

# IDAHO ADMINISTRATIVE BULLETIN

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April 1, 2009 -- Volume 09-4

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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 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
09-5	May 2009	April 3, 2009	May 6, 2009	May 27, 2009
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
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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

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10-1	January 2010	<b>*November 13, 2009</b>	January 6, 2010	January 27, 2010
10-2	February 2010	January 8, 2010	February 3, 2010	February 24, 2010
10-3	March 2010	February 5, 2010	March 3, 2010	March 25, 2010
10-4	April 2010	March 5, 2010	April 7, 2010	April 28, 2010
10-5	May 2010	April 2, 2010	May 5, 2010	May 26, 2010
10-6	June 2010	April 30, 2010	June 2, 2010	June 23, 2010
10-7	July 2010	June 4, 2010	July 7, 2010	July 28, 2010
10-8	August 2010	July 2, 2010	August 4, 2010	August 25, 2010
10-9	September 2010	July 30, 2010	September 1, 2010	September 22, 2010
10-10	October 2010	<b>**August 27, 2010</b>	October 6, 2010	October 27, 2010
10-11	November 2010	October 1, 2010	November 3, 2010	November 24, 2010
10-12	December 2010	November 5, 2010	December 1, 2010	December 22, 2010

***\*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 42</b>	<b>Wheat Commission</b>

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2009-07**

**ESTABLISHING THE IDAHO HEALTH PROFESSIONS EDUCATION COUNCIL**

---

*WHEREAS, Idaho faces a severe shortage in all health professions now and in the future; and*

*WHEREAS, Idaho currently ranks 40th in physicians per capita and has the 6th oldest physician population among the 50 states; and*

*WHEREAS, Idaho does not train a sufficient number of physicians, especially in primary care, to meet the needs of its citizens; and*

*WHEREAS, in addition to nursing, shortages in such fields as pharmacy, dentistry, allied health professions, primary care physicians and mental health professions are acute;*

*WHEREAS, the State has a vested interest in finding workable and realistic solutions to the healthcare provider shortages; and*

*WHEREAS, a sufficient supply of healthcare professionals in all disciplines is necessary to address the healthcare of Idaho citizens; and*

*WHEREAS, to address the shortages the Governors Select Committee on Health Care recommended to the Governor the creation of the Idaho Health Professions Education Council; and*

*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 this state do hereby order:*

- 1. The creation of the Idaho Health Professions Education Council (Council).*
- 2. Members of the Council shall be appointed by and serve at the pleasure of the Governor.*
- 3. The chair of the Council shall be appointed by and serve at the pleasure of the Governor.*
- 4. The chair of the Council shall be a person from one of the 4-year higher education institutions in Idaho.*
- 5. The members of the Council shall include but are not limited to:*
  - a. Representatives from the Health Industry;*
  - b. Representatives from Health Organizations;*
  - c. Representatives for Idaho Colleges/Universities;*
  - d. Representatives from the Public at Large;*
- 6. The Council's responsibilities shall be:*
  - a. Conduct health workforce analyses;*
  - b. Assess Idaho's capacity for training healthcare professionals;*

- c. Advise the Governor and legislators on healthcare workforce issues;*
  - d. Develop healthcare workforce objectives for the State of Idaho and provide policy recommendations for achieving the objectives;*
  - e. Recommend strategies to address healthcare provider shortages in rural locations;*
  - f. Develop strategies to increase public/private partnerships to increase the healthcare providers for Idaho.*
- 7. Committee members will serve without compensation; however, they shall receive reimbursement for the actual costs of attending Committee meetings.*
  - 8. The Council shall submit an annual report of its activities to the Governor.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho in Boise on this 26th day of February in the year of our Lord two thousand and nine and of the Independence of the United States of America the two hundred thirty-third and of the Statehood of Idaho the one hundred nineteenth.*

---

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

---

*BEN YSURSA*  
*SECRETARY OF STATE*

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.02.02 - RULES OF THE IDAHO EMERGENCY MEDICAL SERVICES**  
**(EMS) PHYSICIAN COMMISSION**

**DOCKET NO. 16-0202-0901**

**NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is May 1, 2009.

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule. The action is authorized pursuant to Sections 56-1013A and 56-1017, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

To best protect the public's health and safety, the Emergency Medical Services (EMS) Physician Commission is amending their Standards Manual that is incorporated by reference in this chapter of rules. This Standards Manual is a "scope of practice" manual that governs the medications, devices, and clinical interventions that EMS personnel can use to treat patients at emergency scenes and in ambulances. The updated version of the manual adds several important clinical interventions that can be used by EMS personnel. For other clinical interventions, this update changes the level of EMS certification required to perform those clinical interventions.

The following changes are being made in this rulemaking:

1. The "Incorporation by Reference" section of these rules is being revised with the updated edition number (2009-1) of the EMS Physician Commission Standards Manual. This rule revision will ensure the updated manual has the force and effect of law. Copies of the 2009-1 edition of the EMS Physician Commission Standards Manual will be available to the public on the effective date of this rulemaking.
2. In addition, to keep the rule aligned with changes being made to the incorporated manual and eliminate duplication between the rule and the manual, the text of the rule is being amended. The list in rule of required elements for the EMS medical supervision plan is being deleted. This list of required elements is found in the Standards Manual. Any updates to the list will be made in the manual.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate since it is necessary for the protection of the public health, safety, and welfare of Idahoans.

**FEE SUMMARY:** There is no fee or charge being imposed or increased in this docket.

**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 impact to the state general fund as result of this rulemaking.

**NOTE:** The EMS Physician Commission is funded entirely by receipts from initial and renewal EMS certifications in accordance with Section 56-1013A(6), Idaho Code.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the content of the proposed updates to the EMS Physician Commission Standards Manual already represents extensive input from stakeholders gathered during 2008.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Dia Gainor at (208) 334-4000.

DATED this 5th day of March, 2009.

Tamara Prisock  
DHW - Administrative Procedures Section  
450 W. State Street - 10th Floor  
P.O. Box 83720, Boise, ID 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
dhwrules@dhw.idaho.gov e-mail

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0202-0901**

**004. INCORPORATION BY REFERENCE.**

The Idaho Emergency Medical Services (EMS) Physician Commission has adopted the Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual, edition 2008~~9~~-1~~0~~, and hereby incorporates this Standards Manual by reference. Copies of the manual may be obtained from the EMS Bureau located at 590 W. Washington Street, Boise, Idaho, 83702, whose mailing address is P.O. 83720, Boise, Idaho 83720-0036. ~~(9-12-08)~~(5-1-09)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**400. PHYSICIAN SUPERVISION IN THE OUT-OF-HOSPITAL SETTING.**

**01. Medical Supervision Required.** In accordance with Section 56-1011, Idaho Code, certified EMS personnel must provide emergency medical services under the supervision of a designated EMS medical director. (4-2-08)

**02. Designation of EMS Medical Director.** The EMS agency must designate a physician for the medical supervision of certified EMS personnel affiliated with the EMS agency. (4-2-08)

**03. Delegated Medical Supervision of EMS Personnel.** The EMS medical director can designate other physicians to supervise the certified EMS personnel in the temporary absence of the EMS medical director. (4-2-08)

**04. Direct Medical Supervision by Physician Assistants and Nurse Practitioners.** The EMS medical director can designate Physician Assistants (PA) and Nurse Practitioners for purposes of direct medical supervision of certified EMS personnel under the following conditions: (4-2-08)

**a.** A designated physician is not present in the anticipated receiving health care facility; and (4-2-08)

**b.** The Nurse Practitioner, when designated, must have a preexisting written agreement with the EMS medical director describing the role and responsibilities of the Nurse Practitioner; or (4-2-08)

**c.** The physician supervising the PA, as defined in IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants," authorizes the PA to provide direct (on-line) supervision; and (4-2-08)

**d.** The PA, when designated, must have a preexisting written agreement with the EMS medical director describing the role and responsibilities of the PA related to supervision of EMS personnel. (4-2-08)

**e.** Such designated clinician must possess and be familiar with the medical supervision plan, protocols, standing orders, and standard operating procedures authorized by the EMS medical director. (4-2-08)

**05. Indirect Medical Supervision by Non-Physicians.** Non-physicians can assist the EMS medical

director with indirect medical supervision of certified EMS personnel. (4-2-08)

**06. Medical Supervision Plan.** The medical supervision of certified EMS personnel must be provided in accordance with a documented medical supervision plan that includes direct, indirect, on-scene, educational, and proficiency standards components. ~~The EMS medical director is responsible for developing, implementing, and overseeing the medical supervision plan that must consist of the following elements:~~ The requirements for the medical supervision plan are found in the Idaho EMS Physician Commission Standards Manual incorporated by reference under Section 004 of these rules. (4-2-08)(5-1-09)T

- ~~a. Certified EMS personnel credentialing that includes all of the following: (4-2-08)~~
- ~~i. EMS Bureau certification; (4-2-08)~~
- ~~ii. Affiliation to the EMS agency; (4-2-08)~~
- ~~iii. An EMS agency orientation as prescribed by the EMS agency that includes: (4-2-08)~~
  - ~~(1) EMS agency policies; (4-2-08)~~
  - ~~(2) EMS agency procedures; (4-2-08)~~
  - ~~(3) Medical treatment protocols; (4-2-08)~~
  - ~~(4) Radio communications procedures; (4-2-08)~~
  - ~~(5) Hospital/facility destination policies; (4-2-08)~~
  - ~~(6) Other unique system features; and (4-2-08)~~
- ~~iv. Successful completion of an EMS agency evaluation. (4-2-08)~~
- ~~b. Indirect (off line) supervision that includes all of the following: (4-2-08)~~
  - ~~i. Written standing orders and treatment protocols including direct (online) supervision criteria; (4-2-08)~~
  - ~~ii. Initial and continuing education in addition to those required by the EMS Bureau; (4-2-08)~~
  - ~~iii. Methods of assessment and improvement; (4-2-08)~~
  - ~~iv. Periodic assessment of psychomotor skill proficiency; (4-2-08)~~
  - ~~v. Provisions for medical supervision of and defining the patient care provided by certified EMS personnel who are present for a multiple or mass causality incident, disaster response, or other significant event involving response of certified EMS personnel; (4-2-08)~~
  - ~~vi. Defining the response when certified EMS personnel discover a need for EMS while not on duty; (4-2-08)~~
  - ~~vii. The credentialing of certified EMS personnel for emergency response; (4-2-08)~~
  - ~~viii. The appropriate level of emergency response based upon dispatch information provided by the designated Public Safety Answering Point(s); (4-2-08)~~
  - ~~ix. Triage, treatment, and transport guidelines; (4-2-08)~~
  - ~~x. Scene management for multiple EMS agencies anticipated to be on scene concurrently; (4-2-08)~~

- ~~xi. Criteria for determination of patient destination; (4-2-08)~~
- ~~xii. Criteria for utilization of air medical services in accordance with IDAPA 16.02.03, "Rules Governing Emergency Medical Services," Section 415; (4-2-08)~~
- ~~xiii. Policies and protocols for patient refusal, "treat and release," Physician Orders for Scope of Treatment (POST) or other valid Do Not Resuscitate (DNR) orders, and determination of death and other predictable patient non-transport scenarios; (4-2-08)~~
- ~~xiv. Criteria for cancellation or modification of EMS response; (4-2-08)~~
- ~~xv. Equipment authorized for patient care; (4-2-08)~~
- ~~xvi. Medical communications guidelines; and (4-2-08)~~
- ~~xvii. Methods and elements of documentation of services provided by certified EMS personnel. (4-2-08)~~
- ~~e. Direct (on-line) supervision: (4-2-08)~~
  - ~~i. Is accomplished by concurrent communication with the EMS medical director, other physicians designated by the EMS medical director, or designated clinicians who must be available twenty-four (24) hours a day seven (7) days a week. (4-2-08)~~
  - ~~ii. The EMS medical director will develop and implement procedures in the event of on scene supervision by:  
(1) The EMS medical director or other physician(s) designated by the EMS medical director; (4-2-08)  
(2) A physician with a pre-existing relationship with the patient; and (4-2-08)  
(3) A physician with no pre-existing relationship with the patient who is present for the duration of treatment on scene or transportation. (4-2-08)~~
  - ~~iii. Direct supervision of certified EMS personnel by other persons is prohibited except in the manner described in the medical supervision plan. (4-2-08)~~
  - ~~d. The EMS medical director in collaboration with the course medical director or course coordinator, will define standards of supervision and training for students of state-approved training programs placed for clinical practice and training. (4-2-08)~~

**07. Out-of-Hospital Medical Supervision Plan Filed with EMS Bureau.** The agency EMS medical director must file the medical supervision plan, including identification of the EMS medical director and any designated clinicians to the EMS Bureau in a form described in the standards manual. (4-2-08)

- a.** The agency EMS medical director must inform the EMS Bureau of any changes in designated clinicians or the medical supervision plan within thirty (30) days of the change(s). (4-2-08)
- b.** The EMS Bureau must provide the Commission with the medical supervision plans annually and upon request. (4-2-08)
- c.** The EMS Bureau must provide the Commission with the identification of EMS Medical directors and designated clinicians annually and upon request. (4-2-08)



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

**16.03.22 - RESIDENTIAL CARE OR ASSISTED LIVING FACILITIES IN IDAHO**

**DOCKET NO. 16-0322-0901**

**NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency and the Board of Health and Welfare intend to promulgate rules and desire public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 39-3305, Idaho Code.

**MEETING SCHEDULE:** Public meetings on this negotiated rulemaking will be held as follows:

**FRIDAY, APRIL 17, 2009 - 2:00 - 4:00 p.m.**

**FRIDAY, MAY 15, 2009 - 2:00 - 4:00 p.m.**

**MEDICAID CENTRAL OFFICE  
3232 Elder Street  
Conference Room D-East  
Boise, Idaho**

**METHOD OF PARTICIPATION:** Persons wishing to participate in the informal negotiated rulemaking must do one of the following:

1. Attend the negotiated rulemaking and participate in the negotiation process;
2. Provide oral or written recommendations, or both, at the negotiated rulemaking; or
3. Submit written recommendations and comments to the address 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:

Section 39-3303, Idaho Code, is being reviewed for amendments by the 2009 Legislature regarding payment levels for non-Department of Health and Welfare clients in a residential care or assisted living facility. These amendments will necessitate corresponding changes and clarification in this chapter of rules. The proposed changes to the statute will modify how private pay residents in a residential care or assisted living facility will be assessed for needs, services, and associated costs for services. The Department is entering into negotiations with interested stakeholders to clarify these rules regarding payment levels, the negotiated service agreement, the admission agreement, and notification of changes in services and costs due to changes in the resident's condition and needs.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES:** For assistance on technical questions concerning this negotiated rulemaking, contact Jamie Simpson at (208) 334-6626. 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 Friday, May 22, 2009.

DATED this 5th day of March, 2009.

Tamara Prisock  
DHW - Administrative Procedures Section  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
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## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-0903

### NOTICE OF PUBLIC COMMENT PERIOD AND PUBLIC HEARING ON DEQ'S TENTATIVE DETERMINATION TO GRANT VARIANCES FROM MEETING WATER QUALITY STANDARDS FOR THE DISCHARGE OF METALS FROM THE PAGE, MULLAN, AND SMELTERVILLE WASTEWATER TREATMENT FACILITIES

**NOTICE:** The Department of Environmental Quality (DEQ) hereby gives notice that it has made a tentative determination to grant the South Fork Coeur d'Alene River Sewer District a variance from meeting water quality standards for the discharge of metals from the Page and Mullan wastewater treatment facilities, and has made a tentative determination to grant the City of Smelterville a variance from meeting water quality standards for the discharge of metals from the Smelterville wastewater treatment facility. These wastewater treatment facilities are currently operating under an EPA issued variance set to expire on August 1, 2009. DEQ is seeking public comment before making a final determination to grant these variances.

**AUTHORITY:** This action is taken pursuant to Section 260 of the Water Quality Standards, IDAPA 58.01.02.

**PUBLIC HEARING SCHEDULE:** A public hearing will be held as follows:

**WEDNESDAY, APRIL 22, 2009, 6:30 p.m.**

**KELLOGG MIDDLE SCHOOL LIBRARY  
810 Bunker Avenue  
Kellogg, Idaho**

The hearing site 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 South Fork Coeur d'Alene River Sewer District submitted to DEQ a request for a variance from meeting water quality standards for the discharge of cadmium, lead, and zinc from the Page and Mullan wastewater treatment facilities (cadmium, lead, and zinc for Page; cadmium and zinc for Mullan). The City of Smelterville submitted to DEQ a request for a variance from meeting water quality standards for the discharge of cadmium, lead, and zinc from the Smelterville wastewater treatment facility.

In the variance requests, the South Fork Coeur d'Alene River Sewer District and the City of Smelterville make a demonstration that meeting the standard is unattainable because controls more stringent than technology-based effluent limitations would result in substantial and widespread economic and social impact. The South Fork Coeur d'Alene River Sewer District and the City of Smelterville also submitted supporting documentation that treatment more advanced than required by technology-based effluent limitations have been considered and that alternative effluent control strategies have been evaluated.

Upon review of the demonstration and supporting documentation submitted by both the South Fork Coeur d'Alene River Sewer District and the City of Smelterville, DEQ has determined that the requirements for obtaining a variance, as required by 58.01.02.260.01, have been met.

The proposed variances would authorize the Page, Mullan, and Smelterville wastewater treatment facilities to discharge metals (cadmium, lead, and zinc for Page and Smelterville; cadmium and zinc for Mullan) to the South Fork Coeur d'Alene River at higher concentrations than those established by Idaho's water quality criteria for a maximum of five years. The proposed variances would allow the facilities to discharge at current levels during the five year term of the variance while working to implement measures which will reduce metals concentrations over time.

The impacts of the proposed variances upon the receiving stream are to delay meeting of water quality criteria. Although water quality criteria will not be met immediately, water quality is expected to improve over the course of the variances due to measures to reduce infiltration and interception of cadmium, lead and zinc contaminated ground water into sewer lines. Based on USGS water quality sampling from January 2004 through February 2009, the South

Fork Coeur d'Alene River near Pinehurst (station 12413470) does not meet aquatic life criteria for chronic exposure to cadmium and zinc, and has met the chronic criterion for lead. Based on monthly Discharge Monitoring Reports (DMRs) for the wastewater treatment facilities for the Cities of Page, Mullan and Smelterville from August 2004 (beginning of current permits and variances) through October 2008 (most recent data), the load of metals contributed by these facilities is minor (lead, ~ 2%) or insignificant (cadmium and zinc, < 1%) compared to the loads in the river. As a result, the effect of discharges from the three wastewater treatment facilities on the concentration of metals in the river is very small. In the case of cadmium and zinc, the DMR data show the quality of the discharges is usually better than the river currently and they actually serve to dilute in stream metals concentrations most of the time.

Contaminated ground water is the primary source of elevated metals in these wastewater discharges in addition to being a direct contributor to elevated metals in the river regardless of wastewater discharge. There will be improvements in effluent quality during the variance period brought about by efforts to control inflow and infiltration of contaminated ground water into the sewage system that are more cost effective, at this time, than treatment of wastewater to remove metals. The variances facilitate these efforts. Until ground water is cleaned up, granting these variances will have little if any impact on the South Fork Coeur d'Alene River meeting aquatic life criteria for cadmium, lead and zinc.

Any variance granted by DEQ will remain in effect for a period of five years or the life of the permit. Upon expiration of the five year time period or permit, the discharger must either meet the standard or must re-apply for the variance in accordance with the Water Quality Standards, 58.01.02. In considering a re-application for a variance, DEQ will require the discharger to demonstrate reasonable progress towards meeting the standard.

**AVAILABILITY OF DOCUMENTS FOR REVIEW:** A copy of the proposed variances and related documents can be obtained at [www.deq.idaho.gov/public/comment.cfm](http://www.deq.idaho.gov/public/comment.cfm) or by contacting the undersigned.

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning the proposed variances, contact Don Essig at [don.essig@deq.idaho.gov](mailto:don.essig@deq.idaho.gov), (208)373-0119.

Anyone may submit written comments by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before May 1, 2009.

Dated this 13th day of March, 2009.

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)

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

#### DOCKET NO. 58-0101-0702

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

**EFFECTIVE DATE:** The temporary rule is effective April 1, 2009 and remains in effect until the conclusion of the 2010 legislative session unless rescinded by the agency. This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the conclusion of the Second Regular Session of the Sixtieth Idaho Legislature unless prior to that date the rule is rejected in whole or in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

**AUTHORITY:** In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that the Board has adopted a temporary and pending rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code.

**DESCRIPTIVE SUMMARY:** A detailed summary of the reason for adopting this rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, November 5, 2008, Vol. 08-11, pages 94 through 114. After consideration of public comments, the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at [http://www.deq.idaho.gov/rules/air/58\\_0101\\_0702\\_temporary\\_pending.cfm](http://www.deq.idaho.gov/rules/air/58_0101_0702_temporary_pending.cfm) or by contacting the undersigned.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of this rule is necessary to protect the public health. DEQ has received approval from the Governor's office for temporary adoption of this rule in an effort to reduce volatile organic compound emissions and potentially avoid an ozone nonattainment designation by the U.S. Environmental Protection Agency. The sooner the vapor collection systems are installed, the greater chance the area has to avoid nonattainment designation. It is particularly important to have a rule effective by spring 2009 so that the regulated community will have time to install the necessary vapor collection equipment before the hot summer weather sets in, which is when ozone is formed.

**IDAHO CODE SECTION 39-107D STATEMENT:** These rules do not regulate an activity not regulated by the federal government nor are they more stringent than federal regulations. The Clean Air Act requires, in moderate ozone nonattainment areas, the use of gasoline vapor collection for facilities that sell more than 10,000 gallons of gasoline per month. These rules are broader in scope than the federal law as they apply to sources in an area not yet designated nonattainment. Additionally, the National Emission Standard for Hazardous Air Pollutants (NESHAP) requires the use of gasoline vapor collection for gasoline dispensing facilities with throughput of 100,000 gallons or more of gasoline per month. 40 CFR Part 63, Subpart CCCCC (40 CFR 63.11118). These rules require gasoline vapor collection for gasoline storage tanks with a capacity of 10,000 gallons or more; thus, they apply to a broader class of gasoline dispensing facilities than the NESHAPs.

These rules constitute an important preemptive step for the Treasure Valley to take to attempt to avoid an ozone nonattainment designation. The ozone national ambient air quality standard is a standard designed to protect human health and the environment. It is clear under federal law that scientists have determined that vapor collection is an important control measure to implement for ozone reduction.

**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:** For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440, [martin.bauer@deq.idaho.gov](mailto:martin.bauer@deq.idaho.gov).

Dated this 13th day of February, 2009.

Paula J. Wilson, Hearing Coordinator  
(208)373-0418/Fax No. (208)373-0481  
[paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov)

Department of Environmental Quality  
1410 N. Hilton  
Boise, Idaho 83706-1255

**DOCKET NO. 58-0101-0702 - ADOPTION OF PENDING RULE  
AND ADOPTION OF TEMPORARY 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 08-11, November 5, 2008, pages 94 through 114.](#)

This rule has been adopted as a temporary rule and is effective April 1, 2009. The pending rule has also been adopted by the Agency and is now awaiting review and approval by the 2010 Idaho State Legislature for final approval.

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**THE FOLLOWING IS THE TEXT OF BOTH THE TEMPORARY RULE  
AND THE PENDING RULE UNDER DOCKET NO. 58-0101-0702**

**006. GENERAL DEFINITIONS.**

**01. Accountable.** Any SIP emission trading program must account for the aggregate effect of the emissions trades in the demonstration of reasonable further progress, attainment, or maintenance. (4-5-00)

**02. Act.** The Environmental Protection and Health Act of 1972 as amended (Sections 39-101 through 39-130, Idaho Code). (5-1-94)

**03. Actual Emissions.** The actual rate of emissions of a pollutant from an emissions unit as determined in accordance with the following: (4-5-00)

**a.** In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The Department shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. (4-5-00)

**b.** The Department may presume that the source-specific allowable emissions for the unit are equivalent to actual emissions of the unit. (4-5-00)

**c.** For any emissions unit (other than an electric utility steam generating unit as specified below) which has not yet begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date. (4-5-00)

**d.** For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit) actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the Department, on an annual basis for a period of five (5) years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed ten (10) years may be required by the Department if it determines such a period to be more representative of normal source post-change operations. (4-5-00)

**04. Adverse Impact on Visibility.** Visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I Area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairments, and how these factors correlate with: (3-30-07)

- a. Times of visitor use of the Federal Class I Area; and (3-30-07)
- b. The frequency and timing of natural conditions that reduce visibility. (3-30-07)
- c. This term does not include affects on integral vistas when applied to 40 CFR 51.307. (3-30-07)
- 05. Air Pollutant/Air Contaminant.** Any substance, including but not limited to, dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon or particulate matter or any combination thereof. (4-5-00)
- 06. Air Pollution.** The presence in the outdoor atmosphere of any air pollutant or combination thereof in such quantity of such nature and duration and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property. (4-5-00)
- 07. Air Quality.** The specific measurement in the ambient air of a particular air pollutant at any given time. (5-1-94)
- 08. Air Quality Criterion.** The information used as guidelines for decisions when establishing air quality goals and air quality standards. (5-1-94)
- 09. Allowable Emissions.** The allowable emissions rate of a stationary source or facility calculated using the maximum rated capacity of the source or facility (unless the source or facility is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following: (4-5-00)
  - a. The applicable standards set forth in 40 CFR part 60 and 61; (4-5-00)
  - b. Any applicable State Implementation Plan emissions limitation including those with a future compliance date; or (4-5-00)
  - c. The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date. (4-5-00)
- 10. Ambient Air.** That portion of the atmosphere, external to buildings, to which the general public has access. (5-1-94)
- 11. Ambient Air Quality Violation.** Any ambient concentration that causes or contributes to an exceedance of a national ambient air quality standard as determined by 40 CFR Part 50. (4-11-06)
- 12. Atmospheric Stagnation Advisory.** An air pollution alert declared by the Department when air pollutant impacts have been observed and/or meteorological conditions are conducive to additional air pollutant buildup. (4-11-06)
- 13. Attainment Area.** Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as having ambient concentrations equal to or less than national primary or secondary ambient air quality standards for a particular air pollutant or air pollutants. (4-11-06)
- 14. BART-Eligible Source.** Any of the following stationary sources of air pollutants, including any reconstructed source, which was not in operation prior to August 7, 1962, and was in existence on August 7, 1977, and has the potential to emit two hundred fifty (250) tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted. (3-30-07)
  - a. Fossil-fuel fired steam electric plants of more than two hundred fifty (250) million BTU's per hour heat input; (3-30-07)
  - b. Coal cleaning plants (thermal dryers); (3-30-07)

- c. Kraft pulp mills; (3-30-07)
- d. Portland cement plants; (3-30-07)
- e. Primary zinc smelters; (3-30-07)
- f. Iron and steel mill plants; (3-30-07)
- g. Primary aluminum ore reduction plants; (3-30-07)
- h. Primary copper smelters; (3-30-07)
- day; i. Municipal incinerators capable of charging more than two hundred fifty (250) tons of refuse per (3-30-07)
- j. Hydrofluoric, sulfuric, and nitric acid plants; (3-30-07)
- k. Petroleum refineries; (3-30-07)
- l. Lime plants; (3-30-07)
- m. Phosphate rock processing plants; (3-30-07)
- n. Coke oven batteries; (3-30-07)
- o. Sulfur recovery plants; (3-30-07)
- p. Carbon black plants (furnace process); (3-30-07)
- q. Primary lead smelters; (3-30-07)
- r. Fuel conversion plants; (3-30-07)
- s. Sintering plants; (3-30-07)
- t. Secondary metal production facilities; (3-30-07)
- u. Chemical process plants; (3-30-07)
- v. Fossil-fuel boilers of more than two hundred fifty (250) million BTU's per hour heat input; (3-30-07)
- w. Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels; (3-30-07)
- x. Taconite ore processing facilities; (3-30-07)
- y. Glass fiber processing plants; and (3-30-07)
- z. Charcoal production facilities. (3-30-07)
- 15. **Baseline (Area, Concentration, Date).** See Section 579. (5-1-94)

16. **Best Available Retrofit Technology (BART).** Means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case

basis, taking into consideration the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. (3-30-07)

17. **Board.** Idaho Board of Environmental Quality. (5-1-94)
18. **Breakdown.** An unplanned failure of any equipment or emissions unit which may cause excess emissions. (4-5-00)
19. **BTU.** British thermal unit. (5-1-94)
20. **Clean Air Act.** The federal Clean Air Act, 42 U.S.C. Sections 7401 through 7671q. (5-1-94)
21. **Collection Efficiency.** The overall performance of the air cleaning device in terms of ratio of materials collected to total input to the collector unless specific size fractions of the contaminant are stated or required. (5-1-94)
22. **Commence Construction or Modification.** In general, this means initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change. (4-5-00)
23. **Complete.** A determination made by the Department that all information needed to process a permit application has been submitted for review. (5-1-94)
24. **Construction.** Fabrication, erection, installation, or modification of a stationary source or facility. (5-1-94)
25. **Control Equipment.** Any method, process or equipment which removes, reduces or renders less noxious, air pollutants discharged into the atmosphere. (5-1-94)
26. **Controlled Emission.** An emission which has been treated by control equipment to remove all or part of an air pollutant before release to the atmosphere. (5-1-94)
27. **Criteria Air Pollutant.** Any of the following: PM-10; sulfur oxides; ozone, nitrogen dioxide; carbon monoxide; lead. (4-5-00)
28. **Deciview.** A measurement of visibility impairment. A deciview is a haze index derived from calculated light extinction, such that uniform changes in haziness correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to highly impaired. The deciview haze index is calculated based on the following equation (for the purposes of calculating deciview, the atmospheric light extinction coefficient must be calculated from aerosol measurements): Deciview Haze Index =  $10 \ln_e (b_{ext} / 10Mm^{-1})$  where  $b_{ext}$  = the atmospheric light extinction coefficient, expressed in inverse megameters ( $Mm^{-1}$ ). (3-30-07)
29. **Department.** The Department of Environmental Quality. (5-1-94)
30. **Designated Facility.** Any of the following facilities: (5-1-94)
  - a. Fossil-fuel fired steam electric plants of more than two hundred fifty (250) million BTU's per hour heat input; (5-1-94)
  - b. Coal cleaning plants (thermal dryers); (5-1-94)
  - c. Kraft pulp mills; (5-1-94)



- d.** Portland cement plants; (5-1-94)
- e.** Primary zinc smelters; (5-1-94)
- f.** Iron and steel mill plants; (5-1-94)
- g.** Primary aluminum ore reduction plants; (5-1-94)
- h.** Primary copper smelters; (5-1-94)
- i.** Municipal incinerators capable of charging more than two hundred and fifty (250) tons of refuse per day; (5-1-94)
- j.** Hydrofluoric, sulfuric, and nitric acid plants; (5-1-94)
- k.** Petroleum refineries; (5-1-94)
- l.** Lime plants; (5-1-94)
- m.** Phosphate rock processing plants; (5-1-94)
- n.** Coke oven batteries; (5-1-94)
- o.** Sulfur recovery plants; (5-1-94)
- p.** Carbon black plants (furnace process); (5-1-94)
- q.** Primary lead smelters; (5-1-94)
- r.** Fuel conversion plants; (5-1-94)
- s.** Sintering plants; (5-1-94)
- t.** Secondary metal production facilities; (5-1-94)
- u.** Chemical process plants; (5-1-94)
- v.** Fossil-fuel boilers (or combination thereof) of more than two hundred and fifty (250) million BTU's per hour heat input; (5-1-94)
- w.** Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels; (5-1-94)
- x.** Taconite ore processing facilities; (5-1-94)
- y.** Glass fiber processing plants; and (5-1-94)
- z.** Charcoal production facilities. (5-1-94)
- 31. Director.** The Director of the Department of Environmental Quality or his designee. (5-1-94)
- 32. Effective Dose Equivalent.** The sum of the products of absorbed dose and appropriate factors to account for differences in biological effectiveness due to the quality of radiation and its distribution in the body of reference man. The unit of the effective dose equivalent is the rem. It is generally calculated as an annual dose. (5-1-94)
- 33. Emission.** Any controlled or uncontrolled release or discharge into the outdoor atmosphere of any

air pollutants or combination thereof. Emission also includes any release or discharge of any air pollutant from a stack, vent, or other means into the outdoor atmosphere that originates from an emission unit. (5-1-94)

**34. Emission Standard.** A permit or regulatory requirement established by the Department or EPA which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction. (4-5-00)

**35. Emissions Unit.** An identifiable piece of process equipment or other part of a facility which emits or may emit any air pollutant. This definition does not alter or affect the term "unit" for the purposes of 42 U.S.C. Sections 7651 through 7651o. (5-1-94)

**36. EPA.** The United States Environmental Protection Agency and its Administrator or designee. (5-1-94)

**37. Environmental Remediation Source.** A stationary source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product or petroleum substance, any hazardous waste or hazardous substance from any soil, ground water or surface water, and shall have an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. Nothing in this definition shall be construed so as to actually limit remediation projects to five (5) years or less of total operation. (5-1-95)

**38. Excess Emissions.** Emissions that exceed an applicable emissions standard established for any facility, source or emissions unit by statute, regulation, rule, permit, or order. (4-11-06)

**39. Existing Stationary Source or Facility.** Any stationary source or facility that exists, is installed, or is under construction on the original effective date of any applicable provision of this chapter. (5-1-94)

**40. Facility.** All of the pollutant-emitting activities which belong to the same industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual. The fugitive emissions shall not be considered in determining whether a permit is required unless required by federal law. (4-11-06)

**41. Federal Class I Area.** Any federal land that is classified or reclassified "Class I." (3-30-07)

**42. Federal Land Manager.** The Secretary of the department with authority over the Federal Class I Area (or the Secretary's designee). (3-30-07)

**43. Federally Enforceable.** All limitations and conditions which are enforceable by EPA and the Department under the Clean Air Act, including those requirements developed pursuant to 40 CFR Parts 60 and 61 requirements within any applicable State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Parts 51, 52, 60, or 63. (3-30-07)

**44. Fire Hazard.** The presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare or adjacent lands. (5-1-94)

**45. Fuel-Burning Equipment.** Any furnace, boiler, apparatus, stack and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer. (5-1-94)

**46. Fugitive Dust.** Fugitive emissions composed of particulate matter. (5-1-94)

**47. Fugitive Emissions.** Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. (5-1-94)

**48. Garbage.** Any waste consisting of putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food including, but not limited to, waste materials from households, markets, storage facilities, handling and sale of produce and other food products. (5-1-94)

**49. Gasoline.** Any mixture of volatile hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motor boats. Gasoline also means aircraft engine fuels when used for the operation or propulsion of motor vehicles or motor boats and includes gasohol, but does not include special fuels. (4-1-09)T

**50. Gasoline Cargo Tank.** Any tank or trailer used for the transport of gasoline from sources of supply to underground gasoline storage tanks. (4-1-09)T

**51. Gasoline Dispensing Facility (GDF).** Any facility with underground gasoline storage tanks used for dispensing gasoline. (4-1-09)T

**4952. Grain Elevator.** Any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded. (5-1-94)

**503. Grain Storage Elevator.** Any grain elevator located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean extraction plant which has a permanent grain storage capacity of thirty five thousand two hundred (35,200) cubic meters (ca. 1 million bushels). (5-1-94)

**544. Grain Terminal Elevator.** Any grain elevator which has a permanent storage capacity of more than eighty-eight thousand one hundred (88,100) cubic meters (ca. 2.5 million bushels), except those located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feedlots. (5-1-94)

**525. Hazardous Air Pollutant (HAP).** Any air pollutant listed pursuant to Section 112(b) of the Clean Air Act. Hazardous Air Pollutants are regulated air pollutants. (4-11-06)

**536. Hazardous Waste.** Any waste or combination of wastes of a solid, liquid, semisolid, or contained gaseous form which, because of its quantity, concentration or characteristics (physical, chemical or biological) may: (5-1-94)

**a.** Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible, or incapacitating reversible illnesses; or (5-1-94)

**b.** Pose a substantial threat to human health or to the environment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitable, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties; provided that such wastes do not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are allowed under a national pollution discharge elimination system permit, or source, special nuclear, or by-product material as defined by 42 U.S.C. Sections 2014(e),(z) or (aa). (5-1-94)

**547. Hot-Mix Asphalt Plant.** Those facilities conveying proportioned quantities or batch loading of cold aggregate to a drier, and heating, drying, screening, classifying, measuring and mixing the aggregate and asphalt for the purpose of paving, construction, industrial, residential or commercial use. (5-1-94)

**558. Incinerator.** Any source consisting of a furnace and all appurtenances thereto designed for the destruction of refuse by burning. "Open Burning" is not considered incineration. For purposes of these rules, the destruction of any combustible liquid or gaseous material by burning in a flare stack shall be considered incineration. (5-1-94)

**569. Indian Governing Body.** The governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government. (5-1-94)

**5760. Integral Vista.** A view perceived from within the mandatory Class I Federal Area of a specific landmark or panorama located outside the boundary of the mandatory Class I Federal Area. (3-30-07)

**5861. Kraft Pulping.** Any pulping process which uses, for a cooking liquor, an alkaline sulfide solution containing sodium hydroxide and sodium sulfide. (5-1-94)

**5962. Least Impaired Days.** The average visibility impairment (measured in deciviews) for the twenty percent (20%) of monitored days in a calendar year with the lowest amount of visibility impairment. (3-30-07)

**603. Lowest Achievable Emission Rate (LAER).** For any source, the more stringent rate of emissions based on the following: (4-5-00)

**a.** The most stringent emissions limitation which is contained in any State Implementation Plan for such class or category of facility, unless the owner or operator of the proposed facility demonstrates that such limitations are not achievable; or (4-5-00)

**b.** The most stringent emissions limitation which is achieved in practice by such class or category of facilities. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the facility. In no event shall the application of the term permit a proposed new or modified facility to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance. (4-5-00)

**644. Mandatory Class I Federal Area.** Any area identified in 40 CFR 81.400 through 81.437. (3-30-07)

**625. Member of the Public.** For purposes of Subsection 006.103.a.xvi., a person located at any off-site point where there is a residence, school, business or office. (3-30-07)

**636. Modification.** (4-11-06)

**a.** Any physical change in, or change in the method of operation of, a stationary source or facility which results in an emission increase as defined in Section 007 or which results in the emission of any regulated air pollutant not previously emitted. (4-11-06)

**b.** Any physical change in, or change in the method of operation of, a stationary source or facility which results in an increase in the emissions rate of any state only toxic air pollutant, or emissions of any state only toxic air pollutant not previously emitted. (4-11-06)

**c.** Fugitive emissions shall not be considered in determining whether a permit is required for a modification unless required by federal law. (4-11-06)

**d.** For purposes of this definition of modification, routine maintenance, repair and replacement shall not be considered physical changes and the following shall not be considered a change in the method of operation: (3-30-07)

**i.** An increase in the production rate if such increase does not exceed the operating design capacity of the affected stationary source, and if a more restrictive production rate is not specified in a permit; (5-1-94)

**ii.** An increase in hours of operation if more restrictive hours of operation are not specified in a permit; and (5-1-94)

**iii.** Use of an alternative fuel or raw material if the stationary source is specifically designed to accommodate such fuel or raw material and use of such fuel or raw material is not specifically prohibited in a permit. (4-5-00)

**647. Monitoring.** Sampling and analysis, in a continuous or noncontinuous sequence, using techniques which will adequately measure emission levels and/or ambient air concentrations of air pollutants. (5-1-94)

**658. Most Impaired Days.** The average visibility impairment (measured in deciviews) for the twenty percent (20%) of monitored days in a calendar year with the highest amount of visibility impairment. (3-30-07)

**669. Multiple Chamber Incinerator.** Any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, consisting of three (3) or more refractory lined combustion furnaces in series physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate parameters necessary for maximum combustion of the material to be burned. (5-1-94)

**670. Natural Conditions.** Includes naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration. (3-30-07)

**6871. New Stationary Source or Facility.** (5-1-94)

**a.** Any stationary source or facility, the construction or modification of which is commenced after the original effective date of any applicable provision of this chapter; or (5-1-94)

**b.** The restart of a nonoperating facility shall be considered a new stationary source or facility if: (5-1-94)

**i.** The restart involves a modification to the facility; or (5-1-94)

**ii.** After the facility has been in a nonoperating status for a period of two (2) years, and the Department receives an application for a Permit to Construct in the area affected by the existing nonoperating facility, the Department will, within five (5) working days of receipt of the application notify the nonoperating facility of receipt of the application for a Permit to Construct. Upon receipt of this Departmental notification, the nonoperating facility will comply with the following restart schedule or be considered a new stationary source or facility when it does restart: Within thirty (30) working days after receipt of the Department's notification of the application for a Permit to Construct, the nonoperating facility shall provide the Department with a schedule detailing the restart of the facility. The restart must begin within sixty (60) days of the date the Department receives the restart schedule. (5-1-94)

**692. Nonattainment Area.** Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as not meeting (or contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant. (5-1-94)

**703. Noncondensibles.** Gases and vapors from processes that are not condensed at standard temperature and pressure unless otherwise specified. (5-1-94)

**714. Odor.** The sensation resulting from stimulation of the human sense of smell. (5-1-94)

**725. Opacity.** A state which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view, expressed as percent. (5-1-94)

**736. Open Burning.** The burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through a stack, duct or chimney. (5-1-94)

**747. Operating Permit.** A permit issued by the Director pursuant to Sections 300 through 386 and/or 400 through 461. (4-5-00)

**758. Particulate Matter.** Any material, except water in uncombined form, that exists as a liquid or a solid at standard conditions. (5-1-94)

**769. Particulate Matter Emissions.** All particulate matter emitted to the ambient air as measured by an applicable reference method, or any equivalent or alternative method in accordance with Section 157. (4-5-00)

- 7780. Permit to Construct.** A permit issued by the Director pursuant to Sections 200 through 228. (7-1-02)
- 7881. Person.** Any individual, association, corporation, firm, partnership or any federal, state or local governmental entity. (5-1-94)
- 7982. PM-10.** All particulate matter in the ambient air with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on Appendix J of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53. (5-1-94)
- 803. PM-10 Emissions.** All particulate matter, including condensible particulates, with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method in accordance with Section 157. (4-5-00)
- 814. Potential to Emit/Potential Emissions.** The maximum capacity of a facility or stationary source to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the facility or source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is state or federally enforceable. Secondary emissions do not count in determining the potential to emit of a facility or stationary source. (3-30-07)
- 825. Portable Equipment.** Equipment which is designed to be dismantled and transported from one (1) job site to another job site. (5-1-94)
- 836. PPM (parts per million).** Parts of a gaseous contaminant per million parts of gas by volume. (5-1-94)
- 847. Prescribed Fire Management Burning.** The controlled application of fire to wildland fuels in either their natural or modified state under such conditions of weather, fuel moisture, soil moisture, etc., as will allow the fire to be confined to a predetermined area and at the same time produce the intensity of heat and rate of spread required to accomplish planned objectives, including: (5-1-94)
- a. Fire hazard reduction; (5-1-94)
  - b. The control of pests, insects, or diseases; (5-1-94)
  - c. The promotion of range forage improvements; (5-1-94)
  - d. The perpetuation of natural ecosystems; (5-1-94)
  - e. The disposal of woody debris resulting from a logging operation, the clearing of rights of way, a land clearing operation, or a driftwood collection system; (5-1-94)
  - f. The preparation of planting and seeding sites for forest regeneration; and (5-1-94)
  - g. Other accepted natural resource management purposes. (5-1-94)
- 858. Primary Ambient Air Quality Standard.** That ambient air quality which, allowing an adequate margin of safety, is requisite to protect the public health. (5-1-94)
- 869. Process or Process Equipment.** Any equipment, device or contrivance for changing any materials whatever or for storage or handling of any materials, and all appurtenances thereto, including ducts, stack, etc., the use of which may cause any discharge of an air pollutant into the ambient air but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment. (5-1-94)
- 8790. Process Weight.** The total weight of all materials introduced into any source operation which may

cause any emissions of particulate matter. Process weight includes solid fuels charged, but does not include liquid and gaseous fuels charged or combustion air. Water which occurs naturally in the feed material shall be considered part of the process weight. (5-1-94)

**8891. Process Weight Rate.** The rate established as follows: (5-1-94)

**a.** For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof; (4-5-00)

**b.** For cyclical or batch source operations, the total process weight for a period that covers a complete cycle of operation or an integral number of cycles, divided by the hours of actual process operation during such a period. Where the nature of any process or operation or the design of any equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply. (4-5-00)

**892. Quantifiable.** The Department must be able to determine the emissions impact of any SIP trading programs requirement(s) or emission limit(s). (4-5-00)

**903. Radionuclide.** A type of atom which spontaneously undergoes radioactive decay. (5-1-94)

**914. Regional Haze.** Visibility impairment that is caused by the emission of air pollutants from numerous sources located over a wide geographic area. Such sources include, but are not limited to, major and minor stationary sources, mobile sources, and area sources. (3-30-07)

**925. Regulated Air Pollutant.** (4-11-06)

**a.** For purposes of determining applicability of major source permit to operate requirements, issuing, and modifying permits pursuant to Sections 300 through 397, and in accordance with Title V of the federal Clean Air Act amendments of 1990, 42 U.S.C. Section 7661 et seq., "regulated air pollutant" shall have the same meaning as in Title V of the federal Clean Air Act amendments of 1990, and any applicable federal regulations promulgated pursuant to Title V of the federal Clean Air Act amendments of 1990, 40 CFR Part 70; (4-11-06)

**b.** For purposes of determining applicability of any other operating permit requirements, issuing, and modifying permits pursuant to Sections 400 through 410, the federal definition of "regulated air pollutant" as defined in Subsection 006.94.a. shall also apply; (3-30-07)

**c.** For purposes of determining applicability of permit to construct requirements, issuing, and modifying permits pursuant to Sections 200 through 228, except Section 214, and in accordance with Part D of Subchapter I of the federal Clean Air Act, 42 U.S.C. Section 7501 et seq., "regulated air pollutant" shall mean those air contaminants that are regulated in non-attainment areas pursuant to Part D of Subchapter I of the federal Clean Air Act and applicable federal regulations promulgated pursuant to Part D of Subchapter I of the federal Clean Air Act, 40 CFR 51.165; and (4-11-06)

**d.** For purposes of determining applicability of any other major or minor permit to construct requirements, issuing, and modifying permits pursuant to 200 through 228, except Section 214, "regulated air pollutant" shall mean those air contaminants that are regulated in attainment and unclassifiable areas pursuant to Part C of Subchapter I of the federal Clean Air Act, 40 CFR 52.21, and any applicable federal regulations promulgated pursuant to Part C of Subchapter I of the federal Clean Air Act, 42 U.S.C. Section 7470 et seq. (4-11-06)

**936. Replicable.** Any SIP procedures for applying emission trading shall be structured so that two (2) independent entities would obtain the same result when determining compliance with the emission trading provisions. (4-5-00)

**947. Responsible Official.** One (1) of the following: (5-1-94)

**a.** For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of

a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one (1) or more manufacturing, production, or operating facilities applying for or subject to a permit and either: (5-1-94)

i. The facilities employ more than two hundred fifty (250) persons or have gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000) (in second quarter 1980 dollars); or (4-5-00)

ii. The delegation of authority to such representative is approved in advance by the Department. (5-1-94)

b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively. (5-1-94)

c. For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of Section 123, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA). (4-5-00)

d. For Phase II sources: (5-1-94)

i. The designated representative in so far as actions, standards, requirements, or prohibitions under 42 U.S.C. Sections 7651 through 7651o or the regulations promulgated thereunder are concerned; and (5-1-94)

ii. The designated representative for any other purposes under 40 CFR Part 70. (5-1-94)

**958. Safety Measure.** Any shutdown (and related startup) or bypass of equipment or processes undertaken to prevent imminent injury or death or severe damage to equipment or property which may cause excess emissions. (4-5-00)

**969. Salvage Operation.** Any source consisting of any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers, or drums, and specifically including automobile graveyards and junkyards. (5-1-94)

**97100. Scheduled Maintenance.** Planned upkeep, repair activities and preventative maintenance on any air pollution control equipment or emissions unit, including process equipment, and including shutdown and startup of such equipment. (3-20-97)

**98101. Secondary Ambient Air Quality Standard.** That ambient air quality which is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of air pollutants in the ambient air. (5-1-94)

**99102. Secondary Emissions.** Emissions which would occur as a result of the construction, modification, or operation of a stationary source or facility, but do not come from the stationary source or facility itself. Secondary emissions must be specific, well defined, quantifiable, and affect the same general area as the stationary source, facility, or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the primary stationary source, facility or modification. Secondary emissions do not include any emissions which come directly from a mobile source regulated under 42 U.S.C. Sections 7521 through 7590. (3-30-07)

**1003. Shutdown.** The normal and customary time period required to cease operations of air pollution control equipment or an emissions unit beginning with the initiation of procedures to terminate normal operation and continuing until the termination is completed. (5-1-94)

**1044. Significant.** In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following: (4-11-06)



- a. Pollutant and emissions rate: (4-11-06)
    - i. Carbon monoxide, one hundred (100) tons per year; (5-1-94)
    - ii. Nitrogen oxides, forty (40) tons per year; (5-1-94)
    - iii. Sulfur dioxide, forty (40) tons per year; (5-1-94)
    - iv. Particulate matter, twenty-five (25) tons per year of particulate matter emissions; fifteen (15) tons per year of PM<sub>10</sub> emissions; (4-11-06)
    - v. Ozone, forty (40) tons per year of volatile organic compounds; (4-11-06)
    - vi. Lead, six-tenths (0.6) of a ton per year; (5-1-94)
    - vii. Fluorides, three (3) tons per year; (5-1-94)
    - viii. Sulfuric acid mist, seven (7) tons per year; (5-1-94)
    - ix. Hydrogen sulfide (H<sub>2</sub>S), ten (10) tons per year; (5-1-94)
    - x. Total reduced sulfur (including H<sub>2</sub>S), ten (10) tons per year; (5-1-94)
    - xi. Reduced sulfur compounds (including H<sub>2</sub>S), ten (10) tons per year; (5-1-94)
    - xii. Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans), thirty-five ten-millionths (0.0000035) tons per year; (5-1-94)
    - xiii. Municipal waste combustor metals (measured as particulate matter), fifteen (15) tons per year; (5-1-94)
    - xiv. Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride), forty (40) tons per year; (5-1-94)
    - xv. Municipal solid waste landfill emissions (measured as nonmethane organic compounds), fifty (50) tons per year; or (4-11-06)
    - xvi. Radionuclides, a quantity of emissions, from source categories regulated by 40 CFR Part 61, Subpart H, that have been determined in accordance with 40 CFR Part 61, Appendix D and by Department approved methods, that would cause any member of the public to receive an annual effective dose equivalent of at least one tenth (0.1) mrem per year, if total facility-wide emissions contribute an effective dose equivalent of less than three (3) mrem per year; or any radionuclide emission rate, if total facility-wide radionuclide emissions contribute an effective dose equivalent of greater than or equal to three (3) mrem per year. (5-1-95)
  - b. In reference to a net emissions increase or the potential of a source or facility to emit a regulated air pollutant not listed in Subsection 006.103.a. above and not a toxic air pollutant, any emission rate; or (3-30-07)
  - c. For a major facility or major modification which would be constructed within ten (10) kilometers of a Class I area, the emissions rate which would increase the ambient concentration of an emitted regulated air pollutant in the Class I area by one (1) microgram per cubic meter, twenty-four (24) hour average, or more. (4-5-00)
- 1025. Significant Contribution.** Any increase in ambient concentrations which would exceed the following: (5-1-94)
- a. Sulfur dioxide: (5-1-94)

- i. One (1.0) microgram per cubic meter, annual average; (5-1-94)
- ii. Five (5) micrograms per cubic meter, twenty-four (24) hour average; (5-1-94)
- iii. Twenty-five (25) micrograms per cubic meter, three (3) hour average; (5-1-94)
- b.** Nitrogen dioxide, one (1.0) microgram per cubic meter, annual average; (5-1-94)
- c.** Carbon monoxide: (5-1-94)
  - i. One-half (0.5) milligrams per cubic meter, eight (8) hour average; (5-1-94)
  - ii. Two (2) milligrams per cubic meter, one (1) hour average; (5-1-94)
- d.** PM-10: (5-1-94)
  - i. One (1.0) microgram per cubic meter, annual average; (5-1-94)
  - ii. Five (5.0) micrograms per cubic meter, twenty-four (24) hour average. (5-1-94)

**1036. Small Fire.** A fire in which the material to be burned is not more than four (4) feet in diameter nor more than three (3) feet high. (5-1-94)

**1047. Smoke.** Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible material. (5-1-94)

**1058. Smoke Management Plan.** A document issued by the Director to implement Sections 606 through 616, Categories of Allowable Burning. (5-1-94)

**1062. Smoke Management Program.** A program whereby meteorological information, fuel conditions, fire behavior, smoke movement and atmospheric dispersal conditions are used as a basis for scheduling the location, amount and timing of open burning operations so as to minimize the impact of such burning on identified smoke sensitive areas. (5-1-94)

**10710. Source.** A stationary source. (5-1-94)

**10811. Source Operation.** The last operation preceding the emission of air pollutants, when this operation: (5-1-94)

**a.** Results in the separation of the air pollutants from the process materials or in the conversion of the process materials into air pollutants, as in the case of fuel combustion; and (5-1-94)

**b.** Is not an air cleaning device. (5-1-94)

**112. Special Fuels.** All fuel suitable as fuel for diesel engines; a compressed or liquefied gas obtained as a by-product in petroleum refining or natural gasoline manufacture, such as butane, isobutane, propane, propylene, butylenes, and their mixtures; and natural gas, either liquid or gas, and hydrogen, used for the generation of power for the operation or propulsion of motor vehicles. (4-1-09)T

**10913. Stack.** Any point in a source arranged to conduct emissions to the ambient air, including a chimney, flue, conduit, or duct but not including flares. (5-1-94)

**114. Stage 1 Vapor Collection.** Used during the refueling of underground gasoline storage tanks to reduce hydrocarbon emissions. Vapors in the tank, which are displaced by the incoming gasoline, are routed through a hose into the gasoline cargo tank and returned to the terminal for processing. Two (2) types of Stage 1 systems exist: coaxial and dual point. (4-1-09)T

**a.** Coaxial System. A Stage 1 vapor collection system that requires only one (1) tank opening. The tank opening is usually four (4) inches in diameter with a three (3) inch diameter product fill tube inserted into the opening. Fuel flows through the inner tube while vapors are displaced through the annular space between the inner and outer tubes. (4-1-09)T

**b.** Dual Point System. A Stage 1 vapor collection system that consists of two (2) separate tank openings, one (1) for delivery of the product and the other for the recovery of vapors. (4-1-09)T

**1105. Standard Conditions.** Except as specified in Subsection 576.02 for ambient air quality standards, a dry gas temperature of twenty degrees Celsius (20C) sixty-eight degrees Fahrenheit (68F) and a gas pressure of seven hundred sixty (760) millimeters of mercury (14.7 pounds per square inch) absolute. (4-5-00)

**1146. Startup.** The normal and customary time period required to bring air pollution control equipment or an emissions unit, including process equipment, from a nonoperational status into normal operation. (5-1-94)

**1127. Stationary Source.** Any building, structure, facility, emissions unit, or installation which emits or may emit any air pollutant. The fugitive emissions shall not be considered in determining whether a permit is required unless required by federal law. (4-11-06)

**1138. Tier I Source.** Any of the following: (5-1-94)

**a.** Any source located at any major facility as defined in Section 008; (4-5-00)

**b.** Any source, including an area source, subject to a standard, limitation, or other requirement under 42 U.S.C. Section 7411 or 40 CFR Part 60, and required by EPA to obtain a Part 70 permit; (4-11-06)

**c.** Any source, including an area source, subject to a standard or other requirement under 42 U.S.C. Section 7412, 40 CFR Part 61 or 40 CFR Part 63, and required by EPA to obtain a Part 70 permit, except that a source is not required to obtain a permit solely because it is subject to requirements under 42 U.S.C. Section 7412(r); (4-11-06)

**d.** Any Phase II source; and (5-1-94)

**e.** Any source in a source category designated by the Department. (5-1-94)

**1149. Total Suspended Particulates.** Particulate matter as measured by the method described in 40 CFR 50 Appendix B. (4-5-00)

**11520. Toxic Air Pollutant.** An air pollutant that has been determined by the Department to be by its nature, toxic to human or animal life or vegetation and listed in Section 585 or 586. (5-1-94)

**11621. Toxic Air Pollutant Carcinogenic Increments.** Those ambient air quality increments based on the probability of developing excess cancers over a seventy (70) year lifetime exposure to one (1) microgram per cubic meter (1 ug/m<sup>3</sup>) of a given carcinogen and expressed in terms of a screening emission level or an acceptable ambient concentration for a carcinogenic toxic air pollutant. They are listed in Section 586. (5-1-94)

**11722. Toxic Air Pollutant Non-carcinogenic Increments.** Those ambient air quality increments based on occupational exposure limits for airborne toxic chemicals expressed in terms of a screening emission level or an acceptable ambient concentration for a non-carcinogenic toxic air pollutant. They are listed in Section 585. (5-1-94)

**11823. Toxic Substance.** Any air pollutant that is determined by the Department to be by its nature, toxic to human or animal life or vegetation. (5-1-94)

**11924. Trade Waste.** Any solid, liquid or gaseous material resulting from the construction or demolition of any structure, or the operation of any business, trade or industry including, but not limited to, wood product industry waste such as sawdust, bark, peelings, chips, shavings and cull wood. (5-1-94)

**1205.** **TRS (Total Reduced Sulfur).** Hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide and any other organic sulfide present. (5-1-94)

**1246.** **Unclassifiable Area.** An area which, because of a lack of adequate data, is unable to be classified pursuant to 42 U.S.C. Section 7407(d) as either an attainment or a nonattainment area. (5-1-94)

**1227.** **Uncontrolled Emission.** An emission which has not been treated by control equipment. (5-1-94)

**1238.** **Upset.** An unplanned disruption in the normal operations of any equipment or emissions unit which may cause excess emissions. (4-5-00)

**1249.** **Visibility Impairment.** Any humanly perceptible change in visibility (light extinction, visual range, contrast, coloration) from that which would have existed under natural conditions. (3-30-07)

**12530.** **Visibility in Any Mandatory Class I Federal Area.** Includes any integral vista associated with that area. (3-30-07)

**12631.** **Wigwam Burner.** Wood waste burning devices commonly called teepee burners, silos, truncated cones, and other such burners commonly used by the wood product industry for the disposal by burning of wood wastes. (5-1-94)

**12732.** **Wood Stove Curtailment Advisory.** An air pollution alert issued through local authorities and/or the Department to limit wood stove emissions during air pollution episodes. (5-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

~~592. — 599. (RESERVED).~~

**592. STAGE 1 VAPOR COLLECTION.**

The purpose of Sections 592 through 598 is to set forth requirements for Stage 1 vapor collection systems. Section 599 sets forth the requirements for gasoline cargo tanks that deliver gasoline to those required to install and operate Stage 1 vapor collection systems. These sections apply to gasoline dispensing facilities (GDF) and gasoline cargo tanks in Ada and Canyon Counties only. Nothing in these rules is intended to supersede or render inapplicable any federal, state, or local laws, including, but not limited to, the National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities, 40 CFR Part 63, Subpart CCCCCC, of the federal Clean Air Act. (4-1-09)T

**593. AFFECTED EQUIPMENT OR PROCESSES.**

**01. Applicability.** Sections 592 through 598 apply to transfers of gasoline to underground storage tanks with a tank capacity of ten thousand (10,000) gallons and not otherwise subject to 40 CFR 63.11118. The emission sources include the underground gasoline storage tanks and associated equipment components in vapor or liquid gasoline service at new, reconstructed, or existing GDFs. Pressure/vacuum vents on underground gasoline storage tanks and the equipment necessary to unload product from cargo tanks into the storage tanks at GDFs are covered emission sources. (4-1-09)T

**02. New Sources.** A source is a new source if construction commenced on the source after April 1, 2009. (4-1-09)T

**03. Reconstructed Sources.** A source is reconstructed if meeting the criteria for reconstruction as defined in 40 CFR 63.2, incorporated by reference into these rules at Section 107. (4-1-09)T

**04. Existing Sources.** A source is an existing source if it is not new or reconstructed. (4-1-09)T

**594. COMPLIANCE DATES.**

**01. New or Reconstructed Sources.** For a new or reconstructed source, the owner or operator must comply with the standards in Sections 595 and 596 no later than April 1, 2009 or upon startup, whichever is later. Owners or operators of new sources shall install dual point systems. (4-1-09)T

**02. Existing Sources.** For an existing source, the owner or operator must comply with the standards in Sections 595 and 596 upon installation of the Stage 1 vapor collection system, or by May 1, 2010, whichever is earlier. (4-1-09)T

**595. SUBMERGED FILL REQUIREMENTS.**

The owner or operator must only load gasoline into underground storage tanks at the facility by utilizing submerged filling. (4-1-09)T

**01. Installed On or Before November 9, 2006.** Submerged fill pipes installed on or before November 9, 2006 must be no more than twelve (12) inches from the bottom of the storage tank. (4-1-09)T

**02. Installed After November 9, 2006.** Submerged fill pipes installed after November 9, 2006 must be no more than six (6) inches from the bottom of the storage tank. (4-1-09)T

**596. VAPOR BALANCE REQUIREMENTS.**

The owner or operator of a GDF must comply with the following requirements on and after the applicable compliance date in Section 594: (4-1-09)T

**01. Loading.** When loading an underground gasoline storage tank equipped with a vapor balance system, connect and ensure the proper operation of the vapor balance system whenever gasoline is being loaded. (4-1-09)T

**02. Maintenance.** Maintain all equipment associated with the vapor balance system to be vapor tight and in good working order. (4-1-09)T

**03. Inspection.** In order to ensure that the vapor balance equipment is maintained to be vapor tight and in good working order, inspect the vapor balance equipment on an annual basis to discover potential or actual equipment failures. A log form is available on the Department's website at [www.deq.idaho.gov](http://www.deq.idaho.gov). (4-1-09)T

**04. Repair.** Replace, repair or modify any worn or ineffective component or design element within twenty-four (24) hours to ensure the vapor-tight integrity and efficiency of the vapor balance system. If repair parts must be ordered, either a written or verbal order for those parts must be initiated within two (2) working days of detecting such a leak. Such repair parts must be installed within five (5) working days after receipt. (4-1-09)T

**597. TESTING AND MONITORING REQUIREMENTS.**

The owner or operator of a GDF must comply with the following requirements within ninety (90) days of registration under Section 598 and every three (3) years thereafter. (4-1-09)T

**01. Testing.** (4-1-09)T

**a. The owner or operator must demonstrate compliance with the leak rate and cracking pressure requirements, specified in item 1(g) of Table 1 to 40 CFR Part 63, Subpart CCCCCC, incorporated by reference into these rules at Section 107, for pressure-vacuum vent valves installed on underground gasoline storage tanks using the test methods identified in Subsection 597.01.a.i. or 597.01.a.ii.** (4-1-09)T

**i. California Air Resources Board Vapor Recovery Test Procedure TP-201.1E.--Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, adopted October 8, 2003 (see 40 CFR 63.14, incorporated by reference into these rules at Section 107).** (4-1-09)T

**ii. Use alternative test methods and procedures in accordance with the alternative test method requirements in 40 CFR 63.7(f), incorporated by reference into these rules at Section 107.** (4-1-09)T

**b.** The owner or operator must demonstrate compliance with the static pressure performance requirement, specified in item 1(h) of Table 1 to 40 CFR Part 63, Subpart CCCCCC, for the vapor balance system by conducting a static pressure test on the underground gasoline storage tanks using the test methods identified in paragraph 597.01.b.i. or 597.01.b.ii. (4-1-09)T

**i.** California Air Resources Board Vapor Recovery Test Procedure TP-201.3.--Determination of 2-Inch WC Static Pressure Performance of Vapor Recovery Systems of Dispensing Facilities, adopted April 12, 1996, and amended March 17, 1999 (see 40 CFR 63.14, incorporated by reference into these rules at Section 107). (4-1-09)T

**ii.** Use alternative test methods and procedures in accordance with the alternative test method requirements in 40 CFR 63.7(f), incorporated by reference into these rules at Section 107. (4-1-09)T

**02. Alternative Testing.** The owner or operator of a GDF, choosing, under the provisions of 40 CFR 63.6(g), to use a vapor balance system other than that described in Table 1 to 40 CFR Part 63, Subpart CCCCCC, must demonstrate to the Department the equivalency of their vapor balance system to that described in Table 1 to 40 CFR Part 63, Subpart CCCCCC, using the procedures specified in Subsections 597.02.a. and 597.02.b. (4-1-09)T

**a.** The owner or operator must demonstrate compliance by conducting a performance test on the vapor balance system to demonstrate that the vapor balance system achieves 95 percent reduction using the California Air Resources Board Vapor Recovery Test Procedure TP-201.1.--Volumetric Efficiency for Phase I Vapor Recovery Systems, adopted April 12, 1996, and amended February 1, 2001, and October 8, 2003, (see 40 CFR 63.14, incorporated by reference into these rules at Section 107). (4-1-09)T

**b.** The owner or operator must, during the performance test required under Subsection 597.02.a., determine and document alternative acceptable values for the leak rate and cracking pressure requirements specified in item 1(g) of Table 1 to 40 CFR Part 63, Subpart CCCCCC, and for the static pressure performance requirement in item 1(h) of Table 1 to 40 CFR Part 63, Subpart CCCCCC. (4-1-09)T

**598. REGISTRATION, RECORDKEEPING, AND REPORTING REQUIREMENTS.**

**01. Registration.** (4-1-09)T

**a.** Any GDF subject to these rules shall: (4-1-09)T

**i.** Within thirty (30) days of installation of the Stage 1 vapor collection system, the owner or operator of the GDF shall submit to the Department a registration which provides, at a minimum, the operation name and address, signature of the owner or operator in accordance with Section 123 of these rules, the location of records and reports required by Subsections 598.02 and 598.03 (including contact person's name, address and telephone number), the number of underground gasoline storage tanks, the number of gasoline tank pipe vents, and the date of completion of installation of the Stage 1 vapor collection system and pressure/vacuum relief valve; and (4-1-09)T

**ii.** The registration certification shall be displayed at the GDF. (4-1-09)T

**b.** Upon modification of an existing Stage 1 vapor collection system or pressure/vacuum relief valve, the owner or operator of the GDF shall submit to the Department a registration that details the changes to the information provided in the previous registration and which includes the signature of the owner or operator. The registration must be submitted to the Department within thirty (30) days after completion of such modification. (4-1-09)T

**c.** A new registration must be submitted to the Department within thirty (30) days after any change in ownership of the GDF. (4-1-09)T

**02. Recordkeeping Requirements.** (4-1-09)T

**a.** Each owner or operator must keep the following records: (4-1-09)T

- i. Records of all tests performed under Section 597; (4-1-09)T
  - ii. Records related to the operation and maintenance of vapor balance equipment required under Section 596. Any vapor balance component defect must be logged and tracked by station personnel on a monthly basis using forms provided by the Department or a reasonable facsimile; and (4-1-09)T
  - iii. Records of permanent changes made at the GDF and vapor balance equipment which may affect emissions. (4-1-09)T
- b.** Records required under 598.02.a. must be kept for a period of five (5) years and must be made available for inspection by the Department upon request. (4-1-09)T

**03. Reporting Requirements.** Each owner or operator subject to the management practices in Section 596 must report to the Department the results of all volumetric efficiency tests required under Section 597. Reports submitted under these rules must be submitted within thirty (30) days of the completion of the performance testing. (4-1-09)T

**599. GASOLINE CARGO TANKS.**

**01. Prohibitions.** After May 1, 2010, or if a Stage 1 vapor collection system is installed and operating, whichever is earlier, owners or operators of gasoline cargo tanks that unload gasoline into an underground gasoline storage tank with a capacity of ten thousand (10,000) gallons or more, in Ada or Canyon Counties, shall comply with Table 2 to 40 CFR Part 63, Subpart CCCCCC, incorporated by reference into these rules at Section 107. Table 2 requires that the following conditions are met prior to unloading the gasoline; (4-1-09)T

- a.** All hoses in the vapor balance system are properly connected; (4-1-09)T
- b.** The adapters or couplers that attach to the vapor line on the storage tank have closures that seal upon disconnect; (4-1-09)T
- c.** All vapor return hoses, couplers, and adapters used in the gasoline delivery are vapor-tight; (4-1-09)T
- d.** All tank truck vapor return equipment is compatible in size and forms a vapor-tight connection with the vapor balance equipment on the GDF storage tank; and (4-1-09)T
- e.** All hatches on the tank truck are closed and securely fastened. (4-1-09)T
- f.** The filling of storage tanks at GDF shall be limited to unloading by vapor-tight gasoline cargo tanks. Documentation that the cargo tank has met the specifications of EPA Method 27 (40 CFR Part 60, Appendix A-8, incorporated by reference into these rules at Section 107), shall be carried on the cargo tank. (4-1-09)T

**02. Compliance.** The owner or operator of a gasoline cargo tank subject to Section 599 shall ensure compliance with Table 2 to 40 CFR Part 63, Subpart CCCCCC, by visually inspecting the requirements set out in Subsections 599.01.a., b., d., and e. and by successfully completing the testing requirements set out in Subsections 599.01.c. and f. (4-1-09)T

**03. Recordkeeping and Reporting.** (4-1-09)T

- a.** The owner or operator of the gasoline cargo tank subject to Section 599 shall maintain records of all certification testing and repairs. The records must identify the gasoline cargo tank; the date of the test or repair; and if applicable, the type of repair and the date of retest. The records must be maintained in a legible, readily available condition for at least two (2) years after the date of testing or repair was completed and must be available for inspection by the Department upon request. (4-1-09)T
- b.** Copies of all tests required under Subsection 599.01 shall be submitted to the Department within thirty (30) days of certification testing. (4-1-09)T

# IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0902

### NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality, Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Sections 39-105 and 39-107.

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

**MEETING SCHEDULE:** The negotiated rulemaking meeting will be held as follows. Additional meetings may be scheduled if necessary. For information regarding participation by telephone or scheduling of additional meetings, contact the undersigned. Requests to participate by telephone must be made by April 10, 2009.

**TUESDAY, APRIL 14, 2009, 9 A.M. TO 12 NOON**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**Conference Room D**

**1410 N. Hilton, Boise, Idaho**

**DESCRIPTIVE SUMMARY:** The Rules for the Control of Air Pollution in Idaho limit, for fuel burning sources, the amount of sulfur allowed in residual fuel oil, distillate fuel oil, and coal. This limits the flexibility of industries to use less expensive alternative fuels with higher sulfur contents. DEQ is initiating this negotiated rulemaking to allow industries a less expensive alternative to current fuels with no additional environmental impact.

A preliminary draft rule will not be drafted prior to the negotiated rulemaking meeting. The text of the rule will be drafted by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Revisions resulting from this negotiated rulemaking may allow for higher sulfur content fuels to be used in fuel burning equipment in Idaho as long as the resulting emissions are at levels equal to or lower than those provided for in the existing rules.

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 regulation of air emissions from sources in Idaho may be interested in participating in this rulemaking.

Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the summer of 2009.

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440, martin.bauer@deq.idaho.gov.

For those who cannot participate by attending the scheduled meeting, written comments may be submitted by mail, fax or e-mail at the address below. For information regarding submission of written comments on drafts of the negotiated rule, to receive copies of submitted written comments, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 5th day of March, 2009.

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



# IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.16 - WASTEWATER RULES

DOCKET NO. 58-0116-0802

### NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

**EFFECTIVE DATE:** The temporary rule is effective April 1, 2009.

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule. This action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

**DESCRIPTIVE SUMMARY:** The Department of Environmental Quality (DEQ) has initiated this rulemaking to allow for the creation of a combined very small wastewater treatment and collection system classification for communities with 500 connections or less. Operators struggle with obtaining the various licenses currently required for the different aspects of very small facility operation. This difficulty in obtaining more than one license results in there being too few properly licensed operators. This lack of properly licensed operators places the facilities in danger of being out of compliance with the rules that require they use the services of properly licensed operators. Smaller systems, due to their relative simplicity of operation, are good candidates for operation by individuals with combined licenses.

Associated with this rulemaking is the need for the Idaho Bureau of Occupational Licenses (IBOL) to establish a very small wastewater system operator license. DEQ is working with IBOL to coordinate rulemaking activities.

Cities, water and sewer districts, homeowner associations, private wastewater contractors, operators, the Association of Idaho Cities, the Idaho Rural Water Association, and the Pacific Northwest Clean Water Association - Idaho Sections (North Idaho, Southeast and Southwest Idaho Operator Sections) may be interested in participating in this rulemaking.

The Legislative Services Office has imposed a moratorium which prohibits agencies from initiating proposed rulemaking during the legislative session. DEQ intends to initiate proposed rulemaking by publishing this rule in the Idaho Administrative Bulletin once the moratorium has been lifted.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is necessary in order to confer a benefit. DEQ has received approval from the Governor's office for temporary adoption of the rule in order to confer the following benefits to the citizens of the state of Idaho:

- (1) The rule allows for the creation of a combined very small wastewater treatment and collection system classification, benefiting owners and operators by reducing the number of licenses necessary to operate small wastewater systems.
- (2) It is expensive for owners of small public wastewater systems to achieve compliance with the current wastewater system classification structure. Adoption of a temporary rule will allow numerous small public wastewater system owners the ability to quickly come into compliance by gathering and expending fewer funds.
- (3) The rule will reduce the number of noncompliant systems by making compliance with the licensure requirement less burdensome. DEQ will achieve greater administrative efficiencies and expend fewer funds enforcing the requirement.

**IDAHO CODE SECTION 39-107D STATEMENT:** This rule does regulate an activity not regulated by the federal government. There is no federal law or regulation comparable to the provisions governing wastewater treatment and collection system classification 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.

**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.

**NEGOTIATED RULEMAKING:** The text of the 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 December 3, 2008, the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol. 08-12, pages 123 through 124, and a preliminary draft rule was made available for public review. One meeting was held on December 16, 2008. Members of the public participated in this negotiated rulemaking process by attending the meeting.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this rulemaking, contact Ester Ceja at ester.ceja@deq.idaho.gov, (208)373-0585.

DATED this 13th day of February, 2009.

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. 58-0116-0802**

**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. For the purpose of this definition, "adequate" shall be defined as twice the estimated emergency response time multiplied by the daily 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. 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)

**04. 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)

**05. Board.** The Idaho Board of Environmental Quality. (4-11-06)

**06. 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. 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. 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. Compliance Schedule or Schedule of Compliance.** A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard. (4-11-06)

**10. Department.** The Idaho Department of Environmental Quality. (4-11-06)

**11. Design Flow.** The critical flow used for steady-state wasteload allocation modeling. (4-11-06)

**12. 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. Director.** The Director of the Idaho Department of Environmental Quality or his authorized agent. (4-11-06)

**14. 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. Disinfection.** A method of reducing the pathogenic or objectionable organisms by means of chemicals or other acceptable means. (4-11-06)

**16. 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)

**17. Effluent.** Any wastewater discharged from a treatment facility. (4-11-06)

**18. 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 is for Department grant and loan projects, but can be used in part or in whole as a guide. (3-30-07)

**19. EPA.** The United States Environmental Protection Agency. (4-11-06)

**20. 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)

- 21. 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)
- 22. Geometric Mean.** The geometric mean of “n” quantities is the “nth” root of the product of the quantities. (4-11-06)
- 23. 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)
- 24. 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)
- 25. 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)
- 26. 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)
- 27. 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)
- 28. Material Modification.** Material modifications are those that are intended to increase system capacity or to alter the methods or processes employed. (4-11-06)
- 29. 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)
- 30. 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)
- 31. National Pollutant Discharge Elimination System (NPDES).** Point source permitting program established pursuant to Section 402 of the federal Clean Water Act. (4-11-06)
- 32. 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)
- 33. 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)
- 34. 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)
- 35. Nutrients.** The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. (4-11-06)
- 36. 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)

**37. 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)

**38. 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)

**39. 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)

**40. 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)

**41. 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)

**42. 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)

**43. Potable Water.** A water which is free from impurities in such amounts that it is safe for human consumption without treatment. (4-11-06)

**44. Potable Mains.** Pipelines that deliver potable water to multiple service connections. (3-30-07)

**45. Potable Service.** Pipelines that convey potable water from a connection to the potable water main across private property to individual consumers. (3-30-07)

**46. Preliminary Engineering Report.** The Preliminary Engineering Report 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 Engineering Reports are generally project specific as opposed to an overall system-wide plan, such as a Facility Plan. (3-30-07)

**47. 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)

**48. Private Community Municipal Wastewater Treatment Plant.** A wastewater facility that treats municipal wastewater from a private community or subdivision. 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)

**49. Public Wastewater System or Wastewater System.** *For purposes of Sections 202 through 204, a*

A public wastewater system or wastewater system is any publicly or privately owned collection system or treatment system that generates, collects, ~~or treats, or disposes of~~ 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;~~ (4-1-09)T

a. ~~a~~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.~~ (4-1-09)T

b. ~~This definition also does not include a~~Any industrial or other nonmunicipal wastewater system which is covered under Section 401 of these rules. (3-30-07)(4-1-09)T

**50. 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)

**51. Receiving Waters.** Those waters which receive pollutants from point or nonpoint sources. (4-11-06)

**52. Recharge.** The process of adding water to the zone of saturation. (4-11-06)

**53. Recharge Water.** Water that is specifically utilized for the purpose of adding water to the zone of saturation. (4-11-06)

**54. 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)

**55. 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)

**56. 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)

**57. 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)

**58. 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)

**59. 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 400.01.b. of these rules, the qualified Idaho licensed professional engineer is also the reviewing authority. (3-30-07)

**60. 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)

**61. 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)

**62. 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)

**63. 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)

**64. Sludge.** The semi-liquid mass produced and removed by the wastewater treatment process. (3-30-07)

**65. 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)

**66. State.** The state of Idaho. (4-11-06)

**67. 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)

**68. 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)

**69. 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)

**70. Treatment.** A process or activity conducted for the purpose of removing pollutants from wastewater. (4-11-06)

**71. 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)

**72. User.** Any person served by a public wastewater system. (4-11-06)

**73. Very Small Wastewater System.** A public wastewater system that serves five hundred (500) connections or less and includes a collection system with a system size of six (6) points or less on the system classification rating form (Section 202) and is limited to only one (1) of the following wastewater treatment processes: (4-1-09)T

- a. Aerated lagoons:** (4-1-09)T
- b. Non-aerated lagoon(s):** (4-1-09)T
- c. Primary treatment; or** (4-1-09)T
- d. Primary treatment discharging to a large soil absorption system (LSAS).** (4-1-09)T

**734. 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. (4-11-06)

**745. Wastewater Lagoon.** Manmade impoundments for the purpose of storing or treating wastewater. (4-11-06)

**756. Wastewater Pipelines.** The pipelines that collect and convey non-potable discharges from or to multiple service connections. (4-11-06)

**767. 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)

**778. 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)

**789. 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)

**790. 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)

**801. 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)

**812. Watershed.** The land area from which water flows into a stream or other body of water which drains the area. (4-11-06)

**(BREAK IN CONTINUITY OF SECTIONS)**

**202. CLASSIFICATION OF PUBLIC WASTEWATER SYSTEMS.**

**01. Classification Requirement.** All public wastewater systems shall be classified based on indicators



of potential health risks.

(4-11-06)

a. Classification rating forms developed in accordance with the criteria in Subsection 202.02 must be completed by the public wastewater system owner or designee for every public wastewater treatment system and wastewater collection system no later than July 1, 2008. Public wastewater treatment and wastewater collection system owners or designee shall submit additional classification rating forms at five (5) year intervals detailing existing conditions or when directed by the Department to submit a revised classification rating form.

~~(4-11-06)~~(4-1-09)T

b. The Department shall review system classification rating forms ~~submitted by the public wastewater treatment and wastewater collection system owners at five (5) year intervals and classify the systems to reflect the condition at the time of the initial classification, or changed conditions, if any, on subsequent submittals~~ and issue the final system classification.

~~(4-11-06)~~(4-1-09)T

**02. Classification Criteria.** Public wastewater treatment systems and wastewater collection systems shall be classified under a system that uses the following criteria: (4-11-06)

a. Complexity, size, volume and variability in raw waste for treatment systems using guidelines established by the Department. (4-11-06)

b. Complexity or size of collection systems. (4-11-06)

c. Other criteria deemed necessary to completely classify systems. (4-11-06)

### 203. PUBLIC WASTEWATER SYSTEM OPERATOR LICENSURE REQUIREMENTS.

**01. System Operator Licensure Requirement.** Owners of all public wastewater systems must place the direct supervision of their wastewater system(s), including each treatment system and each collection system or each very small wastewater system, under the responsible charge of an operator who holds a valid license equal to or greater than the classification of ~~the wastewater treatment system and collection system~~ each treatment system and each collection system or each very small wastewater system. An operator in responsible charge of both a wastewater treatment system and a collection system shall hold two (2) licenses, one (1) for wastewater treatment and one (1) for collection, with the exception of a very small wastewater system for which the responsible charge operator may hold a single very small wastewater system license. Owners shall notify the Department in writing of any change of responsible charge or substitute responsible charge operator within ~~ten~~ thirty (~~10~~30) days of such change.

~~(4-11-06)~~(4-1-09)T

**02. Responsible Charge Operator License Requirement.** An operator in responsible charge of a public wastewater system in Idaho must hold a valid license equal to or greater than the classification of the wastewater system(s), including each treatment system, ~~where present~~, and each collection system or each very small wastewater system, as determined by the Department.

~~(4-11-06)~~(4-1-09)T

**03. Substitute Responsible Charge Operator.** 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.

(4-11-06)

**04. Wastewater System Operator Licensure.** All other operating personnel at public wastewater systems, including each treatment system and each collection system or each very small wastewater system, must hold a valid license issued by the Idaho Bureau of Occupational Licenses.

~~(4-11-06)~~(4-1-09)T

**05. ~~Class A Reclaimed~~ Wastewater System Operator Licensure Exceptions.** (4-1-09)T

a. Any public wastewater system operating personnel that exclusively operate a Class A Effluent Distribution System of a Class A Municipal Reclaimed Wastewater System permitted in accordance with IDAPA 58.01.17, "Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater," ~~is~~ are not subject to operator ~~licensing~~ licensure requirements as outlined in these rules.

~~(3-30-07)~~(4-1-09)T

b. Any non-pressurized drainfield and associated septic tank and collection system operating personnel are not subject to operator licensure requirements. (4-1-09)T

**06. General Compliance Deadline.** All public wastewater systems addressed in Sections 202 and 203 shall be in compliance with these rules by April 15, 2006. (4-11-06)

**07. Land Application/Reuse Operator Compliance Deadline.** Each public wastewater land application/reuse system addressed in these rules shall employ, retain or contract with licensed land application/reuse operating personnel by April 15, 2007. (3-30-07)

~~**08. Qualifications for Operator Licensure.** All public wastewater system operating personnel, including responsible charge and substitute responsible charge operators, must qualify for and hold a valid license issued by the Idaho Bureau of Occupational Licenses.~~ (4-11-06)

**204. CONTRACTING FOR SERVICES.**

Public wastewater systems may contract with a properly licensed ~~public wastewater system operator or with a public wastewater system having licensed operators to provide supervision~~ operating personnel to provide responsible charge operators and substitute responsible charge operators. ~~The contracted public wastewater system operator or contracted entity shall employ and assign to that system an operator licensed at the grade equal to or greater than the classification of the system.~~ Proof of such contract shall be submitted to the Department prior to the contracted operating personnel performing any services at the public wastewater system. (4-11-06)(4-1-09)T

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# 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.

**Because of the moratorium on proposed rulemaking during the legislative session, there are no proposed rules being promulgated or published in this month's Bulletin.**

Please refer to the Idaho Administrative Bulletin, **April 1, 2009, Volume 09-4** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact information.

**Issues of the Idaho Administrative Bulletin can be viewed at the county law libraries or online.**

To view the Bulletin or Code or for information on purchasing the Bulletin and other rules publications, visit our website at [adm.idaho.gov/adminrules/](http://adm.idaho.gov/adminrules/) or call (208) 332-1820 or write the Dept. of Administration, Office of Administrative Rules, 650 W. State St., Room 100, Boise, ID 83720-0306.

**CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES**

**FOR THE ABOVE LINK TO WORK,  
YOU MUST BE CONNECTED TO THE INTERNET**

**This index tracks the history of all agency rulemakings from 1993 to the present.  
It includes all rulemaking activities on each chapter of rules  
and includes negotiated, temporary, proposed, pending  
and final rules, public hearing notices  
and vacated rulemaking notices.**

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