished water storage structures and their appurtenances, especially the riser pipes, overflows, and vents, shall be designed to prevent freezing which will interfere with proper functioning. (3-30-07)

**12. Internal Catwalk.** Every catwalk over finished water in a storage structure shall have a solid floor with sealed raised edges, designed to prevent contamination from shoe scrapings and dirt. (3-30-07)

**13. Silt Stops.** Removable silt stops shall be provided to prevent sediment from entering the reservoir discharge pipe. (3-30-07)



14. **Grading.** The area surrounding a ground-level, partially buried, or below-ground structures shall be graded in a manner that will prevent surface water from standing within fifty (50) feet of it. ~~(3-30-07)~~(\_\_\_\_)

15. **Coatings and Cathodic Protection.** Proper protection shall be given to metal surfaces by paints or other protective coatings, by cathodic protective devices, or by both. (3-30-07)

16. **Disinfection.** Storage facilities shall be disinfected in accordance with AWWA Standard C652, incorporated by reference into these rules at Subsection 002.01. Two (2) or more successive sets of samples, taken at twenty-four (24) hour intervals, shall indicate microbiologically satisfactory water before the facility is placed into operation. (3-30-07)

17. **Abandonment.** All unused subsurface storage tanks shall be removed and backfilled, or abandoned by extracting residual fluids and filling the structure with sand or fine gravel. (3-30-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**546. FACILITY AND DESIGN STANDARDS: DISTRIBUTION SYSTEM STORAGE FACILITIES.**

01. **Design.** The applicable design standards of Section 544 shall be followed for distribution system storage. (3-30-07)

02. **Isolation.** Finished water storage structures which provide pressure directly to the distribution system shall be designed so they can be isolated from the distribution system and drained for cleaning or maintenance without causing a loss of pressure in the distribution system. If the finished water storage structure provides fire flow for the water system, the water system owner shall provide the local fire authority advance notification of cleaning or maintenance events which isolate the structure from the distribution system and reduce available fire flow to less than the minimum required by the local fire authority. ~~(3-30-07)~~(\_\_\_\_)

03. **Drain.** Drains shall discharge to daylight in a way that will preclude the possibility of backflow to the reservoir and, where practical, be provided with an expanded metal screen installed within the pipe that will exclude rodents and deter vandalism. The drain shall, when practical, discharge at an elevation between twelve (12) and twenty-four (24) inches above the receiving surface, and discharge over a drainage inlet structure or a splash plate. ~~(3-30-07)~~(\_\_\_\_)

04. **Level Controls.** Adequate controls shall be provided to maintain levels in distribution system storage structures. Level indicating devices shall be provided at a central location. (3-30-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**552. FACILITY AND DESIGN STANDARDS: OPERATING CRITERIA FOR PUBLIC WATER SYSTEMS.**

01. **Quantity and Pressure Requirements.** Design requirements regarding pressure analysis are found in Section 542.13. ~~(12-1-92)~~(\_\_\_\_)

a. **Minimum Quantity.** The capacity of a public drinking water system shall ~~in no instance be less than~~ be at least eight hundred (800) gallons per day per residence, ~~plus irrigation flows.~~ ~~(5-3-03)~~(\_\_\_\_)

i. The minimum capacity of eight hundred (800) gallons per day represents the maximum day demand rate exclusive of irrigation and fire flow requirements. (\_\_\_\_)

ii. The minimum capacity of eight hundred (800) gallons per day is only acceptable if the public drinking water system has equalization storage of finished water in sufficient quantity to compensate for the difference between a water system's maximum pumping capacity and peak hour demand. ( )

iii. The design capacity of a public drinking water system for material modifications may be less than eight hundred (800) gallons per day per residence if the water system owner provides information that demonstrates to the Department's satisfaction the maximum day demand for the system, exclusive of irrigation and fire flows, is less than eight hundred (800) gallons per day per residence. ( )

b. Pressure. If the Department receives a complaint from a customer or customers of a public drinking water system regarding inadequate or excessive pressure, the Department may, after initial investigation by the water system or the Department, require the public water system to conduct a local pressure monitoring study to diagnose and correct pressure problems. (3-30-07)

i. Any public water system shall be capable of providing sufficient water during maximum day demand conditions, including fire flow to maintain a minimum pressure of twenty (20) psi throughout the distribution system, at ground level, as measured at the service connection or along the property line adjacent to the consumer's premises. (3-30-07)

ii. ~~Any~~ The following public water systems constructed or significantly modified after July 1, 1985, or service areas of public water systems shall maintain a minimum pressure of forty (40) psi throughout the distribution system, during peak hourly demand conditions, excluding fire flow, measured at the service connection or along the property line adjacent to the consumer's premises. ~~(3-30-07)~~( )

(1) ~~Existing water systems that are planning to expand their service area shall meet the criteria in Subsections 552.01.b.i. and 552.01.b.ii. in the new service area.~~ Any public water system constructed or substantially modified after July 1, 1985. ~~(4-11-06)~~( )

(2) ~~Compliance with these requirements by water systems that do not have a meter vault or other point of access at the service connection or along the property line adjacent to the consumer's premises where pressure in the distribution system can be reliably measured shall be determined by measurements within the consumer's premises, or at another representative location acceptable to the Department.~~ Any new service areas. ~~(5-3-03)~~( )

(3) Any public water system that is undergoing material modification where it is feasible to meet the pressure requirements as part of the material modification. ( )

iii. Any public water system shall keep static pressure within the distribution system below one hundred (100) psi and should ordinarily keep static pressure below eighty (80) psi. Pressures above one hundred (100) psi shall be controlled by pressure reducing devices installed in the distribution main. ~~If system modification will cause pressure to routinely exceed eighty (80) psi, the water system shall notify affected customers.~~ The Department may approve the use of pressure reducing devices at individual service connections on a case by case basis, if it can be demonstrated that higher pressures in portions of the distribution system are required for efficient system operation. If system modification will cause pressure to routinely exceed eighty (80) psi, or if a check valve or an individual pressure reducing device is added to the service line, the water system owner shall notify affected customers. ~~(3-30-07)~~( )

iv. The Department may allow the installation of booster pump systems at individual service connections on a case by case basis. However, such an installation may only occur with the full knowledge and agreement of the public water system, including assurance by the water system that the individual booster pump will cause no adverse effects on system operation. (4-11-06)

v. When pressures within the system are known to have fallen below twenty (20) psi, the water system must provide public notice and disinfect the system. (5-3-03)

vi. Compliance with these requirements by water systems that do not have a meter vault or other point of access at the service connection or along the property line adjacent to the consumer's premises where pressure in the distribution system can be reliably measured shall be determined by measurements within the consumer's

premises, or at another representative location acceptable to the Department. ( )

**c.** Fire Flows. Any public water system designed to provide fire flows shall ensure that such flows are compatible with the water demand of existing and planned fire fighting equipment and fire fighting practices in the area served by the system. (5-3-03)

**d.** Irrigation Flows. (12-1-92)

**i.** Any public water system constructed after November 1, 1977, shall be capable of providing water for uncontrolled, simultaneous foreseeable irrigation demand, which shall include all acreage that the system is designed to irrigate. (5-3-03)

(1) The Department must concur with assumptions regarding the acreage to be irrigated. In general, an assumption that no outside watering will occur is considered unsound and is unlikely to be approved. (5-3-03)

(2) An assumption of minimal outside watering, as in recreational subdivisions, may be acceptable if design flows are adequate for maintenance of "green zones" for protection against wildland fire. (5-3-03)

**ii.** The requirement of Subsection 552.01.d.i. may be modified by the Department if: (5-3-03)

(1) A separate irrigation system is provided; or (12-10-92)

(2) The supplier of water can regulate the rate of irrigation through its police powers, and the water system is designed to accommodate a regulated rate of irrigation flow. The Department may require the water system to submit a legal opinion addressing the enforceability of such police powers. (5-3-03)

**iii.** If a separate non-potable irrigation system is provided for the consumers, all mains, hydrants and appurtenances shall be easily identified as non-potable. The Department must concur with a plan to ensure that each new potable water service is not cross-connected with the irrigation system. (5-3-03)

**02. Ground Water.** (12-10-92)

**a.** Public water systems constructed after July 1, 1985, and supplied by ground water, shall treat water within the system by disinfection if the groundwater source is not protected from contamination. (12-10-92)

**b.** The Department may, in its discretion, require disinfection for any existing public water system supplied by ground water if the system consistently exceeds the MCL for coliform, and if the system does not appear adequately protected from contamination. Adequate protection will be determined based upon at least the following factors: (12-10-92)

**i.** Location of possible sources of contamination; (12-10-92)

**ii.** Size of the well lot; (12-10-92)

**iii.** Depth of the source of water; (12-10-92)

**iv.** Bacteriological quality of the aquifer; (12-10-92)

**v.** Geological characteristics of the area; and (12-10-92)

**vi.** Adequacy of development of the source. (12-10-92)

**03. Operating Criteria.** The operating criteria for systems supplied by surface water or ground water under the direct influence of surface water shall be as follows: (12-10-92)

**a.** Each system must develop and follow a water treatment operations plan acceptable to the Department, by July 31, 1993, or within six (6) months of installation of filtration treatment, whichever is later. For a

maximum of twelve (12) months, this may be a draft operations plan based on pilot studies or other criteria acceptable to the Department. After twelve (12) months the plan shall be finalized based on full scale operation.

(12-10-92)

**b.** The purveyor shall ensure that treatment facilities are operated in accordance with good engineering practices such as those found in the Recommended Standards for Water Works, A Report of the Water Supply Committee of the Great Lakes - Upper Mississippi River Board of Public Health and Environmental Managers as set forth in Subsection 002.02.c., or other equal standard designated by the Department.

(4-6-05)

**c.** New treatment facilities shall be operated in accordance with Subsection 552.03.b., and the system shall conduct monitoring specified by the Department for a trial period specified by the Department before serving water to the public in order to protect the health of consumers served by the system.

(3-30-07)

**04. Chlorination.** Systems that regularly add chlorine to their water are subject to the provisions of Section 320. Systems using surface water or ground water under the direct influence of surface water, are subject to the disinfection requirements of Sections 300 and 518.

(3-30-07)

**a.** Systems using only ground water that add chlorine for the purpose of disinfection, as defined in Section 003, are subject to the following requirements:

(4-6-05)

**i.** Chlorinator capacity shall be such that the system is able to demonstrate that it is routinely achieving four (4) logs (ninety-nine point ninety-nine percent (99.99%)) inactivation of viruses. The required contact time will be specified by the Department. This condition must be attainable even when the ~~maximum peak hourly~~ demand coincides with anticipated maximum chlorine demands.

~~(4-6-05)~~(\_\_\_\_)

**ii.** A detectable chlorine residual shall be maintained throughout the distribution system.

(4-6-05)

**iii.** Automatic proportioning chlorinators are required where the rate of flow is not reasonably constant.

(12-10-92)

**iv.** Analysis for free chlorine residual shall be ~~made~~ conducted at a location at or prior to the first service connection at least daily and records of these analyses shall be kept by the supplier of water for at least one (1) year. A report of all daily chlorine residual measurements for each calendar month shall be submitted to the Department no later than the tenth day of the following month. The frequency of measuring free chlorine residuals shall be sufficient to detect variations in chlorine demand or changes in water flow.

~~(4-6-05)~~(\_\_\_\_)

**v.** A separate and ventilated room for gas chlorination equipment shall be provided.

(12-10-92)

**vi.** The Department may, in its discretion, require a treatment rate higher than that specified in Subsection 552.04.a.i.

(3-30-07)

**vii.** When chlorine gas is used, chlorine leak detection devices and safety equipment shall be provided ~~in accordance with the 1992 Recommended Standards for Water Works, as set forth in Subsection 002.02.c and equipped with both an audible alarm and a warning light.~~

~~(12-10-92)~~(\_\_\_\_)

**viii.** The Department may require redundant chlorine pumping capabilities with automatic switchover for systems with documented source water contamination problems and that lack adequate storage to supply the system during a pump failure.

(\_\_\_\_)

**b.** Systems using only ground water that add chlorine for the purpose of maintaining a disinfectant residual in the distribution system, when the source(s) is not at risk of microbial contamination, are subject to the following requirements:

(4-6-05)

**i.** Automatic proportioning chlorinators are required where the rate of flow is not reasonably constant.

(4-6-05)

**ii.** Analysis for free chlorine residual shall be made at a frequency that is sufficient to detect variations

in chlorine demand or changes in water flow. (4-6-05)

c. Systems using only ground water that add chlorine for other purposes, such as oxidation of metals or taste and odor control, when the source(s) is known to be free of microbial contamination, must ensure that chlorine residual entering the distribution system after treatment is less than four (4.0) mg/L. The requirements in Subsection 552.04.b.ii. also apply if the system maintains a chlorine residual in the distribution system. (3-30-07)

**05. Fluoridation.** (12-1-92)

a. Commercial sodium fluoride, sodium silico fluoride and hydrofluosilicic acid which conform to the applicable American Water Works Association (AWWA) Standards, incorporated by reference into these rules at Subsection 002.01, are acceptable. Use of other chemicals shall be specifically approved by the Department. (3-30-07)

b. Fluoride compounds shall be stored in covered or unopened shipping containers. (3-30-07)

c. Provisions shall be made to minimize the quantity of fluoride dust. Empty bags, drums, or barrels shall be disposed of in a manner that will minimize exposure to fluoride dusts. (3-30-07)

d. Daily records of flow and amounts of fluoride added shall be kept. An analysis for fluoride in finished water shall be made at least weekly. Records of these analyses shall be kept by the supplier of water for five (5) years. (12-10-92)

**06. Cross Connection Control Program - Community Water Systems.** The water purveyor is responsible through its cross connection control program to take reasonable and prudent measures to protect the water system against contamination and pollution from cross connections through premise isolation, internal or in-plant isolation, fixture protection, or some combination of premise isolation, internal isolation, and fixture protection. Pursuant to Section 543, all suppliers of water for community water systems shall implement a cross connection control program to prevent the entrance to the system of materials known to be toxic or hazardous. See AWWA "Cross Connection Control Manual," referenced in Subsection 002.02. The water purveyor is responsible to enforce the system's cross connection control program. The program will at a minimum include: (3-30-07)(\_\_\_\_)

a. An inspection once a year of all facilities listed in Subsection 900.02 (Table 2) program to locate cross connections and determine required suitable protection. For new connections, suitable protection must be installed prior to providing water service. (3-30-07)(\_\_\_\_)

b. Required installation and operation of adequate backflow prevention assemblies. A selection chart Appropriate and adequate backflow prevention assemblies for various facilities, fixtures, equipment, and uses of water is provided in Subsection 900.02 (Table 2) must be selected from either the Pacific Northwest Cross Connection Control Manual, the Uniform Plumbing Code, the Environmental Protection Agency's Cross Connection Control Manual, the USC Manual of Cross Connection Control, or other sources deemed acceptable by the Department. The assemblies must comply with local ordinances. (3-30-07)(\_\_\_\_)

c. Annual inspections and testing of all installed backflow prevention assemblies by a tester licensed by a licensing authority recognized by the Department. Testing shall be done in accordance with the test procedures published by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research. See the USC Manual of Cross-Connection Control referenced in Subsection 002.02. (3-30-07)

d. Discontinuance of service to any facility where suitable backflow protection has not been provided for a cross connection. (3-30-07)

**07. Cross Connection Control Program - Non-Community Water Systems.** All suppliers of water for non-community water systems shall ensure that cross connections do not exist or are isolated from the potable water system by an approved backflow prevention assembly. Backflow prevention assemblies shall be inspected and tested annually for functionality on a regular basis by an Idaho licensed tester, as specified in Subsection 552.06.c. (3-30-07)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**554. LICENSE REQUIREMENTS.**

**01. Licensed Operator Required.** (4-6-05)

**a.** Owners of all community and nontransient noncommunity public drinking water systems must place the direct supervision of their drinking water system, including each treatment facility and ~~of~~ distribution system, under the responsible charge of a properly licensed operator. (4-6-05)( )

**b.** Owners of all surface water systems must place the direct supervision of their public drinking water system under the responsible charge of a properly licensed operator. (4-6-05)

**02. Responsible Charge Operator License Requirement.** An operator in responsible charge of a public drinking water system must hold a valid license equal to or greater than the classification of the public water system where the responsible charge operator is in responsible charge. (4-6-05)

**03. Substitute Responsible Charge Operator License Requirement.** At such times as the responsible charge operator is not available, a substitute responsible charge operator shall be designated to replace the responsible charge operator. A substitute responsible charge operator of a public water system must hold a valid license equal to or greater than the classification of the public water system where the substitute responsible charge operator is in responsible charge. (4-6-05)

**04. Shift Operator Requirement.** Any public drinking water system subject to these requirements with multiple operating shifts must have a designated properly licensed operator available for each operating shift. An on-duty designated shift operator does not replace the requirements in Subsections 554.01 and 554.03 for responsible charge operator coverage during all operating shifts. (4-6-05)

**05. Water Operator License Requirement.** All operating personnel at public drinking water systems subject to these requirements making process control/ system integrity decisions about water quality or quantity that affect public health must hold a valid and current license. (4-6-05)

**(BREAK IN CONTINUITY OF SECTIONS)**

**900. TABLES.**

**01. Table 1 -- Minimum Distances From a Public Water System Well.**

Minimum Distances from a Public Water System Well	
Gravity sewer line	50 feet
<u>Any potential source of contamination</u>	<u>50 feet</u>
Pressure sewer line	100 feet
Individual home septic tank	100 feet
Individual home disposal field	100 feet
Individual home seepage pit	100 feet
Privies	100 feet

Minimum Distances from a Public Water System Well	
Livestock	50 feet
<u>Drainfield - standard subsurface disposal module</u>	<u>100 feet</u>
<u>Absorption module - large soil absorption system</u>	<u>150 - 300 feet, see IDAPA 58.01.03</u>
Canals, streams, ditches, lakes, ponds and tanks used to store non-potable substances	50 feet
<u>Storm water facilities disposing storm water originating off the well lot</u>	<u>50 feet</u>
<u>Municipal or industrial wastewater treatment plant</u>	<u>500 feet</u>
<u>Reclamation and reuse of municipal and industrial wastewater sites</u>	<u>See IDAPA 58.01.17</u>
<u>Biosolids application site</u>	<u>1,000 feet</u>

(3-30-07)( )

02. ~~Table 2 — Selection Chart for Minimum Backflow Prevention Services.~~

SELECTION CHART FOR MINIMUM BACKFLOW PREVENTION DEVICES					
FACILITIES, FIXTURES, EQUIPMENT, OR USE OF WATER	ATMOSPHERIC-TYPE VACUUM-BREAKER	PRESSURE-TYPE VACUUM-BREAKER	DOUBLE-CHECK-VALVE-ASSEMBLY	REDUCED-PRESSURE-BACKFLOW-PREVENTER	AIR-GAP
<del>Animal Watering</del>	X	X		X	X
<del>Aspirators, harmful substance</del>	X	X		X	X
<del>Autopsy Equipment</del>	X	X		X	
<del>Autoclaves</del>				X	
<del>Boiler Feeds without harmful chemicals</del>			X		
<del>Boiler Feeds with harmful chemicals</del>				X	X
<del>Bed Pan Washers</del>	X	X			
<del>Cuspidors, Open Outlet</del>	X	X			
<del>Cuspidors, Valved Outlet</del>		X			
<del>Dairies and Farms</del>				X	X
<del>Dishwashers</del>	X	X			X
<del>Domestic Water Booster Pump on service lines</del>			X	X	
<del>Garbage Can Washers</del>		X			X
<del>Heat Exchangers with transfer fluids</del>			X	X	
<del>High Rise Buildings, 3 stories or more, bldgs. on hill</del>			X	X	

<b>SELECTION CHART FOR MINIMUM BACKFLOW PREVENTION DEVICES</b>					
<b>FACILITIES, FIXTURES, EQUIPMENT, OR USE OF WATER</b>	<b>ATMOSPHERIC- TYPE VACUUM- BREAKER</b>	<b>PRESSURE- TYPE VACUUM- BREAKER</b>	<b>DOUBLE- CHECK VALVE- ASSEMBLY</b>	<b>REDUCED- PRESSURE- BACKFLOW- PREVENTER</b>	<b>AIR-GAP</b>
<i>Irrigation Systems, such as cemeteries, golf courses, playgrounds, parks, estates, ranches, schools, and residential uses with chemicals added</i>				X	X
<i>Irrigation Systems, such as cemeteries, golf courses, playgrounds, parks, estates, ranches, schools, and residential uses without chemicals added</i>	X	X	X		
<i>Laundries with under rim or bottom fill inlets, dry cleaning, and dye works</i>	X	X		X	X
<i>Mobile Home and RV Parks with nonapproved waste valves</i>		X	X	X	
<i>Mobile Home and RV Parks with below ground level service line termination</i>				X	
<i>Fixing Toes with steam and water used with harmful substances</i>				X	
<i>Fixing Toes with steam and water used without harmful substances</i>			X		
<i>Private Water Sources which are unmonitored</i>				X	
<i>Radiator Vats</i>				X	X
<i>Slaughter Houses</i>				X	
<i>Car Washes using soaps and waxes</i>			X	X	
<i>Chemical Plants</i>				X	X
<i>Dockside Watering Facilities, Marinas</i>	X		X	X	X
<i>Film Laboratories</i>				X	X
<i>Food Processing Plants</i>			X	X	X
<i>Fertilizer Plants</i>				X	X
<i>Hospitals handling harmful substances</i>				X	
<i>Lab Sink using toxics (unharmful)</i>	X	X	X	X	
<i>Meat Packing Plants</i>				X	
<i>Medical Bldgs, clinics, laboratories, etc.</i>				X	
<i>Nonpotable Water</i>				X	X
<i>Oil Refinery and Petroleum Storage Facilities</i>				X	
<i>Sanitariums</i>	X	X		X	
<i>Sewage Piping or Plants</i>				X	X
<i>Tank Truck Fill Station</i>				X	X
<i>Mortuaries</i>				X	



<b>SELECTION CHART FOR MINIMUM BACKFLOW PREVENTION DEVICES</b>					
<b>FACILITIES, FIXTURES, EQUIPMENT, OR USE OF WATER</b>	<b>ATMOSPHERIC- TYPE VACUUM- BREAKER</b>	<b>PRESSURE- TYPE VACUUM- BREAKER</b>	<b>DOUBLE- CHECK VALVE- ASSEMBLY</b>	<b>REDUCED- PRESSURE- BACKFLOW- PREVENTER</b>	<b>AIR-GAP</b>
Hoses that could be in contact with animal waste	X	X			
Shampoo Sprays	X	X			
Sterilizers				X	
Steam Cookers using low health risk substance			X		
Steam Cookers using high health risk substance				X	
Swim Pools, Hot Tubs, private or semiprivate	X	X		X	X
Swim Pools direct connection	X	X		X	X
Urinals	X			X	
Water Cooling or Heating Coils		X		X	
Water Closets	X			X	

X -- indicates suitable protection to be required by the public water system. For facilities with multiple options, the public water system will determine the lowest degree of protection that is acceptable. (4-6-05)

032. Table 32 - Well Casing Standards for Public Water System Wells.

<b>STEEL PIPE</b>					
				<b>WEIGHT PER FOOT (pounds)</b>	
<b>DIAMETER (inches)</b>			<b>THICKNESS (inches)</b>	<b>Plain Ends couplings</b>	<b>With Threads and</b>
<b>SIZE</b>	<b>External</b>	<b>Internal</b>		<b>(calculated)</b>	<b>(nominal)</b>
6 (id) *	6.625	6.065	0.280	18.97	19.18
8	8.625	7.981	0.322	28.55	29.35
10	10.750	10.020	0.365	40.48	41.85
12	12.750	12.000	0.375	49.56	51.15
14 (od) *	14.000	13.250	0.375	54.57	57.00
16	16.000	15.250	0.375	62.58	
18	18.000	17.250	0.375	70.59	
20	20.000	19.250	0.375	78.60	
22	22.000	21.000	0.500	114.81	
24	24.000	23.000	0.500	125.49	
26	26.000	25.000	0.500	136.17	

STEEL PIPE					
28	28.000	27.000	0.500	146.85	
30	30.000	29.000	0.500	157.53	
32	32.000	31.000	0.500	168.21	
34	34.000	33.000	0.500	178.89	
36	36.000	35.000	0.500	189.57	

\* id = inside diameter  
od = outside diameter

(3-30-07)

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0802

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

**PUBLIC HEARING SCHEDULE:** No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before August 20, 2008. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** The U.S. Environmental Protection Agency (EPA) promulgated the Ground Water Rule on November 6, 2006. This is a national primary drinking water regulation. As a state that has primacy for administering the Safe Drinking Water Act, Idaho must adopt this rule within two years of promulgation by EPA.

The Ground Water Rule is expected to provide greater protection against microbial pathogens in public water systems that use ground water sources. The rule attempts to target the subset of ground water systems that are at higher risk of fecal contamination by requiring regular sanitary surveys, establishing a flexible program for identifying higher risk systems through existing bacterial monitoring and state determinations, and providing for ground water source monitoring in systems that do not provide demonstrated virus inactivation through disinfection. The rule requires that deficiencies detected during sanitary surveys be corrected on a reasonable schedule. Systems that verify the presence of contamination in a ground water source must remove the source of contamination or provide disinfection treatment.

As a primacy agency, the Department of Environmental Quality (DEQ) must adopt state rules that are no less stringent than the federal rule. Under direction from the Idaho Legislature, DEQ must adopt state rules that are no more stringent than the federal rule. To ensure that Idaho's rules will be neither more nor less stringent than the federal rule, this proposed rule incorporates the federal rule by reference. The federal rule contains certain special primacy requirements that provide limited flexibility to the state. The negotiated rulemaking conducted by DEQ was limited to consideration of how the special primacy requirements should be met. The proposed rule also includes corrections that are typographical and nonsubstantive in nature.

While not part of this rulemaking, DEQ is also seeking public comment on the "Implementation Guidance for the Ground Water Rule." This document provides assistance to public water system owners and operators in understanding and achieving compliance with the requirements of these rules and may be obtained at [http://www.deq.idaho.gov/rules/drinking\\_water/58\\_0108\\_0802\\_proposed.cfm](http://www.deq.idaho.gov/rules/drinking_water/58_0108_0802_proposed.cfm) or by contacting Tom John at [thomas.john@deq.idaho.gov](mailto:thomas.john@deq.idaho.gov) or (208)373-0191.

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 commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality at the October 2008 Board meeting for adoption as a pending rule. The rule is expected to be final and effective upon the conclusion of the 2009 legislative session if adopted by the Board and approved by the Legislature.

**NEGOTIATED RULEMAKING:** The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.810-815. On June 4, 2008, the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol.

08-6, pages 83 and 84, and a preliminary draft rule was made available for public review. One meeting was held on June 23, 2008. Members of the public participated in this negotiated rulemaking process by attending the meeting.

**IDAHO CODE SECTION 39-107D STATEMENT:** This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

**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:

The proposed rule does not impact the state general fund because the drinking water program is funded by EPA grants and by dedicated fees paid by regulated water systems. The agency intends to address the impact of the increased workload required by this rule through redirection of existing staff, use of existing vacant positions, and/or through contracting. Together these strategies will add the equivalent of 1.4 full time persons to the drinking water program in approximately four years. DEQ is not requesting an increase in personnel as a result of adopting the proposed rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning the proposed rulemaking, contact Tom John at thomas.john@deq.idaho.gov, (208)373-0191.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before September 3, 2008.

Dated this 3rd day of July, 2008.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton/Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
paula.wilson@deq.idaho.gov

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0108-0802**

**002. INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED MATERIALS.**

**01. Incorporation by Reference.** The following documents are incorporated by reference into these rules. (4-11-06)

**a.** 40 CFR Parts 141 and 143. Any reference in these rules to requirements, procedures, or specific forms contained in any section or subsection of 40 CFR Parts 141 and 143 shall constitute the full adoption by reference of that section or subsection, including any notes and appendices therein, unless expressly provided otherwise in these rules (4-11-06)

**b.** American Water Works Association (AWWA) Standards, effective July 2006, available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337. (3-30-07)

**02. Availability of Specific Referenced Material.** Copies of specific documents referenced within these rules are available at the following locations: (4-11-06)

- a.** All federal regulations: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202)783-3238; U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174, (206) 553-4270; or <http://www.gpoaccess.gov/index.html>. (4-11-06)
- b.** All documents incorporated by reference: Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502. (4-11-06)
- c.** Recommended Standards for Water Works: a report of the Water Supply Committee of the Great Lakes -- Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, published by Health Education Services, P.O. Box 7126, Albany, New York 12224, 2003, Telephone (518) 439-7286. (4-6-05)
- d.** Manual of Individual and Non-Public Water Supply Systems (EPA 570/9-91-004), published by the U.S. Environmental Protection Agency, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C.20402, Telephone (202) 782-3238. (5-3-03)
- e.** U.S. Department of Commerce, National Bureau of Standards Handbook, No. 69, "Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure" as amended in 1963, NCRP Publications, P.O. Box 20175, Washington, D.C. 20014. (12-10-92)
- f.** Rules of the Idaho Water Resources Board available at [www.adm.idaho.gov/adminrules/rules/idapa37/37/index.htm](http://www.adm.idaho.gov/adminrules/rules/idapa37/37/index.htm), or the Idaho Department of Water Resources, Idaho Water Center, 322 E. Front St., P.O. Box 83720, Boise, Idaho 83720-0098, Telephone (208) 287-4800. (3-30-07)
- g.** ANSI/NSF Standard 44-2002e -- 2004, Residential Cation Exchange Water Softeners, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)
- h.** ANSI/NSF Standard 53-2002e -- 2003, Drinking Water Treatment Units -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)
- i.** ANSI/NSF Standard 55-2002 -- 2002, Ultraviolet Microbiological Water Treatment Systems, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)
- j.** ANSI/NSF Standard 58-2003 -- 2004, Reverse Osmosis Drinking Water Treatment Systems, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)
- k.** ANSI/NSF Standard 60-2000a -- 2000, Drinking Water Treatment Chemicals -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)
- l.** ANSI/NSF Standard 61-2000a -- 2000, Drinking Water System Components -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)
- m.** American Water Works Association (AWWA) Standards, available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, (800) 926-7337, [www.awwa.org](http://www.awwa.org). (3-30-07)
- n.** Cross Connection Control Manual, available from Pacific Northwest Section of the American Water Works Association, P.O. Box 19581, Portland, OR, 97280-0581, Telephone (503) 246-5845. (3-30-07)
- o.** Manual of Cross-Connection Control, Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California, KAP-200 University Park MC-2531, Los Angeles, CA 90089-2531, (866)545-6340, [www.usc.edu/dept/fccchr/](http://www.usc.edu/dept/fccchr/). (3-30-07)

**p.** Manual on Slow Sand Filtration (1991), published by AWWA Research Foundation 6666 West Quincy Avenue, Denver, CO 80235, (800)926-7337, [www.awwa.org](http://www.awwa.org). (3-30-07)

**q.** Slow Sand Filtration (1991), published by the American Society of Civil Engineers American Society of Civil Engineers, 1801 Alexander Bell Drive, Reston, VA 20191, (800)548-2723, [www.asce.org](http://www.asce.org). (3-30-07)

**r.** Slow Sand Filtration and Diatomaceous Earth Filtration for Small Water Systems, DOH Pub #331-204 (4/03), Washington State Department of Health, Division of Environmental Health, Office of Drinking Water, PO Box 47828, Olympia WA 98504-7828, (360)236-3100 or (800)521-0323, [http://www.doh.wa.gov/ehp/dw/Programs/water\\_sys\\_design.htm](http://www.doh.wa.gov/ehp/dw/Programs/water_sys_design.htm). (3-30-07)

**s.** Water System Design Manual, DOH Pub #331-123 (Rev. 8/01), Washington State Department of Health, Division of Environmental Health, Office of Drinking Water, PO Box 47828, Olympia WA 98504-7828, (360)236-3100 or (800)521-0323, [http://www.doh.wa.gov/ehp/dw/Programs/water\\_sys\\_design.htm](http://www.doh.wa.gov/ehp/dw/Programs/water_sys_design.htm). (3-30-07)

**t.** Submersible Motors: Application, Installation, Maintenance (Franklin Electric AIM manual), Franklin Electric, Bluffton, Indiana 46714, (800)348-2420, <http://www.franklin-electric.com/Manual/pdf/fullAIM.pdf>. (3-30-07)

**u.** Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources (March 1991 Edition), U.S. Environmental Protection Agency, <http://www.epa.gov/safewater/mbdp/implement.html>. (3-30-07)

**v.** Standard Methods for the Examination of Water and Wastewater, a joint publication of the American Public Health Association, the Water Environment Federation, and the American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235, 800-926-7337, [www.standardmethods.org](http://www.standardmethods.org) (3-30-07)

**w.** F480-02 Standard Specification for Thermoplastic Well Casing Pipe and Couplings Made in Standard Dimension ratios (SDR), SCH 40 and SCH 80, American Society for Testing and Materials (ASTM Standard F480-02). (3-30-07)

**x.** "Idaho Standards for Public Works Construction," 2005 Edition, and subsequent revisions, Local Highway Technical Assistance Council, 3330 Grace Street, Boise, ID 83605, (208)344-0565. (4-11-06)

**y.** Memorandum of Understanding between the Idaho Department of Environmental Quality and the Idaho Division of Building Safety Plumbing Bureau, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, [www.deq.idaho.gov](http://www.deq.idaho.gov). (3-30-07)

**z.** Idaho General Safety and Health Standards (IGSHS), available from the Idaho Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642, (208)334-3950, [http://dbs.idaho.gov/safety\\_code/000.html](http://dbs.idaho.gov/safety_code/000.html). (3-30-07)

**aa.** Implementation Guidance for the Long Term 2 Enhanced Surface Water Treatment Rule, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, [www.deq.idaho.gov](http://www.deq.idaho.gov). (4-2-08)

**bb.** Implementation Guidance for the Stage 2 Disinfectants and Disinfection Byproducts Rule, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, [www.deq.idaho.gov](http://www.deq.idaho.gov). (4-2-08)

**cc.** Implementation Guidance for the Ground Water Rule, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, [www.deq.idaho.gov](http://www.deq.idaho.gov). ( )

**03. Precedence.** In the event of conflict or inconsistency between the language in these rules and that found in any document incorporated by reference, these rules shall prevail. (4-11-06)

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. MONITORING AND ANALYTICAL REQUIREMENTS.**

**01. Microbiological Contaminant Sampling and Analytical Requirements. (10-1-93)**

**a.** 40 CFR 141.21, revised as of July 1, 2007, is herein incorporated by reference. ~~(3-15-02)~~( )

**b.** The Department may reduce the total coliform monitoring frequency for community water systems serving twenty-five (25) to one thousand (1000) persons, as specified in 40 CFR 141.21(a)(2) and Subsection 100.01. The Department may allow community water systems serving twenty-five (25) to one thousand (1000) persons to reduce the total coliform monitoring frequency to once per quarter when; (12-10-92)

i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)

ii. There has been no history of total coliform contamination in it's current configuration; and (10-1-93)

iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)

iv. A sanitary survey has been conducted within the past five (5) years which indicates to the Department that there are no deficiencies which could affect microbial quality; and (12-10-92)

v. The system uses only a groundwater source that is protected. (12-10-92)

**c.** The Department may reduce the total coliform monitoring frequency for noncommunity water systems serving less than one thousand (1000) persons as specified in 40 CFR 141.21(a)(3)(i) and Subsection 100.01 of this rule. The Department may allow noncommunity water systems serving less than one thousand (1000) persons to reduce the total coliform monitoring frequency to once per year when; (12-10-92)

i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)

ii. No coliforms have been detected in the last three (3) years of monitoring; and (12-10-92)

iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)

iv. A sanitary survey has been conducted within the past five (5) years which indicates to the Department that there are no deficiencies which could affect microbial quality; and (12-10-92)

v. The system uses only a groundwater source that is protected. (12-10-92)

**d.** The Department may reduce the total coliform monitoring frequency for noncommunity water systems serving more than one thousand (1000) persons during any month the system serves one thousand (1000) persons or fewer as specified in 40 CFR 141.21(a)(3)(ii) and Subsection 100.01. The Department will allow noncommunity water systems serving more than one thousand (1000) persons to reduce the total coliform monitoring frequency for any month the system serves one thousand (1000) persons or fewer, down to a minimum of one (1) sample per year, provided; (10-1-93)

i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)

ii. No coliforms have been detected in the last three (3) years of monitoring; and (12-10-92)

iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)

- iv. A sanitary survey has been conducted within the past five (5) years which indicates that there are no deficiencies which could effect microbial quality; and (12-10-92)
- v. The system uses only a groundwater source that is protected. (12-10-92)
- e. A system must collect repeat samples within twenty-four (24) hours of notification of positive results as specified in 40 CFR 141.21(b) and Subsection 100.01. The Department may allow a system to delay collection of repeat samples if the system; (12-10-92)
  - i. Identifies the cause of the contamination; (12-10-92)
  - ii. Is making progress towards correcting the problem; (12-10-92)
  - iii. Submits a written request to delay collecting repeat samples and a written statement admitting an acute MCL violation; (12-10-92)
  - iv. Follows public notification requirements specified under 40 CFR Part 141, Subpart Q, revised as of July 1, 2006, for Tier 1 MCL violations including notice for consumers to boil their water; (4-2-08)
  - v. Continues to collect the regularly scheduled number of routine samples; (12-10-92)
  - vi. Collects all repeat samples immediately following correction of the problem; and (12-10-92)
  - vii. Collects five (5) routine samples during the month following the end of the violation as required under 40 CFR 141.21 (b)(5), unless waived as allowed under that paragraph. (12-10-92)
- 02. Turbidity Sampling and Analytical Requirements.** 40 CFR 141.22, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)
- 03. Inorganic Chemical Sampling and Analytical Requirements.** 40 CFR 141.23, revised as of July 1, 2004, is herein incorporated by reference. (~~4-6-05~~)(      )
- 04. Organic Chemicals Other Than Total Trihalomethanes, Sampling and Analytical Requirements.** 40 CFR 141.24, revised as of July 1, 2004, is herein incorporated by reference. (~~4-6-05~~)(      )
- 05. Analytical Methods for Radioactivity.** 40 CFR 141.25, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)
- 06. Monitoring Frequency and Compliance Requirements for Radioactivity in Community Water Systems.** 40CFR 141.26, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)
- 07. Waivers and Vulnerability Assessments.** (10-1-93)
  - a. Waivers from sampling requirements in Subsections 100.03, 100.04, 200.01, 551.01.h. and 551.01.i. may be available to all systems for all contaminants except nitrate, nitrite, arsenic and trihalomethanes, and are based upon a vulnerability assessment, use assessment and/or the analytical results of previous sampling. (10-1-93)
  - b. There are two (2) general types of monitoring waivers: (12-10-92)
    - i. Waivers based exclusively upon previous analytical data (12-10-92)
    - ii. Waivers based on a use or vulnerability assessment. (12-10-92)
  - c. Waivers are to be made by the Department on a contaminant specific basis and must be in writing. (12-10-92)



**d.** Vulnerability assessments may be conducted by the Department, the water system, or a third party organization. The Department shall approve or disapprove all vulnerability assessments in writing. (12-10-92)

**e.** Water systems which do not receive waivers shall sample at the required initial and repeat monitoring frequencies. (12-10-92)

**f.** If a system elects to request a waiver from monitoring, it shall do so in writing at least sixty (60) days prior to the required monitoring deadline date. (10-1-93)

**08. Initial Monitoring Schedule.** In addition to the requirements specified in 40 CFR 141.23, revised as of July 1, 2004, 40 CFR 141.24, revised as of July 1, 2004, and 40 CFR 141.40, revised as of July 1, 2001, initial monitoring must be completed according to the following schedule unless otherwise specified by the Department: (4-6-05)

**a.** Public water systems serving more than one hundred (100) people must conduct initial monitoring before January 1, 1995 except that: (10-1-93)

**i.** Initial monitoring for nitrate and nitrite must be completed before January 1, 1994 for all surface water sources serving transient noncommunity public water systems and for all ground water sources serving any public water system. (10-1-93)

**ii.** Initial monitoring for nitrate and nitrite must be completed before April 1, 1993 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

**iii.** Initial monitoring required under 40 CFR 141.23(c) must be completed before January 1, 1994 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

**b.** Public water systems serving one hundred (100) or less people must conduct initial monitoring before January 1, 1996 except that: (10-1-93)

**i.** Initial monitoring for nitrate and nitrite must be completed before January 1, 1994 for all surface water sources serving transient noncommunity public water systems and for all ground water sources serving a public water system. (10-1-93)

**ii.** Initial monitoring for nitrate and nitrite must be completed before April 1, 1993 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

**iii.** Initial monitoring required under 40 CFR 141.23(c) must be completed before January 1, 1994 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

**09. Alternate Analytical Techniques.** 40 CFR 141.27 is herein incorporated by reference. (10-1-93)

**10. Approved Laboratories.** 40 CFR 141.28, revised as of July 1, 2007, is herein incorporated by reference. All analyses conducted pursuant to ~~this chapter~~ these rules, except those listed below, shall be performed in laboratories certified or granted reciprocity by the Department. ~~The following analyses shall be conducted by the public water system in accordance with the procedures approved in~~ Idaho Department of Health and Welfare ~~Rules, Bureau of Laboratories, as provided in~~ IDAPA 16.02.13, ~~Subsection 008.02,~~ "Rules Governing Certification of Idaho Water Quality Laboratories." The following analyses may be performed by any person acceptable to the Department of Environmental Quality: (10-1-93)(\_\_\_\_)

**a.** pH; (12-10-92)

**b.** Turbidity (Nephelometric method only); (12-10-92)

**c.** Daily analysis for fluoride; (12-10-92)

- d. Temperature; ~~and~~ ~~(12-10-92)~~(\_\_\_\_)
- e. Disinfectant residuals, except ozone, which shall be analyzed using the Indigo Method or an acceptable automated method pursuant to Subsection 300.05.c.; ~~(12-10-92)~~(\_\_\_\_)
- f. Alkalinity; (\_\_\_\_)
- g. Calcium; (\_\_\_\_)
- h. Conductivity; (\_\_\_\_)
- i. Silica; and (\_\_\_\_)
- j. Orthophosphate. (\_\_\_\_)
11. **Consecutive Water System.** 40 CFR 141.29 is herein incorporated by reference. (10-1-93)

101. -- 149. (RESERVED).

**150. REPORTING, PUBLIC NOTIFICATION, RECORDKEEPING.**

01. **Reporting Requirements.** 40 CFR 141.31, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)
02. **Public Notification.** 40 CFR Part 141, Subpart Q, revised as of July 1, 2006~~7~~, is herein incorporated by reference. ~~(4-2-08)~~(\_\_\_\_)
03. **Record Maintenance.** 40 CFR 141.33, revised as of July 1, 2006, is herein incorporated by reference. (4-2-08)
04. **Unregulated Contaminant Reporting and Public Notification.** 40 CFR 141.35, revised as of July 1, 2003, is herein incorporated by reference. (3-20-04)
05. **Reporting and Record Keeping for the Interim Enhanced Surface Water Treatment Rule.** 40 CFR 141.175, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)
06. **Reporting and Record Keeping Requirements for the Disinfectants and Disinfectant Byproducts Rule.** 40 CFR 141.134, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

**151. CONSUMER CONFIDENCE REPORTS.**

40 CFR Part 141, Subpart O, revised as of July 1, 2006~~7~~, is herein incorporated by reference. ~~(4-2-08)~~(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**302. SANITARY SURVEYS FOR SYSTEMS USING SURFACE WATER OR GROUND WATER UNDER THE DIRECT INFLUENCE OF SURFACE WATER.**

The Department shall conduct a sanitary survey of all public water systems which use surface water or ground water under the direct influence of surface water. (4-5-00)

01. **Frequency.** For noncommunity water systems, a sanitary survey shall be conducted every five (5) years. For community water systems, a sanitary survey shall be conducted every three (3) years, except that a community water system that has been determined to have outstanding performance, according to criteria established by the Department, may have a sanitary survey conducted every five (5) years. (4-5-00)

**02. Report.** A report describing the results of the sanitary survey will be provided to the water system. (4-5-00)

**a.** As part of the sanitary survey report or as an independent action, the Department shall provide written notice to the water system describing any significant deficiency within thirty (30) days after the Department identifies the significant deficiency. The notice may specify corrective actions and deadlines for completion of corrective actions. ( )

**b.** The Department may, at its discretion, provide this written notice at the time of the sanitary survey. ( )

**03. ~~Response Required.~~** ~~A water system must respond in writing not later than forty five (45) days after receipt of the sanitary survey report describing how and on what schedule the system will address significant deficiencies identified in the survey.~~ **Consultation with the Department.** Public water systems shall consult with the Department prior to taking specific corrective actions in response to significant deficiencies identified during a sanitary survey, unless such corrective actions are specified in detail by the Department in its written notification under Subsection 302.02. (4-5-00)( )

**04. Violation.** Failure to address significant deficiencies identified in a sanitary survey that are within the control of the public water system and its governing body shall constitute a violation of these rules. (4-5-00)

**303. SANITARY SURVEYS FOR PUBLIC WATER SYSTEMS USING GROUND WATER.**  
The Department shall conduct a sanitary survey of all public water systems that use ground water. ( )

**01. Frequency.** For non-community water systems, a sanitary survey shall be conducted every five (5) years. For community water systems, a sanitary survey shall be conducted every three (3) years, except as provided below. ( )

**a.** A community water system may have a sanitary survey conducted every five (5) years if the system provides at least a four (4)-log treatment of viruses (using inactivation, removal, or a Department approved combination of 4-log inactivation and removal) before or at the first customer for all of its ground water sources. ( )

**b.** A community water system may have a sanitary survey conducted every five (5) years if it has an outstanding performance record, as determined by the Department and documented in previous sanitary surveys, and has no history of Total Coliform Rule MCL or monitoring violations under Subsection 100.01.a. since the last sanitary survey. ( )

**02. Report.** A report describing the results of the sanitary survey shall be provided to the water system. ( )

**a.** As part of the sanitary survey report or as an independent action, the Department shall provide written notice to the water system describing any significant deficiency within thirty (30) days after the Department identifies the significant deficiency. The notice may specify corrective actions and deadlines for completion of corrective actions. ( )

**b.** The Department may, at its discretion, provide this written notice at the time of the sanitary survey. ( )

**03. Significant Deficiencies.** For each of the eight (8) elements of a sanitary survey of a ground water system, the following deficiencies shall in all cases be considered significant for the purposes of the notice required in Subsection 303.02. Decisions about the significance of other deficiencies identified during the sanitary survey shall be at the Department's discretion, as indicated in the Department's sanitary survey protocol. ( )

**a.** Source: Lack of a sanitary well cap as specified in Subsection 511.06.b. ( )

**b.** Treatment: Chemical addition is not flow proportioned or lacks emergency shut-off, as specified in

Subsection 531.02.b.ii. ( )

c. Distribution system: No means for flushing dead end water mains, as specified in Subsection 542.09. ( )

d. Finished water storage: Roof leaking, as specified in Subsections 544.09 and 544.09.c. ( )

e. Pumps, pump facilities, and controls: No accessible check valve between pump and shut-off valve, as specified in Subsection 511.04. ( )

f. Monitoring, reporting, and data verification: Repeated failure to collect the required number and type of Total Coliform Rule samples during the most recent two (2) year period, as specified in Subsection 100.01.a. ( )

g. System management and operation: History of frequent depressurization in the distribution system in violation of Subsection 552.01. ( )

h. Operator compliance with state licensing requirements: Responsible charge operator is not licensed as required in Subsection 554.02. ( )

**04. Consultation with the Department.** Public water systems shall consult with the Department prior to taking specific corrective actions in response to significant deficiencies identified during a sanitary survey unless such corrective actions are specified in detail by the Department in its written notification under Subsection 303.02. ( )

**05. Violation.** Failure to address significant deficiencies identified in a sanitary survey that are within the control of the public water system and its governing body shall constitute a violation of these rules. ( )

**3034. COMPOSITE CORRECTION PROGRAM (CCP).**

The Department may require a public water system to conduct a composite correction program, as defined in Section 003 of these rules, for the purpose of identifying and correcting deficiencies in water treatment and distribution. Failure to implement the performance improvement factors identified through the CCP constitutes a violation of these rules. (4-5-00)

**3045. -- 309. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**323. GROUND WATER RULE.**

40 CFR 141, Subpart S, revised as of July 1, 2007, is herein incorporated by reference. "Implementation Guidance for the Ground Water Rule," as referenced in Section 002, provides assistance to public water system owners and operators in understanding and achieving compliance with the requirements of 40 CFR 141, Subpart S. ( )

**01. Monitoring and Compliance Requirements for Membranes.** Ground water systems that use membrane filtration (or a combination of membrane filtration and disinfection) to achieve a four (4)-log inactivation/removal of viruses at a ground water source must comply with the following requirements in addition to those specified in 40 CFR 141, Subpart S. ( )

**a.** All membrane skids or modules must undergo direct integrity testing a minimum of once each week that the source is contributing water to the distribution system. More frequent direct integrity testing may be required by the Department. Membrane systems shall contain sufficient redundancy to allow for offline direct integrity testing of all skids at the required interval while retaining the capability to supply peak hour demand to the water system. No membrane system shall have fewer than two (2) skids or modules. ( )

i. The direct integrity test shall have a resolution capable of detecting a response at the absolute molecular weight cut-off or other parameter that describes the exclusion capability of the membrane, as provided by the manufacturer. ( )

ii. The direct integrity test shall have a sensitivity capable of verifying four (4)-log virus removal (or a lesser Department approved log removal that achieves, in combination with disinfection, a total of four (4)-log virus treatment). ( )

**b.** Systems using membrane filtration shall submit a monthly operating report which includes the following information. ( )

i. Verification of direct integrity testing of each membrane skid or module and action taken in response to a failure of the direct integrity test. ( )

ii. Records of any monitoring conducted for the purpose of indirect integrity verification. ( )

iii. Any additional information considered necessary by the Department on a case-specific basis to verify proper operation and maintenance of the membrane filtration process. ( )

**02. Discontinuation of Treatment.** Systems that wish to discontinue four (4)-log virus treatment at a ground water source must meet the following criteria. Ground water sources on which treatment has been discontinued shall be subject to the triggered source water monitoring requirements of 40 CFR 141, Subpart S. ( )

**a.** Demonstration that any known source of contamination has been removed. ( )

**b.** Demonstration that structural deficiencies of the well have been rehabilitated and no longer exist. ( )

**c.** Provide evidence that the well is drawing from a protected or confined aquifer. ( )

**d.** Submit results of one (1) year of monthly monitoring for a fecal indicator organism during which no positive results occurred. ( )

**03. Chlorine Purging Prior to Triggered Source Sampling.** 40 CFR 141.402(e), incorporated by reference into these rules at Section 323, requires that ground water source samples be collected at a location prior to any treatment. Pursuant to this requirement, systems that add chlorine to a source, either in the well bore or near enough to the wellhead that chlorinated water could backflow into the well, shall ensure that all chlorine residual has been purged prior to taking a triggered source water sample. This shall be accomplished by measuring chlorine residual in the source water until a reading of zero is obtained and be recorded in the space provided for chlorine residual on the sample submittal form. ( )

~~3234.~~ -- 349. (RESERVED).

## **IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

### **58.01.11 - GROUND WATER QUALITY RULE**

#### **DOCKET NO. 58-0111-0801 (FEE RULE)**

#### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized by Sections 39-105, 39-107, 39-120, and 39-126, Idaho Code.

**PUBLIC HEARING SCHEDULE:** No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before August 20, 2008. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** The purpose of this rulemaking is to clarify portions of the Ground Water Quality Rule to promote consistency in application of the rule to mining activities. The proposed rule addresses the following issues:

1. Adds definitions necessary to improve statewide consistency with interpretation and implementation of mining provisions of the Ground Water Quality Rule;
2. Develops a procedure and process to follow for setting the point(s) of compliance for ground water quality related issues at mining areas;
3. Ground water monitoring at mining areas;
4. Applicability of rule changes; and
5. Imposes a fee on mine operators making an application with the Department of Environmental Quality (DEQ) to set the ground water quality point(s) of compliance.

Mining industry, conservation groups, environmental protection groups, state and federal land management agencies, and concerned citizens of the state of Idaho may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality at the October 2008 Board meeting for adoption as a pending rule. The rule is expected to be final and effective upon the conclusion of the 2009 legislative session if adopted by the Board and approved by the Legislature.

**FEE SUMMARY:** This proposed rule includes a requirement that applicants submit a \$2500 fee at the time the application is submitted to DEQ (Subsection 401.02.a.). Imposition of the fee is authorized by Section 39-119, Idaho Code.

**NEGOTIATED RULEMAKING:** The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. On April 2, 2008, the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol. 08-4, pages 38 and 39, and a preliminary draft rule was made available for public review. Meetings were held on April 23, May 7, May 21, June 4, and June 30, 2008. Several members of the public participated in this negotiated rulemaking process by attending the meetings and by submitting written comments.

**IDAHO CODE SECTION 39-107D STATEMENT:** Section 39-107D, Idaho Code, also applies to a rule which "proposes to regulate an activity not regulated by the federal government." This rule amends portions of the Ground Water Quality Rule that address mining activities. Mining activities are regulated by the federal government. The federal government, however, does not have a regulatory program that specifically sets standards to protect ground water quality and beneficial uses of ground water as the Ground Water Quality Rule does. For this reason, DEQ believes Section 39-107D is applicable and that the amendments to the rule describe aspects of mining activities not regulated by the federal government.

The following is a summary of additional information required by Sections 39-107D(3) and (4), Idaho Code. Information relating to Section 39-107D(2) has also been provided.

**Section 39-107D(2)(a), Idaho Code.** *To the degree that a department action is based on science, the department shall utilize the best available peer reviewed science and supporting studies conducted in accordance with sound objective scientific practices.*

The proposed rule changes were initiated for clarification purposes rather than for reasons based on new scientific information. By clarifying the language in the Ground Water Quality Rule, DEQ is facilitating more efficient implementation of the Ground Water Quality Plan and the Ground Water Quality Rule thereby reducing the economic burden on the regulated community. Improved rules also allow the public to better understand the requirements imposed on the regulated community to protect human health and the environment. Thus, the changes to the rule describe an administrative process to determine the application of the Ground Water Quality Rule to mining activities. The administrative process requires the application of sound science and identifies the scientific factors that must be considered and analyzed by mining companies and DEQ when making decisions. DEQ has relied upon its experience, the experience of federal agencies, and input from mining companies and environmental organizations in drafting the proposed changes to the rule.

**Section 39-107D(2)(b), Idaho Code.** *To the degree that a department action is based on science, the department shall utilize data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justifies use of the data.*

This provision is not applicable because the proposed rule changes are based on clarifying existing rule language. Please see explanation above.

**Section 39-107D(3), Idaho Code.** *Any proposed rule subject to this section which proposes a standard necessary to protect human health and the environment shall also include in the rulemaking record requirements under chapter 52, title 67, Idaho Code, the following additional information:*

- (a) Identification of each population or receptor addressed by an estimate of public health effects or environmental effects;*
- (b) Identification of the expected risk or central estimate of risk for the specific population or receptor;*
- (c) Identification of each appropriate upper bound or lower bound estimate of risk;*
- (d) Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty; and*
- (e) Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data.*

The proposed changes to the rule set up an administrative process for DEQ to work with the mine operator and other interested persons to determine, on a site-specific basis, the application of the standards in the Ground Water Quality Rule in order to protect human health and the environment. This administrative process is not itself based upon any analysis of risk to specific populations or receptors, but rather sets out a process by which the risk to human health and the environment will be evaluated by DEQ as it reviews a specific mining site. Therefore, DEQ has no additional information relevant to this rulemaking pursuant to Section 39-107D(3).

**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, SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning the proposed rulemaking, contact Ed Hagan at ed.hagan@deq.idaho.gov, (208)373-0356.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before September 3, 2008.

Dated this 3rd day of July, 2008.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality

1410 N. Hilton/Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0111-0801

007. DEFINITIONS.

01. **Agricultural Chemical.** Any pesticide, nutrient or fertilizer used for the benefit of agricultural production or pest management. (3-20-97)

02. **Aquifer.** A geological unit of permeable saturated material capable of yielding economically significant quantities of water to wells and springs. (3-20-97)

03. **Beneficial Uses.** Various uses of ground water in Idaho including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, aquacultural water supplies, and mining. A beneficial use is defined as actual current or projected future uses of ground water. (3-20-97)

04. **Best Available Method.** Any system, process, or method which is available to the public for commercial or private use to minimize the impact of point or nonpoint sources of contamination on ground water quality. (3-20-97)

05. **Best Management Practice.** A practice or combination of practices determined to be the most effective and practical means of preventing or reducing contamination to ground water and interconnected surface water from nonpoint and point sources to achieve water quality goals and protect the beneficial uses of the water. (3-20-97)

06. **Best Practical Method.** Any system, process, or method that is established and in routine use which could be used to minimize the impact of point or nonpoint sources of contamination on ground water quality. (3-20-97)

07. **Board.** The Idaho Board of Environmental Quality. (3-20-97)

08. **Cleanup.** The removal, treatment or isolation of a contaminant from ground water through the directed efforts of humans or the removal or treatment of a contaminant in ground water through management practice or the construction of barriers, trenches and other similar facilities for prevention of contamination, as well as the use of natural processes such as ground water recharge, natural decay and chemical or biological decomposition. (3-20-97)

09. **Constituent.** Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance occurring in ground water. (3-20-97)

10. **Contaminant.** Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance which does not occur naturally in ground water or which naturally occurs at a lower concentration. (3-20-97)

11. **Contamination.** The direct or indirect introduction into ground water of any contaminant caused in whole or in part by human activities. (3-20-97)

12. **Crop Root Zone.** The zone that extends from the surface of the soil to the depth of the deepest crop root and is specific to a species of plant, group of plants, or crop. (3-20-97)

13. **Degradation.** The lowering of ground water quality as measured in a statistically significant and reproducible manner. (3-20-97)

14. **Department.** The Department of Environmental Quality. (3-20-97)

15. **Extraction.** Physical removal of ore or waste rock from mineral-bearing deposits. Extraction does not include processing, which is the removal of target minerals from ores by physical or chemical methods. ( )



**156. Ground Water.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (3-20-97)

**167. Ground Water Quality Standard.** Values, either numeric or narrative, assigned to any constituent for the purpose of establishing minimum levels of protection. (3-20-97)

**178. Highly Vulnerable Ground Water.** Ground water characterized by a relatively high potential for contaminants to enter and/or be transported within the flow system. Determinations of ground water vulnerability will include consideration of land use practices and aquifer characteristics. (3-20-97)

**189. Irreplaceable Source.** A ground water source serving a beneficial use(s) where the reliable delivery of comparable quality and quantity of water from an alternative source in the region would be economically infeasible or precluded by institutional constraints. (3-20-97)

**20. Mine Operator.** Any person authorized to engage in mining activities, including without limitation those authorized by law, lease, contract, permit, or plan of operation. It does not include a governmental agency that grants mineral leases or similar contracts or permits unless the agency is engaged in mining activities. ( )

**21. Mining Activity.** Recovery of a mineral from mineral-bearing deposits, which includes reclamation, extraction, excavation, overburden placement, and disposal of mineral extraction wastes, including tailings that are the result of extraction, waste rock, and other extraction wastes uniquely associated with mining. ( )

**22. Mining Area.** The area on or within which one (1) or more mining activities occur. The Department shall determine the boundaries of the mining area as provided in Section 401. ( )

**23. Natural Background Level.** The level of any constituent in the ground water within a specified area as determined by representative measurements of the ground water quality unaffected by human activities. (3-20-97)

**204. Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any legal entity which is recognized by law as the subject of rights and duties. (3-20-97)

**25. Point of Compliance.** The vertical surface where the Department determines compliance with ground water quality standards as provided in Subsection 400.05 and Section 401. ( )

**246. Practical Quantitation Level.** The lowest concentration of a constituent that can be reliably quantified among laboratories within specified limits of precision and accuracy during routine laboratory operating conditions. Specified limits of precision and accuracy are the criteria listed in the calibration specifications or quality control specifications of an analytical method. (3-20-97)

**227. Projected Future Beneficial Uses.** Various uses of ground water, such as drinking water, aquaculture, industrial, mining or agriculture, that are practical and achievable in the future based on hydrogeologic conditions, water quality, future land use activities and social/economic considerations. (3-20-97)

**238. Recharge Area.** An area in which water infiltrates into the soil or geological formation from, including but not limited to precipitation, irrigation practices and seepage from creeks, streams, and lakes, and percolates to one (1) or more aquifers. (3-20-97)

**29. Reclamation.** The process of restoring an area affected by a mining activity to its original or another beneficial use, considering previous uses, possible future uses, and surrounding topography. The objective is to re-establish a diverse, self-perpetuating plant community, and to minimize erosion, remove hazards, and maintain water quality. ( )

**2430. Remediation.** Any action taken (1) to control the source of contamination, (2) to reduce the level

of contamination, (3) to mitigate the effects of contaminants, and/or (4) to minimize contaminant movement. Remediation includes providing alternate drinking water sources when needed. (3-20-97)

**2531. Site Background Level.** The ground water quality at the hydraulically upgradient site boundary. (3-20-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**400. GROUND WATER CONTAMINATION.**

**01. Releases Degrading Ground Water Quality.** No person shall cause or allow the release, spilling, leaking, emission, discharge, escape, leaching, or disposal of a contaminant into the environment in a manner that: (3-20-97)

**a.** Causes a ground water quality standard to be exceeded; (3-20-97)

**b.** Injures a beneficial use of ground water; or (3-20-97)

**c.** Is not in accordance with a permit, consent order or applicable best management practice, best available method or best practical method. (3-20-97)

**02. Prevention Measures.** (3-20-97)

**a.** When a numerical standard is not exceeded, but degradation of ground water quality is detected and deemed significant by the Department, the Department shall take one (1) or more of the following actions: (3-20-97)

**i.** Require a modification of regulated activities to prevent continued degradation; (3-20-97)

**ii.** Coordinate with the appropriate agencies and responsible persons to develop and implement prevention measures for activities not regulated by the Department; (3-20-97)

**iii.** Allow limited degradation of ground water quality for the constituents identified in Subsection 200.01.a. if it can be demonstrated that: (3-30-07)

(1) Best management practices, best available methods or best practical methods, as appropriate for the aquifer category, are being applied; and (3-20-97)

(2) The degradation is justifiable based on necessary and widespread social and economic considerations; or (3-20-97)

**iv.** Allow degradation of ground water quality up to the standards in Subsection 200.01.b., if it can be demonstrated that: (3-20-97)

(1) Best management practices are being applied; and (3-20-97)

(2) The degradation will not adversely impact a beneficial use. (3-20-97)

**b.** The following criteria shall be considered when determining the significance of degradation: (3-20-97)

**i.** Site specific hydrogeologic conditions; (3-20-97)

**ii.** Water quality, including seasonal variations; (3-20-97)

- iii. Existing and projected future beneficial uses; (3-20-97)
- iv. Related public health issues; and (3-20-97)
- v. Whether the degradation involves a primary or secondary constituent in Section 200. (3-20-97)

**03. Contamination Exceeding a Ground Water Quality Standard.** The discovery of any contamination exceeding a ground water standard that poses a threat to existing or projected future beneficial uses of ground water shall require appropriate actions, as determined by the Department, to prevent further contamination. These actions may consist of investigation and evaluation, or enforcement actions if necessary to stop further contamination or clean up existing contamination, as required under the Environmental Protection and Health Act, Section 39-108, Idaho Code. (3-20-97)

**04. Agricultural Chemicals.** Agricultural chemicals found in intermittently saturated soils within the crop root zone will not be considered ground water contaminants as long as the chemicals remain within the crop root zone, and have been applied in a manner consistent with all appropriate regulatory requirements. (3-20-97)

**05. Site-Specific Ground Water Quality Levels or Points of Compliance.** The Department may allow site-specific ground water quality levels, for any aquifer category, that vary from a standard(s) in Section 200 or Section 300, or may allow site-specific points of compliance, based on consideration of effects to human health and the environment, for: (3-20-97)( )

- a. Remediation conducted under the Department's oversight; (3-20-97)
- b. Permits issued by the Department; (3-20-97)
- c. Situations where the site background level varies from the ground water quality standard; ~~or~~ (3-20-97)( )
- d. Dissolved concentrations of secondary constituents listed in Section 200 of this rule. The Department may allow the use of dissolved concentrations for secondary constituents if the requesting person demonstrates that doing so will not adversely affect human health and the environment; or ( )
- ~~e.~~ Other situations authorized by the Department in writing. (3-20-97)

~~**06. Mineral Extraction.** Naturally occurring constituents found in ground water within a specified area surrounding an active mineral extraction area, as determined by the Department, will not be considered contaminants as long as all applicable best management practices, best available methods or best practical methods, as approved by the Department, are applied. (7-1-98)~~

**401. MINING.**

**01. Request for Setting Point(s) of Compliance.** At the request of a mine operator, the Department shall set a point of compliance, or points of compliance, at which the mine operator must meet the ground water quality standards as described in Subsection 150.01. If a request is not made, the mine operator must meet the ground water quality standards in ground water both within and beyond the mining area unless the Department establishes the point(s) of compliance consistent with Subsection 401.03. Mining activities must be managed using the level of protection appropriate for the aquifer category in accordance with Subsection 150.02 and Section 301. ( )

**02. Application Process.** ( )

**a.** If the mine operator requests a point of compliance, or points of compliance, the mine operator shall make written application to the Department. The application shall be accompanied by a fee of two thousand five hundred dollars (\$2,500). The application shall include the following information in sufficient detail to allow the Department to establish point(s) of compliance: ( )

- i. Name, location, and mailing address of the mining operation; ( )

- ii. Name, mailing address, and phone number of the mine operator; ( )
- iii. Land ownership status of the mining operation (federal, state, private or public); ( )
- iv. The legal structure (corporation, partnership, etc.) and residence of the mine operator; ( )
- v. The legal description, to the quarter-quarter section, of the location of the proposed mining operation; ( )
- vi. Evidence the mine operator is authorized by the Secretary of State to conduct business in the state of Idaho; ( )
- vii. A general description of the operational plans for the mining operation from construction through final reclamation. This description shall include any proposed phases for construction, operations, and reclamation and a map that identifies the location of all mining activities; ( )
- viii. A preconstruction topographic site map or aerial photos extending at least one (1) mile beyond the outer limits of the mining area, identifying and showing the location and extent of the following features: ( )
  - (1) All wells, perennial and intermittent springs, adit discharges, wetlands, surface waters and irrigation ditches; ( )
  - (2) All public and private drinking water supply source(s) within one (1) mile of the mining area; ( )
  - (3) All service roads and public roads; ( )
  - (4) All buildings and structures within one (1) mile of the mining area; ( )
  - (5) All special resource waters within one (1) mile of the mining area; and ( )
  - (6) All Clean Water Act Section 303(d) listed streams, and their listed impairments, within one (1) mile of the mining area; ( )
- ix. To the extent such information is available, a description and location of underground mine workings and adits and a description of the structural geology that may influence ground water flow and direction; ( )
- x. Information regarding the relevant factors set forth in Subsection 401.03; and ( )
- xi. A proposed point of compliance, or points of compliance. ( )
- b.** Within thirty (30) days of receipt of an application, the Department shall issue a written notice to the mine operator indicating; ( )
  - i. That the application is complete; or ( )
  - ii. That the Department is rejecting the application as incomplete. In such a case, the Department shall provide a list of deficiencies. Upon a determination that the application is incomplete, the Department shall refund one-half (1/2) of the application fee. ( )
- c.** The Department shall establish the point(s) of compliance within one hundred eighty (180) days after receipt of a complete application unless the Department determines that additional time is necessary due to unusual circumstances. ( )

**03. Setting the Point(s) of Compliance.** The point(s) of compliance shall be set as close as possible to

the boundary of the mining area, taking into consideration the relevant factors set forth in Subsections 401.03.i through 401.03.viii., but in no event shall the point(s) of compliance be within the boundary of the mining area. The mining area boundary means the outermost perimeter of the mining area (projected in the horizontal plane) as it would exist at the completion of the mining activity. The point(s) of compliance shall be set so that, outside the mining area boundary, there is no injury to current or projected future beneficial uses of ground water and there is no violation of water quality standards applicable to any interconnected surface waters. The Department's determination regarding the point(s) of compliance shall be based on an analysis and consideration of all relevant factors including, but not limited to: ( )

**a.** The hydrogeological characteristics of the mining area and surrounding land, including any dilution characteristics of the aquifer and any natural attenuation supported by site-specific data; ( )

**b.** The concentration, volume, and physical and chemical characteristics of contaminants resulting from the mining activity, including the toxicity and persistence of the contaminants; ( )

**c.** The quantity, quality, and direction of flow of ground water underlying the mining area; ( )

**d.** The proximity and withdrawal rates of current ground water users; ( )

**e.** A prediction of projected future beneficial uses; ( )

**f.** The availability of alternative drinking water supplies; ( )

**g.** The existing quality of the ground water, including other sources of contamination and their cumulative impacts on the ground water; and ( )

**h.** Public health, safety, and welfare effects. ( )

**04. Ground Water Monitoring and Reporting.** The Department may require ground water monitoring and reporting whenever the Department sets the point(s) of compliance. The Department shall not require ground water monitoring that duplicates ground water monitoring required by other state or federal agencies as long as the mine operator provides the data to the Department. ( )

**a.** A ground water monitoring system required under Subsection 401.04 shall be designed to: ( )

**i.** Represent the quality of background ground water that has not been affected by the mining activity; ( )  
and

**ii.** Represent the quality of ground water passing the point(s) of compliance in order to determine compliance with ground water quality standards or effectiveness of best management practices. ( )

**b.** When practicable, indicator monitoring wells or other devices may be required. Such indicator wells and other devices shall not be used to determine compliance with the ground water quality standards, but instead may be used to evaluate modeling results, to predict the quality of ground water at the point(s) of compliance, or to determine the effectiveness of best management practices. ( )

**c.** All monitoring wells shall be constructed (well depth, well screen size, well screen interval, gravel pack, etc.) and developed so that ground water samples represent the quality of ground water that is relevant to current and future beneficial uses. ( )

**05. Coordination with Other State or Federal Agencies/Public Notice.** Before setting the point(s) of compliance or requiring ground water monitoring, the Department shall coordinate with and seek recommendations from other state or federal agencies that have regulatory authority over the mining activities. The Department may provide public notice and an opportunity for public comment prior to setting the point(s) of compliance. The Department shall issue a public notice after it sets the point(s) of compliance. ( )

**06. Limitations.** Section 401 addresses only those contaminants that naturally occur in the mining area

ground water or in the surrounding rock or soil and are present in concentrations above the natural background level as a result of mining activities. ( )

**07. Application of Provisions.** The provisions set out in Section 401 apply to new mining activities or to an expansion of existing mining activities commencing after July 1, 2009. All consent orders, compliance schedules, and other agreements adopted or issued by the Department prior to July 1, 2009 pertaining to ground water protection at mine sites shall remain in full force and effect. ( )

**08. Change in Point(s) of Compliance/Ground Water Monitoring.** ( )

**a.** A change in the point(s) of compliance may be requested by the mine operator when there is a change in, or new information regarding, the mining activity or any of the factors set forth in Subsection 401.03. A change requested by the mine operator shall include an identification of the new proposed point(s) of compliance, a description of the cause for the change and any data supporting the change. The mine operator's request shall be handled as an application submitted pursuant to Subsection 401.02.a. and shall be subject to all other provisions of Section 401. ( )

**b.** The Department may initiate a change in the point(s) of compliance if there is a change in, or new information regarding, the mining activity or any of the factors set forth in Subsection 401.03, and the Department determines that the change is necessary to ensure there is no injury to current or projected future beneficial uses of ground water and no violation of water quality standards applicable to any interconnected surface waters. The Department shall notify the mine operator in writing of the Department's intent to change the point(s) of compliance. The Department shall make its final decision to change the point(s) of compliance within sixty (60) days of the notice to the mine operator unless the Department and the mine operator agree more time is necessary to make the decision. ( )

**c.** The Department may require additional or new ground water monitoring or indicator wells when the Department changes the point(s) of compliance. The Department may also require additional or different ground water monitoring or indicator wells if the Department determines, based upon a change in or new information regarding the mining activity or any of the factors listed in Subsection 401.03, that the monitoring no longer meets the requirements set forth in Subsection 401.04. The mine operator may also request a change in the monitoring. ( )

**401.2. -- 999. (RESERVED).**

# **IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

## **58.01.16 - WASTEWATER RULES**

### **DOCKET NO. 58-0116-0801**

#### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

**PUBLIC HEARING SCHEDULE:** No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before August 20, 2008. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Under the provisions of IDAPA 58.01.16, "Wastewater Rules," sewer expansions such as major collection and interceptor sewer projects, whether approved for construction by the Idaho Department of Environmental Quality (DEQ) or by a qualified licensed professional engineer (QLPE), require a facility plan or a facility plan update unless the existing approved facility plan covers the entire scope of the proposed extension. Facility plans are currently not required for minor or routine collection system projects. However, the determination of classification as major or minor collection interceptor sewer projects is currently made by DEQ based on review of the owner's recommended classification. In 2005 the Idaho Legislature revised Section 39-118, Idaho Code, to allow sewer main extensions to be approved for construction by a QLPE without prior review by DEQ (2005 Senate Bill 1220). The requirement for an updated facility plan may preclude QLPE-approved sewer main extensions. A requirement by DEQ that all portions of the system affected by the sewer main extension must be in compliance with the current rules, even though the system has sufficient capacity in the new service area, may also preclude QLPE-approved sewer main extensions.

DEQ is proposing this rule revision to allow a QLPE or DEQ review engineer to approve construction of a simple sewer main extension without first providing DEQ with an updated facility plan, provided that the sewer system has sufficient capacity to service the area served by the sewer main extension. The rules define a simple sewer main extension as a new or replacement wastewater main(s) that will be connected by gravity, without the use of pumps or lift stations, to existing wastewater collection facilities that have the capacity to carry the additional wastewater flow. The objective of this rulemaking is to modify the recently updated Wastewater Rules so that the engineering community can approve simple sewer main extensions as intended by 2005 Senate Bill 1220 as codified at Idaho Code, 39-118.

The following list sets out the major issues included in the proposed rules:

1. Add and/or revise definitions (Section 010) and revise rule sections as necessary;
2. Revise Sections 400 and 401, review of plans and specifications;
3. Add new Section 409, Demonstration of Technical, Financial, and Managerial Capacity;
4. Modify the content of facility plans and preliminary engineering reports contained in Sections 410 and 411, respectively;
5. Clarify the requirements for operation and maintenance manuals (Section 425);
6. Clarify Subsection 430.02.o., Non-Potable Pipelines in Relation to Potable Water Pipelines;
7. Streamline the rules for private municipal wastewater treatment plants (Section 455);
8. Revise the lagoon separation distance requirement and clarify seepage testing requirements (Section 493);
9. Add requirements for septage transfer stations (Section 519);
10. Clarify operating criteria for public wastewater systems; and
11. Add new Section 660, Waivers.

This proposed rule also includes any necessary corrections that are typographical and nonsubstantive in nature (e.g., making corrections for consistency with other sections in this rule chapter, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," and other DEQ rules). These proposed changes were made based on feedback from the regulated community and DEQ staff who routinely use the rules.

Wastewater system owners and operators, developers, consultants, engineers, cities, counties, industry, wastewater professional organizations, and the public at large may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality at the October 2008 Board meeting for adoption as a pending rule. The rule is expected to be final and effective upon the conclusion of the 2009 legislative session if adopted by the Board and approved by the Legislature.

**NEGOTIATED RULEMAKING:** The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Section 67-5220, Idaho Code and IDAPA 04.11.01.810-815. On April 2, 2008, the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol. 08-4, pages 40 and 41, and a preliminary draft rule was made available for public review. Meetings were held on April 22 and May 6, 2008. Several members of the public participated in this negotiated rulemaking process by attending the meetings and by submitting written comments.

**IDAHO CODE SECTION 39-107D STATEMENT:** Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations, or which propose to regulate an activity not regulated by the federal government. There is no federal law or regulation that is comparable to plan and specification review and facility standard provisions set forth in the Wastewater Rules. Therefore, the changes to the rules are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which “proposes to regulate an activity not regulated by the federal government.” The Wastewater Rules address the review and approval of plans and specifications for sewage treatment plants and other waste treatment and disposal facilities and the standard by which the agency does the review and approval. This is not an activity regulated by the federal government. Therefore, Section 39-107D, Idaho Code, applies.

Section 39-107D(3), Idaho Code, provides that any rule subject to 39-107D that proposes a standard necessary to protect human health and the environment must also include in the rulemaking record and in the notice of rulemaking additional information. This additional information includes any estimates of risk accomplished, identification of populations or receptors addressed by any estimates, and other information related to an estimation of risk. The Wastewater Rules include facility and design standards which are intended to protect human health and the environment. The standards, however, are for the design and construction of wastewater systems. The rules are not based upon any express estimate or analysis of risk to public health or the environment. Instead, the facility and design standards are based upon guidelines set forth in documents, such as the “Recommended Standards for Wastewater Facilities”, that are generally accepted and used throughout the United States by engineers and state regulators.

**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, SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning the proposed rulemaking, contact Michael Stambulis at michael.stambulis@deq.idaho.gov, (208)373-0123.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before September 3, 2008.

Dated this 3rd day of July, 2008.



Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton/Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
paula.wilson@deq.idaho.gov

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0116-0801**

**004. INCORPORATION BY REFERENCE.**

Sections 401.2.9, 401.3.4 and 401.3.6, 501.3.4, and 505.3.3 of "Idaho Standards for Public Works Construction," 2005~~7~~ Edition, are incorporated by reference into these rules. These documents are available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502 or can be purchased for a fee; from the Local Highway Technical Assistance Council (LHTAC) at LHTAC, 3330 Grace Street, Boise, ID, 83703, (208) 344-0565. ~~(3-30-07)(\_\_\_\_\_)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**007. USE OF GUIDANCE IN DESIGN AND REVIEW.**

Guidance documents are to be used to assist both designers and reviewers in determining a reasonable way to achieve compliance with the rules. Nothing in these rules makes the use of a particular guidance or guidance document mandatory. If the plans and specifications comply with applicable facility and design standards as set out in these rules, Section 39-118, Idaho Code, requires that the ~~reviewing authority~~ Department not substitute ~~his or her~~ its judgment for that of the design engineer concerning the manner of compliance. If the design engineer needs assistance as to how to comply with a particular rule, the design engineer may use the referenced guidance documents listed in Section 008 for that assistance. However, the design engineer may also use other guidance or provide documentation to substantiate his or her own professional judgment. ~~(3-30-07)(\_\_\_\_\_)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS.**

For the purpose of the rules contained in IDAPA 58.01.16, "Wastewater Rules," the following definitions apply: (4-11-06)

**01. Available.** Based on public wastewater system size, complexity, and variation in raw waste, a licensed wastewater operator must be on site, on call, or able to be contacted as needed to initiate the appropriate action for normal or emergency conditions in a timely manner. (4-11-06)

**02. Adequate Emergency Storage Capacity.** The emergency storage capacity of a lift station wet well is the volume of the wet well measured between the high water alarm and the gravity sewer invert into the wet well. The collection system shall not be used in the calculation for emergency storage. For the purpose of this definition, "adequate" shall be defined as twice the estimated emergency response time multiplied by the ~~daily~~ hour peak flow to the wet well. The high water alarm shall be placed at an elevation below the wet well invert sufficient to achieve the defined volumetric emergency storage capacity. ~~(3-30-07)(\_\_\_\_\_)~~

**03.** Average Day Flow. The average day flow is the average of daily volumes to be received for a continuous twelve (12) month period expressed as a volume per unit time. However, the average day flow for design purposes for facilities having critical seasonal high hydraulic loading periods, such as recreational areas or industrial facilities, shall be based on the average day flow during the seasonal period. See also the definition of Wastewater Flows. ( )

**034.** Beneficial Use. Any of the various uses which may be made of the water of Idaho, including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. The beneficial use is dependent upon actual use, the ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for the purpose of wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use. (4-11-06)

**045.** Biochemical Oxygen Demand (BOD). The measure of the amount of oxygen necessary to satisfy the biochemical oxidation requirements of organic materials at the time the sample is collected; unless otherwise specified, this term will mean the five (5) day BOD incubated at twenty (20) degrees C. (4-11-06)

**06.** Blackwaste. Human body waste, such as excreta or urine. This includes toilet paper and other products used in the practice of personal hygiene. ( )

**07.** Blackwater. A wastewater whose principal pollutant is blackwaste; a combination of blackwaste and water. ( )

**058.** Board. The Idaho Board of Environmental Quality. (4-11-06)

**09.** Capacity. The capabilities required of a wastewater system in order to achieve and maintain compliance with these rules. It is divided into three (3) main elements: ( )

**a.** Technical capacity means the system has the physical infrastructure to safely collect wastewater and consistently meet discharge standards and treatment requirements, and is able to meet the requirements of routine and emergency operations. It further means the ability of system personnel to adequately operate and maintain the system and to otherwise implement technical knowledge. Training of operator(s) is required, as appropriate, for the system size and complexity. ( )

**b.** Financial capacity means the financial resources of the wastewater system, including an appropriate budget; rate structure; cash reserves sufficient for current operation and maintenance, future needs and emergency situations; and adequate fiscal controls. ( )

**c.** Managerial capacity means that the management structure of the wastewater system embodies the aspects of wastewater system operations, including, but not limited to: ( )

**i.** Short and long range planning; ( )

**ii.** Personnel management; ( )

**iii.** Fiduciary responsibility; ( )

**iv.** Emergency response; ( )

**v.** Customer responsiveness; and ( )

**vi.** Administrative functions such as billing and consumer awareness. ( )

**0610.** Class A Effluent. Class A effluent is treated municipal reclaimed wastewater that must be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected. For comprehensive Class A Effluent criteria and permitting requirements refer to IDAPA 58.01.17, "Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater." (3-30-07)

~~07~~**11. Class A Effluent Distribution System.** The delivery system for Class A effluent. The distribution system does not include any of the collection or treatment portions of the wastewater facility and is not subject to operator licensing requirements in Section 203 of these rules. (4-11-06)

~~08~~**12. Collection System.** That portion of the wastewater system or treatment facility in which wastewater is received from the premises of the discharger and conveyed to the point of treatment through a series of lines, pipes, manholes, pumps/lift stations and other appurtenances. (3-30-07)

~~09~~**13. Compliance Schedule or ~~Schedule of Compliance~~ Agreement Schedule.** A schedule of remedial and preventative measures ~~including an enforceable and~~ sequence of actions ~~or operations~~ leading to compliance with ~~an effluent limitation, other limitation, prohibition, or standard~~ regulation, statute or rule, enforceable as set forth in Sections 39-116 and 39-116A, Idaho Code, respectively. (~~4-11-06~~)(    )

~~10~~**4. Department.** The Idaho Department of Environmental Quality. (4-11-06)

~~14~~**5. Design Flow.** The critical flow used for steady-state wasteload allocation modeling. (4-11-06)

~~12~~**6. Designated Beneficial Use or Designated Use.** Those beneficial uses assigned to identify waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards," Sections 110 through 160, whether or not the uses are being attained. (4-11-06)

~~13~~**7. Director.** The Director of the Idaho Department of Environmental Quality or his authorized agent. (4-11-06)

~~14~~**8. Discharge.** When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. (4-11-06)

~~15~~**9. Disinfection.** A method of reducing the pathogenic or objectionable organisms by means of chemicals or other acceptable means. (4-11-06)

~~16~~**20. Disposal Facility.** Any facility used for disposal of any wastewater. Facilities for the disposal of sludge are regulated under Section 650 of these rules. (3-30-07)

~~21~~**7. Effluent.** Any treated wastewater discharged from a treatment facility. (~~4-11-06~~)(    )

~~18~~**22. Environmental Review.** An environmental review document for a specific project includes a description of purpose and need for the project; a description of the affected environment and environmental impacts including, but not limited to, endangered species, historical and archaeological impacts, air impacts, surface and ground water impacts, and noise and visual impacts; a description of the planned mitigation for these impacts; and descriptions of the public process, agencies consulted, referenced documents, and a mailing list of interested parties. A checklist, which can be used as guidance, can be found at [http://www.deq.idaho.gov/water/permits\\_forms/forms/waste\\_water/form\\_j\\_eid\\_outline\\_checklist.doc](http://www.deq.idaho.gov/water/permits_forms/forms/waste_water/form_j_eid_outline_checklist.doc). This checklist is for Department grant and loan projects, but can be used in part or in whole as a guide. (~~3-30-07~~)(    )

~~19~~**23. EPA.** The United States Environmental Protection Agency. (4-11-06)

~~24.~~ **Equivalent Dwelling Unit (EDU).** A measure where one (1) unit is equivalent to wastewater generated from one (1) single-family detached housing unit. For example, a business generating three (3) times as much wastewater as an average single-family detached housing unit would be considered three (3) equivalent dwelling units. (    )

~~20~~**5. Facility Plan.** The ~~facility~~ ~~plan~~ for a municipal wastewater treatment and disposal facility describes the overall system, including the collection system, the treatment systems, and the disposal systems. It is a comprehensive planning document for the existing infrastructure and includes the plan for the future of the systems, including upgrades and additions. It is usually updated on a regular basis due to anticipated or unanticipated growth patterns, regulatory requirements, or other infrastructure needs. A Facility Plan is sometimes referred to as a master

plan or facilities planning study. In general, a Facility Plan is an overall system-wide plan as opposed to a project specific plan. (3-30-07)( )

**246. Facility and Design Standards.** Facility and design standards are described in Sections 400 through 599 of these rules. Facility and design standards found in Sections 400 through 599 of these rules must be followed in the planning, design, construction, and review of municipal wastewater facilities. (3-30-07)

**227. Geometric Mean.** The geometric mean of “n” quantities is the “nth” root of the product of the quantities. (4-11-06)

**28. Gray Water.** Domestic wastewater that does not contain wastewater from toilets, kitchen sinks, dishwashers, cloth washing machines, and water softeners. ( )

**239. Ground Water.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (4-11-06)

**2430. Industrial Wastewater.** Any waste, together with such water as is present, that is the by-product of industrial processes including, but not limited to, food processing or food washing wastewater. (4-11-06)

**2531. Land Application.** A process or activity involving application of wastewater, surface water, or semi-liquid material to the land surface for the purpose of disposal, pollutant removal, or ground water recharge. (4-11-06)

**2632. License.** A physical document issued by the Idaho Bureau of Occupational Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code. (4-11-06)

**33. Major Wastewater Collection System Project.** A wastewater collection system project that is not a simple wastewater main extension. ( )

**2734. Material Deviation.** A change from the design plans that significantly alters the type or location of facilities, requires engineering judgment to design, or impacts the public safety or welfare. (4-11-06)

**2835. Material Modification.** Material modifications are those that are intended to increase system capacity or to alter the methods or processes employed. Any project that increases the pumping capacity of a system, increases the potential population served by the system or the number of service connections within the system, adds new or alters existing wastewater system components, or effects the wastewater flow of the system is considered to be increasing system capacity or altering the methods or processes employed. Maintenance and repair performed on the system and the replacement of valves, pumps, or other similar items with new items of the same size and type are not considered a material modification. (4-11-06)( )

**36. Maximum Day Flow.** The design maximum day flow is the largest volume of flow to be received during a continuous twenty four (24) hour period expressed as a volume per unit time. See also Wastewater Flows. ( )

**37. Maximum Month Flow.** The maximum month flow is the largest volume of flow to be received during any calendar month expressed as a volume per unit time. See also the definition of Wastewater Flows. ( )

**2938. Mixing Zone.** A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated. (4-11-06)

**309. Municipal Wastewater.** Unless otherwise specified, sewage and associated solids, whether treated or untreated, together with such water that is present. Also called domestic wastewater. Industrial wastewater may also be present, but is not considered part of the definition. (4-11-06)

**3340. National Pollutant Discharge Elimination System (NPDES).** Point source permitting program established pursuant to Section 402 of the federal Clean Water Act. (4-11-06)

**3341. Natural Background Conditions.** No measurable change in the physical, chemical, biological, or radiological conditions existing in a water body without human sources of pollution within the watershed. (4-11-06)

**3342. Non-Contact Cooling Water.** Water used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat) or finished product. Non-contact cooling water is not considered wastewater. Non-contact cooling water can be land applied as recharge water as discussed in Section 600 based on a Department approval as described in Subsections 600.04 and 600.05. (3-30-07)

**343. Nuisance.** Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state. (4-11-06)

**3544. Nutrients.** The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. (4-11-06)

**3645. Non-Potable Mains.** The pipelines that collect and convey non-potable discharges from or to multiple service connections. Examples would include sewage collection and interceptor mains, storm sewers, non-potable irrigation mains, and reclaimed wastewater mains. (3-30-07)

**3746. Non-Potable Services.** The pipelines that convey non-potable discharges from individual facilities to a connection with the non-potable main. This term also refers to pipelines that convey non-potable water from a pressurized irrigation system, reclaimed wastewater system, and other non-potable systems to individual consumers. (4-11-06)

**3847. Operating Personnel.** Any person who is employed, retained, or appointed to conduct the tasks associated with the day-to-day operation and maintenance of a public wastewater system. Operating personnel shall include every person making system control or system integrity decisions about water quantity or water quality that may affect public health. (4-11-06)

**3948. Owner.** The person, company, corporation, district, association or other organizational entity that owns the public wastewater system, and who provides, or intends to provide, wastewater service to system users and is ultimately responsible for the public wastewater system operation. (3-30-07)

**49. Peak Instantaneous Flow.** The design peak instantaneous flow is the instantaneous maximum flow rate to be received. See also the definition of Wastewater Flows. ( )

**50. Peak Hour Flow.** The design peak hour flow is the largest volume of flow to be received during a one (1) hour period expressed as a volume per unit time. See also the definition of Wastewater Flows. ( )

**4051. Person.** An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties. (4-11-06)

**4452. Point Source.** Any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged to surface waters of the state. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (4-11-06)

**4253. Pollutant.** Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the

state from aquaculture facilities. (4-11-06)

**543. Potable Water.** A water which is free from impurities in such amounts that it is safe for human consumption without treatment. (4-11-06)

**4455. Potable Mains.** Pipelines that deliver potable water to multiple service connections. (3-30-07)

**456. Potable Service.** Pipelines that convey potable water from a connection to the potable water main across private property to individual consumers. (3-30-07)

**4657. Preliminary Engineering Report.** The ~~P~~reliminary ~~E~~ngineering ~~R~~eport for the municipal wastewater treatment or disposal facility is the report that addresses specific portions of the systems as they are being contemplated for design. These reports address specific purpose and scope, design requirements, alternative solutions, costs, operation and maintenance requirements, and other requirements as described in Section 411. Preliminary ~~E~~ngineering ~~R~~eports are generally project specific as opposed to an overall system-wide plan, such as a ~~F~~acility ~~P~~lan. (~~3-30-07~~)( )

**4758. Primary Treatment.** Processes or methods that serve as the first stage treatment of wastewater, intended for removal of suspended and settleable solids by gravity sedimentation; provides no changes in dissolved and colloidal matter in the sewage or wastes flow. (4-11-06)

**4859. Private ~~Community~~ Municipal Wastewater Treatment Plant.** A wastewater facility that treats municipal wastewater ~~from a private community or subdivision~~ and is under private ownership. These systems are typically initially owned, operated, and maintained by a developer with the ownership, operation and maintenance transferring to a homeowners association, ~~sewer district~~, or similar entity as lots are sold within the development. (~~3-30-07~~)( )

**4960. Public Wastewater System or Wastewater System.** For purposes of Sections 202 through 204, a public wastewater system or wastewater system is any publicly or privately owned collection system or treatment system that generates, collects, or treats two thousand five hundred (2,500) or more gallons of wastewater per day. This does not include any wastewater treatment system operated and maintained exclusively by a single family residence or any wastewater system consisting solely of a gravity flow, non-mechanical septic tank and subsurface treatment and distribution system, any wastewater system with individual septic tanks and individual pump stations that discharge to a common gravity flow subsurface treatment and distribution system when ownership of each septic tank and pumping station is by individual property owner and ownership of the common system is by a public or private entity; any animal waste system used for agricultural purposes that have been constructed in part or whole by public funds, or industrial wastewater systems under private ownership. This definition also does not include any industrial or other nonmunicipal wastewater system which is covered under Section 401 of these rules. (3-30-07)

**61. Qualified Licensed Professional Engineer (OLPE).** A professional engineer licensed by the state of Idaho; qualified by education or experience in the specific technical fields involved in these rules; and retained or employed by a city, county, quasi-municipal corporation, or regulated public utility for the purposes of plan and specification review. ( )

**5062. Quasi-Municipal Corporation.** A public entity, other than community government, created or authorized by the legislature to aid the state in, or to take charge of, some public or state work for the general welfare. For the purpose of these rules, this term refers to wastewater or sewer districts. (4-11-06)

**5163. Receiving Waters.** Those waters which receive pollutants from point or nonpoint sources. (4-11-06)

**5264. Recharge.** The process of adding water to the zone of saturation. (4-11-06)

**5365. Recharge Water.** Water that is specifically utilized for the purpose of adding water to the zone of saturation. (4-11-06)

**5466. Redundancy.** Redundancy for wastewater treatment and disposal facilities is generally focused on

supplying or installing backup equipment and facilities to make the operation of the systems more reliable. These redundant systems are sometimes required to provide backup for emergencies, taking certain processes off-line, or for treating spikes in wastewater flow or strength. (3-30-07)

**5567. Reliability.** Reliability for wastewater collection and treatment and disposal facilities is usually based on its ability to consistently handle the wastewater flows in the community and to meet the requirements of its permit. This reliability is in part based on the redundancy built into the wastewater infrastructure and proper maintenance of the system. (3-30-07)

**68. Reasonably Accessible.** The following criteria shall be used to determine whether a project proposing a new private municipal wastewater treatment plant, or an existing private municipal wastewater treatment plant, is reasonably accessible to a public municipal wastewater collection system. ( )

**a.** For an existing private municipal wastewater treatment plant, reasonably accessible means the public municipal wastewater collection system becomes located within a minimum of one thousand (1,000) feet of any portion of the discharge piping of a private municipal wastewater treatment plant, and the owner of the public municipal wastewater collection system will provide a "will serve" letter. ( )

**b.** For a proposed project which includes a new private municipal wastewater treatment plant, reasonably accessible means the public municipal wastewater collection system is located within a minimum of one thousand (1,000) feet of any portion of the proposed development or existing development property boundary, and the owner of the public municipal wastewater collection system will provide a "will serve" letter. ( )

**c.** The Department may determine that a private municipal wastewater treatment plant may be reasonably accessible to the public municipal wastewater collection system at distances greater than those distances specified in Paragraphs a. or b. of this Subsection based on site-specific factors. ( )

**569. Responsible Charge (RC).** For purposes of Sections 202 through 204, responsible charge means, active, daily on-site ~~and/or~~ on-call responsibility for the performance of operations or active, on-going, on-site ~~and/or~~ on-call direction of employees and assistants. (4-11-06)( )

**570. Responsible Charge Operator.** For purposes of Sections 202 through 204, a responsible charge operator is an operator licensed at a class equal to or greater than the classification of the system and who has been designated by the system owner to have direct supervision of and responsibility for the performance of operations of a specified wastewater treatment system(s) or wastewater collection system(s) and the direction of personnel employed or retained at the same system. The responsible charge operator has an active daily on-site ~~and/or~~ on-call presence at the specified facility. (4-11-06)( )

**5871. Reuse.** The use of reclaimed wastewater for beneficial uses including, but not limited to, land treatment, irrigation, ground water recharge using surface spreading, seepage ponds, or other unlined surface water features. (3-30-07)

**5972. Reviewing Authority.** For those projects requiring preconstruction approval by the Department, the Department is the reviewing authority. For those projects allowing for preconstruction approval by others, pursuant to Subsection 400.0+3.b. of these rules, the ~~Qualified Idaho Licensed Professional Engineer (QLPE)~~ is also the reviewing authority. (3-30-07)( )

**6073. Sanitary Sewer Extension.** As used in Section 400, an extension of an existing wastewater collection system that does not require a lift station or force main and is intended to increase the service area of the wastewater collection system. (4-11-06)

**6174. Secondary Treatment.** Processes or methods for the supplemental treatment of wastewater, usually following primary treatment, to affect additional improvement in the quality of the treated wastes by biological means of various types which are designed to remove or modify organic matter. (4-11-06)

**6275. Septage.** Septage is a general term for the contents removed from septic tanks, portable vault toilets, privy vaults, wastewater holding tanks, very small wastewater treatment plants, or semi-public facilities (i.e.,

schools, motels, mobile home parks, campgrounds, small commercial endeavors) receiving wastewater from domestic sources. Non-domestic (industrial) wastes are not included in this definition. This does not include drinking water treatment residuals that may be held in a holding tank. (3-30-07)

**76. Septage Transfer Station.** A place where septage from more than one (1) hauler is accumulated for collection and subsequent removal without processing to a treatment facility. ( )

**6377. Sewage.** The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (4-11-06)

**78. Simple Wastewater Main Extension.** New or replacement wastewater main(s) that require plan and specification review per these rules and that will be connected by gravity, without the use of pumps or lift stations, to existing wastewater collection facilities that have the capacity to carry the additional wastewater flow. ( )

**6479. Sludge.** The semi-liquid mass produced and removed by the wastewater treatment process. (3-30-07)

**6580. Special Resource Water.** Those specific segments or bodies of water which are recognized as needing intensive protection: (4-11-06)

a. To preserve outstanding or unique characteristics; or (4-11-06)

b. To maintain current beneficial use. (4-11-06)

**6681. State.** The state of Idaho. (4-11-06)

**6782. Substitute Responsible Charge Operator.** A public wastewater operator holding a valid license at a class equal to or greater than the public wastewater system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. (4-11-06)

**683. Surface Water Body.** All surface accumulations of water, natural or artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. This includes, but is not limited to, rivers, streams, canals, ditches, lakes, and ponds. It does not include private waters as defined in Section 42-212, Idaho Code. (4-11-06)

**6984. Total Maximum Daily Load (TMDL).** The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. (3-30-07)

**7085. Treatment.** A process or activity conducted for the purpose of removing pollutants from wastewater. (4-11-06)

**7186. Treatment Facility.** Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment plants; the necessary collecting, intercepting, outfall and outlet sewers; pumping stations integral to such plants or sewers; disposal or reuse facilities; equipment and furnishing thereof; and their appurtenances. For the purpose of these rules, a treatment facility may also be known as a treatment system, a wastewater system, wastewater treatment system, wastewater treatment facility, or wastewater treatment plant. (3-30-07)

**872. User.** Any person served by a public wastewater system. (4-11-06)

**7388. Wastewater.** ~~Unless otherwise specified, sewage, industrial waste, agricultural waste, and~~



~~associated solids or combinations of these, whether treated or untreated, together with such water as is present. Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any ground water, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, gray water or commercial or industrial pollutants; and sewage.~~ (4-11-06)( )

**89. Wastewater Flows.** The following flows for the design year shall be identified as required and used as a basis for design of sewer systems including sewer mains, lift stations, wastewater treatment plants, treatment units, and other wastewater handling facilities. The definition contained in this Subsection applies where any of the terms defined in Paragraphs a. through e. are used in these rules. ( )

**a. Average Day Flow.** The average day flow is the average of daily volumes to be received for a continuous twelve (12) month period expressed as a volume per unit time. However, the average day flow for design purposes for facilities having critical seasonal high hydraulic loading periods, such as recreational areas or industrial facilities, shall be based on the average day flow during the seasonal period. ( )

**b. Maximum Day Flow.** The design maximum day flow is the largest volume of flow to be received during a continuous twenty-four (24) hour period expressed as a volume per unit time. ( )

**c. Maximum Month Flow.** The maximum month flow is the largest volume of flow to be received during any calendar month expressed as a volume per unit time. ( )

**d. Peak Instantaneous Flow.** The design peak instantaneous flow is the instantaneous maximum flow rate to be received. ( )

**e. Peak Hour Flow.** The design peak hour flow is the largest volume of flow to be received during a one (1) hour period expressed as a volume per unit time. ( )

**7490. Wastewater Lagoon.** Manmade impoundments for the purpose of storing or treating wastewater. (4-11-06)

**7591. Wastewater Pipelines.** The pipelines that collect and convey non-potable discharges from or to multiple service connections. (4-11-06)

**7692. Wastewater Pumping Station.** A wastewater facility that collects wastewater from the collection system or the treatment system and pumps it to a higher elevation. Also called lift station or wastewater lift station. (3-30-07)

**7793. Wastewater System Operator.** The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public wastewater treatment or collection system in order to safeguard the public health and environment. (4-11-06)

**7894. Water Main Extension.** An extension of the distribution system of an existing public water system that does not require a booster pumping station and is intended to increase the service area of the water system. (4-11-06)

**795. Water Pollution.** Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the state, or the discharge of any pollutant into the waters of the state, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. (4-11-06)

**8096. Waters and Waters of the State.** All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (4-11-06)

**8197. Watershed.** The land area from which water flows into a stream or other body of water which

drains the area. (4-11-06)

**011. -- 200. (RESERVED).**

**201. POINT SOURCE WASTEWATER TREATMENT REQUIREMENTS.**

**01. Appropriate Control Measures.** The Department, through approval or disapproval of plans for wastewater treatment and disposal facilities, the issuance of wastewater discharge permits, orders, compliance schedules, directives or any of the mechanisms at its disposal, will require persons to apply appropriate control measures necessary to achieve and maintain the water quality standards contained in IDAPA 58.01.02, "Water Quality Standards." (4-11-06)

**02. Degree of Treatment.** The degree of wastewater treatment required to restore and maintain the standards of quality will be determined in each instance by the Department, based upon the following: (4-11-06)

- a. The uses which are made or desired of the receiving water; (4-11-06)
- b. The volume and nature of flow of the receiving water; (4-11-06)
- c. The quantity and quality of the wastewater to be treated; and (4-11-06)
- d. The presence or absence of other sources of water pollution on the same watershed, stream segment or aquifer. (4-11-06)

**03. Operation.** Any person who owns or operates any sewage or other wastewater treatment facility must at all times: (4-11-06)

- a. ~~E~~nsure that such facility is operated under competent supervision and with the highest efficiency that can reasonably be expected; and (~~4-11-06~~)(\_\_\_\_) (4-11-06)
- b. Maintain such facility in good repair. (4-11-06)

**04. Treatment Records.** Any person who owns or operates any facility or carries out any operation which results in the discharge of wastewater must furnish to the Department such information concerning quality and quantity of discharged wastewaters and maintain such treatment records as the Department requires to evaluate the effects of any receiving waters. Required information can include, but is not limited to: (4-11-06)

- a. Treated wastewater discharge volumes; and (4-11-06)
- b. Treated wastewater discharge biochemical oxygen demand (BOD); and (4-11-06)
- c. Treated wastewater discharge suspended solid concentration; and (4-11-06)
- d. Discharge pH; and (4-11-06)
- e. Discharge temperatures. (4-11-06)

**05. Falsification of Records.** It is a violation of these rules for any person to falsify or knowingly render inaccurate any treatment record which can be required as provided in these regulations. (4-11-06)

**(BREAK IN CONTINUITY OF SECTIONS)**

**400. REVIEW OF PLANS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES.**

Plans and specifications for municipal wastewater treatment or disposal facilities must comply with the facility and design standards set forth in Sections 410 through 599. If design issues are not addressed by the facility and design standards, then guidance documents, some of which are listed in Section 008, shall be used as guidance in the design and review of plans and specifications for municipal wastewater treatment or disposal facilities. See also Section 007. (3-30-07)

**01. Ownership.** Documentation of the ownership and responsibility for operating the proposed system shall be made available to the Department prior to or concurrent with the submittal of plans and specifications as required in Subsection 400.03. The documentation must show the financial arrangements adequate to demonstrate the ability for construction and operation and maintenance of the system according to these rules. Documentation shall also include the name of the wastewater system; the name, address, and phone number of the wastewater treatment facility; and the name, address, and phone number of the responsible charge operator. ( )

**02. Connection to Existing System.** If the proposed project is to be connected to an existing wastewater system, a letter from the existing system must be submitted to the Department stating that the existing system will be able to provide services to the proposed project. The Department may require further documentation showing the ability of the existing system to provide service to the new system. This letter must be submitted prior to or concurrent with the submittal of plans and specifications as required in Subsection 400.03. ( )

**043. Plan and Specification Review.** (4-11-06)

**a.** Except as provided in Subsection 400.043.b., all plans and specifications for the construction of new sewage systems, sewage treatment plants or systems, other municipal wastewater treatment or disposal facilities, or for material modifications to existing sewage treatment plants or systems, municipal wastewater treatment or disposal facilities shall be submitted to the Department for review and approval before construction may begin and all construction shall be in substantial compliance therewith. This does not include plan and specifications for facilities for sludge disposal, but does include plans and specifications for treatment or storage of sludge. If construction does not commence within twelve (12) months of the Department's final approval of plans and specifications, the Department may require resubmittal of all or part of the plans and specifications for review. The Department shall review plans and specifications and endeavor to resolve design issues within forty-two (42) calendar days of submittal such that approval can be granted. If the Department and applicant have not resolved design issues within forty-two (42) calendar days or at any time thereafter, the applicant may file a written demand to the Department for a decision. Upon receipt of such written demand, the Department shall deliver a written decision to the applicant within no more than seven (7) calendar days explaining any reasons for disapproval. The Department shall maintain records of all written demands for decision made pursuant to Subsection 400.043.a. with such records including the final decision rendered and the timeliness thereof. No material deviation shall be made to the approved plans and specifications without the prior approval of the Department. (3-30-07)( )

**b.** Plans developed for ~~sanitary sewer~~ simple wastewater main extensions, when such facilities will be owned and operated by a city, county, quasi-municipal corporation or regulated public utility, shall not require preconstruction approval by the Department, provided that such plans and specifications are reviewed and approved by ~~another qualified Idaho licensed professional engineer~~ QLPE to verify compliance with the requirements of these rules prior to initiation of construction. ~~Any plans approved pursuant to Subsection 400.01.b. shall be transmitted to the Department at the time construction is authorized along with a statement that the plans comply with the requirements of these rules and that construction has been authorized by the city, county, quasi-municipal corporation or regulated public utility that will own and operate the system.~~ At the discretion of the city, county, quasi-municipal corporation or regulated public utility, the plans addressed by this subsection may be referred to the Department for review and approval prior to initiation of construction. The Department has the authority to review plans and specifications approved by a qualified Idaho licensed professional engineer QLPE and can require modifications if the plans and specifications do not meet facility and design standards. Any plans and specifications approved pursuant to Subsection 400.03.b. shall be transmitted to the Department at the time construction is authorized and shall be marked or stamped as "Approved for Construction." Along with the plans and specifications, the transmittal must include the items listed in Subsections 400.03.b.i. through 400.03.b.vii. The plans and specifications must be sealed, signed, and dated by the professional engineer in responsible charge of their preparation, and the approval or transmittal letter must be sealed, signed, and dated by the QLPE that is approving the plans and specifications. (3-30-07)( )

i. A statement that the author of the transmittal letter is the OLPE representing the city, county, quasi-municipal corporation or regulated public entity. ( )

ii. A statement that the extension project complies with the current facility plan or preliminary engineering report, or a statement that the sewer system/treatment facility has adequate capacity. ( )

iii. A statement from the city, county, quasi-municipal corporation or regulated public entity or its authorized agent that the wastewater system owner will serve the project. ( )

iv. A statement from the city, county, quasi-municipal corporation or regulated public entity or its authorized agent that the wastewater system owner will own and operate the project after construction is complete. ( )

v. A statement by the OLPE that the plans and specifications are approved for construction. ( )

vi. A statement by the OLPE that the plans and specifications comply with the facility standards within these rules. ( )

vii. A statement recommending whether sanitary restrictions can be released or should remain in force. ( )

c. Subsections 400.03.c.i. through 400.03.c.vi. outline the projects which OLPEs may approve and which OLPEs may not approve. ( )

i. A OLPE may approve plans and specifications for simple wastewater main extensions that will be able to discharge to an existing wastewater system owned by a city, county, quasi-municipal corporation, or regulated public utility at the time the extension is approved for construction by the OLPE. ( )

ii. A OLPE may approve plans for simple wastewater main extensions which will discharge to an existing wastewater system owned by a city, county, quasi-municipal corporation, or regulated public utility, but are unable to connect to the system at the time the extension is approved for construction by the OLPE, provided sanitary restrictions remain in force for the proposed extension. ( )

iii. A OLPE may not approve plans and specifications which include mechanical systems such as lift stations or treatment works. ( )

iv. A OLPE may not approve plans and specifications for projects which the OLPE was the design engineer or otherwise involved in the design. ( )

v. A OLPE employed by a city, county, quasi-municipal corporation, or regulated public utility may approve a design that was prepared by a subordinate engineer or an engineer from a separate design group within the city, county, quasi-municipal corporation, or regulated public utility. ( )

vi. A OLPE who is not employed by a city, county, quasi-municipal corporation, or regulated public utility, but is retained by a city, county, quasi-municipal corporation, or regulated public utility for the purpose of plan and specification review may not approve projects designed by the company with which the OLPE is employed. ( )

**024. Professional Engineer.** Plans and specifications for construction, alteration or expansion of any sewage system, sewage treatment plant or system, or other municipal wastewater treatment or disposal facility shall be prepared by or under the supervision of an Idaho licensed professional engineer and shall bear the imprint of the engineer's seal. Construction shall be observed by an Idaho licensed professional engineer or a person under the supervision of an Idaho licensed professional engineer. (3-30-07)

**035. Record Plans and Specification.** ( )

**a.** Within thirty (30) calendar days of the completion of construction of facilities covered by

Subsection 400.043, record plans and specifications based on information provided by the construction contractor and field observations made by the engineer or the engineer's designee depicting the actual construction of facilities performed, must be submitted to the Director by the engineer representing the city, county, quasi-municipal corporation or regulated public utility that owns the project, or by the design engineer or owner-designated substitute engineer if the constructed facilities will not be owned and operated by a city, county, quasi-municipal corporation or regulated public utility. Such submittal by the engineer must confirm material compliance with the approved plans and specifications or disclose material deviations therefrom. If the construction does not materially deviate from the approved plans and specifications, the owner may have a statement to that effect prepared by an Idaho licensed professional engineer and filed with the Department in lieu of submitting a complete and accurate set of record drawings. ~~(3-30-07)~~( )

**b.** Record plans and specifications, or a statement submitted in lieu of record plans and specifications, must be sealed, signed, and dated by the professional engineer in responsible charge of their preparation. ( )

**046. Compliance With Applicable Standards and Rules.** All plans and specifications submitted to satisfy the requirements of Sections 400 through 599 or approved in compliance with Sections 400 through 599, shall be in compliance with the requirements of these rules and shall conform in style and quality to regularly accepted engineering standards. The Department shall review plans and specifications to determine compliance with these rules and engineering standards of care. If the plans and specifications comply with these rules and engineering standards of care, the Department shall not substitute its judgment for that of the owner's design engineer concerning the manner of compliance with these rules. (3-30-07)

**057. Waiver of Approval Requirement.** The Department may waive the plan and specification approval for any particular facility or category of facilities, ~~or may waive any portion of these rules,~~ which will have no significant impact on the environment or on the public health. ~~(3-30-07)~~( )

**068. Requirement to Have Approved Plans and Specifications and Approval Letter On-site During Construction.** It is the responsibility of the owner to maintain one (1) copy of the approved plans and specifications and the approval letter from the reviewing authority on-site during construction at all times. (3-30-07)

**079. Construction Inspection Requirement.** Except as provided in Subsection 400.043.b., no construction shall commence until all of the necessary approvals have been received from the Department. The owner shall provide for the inspection of the construction of a municipal wastewater treatment or disposal facility by an Idaho licensed professional engineer to the extent required to confirm material compliance with the approved plans and to produce accurate record documents as required by Subsection 400.035. ~~(3-30-07)~~( )

**401. REVIEW OF PLANS FOR NONMUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES.**

**01. Plan and Specification Approval Required.** The construction, alteration or expansion of any nonmunicipal wastewater treatment or disposal facility must not begin before plans and specifications for the proposed facility have been submitted to and approved by the Department. Deviations may be allowed as provided in Subsection 401.02. The Department does not require review of industrial in-plant processes. (4-11-06)

**02. Deviations from Approved Plans.** No material deviations are to be made from the approved plans and specifications without prior approval of the Department. (3-30-07)

**03. Professional Engineer.** Plans and specifications for construction, alteration or expansion of any nonmunicipal wastewater treatment or disposal facility shall be prepared by or under the supervision of an Idaho licensed professional engineer and shall bear the imprint of the engineer's seal. Construction shall be observed by an Idaho licensed professional engineer or a person under the supervision of an Idaho licensed professional engineer. ( )

**034. Record Plans and Specifications.** ( )

**a.** If actual construction deviates from the approved plans and specifications, complete and accurate plans and specifications depicting the actual construction, alteration, or modification performed, shall be submitted to

the Department for review and approval within thirty (30) days of completion of construction. If the construction does not materially deviate from the approved plans and specifications, the owner may have a statement to that effect prepared by an Idaho licensed professional engineer and filed with the Department in lieu of submitting a complete and accurate set of record drawings. (3-30-07)(\_\_\_\_)

**b.** Record plans and specifications, or a statement submitted in lieu of record plans and specifications, must be sealed, signed, and dated by the professional engineer in responsible charge of their preparation. (\_\_\_\_)

**045. Waiver of Approval Requirement.** The Department can waive the plan and specification approval required in Subsection 401.01 for any particular facility or category of facilities; ~~or may waive any portion of these rules,~~ which will have no significant impact on the environment or on the public health. (3-30-07)(\_\_\_\_)

**056. Applicability of Standards.** The facility and design standards for municipal wastewater treatment or disposal facilities set out in these rules do not apply to nonmunicipal wastewater treatment or disposal facilities covered under Section 401. (3-30-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**403. -- 4098. (RESERVED).**

**409. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES -- DEMONSTRATION OF TECHNICAL, FINANCIAL, AND MANAGERIAL CAPACITY.**

No person shall proceed, or cause to proceed, with construction of a new public wastewater system, a new private municipal treatment plant, a new wastewater treatment facility, or a new privately owned wastewater pumping station until it has been demonstrated to the Department that the wastewater system will have adequate technical, financial, and managerial capacity, as defined in Section 010 of these rules. Demonstration of capacity shall be submitted to the Department prior to or concurrent with the submittal of plans and specifications, as required in Section 39-118, Idaho Code, and Subsection 400.03 of these rules. The Department shall issue in writing its approval of the new system capacity demonstration. (\_\_\_\_)

**01. Technical Capacity.** In order to meet this requirement, the public wastewater system shall submit documentation to demonstrate the following: (\_\_\_\_)

**a.** The system meets the relevant design, construction, and operating requirements of these rules; (\_\_\_\_)

**b.** A plan is in place to deal with emergencies; (\_\_\_\_)

**c.** A plan exists for replacement or improvement of infrastructure as necessary; and (\_\_\_\_)

**d.** The system has trained personnel with an understanding of the technical and operational characteristics of the system. (\_\_\_\_)

**02. Financial Capacity.** A demonstration of financial capacity must include, but is not limited to, the following information: (\_\_\_\_)

**a.** Documentation that organizational and financial arrangements are adequate to construct and operate the wastewater system in accordance with these rules. This information can be provided by submitting estimated construction, operation, and maintenance costs, letters of credit, or other access to financial capital through public or private sources and, if available, a certified financial statement; (\_\_\_\_)

**b.** Demonstration of revenue sufficiency, that includes, but is not limited to, billing and collection procedures; a proposed rate structure which demonstrates the availability of operating funds; revenues for

depreciation and reserves; and the ability to accrue a capital replacement fund. A preliminary operating budget shall be provided; and ( )

**c.** Adequate fiscal controls must be demonstrated. ( )

**d.** For private municipal wastewater treatment plants, a performance bond, maintenance bond, or cash reserve of one (1) year of operation and maintenance costs is required to ensure continuous and adequate operation and maintenance. ( )

**03. Managerial Capacity.** In order to demonstrate adequate managerial capacity, the owner or operator of a new wastewater system shall submit at least the following information to the Department: ( )

**a.** Clear documentation of legal ownership and any plans that may exist for transfer of that ownership upon completion of construction or after a period of operation; ( )

**b.** The name, address, and telephone number of the person who will be accountable for ensuring that the wastewater system is in compliance with these rules; ( )

**c.** The name, address, and telephone number of the responsible charge operator; ( )

**d.** A description of the manner in which the wastewater system will be managed. Information such as by-laws, restrictive covenants, articles of incorporation, or procedures and policy manuals which describe the management organizational structure shall be provided; ( )

**e.** A recommendation of staff qualifications, including training, experience, certification or licensing, and continuing education; ( )

**f.** An explanation of how the wastewater system will establish and maintain effective communications and relationships between the wastewater system management, its customers, professional service providers, and any applicable regulatory agencies; and ( )

**g.** Evidence of planning for future growth, equipment repair and maintenance, and long term replacement of system components. ( )

**04. Consolidation.** In demonstrating new system capacity, the owner of the proposed new system must investigate the feasibility of obtaining wastewater service from an established public wastewater system. If such service is available, but the owner elects to proceed with an independent system, the owner must explain why this choice is in the public interest in terms of environmental protection, affordability to wastewater users, and protection of public health. ( )

**410. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES -- FACILITY PLANS.**

**01. Facility Plans Required.** All new municipal wastewater treatment or disposal facilities, and all existing municipal wastewater treatment or disposal facilities undergoing material modification or expansion, are required to have a current ~~F~~facility ~~P~~plan that shall address all applicable issues specifically required in Sections 410 and 420 through 599 of these rules including, but not limited to, ~~and shall address~~ hydraulic capacity, treatment capacity, project financing, and operation and maintenance considerations. ~~The facility plan shall address these issues sufficiently to determine the effects of the project on the overall wastewater infrastructure. Material modification or expansion that requires a F~~facility ~~P~~plan includes upgraded, or rehabilitated municipal wastewater treatment or disposal facilities and major collection, interceptor sewer, ~~and~~ pump station projects, ~~and septage transfer station projects.~~ Facility ~~P~~plans must address the entire potential service area of the project. ~~Facility Plans are not required for minor or routine collection system projects or, at the Department's discretion, temporary lift stations. The determination of classification as major or minor collection interceptor sewer and pump station projects will be made by the Department based on review of the owner's recommended classification.~~ A ~~F~~facility ~~P~~plan may be completed for collection systems only. If such a collection system ~~F~~facility ~~P~~plan is ~~conducted~~ prepared, and flows increase in excess of the design capacity of downstream collection and treatment facilities, the impact of the flow shall be

addressed in the ~~F~~facility ~~P~~plan.

(3-30-07)( )

**a.** Department-reviewed simple wastewater main extension projects. A facility plan is not required if the Department is provided documentation supporting the ability of the wastewater system to provide service for the simple wastewater main extension without adding wastewater pumping stations or treatment capacity to the system and without overloading the existing collection system. Documentation may be in the form of: ( )

i. Hydraulic modeling; ( )

ii. Usage data and flow calculations; ( )

iii. Declining balance reports that demonstrate the system has the capacity to supply the service area of the system served by the extension; or ( )

iv. Other documentation acceptable to the Department. ( )

**b.** QLPE-Reviewed Simple Wastewater Main Extension Projects. A Department-approved facility plan is not required to be in place prior to the QLPE approving simple wastewater main extensions pursuant to Subsection 400.03.b., provided that the system is in compliance with the facility and design standards in the area served by the extension. If the Department has not approved a facility plan which covers the proposed simple wastewater main extension, then the system owner or the QLPE must include with the transmittal letter documentation supporting the ability of the system owner to provide service for the simple wastewater main extension without adding wastewater pumping stations or treatment capacity to the system and without overloading the existing collection system. The system owner shall provide this documentation to the QLPE as necessary. Documentation may be in the form of: ( )

i. Hydraulic modeling; ( )

ii. Usage data and flow calculations; ( )

iii. Declining balance reports that demonstrate the system has the capacity to supply the service area of the system served by the extension; or ( )

iv. Other documentation acceptable to the Department. ( )

**02. Submittal to Department.** Facility ~~P~~plans shall be submitted to the Department for review and approval prior to the submission of plans and specifications for a project related to the ~~F~~facility ~~P~~plan. ~~In the case of a sanitary sewer extension reviewed by a qualified Idaho licensed professional engineer pursuant to Subsection 400.01.b., an updated Facility Plan shall be submitted to the Department for review and approval unless the reviewing authority already has a Department approved Facility Plan in his possession.~~ (3-30-07)( )

~~**03. Facility Plan Contents.** The Facility Plan must include sufficient detail to demonstrate that the proposed project meets applicable criteria. The Facility Plan generally addresses the overall system-wide plan. The Facility Plan shall identify and evaluate wastewater-related problems; assemble basic information; present criteria and assumptions; examines alternative solutions with preliminary layouts and cost estimates; describes financing methods; set forth anticipated charges for users; review organizational and staffing requirements; offer a conclusion with a proposed project for client consideration; and outline official actions and procedures to implement the project. If the project is funded by the state revolving fund or a grant, other requirements may also apply. See IDAPA 58.01.12, "Rules for Administration of Water Pollution Control Loans," and IDAPA 58.01.04, "Rules for Administration of Wastewater Treatment Facility Grants." A checklist, which can be used as guidance, can be found at [http://www.deq.idaho.gov/water/permits\\_forms/forms/waste\\_water/form\\_i\\_report\\_checklist.pdf](http://www.deq.idaho.gov/water/permits_forms/forms/waste_water/form_i_report_checklist.pdf). The guidance document is for Department grant and loan projects, but may be used in part or in whole as a guide to assist in the development of a Facility Plan for any proposed project.~~ (3-30-07)

**043. Engineer's Seal Required.** Facility ~~P~~plans submitted to the Department shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. (3-30-07)( )



**04. Facility Plan Contents.** The facility plan shall assemble basic information, present criteria and assumptions, and examine alternative solutions with preliminary layouts and cost estimates. The facility plan is intended to address system wide growth, to identify system deficiencies, and to lay out a plan for system upgrades and expansion. The minimum requirements for a facility plan are located in Subsections 410.04.a. through 410.04.c. If specific items are not applicable to a particular facility plan, then the engineer shall state this in the facility plan and state the reason why it is not applicable. ( )

**a. New Wastewater System Facility Plan.** The facility plan for a new wastewater system must include sufficient detail to support the requirements of Sections 410 through 520 and address the items listed in Subsections 410.04.a.i. through 410.04.a.vii. of this rule. ( )

**i. Location.** Provide a general description and location of the system including service boundaries. ( )

**ii. Population.** Provide the estimated design population of the system. ( )

**iii. Wastewater flows.** Provide design data for domestic, commercial, and industrial wastewater generation, including average day, maximum day, maximum month, or peak hour flows. ( )

**iv. Collection.** Identify and describe any anticipated or proposed wastewater collection systems. Include specific detail on any anticipated or proposed wastewater pumping stations and on any anticipated or proposed wastewater interceptor or trunk lines. ( )

**v. Treatment.** Identify and describe any anticipated or proposed treatment works. Provide specific detail on the type and level of treatment and the required capacity of the treatment system. ( )

**vi. Disposal.** Identify and describe any anticipated or proposed wastewater disposal system(s). Include specific information on the location and method of disposal and information on any existing disposal permits or estimated timelines to obtain anticipated required permits. ( )

**vii. Drinking water.** Describe the drinking water distribution system with reference to the relationship to existing or proposed wastewater structures which may affect the operation and location of the wastewater system. ( )

**b. Existing Wastewater System Facility Plan.** The facility plan for an existing wastewater system must include sufficient detail to support the requirements of Sections 410 through 520, address all items in Subsections 410.04.a.i. through 410.04.a.vii., and address all items in Subsections 410.04.b.i. through 410.04.b.viii. ( )

**i.** Provide a hydraulic analysis of the collection system if requested by the Department. Any analysis of an existing collection system shall be properly calibrated. The type and sophistication of the analysis shall be dependent on the type of the system. ( )

**ii. Identify and evaluate problems or deficiencies related to the wastewater system.** ( )

**iii. Identify the design capacity of existing facilities and the current operating flows.** ( )

**iv. Describe financing options for projects identified in the facility plan.** ( )

**v. Set forth anticipated charges for users.** ( )

**vi. Review organizational and staffing requirements.** ( )

**vii. Offer a project(s) recommendation for client consideration.** ( )

**viii. Outline official actions and procedures to implement the project.** ( )

**c. Wastewater System Facility Plan Funded by the State Revolving Fund.** If the project is funded by

the state revolving fund or a state grant, the facility plan must meet the requirements of Subsections 410.04.a. and 410.04.b., and other requirements that may also apply. See IDAPA 58.01.12 "Rules for Administration of Water Pollution Control Loans," and IDAPA 58.01.04, "Rules for Administration of Wastewater Treatment Facility Grants." ( )

d. Facility Plan Guidance. A checklist which can be used for guidance can be found at [http://www.deq.idaho.gov/water/permits\\_forms/forms/waste\\_water/form\\_i\\_report\\_checklist.pdf](http://www.deq.idaho.gov/water/permits_forms/forms/waste_water/form_i_report_checklist.pdf). This checklist is for Department grant and loan projects, but may be used in part or in whole as a guide to assist in the development of any facility plan. ( )

#### 411. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES - PRELIMINARY ENGINEERING REPORTS.

01. Preliminary Engineering Reports Required. Preliminary ~~E~~ngineering ~~R~~eports are required for municipal wastewater treatment or disposal facility projects that require plan and specification review and approval pursuant to Subsection 400.04~~3~~ and shall address all applicable issues specifically required in Sections 411 through 599 of these rules including, but not limited to, purpose, scope, hydraulic capacity, treatment capacity, and operation and maintenance considerations sufficiently to determine the effects of the project on the overall wastewater infrastructure. Preliminary ~~E~~ngineering ~~R~~eports must be completed for major wastewater collection system projects, ~~and~~ all pump station projects, ~~all intercepter projects, and~~ all treatment plant designs and upgrades, ~~and~~ all septage transfer stations. ~~The determination of classification as major or minor collection system projects will be made by the Department based on review of the owner's recommended classification.~~ Preliminary ~~E~~ngineering ~~R~~eports are not required for ~~minor or routine collection system projects~~ simple wastewater main extensions that are approved in accordance with Subsections 410.01.a. or 410.01.b. (3-30-07)( )

02. Submittal to Reviewing Authority. Preliminary ~~E~~ngineering ~~R~~eports shall be submitted to the ~~reviewing authority~~ Department for review and ~~approval~~ must be approved by the Department prior to the submission of plans and specifications. (3-30-07)( )

03. Preliminary Engineering Report Contents. The ~~P~~reliminary ~~E~~ngineering ~~R~~eport must include sufficient detail to demonstrate that the proposed project meets applicable criteria. The ~~P~~reliminary ~~E~~ngineering ~~R~~eport generally addresses project specific issues rather than the overall system-wide plan. The ~~P~~reliminary ~~E~~ngineering ~~R~~eport shall identify and evaluate wastewater related problems; assemble basic information; present criteria and assumptions; examine alternative solutions with preliminary layouts and cost estimates; offer a conclusion with a proposed project; and outline official actions and procedures to implement the project. The items included in Subsections 411.03.a. through 411.03.~~g~~., and other items specifically called for in Sections 426 through 599, shall be addressed in detail in the ~~P~~reliminary ~~E~~ngineering ~~R~~eport ~~for all municipal wastewater treatment plant projects~~. If specific items are not applicable to a particular design, then the designer shall state this in the ~~P~~reliminary ~~E~~ngineering ~~R~~eport and state the reason why it is not applicable. Items adequately addressed in the ~~F~~acility ~~P~~lan under which the project is being designed, may be addressed by reference for purposes of the ~~P~~reliminary ~~E~~ngineering ~~R~~eport. (3-30-07)( )

a. ~~Coordination with Facilities Plan.~~ Major Wastewater Collection System Projects. Items applicable to preliminary engineering reports for major wastewater collection system projects are listed in Subsections 411.03.a.i. through 411.03.a.vi. (3-30-07)( )

i. Coordination with Facility Plan. The preliminary engineering report shall discuss or reference items provided in the Department-approved facility plan. These items include, but are not limited to: ( )

- (1) Location of project; ( )
- (2) Population served by project; ( )
- (3) Existing and proposed wastewater flows; ( )
- (4) Existing and proposed collection system; ( )

- (5) Existing and proposed treatment works: ( )
- (6) Existing and proposed disposal methods: ( )
- (7) Drinking water system impacts: ( )
- (8) Hydraulic analysis; and ( )
- (9) Financing methods. ( )
- ii. Design criteria. The preliminary engineering report shall discuss and present the design criteria applicable to the proposed project. The design criteria includes, but is not limited to: ( )
  - (1) Wastewater flow rates including peak hour flows; ( )
  - (2) Current project fifty (50) year design and build-out conditions; ( )
  - (3) Piping size, material, and installation methods; ( )
  - (4) Depth of bury and slope; ( )
  - (5) Soil and ground water conditions; ( )
  - (6) Corrosion protection; and ( )
  - (7) Odor control. ( )
- iii. Code provisions. The preliminary engineering report shall include a summary of applicable codes and standards that apply to the proposed project. ( )
- iv. Cost estimate. The preliminary engineering report shall provide as applicable estimated construction costs for public works projects or projects funded by public monies. ( )
- v. Construction schedule. The preliminary engineering report shall include the proposed construction schedule. ( )
- vi. Environmental review. The preliminary engineering report shall include an environmental review. See the definition for environmental review in Section 010 for additional information. ( )
- b. Design Criteria. Wastewater Pump Station Projects. Items applicable to preliminary engineering reports for wastewater pump station projects include all items listed in Subsection 411.03.a. and items listed in Subsections 411.03.b.i. through 411.03.b.iv. (3-30-07)( )
  - i. Influent flow rates: average annual, maximum month, peak hour. Design criteria. The preliminary engineering report shall discuss and present the design criteria applicable to the proposed project. The design criteria includes, but is not limited to: (3-30-07)( )
    - (1) Wastewater flow rates including average day, maximum day, and peak hour flows; ( )
    - (2) Influent wastewater characteristics, including characteristics during periods of wet weather flows; ( )
    - (3) Size and configuration; and ( )
    - (4) Redundancy provisions. ( )
  - ii. Influent wastewater characteristics, including wet weather flows. Site evaluation and layout. The

preliminary engineering report shall describe the proposed site and layout of the wastewater pumping station. This information includes, but is not limited to: (3-30-07)( )

- (1) Currently proposed facilities: ( )
- (2) Geotechnical investigation and provisions including buoyancy calculations if required; ( )
- (3) Flood control provisions; ( )
- (4) Security; ( )
- (5) Operations and maintenance assessments; and ( )
- (6) Odor management plans. ( )

iii. Effluent requirements. Instrumentation and control system. The preliminary engineering report shall discuss instrumentation and control that will be provided. This information includes, but is not limited to: (3-30-07)( )

- (1) System configuration; ( )
- (2) Operator interface; ( )
- (3) Process and instrumentation diagrams; and ( )
- (4) Alarm systems. ( )

iv. Solids production, disposal or recycling requirements. Emergency operation. The preliminary engineering report shall describe how the system will be operated during power outages, equipment failures, or other unforeseen system failures. (3-30-07)( )

v. Process units design criteria, process selection, and support data. (3-30-07)

vi. Mass balance calculations for process units, including but not limited to flow and solids. (3-30-07)

vii. Redundancy provisions. (3-30-07)

c. Site Evaluation and Layout. Wastewater Treatment Plants. Items applicable to preliminary engineering reports for wastewater treatment plant designs and upgrades include all items listed in Subsection 411.03.a., Subsection 411.03.b., and Subsections 411.03.c.i. through 411.03.c.iv. (3-30-07)( )

i. Currently proposed facilities. Design criteria. The preliminary engineering report shall discuss and present the design criteria applicable to the proposed project. The design criteria includes, but is not limited to: (3-30-07)( )

- flows:
- (1) Wastewater flow rates including average day, maximum day, maximum month, and peak hour ( )
  - (2) Effluent requirements; ( )
  - (3) Solids production, disposal, or recycling requirements; ( )
  - (4) Process units design criteria, process selection, and support data; ( )
  - (5) Mass balance calculations for process units including, but not limited to, flow and solids; and ( )

- (6) Monitoring and reporting requirements. ( )
- ii. Facilities for twenty (20) year design condition. Site evaluation and layout. The preliminary engineering report shall describe the proposed site and layout of the wastewater system. This information includes, but is not limited to: (3-30-07)( )
- (1) Currently proposed facilities; ( )
- (2) Facilities for twenty (20) year design conditions; ( )
- (3) Facilities for build-out conditions; ( )
- (4) Space for facilities potentially necessary to meet higher levels of treatment; ( )
- (5) Liquid process facilities and conveyance; ( )
- (6) Solids process facilities and conveyance; ( )
- (7) Plant access and on-site roads and walkways; ( )
- (8) Process piping and utilities; ( )
- (10) Buffer zones; ( )
- (11) Landscaping; ( )
- (12) Administration and operations buildings; ( )
- (13) Onsite laboratory facilities; and ( )
- (14) Treatment during construction. ( )
- iii. Facilities for build-out conditions. Hydraulic profile. The preliminary engineering report shall provide a hydraulic profile for the proposed system. This information includes, but is not limited to: (3-30-07)( )
- (1) Twenty (20) year design facilities; ( )
- (2) Provision for higher levels of treatment; ( )
- (3) Receiving stream one hundred (100) year surface water elevation; and ( )
- (4) Hydraulics and pipe sizing for build-out conditions. ( )
- iv. Space for facilities to meet higher levels of treatment. Process units. The preliminary engineering report shall describe in detail the proposed process units and discuss how the proposed units will interface with any existing process units. This information includes, but is not limited to: (3-30-07)( )
- (1) Current project and twenty (20) year design and build-out conditions; ( )
- (2) Size and number of units and loading rates; ( )
- (3) Redundancy provisions; ( )
- (4) Equipment type, size, performance criteria, and power requirements; ( )
- (5) Structure, equipment, and piping layout; ( )

- (6) Special code requirements: ( )
- (7) Cold temperature operation; and ( )
- (8) Procedures required for initial start-up of process unit(s), including procedures required for handling initial system flows that are less than minimum flow requirements for the process unit(s). ( )
- v. ~~Liquid process facilities and conveyance.~~ (3-30-07)
- vi. ~~Solids process facilities and conveyance.~~ (3-30-07)
- vii. ~~Plant access and on-site roads and walkways.~~ (3-30-07)
- viii. ~~Process piping and utilities.~~ (3-30-07)
- ix. ~~Primary electric system.~~ (3-30-07)
- x. ~~Flood control provisions.~~ (3-30-07)
- xi. ~~Geotechnical investigation and provisions.~~ (3-30-07)
- xii. ~~Buffer zones.~~ (3-30-07)
- xiii. ~~Landscaping.~~ (3-30-07)
- xiv. ~~Security.~~ (3-30-07)
- xv. ~~Administration and Operations Buildings.~~ (3-30-07)
- xvi. ~~Laboratory.~~ (3-30-07)
- xvii. ~~Operations and Maintenance assessments.~~ (3-30-07)
- xviii. ~~Treatment during construction.~~ (3-30-07)
- xix. ~~Odor Management Plan.~~ (3-30-07)
- d. ~~Hydraulic Profile.~~ (3-30-07)
- i. ~~Twenty (20) year design facilities.~~ (3-30-07)
- ii. ~~Provision for higher levels of treatment.~~ (3-30-07)
- iii. ~~Receiving stream one hundred (100) year water surface elevation.~~ (3-30-07)
- iv. ~~Hydraulics and pipe sizing for build-out condition.~~ (3-30-07)
- e. ~~Process Units.~~ (3-30-07)
- i. ~~Current project, twenty (20) year design, build-out conditions.~~ (3-30-07)
- ii. ~~Size, number of units and loading rates.~~ (3-30-07)
- iii. ~~Redundancy provisions.~~ (3-30-07)
- iv. ~~Equipment type, size, performance criteria and power requirements.~~ (3-30-07)

<del>v.</del>	<del>Structure, equipment and piping layout.</del>	<del>(3-30-07)</del>
<del>vi.</del>	<del>Special code requirements.</del>	<del>(3-30-07)</del>
<del>vii.</del>	<del>Cold temperature operation.</del>	<del>(3-30-07)</del>
<del>f.</del>	<del>Instrumentation and Control System.</del>	<del>(3-30-07)</del>
<del>i.</del>	<del>System configuration.</del>	<del>(3-30-07)</del>
<del>ii.</del>	<del>Operator interface.</del>	<del>(3-30-07)</del>
<del>iii.</del>	<del>Process and Instrumentation Diagrams.</del>	<del>(3-30-07)</del>
<del>g.</del>	<del>Collection system piping materials.</del>	<del>(3-30-07)</del>
<del>i.</del>	<del>Current project fifty (50) year design, build out conditions.</del>	<del>(3-30-07)</del>
<del>ii.</del>	<del>Depth of bury.</del>	<del>(3-30-07)</del>
<del>iii.</del>	<del>Soil and ground water conditions.</del>	<del>(3-30-07)</del>
<del>iv.</del>	<del>Corrosion protection.</del>	<del>(3-30-07)</del>
<del>v.</del>	<del>Odor control.</del>	<del>(3-30-07)</del>
<del>h.</del>	<del>Code Provisions. Summary of applicable codes.</del>	<del>(3-30-07)</del>
<del>i.</del>	<del>Cost Estimate.</del>	<del>(3-30-07)</del>
<del>j.</del>	<del>Schedule.</del>	<del>(3-30-07)</del>
<del>k.</del>	<del>Environmental Review.</del>	<del>(3-30-07)</del>

**04. Engineer's Seal Required.** Preliminary ~~E~~ngineering ~~R~~eports submitted to the Department shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer.  
(3-30-07)(\_\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**425. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES - OPERATION AND MAINTENANCE MANUALS.**

**01. Manual Contents.** An operation and maintenance manual or manuals shall be provided for all wastewater systems. The manual shall include, but is not limited to, the following contents: daily operating instructions, operator safety procedures, location of valves and other key system features, a parts list and parts order form(s), and information for contacting the responsible charge operators. An operational trouble-shooting section shall be supplied to the wastewater works as part of any proprietary unit installed in system facilities. (\_\_\_\_\_)

**02. Approval Required.** Final operation and maintenance manuals for construction of wastewater systems that include lift stations or treatment works must be submitted to the Department for review and approval prior to start-up of the proposed system unless the system components are already covered in an existing manual.  
(3-30-07)(\_\_\_\_\_)

426. -- 429. (RESERVED).

**430. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES -- DESIGN AND CONSTRUCTION OF WASTEWATER PIPELINES.**

**01. Design Capacity and Design Flow.** In general, sewer capacities shall be designed for the estimated ultimate tributary population, except in considering parts of the systems that can be readily increased in capacity. (4-11-06)

**02. Details of Design and Construction.** (4-11-06)

**a. Minimum Pipe Size.** Minimum pipe size for gravity sewer mains shall be eight (8) inches in diameter. Minimum pipe size for gravity sewer services shall be four (4) inches in diameter. Pipe diameters larger than these minimums shall be based on cleaning capability and hydraulic capacity, and shall conform with the required planning documents. (3-30-07)

**b. Depth.** Wastewater pipelines shall be installed sufficiently deep or specifically designed to prevent freezing and to protect the facilities from surface loading. (4-11-06)

**c. Buoyancy.** Buoyancy of wastewater pipelines shall be considered and flotation of the pipe shall be prevented with appropriate construction where high groundwater conditions are anticipated. (4-11-06)

**d. Slope.** Gravity wastewater pipelines shall be designed to have sufficient slope and velocity to "self clean" or transport constituent solids to the treatment facility. Justification for these slopes shall be included in the ~~P~~preliminary ~~E~~ngineering ~~R~~eport and shall be based on widely used guidance documents or published friction coefficients and Manning's formula. (~~3-30-07~~)(\_\_\_\_)

**i.** If the current or future ownership of the system is by a city, county, quasi-municipal corporation or regulated public utility and the velocities are less than self cleaning, the owner shall, as a condition of the Department's approval of plans and specifications, provide justification for the lower velocities and commit to, at a minimum, annually service wastewater pipelines to flush, transport, or remove solids from wastewater pipelines. This would include the use of cutting tools for roots, vactor trucks, and any other method required to keep the pipelines clean, intact and flowing. That commitment shall be in the form of a letter from both the owner and the future owner entity stating said commitment, and shall include a discussion of the current and future owners' capacity to do said flushing. (3-30-07)

**ii.** If the current or future ownership of the system is by a developer that is passing the operation and maintenance on to a homeowner's association or other similar entity, then the design shall not allow for velocities that are less than self cleaning. (3-30-07)

**e. Materials.** (4-11-06)

**i.** Any generally accepted material for wastewater pipelines will be given consideration. The material selected should be adapted to local conditions, such as: character of industrial wastes, possibility of septicity, soil characteristics, exceptionally heavy external loadings, abrasion, corrosion, and similar problems. (4-11-06)

**ii.** Couplings complying with applicable standard specifications shall be used for joining dissimilar materials. (4-11-06)

**iii.** For new pipe materials for which standards have not been established, the design engineer shall provide complete pipe specifications and installation specifications developed on the basis of criteria adequately documented and certified in writing by the pipe manufacturer to be satisfactory for the specific application. (4-11-06)

**f. Installation.** Installation specifications shall contain appropriate requirements based on the criteria, standards, and requirements established by industry in its technical publications. Reference current edition of the Idaho Standards for Public Works Construction for assistance in designing such specifications. (3-30-07)



- g.** Joints and Infiltration. (4-11-06)
- i.** The installation of joints and the materials used shall be included in the specifications. Wastewater pipeline joints shall be designed to minimize infiltration and to prevent the entrance of roots throughout the life of the system. Reference current edition of the Idaho Standards for Public Works Construction for assistance in designing such specifications. (3-30-07)
- ii.** Service connections to the wastewater pipeline main shall be water tight and not protrude into the wastewater pipelines. If a saddle type connection is used, it shall be a device designed to join with the types of pipe which are to be connected. All materials used to make service connections shall be compatible with each other and with the pipe materials to be joined and shall be corrosion proof. (4-11-06)
- h.** Manholes. Manholes shall be installed at the end of each line; at all changes in grade, size, or alignment; at all intersections. Cleanouts may be used only for special conditions and shall not be substituted for manholes nor installed at the end of laterals greater than one hundred fifty (150) feet in length. (4-11-06)
- i.** Testing. Testing shall conform with Section 500.3.4 of the "Idaho Standards for Public Works Construction," incorporated by reference into these rules at Section 004. (3-30-07)
- j.** Inverted Siphons. Inverted siphons shall have not less than two (2) barrels or pipes. They shall be provided with necessary appurtenances for maintenance, convenient flushing, and cleaning equipment. Design shall provide sufficient head and appropriate pipe sizes to secure sufficient velocities for design average flows. (3-30-07)
- k.** Wastewater Pipelines in Relation to Surface Water Bodies. The top of all wastewater pipelines entering or crossing surface water bodies shall be at a sufficient depth below the natural bottom of the bed or otherwise designed to protect the wastewater pipeline. (4-11-06)
- i.** Wastewater pipelines located adjacent to surface water bodies shall be located outside of the bed and sufficiently removed therefrom to provide for future possible stream widening and to prevent pollution by siltation during construction. (3-30-07)
- ii.** Structures. Wastewater pipeline outfalls, headwalls, manholes, gate boxes, or other structures shall be designed to address anticipated flood flows of the surface water bodies. (4-11-06)
- iii.** Alignment. Wastewater pipelines crossing surface water bodies should be designed to cross the surface water body as nearly perpendicular to the surface water body flow as possible and shall be free from change in grade. (4-11-06)
- iv.** Materials. Wastewater pipelines entering or crossing surface water bodies shall be constructed of water transmission pressure rated pipe with restrained joints conforming to Section 401.2.9 of the "Idaho Standards for Public Works Construction," incorporated by reference into these rules at Section 004, or other suitable pipe with restrained joints capable of being installed to remain watertight and free from changes in alignment or grade. Material used to back-fill the trench shall be concrete slurry, stone, coarse aggregate, washed gravel, or other materials which will not readily erode, cause siltation, damage pipe during placement, or corrode the pipe. (3-30-07)
- v.** Siltation and Erosion. Construction methods that will minimize siltation and erosion shall be employed. (4-11-06)
- l.** Aerial Crossings. Support shall be provided for all joints in pipes utilized for aerial crossings. Restrained joints or structural casings are required. (4-11-06)
- m.** Cross Connections Prohibited. There shall be no physical connections between a public or private potable water supply system and a wastewater pipeline, or appurtenance thereto, which would permit the passage of any wastewater or polluted water into the potable supply. No water pipe shall pass through or come into contact with any part of a wastewater pipeline manhole. (4-11-06)
- n.** Protection of Water Sources, Supplies. When wastewater pipelines are proposed in the vicinity of

any drinking water sources or supplies or other drinking water facilities, requirements of IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," shall be used to confirm acceptable isolation distances. (4-11-06)

**o.** Non-Potable Pipelines in Relation to Potable Water Pipelines. The Department will use the Memorandum of Understanding with the Plumbing Bureau as guidance in determining the relative responsibilities for reviewing service lines. The conditions of Subsections 542.07.a. and 542.07.b. shall apply to all potable services constructed or reconstructed after April 15, 2007 and where the Department or the QLPE is the reviewing authority. (3-30-07)(\_\_\_\_)

**i.** Non-potable mains in relation to potable mains. Parallel installation requirements. (3-30-07)(\_\_\_\_)

**(1)** Parallel installation requirements. Non-potable mains in relation to potable mains. (4-11-06)(\_\_\_\_)

**(a)** Greater than ten (10) feet separation: no ~~conditions~~ additional requirements based on separation distance. (4-11-06)(\_\_\_\_)

**(b)** Ten (10) feet to six (6) feet separation: separate trenches, with potable main above non-potable main, and non-potable main constructed with potable-water class pipe. (4-11-06)

**(c)** Less than six (6) feet separation: design engineer to submit data to the Department for review and approval that this installation will protect public health and environment and non-potable main constructed with potable-water class pipe. (3-30-07)

**(d)** Non-potable mains are prohibited from being located in the same trench as potable mains. (3-30-07)

**(e)** Pressure sewage mains shall be no closer horizontally than ten (10) feet from potable mains. (3-30-07)

**(2)** Non-potable mains crossing potable mains requirements. New non-potable services in relation to potable services, new non-potable services in relation to potable mains, and new potable services in relation to non-potable mains. (3-30-07)(\_\_\_\_)

**(a)** Eighteen (18) inches or more vertical separation with potable main above non-potable main: non-potable main joint as far as possible from potable water main. Greater than six (6) feet separation: no additional requirements based on separation distances. (3-30-07)(\_\_\_\_)

**(b)** Less than eighteen (18) inches vertical separation: non-potable main constructed with potable water class pipe for a minimum of ten (10) feet either side of potable main with a single twenty (20) foot section of potable water class pipe being centered on the crossing, or sleeve non-potable or potable main with potable water class pipe for ten (10) feet either side of crossing. Use of concrete slurry encasement is not allowed as a substitute for sleeving. If potable main is below non-potable main, the non-potable main must also be supported through the crossing to prevent settling. Less than six (6) feet separation: design engineer to submit data that this installation will protect public health and the environment and non-potable service constructed with potable water class pipe. (3-30-07)(\_\_\_\_)

**(c)** Pressure sewage mains shall be no closer vertically than eighteen (18) inches from potable mains. New potable services are prohibited from being located in the same trench as non-potable mains or non-potable services. (3-30-07)(\_\_\_\_)

**ii.** New non-potable services in relation to potable services and new non-potable services in relation to potable mains. The Department will use the Memorandum of Understanding with the Plumbing Bureau as guidance in determining the relative responsibilities for reviewing service lines. The following conditions shall apply to all non-potable services constructed or reconstructed after April 15, 2007, and where the Department or the qualified Idaho licensed professional engineer is the reviewing authority. Requirements for potable water mains or services crossing non-potable mains or services. For the purposes of Subsection 430.o.ii., the term "pipeline" applies to both mains and services. (3-30-07)(\_\_\_\_)

(1) ~~Parallel installation requirements:~~ Eighteen (18) inches or more vertical separation with potable pipeline above non-potable pipeline: non-potable pipeline joint to be as far as possible from the potable water pipeline. (4-11-06)( )

(a) ~~Greater than six (6) feet separation: no conditions.~~ (4-11-06)

(b) ~~Less than six (6) feet separation: design engineer to submit data that this installation will protect public health and environment and non-potable service constructed with potable water class pipe.~~ (4-11-06)

(c) ~~New non-potable services are prohibited from being located in the same trench as potable mains or potable services.~~ (3-30-07)

(2) Eighteen (18) inches or more vertical separation with potable water pipeline below non-potable pipeline: Non-potable pipeline joint to be as far as possible from the potable water pipeline, and non-potable pipeline must be supported through the crossing to prevent settling. ( )

(23) ~~Non-potable services crossing potable services or potable mains requirements:~~ Less than eighteen (18) inches vertical separation: (3-30-07)( )

(a) ~~Eighteen (18) inches or more separation with potable service or main above non-potable service: non-potable main joint as far as possible from potable main. Non-potable pipeline joint to be as far as possible from the potable water pipeline; and either~~ (3-30-07)( )

(b) ~~Less than eighteen (18) inches separation or potable service or main below non-potable service: non-potable service or main constructed with potable water class pipe and non-potable main joint as far as possible from potable main, or sleeve non-potable service or main with potable water class pipe for ten (10) feet either side of crossing. Use of concrete slurry encasement is not allowed as a substitute for sleeving. Non-potable pipeline constructed with potable water class pipe for a minimum of ten (10) feet either side of potable pipeline with a single twenty (20) foot section of potable water class pipe centered on the crossing; or~~ (3-30-07)( )

(c) Sleeve non-potable or potable pipeline with potable water class pipe for ten (10) feet either side of crossing. Use of hydraulic cementitious materials such as concrete, controlled density fill, and concrete slurry encasement is not allowed as a substitute for sleeving. ( )

(d) If the potable pipeline is below non-potable pipeline, the non-potable pipeline must also be supported through the crossing to prevent settling. ( )

(4) Pressure sewage mains shall be no closer vertically than eighteen (18) inches from potable mains. ( )

iii. Existing potable services in relation to new non-potable mains, *and* existing non-potable services in relation to new potable mains, and existing potable services in relation to new non-potable services shall meet the requirements of Subsection 430.02.o.ii., where practical, based on cost, construction factors, and public health significance. If the Department determines that there are significant health concerns with these services, such as where a large existing service serves an apartment building or a shopping center, then the design shall conform with Subsection 430.02.o.ii. (3-30-07)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**441. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES - INDIVIDUAL RESIDENCE WASTEWATER PUMPING STATIONS.**

**01. General.** Section 441 regulates individual residence pump stations, individual residence grinder

pump stations, and individual residence septic tank effluent pump stations. However, this rule does not regulate grinder pumps or their vaults that are inside of individual residences or other structures. Certain individual residence wastewater pumping stations may be under the jurisdiction of the Idaho Division of Building Safety, Plumbing Bureau. For further defining and delineating of the Plumbing Bureau's and the Department's statutory and regulatory duties and responsibilities with respect to individual residence wastewater pumping stations, see the Memorandum of Understanding referred to in Section 008. (3-30-07)(\_\_\_\_)

**a.** Flooding. Wastewater pumping station structures and electrical and mechanical equipment shall be protected from physical damage by the one hundred (100) year flood. Wastewater pumping stations shall remain fully operational and accessible during the twenty-five (25) year flood. Local, state and federal flood plain regulations shall be considered. (3-30-07)

**b.** Accessibility and Security. The pumping station shall be accessible by maintenance vehicles during all weather conditions. (3-30-07)

**02. Design.** Design of wastewater pumping stations shall meet the applicable requirements of Subsections 441.02.a. through 441.02.c. (3-30-07)

**a.** Pumps. (3-30-07)

**i.** Multiple Units. Duplex pumps for individual residence wastewater pump stations are not required. However, for developments having five (5) or more similar facilities, one (1) working spare pump for each size shall be provided and be readily available at all times. (3-30-07)

**ii.** Pump Openings. Pumps handling raw wastewater shall be capable of passing spheres of at least three (3) inches in diameter or be a grinder pump. (3-30-07)

**iii.** Priming. The pump shall be placed so that, under normal operating conditions, it will operate under a positive suction head. (3-30-07)

**b.** Controls. Water level control sensing devices shall be designed to allow for automatic control of pumps. (3-30-07)

**c.** Valves. Suitable means to facilitate pump removal and to prevent backflow shall be provided. All shutoff and check valves shall be accessible for maintenance. (3-30-07)

**03. Submersible Pump Stations - Special Considerations.** (3-30-07)

**a.** Construction. Submersible pumps and motors shall be designed specifically for raw wastewater use, including totally submerged operation during a portion of each pumping cycle. An effective method to detect shaft seal failure or potential seal failure shall be provided. (3-30-07)

**b.** Pump Removal. Submersible pumps shall be readily removable and replaceable without personnel entering or dewatering the wet well, or disconnecting any piping in the wet well. (3-30-07)

**c.** Electrical Equipment. Section 009 provides a reference to the requirements of the National Electrical Code, compliance with which may be required by other law. (3-30-07)

**i.** Power Supply and Control Circuitry. Electrical supply, control, and alarm circuits shall be designed to provide strain relief and to allow disconnection from outside the wet well. Terminals and connectors shall be protected from corrosion by location outside the wet well or through use of watertight seals. (3-30-07)

**ii.** Controls. The motor control center shall be located outside the wet well, be readily accessible, and be protected by a conduit seal or other appropriate measures to prevent the atmosphere of the wet well from gaining access to the control center. The seal shall be located so that the motor may be removed and electrically disconnected without disturbing the seal. When such equipment is exposed to weather, it is recommended that it meet the requirements of weatherproof equipment NEMA 3R or 4. (3-30-07)

iii. Power Cord. Pump motor power cords shall be designed for flexibility and serviceability under conditions of extra hard usage. Ground fault interruption protection shall be used to de-energize the circuit in the event of any failure in the electrical integrity of the cable. Power cord terminal fittings shall be corrosion-resistant and constructed in a manner to prevent the entry of moisture into the cable, shall be provided with strain relief appurtenances, and shall be designed to facilitate field connecting. (3-30-07)

**04. Alarm Systems.** Audio-visual alarm systems with a backup power source shall be provided for pumping stations. The alarm shall be activated in cases of wet well high water levels and shall be visible from the outside of the structure. (~~3-30-07~~)( )

**05. Emergency Operation.** The pumping station must be sized to allow for one (1) day's flow between the high water alarm and the building service invert or the pressure discharge pipe, whichever is closer to the high water alarm. ( )

~~056.~~ **Instructions and Equipment.** Wastewater pumping stations shall be supplied with a complete set of operational instructions, including emergency procedures, maintenance schedules, tools, and such spare parts as may be necessary. (3-30-07)

~~067.~~ **Operation and Maintenance.** An operation and maintenance manual shall be submitted to and approved by the Department as required by Section 425. Adherence to the terms of this approved manual shall be required. The owner shall be responsible for maintaining the wastewater facility in a manner that assures its designed operation. (3-30-07)

~~078.~~ **Force Mains.** (3-30-07)

a. Velocity and Diameter. At design pumping rates, a cleansing velocity of at least two (2) feet per second shall be maintained. (3-30-07)

b. Special Construction. Force main construction near streams or water works structures and at water main crossings shall meet applicable provisions of Section 430. (3-30-07)

c. Design Friction Losses. (3-30-07)

i. Friction Coefficient. Friction losses through force mains shall be based on the Hazen and Williams formula or other acceptable methods. When the Hazen and Williams formula is used, the friction losses for varying values of "C" shall be evaluated for different types and ages of pipe. (3-30-07)

ii. Maximum Power Requirements. When initially installed, force mains will have a significantly higher "C" factor. The effect of the higher "C" factor shall be considered in calculating maximum power requirements and duty cycle time to prevent damage to the motor. The effects of higher discharge rates on selected pumps and downstream facilities shall also be considered. (3-30-07)

d. Identification. Where force mains are constructed of material which might cause the force main to be confused with potable water mains, the force main shall be appropriately identified using trench tape saying "raw sewage," "biohazard," or other appropriate wording. (3-30-07)

e. Leakage Testing. Leakage tests shall be specified including testing methods and leakage limits. Testing shall conform with Sections 401.3.6 and 505.3.3 of the "Idaho Standards for Public Works Construction," incorporated by reference into these rules at Section 004. (3-30-07)

f. Thrust Blocking. Thrust blocking shall conform with Sections 401.3.4 of the "Idaho Standards for Public Works Construction," incorporated by reference into these rules at Section 004. (3-30-07)

g. Maintenance Considerations. Isolation valves shall be used if force mains connect into a common force main. (3-30-07)

**h.** Cover. Force mains shall be covered with sufficient earth or other insulation to prevent freezing or other physical damage. (3-30-07)

**442. – 449. (RESERVED).**

**450. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES - WASTEWATER TREATMENT FACILITIES - GENERAL.**

**01. Plant Location.** (3-30-07)

**a.** General. The ~~P~~preliminary ~~E~~ngineering ~~R~~eport or ~~F~~acility ~~P~~lan shall include a detailed discussion for new facilities regarding site selection criteria and alternatives considered. See Sections 410 and 411. ~~(3-30-07)~~(\_\_\_\_)

**b.** Flood protection. The treatment plant structures, electrical, and mechanical equipment shall be protected from physical damage by the one hundred (100) year flood. Treatment plants shall be designed to remain fully operational and accessible during the one hundred (100) year flood. This requirement applies to new construction and to existing facilities undergoing major modification. Local, state and federal flood plain regulations shall be considered. (3-30-07)

**c.** Setback distances. ~~New treatment and storage facilities for wastewater treatment shall have a minimum setbacks from their property line as follows: For f~~Facilities open to the atmosphere such as lagoons, open clarifiers, open aeration basins, and other such facilities, ~~the minimum setback to property zoned as residential shall be three hundred (300) feet~~ shall be placed a minimum of two hundred (200) feet from residential property lines. If ~~the property with~~ such open facilities ~~is~~ are adjacent to property zoned as commercial or industrial, a lesser setback will be considered by the Department on a case by case basis. For totally enclosed facilities with noise and odor controls, the minimum setback shall be fifty (50) feet if approved by the Department. Neighboring property owners may grant long term easements or other types of legal documents tied to the land to allow for similar setbacks from future development or public use. ~~(3-30-07)~~(\_\_\_\_)

**02. Quality of Effluent.** The required degree of wastewater treatment shall be based on the effluent requirements and water quality standards established by the responsible state agency and ~~or~~ appropriate federal regulations including discharge permit requirements. Combined sewer overflows are not allowed. ~~(3-30-07)~~(\_\_\_\_)

**03. Design.** (3-30-07)

**a.** Type of Treatment. The ~~P~~preliminary ~~E~~ngineering ~~R~~eport or ~~F~~acility ~~P~~lan shall include a detailed discussion regarding criteria and alternatives considered in selection of the appropriate type of treatment. See Sections 410 and 411. The plant design shall provide the necessary flexibility to perform satisfactorily within the expected range of waste characteristics and volumes. ~~(3-30-07)~~(\_\_\_\_)

**b.** Required Engineering Data for New Process and Application Evaluation. The policy of the Department is to encourage rather than obstruct the development of any valid methods or equipment for treatment of wastewater. The lack of inclusion in these standards of some types of wastewater treatment processes or equipment should not be construed as precluding their use. The Department may approve other types of wastewater treatment processes and equipment that meet the performance standards set forth in these rules under the condition that the operational reliability and effectiveness of the process or device shall have been demonstrated under similar conditions with a suitably-sized unit operating at its design load conditions, to the extent required. To determine that such new processes and equipment or applications have a reasonable and substantial chance of success, the Department may require the following: (3-30-07)

**i.** Monitoring observations, including test results and engineering evaluations, demonstrating the efficiency of such processes. (3-30-07)

**ii.** Detailed description of the test methods. (3-30-07)

**iii.** Testing, including appropriately-composited samples, under various ranges of strength and flow

rates (including diurnal variations) and waste temperatures over a sufficient length of time to demonstrate performance under climatic and other conditions which may be encountered in the area of the proposed installations. (3-30-07)

iv. Other appropriate information. The Department may require that appropriate testing be conducted and evaluations be made under the supervision of a competent process engineer other than those employed by the manufacturer or developer. (3-30-07)

c. Design period. The design period shall be clearly identified in the ~~P~~preliminary ~~E~~ngineering ~~R~~eport or ~~F~~acility ~~P~~lan as required in Sections 410 and 411. (~~3-30-07~~)(      )

d. Design Loads. (3-30-07)

i. Hydraulic Design. (3-30-07)

(1) Critical Flow Conditions. Flow conditions critical to the design of the treatment plant shall be as described in the ~~P~~preliminary ~~E~~ngineering ~~R~~eport required by Section 411. Initial low flow conditions must be evaluated in the design to minimize operational problems with freezing, septicity, flow measurements and solids dropout. The appropriate design flows must be considered in evaluating unit processes, pumping, piping, etc. (~~3-30-07~~)(      )

(2) Treatment Plant Design Capacity. The treatment plant design capacity shall be as described in Section 411. The plant design flow selected shall meet the appropriate effluent and water quality standards that are set forth in the discharge or other appropriate permit. For plants subject to high wet weather flows or overflow detention pump-back flows, the design maximum flows that the plant is to treat on a sustained basis shall be specified. (3-30-07)

(3) Flow Equalization. Facilities for the equalization of flows and organic shock load shall be considered at all plants which are critically affected by surge loadings. (3-30-07)

ii. Organic Design. Organic loadings for wastewater treatment plant design shall be based on the information provided in the ~~P~~preliminary ~~E~~ngineering ~~R~~eport required by Section 411. The effects of septage flow which may be accepted at the plant shall be given consideration and appropriate facilities shall be included in the design. See Section 520. (~~3-30-07~~)(      )

iii. Shock Effects. The shock effects of high concentrations and diurnal peaks for short periods of time on the treatment process, particularly for small treatment plants, shall be considered. (3-30-07)

e. Conduits. All piping and channels shall be designed to carry the maximum expected flows. Conduits shall be designed to avoid creation of pockets and corners where solids can accumulate. (3-30-07)

f. Gates or Valves. Suitable gates or valves shall be placed in channels to seal off unused sections which might accumulate solids. The use of shear gates, stop plates or stop planks is permitted where they can be used in place of gate valves or sluice gates. Non-corrodible materials shall be used for control gates and conduits. (3-30-07)

g. Arrangement of Units. Component parts of the plant shall be arranged for appropriate operating and maintenance convenience, flexibility, economy, continuity of maximum effluent quality, and ease of installation of future units. (3-30-07)

h. Flow Division Control. Flow division control facilities shall be provided as necessary to ensure organic and hydraulic loading control to plant process units and shall be designed for easy operator access, change, observation, and maintenance. Appropriate flow measurement facilities shall be incorporated in the flow division control design. (3-30-07)

i. Odor Management. An odor management plan shall be submitted to and approved by the Department as a part of the ~~P~~preliminary ~~E~~ngineering ~~R~~eport described in Section 411. The Water Environment

Federation Guidance referenced in Section 008 of these rules provides guidance for use in developing an odor management plan that is inclusive of the facilities being designed. ~~(3-30-07)~~(\_\_\_\_)

**j.** Cold Weather. Facilities shall be designed with regard for proper operation and maintenance and protection during cold weather temperatures expected at the specific location. The Water Environment Federation Guidance referenced in Section 008 of these rules provides guidance for use in designing, operating and maintaining facilities in cold weather. (3-30-07)

**04. Plant Details.** (3-30-07)

**a.** Unit Bypasses. (3-30-07)

**i.** Removal from Service. Properly located and arranged bypass structures and piping shall be provided so that each unit of the plant can be removed from service independently. The bypass design shall facilitate plant operation during unit maintenance and emergency repair so as to minimize deterioration of effluent quality and ensure rapid process recovery upon return to normal operational mode. The actuation of all bypasses shall require manual action by operating personnel. All power-actuated bypasses shall be designed to permit manual operation in the event of power failure. (3-30-07)

**ii.** Unit Bypass During Construction. Unit bypassing during construction shall be in accordance with the ~~P~~preliminary ~~E~~ngineering ~~R~~eport required by Section 411. ~~(3-30-07)~~(\_\_\_\_)

**b.** Unit dewatering, flotation protection, and plugging. Drains or sumps shall be provided to completely dewater each unit to an appropriate point in the process. Due consideration shall be given to the possible need for hydrostatic pressure relief devices to prevent flotation of structures. Pipes subject to plugging shall be provided with means for mechanical cleaning or flushing. (3-30-07)

**c.** Construction materials. Materials shall be selected that are appropriate under conditions of exposure to hydrogen sulfide and other corrosive gases, greases, oils, and other constituents frequently present in wastewater. This is particularly important in the selection of metals and paints. (3-30-07)

**d.** Painting. The contents and direction of flow shall be identified on the piping in a contrasting color. (3-30-07)

**e.** Operating equipment. Tools, accessories, and spare parts necessary for the plant operator's use shall be provided. (3-30-07)

**f.** Storage and work space facilities. Readily accessible storage and work space facilities shall be provided, and consideration shall be given to provision of a garage for large equipment storage, maintenance, and repair. (3-30-07)

**g.** Erosion control during construction. Effective site erosion control shall be provided during construction. (3-30-07)

**h.** Grading and landscaping. Upon completion of the plant, the ground shall be graded and landscaped in accordance with the ~~P~~preliminary ~~E~~ngineering ~~R~~eport developed in the ~~P~~preliminary ~~E~~ngineering ~~R~~eport required by Section 411. ~~(3-30-07)~~(\_\_\_\_)

**05. Plant Outfalls.** (3-30-07)

**a.** Discharge impact control. The outfall shall be designed to discharge to the receiving stream in a manner acceptable to various reviewing authorities including, but not limited to, EPA, the Idaho Department of Environmental Quality, U.S. Army Corp of Engineers, Idaho Department of Water Resources, and local jurisdictions. (3-30-07)

**b.** Protection and Maintenance. The outfall shall be so constructed and protected against the effects of floodwater, ice, or other hazards as to reasonably ensure its structural stability and freedom from stoppage. Hazards to



navigation shall be considered in designing outfalls. (3-30-07)

**c.** Sampling Provisions. All outfalls shall be designed so that a sample of the effluent can be obtained at a point after the final treatment process and before discharge to or mixing with the receiving waters. (3-30-07)

**06. Essential Facilities.** (3-30-07)

**a.** Emergency Power Facilities. (3-30-07)

**i.** General. All wastewater treatment plants shall be provided with an alternate source of electric power or pumping capability to allow continuity of operation during power failures. Refer to Subsection 440.07.c. for design requirements. Methods of providing alternate sources include: (3-30-07)

(1) The connection of at least two (2) independent power sources such as substations. A power line from each substation is required if this method is used. The determination of the independent power sources shall be done by the appropriate power provider and stated in a letter from that provider. (3-30-07)

(2) In-place internal combustion engine equipment which will generate electrical or mechanical energy. (3-30-07)

(3) Portable pumping equipment when only emergency pumping is required. Where part or all of the engine-driven pumping equipment is portable, adequate emergency storage capacity with alarm system shall be provided to allow time for detection of pump station failure and transportation and hookup of the portable equipment. (3-30-07)

**ii.** Power for Aeration. Standby generating capacity normally is not required for aeration equipment used in the activated sludge process. In cases where a history of chronic, long-term (~~four~~ (4) hours or more) power outages have occurred, auxiliary power for minimum aeration of the activated sludge will be required as provided in Subsections 450.06.a.i.(1) or 450.06.a.i.(2). (~~3-30-07~~)( )

**iii.** Power for Disinfection. Standby generating capacity, as provided in Subsections 450.06.a.i.(1) or 450.06.a.i.(2), is required for disinfection facilities and dechlorination facilities. (3-30-07)

**b.** Water Supply. Section 009 provides a reference to the Uniform Plumbing Code, compliance with which may be required by other law. (3-30-07)

**c.** Sanitary Facilities. Section 009 provides a reference to the Uniform Plumbing Code, compliance with which may be required by other law. (3-30-07)

**d.** Stairways. Stairways shall be installed in lieu of ladders for top access to units requiring routine inspection and maintenance (such as digesters, trickling filters, aeration tanks, clarifiers, tertiary filters, etc.). (3-30-07)

**e.** Flow Measurement. (3-30-07)

**i.** Location. Flow measurement ~~facilities~~ devices shall be provided to measure the following flows: (~~3-30-07~~)( )

(1) Plant influent or effluent flow. (3-30-07)

(2) If influent flow is significantly different from effluent flow, both shall be measured or otherwise accounted for by other flow measurement facilities. (3-30-07)

(3) Other flows required to be monitored under the provisions of the discharge permit. (3-30-07)

(4) Other flows such as return activated sludge, waste activated sludge, and recycle required for plant operational control. (3-30-07)

ii. Facilities Devices. Indicating, totalizing, and recording flow measurement devices for all influent or effluent flows shall be provided for all plants. Any other flow ~~meters~~ measurement device may be indicating and totalizing only. All flow measurement equipment must be sized to function to a satisfactory level of accuracy over the full range of flows expected and shall be protected against freezing. ~~(3-30-07)~~(\_\_\_\_)

iii. Hydraulic Conditions. Flow measurement equipment including approach and discharge conduit configuration and critical control elevations shall be designed to ensure the required hydraulic conditions necessary for the measurement accuracy needed for the specific application. (3-30-07)

iv. Calibration and Certification. The flow measurement devices specified in Subsections 450.06.e.i.(1) through 450.06.e.i.(3) shall be calibrated and certified at manufacturer-specified frequencies. (\_\_\_\_)

f. Sampling Equipment. Effluent composite sampling equipment shall be provided at all mechanical plants and at other facilities where necessary to meet discharge permit monitoring requirements. Composite sampling equipment shall also be provided as needed for influent sampling and for monitoring plant operations. The influent sampling point shall be located prior to any process return flows. (3-30-07)

**07. Safety.** (3-30-07)

a. General. Provisions shall be made to consider the protection of maintenance personnel and visitors from typical and foreseeable hazards in accordance with the engineering standards of care. Enclosure of the plant site with a fence and signs designed to discourage the entrance of unauthorized persons and animals is required. (3-30-07)

b. Hazardous Chemical Handling. The materials utilized for storage, piping, valves, pumping, metering, splash guards, etc., shall be specially selected considering the physical and chemical characteristics of each hazardous or corrosive chemical. (3-30-07)

**08. Laboratory.** (3-30-07)

a. All treatment plants shall include a laboratory for making the necessary analytical determinations and operating control tests, except for those plants utilizing only processes not requiring laboratory testing for plant control and where satisfactory off-site laboratory provisions are made to meet the permit monitoring requirements. The laboratory shall have sufficient size, bench space, equipment, and supplies to perform all self-monitoring analytical work required by discharge permits, and to perform the process control tests necessary for good management of each treatment process included in the design. (3-30-07)

b. Treatment plant laboratory needs may be divided into the following three (3) general categories: (3-30-07)

i. Plants performing only basic operational testing; this typically includes pH, temperature, dissolved oxygen, and chlorine residual. (3-30-07)

ii. Plants performing more complex operational and permit laboratory tests including biochemical oxygen demand, suspended solids, and fecal coliform analysis. (3-30-07)

iii. Plants performing more complex operational, permit, industrial pretreatment, and multiple plant laboratory testing. (3-30-07)

c. Expected minimum laboratory needs for the three (3) plant classifications set out in Subsection 450.08.b. must be addressed in the ~~P~~preliminary ~~E~~engineering ~~R~~report. ~~(3-30-07)~~(\_\_\_\_)

**09. Instructions and Equipment**. Wastewater treatment equipment shall be supplied with a complete set of operational instructions, including emergency procedures, maintenance schedules, tools and such spare parts as may be necessary. (3-30-07)

**10. Operation and Maintenance.** An operation and maintenance manual shall be submitted to and approved by the Department as required by Section 425. Adherence to the terms of this approved manual shall be required. The owner shall be responsible for maintaining the wastewater facility in a manner that assures its designed operation. (3-30-07)

451. -- 454. (RESERVED).

**455. PRIVATE ~~COMMUNITY~~ MUNICIPAL WASTEWATER TREATMENT PLANTS.**

**01. Scope.** Section 455 includes additional requirements for approval of private ~~community~~ municipal wastewater treatment plants ~~with a surface water discharge, a discharge to land application or reuse, or a discharge to a drainfield.~~ Individual extended treatment package systems for on-site systems are not covered by these rules, but are covered by IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." See Technical Guidance Manual for Individual and Subsurface Sewage Disposal Systems available at [http://www.deq.idaho.gov/water/assist\\_business/septic/tech\\_manual\\_updates.cfm](http://www.deq.idaho.gov/water/assist_business/septic/tech_manual_updates.cfm). Private ~~community~~ municipal wastewater treatment plants may be considered if no other viable alternative is available. ~~The use of these plants shall be fully protective of ground water and surface water quality standards.~~ (3-30-07)(\_\_\_\_)

**02. Preliminary Engineering Report.** ~~A preliminary engineering report as described in Section 411 must be submitted to the Department for review and must be approved by the Department prior to submittal of plans and specifications.~~ The ~~P~~preliminary ~~E~~ngineering ~~R~~eport for private ~~community~~ municipal wastewater treatment plants shall include the ~~following~~ information ~~listed in Subsections 455.02.a. and 455.02.b.,~~ as well as ~~relevant~~ information ~~included~~ ~~specified~~ in Section 411. (3-30-07)(\_\_\_\_)

**a.** ~~A~~ ~~The~~ ~~P~~preliminary ~~E~~ngineering ~~R~~eport ~~as described in Section 411 must be submitted to and approved by the Department prior to submittal of plans and specifications.~~ shall evaluate the following alternatives: (3-30-07)(\_\_\_\_)

**b.** ~~In addition to the requirement in Subsection 455.02.a., at a minimum, the Preliminary Engineering Report shall evaluate the following alternatives:~~ (3-30-07)

- i. Wastewater treatment plants (possibly several ~~brands~~ ~~technologies~~). (3-30-07)(\_\_\_\_)
- ii. Self-contained lagoon. (3-30-07)
- iii. Conventional septic tank and drainfield (or alternate drainfield design). (3-30-07)
- iv. Surface water discharge including impact on TMDLs. (3-30-07)

v. Gravity or pressure sewer into nearby community (see ~~the Department's Policy for Determining Reasonable Access to Existing Public Wastewater Facilities~~ Subsection 455.04.e. for distances to community systems and required hook-up.) (3-30-07)(\_\_\_\_)

- vi. Recirculating or intermittent sand filter. (3-30-07)
- vii. Annual operation and maintenance costs. (3-30-07)
- viii. Land application/reuse. (3-30-07)

**e.** ~~The Preliminary Engineering Report must present capital and operation and maintenance costs, monitoring requirements and reporting, preliminary sizing (design criteria), hydrogeologic studies, bonding, the operation and maintenance manual, district health department requirements (nutrient/pathogen study), and all requirements of Section 411.~~ (3-30-07)

**~~4b.~~** The ~~P~~preliminary ~~E~~ngineering ~~R~~eport must thoroughly analyze the effect of the treatment plant discharge on ground water quality, especially bacteria, viruses, phosphorus and nitrates as compared to the alternatives listed in Subsection 455.02.~~ba.~~ (3-30-07)(\_\_\_\_)

- 03. Plan and Specification Approval.** (3-30-07)
- a.** Plans and specifications for the collection and treatment systems will not be approved until the owner is in receipt of one of the following (whichever is applicable): (3-30-07)
- i.** A draft NPDES permit from EPA for proposed surface water discharges; or (~~3-30-07~~)(    )
- ii.** A draft wastewater land application/reuse permit from the Department for proposed land application or reuse of the effluent. See the Guidance for Reclamation and Reuse of Municipal and Industrial Wastewater, [http://www.deq.idaho.gov/water/permits\\_forms/permitting/guidance.cfm](http://www.deq.idaho.gov/water/permits_forms/permitting/guidance.cfm). (~~3-30-07~~)(    )
- b.** For a subsurface treatment and ~~disposal dispersal~~ system (SSDS); ~~the plans and specifications for the collection system will not be approved until the owner is in receipt of the SSDS permit from the district health department.~~ (3-30-07)(    )
- i.** The plans and specifications for the dispersal system must receive approval from the Department prior to receipt of the SSDS permit from the district health department having jurisdiction; and (    )
- ii.** The plans and specifications for the collection system will not be approved by the Department until the owner is in receipt of the SSDS permit from the district health department having jurisdiction. (    )
- c.** For private ~~community~~ municipal wastewater treatment plants storing their treated effluent prior to irrigation or surface water discharge, the following additional items shall be considered by the Department, prior to approving either the treatment systems or the disposal option. These include, but are not limited to, sealing of storage ponds, filtration and disinfection requirements ~~just~~ prior to ~~irrigation~~ use or ~~surface water~~ discharge, the degree of treatment, and the intended type and area of irrigation. See IDAPA 58.01.17, "Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater." (~~3-30-07~~)(    )
- 04. Private ~~Community~~ Municipal Wastewater Treatment Plants.** (~~3-30-07~~)(    )
- a.** The private ~~community~~ municipal wastewater treatment plant ~~must be NSF approved or equivalent as approved by the Department and the plant~~ shall have at least two (2) full years of operating data on five (5) separate installations in the United States. The data submittal shall include the name, address, and telephone number for a regulatory agency contact person familiar with the performance of each reported installation. ~~For individual package treatment plants with septic tanks and drainfields, IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules," apply and owners must comply with the requirements of those rules.~~ (~~3-30-07~~)(    )
- b.** The owner shall provide for a ~~minimum of a Class H~~ wastewater system operator in responsible charge of the facility. The ~~actual~~ operator license classification requirement will depend on the classification of the system based on Section 202 and the licensure requirements of Section 203. If the operator is provided by contract, the contract shall be submitted to the Department for review and approval. (~~3-30-07~~)(    )
- c.** A sludge management plan must be submitted to and approved by the Department. The plan must include collection, treatment and disposal of the sludge. Additionally, a signed contract that provides for ultimate legal disposal of the sludge shall be submitted to the Department prior to plan and specification approval. (3-30-07)
- d.** The private ~~community~~ municipal wastewater treatment plant shall be a dual train type (or equivalent/greater) with redundant pumps and blowers from influent works to the disposal site and provide sufficient redundancy to continue processing incoming wastewater at peak flows while any one (1) component or process is out of service. Standby or emergency power shall be provided to fully operate the wastewater treatment plant during a power outage unless the water system would also be out during a power outage. (~~3-30-07~~)(    )
- e.** A compliance agreement schedule authorized by Section 39-116A, Idaho Code, shall be required for each private ~~community~~ municipal wastewater treatment plant approved unless specifically waived by the Department in writing. If a private ~~community~~ municipal wastewater treatment plant installation is only a temporary or interim measure in a long-term plan, a compliance agreement schedule will include a sunset clause with a date for

the private ~~community~~ municipal wastewater treatment plant to cease operation and will require the plant owner to fund and construct the eventual hookup to the public municipal wastewater collection system when the system becomes reasonably accessible. ~~For the purpose of Section 455, "reasonably accessible" shall mean when the public municipal wastewater collection system is located within one thousand (1,000) feet minimum of any portion of the discharge piping of the private community municipal wastewater treatment plant and the owner of the public municipal wastewater collection system provides a "will serve" letter. The Department will use its Policy for Determining Reasonable Access to Existing Public Wastewater Facilities to determine if a private community municipal wastewater treatment plant may also be found to be reasonably accessible at distances greater than one thousand (1,000) feet. If the Department determines that a proposed private community municipal wastewater treatment plant is reasonably accessible to a public municipal wastewater collection system, the use of the private community municipal wastewater treatment plant may be denied.~~ The compliance agreement schedule shall address such things as operation and maintenance requirements and monitoring, ~~and~~ reporting requirements, and other project-specific items as applicable. The owner shall be responsible for complying with the requirements of the compliance agreement schedule. The compliance agreement schedule must be renewed every five (5) years; when ownership of the treatment plant changes; or at the request of the owner(s) or Department, so long as the system is in operation. (3-30-07)( )

~~f. Operation and Maintenance. An operation and maintenance manual shall be submitted to and approved by the Department as required by Section 425. Adherence to the terms of this approved manual shall be required. The owner shall be responsible for maintaining the private community municipal wastewater treatment plant in a manner that assures its designed operation. If the Department determines that a proposed private municipal wastewater treatment plant is reasonably accessible to a public municipal wastewater collection system, the use of the private municipal wastewater treatment plant may be denied.~~ (3-30-07)( )

~~g. Monitoring and Reporting. As a part of the compliance agreement schedule discussed in Subsection 455.04.e., the owner and the Department shall create monitoring and reporting requirements for the Department to approve. The owner shall be responsible for complying with the requirements of the compliance agreement schedule.~~ (3-30-07)

~~h. A financial management plan shall be provided to show how the financial management of the system will occur. This will explain the formation of a required maintenance entity to provide continued funding, operation and maintenance of the private community municipal wastewater treatment plant and drainfields. The entity must have the authority to collect fees for operation and maintenance, including additional money for a sinking fund for replacement costs and for possible future connection to an available public municipal wastewater collection system.~~ (3-30-07)

~~i. A performance bond, maintenance bond, or cash reserve (one year of operation and maintenance costs) fund is required to ensure continuous and adequate operation and maintenance.~~ (3-30-07)

~~fg. Minimum Size. The minimum size of a private community municipal wastewater treatment plant allowed under these rules is twenty-five thousand (25,000) gallons per day design capacity based on average day flows.~~ (3-30-07)( )

~~i. The minimum size requirements do not apply to proposed systems with suitably configured passive wastewater treatment technologies including, but not limited to, facultative lagoons, free water surface wetlands, and vegetated submerged beds.~~ ( )

~~ii. The Department may approve private municipal wastewater treatment plants smaller than twenty-five thousand (25,000) gallons per day design capacity, based on average day flows, provided the treatment plant will be maintained under original ownership.~~ ( )

~~iii. For the Department to approve the transfer of ownership of a private municipal wastewater treatment plant smaller than twenty-five thousand (25,000) gallons per day design capacity, based on average day flows, to another entity, the technical, financial, and managerial requirements in Section 409 must be demonstrated by the proposed new owner.~~ ( )

**05. Private Community Municipal Wastewater Treatment Plants with Drainfields.** In addition to

the applicable requirements of these rules, the subsurface sewage disposal design, construction and operation shall comply with IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." The exception to this is for Class A reclaimed wastewater reuse facilities that discharge to the subsurface. These reuse facilities are regulated by IDAPA 58.01.17, "Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater." (3-30-07)(\_\_\_\_)

~~06. Private Community Municipal Wastewater Treatment Plants Discharging to Surface Water. In addition to the applicable requirements of these rules, an NPDES permit is required for a facility discharging to surface water. (3-30-07)~~

~~07. Private Community Municipal Wastewater Treatment Plants Discharging to a Land Application or Reuse Site. (3-30-07)~~

~~a. In addition to the applicable requirements of these rules, a land application/reuse permit is required for land application or reuse of the effluent. (3-30-07)~~

~~b. For a discharge to a land application or reuse site, treatment and monitoring requirements will be established in the land application/reuse permit. See the Guidance for Reclamation and Reuse of Municipal and Industrial Wastewater, [http://www.deq.idaho.gov/water/permits\\_forms/permitting/guidance.cfm](http://www.deq.idaho.gov/water/permits_forms/permitting/guidance.cfm). (3-30-07)~~

~~08. Private Community Municipal Wastewater Treatment Plants Discharging to a Public Municipal Wastewater Collection System. In addition to the applicable requirements of these rules, a "will serve" letter from the public municipal wastewater collection system shall be submitted to the Department prior to plan and specification approval for private community municipal wastewater treatment plants discharging to a public municipal wastewater collection system. (3-30-07)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**490. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES - BIOLOGICAL TREATMENT.**

If biological treatment is used, the process shall be determined in the Preliminary Engineering Report. The choice shall be based on influent characteristics and effluent requirements. (3-30-07)(\_\_\_\_)

**01. Trickling Filters. (3-30-07)**

**a. General.** Trickling filters shall be preceded by effective settling tanks equipped with scum and grease collecting devices or other suitable pretreatment facilities. (3-30-07)

**b. Hydraulics.** The flow will be uniformly distributed across the surface of the media. The piping system, including dosing equipment and distributor, shall be designed to provide capacity for the design peak hourly flow, including recirculation. (3-30-07)(\_\_\_\_)

**c. Media. (3-30-07)**

**i. Quality.** The media shall be appropriate for the wastewater and shall be of sufficient strength to support itself under design loading and build up of biomass. (3-30-07)

**ii. Depth.** Trickling filter media shall have a minimum depth of six (6) feet above the underdrains. (3-30-07)

**d. Underdrainage System. (3-30-07)**

**i. Arrangement.** Underdrains shall be provided and the underdrainage system shall cover the entire floor of the filter. Inlet openings into the underdrains shall have an unsubmerged gross combined area equal to at least fifteen (15) percent of the surface area of the filter. (3-30-07)

- ii. Ventilation. The underdrainage system, effluent channels, and effluent pipe shall be designed to permit free passage of air. (3-30-07)
- e. Special Features. (3-30-07)
- i. Maintenance. All distribution devices, underdrains, channels, and pipes shall be installed so that they may be properly maintained, flushed or drained. (3-30-07)
- ii. Winter Protection. Covers shall be provided to maintain operation and treatment efficiencies when climatic conditions are expected to result in problems due to cold temperatures. (3-30-07)
- iii. Recirculation. The piping system shall be designed for recirculation as required to achieve the design efficiency. The recirculation rate shall be variable and subject to plant operator control at the range of 0.5:1 up to 4:1 (ratio of recirculation rate versus design average flow). A minimum of two (2) recirculation pumps shall be provided. (3-30-07)
- f. Rotary Distributor Seals. Mercury seals shall not be permitted. (3-30-07)
- g. Unit Sizing. Required volumes of filter media shall be based upon pilot testing with the particular wastewater or any of the various empirical design equations that have been verified through actual full scale experience. Such calculations must be submitted to the Department if pilot testing is not utilized. Trickling filter sizing design shall consider peak organic load conditions including the oxygen demands due to solids and process recycle flows. (3-30-07)
- 02. Activated Sludge.** (3-30-07)
- a. Aeration. (3-30-07)
- i. Capacities and Permissible Loadings. The size of the aeration tank for any particular adaptation of the process shall be determined by full scale experience, pilot plant studies, or rational calculations based mainly on solids retention time, food to microorganism ratio, and mixed liquor suspended solids levels. Other factors, such as size of treatment plant, diurnal load variations, and degree of treatment required, shall also be considered. In addition, temperature, alkalinity, pH, and reactor dissolved oxygen shall be considered when designing for nitrification. Calculations shall be submitted to the Department in the ~~P~~preliminary ~~E~~ngineering ~~R~~eport to justify the basis for design of aeration tank capacity. (~~3-30-07~~)(      )
- ii. Arrangement of Aeration Tanks. (3-30-07)
- (1) Dimensions. The dimensions of each aeration tank or return sludge reaeration tank shall be such as to maintain effective mixing and utilization of air. An exception is that horizontally mixed aeration tanks shall have a depth of not less than five point five (5.5) feet. (3-30-07)
- (2) Number of Units. Total aeration tank volume plus redundancy requirements shall be divided among two (2) or more equal units, capable of independent operation. (3-30-07)
- (3) Inlets and Outlets. (3-30-07)
- (a) Controls. Inlets and outlets for each aeration tank unit shall be designed to control flow to any unit with reasonable accuracy and to maintain reasonably constant liquid level. The properties of the system shall permit the design peak day flow to be treated with any single aeration tank unit out of service. The properties of the system shall permit the design peak hour hydraulic flow to be carried with any single aeration tank unit out of service. (3-30-07)
- (b) Conduits. Channels and pipes carrying liquids with solids in suspension shall be designed to be self-cleansing. (3-30-07)

- (c) Scum and Foam Control. Aeration tanks shall be designed to include adequate control or removal of scum and foam. (3-30-07)
- (4) Freeboard. All aeration tanks should have a freeboard of not less than eighteen (18) inches. (3-30-07)
- iii. Aeration Equipment. (3-30-07)
- (1) General. Oxygen requirements generally depend on maximum diurnal organic loading, degree of treatment, and level of suspended solids concentration to be maintained in the aeration tank mixed liquor. Aeration equipment shall be capable of maintaining a minimum of two point zero (2.0) mg/L of dissolved oxygen in the mixed liquor at all times and provide thorough mixing of the mixed liquor (for a horizontally mixed aeration tank system, an average velocity of one (1) foot per second must be maintained). In the absence of experimentally determined values, the design oxygen requirements for all activated sludge processes shall be 1.1 lb O<sub>2</sub> per lb of design peak hourly BOD<sub>5</sub> applied to the aeration tanks, with the exception of the extended aeration process, for which the value shall be one point five (1.5) to include endogenous respiration requirements. (~~3-30-07~~)(\_\_\_\_)
- (a) Where nitrification is required or will occur, the oxygen requirement for oxidizing ammonia must be added to the above requirement for carbonaceous BOD<sub>5</sub> removal and endogenous respiration requirements. The nitrogenous oxygen demand (NOD) shall be taken as four point six (4.6) times the diurnal peak hourly total Kjeldahl nitrogen content of the aeration tank influent. In addition, the oxygen demands due to recycle flows must be considered due to the high concentrations of BOD<sub>5</sub> and total Kjeldahl nitrogen associated with such flows. (~~3-30-07~~)(\_\_\_\_)
- (b) Meet maximum oxygen demand and maintain process performance with the largest unit out of service. Provide for varying the amount of oxygen transferred in proportion to the load demand on the plant. (3-30-07)
- (2) Diffused Air Systems. Air requirements including, but not limited to, process air, channel aeration, aerobic digestion, and miscellaneous plant air shall be submitted to the Department in the ~~P~~preliminary ~~E~~ngineering ~~R~~eport. Blowers shall be provided in multiple units, so arranged and in such capacities as to meet the maximum air demand with the single largest unit out of service. The design shall also provide for varying the volume of air delivered in proportion to the load demand of the plant. Aeration equipment shall be easily adjustable in increments and shall maintain solids suspension within these limits. (~~3-30-07~~)(\_\_\_\_)
- (3) Mechanical Aeration Systems. (3-30-07)
- (a) Oxygen Transfer Performance. The mechanism and drive unit shall be designed for the expected conditions in the aeration tank in terms of the power performance. Certified testing shall be provided to verify mechanical aerator performance. Refer to applicable provisions of Subsection 490.02. In the absence of specific design information, the oxygen requirements shall be calculated for mechanical aeration systems using a transfer rate not to exceed two (2) pounds of oxygen per horsepower per hour in clean water under standard test conditions. Design transfer efficiencies shall be included in the specifications. (3-30-07)
- (b) Design Requirements. Motors, gear housing, bearings, grease fittings, etc., shall be easily accessible and protected from inundation and spray as necessary for proper functioning of the unit. (3-30-07)
- (c) Winter Protection. Where extended cold weather conditions occur, the aerator mechanism and associated structure shall be protected from freezing due to splashing. Due to high heat loss, subsequent treatment units shall be protected from freezing. (3-30-07)
- b. Non-Aerated Tanks or Zones. Non-aerated tanks or zones within aeration tanks shall have mixing equipment adequate to fully mix the contents. Provide calculations in the ~~P~~preliminary ~~E~~ngineering ~~R~~eport for sizing of this equipment. (~~3-30-07~~)(\_\_\_\_)
- c. Return Sludge Equipment. (3-30-07)



- i. Return Sludge Rate. The return sludge rate of withdrawal from the final settling tank is a function of the concentration of suspended solids in the mixed liquor entering it, the sludge volume index of these solids, and the length of time these solids are retained in the settling tank. The rate of sludge return shall be varied by means of adjustable weirs, variable speed pumps, or timers (small plants) to pump sludge. (3-30-07)
- ii. Return Sludge Pumps. If a consolidated return sludge pump facility is used, the maximum return sludge capacity shall be obtained with the largest pump out of service. If individual sludge pumps are used at each settling basin, the pumps shall be designed to facilitate their rapid removal and replacement with a standby unit stored at the treatment plant site. If air lifts are used for returning sludge from each settling tank hopper, no standby unit will be required provided the design of the air lifts facilitate their rapid and easy cleaning and provided other suitable standby measures are made available. Air lifts should be at least three (3) inches in diameter. (3-30-07)
- iii. Return Sludge Piping. Discharge piping should be at least four (4) inches in diameter and shall be designed to maintain a velocity of not less than two (2) feet per second when return sludge facilities are operating at normal return sludge rates. Suitable devices for observing, sampling, and controlling return activated sludge flow from each settling tank hopper shall be provided. (3-30-07)
- iv. Waste Sludge Facilities. Means for observing, measuring, sampling, and controlling waste activated sludge flow shall be provided. (3-30-07)
- d. Sequencing Batch Reactors. The fill and draw mode of the activated sludge process commonly termed the Sequencing Batch Reactor may be used in Idaho. The design must be based on experience at other facilities and shall meet the applicable requirements under Sections 450, 470 and 490, except as modified in Subsection 490.02.d.i. through 490.02.d.xi. Continuity and reliability of treatment equal to that of the continuous flow through modes of the activated sludge process shall be provided. (3-30-07)
  - i. At least two (2) tanks shall be provided. (3-30-07)
  - ii. The decantable volume and decanter capacity of the sequencing batch reactor system with the largest basin out of service shall be sized to pass at least seventy-five (75) percent of the design maximum day flow without changing cycle times. A decantable volume of at least four (4) hours with the largest basin out of service based on one hundred (100) percent of the design maximum day flow is permissible. (3-30-07)
  - iii. System reliability with any single tank unit out of service and the instantaneous delivery of flow shall be evaluated in the design of decanter weirs and approach velocities. (3-30-07)
  - iv. Reactor design shall provide for scum removal and prevent overflow of settled solids. (3-30-07)
  - v. An adequate zone of separation between the sludge blanket and the decanter(s) shall be maintained throughout the decant phase. Decanters which draw the treated effluent from near the water surface throughout the decant phase are recommended. (3-30-07)
  - vi. Solids management to accommodate basin dewatering shall be considered. (3-30-07)
  - vii. The blowers shall be provided in multiple units, so arranged and in such capacities as to meet the maximum air demand in the oxic portions of the fill/react and react phases of the cycle with the single largest unit out of service. See Subsection 490.02. (3-30-07)
  - viii. Mechanical mixing independent of aeration shall be provided for all systems where biological phosphorus removal or denitrification is required. (3-30-07)
  - ix. Flow paced composite sampling equipment and continuous turbidity metering for separately monitoring the effluent quality from each basin may be required by the regulatory agency. All twenty-four (24) hour effluent quality composite samples for compliance reporting or monitoring plant operations shall be flow-paced and include samples collected at the beginning and end of each decant phase. (3-30-07)
  - x. A programmable logic controller (PLC) shall be provided. Multiple PLCs shall be provided as

necessary to assure rapid process recovery or minimize the deterioration of effluent quality from the failure of a single controller. An uninterruptible power supply with electrical surge protection shall be provided for each PLC to retain program memory (i.e., process control program, last-known set points and measured process/equipment status, etc.) through a power loss. A hard-wired backup for manual override shall be provided in addition to automatic process control. Both automatic and manual controls shall allow independent operation of each tank. In addition, a fail-safe control allowing at least twenty (20) minutes of settling between the react and decant phases shall be provided. The fail-safe control shall not be adjusted by the operator. (3-30-07)

xi. Provide a sufficient quantity of spare parts, especially PLC module and valve operators shall be on hand. Consideration shall be given to parts with a low mean time between failure such as electrical relays and solid state electronics. (3-30-07)( )

**03. Other Biological Systems.** (3-30-07)

a. General. Biological treatment processes not included in these rules shall be considered in accordance with Subsection 450.03. (3-30-07)

b. Membrane Bioreactors. Details for Membrane Bioreactor (MBR) plants shall be submitted and approved in the ~~P~~preliminary ~~E~~engineering ~~R~~report. In addition to the requirements of Section 411, details shall include plant layout, calculations for hydraulic capacity and air required, membrane technology considered and membrane type and model selected, results from similar type MBR plants already in operation, and anticipated sludge production. (3-30-07)( )

**491. -- 492. (RESERVED).**

**493. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES - WASTEWATER LAGOONS.**

**01. General.** (3-30-07)

a. These rules pertain to all new and existing municipal wastewater lagoons, including discharging or non-discharging lagoons, municipal wastewater treatment lagoons, municipal wastewater storage lagoons, and any other municipal wastewater lagoons that, if leaking, have the potential to degrade waters of the state. Lagoons are also sometimes referred to as ponds. Section 493 does not apply to industrial lagoons or mining tailings ponds, single-family dwellings utilizing a single lagoon, two (2) cell infiltrative system, those animal waste lagoons excluded from review under Section 39-118, Idaho Code, or storm water ponds. (3-30-07)

b. Lagoons utilized for equalization, percolation, evaporation, and sludge storage do not have to meet the requirements set forth in Subsections 493.05 through 493.10, but must comply with all other applicable subsections. (3-30-07)

**02. Seepage Testing Requirements.** ( )

a. Existing Lagoons. All existing lagoons covered under these rules shall be seepage tested by an Idaho licensed professional engineer, an Idaho licensed professional geologist, or by individuals under their supervision by April 15, 2012 unless otherwise specified in a current permit issued by the Director. ( )

b. New Lagoons. ~~and, as~~ As part of the construction process, all new lagoons must be seepage tested by an Idaho licensed professional engineer, an Idaho licensed professional geologist, or by individuals under their supervision prior to being put into service. ( )

c. Subsequent Tests. All lagoons covered under these rules must be seepage tested by an Idaho licensed professional engineer, an Idaho licensed professional geologist, or by individuals under their supervision every ~~five~~ ten (5~~10~~) years after the initial testing. ( )

d. Testing Due to Change of Conditions to Liner. Prior to being returned to service, lagoons must be seepage tested if a change of condition to the liner occurs that may affect its permeability, including but not limited to

liner repair below the high water line, liner replacement, lagoon dewatering of soil-lined lagoons which results in desiccation of the soil liner, seal installation, or earthwork affecting liner integrity. A seepage test may be required after solids removal. Prior to performing activities that may affect liner permeability, the system owner must contact the Department in writing to determine if a seepage test will be required prior to returning the lagoon to service. ( )

**e.** Procedures for Performing a Seepage Test. The procedure for performing a seepage test or alternative analysis must be approved by the Department, and the test results must be submitted to the Department. If an existing lagoon has ~~had~~ passed a seepage ~~testing done~~ test before April 15, 2012 and ~~results~~ submitted the results to the Department ~~before April 15, 2012~~, the owner of that lagoon has ~~five~~ ten (5-10) years from the date of the testing to comply with this requirement. (3-30-07)( )

**03. Allowable Seepage Rates.** (3-30-07)

**a.** Design Standard. Lagoons shall be designed for a maximum leakage rate of five hundred (500) gallons per acre per day. (3-30-07)

**b.** Operating Standard. The leakage rate for lagoons constructed after April 15, 2007 shall be no more than zero point one hundred twenty-five (0.125) inches (1/8 inch) per day, which is approximately thirty-four hundred (3400) gallons per acre per day. The leakage rate for existing lagoons constructed prior to April 15, 2007 shall be no more than zero point twenty-five (0.25) inches (1/4 inch) per day. (3-30-07)

**c.** For lagoons located over sensitive aquifers or near 303d listed stream segments, the leakage rate shall be no more than zero point one hundred twenty-five (0.125) inches (one-eighth (1/8) inch) per day, which is approximately thirty-four hundred (3400) gallons per acre per day. ~~†~~The operating standard may be considerably lower ~~than stated in Subsection 493.03.b.~~, based on a ground water investigation considering fate and transport of contaminants to determine the effect of the seepage on the aquifer or stream segment and the best capability of measurement at the time of the investigation. (3-30-07)( )

**04. Requirements for Lagoons Leaking Above the Allowable Amount.** If a lagoon is found to be leaking at a rate higher than that allowed under Subsection 493.03.b., the owner of the lagoon, in accordance with a schedule negotiated with and approved by the Director, is required to: (3-30-07)

**a.** Repair the leak and retest for compliance; (3-30-07)

**b.** Re-line the lagoon and retest for compliance; (3-30-07)

**c.** Drain the lagoon in an approved manner and stop using the lagoon; or (3-30-07)

**d.** Determine the impact of the leaking lagoon on the environment based on ground water sampling and modeling. The procedure for performing ground water sampling and monitoring must be approved by the Department. Any impact must comply with IDAPA 58.01.11, "Ground Water Quality Rule," and IDAPA 58.01.02, "Water Quality Standards." If the impact does not comply with IDAPA 58.01.11, "Ground Water Quality Rule," and IDAPA 58.01.02, "Water Quality Standards," the owner of the lagoon must follow one (1) of the steps set out in Subsections 493.04.a. through 493.04.c. (3-30-07)( )

**05. Location.** (3-30-07)

**a.** Wastewater treatment lagoons shall be placed a minimum of two hundred (200) feet from residential property lines. In all cases, the design location shall consider odors, nuisances, etc. This distance is to the toe of the exterior slope of the dike or to the top of the cut for a lagoon placed into a hillside. More restrictive planning and zoning or other local requirements shall apply. (3-30-07)

**b.** Ground Water Separation. A minimum separation of two (2) feet between the bottom of the pond and the maximum ground water elevation shall be maintained. (3-30-07)

**c.** Bedrock Separation. A minimum separation of two (2) feet between the pond bottom and any

bedrock formation shall be maintained. (3-30-07)

**06. Basis of Design.** (3-30-07)

a. Design variables such as climatic conditions, odor, pond depth, multiple units, detention time, and additional treatment units must be considered with respect to applicable standards for BOD<sub>5</sub>, total suspended solids (TSS), fecal coliform, dissolved oxygen (DO), pH, and other effluent requirements and limits. (3-30-07)

b. The ~~P~~preliminary ~~E~~ngineering ~~R~~eport shall include all design criteria for the development of the pond design. (~~3-30-07~~)(      )

c. The reaction rate coefficient for domestic wastewater which includes some industrial wastes, other wastes, and partially treated wastewater must be determined experimentally for various conditions which might be encountered in the lagoons or actual data from lagoons in similar climates. Conversion of the reaction rate coefficient at other temperatures shall be made based on experimental data. (3-30-07)

d. Oxygen requirements generally will depend on the design average BOD<sub>5</sub> loading, the degree of treatment, and the concentration of suspended solids to be maintained. If needed, aeration equipment shall be capable of maintaining a minimum dissolved oxygen level of two (2) mg/L in the ponds at all times. Suitable protection from weather shall be provided for electrical controls. Aerated cells shall be followed by a polishing cell with a detention time of a minimum of twenty-four (24) hours. (3-30-07)

e. See Subsection 490.02 for details on aeration equipment. (3-30-07)

**07. Industrial Wastes as a Part of the Municipal Wastewater.** (3-30-07)

a. Consideration shall be given to the type and effects of industrial wastes on the treatment process. (3-30-07)

b. Industrial wastes shall not be discharged to ponds without assessment of the effects such substances may have upon the treatment process or discharge requirements in accordance with state and federal laws. (3-30-07)

**08. Number of Cells Required.** (3-30-07)

a. A wastewater treatment pond system shall consist of a minimum of three (3) cells designed to facilitate both series and parallel operations. Two (2) cell systems may be utilized in very small installations of less than fifty thousand (50,000) gallons per day. (3-30-07)

b. All systems shall be designed with piping flexibility to permit isolation of any cell without affecting the transfer and discharge capabilities of the total system. (3-30-07)

**09. Pond Construction Details.** (3-30-07)

a. Embankments and Dikes. (3-30-07)

i. Material. Dikes shall be constructed of relatively impervious soil and compacted to at least ninety-five (95) percent Standard Proctor Density to form a stable structure. Vegetation and other unsuitable materials shall be removed from the area where the embankment is to be placed. (3-30-07)

ii. Top Width. The minimum dike width shall be ten (10) feet to permit access for maintenance vehicles. (3-30-07)

iii. Maximum Slopes. Inner and outer dike slopes shall not be steeper than one (1) vertical to three (3) horizontal (1:3). (3-30-07)

iv. Minimum Slopes. Inner slopes should not be flatter than one (1) vertical to four (4) horizontal (1:4). Flatter slopes can be specified for larger installations because of wave action but have the disadvantage of added

shallow areas being conducive to emergent vegetation. Outer slopes shall be sufficient to prevent surface runoff from entering the ponds. (3-30-07)

v. Freeboard. Minimum freeboard shall be three (3) feet, except that for small systems of less than fifty thousand (50,000) gallons per day, two (2) feet may be acceptable. (3-30-07)

vi. Design Depth. The minimum operating depth shall be sufficient to prevent growth of aquatic plants and damage to the dikes, bottom, control structures, aeration equipment, and other appurtenances. In no case shall pond depths be less than two (2) feet. (3-30-07)

b. Pond Bottom. (3-30-07)

i. Soil. Soil used in constructing the pond bottom (not including the seal) and dike cores shall be relatively incompressible and tight and compacted to at least ninety-five (95) percent Standard Proctor Density. (3-30-07)

ii. Seal. Ponds shall be sealed such that seepage loss through the seal complies with Subsection 493.03. Results of a testing program which substantiates the adequacy of the proposed seal must be incorporated into ~~and/or~~ accompany the ~~P~~preliminary ~~E~~ngineering ~~R~~eport. (~~3-30-07~~)(    )

c. Miscellaneous. (3-30-07)

i. Fencing. The pond area shall be enclosed with an adequate fence to prevent entering of livestock and discourage trespassing. This requirement does not apply to pond areas which store or impound Class A municipal reclaimed effluent. (~~3-30-07~~)(    )

ii. Access. An all-weather access road shall be provided to the pond site to allow year-round maintenance of the facility. (3-30-07)

iii. Warning Signs. Appropriate permanent signs shall be provided along the fence around the pond to designate the nature of the facility and advise against trespassing. At least one (1) sign shall be provided on each side of the site and one (1) for every five hundred (500) feet of its perimeter. (3-30-07)

iv. Flow Measurement. Flow measurement requirements are provided in Subsection 450.06.e. Effective weather protection shall be provided for the recording equipment. (3-30-07)

v. Ground Water Monitoring. A ground water monitoring plan shall be submitted to the Department for review and approval as a part of the ~~P~~preliminary ~~E~~ngineering ~~R~~eport. An approved system of wells or lysimeters shall be required around the perimeter of the pond site to facilitate ground water monitoring. (~~3-30-07~~)(    )

**10. Closure.** The owner shall notify the Department at least six (6) months prior to permanently removing any wastewater lagoon facility from service, including any treatment or storage pond. Prior to commencing closure activities, the facility shall: (3-30-07)

a. Participate in a pre-closure on-site meeting with the Department; (3-30-07)

b. Develop a site closure plan that identifies specific closure, site characterization, or cleanup tasks with scheduled task completion dates in accordance with agreements made at the pre-site closure meeting; and (3-30-07)

c. Submit the completed site closure plan to the Department for review and approval within forty-five (45) days of the pre-site closure meeting. The facility must complete the Department approved site closure plan. (3-30-07)

**494. -- 499. (RESERVED).**

**500. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES - DISINFECTION.**

**01. General.** Disinfection of the effluent shall be provided as necessary to meet applicable standards. The design of new municipal wastewater treatment facilities, or municipal wastewater treatment facilities undergoing material modifications, shall consider meeting both the bacterial standards and the disinfectant residual limit in the effluent. The disinfection process shall be selected after due consideration of waste characteristics, type of treatment process provided prior to disinfection, waste flow rates, pH of waste, disinfectant demand rates, current technology application, cost of equipment and chemicals, power cost, and maintenance requirements as determined in the ~~P~~preliminary ~~E~~ngineering ~~R~~eport. Where a disinfection process other than chlorination, ~~or~~ ultraviolet disinfection, or ozone is proposed, supporting data from pilot plant installations or similar full scale installations shall be required as a basis for the design of the system. (3-30-07)(\_\_\_\_\_)

**02. Determining the Necessity For Disinfection of Sewage Wastewater Treatment Plant Effluent.** (3-30-07)

- a.** Disinfection of municipal wastewater treatment facility effluent shall be required when: (3-30-07)
- i.** Required by an NPDES permit; or (3-30-07)
- ii.** The effluent is discharged to a land application/reuse facility and is required to meet the disinfection requirements found in IDAPA 58.01.17, "Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater." (3-30-07)
- iii.** The effluent discharged to a land application/reuse facility, where ground water contamination has exceeded the bacterial limit found in IDAPA 58.01.11, "Ground Water Quality Rules," and it has been determined by the Department that disinfection is required. (3-30-07)
- b.** The need for disinfection of sewage wastewater treatment plant effluent where treatment consists of lagoons with at least thirty (30) day retention time shall be evaluated on a case by case basis. (3-30-07)

**03. Chlorine Disinfection.** (3-30-07)

- a.** Type. Chlorine is available for disinfection in gas, liquid (hypochlorite solution), and pellet (hypochlorite tablet) form. The type of chlorine should be carefully evaluated during the facility planning or preliminary engineering process. The use of chlorine gas or liquid will be most dependent on the size of the facility and the chlorine dose required. Large quantities of chlorine, such as are contained in ton cylinders and tank cars, can present a considerable hazard to plant personnel and to the surrounding area should such containers develop leaks. Both monetary cost and the potential public exposure to chlorine shall be considered when making the final determination. (3-30-07)
- b.** Dosage. For disinfection, the capacity shall be adequate to produce an effluent that will meet the applicable bacterial limits specified by the regulatory agency for that installation. Required disinfection capacity will vary, depending on the uses and points of application of the disinfection chemical. The chlorination system shall be designed on a rational basis and calculations justifying the equipment sizing and number of units shall be submitted for the whole operating range of flow rates for the type of control to be used. System design considerations shall include the controlling wastewater flow meter (sensitivity and location), telemetering equipment, and chlorination controls. (3-30-07)
- c.** Piping and Connections. Piping systems shall be as simple as practicable, specifically selected and manufactured to be suitable for chlorine service, with consideration for minimizing number of joints. Piping should be well supported and protected against temperature extremes. Venting of excess gas shall be provided. Special considerations shall be given to piping and fixture selection for hypochlorite and chlorine use. Section 008 provides a reference to guidance documents; see Subsections 008.01, 008.04 and 008.05. (3-30-07)
- d.** Standby Equipment and Spare Parts. Standby equipment of sufficient capacity should be available to replace the largest unit during shutdowns. Spare parts shall be available for all disinfection equipment to replace

parts which are subject to wear and breakage. (3-30-07)

**e.** Housing. (3-30-07)

**i.** Feed and Storage Rooms. Gas chlorination equipment and chlorine cylinders shall be housed in a building. If this building is used for other purposes, a gas-tight room shall separate this equipment from any other portion of the building. Floor drains from the chlorine room shall not be connected to floor drains from other rooms. Doors to this room shall open only to the outside of the building and shall be equipped with panic hardware. Rooms shall permit easy access to all equipment. Section 009 provides a reference to requirements of other regulatory entities, compliance with which may be required by other law. (3-30-07)

**ii.** Ventilation. Section 009 provides a reference to the requirements of the National Electric Code, compliance with which may be required by other law. (3-30-07)

**iii.** Electrical Controls. Section 009 provides a reference to the requirements of the National Electric Code, compliance with which may be required by other law. (3-30-07)

**iv.** Protective and Respiratory Gear. Respiratory air-pac protection equipment shall be available where chlorine gas is handled, and shall be stored at a convenient location, but not inside any room where chlorine is used or stored. Instructions for using the equipment shall be posted. Section 008 provides a reference to guidance documents; see Subsections 008.01, 008.04 and 008.05. (3-30-07)

**04. Dechlorination.** (3-30-07)

**a.** Types. (3-30-07)

**i.** Dechlorination of wastewater effluent may be necessary to reduce the toxicity due to chlorine residuals. The most common dechlorination chemicals are sulfur compounds, particularly sulfur dioxide gas or aqueous solutions of sulfite or bisulfite. Pellet dechlorination systems are also available for small facilities. (3-30-07)

**ii.** The type of dechlorination system should be carefully selected considering criteria including the following: type of chemical storage required, amount of chemical needed, ease of operation, compatibility with existing equipment, and safety. (3-30-07)

**b.** Dosage. The dosage of dechlorination chemical depends on the residual chlorine in the effluent, the final residual chlorine limit, and the particular form of the dechlorinating chemical used. (3-30-07)

**c.** Standby Equipment and Spare Parts. The same requirements apply as for chlorination systems. See Subsection 500.04.d. (3-30-07)

**d.** Housing Requirements/Feed and Storage Rooms. The requirements for housing SO<sub>2</sub> gas equipment shall follow the same guidelines as used for chlorine gas. Refer to Subsection 500.04.e. for specific details. When using solutions of the dechlorinating compounds, the solutions may be stored in a room that meets the safety and handling requirements set forth in Subsection 450.07. The mixing, storage, and solution delivery areas must be designed to contain or route solution spillage or leakage away from traffic areas to an appropriate containment unit. (3-30-07)

**e.** Protective and Respiratory Gear. The respiratory air-pac protection equipment is the same as for chlorine. See Subsection 500.04.e. (Refer to The Compressed Gas Association Publication CGA G-3-1995, "Sulfur Dioxide.") (3-30-07)

**05. Ultraviolet (UV) Radiation.** (3-30-07)

**a.** The following documents are recommended to be used as references for UV system sizing and facility design: (3-30-07)

**i.** "Wastewater Engineering, Treatment and Reuse," Metcalf and Eddy, referenced in Section 008.

(3-30-07)

ii. For reuse applications, “Ultraviolet Disinfection Guidelines for Drinking Water and Water Reuse,” National Water Research Institute/AWWA Research Foundation, referenced in Section 008. (3-30-07)

b. For UV systems to be installed at any existing wastewater treatment facility, collection of one (1) year’s worth of UV transmittance (UVT) data (four (4) times per day) prior to predesign is encouraged, especially for facilities larger than five million gallons per day (5 mgd) (design peak hour~~ly~~ flow), and facilities that have industries that vary discharge throughout the year. ~~(3-30-07)~~(\_\_\_\_)

c. The ~~P~~preliminary ~~E~~ngineering ~~R~~eport for all UV disinfection facilities shall include the following: ~~(3-30-07)~~(\_\_\_\_)

i. A minimum of two (2) open channels (or justification for using a smaller system). (3-30-07)

ii. A minimum of two (2) banks of UV lamps per channel (or justification for using a smaller system). (3-30-07)

iii. Description of the redundancy provided. (3-30-07)

iv. Description of the upstream flow splitting device (which splits flow to the two (2) or more UV channels). (3-30-07)

v. Description of water level control device. (3-30-07)

vi. Description of method used to take a channel off-line for maintenance, and method to dewater a channel. (3-30-07)

vii. Type of UV system technology (low-pressure low-intensity, low-pressure high-intensity, medium pressure, etc.), with consideration given to power consumption. (3-30-07)

viii. Summary of UVT data and~~to~~ collimated beam data. ~~(3-30-07)~~(\_\_\_\_)

ix. Description of HVAC system requirements to ensure adequate UV system performance during summer peak temperature period. (3-30-07)

x. Description of maintenance requirements including removal (cleaning) of biofilms from the channel walls upstream and downstream of the UV system. (3-30-07)

xi. General description of alarming and controls. (3-30-07)

xii. Description of procedure used for UV system sizing. (3-30-07)

xiii. Design criteria: (3-30-07)

(1) Design UVT. (3-30-07)

(2) TSS. (3-30-07)

(3) Design water temperature range. (3-30-07)

(4) Dose. (3-30-07)

(5) End of lamp life factor. (3-30-07)

(6) Fouling factor. (3-30-07)



- (7) Quartz sleeve transmittance factor. (3-30-07)
- (8) Design peak hourly flow. (~~3-30-07~~)( )
- (9) Existing minimum flow. (3-30-07)
- (10) Number of channels. (3-30-07)
- (11) Disinfection requirements (coliform concentration). (3-30-07)
- (12) Maximum head-loss from upstream of the first bank to downstream of the last bank of lamps (lamp spacing divided by two (2)). (3-30-07)

**d.** Use of bioassay method of UV system sizing is encouraged if all manufacturers under consideration have existing bioassays performed using identical protocol, and the bioassay was performed under conditions similar to the design application. Use of the bioassay method of UV system sizing is discouraged if the conditions of Subsection 500.05.d. cannot be met. (3-30-07)

**e.** Closed chamber units will be reviewed on a case by case basis in accordance with Subsection 450.03.b. (3-30-07)

**06.** Ozone. Ozone systems for disinfection shall be evaluated on a case-by-case basis. Design of these systems shall be based upon experience at similar full scale installations or thoroughly documented prototype testing with the particular wastewater. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**511. -- 5198. (RESERVED).**

**519. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES -- SEPTAGE TRANSFER STATIONS.**

Prior to construction of a new septage transfer station or upon material modification of an approved existing station, the owner of the station must satisfy the following requirements. ( )

**01.** Design. Septage holding tanks, transfer/storage tanks, and transfer hoses for either type of tank shall meet the applicable requirements of Subsections 519.01.a. through 519.01.c. ( )

**a.** All tanks shall be watertight, not open to the air, and provided with containment structures to prevent the discharge of septage spills to the surrounding environment. ( )

**b.** All piping, transfer hoses, valves, and connections shall be watertight, accessible, and capable of being cleaned, repaired, and replaced. ( )

**c.** All inlet and outlet connections shall be constructed and maintained such that septage will not leak, spill, or overflow the holding tank. ( )

**d.** No septage holding or transfer/storage tank shall be permitted within the one hundred (100) year flood plain as defined and delineated by the flood insurance rate maps published by the Federal Emergency Management Agency. ( )

**e.** Odor controls shall be provided to mitigate nuisance odor discharge during transfer. Odor control may be attained by employing appropriate setback distances to neighboring facilities, using appropriate air scrubbing technologies in conjunction with an enclosed transfer station or other suitably engineered configuration that provides assurances of minimal odor nuisances. ( )

**f.** The property is owned by the individual(s) operating the septage transfer station, or the property owner has granted permission to so use the property. ( )

**g.** Septage transfer stations shall provide total containment for the entire volume of the holding tanks and transfer/storage tanks in the event of spilled septage. ( )

**h.** Truck washing facilities shall be constructed to retain all wash water on site. ( )

**02. Plans and Specifications.** In addition to the requirements of Section 400, plans and specifications for septage transfer stations must include the requirements of Subsections 519.02.a. through 519.02.f. ( )

**a.** A map which identifies the proposed septage holding or transfer/storage tank location. ( )

**b.** The footprint of the proposed activity area. ( )

**c.** All access roads and access control measures. ( )

**d.** All roads, property boundary lines, and structures within two hundred (200) feet of the septage holding or transfer/storage tank location; any structures on the property; and any easements or rights-of-way which exist on the property. ( )

**e.** Surrounding land use within two hundred (200) feet of the footprint of the proposed activity area on which the septage holding or transfer/storage tank is proposed to be located. ( )

**f.** A spill response plan, describing spill response equipment and disinfection and containment capability at the septage transfer station, shall be submitted to and approved by the Department. ( )

**03. Record Keeping.** Every owner of a septage transfer station shall maintain the following records for a minimum of five (5) years. ( )

**a.** For each load of septage received: ( )

**i.** The date received or picked up; ( )

**ii.** The name and address of the client(s) from whom the septage was received; and ( )

**iii.** The volume of the septage received, in gallons; and ( )

**b.** Records indicating the final disposal destination(s) for septage removed from the transfer/storage tank. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**651. -- ~~996~~59. (RESERVED).**

**660. WAIVERS.**

Waivers from the requirements of these rules may be granted by the Director on a case-by-case basis upon full demonstration by the person requesting the waiver(s) that such activities for which the waivers are granted will have no significant impact on the environment or on the public health. ( )

**661. -- 999. (RESERVED).**

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.24 - STANDARDS AND PROCEDURES FOR APPLICATION OF RISK BASED CORRECTIVE ACTION AT PETROLEUM RELEASE SITES

DOCKET NO. 58-0124-0801 (NEW CHAPTER)

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized by Chapter 1, Title 39, Idaho Code.

**PUBLIC HEARING SCHEDULE:** No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before August 20, 2008. If no such written request is received, a public hearing will not be held.

**DESCRIPTIVE SUMMARY:** DEQ is faced with the task of approving and overseeing appropriate response actions at petroleum release sites across the state. In June 2004, DEQ issued the Idaho Risk Evaluation Manual (REM). This manual describes an integrated risk evaluation process for managing chemical release sites that assists DEQ in determining the need for corrective action and, when necessary, the site-specific cleanup levels protective of human health and the environment. The manual also describes the key methodologies and elements of the risk evaluation process. This rulemaking has been initiated to formalize the critical elements of the REM that are pertinent to evaluation of petroleum release sites in order to clarify and promote consistent corrective action decision-making at these sites.

This rule will describe standards and procedures for application of risk based corrective action at petroleum release sites. Cities, counties, bankers, lenders, realtors, petroleum marketers, consultants, and members of the public may be interested in commenting on this proposed rule.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality at the October 2008 Board meeting for adoption as a pending rule. The rule is expected to be final and effective upon the conclusion of the 2009 legislative session if adopted by the Board and approved by the Legislature.

**NEGOTIATED RULEMAKING:** The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Section 67-5220, Idaho Code, and IDAPA 04.11.01.810-815. On April 2, 2008, the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol. 08-4, page 43, and a preliminary draft rule was made available for public review. Meetings were held on May 15, May 28, May 29, June 11, and June 25, 2008. Members of the public participated in this negotiated rulemaking process by attending the meetings and by submitting written comments.

**IDAHO CODE SECTION 39-107D STATEMENT:** Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations. There is no federal law or regulation that is comparable to the Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites. Therefore, this rule is not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which "proposes to regulate an activity not regulated by the federal government." This rule does not propose to regulate an activity not regulated by the federal government. However, the rule does delineate a process that is not specifically delineated or required by the federal government. The following is a summary of additional information specified in Sections 39-107D(3) and (4), Idaho Code.

**Section 39-107D(3)(a), Idaho Code. Identification of each population or receptor addressed by an estimate of public health effects or environmental effects.**

This rule delineates a process to evaluate the human health risks resulting from exposure to chemicals associated with petroleum releases. It is not known prior to the release of petroleum at a specific site which potential populations or receptors may be exposed. During the initial conservative screening portion of the process, it is assumed that the target populations at risk are residential receptors and sensitive subpopulations such as children in day care facilities and schools, elderly residents of nursing homes and individuals with compromised health at hospitals. In subsequent

steps in the risk evaluation process described in the rule, site-specific determination of current and likely potential future receptors can be made. For example, other types of receptors may include but are not limited to commercial/industrial and construction workers.

***Section 39-107D(3)(b) and (c), Idaho Code. Identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk.***

This rule describes a procedure for risk evaluation at petroleum release sites and requirements, both general and specific, for the site-specific estimation of risk. In the initial step of the risk evaluation process described by this rule, a screening level approach is utilized. The screening levels are compared to site media-specific petroleum chemical concentrations to determine the need for further evaluation or corrective action.

The screening levels were calculated using target cancer and non-cancer health risks in combination with specific parameter values for each of the variables in the equations used to calculate acceptable concentrations. For some factors central estimate values were used while for other factors an upper bound estimate was selected. The screening levels can be characterized as representing upper bound estimates of risk for residential receptors for the routes of exposure evaluated.

The more detailed risk evaluation process described in the rule allows the incorporation of site-specific data and assumptions, such as the likely future land use and receptors, into the risk calculation. The requirements for site-specific risk evaluation described in this rule specify 1) the acceptable cumulative risk and hazard that should apply at all sites and 2) that calculated risks should represent a reasonable maximum exposure scenario.

***Section 39-107D(3)(d), Idaho Code. Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty.***

There are a number of uncertainties in the risk evaluation process described in the rule. These include uncertainty in the estimation of exposure for specific receptors or populations, as well as uncertainty in the magnitude of effects associated with a specific dose of a chemical. The estimation of exposure is based on both environmental transport pathways from a petroleum release to a receptor, as well as on physiological and behavioral characteristics of the receptor.

Examples of physiological characteristics include body weight and breathing rate. Behavioral characteristics include such things as how much time a receptor spends outdoors each day, and how long a receptor lives at one location. Within a population there is variability in physiological and behavioral characteristics; uncertainty results from lack of knowledge of the characteristics of current or future individuals who may be exposed to chemicals from a petroleum release. In the initial screening step of the risk evaluation process described in the rule, this uncertainty is addressed by utilizing values for these parameters from databases that are universally accepted in standard risk assessment practice. Many of the values selected for the screening step are upper-bound values from distributions in the databases, as the goal in this initial evaluation is to evaluate risk to residential and sensitive populations. In subsequent steps of the risk evaluation process, it is sometimes possible to collect site-specific data that can reduce uncertainty for a specific population. For example, there might be information available that allows a more accurate estimation of exposure frequency or duration, thereby reducing uncertainty for this population.

Uncertainty in environmental transport, such as the leaching of chemicals in soil to ground water, is related to the physical and chemical properties of the chemicals present in a petroleum release, as well as physical characteristics of the setting, such as depth to ground water. Parameter values from the scientific literature and accepted databases are utilized to assess environmental transport for the initial screening step of the process described in the rule. In the subsequent site-specific risk evaluation, collection of site-specific data is a powerful tool to reduce uncertainty, resulting in a better understanding of risks at the site.

Uncertainty in dose-response assessment is addressed by use of the best available toxicological data from databases which are universally recognized and accepted as part of standard risk assessment practice.

***Section 39-107D(3)(e), Idaho Code. Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data.***

The referenced studies and analyses will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding health effects.

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**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, SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning the proposed rulemaking, contact Orville Green at orville.green@deq.idaho.gov, (208)373-0278 or Bruce Wicherski at bruce.wicherski@deq.idaho.gov, (208)373-0246.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before September 3, 2008.

Dated this 3rd day of July, 2008.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton/Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
paula.wilson@deq.idaho.gov

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0124-0801**

**IDAPA 58**  
**TITLE 01**  
**CHAPTER 24**

**58.01.24 - STANDARDS AND PROCEDURES FOR APPLICATION OF RISK  
BASED CORRECTIVE ACTION AT PETROLEUM RELEASE SITES**

**000. LEGAL AUTHORITY.**

Chapters 1, 36, 44, 72 and 74, Title 39, Idaho Code grant authority to the Board of Environmental Quality to adopt rules and administer programs to protect public health and the environment, including the protection of surface water, ground water, and drinking water quality. ( )

**001. TITLE, SCOPE AND APPLICABILITY.**

**01. Title.** These rules shall be cited as IDAPA 58.01.24, "Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites." ( )

**02. Scope.** These rules establish standards and procedures to determine whether and what risk based corrective action measures should be applied to property subject to assessment and cleanup requirements under IDAPA 58.01.02, Sections 851 and 852, "Water Quality Standards," and associated definitions; IDAPA 58.01.11, Subsection 400.05, "Ground Water Quality Rule;" or when assessment and cleanup requirements are incorporated into compliance documents entered into per Chapter 1, Title 39, Idaho Code. Compliance with these rules shall not relieve persons from the obligation to comply with other applicable state or federal laws. These rules do not apply to previously closed sites. The Department will not require any additional evaluation of petroleum sites previously granted closure unless there is a new petroleum release. ( )

**002. WRITTEN INTERPRETATIONS.**

As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. ( )

**003. ADMINISTRATIVE PROVISIONS.**

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." ( )

**004. INCORPORATION BY REFERENCE.**

These rules do not contain documents incorporated by reference. ( )

**005. AVAILABILITY OF REFERENCED MATERIAL.**

Documents and data bases referenced within these rules are available at the following locations: ( )

**01. Idaho Risk Evaluation Manual.** Idaho Risk Evaluation Manual and subsequent editions, <http://www.deq.idaho.gov/Applications/Brownfields/index.cfm?site=risk.htm>. ( )

**02. U.S. EPA RAGS.** U.S. EPA RAGS, Volume 1, <http://www.epa.gov/oswer/riskassessment/policy.htm#5>. ( )

**03. U.S. EPA Exposure Factors Handbook.** U.S. EPA Exposure Factors Handbook, <http://www.epa.gov/ncea/pdfs/efh/front.pdf>. ( )

- 04. U.S. EPA IRIS Database.** U.S. EPA IRIS Database, <http://cfpub.epa.gov/ncea/iris/index.cfm>. ( )
- 05. Idaho Source Water Assessment Plan.** Idaho Source Water Assessment Plan, [http://www.deq.idaho.gov/water/data\\_reports/source\\_water/swa\\_plan\\_1999.pdf](http://www.deq.idaho.gov/water/data_reports/source_water/swa_plan_1999.pdf). ( )
- 06. Provisional Guidance for Quantitative Risk Assessment of Polycyclic Aromatic Hydrocarbons.** Provisional Guidance for Quantitative Risk Assessment of Polycyclic Aromatic Hydrocarbons. 1993. U.S. Environmental Protection Agency, Office of Research and Development, Office of Health and Environmental Assessment, Washington, DC, EPA/600/R-93/089, <http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=49732>. ( )
- 006. OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**  
The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, (208) 373-0502, [www.deq.idaho.gov](http://www.deq.idaho.gov). The office hours are 8 a.m. to 5 p.m. Monday through Friday. ( )
- 007. CONFIDENTIALITY OF RECORDS.**  
Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 9, Chapter 3, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality." ( )
- 008. LIST OF TABLES.**  
The following tables are found in Section 800. ( )
- 01. Table 1.** Chemicals of Interest for Various Petroleum Products. ( )
- 02. Table 2.** Residential Use Screening Levels. ( )
- 03. Table 3.** Default Toxicity Values for Risk Evaluation. ( )
- 009. ACRONYMS.**
- 01. ATSDR.** Agency for Toxic Substances and Disease Registry. ( )
- 02. EPA.** The United States Environmental Protection Agency. ( )
- 03. IRIS.** Integrated Risk Information System. ( )
- 04. NCEA.** National Center for Environmental Assessment. ( )
- 05. PST.** Petroleum Storage Tank System. ( )
- 06. RAGS.** Risk Assessment Guidance for Superfund. ( )
- 07. UECA.** Uniform Environmental Covenant Act. See definition in Section 010. ( )
- 010. DEFINITIONS.**  
For the purpose of the rules contained in IDAPA 58.01.24, "Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites," the following definitions apply: ( )
- 01. Acceptable Target Hazard Index.** The summation of the hazard quotients of all chemicals and routes of exposure to which a receptor is exposed and equal to a value of one (1). If the initial value exceeds one (1), further evaluation, including individual organs, can be completed. ( )
- 02. Acceptable Target Hazard Quotient.** A hazard quotient of 1 for a specified receptor when applied to individual chemicals. ( )



**03. Acceptable Target Risk Level.** Acceptable risk level for human exposure to carcinogens. For exposure to individual carcinogens a lifetime excess cancer risk of less than or equal to one per one million (1 E-6) for a receptor at a reasonable maximum exposure. For combined exposure to all carcinogens and routes of exposure, a lifetime excess cancer risk of less than or equal to one per one hundred thousand (1 E-5) for a receptor at a reasonable maximum exposure. ( )

**04. Activity and Use Limitations.** Restrictions or obligations, with respect to real property, created by an environmental covenant. Activity and use limitations may include, but are not limited to, land use controls, activity and use restrictions, environmental monitoring requirements, and site access and security measures. Also known as institutional controls. ( )

**05. Background.** Media specific concentration of a chemical that is consistently present in the environment in the vicinity of a site which is the result of human activities unrelated to release(s) from that site under investigation. ( )

**06. Board.** The Idaho Board of Environmental Quality. ( )

**07. Corrective Action Plan.** A document, subject to approval by the Department, which describes the actions and measures that will be implemented to ensure that adequate protection of human health and the environment is achieved and maintained. A corrective action plan also describes the applicable remediation standards. Also may be known as a risk management plan or a remediation workplan. ( )

**08. Delineated Source Water Protection Area.** The physical area around a public drinking water supply well or surface water intake identified in an approved Department source water assessment that contributes water to a well (the zone of contribution). The size and shape of the delineated source water area depend on the delineation method and site specific factors. The area may be mapped as a one thousand (1000) ft. fixed radius around the well (transient public water systems) or divided into three (3), six (6), and ten (10) year time of travel zones (e.g. zones indicating the number of years necessary for a particle of water to reach a well or surface water intake). For the purposes of these rules, where ground water time of travel zones have been delineated, the three (3) year time of travel zone shall apply. Where surface water systems have been delineated, this area includes a five hundred (500) ft. buffer around a lake or reservoir, or a five hundred (500) ft. buffer along the four (4) hour upstream time of travel of streams. See the Idaho Source Water Assessment Plan. ( )

**09. Department.** The Idaho Department of Environmental Quality. ( )

**10. Environmental Covenant.** As defined in the Uniform Environmental Covenant Act (UECA), Chapter 30, Title 55, Idaho Code, an environmental covenant is a servitude arising under an environmental response project that imposes activity and use limitations. ( )

**11. Exposure Point Concentration.** The average concentration of a chemical to which receptors are exposed over a specified duration within a specified geographical area. The exposure point concentration is typically a conservative estimate of the mean. Also referred to as the representative concentration. ( )

**12. Hazard Quotient.** The ratio of a dose of a single chemical over a specified time period to a reference dose for that chemical derived for a similar exposure period. ( )

**13. Method Detection Limit.** The minimum concentration of a substance that can be reported with ninety-nine percent (99%) confidence is greater than zero. Method detection limits can be operator, method, laboratory, and matrix specific. ( )

**14. Operator.** Any person presently or who was at any time during a release in control of, or responsible for, the daily operation of the petroleum storage tank (PST) system. ( )

**15. Owner.** Any person who owns or owned a PST system any time during a release and the current owner of the property where the PST system is or was located. ( )

**16. Person.** An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body, or any legal entity which is recognized by law as the subject of rights and duties. ( )

**17. Petroleum.** Crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (sixty (60) degrees Fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute). This includes petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, and lubricants. ( )

**18. Petroleum Storage Tank (PST) System.** Any one (1) or combination of storage tanks or other containers, including pipes connected thereto, dispensing equipment, and other connected ancillary equipment, and stationary or mobile equipment, that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. ( )

**19. Practical Quantitation Limit.** The lowest concentration of a chemical that can be reliably quantified among laboratories within specified limits of precision and accuracy for a specific laboratory analytical method during routine laboratory operating conditions. Specified limits of precision and accuracy are the criteria listed in the calibration specifications or quality control specifications of an analytical method. Practical quantitation limits can be operator, method, laboratory, and matrix specific. ( )

**20. Reasonable Maximum Exposure.** The highest exposure that can be reasonably expected to occur for a human or other living organism at a site under current and potential future site use. ( )

**21. Reference Dose.** For chronic or long-term exposures an estimate of a daily exposure level to a chemical for the human population, including sensitive subpopulations, that is likely to be without an appreciable risk of deleterious noncarcinogenic effects during a lifetime, expressed in units of milligrams per kilogram body weight per day. ( )

**22. Release.** Any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a PST into soil, ground water, or surface water. ( )

**23. Remediation Standard.** A media specific concentration which, when attained, is considered to provide adequate protection of human health and the environment. ( )

**24. Residential Use.** Residential use means land uses which include residential or sensitive populations. ( )

**25. Risk Based Concentration.** The residual media specific concentration of a chemical that is determined to be protective of human health and the environment under specified exposure conditions. ( )

**26. Risk Evaluation.** The process used to determine the probability of an adverse effect due to the presence of a chemical. A risk evaluation includes development of a site conceptual model, identification of the chemicals present in environmental media, assessment of exposure and exposure pathways, assessment of the toxicity of the chemicals present, characterization of human risks, and characterization of impacts or risks to the environment. ( )

**27. Screening Level.** A media specific concentration which, based on specified levels of risk or hazard, exposure pathways and routes of exposure, expected land use, and exposure factors, can be used to assess the need for additional investigation or corrective action. ( )

**28. Slope Factor.** A plausible upper-bound estimate of the probability of an individual developing cancer as a result of a lifetime of exposure to a particular level of a potential carcinogen. It is expressed as the probability of a response per unit intake of a chemical over a lifetime. ( )

**29. Uniform Environmental Covenant Act (UECA).** UECA is found in Chapter 30, Title 55, Idaho

Code. UECA provides a statutory mechanism for creating, modifying, enforcing and terminating environmental covenants. ( )

**011. -- 099. (RESERVED).**

**100. CHEMICALS EVALUATED AT PETROLEUM RELEASE SITES.**

**01. General Applicability.** For petroleum sites governed by Sections 851 and 852 of IDAPA 58.01.02, "Water Quality Standards," the chemicals listed in Subsection 800.01 (Table 1) will be evaluated based on the specific petroleum product or products known or suspected to have been released. ( )

**02. Additional Chemicals.** Evaluation of non-petroleum chemicals in addition to those in Subsection 800.01 (Table 1) may be required by the Department when there is a reasonable basis based on site-specific information. A reasonable basis shall be demonstrated by the Department when it can show documentation of releases or suspected releases of other non-petroleum chemicals. ( )

**101. -- 199. (RESERVED).**

**200. RISK EVALUATION PROCESS.**

The following risk evaluation process shall be used for petroleum releases in accordance with the Petroleum Release Response and Corrective Action Rules described in IDAPA 58.01.02, "Water Quality Standards," Section 852. ( )

**01. Screening Evaluation.** The screening evaluation may be performed at any time during the release response and corrective action process described in IDAPA 58.01.02, "Water Quality Standards," Section 852. The screening evaluation shall include, at a minimum: ( )

**a.** Collection of media-specific (soil, surface water, ground water) data; and ( )

**b.** Identification of maximum soil and ground water petroleum chemical concentrations for the chemicals identified in Subsection 800.01 (Table 1) as appropriate for the petroleum product or products released. ( )

**c.** Comparison of the maximum media-specific petroleum contaminant concentrations to the screening levels identified in Subsection 800.02 (Table 2). If the maximum media-specific petroleum contaminant concentrations at a site do not exceed the screening levels, the owner and/or operator may petition for site closure, subject to other Department regulatory obligations. If the maximum media-specific concentrations at a site exceed the screening levels, the owner and/or operator shall proceed to: ( )

**i.** Adopt the screening levels as cleanup levels and develop a corrective action plan to achieve those levels pursuant to Subsection 200.03; or ( )

**ii.** Perform a site specific risk evaluation pursuant to Section 300. The Department may require the collection of additional site-specific data prior to the approval of the risk evaluation. ( )

**02. Results of Risk Evaluation.** If the results of the approved risk evaluation do not exceed the acceptable target risk level, acceptable target hazard quotient, or acceptable target hazard index specified in Section 300, the owner and/or operator may petition for site closure, subject to other Department regulatory obligations. If the results of the approved risk evaluation indicates exceedance of the acceptable target risk level, acceptable target hazard quotient, or acceptable target hazard index specified in Section 300, the risk evaluation shall: ( )

**a.** Be modified by collection of additional site-specific data, or review of chemical toxicological information, and resubmitted to the Department for review and approval; or ( )

**b.** Provide the basis for the development of risk based concentrations, establishment of remediation standards as described in Section 400, and development of a corrective action plan. ( )

**03. Development and Implementation of Corrective Action Plan.** A Corrective Action plan required as a result of the risk evaluation process described in Section 200 shall include, but not be limited to, the following information, as applicable: ( )

- a.** Description of remediation standards, points of exposure, and points of compliance where remediation standards shall be achieved; ( )
- b.** Description of remedial strategy and actions that will be taken to achieve the remediation standards; ( )
- c.** Current and reasonably anticipated future land use and use of on-site and immediately adjacent off-site ground water, and surface water; ( )
- d.** Activity and use limitations, if any, that will be required as part of the remedial strategy; ( )
- e.** Proposed environmental covenants, developed to implement activity and use limitations, in accordance with Section 600; ( )
- f.** Estimated timeline for completion; and ( )
- g.** Monitoring Plan to monitor effectiveness of remedial actions. ( )
- h.** Description of practical quantitation limits as they apply. ( )
- i.** Description of background concentrations as they apply. ( )

**04. Department Review and Approval of Risk Evaluation or Corrective Action Plan.** Within thirty (30) days of receipt of the risk evaluation or corrective action plan, the Department shall provide in writing either approval, approval with modifications, or rejection of the risk evaluation or corrective action plan. If the Department rejects the risk evaluation or corrective action plan, it shall notify the owner and/or operator in writing specifying the reasons for the rejection. If the Department needs additional time to review the documents, it will provide written notice to the owner and/or operator that additional time to review is necessary and will include an estimated time for review. Extension for review time shall not exceed one hundred eighty (180) days without a reasonable basis and written notice to the owner and/or operator. ( )

**201. -- 299. (RESERVED).**

**300. SITE SPECIFIC RISK EVALUATION REQUIREMENTS.**

**01. General Requirements.** The general requirements for human health risk evaluations shall include, at a minimum: ( )

- a.** A conceptual site model which describes contaminant sources; release mechanisms; the magnitude, spatial extent, and temporal trends of petroleum contamination in all affected media; transport routes; current and reasonably likely future land use and human receptors; and relevant exposure scenarios. ( )
- b.** Toxicity Information derived from Subsection 800.03 (Table 3). ( )
- c.** Data quality objectives and sampling approaches based on the conceptual site model that support the risk evaluation and risk management process. ( )
- d.** Estimated exposure point concentrations for a reasonable maximum exposure based on a conservative estimate of the mean of concentrations of chemicals that would be contacted by an exposed receptor. ( )
- e.** Exposure analysis including identification of contaminants of concern, potentially exposed populations, pathways and routes of exposure, exposure point concentrations and their derivation, and a quantitative

estimate of reasonable maximum exposure for both current and reasonably likely future land and water use scenarios. Appropriate reference sources of reasonable maximum exposure factor information may include, but are not limited to: ( )

- i. U.S. EPA RAGS, Volume 1; ( )
- ii. U.S. EPA Exposure Factors Handbook; ( )
- iii. Idaho Risk Evaluation Manual; and ( )
- iv. Other referenced technical publications. ( )
- f.** Risk characterization presenting the quantitative human health risks and a qualitative and quantitative assessment of uncertainty for each portion of the risk evaluation. ( )
- g.** Risk evaluations may include the use of transport and fate models, subject to Department approval of the model and the data to be used for the parameters specified in the model. ( )
- 02. Specific Requirements.** Human health risk evaluations shall, at a minimum: ( )
  - a.** Utilize an acceptable target risk level as defined in Section 010; ( )
  - b.** Utilize an acceptable target hazard index as defined in Section 010; ( )
  - c.** Utilize an acceptable target hazard quotient as defined in Section 010; ( )
  - d.** Evaluate the potential for exposure from: ( )
    - i. Ground water ingestion; ( )
    - ii. Direct contact with contaminated soils resulting from soil ingestion, dermal contact, and inhalation of particulates and vapors; ( )
    - iii. Indoor inhalation of volatile chemicals via volatilization of chemicals from soil, ground water, or free phase product; ( )
    - iv. Ingestion, inhalation, or dermal exposure to ground water and/or surface water which has been impacted by contaminants that have leached from the soils; and ( )
    - v. Other complete or potentially complete routes of exposure; ( )
  - e.** Evaluate the potential for exposure to: ( )
    - i. Adult and child residential receptors; ( )
    - ii. Adult construction and utility workers; ( )
    - iii. Aquatic life; ( )
    - iv. Recreational receptors; and ( )
    - v. Other relevant potentially exposed receptors; ( )
  - f.** Evaluate the potential for use of impacted ground water for ingestion based on: ( )
    - i. The current and historical use of the ground water for drinking water or irrigation; ( )

- ii. The location and approved use of existing ground water wells in a one half (½) mile radius from the contaminated site at the release point; ( )
- iii. The degree of hydraulic connectivity between the impacted ground water and other ground water bearing zones or surface water; and ( )
- iv. The location of delineated source water protection areas for public drinking water systems. ( )

**301. -- 399. (RESERVED).**

**400. ESTABLISHMENT OF REMEDIATION STANDARDS.**

If, as a result of the assessment and risk evaluation completed as described in Section 300, it is determined that corrective action is required, remediation standards shall be established. The remediation standards established in these rules shall be no more stringent than applicable or relevant and appropriate federal and state standards and are consistent with Section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. Section 9621) and Section 39-107D(2), Idaho Code, taking into consideration site specific conditions. These standards shall be established as part of a corrective action plan approved in writing by the Department. The standards may consist of the following. ( )

**01. Screening Levels.** The petroleum contaminant concentrations in soil and ground water in Subsection 800.02 (Table 2). ( )

**02. Risk Based Levels.** Site-specific, media-specific petroleum contaminant concentrations established in accordance with the risk evaluation procedures and requirements described in Section 300. ( )

**03. Generic Health Standards.** An established state or federal generic numerical health standard which achieves an appropriate health-based level so that any substantial present or probable future risk to human health or the environment is eliminated or reduced to protective levels based upon present and reasonably anticipated future uses of the site. ( )

**04. Other.** Remediation standards may be a combination of standards found in Subsections 400.01 through 400.03. ( )

**401. -- 499. (RESERVED).**

**500. FACTORS WHEN PRACTICAL QUANTITATION LIMITS ARE GREATER THAN SCREENING LEVELS AND CLEANUP LEVELS.**

Practical quantitation limits may be greater than screening levels or risk based concentrations for certain chemicals. In such cases the following factors may be used in allowing practical quantitation limits as remediation standards: ( )

**01. Analytical Method.** The published or expected practical quantitation limit for a specific chemical and method, and the availability of other methods which may enable lower practical quantitation limits to be achieved. ( )

**02. Method Detection Limit.** The magnitude of the difference between the stated practical quantitation limit and the method detection limit. ( )

**03. Sampling Procedures.** The availability of alternative sampling procedures which may enable lower practical quantitation limits to be achieved. ( )

**04. Estimated Risk Levels.** The estimated risk levels when site concentrations are assumed to be at the practical quantitation limit. ( )

**05. Other.** Site specific factors other than those listed above. ( )

**501. -- 599. (RESERVED).**

**600. ACTIVITY AND USE LIMITATIONS.**

**01. Purpose.** The provisions of the Uniform Environmental Covenants Act (UECA), Chapter 30, Title 55, Idaho Code, may be utilized to create restrictions and/or obligations regarding activity and use to protect the integrity of a cleanup action and assure the continued protection of human health and the environment. Activity and use limitations shall be proposed as elements of a corrective action plan in at least the following circumstances: ( )

**a.** Where onsite current or proposed land use is not residential and maximum residual site concentrations are greater than screening levels for residential use; ( )

**b.** Where onsite current or proposed land use is not residential and the risk or hazard calculated for residential receptors through an approved risk evaluation is unacceptable; ( )

**c.** Where off-site ground water concentrations exceed residential use screening levels or risk based concentrations and remediation to those levels is not technically possible or practicable; or ( )

**d.** When the Department determines, based upon the proposed corrective action plan, that such activity and use limitations are required to assure the continued protection of human health and the environment or the integrity of the cleanup action. ( )

**02. Documentation of Controls.** Activity and use limitations, approved by the Department, shall be described in an environmental covenant executed pursuant to the UECA and shall be incorporated into a corrective action plan. ( )

**03. Removal of Activity and Use Limitations.** Activity and use limitations may be removed from a site in accordance with Sections 55-3009 and 55-3010, Idaho Code, of UECA. ( )

**601. -- 699. (RESERVED).**

**700. DEVELOPMENT OF GUIDANCE MANUAL.**

The Department will prepare a risk evaluation manual for petroleum releases which will be used as guidance for implementation of these rules. The Department will, through public notice, invite the Board of Trustees established in Section 41-4904, Idaho Code, and members of the public, including the regulated community, to participate in the process to provide input to the Department in developing this manual. If the Department identifies the need for future substantive revisions of the risk evaluation manual for petroleum releases, the Department will follow the same public notice process as described above. ( )

**701. -- 799. (RESERVED).**

**800. TABLES.**

**01. Table 1.** Chemicals of Interest for Various Petroleum Products.

<b>CHEMICALS OF INTEREST FOR VARIOUS PETROLEUM PRODUCTS</b>				
<b>Chemical</b>	<b>Gasoline/ JP-4/ AVGas</b>	<b>Diesel/ Fuel Oil No. 2/ Kerosene</b>	<b>Fuel Oil No.4</b>	<b>Jet Fuels (Jet A, JP-5, JP-8)</b>
Benzene	X	X		X
Toluene	X	X		X
Ethyl benzene	X	X		X
Xylenes (mixed)	X	X		X
Ethylene Dibromide (EDB)	X <sup>1</sup>			
1,2 Dichloroethane (EDC)	X <sup>1</sup>			
Methyl Tert-Butyl Ether (MTBE)	X			
Acenaphthene		X	X	X
Anthracene		X	X	X
Benzo(a)pyrene		X	X	X
Benzo(b)fluoranthene		X	X	X
Benzo(k)fluoranthene		X	X	X
Benz(a)anthracene		X	X	X
Chrysene		X	X	X
Fluorene		X	X	X
Fluoranthene		X	X	X
Naphthalene	X	X	X	X
Pyrene		X	X	X
X <sup>1</sup> Leaded Regular Only				

( )



02. Table 2. Residential Use Screening Levels.

RESIDENTIAL USE SCREENING LEVELS						
CHEMICALS	SOIL			GROUNDWATER		
	Screening Level [mg/kg]	Critical Pathway	Critical Receptor	Screening Level [mg/L]	Critical Pathway	Basis for Ingestion Target/ Inhalation Critical Receptor <sub>d</sub>
Benzene	1.78E-02	GWP <sup>a</sup>	GWP	5.00E-03	Ingestion	MCL <sup>b</sup>
Toluene	4.89E+00	GWP	GWP	1.00E+00	Ingestion	MCL
Ethylbenzene	7.10E-02	Subsurface Soil	Child	1.07E-01	Indoor Inhalation	Age-Adjusted
Total Xylenes	1.68E+00	Subsurface Soil	Child	4.46E+00	Indoor Inhalation	Child
Naphthalene	7.8E-02	Subsurface Soil	Age-Adjusted	1.02E-01	Indoor Inhalation	Age-Adjusted
MTBE <sup>c</sup>	6.70E-02	GWP	GWP	3.10E-02	Ingestion	Risk-Based
Ethylene dibromide(EDB)	1.43E-04	GWP	GWP	5.00E-05	Ingestion	MCL
1,2-Dichloroethane	7.71E-03	Subsurface Soil	Child	5.00E-03	Ingestion	MCL
Acenaphthene	5.23E+01	GWP	GWP	6.26E-01	Ingestion	Risk-Based
Anthracene	1.04E+03	GWP	GWP	3.13E+00	Ingestion	Risk-Based
Benz(a)anthracene	4.22E-01	Surficial Soil	Age-Adjusted	7.65E-05	Ingestion	Risk-Based
Benzo(a)pyrene	4.22E-02	Surficial Soil	Age-Adjusted	2.00E-04	Ingestion	MCL
Benzo(b)fluoranthene	4.22E-01	Surficial Soil	Age-Adjusted	7.65E-05	Ingestion	Risk-Based
Benzo(k)fluoranthene	4.22E+00	Surficial Soil	Age-Adjusted	7.65E-04	Ingestion	Risk-Based
Chrysene	3.34E+01	GWP	GWP	7.65E-03	Ingestion	Risk-Based
Fluoranthene	3.64E+02	GWP	GWP	4.17E-01	Ingestion	Risk-Based
Fluorene	5.48E+01	GWP	GWP	4.17E-01	Ingestion	Risk-Based
Pyrene	3.59E+02	GWP	GWP	3.13E-01	Ingestion	Risk-Based
<b>a.</b> Ground Water Protection Via Petroleum Contaminants in Soil Leaching to Ground Water						
<b>b.</b> Maximum contaminant level						
<b>c.</b> Methyl tert-butyl ether						
<b>d.</b> For the ingestion pathway the source of the target level is indicated (MCL or a risk-based calculation); for the inhalation pathway the critical receptor is indicated (child or age-adjusted individual).						

( )

03. Table 3. Default Toxicity Values for Risk Evaluation.

DEFAULT TOXICITY VALUES FOR RISK EVALUATION											
CHEMICALS	CAS Number <sup>a</sup>	Slope Factor				Reference Dose				Oral RA <sup>b</sup> Factor	Dermal RA Factor
		Oral (SFo)		Inhalation (SFi)		Oral (RfDo)		Inhalation (RfDi)			
		(kg-day/mg)	Source	(kg-day/mg)	Source	(mg/kg-day)	Source	(mg/kg-day)	Source		
Benzene	71-43-2	0.055	l	0.027	l	0.004	l	0.0086	l	1	0.0005
Toluene	108-88-3	NA		NA		0.08	l	1.43	l	1	0.03
Ethylbenzene	100-41-4	0.011	c	0.009	c	0.1	l	0.29	l	1	0.03
Total Xylenes	1330-20-7	NA		NA		0.2	l	0.029	l	1	0.03
Naphthalene	91-20-3	NA		0.12	c	0.02	l	0.00086	l	1	0.13
MTBE <sup>c</sup>	1634-04-4	0.0018	c	0.00091	c	NA		0.86	l	1	0.0005
1,2-Dichloroethane	107-06-2	0.091	l	0.091	l	NA		0.69	ATSDR	1	0.03
Ethylene Dibromide	106-93-4	2	l	2.1	l	0.009	l	0.0026	l	1	0.03
Acenaphthene	83-32-9	NA		NA		0.06	l	NA		1	0.13
Anthracene	120-12-7	NA		NA		0.3	l	NA		1	0.13
Benz(a)anthracene	56-55-3	0.73	n	0.39	c	NA		NA		1	0.13
Benzo(a)pyrene	50-32-8	7.3	l	3.9	c	NA		NA		1	0.13
Benzo(b)fluoranthene	205-99-2	0.73	n	0.39	c	NA		NA		1	0.13
Benzo(k)fluoranthene	207-08-9	0.073	n	0.39	c	NA		NA		1	0.13
Chrysene	218-01-9	0.0073	n	0.039	c	NA		NA		1	0.13
Fluoranthene	206-44-0	NA		NA		0.04	l	NA		1	0.13
Fluorene	86-73-7	NA		NA		0.04	l	NA		1	0.13
Pyrene	129-00-0	NA		NA		0.03	l	NA		1	0.13
<b>Notes:</b>		<b>Sources of Information:</b>									
<b>a</b> Chemical Abstract Service		<b>c:</b> Derived by CAL-EPA									
<b>b</b> Relative Absorption		<b>l:</b> IRIS									
<b>c</b> Methyl tert-butyl ether		<b>n:</b> NCEA: USEPA (1993). Provisional Guidance for Quantitative Risk Assessment of Polycyclic Aromatic Hydrocarbons. Office of Research and Development. EPA/600/R-93/089. July 1993									
<b>NA:</b> No data available		<b>ATSDR:</b> Agency for Toxic Substances and Disease Registry									

( )

801. -- 999. (RESERVED).

# LEGAL NOTICE

## Summary of Proposed Rulemakings

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### PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

*The written comment deadline is August 27, 2008, unless otherwise listed.  
(Temp & Prop) indicates the rule is both temporary and proposed.  
\*\* Indicates that a public hearing has been scheduled.*

#### **IDAPA 02 - DEPARTMENT OF AGRICULTURE P.O. Box 790, Boise, ID 83701-0790**

**02-0303-0801, Rules Governing Pesticide and Chemigation Use and Application.** Incorporates by reference the Code of Federal Regulations that require inspections of pesticide producing establishments, pesticide dealers and professional applicators to ensure compliance with federal pesticide containment requirements and allow the inspections to be completed with state credentials and reviewed by state officials; deletes pre-registration requirements for unusable pesticide collections.

**02-0602-0801, Rules Pertaining to the Idaho Commercial Feed Law.** Updates the incorporation by reference of the 2009 edition of the Official Publication of the Association of American Feed Control Officials (AAFCO) which is a standard reference manual for feed control officials for the registration of animal feeds.

**02-0612-0801, Rules Pertaining to the Idaho Fertilizer Law.** Updates the incorporation by reference of the 2009 edition of the Official Publication of the Association of American Feed Control Officials (AAFCO) which is a standard reference manual for feed control officials for the registration of fertilizers.

**02-0618-0801, Rules Governing Mint Rootstock and Clone Production. (Temp & Prop)** Changes the time frame for mint field inspections and triples the inspection rate from every 30 to every 10 rows to provide better assurance that regulated pests and diseases are not present.

**02-0631-0801, Noxious Weed Free Forage and Straw Certification Rules. (Temp & Prop)** Changes the certification marking for noxious weed-free forage and straw bales from special blue and orange colored twine to special purple and yellow colored twine and the certified compressed forage bale binding material colors and requirements to meet the North American Weed Management Association inspection standards.

**02-0641-0801, Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001.** Incorporates by reference the 2009 edition of the Official Publication of the Association of American Plant Food Control Officials (AAPFCO), the standard reference manuals for fertilizer control officials for the registration of soil and plant amendments.

#### **IDAPA 07 - DIVISION OF BUILDING SAFETY 1090 E. Watertower St., Meridian, ID 83642**

**07-0103-0801, Rules of Electrical Licensing and Registration - General.** Clarifies that any person or entity that advertises to perform or offers to perform electrical contracting services is considered to be acting or attempting to act as an electrical contractor and must be licensed.

**07-0204-0801, Rules Governing Plumbing Safety Inspections.** Allows for the use of a single sticker for multiple inspections from multiple trades and removes the color limitation and eliminates unnecessary expenses associated with multicolored inspection tags; and allows flexibility in the placement of the tags.

**07-0301-0801, Rules of Building Safety. (Temp & Prop)** Incorporates by reference the 2006 editions of the International Existing Building Code, the International Building Code and the International Residential Code.

**IDAPA 09 - DEPARTMENT OF LABOR**  
**317 W. Main St., Boise, ID 83735**

**09-0108-0801, Rules on Disclosure of Information. (Temp & Prop)** Adds required sections; provides for public inspection of records; make changes to definitions; and provides for access to information by individuals, employers, agents, attorneys and elected officials.

**09-0135-0801, Unemployment Insurance Tax Administration Rules.** Deletes "continuity of business activity" and adds "transfer of trade or business" to accurately reflect statutory language in Section 72-1351A, Idaho Code.

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**PO Box 83720, Boise, ID 83720-0036**

**16-0301-0801, Eligibility for Health Care Assistance for Families and Children. (Temp & Prop)** Aligns rules with federal regulations allowing Afghan and Iraqi special immigrants eligibility for health care; aligns provisions for Transitional Medicaid with federal law which requires the participant to report quarterly; and deletes procedural language.

**16-0304-0802, Rules Governing the Food Stamp Program in Idaho. (Temp & Prop)**

**16-0305-0801, Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled. (Temp & Prop)**

**16-0306-0801, Rules Governing Refugee Medical Assistance. (Temp & Prop)**

**16-0308-0802, Rules Governing Temporary Assistance for Families in Idaho. (Temp & Prop)**

Changes to these 4 chapters align these rules with the federal regulations allowing Afghan and Iraqi special immigrants eligibility for benefits and assistance under each of these programs.

**16-0503-0801, Rules Governing Contested Case Proceedings and Declaratory Rulings.** Provides the following administrative review options: a process for reviewing child protection cases prior to a person's name being entered into the Child Protection Central Registry; a review option for Intensive Behavioral Intervention that allows for informal resolution of disputes related to certification, billing, or reimbursement; a new appeal process specific to the Infant Toddler Program to ensure that federal due process requirements under the "Individuals with Disabilities Education Act" are followed. Also adds required sections; gives an appellant 14 days to file a petition for a Board review and allows the Board chair to determine whether the Board needs a transcript of a hearing on which they are going to hear oral argument; and clarifies that a Medicaid review conference must be held within 28 days of the request for an administrative review.

**16-0613-0801, Rules Governing Emergency Assistance for Families and Children.** Updates the definition section; clarifies conditions that make up an emergency condition; clarifies who the service population is; reduces the complexity of eligibility criteria; and ensures compliance with federal law.

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**PO Box 83720, Boise, ID 83720-0043**

**18-0109-0801, Senior Consumer Protection in Annuity Transactions. (Temp & Prop)** Complies with HB 411 by amending the rules governing sales of annuity products to protect all consumers rather than just senior consumers.

**18-0162-0801, Annual Audited Financial Reports.** Renames and revises chapter to require that insurers comply with certain best practices related to auditor independence, corporate governance and internal control over financial reporting to meet the NAIC Model Audit Rule for accreditation standards; and adds required sections.

**IDAPA 21 - DIVISION OF VETERANS SERVICES**  
**320 Collins Road, Boise, ID 83702**

**21-0105-0801, Rules Governing Medical Transportation Payment for Wheelchair Confined Veterans.** Increases reimbursement to transportation providers for transporting disabled veterans to medical providers.

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**1109 Main St., Ste. 220, Boise, ID 83702**

**24-1501-0801, Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family**

**Therapists. (Temp & Prop)** Complies with HB376 by establishing the qualification, examination, and continuing education requirements, practice limits, and application and license fees for an associate marriage and family therapist license.

**24-1901-0801, Rules of the Board of Examiners of Residential Care Facility Administrators.** Complies with HB492 by allowing the Board to approve exams other than the National Association of Board of Examiners of Long Term Care Administrators (NAB) exam; provides for an open book exam to test on Idaho law and rules; and updates the reference to the association to IHCA/ICAL.

**IDAPA 30 - IDAHO COMMISSION ON LIBRARIES**

**PO Box 83720, Boise, ID 83702**

**30-0101-0801, Rules of the Idaho Commission for Libraries Governing the Use of Commission Services.** Complies with SB 1321 by providing a mechanism for operating a digital repository of state publications including authority and exemptions.

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**

**PO Box 7129, Boise ID 83707-1129**

**39-0207-0801, Rules Governing Titling of Salvage, Specially Constructed, and Reconstructed Motor Vehicles. (Temp & Prop)** Complies with HB 364 and 365 by changing the procedures for titling vehicles declared salvage or total loss; requires disclosure upon sale that the vehicle has been declared salvage or is branded as rebuilt salvage to simplify the process for branding such vehicles as "rebuilt salvage"; clarifies and defines "brand" and when it must be used; no longer exempts motorcycles, trailers, and vessels from having a branded title of rebuilt salvage; adds definitions; and clarifies that assembled and replica vehicles must meet federal safety standards and emission requirements in effect for the model year being titled.

**39-0260-0801, Rules Governing License Plate Provisions. (Temp & Prop)** Complies with HB 602 by providing for the issuance of a new plate type for all-terrain vehicles, utility type vehicles, and off-road motorbikes, to be known as an "Idaho Restricted Vehicle," and for a process for the new plate type and validation by registration through Parks and Recreation; allows for the issuance of a temporary 30-day registration when the automated system is not available; clarifies the acceptability of personalized plate messages and defines the length of personalized plate messages will include spaces.

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

**1410 N. Hilton, Boise, ID 83706-1255**

**\*\*58-0101-0802, Rules for the Control of Air Pollution in Idaho.** Updates citations to federal regulations incorporated by reference at Sections 008 and 107 to include those revised as of 7/1/08. Comment by 9/1/08.

**\*\*58-0103-0801, Individual/Subsurface Sewage Disposal Rules.** Defines the terms "bedroom" and "module"; revises the wastewater flow rates for single family dwellings; refines the soil classification system from 3 to 6 soil types; and revises the maximum total square feet of trench. Comment by 9/3/08.

**58-0105-0801, Rules and Standards for Hazardous Waste.** Updates the federal regulations incorporated by reference to include those revised as of 7/1/08 and adds new Section 017 to include 40 CFR Part 278. Comment by 9/3/08.

**58.01.08, Idaho Rules for Public Drinking Water Systems**

**58-0108-0801** - Revises definitions; clarifies Section 500, Demonstration of Technical, Financial, and Managerial Capacity; revises Section 501, General Design Requirements for Public Drinking Water Systems; modifies the content of facility plans and preliminary engineering reports contained in Sections 502 and 503; revises Section 504, Review of Plans and Specifications; clarifies separation requirements for sources of contamination from public drinking water wells; modifies sections regarding spring sources and ground water sources; clarifies Section 531, Design Standards for Chemical Application; adds and clarifies design requirements for drinking water distribution systems; redefines storage structures and facilities; and clarifies several operating criteria for public drinking water systems. Comment by 9/3/08.

**58-0108-0802** - Updates the incorporation by reference of the federal EPA Ground Water Rule as promulgated 11/6/06 to retain primacy for enforcement of the Safe Drinking Water Act for Idaho's public water systems. Comment by 9/3/08.

**58-0111-0801, Ground Water Quality Rule.** Adds definitions necessary to improve statewide consistency with interpretation and implementation of mining provisions of this rule; develops a procedure and process to follow for setting the point(s) of compliance for ground water quality related issues at mining areas; provides for ground water monitoring at mining areas; and imposes a fee on mine operators making an application to set the ground water quality point(s) of compliance. Comment by 9/3/08.

**58-0116-0801, Wastewater Rules.** Revises definitions; revises review of plans and specifications; adds new Section 409, Demonstration of Technical, Financial, and Managerial Capacity; modifies the content of facility plans and preliminary engineering reports; clarifies the requirements for operation and maintenance manuals; clarifies Subsection 430.02.o., Non-Potable Pipelines in Relation to Potable Water Pipelines; streamlines the rules for private municipal wastewater treatment plants; revises the lagoon separation distance requirement and clarifies seepage testing requirements; adds requirements for septage transfer stations; clarifies operating criteria for public wastewater systems; and adds new Section 660, Waivers. Comment by 9/3/08.

**58-0124-0801, Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites.** New chapter describes standards and procedures for application of risk based corrective action at petroleum release sites. Comment by 9/3/08.

***A NEGOTIATED RULEMAKING MEETING IS SCHEDULED FOR THE FOLLOWING:***

***Department of Insurance***

***18-0144-0801 - Schedule of Fees, Licenses and Miscellaneous Charges***

Please refer to the Idaho Administrative Bulletin, **August 6, 2008**, Volume 08-8 for notices and text of all rulemakings, Senate and House Concurrent Resolutions, Omnibus Rulemaking Notice of Final and Temporary Rules, public hearing schedules, Governor's executive orders, and agency contact information.

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