

IDAHO ADMINISTRATIVE BULLETIN

July 3, 2019 – Vol. 19-7

Office of the Governor
Division of Financial Management
Office of the Administrative Rules Coordinator
All Rights Reserved
Printed in the United States of America



The Idaho Administrative Bulletin is published monthly by the Office of the Administrative Rules Coordinator, Division of Financial Management, Office of the Governor, pursuant to Title 67, Chapter 52, Idaho Code.

Brad Little, Governor
Alex Adams, Administrator, Division of Financial Management
Dennis Stevenson, Administrative Rules Coordinator
Bradley Hunt, Administrative Rules Specialist
Jason Shaw, Publishing Specialist/Rules Analyst

IDAHO ADMINISTRATIVE BULLETIN

Table of Contents

July 3, 2019 – Vol. 19-7

PREFACE	8
IDAPA 02 – DEPARTMENT OF AGRICULTURE	
02.02.05 – <i>Prune Standards</i> Docket No. 02-0205-1901 Notice of Intent to Promulgate Rules – Negotiated Rulemaking	16
02.02.14 – <i>Rules for Weights and Measures</i> Docket No. 02-0214-1901 (Second) Notice of Intent to Promulgate Rules – Negotiated Rulemaking.....	17
02.03.01 – <i>Rules Governing Pesticide Management Plans for Ground Water Protection</i> Docket No. 02-0301-1901 Notice of Rulemaking – Adoption of Temporary Rule.....	18
02.03.03 – <i>Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application</i> Docket No. 02-0303-1901 Notice of Rulemaking – Adoption of Temporary Rule.....	29
02.04.14 – <i>Rules Governing Dairy Byproduct</i> Docket No. 02-0414-1901 Notice of Rulemaking – Adoption of Temporary Rule.....	59
02.04.15 – <i>Rules Governing Beef Cattle Animal Feeding Operations</i> Docket No. 02-0415-1901 Notice of Rulemaking – Adoption of Temporary Rule.....	68
02.04.16 – <i>Rules Governing Agriculture Odor Management</i> Docket No. 02-0416-1901 Notice of Rulemaking – Adoption of Temporary Rule.....	76
02.04.17 – <i>Rules Governing Dead Animal Movement and Disposal</i> Docket No. 02-0417-1901 Notice of Rulemaking – Adoption of Temporary Rule.....	86
02.04.23 – <i>Rules Governing Commercial Livestock Truck Washing Facilities</i> Docket No. 02-0423-1901 Notice of Rulemaking – Adoption of Temporary Rule.....	93
02.04.30 – <i>Rules Governing Nutrient Management</i> Docket No. 02-0430-1902 Notice of Rulemaking – Adoption of Temporary Rule.....	100
02.04.31 – <i>Rules Governing the Stockpiling of Agricultural Waste</i> Docket No. 02-0431-1901 Notice of Rulemaking – Adoption of Temporary Rule.....	106
02.04.32 – <i>Rules Governing Poultry Operations</i> Docket No. 02-0432-1901 Notice of Rulemaking – Adoption of Temporary Rule.....	110

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.02.02 – Rules Governing Plumbing Permits
Docket No. 07-0202-1901 (Fee Rule)
 Notice of Rulemaking – Proposed Rule 122

07.02.03 – Rules Governing Permit Fee Schedule
Docket No. 07-0203-1902 (Chapter Repeal)
 Notice of Rulemaking – Proposed Rule 129

07.02.04 – Rules Governing Plumbing Safety Inspections
Docket No. 07-0204-1901 (Chapter Repeal)
 Notice of Rulemaking – Proposed Rule 130

07.02.05 – Rules Governing Plumbing Safety Licensing
Docket No. 07-0205-1901
 Notice of Rulemaking – Proposed Rule 131

07.02.07 – Rules Governing Civil Penalties
Docket No. 07-0207-1901 (Chapter Repeal)
 Notice of Rulemaking – Proposed Rule 133

07.03.12 – Rules Governing Manufactured or Mobile Home Installations
Docket No. 07-0312-1901
 Notice of Intent to Promulgate Rules – Negotiated Rulemaking 134

*07.07.01 – Rules Governing Installation of Heating, Ventilation,
 and Air Conditioning Systems, Division of Building Safety*
Docket No. 07-0701-1901
 Notice of Rulemaking – Proposed Rule 136

Docket No. 07-0701-1902
 Notice of Intent to Promulgate Rules – Negotiated Rulemaking 147

IDAPA 08 – STATE BOARD OF EDUCATION

08.01.13 – Rules Governing the Opportunity Scholarship Program
Docket No. 08-0113-1901
 Notice of Intent to Promulgate Rules – Negotiated Rulemaking 149

08.02.01 – Rules Governing Administration
Docket No. 08-0201-1901
 Notice of Intent to Promulgate Rules – Negotiated Rulemaking 150

Docket No. 08-0201-1902
 Notice of Intent to Promulgate Rules – Negotiated Rulemaking 151

08.02.02 – Rules Governing Uniformity
Docket No. 08-0202-1903
 Notice of Intent to Promulgate Rules – Negotiated Rulemaking 152

08.02.03 – Rules Governing Thoroughness
Docket No. 08-0203-1901
 Notice of Intent to Promulgate Rules – Negotiated Rulemaking 153

Docket No. 08-0203-1902
 Notice of Intent to Promulgate Rules – Negotiated Rulemaking 154

08.02.04 – <i>Rules Governing Public Charter Schools</i> Docket No. 08-0204-1901 Notice of Intent to Promulgate Rules – Negotiated Rulemaking	155
IDAPA 09 – IDAHO DEPARTMENT OF LABOR	
09.01.30 – <i>Unemployment Insurance Benefits Administration Rules</i> Docket No. 09-0130-1902 (Second) Notice of Intent to Promulgate Rules – Negotiated Rulemaking.....	156
Docket No. 09-0130-1903 (Second) Notice of Intent to Promulgate Rules – Negotiated Rulemaking.....	158
IDAPA 11 – IDAHO STATE POLICE, STATE BRAND BOARD	
11.02.01 – <i>Rules of the Idaho State Brand Board</i> Docket No. 11-0201-1902 Notice of Intent to Promulgate Rules – Negotiated Rulemaking	160
IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE	
16.02.01 – <i>Rules of the Idaho Time Sensitive Emergency System Council</i> Docket No. 16-0201-1901 Notice of Intent to Promulgate Rules – Negotiated Rulemaking	162
16.02.08 – <i>Vital Statistics Rules</i> Docket No. 16-0208-1901 Notice of Rulemaking – Temporary and Proposed Rule.....	164
16.03.09 – <i>Medicaid Basic Plan Benefits</i> Docket No. 16-0309-1803 Notice of Rulemaking – Temporary and Proposed Rule.....	169
16.03.10 – <i>Medicaid Enhanced Plan Benefits</i> Docket No. 16-0310-1806 Notice of Rulemaking – Temporary and Proposed Rule.....	199
16.03.22 – <i>Residential Care or Assisted Living Facilities in Idaho</i> Docket No. 16-0322-1901 Notice of Intent to Promulgate Rules – Negotiated Rulemaking	236
16.05.04 – <i>Rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding</i> Docket No. 16-0504-1901 Notice of Intent to Promulgate Rules – Negotiated Rulemaking	238
IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE	
18.04.16 – <i>Rules Governing Short-Term Health Insurance Coverage</i> Docket No. 18-0416-1901 (New Chapter) Notice of Intent to Promulgate Rules – Negotiated Rulemaking	240
IDAPA 19 – IDAHO STATE BOARD OF DENTISTRY	
19.01.01 – <i>Rules of the Idaho State Board of Dentistry</i> Docket No. 19-0101-1901 Notice of Intent to Promulgate Rules – Negotiated Rulemaking	241

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

26.01.20 – *Rules Governing the Administration of Park and Recreation Areas and Facilities*
Docket No. 26-0120-1901
 Notice of Intent to Promulgate Rules – Negotiated Rulemaking242

26.01.36 – *Rules Governing the Winter Recreational Parking Permit Program*
Docket No. 26-0136-1901
 Notice of Intent to Promulgate Rules – Negotiated Rulemaking243

IDAPA 27 – BOARD OF PHARMACY

27.01.01 – *Rules of the Idaho State Board of Pharmacy*
Docket No. 27-0101-1901
 (Second) Notice of Intent to Promulgate Rules – Negotiated Rulemaking.....244

IDAPA 35 – STATE TAX COMMISSION

35.01.01 – *Income Tax Administrative Rules*
Docket No. 35-0101-1903
 Notice of Rulemaking – Proposed Rule246

35.01.02 – *Idaho Sales and Use Tax Administrative Rules*
Docket No. 35-0102-1907
 Notice of Intent to Promulgate Rules – Negotiated Rulemaking252

35.01.03 – *Property Tax Administrative Rules*
Docket No. 35-0103-1908
 Notice of Intent to Promulgate Rules – Negotiated Rulemaking253

35.01.09 – *Idaho County Option Kitchen and Table Wine Tax Administrative Rules*
Docket No. 35-0109-1901 (Chapter Repeal)
 Notice of Intent to Promulgate Rules – Negotiated Rulemaking254

35.01.12 – *Idaho Beer Tax Administrative Rules*
Docket No. 35-0112-1901 (Chapter Repeal)
 Notice of Intent to Promulgate Rules – Negotiated Rulemaking255

35.01.15 – *Idaho Beer and Wine Tax Administrative Rules*
Docket No. 35-0115-1901 (New Chapter)
 Notice of Intent to Promulgate Rules – Negotiated Rulemaking256

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.05, 39.02.07, 39.02.11, 39.02.12, 39.02.24: *Rules Regulating Vehicle Titles*
Docket No. 39-0200-1901OM
 Notice of Intent to Promulgate Rules – Omnibus Negotiated Rulemaking257

39.02.42 – *Temporary Vehicle Registration When Proof of Ownership Is Insufficient*
Docket No. 39-0242-1901
 Notice of Intent to Promulgate Rules – Negotiated Rulemaking259

39.02.75 – *Rules Governing Names on Driver’s Licenses and Identification Cards*
Docket No. 39-0275-1901
 Notice of Intent to Promulgate Rules – Negotiated Rulemaking261

39.02.76 – *Rules Governing Driver’s License Renewal-By-Mail and Electronic Renewal Process*
Docket No. 39-0276-1901
 Notice of Intent to Promulgate Rules – Negotiated Rulemaking263

39.02.22, 39.03.01, 39.03.05, 39.03.06:
Commercial Motor Vehicle Permits and Registration Rules
Docket No. 39-0300-1901OM
 Notice of Intent to Promulgate Rules – Omnibus Negotiated Rulemaking265

39.03.41, 39.03.60, 39.03.61, 39.03.62, 39.03.63, 39.03.64:
Traffic Signs and Right-Of-Way Rules
Docket No. 39-0300-1902OM
 Notice of Intent to Promulgate Rules – Omnibus Negotiated Rulemaking267

39.03.06 – *Rules Governing Special Permits for Extra-Length/Excess Weight,
 Up to 129,000 Pound Vehicle Combinations*
Docket No. 39-0306-1901
 Notice of Rulemaking – Adoption of Temporary Rule.....269

39.03.49 – *Rules Governing Ignition Interlock Breath Alcohol Devices*
Docket No. 39-0349-1901
 Notice of Rulemaking – Proposed Rule273

IDAPA 55 – STATE BOARD OF CAREER TECHNICAL EDUCATION
 55.01.03 – *Rules of Career Technical Schools*
Docket No. 55-0103-1901
 Notice of Intent to Promulgate Rules – Negotiated Rulemaking282

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY
*Big Lost River Subbasin Temperature Total Maximum Daily Load (TMDL):
 2019 Addendum and Five-Year Review (HUC 17040218)*
Docket No. 58-0000-1903
 Notice of Final Decision.....283

58.01.01 – *Rules for the Control of Air Pollution in Idaho*
Docket No. 58-0101-1904
 Notice of Rulemaking – Adoption of Temporary Fee Rule284

58.01.03 – *Individual/Subsurface Sewage Disposal Rules*
Docket No. 58-0103-1902
 Notice of Rulemaking – Adoption of Temporary Rule.....482

58.01.09 – *Rules Regulating Swine Facilities*
Docket No. 58-0109-1901
 Notice of Rulemaking – Adoption of Temporary Fee Rule507

58.01.11 – *Ground Water Quality Rule*
Docket No. 58-0111-1901
 Notice of Rulemaking – Adoption of Temporary Fee Rule524

58.01.15 – *Rules Governing the Cleaning of Septic Tanks*
Docket No. 58-0115-1901
 Notice of Rulemaking – Adoption of Temporary Rule.....543

58.01.17 – *Recycled Water Rules*
Docket No. 58-0117-1901
 Notice of Rulemaking – Adoption of Temporary Rule.....547

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

Docket No. 61-0108-1901

Notice of Intent to Promulgate Rules – Negotiated Rulemaking575

Docket No. 61-0108-1902

Notice of Intent to Promulgate Rules – Negotiated Rulemaking577

SECTIONS AFFECTED INDEX 579

LEGAL NOTICE - SUMMARY OF PROPOSED RULEMAKINGS 598

**CUMULATIVE RULEMAKING INDEX
OF IDAHO ADMINISTRATIVE RULES** 601

SUBJECT INDEX 621

PREFACE

The Idaho Administrative Bulletin is an electronic-only, online monthly publication of the Office of the Administrative Rules Coordinator, Department of Administration, that is published pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all official rulemaking notices, official rule text, executive orders of the Governor, and all legislative documents affecting rules that are statutorily required to be published in the Bulletin. It may also include other rules-related documents an agency may want to make public through the Bulletin.

State agencies are required to provide public notice of all rulemaking actions and must invite public input. This is done through negotiated rulemaking procedures or after proposed rulemaking has been initiated. The public receives notice that an agency has initiated proposed rulemaking procedures through the Idaho Administrative Bulletin and a legal notice (Public Notice of Intent) that publishes in authorized newspapers throughout the state. The legal notice provides reasonable opportunity for the public to participate when a proposed rule publishes in the Bulletin. Interested parties may submit written comments to the agency or request public hearings of the agency, if none have been scheduled. Such submissions or requests must be presented to the agency within the time and manner specified in the individual “Notice of Rulemaking - Proposed Rule” for each proposed rule that is published in the Bulletin.

Once the comment period closes, the agency considers fully all comments and information submitted regarding the proposed rule. Changes may be made to the proposed rule at this stage of the rulemaking, but changes must be based on comments received and must be a “logical outgrowth” of the proposed rule. The agency may now adopt and publish the pending rule. A pending rule is “pending” legislative review for final approval. The pending rule is the agency’s final version of the rulemaking that will be forwarded to the legislature for review and final approval. Comment periods and public hearings are not provided for when the agency adopts a temporary or pending rule.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is identified by the calendar year and issue number. For example, Bulletin **13-1** refers to the first Bulletin issued in calendar year **2013**; Bulletin **14-1** refers to the first Bulletin issued in calendar year **2014**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **13-1** refers to January 2013; Volume No. **13-2** refers to February 2013; and so forth. Example: The Bulletin published in January 2014 is cited as Volume **14-1**. The December 2015 Bulletin is cited as Volume **15-12**.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

The **Idaho Administrative Code** is an electronic-only, online compilation of all final and enforceable administrative rules of the state of Idaho that are of full force and effect. Any temporary rule that is adopted by an agency and is of force and effect is codified into the Administrative Code upon becoming effective. All pending rules that have been approved by the legislature during the legislative session as final rules and any temporary rules that are extended supplement the Administrative Code. These rules are codified into the Administrative Code upon becoming effective. Because proposed and pending rules are not enforceable, they are published in the Administrative Bulletin only and cannot be codified into the Administrative Code until approved as final.

To determine if a particular rule remains in effect or whether any amendments have been made to the rule, refer to the **Cumulative Rulemaking Index**. Link to it on the Administrative Rules homepage at adminrules.idaho.gov.

THE DIFFERENT RULES PUBLISHED IN THE ADMINISTRATIVE BULLETIN

Idaho’s administrative rulemaking process, governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, comprises distinct rulemaking actions: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings incorporate or require all of these actions. 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 must, when feasible, engage in negotiated rulemaking at the beginning of the process to facilitate consensus building. 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 rule.

1. NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested persons and the agency seek consensus on the content of a rule through dialogue. Agencies are required to conduct negotiated rulemaking whenever it is feasible to do so. The agency files a “Notice of Intent to Promulgate - Negotiated Rulemaking” for publication in the Administrative Bulletin inviting interested persons to contact the agency if interested in discussing the agency’s intentions regarding the rule changes. This process is intended to result in the formulation of a proposed rule and the initiation of regular rulemaking procedures. One result, however, may also be that regular (proposed) rulemaking is not initiated and no further action is taken by the agency.

2. 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 Rulemaking - Proposed Rule” in the Bulletin. This notice must include very specific information regarding the rulemaking including all relevant state or federal statutory authority occasioning the rulemaking, a non-technical description of the changes being made, any associated costs, guidance on how to participate through submission of written comments and requests for public hearings, and the text of the proposed rule in legislative format.

3. 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 one or more of these criteria, and with the Governor’s approval, the agency may adopt and make a temporary rule effective prior to receiving legislative authorization and without allowing for any public input. The law allows an agency to make a temporary rule immediately effective upon adoption. A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is extended by concurrent resolution, is replaced by a final rule, or expires under its own terms.

4. 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 Rulemaking - Pending Rule.” This includes a statement giving the reasons for adopting the rule, a statement regarding when the rule becomes effective, a description of how it differs from the proposed rule, and identification of any fees being imposed or changed.

Agencies are required to republish the text of the pending 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.

5. FINAL RULEMAKING

A final rule is a rule that has been adopted by an agency under the regular rulemaking procedures and is of full force and effect.

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 schematic. 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 that are further subdivided into 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.

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

“05.” refers to Title **05**, which is the Department of Administration’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. Each rulemaking that is filed with the Coordinator is assigned a **“DOCKET NUMBER.”** The docket number is a series of numbers separated by a hyphen **“-”**, (**38-0501-1401**). Rulemaking dockets are published sequentially by IDAPA number (the two-digit agency code) in the Bulletin. The following example is a breakdown of a typical rule docket number:

“DOCKET NO. 38-0501-1401”

“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**).

“1401” denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rulemaking action published in **calendar year 2014**. A subsequent rulemaking on this same rule chapter in calendar year 2014 would be designated as **“1402”**. The docket number in this scenario would be **38-0501-1402**.

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)

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2019

Vol. No.	Monthly Issue of Bulletin	ARRF Due to DFM	Closing Date for Agency Filing	Bulletin Publication Date	21-day Comment Period End Date
19-1	January 2019		*November 30, 2018	January 2, 2019	January 23, 2019
19-2	February 2019		January 4, 2019	February 6, 2019	February 27, 2019
19-3	March 2019		February 8, 2019	March 6, 2019	March 27, 2019
19-4	April 2019		March 8, 2019	April 3, 2019	April 24, 2019
19-5	May 2019	March 22, 2019	April 5, 2019	May 1, 2019	May 22, 2019
19-6	June 2019	April 19, 2019	May 3, 2019	June 5, 2019	June 26, 2019
19-7	July 2019	May 24, 2019	June 7, 2019	July 3, 2019	July 24, 2019
19-8	August 2019	June 21, 2019	July 5, 2019	August 7, 2019	August 28, 2019
19-9	September 2019	July 19, 2019	August 2, 2019	September 4, 2019	September 25, 2019
19-10	October 2019	August 16, 2019	**August 30, 2019	October 2, 2019	October 23, 2019
19-11	November 2019	September 20, 2019	October 4, 2019	November 6, 2019	November 27, 2019
19-12	December 2019	October 18, 2019	November 1, 2019	December 4, 2019	December 25, 2019

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2020

Vol. No.	Monthly Issue of Bulletin	ARRF Due to DFM	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
20-1	January 2020	November 15, 2019	*November 29, 2019	January 1, 2020	January 22, 2020
20-2	February 2020	December 20, 2019	January 3, 2020	February 5, 2020	February 26, 2020
20-3	March 2020	January 22, 2020	February 7, 2020	March 4, 2020	March 25, 2020
20-4	April 2020	February 21, 2020	March 6, 2020	April 1, 2020	April 22, 2020
20-5	May 2020	March 20, 2020	April 3, 2020	May 6, 2020	May 27, 2020
20-6	June 2020	April 24, 2020	May 1, 2020	June 3, 2020	June 24, 2020
20-7	July 2020	May 22, 2020	June 5, 2020	July 1, 2020	July 22, 2020
20-8	August 2020	June 19, 2020	July 3, 2020	August 5, 2020	August 26, 2020
20-9	September 2020	July 24, 2020	August 7, 2020	September 2, 2020	September 23, 2020
20-10	October 2020	August 21, 2020	**August 28, 2020	October 7, 2020	October 28, 2020
20-11	November 2020	September 18, 2020	October 2, 2020	November 4, 2020	November 25, 2020
20-12	December 2020	October 23, 2020	November 6, 2020	December 2, 2020	December 23, 2020

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

*****Last day to submit a proposed rule in order to have the rulemaking completed and submitted for review by legislature.***

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS	
IDAPA 01	Accountancy , Board of
IDAPA 38	Administration , Department of
IDAPA 44	Administrative Rules Coordinator , Office of the
IDAPA 02	Agriculture , Idaho Department of
IDAPA 40	Arts , Idaho Commission on the
IDAPA 24.02	Athletic Commission , Idaho
IDAPA 04	Attorney General , Office of the
IDAPA 53	Barley Commission , Idaho
IDAPA 51	Beef Council , Idaho
IDAPA 07	Building Safety , Division of Electrical Board (07.01) Plumbing Board (07.02) Building Codes & Manufactured Homes (07.03) Building Code Advisory Board (07.03.01) Public Works Contractors License Board (07.05) Uniform School Building Safety (07.06) HVAC Board (07.07)
IDAPA 55	Career Technical Education , Division of
IDAPA 28	Commerce , Idaho Department of
IDAPA 06	Correction , Board of
IDAPA 19	Dentistry , Board of
IDAPA 08	Education , State Board of and State Department of
IDAPA 10	Engineers and Land Surveyors , Board of Professional
IDAPA 58	Environmental Quality , Department of
IDAPA 12	Finance , Department of
IDAPA 13	Fish and Game , Department of
IDAPA 24.04	Geologists , Board of Registration for Professional

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS	
IDAPA 15	Governor, Office of the Idaho Commission on Aging (15.01) Idaho Commission for the Blind and Visually Impaired (15.02) Idaho Forest Products Commission (15.03) Division of Human Resources and Personnel Commission (15.04) Idaho Liquor Division (15.10) Idaho Military Division (Division of Homeland Security) (15.06)
IDAPA 48	Grape Growers and Wine Producers Commission, Idaho
IDAPA 16	Health and Welfare, Department of
IDAPA 41	Health Districts, Public
IDAPA 45	Human Rights Commission
IDAPA 17	Industrial Commission
IDAPA 18	Insurance, Department of
IDAPA 05	Juvenile Corrections, Department of
IDAPA 09	Labor, Idaho Department of
IDAPA 20	Lands, Department of
IDAPA 30	Libraries, Commission for
IDAPA 52	Lottery Commission, Idaho State
IDAPA 22	Medicine, Board of
IDAPA 23	Nursing, Board of
IDAPA 43	Oilseed Commission, Idaho

**ALPHABETICAL INDEX OF STATE AGENCIES
AND CORRESPONDING IDAPA NUMBERS**

IDAPA 24	Occupational Licenses, Board of (24.20) Acupuncture, Board of (24.17) Architectural Examiners, Board of (24.01) Athletic Commission, State (24.02) Barber and Cosmetology Services Licensing Board (24.28) Chiropractic Physicians, Board of (24.03) Contractors Board, Idaho State (24.21) Counselors and Marriage and Family Therapists, Licensing Board of Professional (24.15) Dentistry, Board of (24.16) Drinking Water and Wastewater Professionals, Board of (24.05) Driving Businesses Licensure Board, Idaho (24.25) Genetic Counselors Licensing Board (24.24) Geologists, Board of Registration for Professional (24.04) Landscape Architects, Board of (24.07) Liquefied Petroleum Gas Safety Board (24.22) Massage Therapy, Board of (24.27) Midwifery, Board of (24.26) Morticians, Board of (24.08) Nursing Home Administrators, Board of Examiners of (24.09) Occupational Therapy Licensure Board (24.06) Optometry, Board of (24.10) Physical Therapy Licensure Board (24.13) Podiatry, Board of (24.11) Psychologist Examiners, Board of (24.12) Real Estate Appraiser Board (24.18) Residential Care Facility Administrators, Board of Examiners of (24.19) Shorthand Reporters Board, Idaho Certified (24.29) Social Work Examiners, Board of (24.14) Speech, Hearing and Communication Services Licensure Board (24.23)
IDAPA 25	Outfitters and Guides Licensing Board
IDAPA 50	Pardons and Parole, Commission for
IDAPA 26	Parks and Recreation, Department of
IDAPA 27	Pharmacy, Board of
IDAPA 11	Police, Idaho State
IDAPA 29	Potato Commission, Idaho
IDAPA 61	Public Defense Commission, State
IDAPA 59	Public Employee Retirement System of Idaho (PERSI)
IDAPA 31	Public Utilities Commission
IDAPA 56	Rangeland Resources Commission, Idaho
IDAPA 33	Real Estate Commission, Idaho
IDAPA 34	Secretary of State, Office of the
IDAPA 57	Sexual Offender Management Board

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS	
IDAPA 24.29	Shorthand Reporters Board, Idaho Certified
IDAPA 60	Soil and Water Conservation Commission, Idaho State
IDAPA 36	Tax Appeals, Board of
IDAPA 35	Tax Commission, State
IDAPA 39	Transportation Department, Idaho
IDAPA 54	Treasurer, Office of the State
IDAPA 21	Veterans Services, Division of
IDAPA 46	Veterinary Medical Examiners, Board of
IDAPA 47	Vocational Rehabilitation, Division of
IDAPA 37	Water Resources, Department of
IDAPA 42	Wheat Commission

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.02.05 – PRUNE STANDARDS

DOCKET NO. 02-0205-1901

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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 22-702, 22-703, 22-704, 22-705, and 22-706, Idaho Code and, 7 CFR- Subparagraph (a) of 51.1521, effective March 29, 2004.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

PUBLIC MEETING
Wednesday, July 24, 2019
10:00 a.m. (MDT)

Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, Idaho 83712

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate may submit any written comments for the record, questions, recommendations, or ideas to the Idaho State Department of Agriculture addressed to laura.thomas@isda.idaho.gov. Individuals may also attend the public meeting to be conducted on the above date during which the Idaho State Department of Agriculture will allow oral comments or presentations to be made.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This rule referenced outdated standards. In addition to US Grade Standards for plums and prunes, the industry has requested a second less stringent standard. The Idaho rules utilize US Grade Standards for plums and prunes which were updated in 2004. This standard is a ceiling standard and additional defects are allowed under Idaho rule in order to use the Idaho grade. IDAPA 02.02.05 will also be reviewed for amendment or repeal of select sections in order to comply with the Red Tape Reduction Act.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text), contact Laura Thomas (208) 332-8672. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the ISDA web site at the following web address: www.agri.idaho.gov

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 July 31, 2019.

Dated this 6th day of June, 2019.

Brian Oakey, Deputy Director
Idaho Department of Agriculture
Phone: (208) 332-8550 / Fax: (208) 334-2710

2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.02.14 – RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-1901

(SECOND) 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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 71-111, Idaho Code.

MEETING SCHEDULE: A second public meeting on the negotiated rulemaking will be held as follows:

PUBLIC MEETING
Thursday, July 11, 2019 10:00 a.m. (MDT)

**Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, Idaho 83712**

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following: Attend the negotiated rulemaking meeting as described above. Please provide a copy of your written comments. Or, send comments via U.S. Mail to: ISDA WEIGHTS AND MEASURES, PO BOX 7249, BOISE, ID 83707. Or, email comments to: Kevin.Merritt@isda.idaho.gov. All comments must be received by ISDA on or before July 31, 2019. Or, persons wishing to join by conference call into the negotiated rule making meeting scheduled above must contact Kevin Merritt via the email listed above or by telephone at (208) 332-8690 twenty four (24) hours prior to the meeting to obtain the teleconference number and directions for participation.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved: The ISDA's FY2020 budget as recommended by the Governor included a directive for the agency to begin the process of raising fees and shifting a new FTP onto dedicated funds for FY 2021." This rulemaking is submitted pursuant to fulfilling the Governor's directive to bring program fees better in line with program costs. The proposal would increase the current license fees for commercial weighing and measuring devices in Table 1-A. The agency would also update Table 1-A to include electric vehicle charging stations and mass flow meters and establish a license fee.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Kevin Merritt, Section Manager, Weights and Measures at (208) 332-8690. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the ISDA web site at the following web address: www.agri.idaho.gov.

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 July 31, 2019.

Dated this 6th day of June, 2019.

Brian Oakey, Deputy Director
Idaho Department of Agriculture
Phone: (208) 332-8550 / Fax: (208) 334-2710

2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.03.01 – RULES GOVERNING PESTICIDE MANAGEMENT PLANS
FOR GROUND WATER PROTECTION

DOCKET NO. 02-0301-1901

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE AND HISTORY NOTES: The effective date of the temporary rule is July 1, 2019. Traditionally effective dates are published for every subsection, paragraph and subparagraph of a rule. These individualized effective dates provide a rich history for legal scholars and interested members of the public to explore the broader context of each rule. This docket retains these important history notes while establishing the effective date for each chapter to ensure there is no gap with the expiring rules. Where technical corrections only have been made to any section of a rule, or subpart thereof, the historic effective date is retained.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 22-3418, 22-3419, 22-3420, 22-3421, Idaho Code, and Federal Insecticide Fungicide Rodenticide Act – (FIFRA))- CFR 40 part 100 through 189.

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

This temporary rulemaking adopts and re-publishes a previously approved and codified chapter under IDAPA 02, rules of the Idaho State Department of Agriculture.

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

This temporary rule is necessary to protect the public health, safety, and welfare of the citizens of Idaho and confers a benefit on its citizens. This previously approved and codified rule implements the duly enacted laws of the state of Idaho, provides citizens with the detailed rules and standards for complying with those laws, and assists in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules.

The Rules Governing Pesticide Management Plans for Ground Water Protection outlines specific actions to prevent pesticide contamination related to pesticide use and certain actions to prevent or minimize further presence of pesticides detected in ground water.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Vic Mason (208) 332-8628.

Dated this 6th day of June, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 02-0301-1901

IDAPA 02
TITLE 03
CHAPTER 01

02.03.01 – RULES GOVERNING PESTICIDE MANAGEMENT PLANS
FOR GROUND WATER PROTECTION

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 22-3418, 22-3419, 22-3420, and 22-3421, Idaho Code. (4-6-05)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.03.01, “Rules Governing Pesticide Management Plans for Ground Water Protection.” (4-6-05)

02. Scope. This chapter establishes a process for responding to pesticide detections in ground water. (4-6-05)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (4-6-05)

003. ADMINISTRATIVE APPEALS.

There is no provision for administrative appeal before the Idaho Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (4-6-05)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this chapter: (4-6-05)

01. Dimethyl Tetrachloroterephthalate (DCPA) Pesticide Management Plan. The June 2007 edition published by the Idaho State Department of Agriculture. Copies of this document may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, P.O. Box 7249, Boise, ID 83707. (3-5-08)

02. IDAPA 58.01.11, “Ground Water Quality Rule,” Subsection 200.01.a. of the Department of Environmental Quality. Copies can be obtained from the Office of the Administrative Rules Coordinator, 650 W. State St., P.O. Box 83720, Boise, ID 83720-0306 or electronically accessed at <http://adminrules.idaho.gov/rules/current/58/0111.pdf>. (4-6-05)

03. Idaho Agricultural Pollution Abatement Plan. The March 2003 edition published by the Idaho Soil Conservation Commission at <https://agri.idaho.gov/main/wp-content/uploads/2018/03/Agricultural-Pollution-Abatement-Plan-2003.pdf>. (4-6-05)

04. The 2007 Publication by the United States Department of Agriculture, Natural Resources Conservation Service, Conservation Practice Standard, Pest Management Code 595. Copies of this document may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, P.O. Box 7249, Boise, ID 83707. (3-5-08)

05. The 2004 Publication by the United States Department of Agriculture, Natural Resources

Conservation Service, Conservation Practice Standard, Agrichemical Mixing Facility Code 702. Copies of this document may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, P.O. Box 7249, Boise, ID 83707. (4-6-05)

06. The 2006 Publication by the United States Environmental Protection Agency, Office of Water, 2006 Edition of the Drinking Water Standards and Health Advisories, EPA 822-R-06-013. Copies can be accessed electronically at https://agri.idaho.gov/main/wp-content/uploads/2018/03/epa_drinking_water_standard-2006.pdf. (3-5-08)

005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (4-6-05)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the Department. (4-6-05)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The Idaho Department of Agriculture adopts the definitions set forth in Section 22-3401, Idaho Code, and the following definitions: (4-6-05)

01. Aquifer. A geological unit of permeable saturated material capable of yielding economically significant quantities of water to wells and springs. (4-6-05)

02. Beneficial Uses. Current or future uses of ground water supplies including, but not limited to domestic, industrial, agricultural, aquacultural, and mining. (4-6-05)

03. Best Management Practice. A practice or combination of practices determined to be the most effective and practical means of preventing or reducing pesticide contamination to ground water and interconnected surface water from nonpoint and point sources to achieve water quality goals and protect the beneficial uses of the water. (4-6-05)

04. Constituent. Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance occurring in ground water. (4-6-05)

05. Contaminant. Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance which does not occur naturally in ground water or which naturally occurs at a lower concentration. (4-6-05)

06. Contamination. The direct or indirect introduction into ground water of any contaminant caused in whole or in part by human activities. (4-6-05)

07. Ground Water. Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (4-6-05)

08. Health Advisory Level. Guidance for the maximum allowable or acceptable daily concentration of a pesticide in drinking water in the absence of or prior to a MCL being set. (4-6-05)

09. Maximum Contaminant Level. Maximum allowable or acceptable daily concentration of a pesticide in drinking water that may be consumed over a lifetime. (4-6-05)

10. Pesticide Management Standard. The United States Department of Agriculture Natural Resource Conservation Service Conservation Practice Standard, Idaho Pesticide Management Code 595, or the Idaho Agricultural Pollution Abatement Plan -- Pesticide Management Standard Component Practice. (4-6-05)

11. Pesticide Use. The mixing, application, handling, transport, storage, display, distribution, and disposal of pesticides and their containers. (4-6-05)

12. Projected Future Beneficial Uses. Various uses of ground water, such as drinking water, aquaculture, industrial, mining or agriculture, that are practical and achievable in the future based on hydrogeologic conditions, water quality, future land use activities and social/economic considerations. (4-6-05)

13. Reference Dose. Allowable or acceptable dose of a pesticide in terms of mg pesticide/kg body weight that can be ingested in one day (acute reference dose) or on a daily basis over a lifetime (chronic reference dose). (4-6-05)

14. Reference Point. Numerical indicators of the toxicity of a substance based on test data and other reliable health effects information. (4-6-05)

15. Susceptibility. A method of describing the flow of water to, and through, the ground water resource based on physical factors such as hydraulic conductivity, porosity, hydraulic gradients, recharge, interactions with surface water, and transport through the unsaturated zone without considering specific natural or anthropogenic sources of contamination. (4-6-05)

16. Vulnerability. Ground water characterized by a potential for contaminants to enter and be transported within the flow system. Determinations of ground water vulnerability will include consideration of land use practices and aquifer characteristics. (4-6-05)

011. ABBREVIATIONS.

- 01. APAP.** Agricultural Pollution Abatement Plan. (4-6-05)
- 02. BMP.** Best Management Practice. (4-6-05)
- 03. DCPA.** Dimethyl Tetrachloroterephthalate. (3-5-08)
- 04. DEQ.** Department of Environmental Quality. (4-6-05)
- 05. EPA.** Environmental Protection Agency. (4-6-05)
- 06. HAL.** Health Advisory Level. (4-6-05)
- 07. MCL.** Maximum Contaminant Level. (4-6-05)
- 08. NRCS.** Natural Resources Conservation Service. (4-6-05)
- 09. PMP.** Pesticide Management Plan. (4-6-05)
- 10. QAPP.** Quality Assurance Project Plan. (4-6-05)
- 11. QMP.** Quality Management Plan. (4-6-05)
- 12. RfD.** Reference Dose. (4-6-05)
- 13. SCC.** Soil Conservation Commission. (4-6-05)
- 14. USDA.** United States Department of Agriculture. (4-6-05)

012. -- 049. (RESERVED)

050. CHEMICAL SPECIFIC PMPS.

01. Creating PMPs. The Director shall develop and implement chemical specific PMPs (Section 200) for certain pesticides in geographical areas as determined in Section 400 when: (4-6-05)

a. The level of a pesticide found in ground water is equal to or greater than fifty percent (50%) of the reference point and is scientifically validated; (4-6-05)

b. EPA restricts the sale or use of a pesticide in the state, or otherwise initiates action against a pesticide because of ground water concerns for a pesticide, unless such PMP is not deemed necessary by the Director; (4-6-05)

c. EPA's action, restriction, or prohibition will be implemented unless the state develops an adequate PMP; or (4-6-05)

d. A pesticide is conditionally registered by EPA because of ground water concerns. (4-6-05)

02. PMP Compliance. No person shall use a pesticide in a manner inconsistent with the chemical specific PMP within a designated geographical area. (4-6-05)

051. -- 099. (RESERVED)

100. CONTENTS OF A CHEMICAL SPECIFIC PMP.

01. Required Elements of a PMP. (4-6-05)

a. Actions to prevent pesticide contamination that are based on beneficial uses and vulnerability that address applicable aspects of the pesticide use; and (4-6-05)

b. Actions to prevent or minimize further presence of the pesticide in ground water and to provide protection for the present and projected future beneficial use of the ground water. (4-6-05)

02. Elements That May Be Included in a PMP. A PMP may include but is not limited to the following elements: (4-6-05)

a. Identification of geographical areas where a pesticide may be used; (4-6-05)

b. Pesticide, soil, hydrogeological, and meteorological characteristics; (4-6-05)

c. BMPs; (4-6-05)

d. Identification of ground water areas with pesticide detection(s); (4-6-05)

e. Certification, licensing, training, and education requirements for persons using the pesticide; (4-6-05)

f. Identification and establishment of an area of pesticide restriction requiring preventative measures; (4-6-05)

g. Pesticide application rates and timing and related use criteria; (4-6-05)

h. Integrated pest management information; (4-6-05)

i. Other requirements for pesticides, as set forth in the Idaho Pesticide and Chemigation Law (Title 22, Chapter 34, Idaho Code), and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application"; or (4-6-05)

j. Other requirements as listed by the EPA in rule or guidance. (4-6-05)

101. MANAGEMENT PLANS ADOPTED BY RULEMAKING AND REVIEW.

01. Adoption Through Rulemaking. The Director shall adopt chemical specific PMPs through rulemaking. (4-6-05)

02. PMP Review. The Director shall review chemical specific PMPs every two (2) years to determine if the requirements contained in the plans need to be modified based on new scientific data and information. (4-6-05)

102. -- 149. (RESERVED)

150. GROUND WATER QUALITY REFERENCE POINTS.

01. Reference Points. The Director will use reference points for pesticides in ground water, based on the following order of availability: (4-6-05)

a. Idaho rules of DEQ, IDAPA 58.01.11, "Ground Water Quality," Subsection 200.01.a. specific to pesticide primary constituent standards which were adopted from EPA MCLs; or (4-6-05)

b. EPA Health Advisory Levels (HALs) identified in the 2006 Edition of the EPA Drinking Water Standards and Health Advisories, EPA 822-R-06-013; or (3-5-08)

c. EPA Reference Dose (RfD) identified in the 2006 Edition of the EPA Drinking Water Standards and Health Advisories, EPA 822-R-06-013; or (3-5-08)

d. A reference point based on: (4-6-05)

i. Best scientific information currently available on adverse effects of the contaminant(s); and (4-6-05)

ii. Protection of a beneficial use(s); and (4-6-05)

iii. Practical quantitation levels for the pesticides, if they exceed the levels identified in IDAPA 58.01.11, "Ground Water Quality Rule," Subsection 200.01.a. (4-6-05)

02. HAL and RfD Guide. The Director shall use the EPA's HAL and RfD number associated with the effects on a person weighing seventy (70) kilograms and drinking two (2) liters of water per day over a lifetime. (4-6-05)

151. -- 199. (RESERVED)

200. RESPONSE TO A PESTICIDE DETECTION.

This section describes the four (4) response levels for responding to pesticide detections in ground water. (4-6-05)

01. Level One Response. When a pesticide or its metabolite(s) is detected at or above the detection limit yet below twenty percent (20%) of the reference point, the Director: (4-6-05)

a. Shall notify well users or well owners of pesticide(s) detection; (4-6-05)

b. Shall continue ground water monitoring; (4-6-05)

c. May provide additional information to pesticide applicators within vulnerable areas; (4-6-05)

d. May review use practices, soils, hydrogeology, and vulnerability within the area of pesticide detection(s); (4-6-05)

e. May review state records for previous point source or potential violations in accordance with the

- Idaho Pesticide and Chemigation Law (Title 22, Chapter 34, Idaho Code); (4-6-05)
- f.** May review existing monitoring data within area to check for previous detections; (4-6-05)
 - g.** May conduct outreach in local area applicable to relevant data and information; and (4-6-05)
 - h.** May encourage voluntary BMPs consistent with the APAP. (4-6-05)
- 02. Level Two Response.** When a pesticide or its metabolite(s) is detected at twenty percent (20%) to less than fifty percent (50%) of the reference point, the Director: (4-6-05)
- a.** Shall implement actions in Subsection 200.01 in the area of pesticide detection; (4-6-05)
 - b.** Shall establish area of pesticide concern, in accordance with Section 400, within area of pesticide detection; (4-6-05)
 - c.** Shall develop a monitoring plan and monitor to determine trends and fluctuations in pesticide concentrations; (4-6-05)
 - d.** Shall determine likely source(s) while notifying and working with the appropriate parties including but not limited to: pesticide registrant(s), dealer(s), applicator(s) and producer(s) to determine likely source(s); (4-6-05)
 - e.** Shall determine if pesticide detection(s) is from point or nonpoint source; (4-6-05)
 - f.** Shall promote voluntary BMPs or other measures; evaluate BMP effectiveness, and change BMPs if needed; (4-6-05)
 - g.** Shall require the utilization of the Idaho NRCS Conservation Practice Standard, Pesticide Management Code 595. (4-6-05)
 - h.** May develop a chemical specific PMP per pesticide, unless already mandated through EPA Rule to do so; (4-6-05)
 - i.** May monitor additional domestic wells in the hydrogeological up gradient and down gradient area; and (4-6-05)
 - j.** May conduct site specific pesticide use inspections within the area of detection(s). (4-6-05)
- 03. Level Three Response.** When a pesticide or its metabolite(s) is detected at fifty percent (50%) to less than one hundred percent (100%) of the reference point, the Director shall: (4-6-05)
- a.** Implement actions in Subsections 200.02.a. through 200.02.e., and 200.02.g. through 200.02.j. in the area of pesticide detection; (4-6-05)
 - b.** Establish an area of pesticide restriction, in accordance with Section 400 and Section 22-3419, Idaho Code, when the Director determines ground water contamination resulted from the application of a pesticide in accordance with the label; (4-6-05)
 - c.** Restrict the use of the pesticide according to Section 22-3418, Idaho Code; (4-6-05)
 - d.** Install monitoring wells as soon as possible, if the Director determines installation to be necessary based on severity of risk, to evaluate ground water quality, flow direction, and the effectiveness of preventative measures; (4-6-05)
 - e.** Assist well users or well owners within the area of pesticide restriction with health information and alternative water source information; and (4-6-05)

f. Inspect the pesticide applicator records within the restricted area. (4-6-05)

04. Level Four Response. When a pesticide or its metabolite(s) is detected at or above one hundred percent (100%) of the reference point, the Director shall: (4-6-05)

a. Implement actions in Subsection 200.03 in the area of pesticide detection; (4-6-05)

b. Establish an area of pesticide prohibition, in accordance with Section 400 of this rule and Section 22-3418, Idaho Code, when the Director has determined ground water contamination resulted from the application of a pesticide in accordance with the label; (4-6-05)

c. Implement use prohibition area(s); (4-6-05)

d. Assist persons within the use prohibition area with health and alternative water source information; (4-6-05)

e. Determine effectiveness of regulatory actions. (4-6-05)

05. Mixing and Loading Prohibited. No person shall mix or load the prohibited pesticide product in an identified pesticide prohibition area unless the mixing and loading is conducted over a spill containment surface which complies with the Idaho NRCS Conservation Practice Standard, Agrichemical Mixing Facility Code 702. (4-6-05)

06. Prohibition Areas. No person shall apply a prohibited pesticide within the corresponding pesticide area boundaries of the area of pesticide prohibition as identified in Section 400. (4-6-05)

201. -- 299. (RESERVED)

300. GROUND WATER MONITORING PROGRAMS.

01. Monitoring Programs. The Director shall conduct monitoring programs to: (4-6-05)

a. Determine whether residues of pesticides are present in ground water; (4-6-05)

b. Refine vulnerability mapping products or other assessment tools; (4-6-05)

c. Determine the effectiveness of BMPs; and (4-6-05)

d. Determine the effectiveness of regulatory approaches. (4-6-05)

02. Conduct Monitoring Programs. The Director shall conduct monitoring programs in compliance with the Department's EPA approved QMP and applicable QAPPs. (4-6-05)

03. Evaluation. The Director shall evaluate ground water pesticide(s) data from sources other than the Department for use in implementing this rule. (4-6-05)

301. -- 399. (RESERVED)

400. DETERMINING PESTICIDE AREA BOUNDARIES.

Section 400 describes the methods for determining the pesticide area boundaries for the response levels in Section 200. (4-6-05)

01. Pesticide Area Boundary Factors. In determining the area of pesticide concern, restricted area, or prohibition area the Director shall implement Section 200 and may consider but not be limited to the following factors: (4-6-05)

- a. Pesticide detections from reliable ground water test samples; (4-6-05)
- b. Number and frequency of detections; (4-6-05)
- c. Statistical trends of detections; (4-6-05)
- d. Location of detections; (4-6-05)
- e. Hydrogeology of the aquifer; (4-6-05)
- f. Well depth and construction; (4-6-05)
- g. Aquifer vulnerability and susceptibility; (4-6-05)
- h. Pesticide physical and chemical characteristics; (4-6-05)
- i. Pesticide use; or (4-6-05)
- j. Other scientifically defensible information. (4-6-05)

02. Determining Boundaries. An area of pesticide concern, restricted area, or a prohibition area may encompass land areas which, in the Director's judgment, are susceptible to pesticide contamination of ground water based on the factors identified in Subsection 400.01. The boundaries of an area of pesticide concern, restricted area, or a prohibition area shall be sufficient to meet Section 200 requirements. The boundaries may include any of the following: (4-6-05)

- a. Mapped boundaries between soil types or other hydrogeologic features; (4-6-05)
- b. Ground water or surface water divides such as watershed boundaries; (4-6-05)
- c. Legal land description boundaries; (4-6-05)
- d. Public roads; or (4-6-05)
- e. Other recognizable boundaries. (4-6-05)

401. -- 409. (RESERVED)

410. REPEALING SPECIFIC PESTICIDE AREAS.

01. Repealing an Area of Pesticide Concern. The Director may repeal or reduce the size of an area of pesticide concern in response to pesticide contamination in ground water if all the conditions in Subsection 410.01 are met: (4-6-05)

a. Tests on at least three (3) consecutive ground water samples, drawn from each well site in the area of pesticide concern at which the concentration of a pesticide and its metabolites previously were found at twenty percent (20%) to fifty percent (50%) of the reference point, show that the concentration at the well sites has fallen to and remains less than twenty percent (20%) of the reference point. The three (3) consecutive samples shall be collected at each well site at intervals of at least six (6) months, with the first sample being collected at least six (6) months after the effective date of the area of pesticide concern designation. A monitoring well approved by the Director may be substituted for any well site which is no longer available for testing. (4-6-05)

b. Tests conducted at other well sites in the area of pesticide concern during the same retesting period, if any, reveal no other concentrations of the pesticide or its metabolites that exceed twenty percent (20%) of the reference point; and (4-6-05)

c. The Director determines, based on credible scientific evidence, that use of a pesticide product in the

area of pesticide concern is not likely to cause a renewed detection between twenty percent (20%) to fifty percent (50%) of the reference point. (4-6-05)

02. Repealing an Area of Pesticide Restriction. The Director may repeal or reduce the size of an area of pesticide restriction in response to ground water pesticide contamination if all the conditions in Subsection 410.02 are met: (4-6-05)

a. Tests on at least three (3) consecutive ground water samples, drawn from each well site in the area of pesticide restriction at which the concentration of a pesticide and its metabolites previously were found at fifty percent (50%) to less than one hundred percent (100%) of the reference point, show that the concentration at the well sites has fallen to and remains less than fifty percent (50%) of the reference point. The three (3) consecutive samples shall be collected at each well site at intervals of at least six (6) months, with the first sample being collected at least six (6) months after the effective date of the area of the pesticide restriction designation. A monitoring well approved by the Director may be substituted for any well site which is no longer available for testing. As areas of pesticide restriction are repealed, the area automatically becomes an area of pesticide concern; (4-6-05)

b. Tests conducted at other well sites in the area of pesticide restriction during the same retesting period, if any, reveal no other concentrations of the pesticide or its metabolites that exceed fifty percent (50%) of the reference point; and (4-6-05)

c. The Director determines, based on credible scientific evidence, that use of a pesticide product in the area of pesticide restriction is not likely to cause a renewed exceedance of fifty percent (50%) of the reference point. (4-6-05)

03. Repealing an Area of Pesticide Use Prohibition. The Director may repeal or reduce the size of an area of pesticide use prohibition in response to ground water pesticide contamination if all the conditions in Subsection 410.03 are met: (4-6-05)

a. Tests on at least three (3) consecutive ground water samples, drawn from each well site in the prohibition area at which the concentration of a pesticide and its metabolites previously attained or exceeded the reference point, show that the concentration at that well site has fallen to and remains less than fifty percent (50%) of the reference point. The three (3) consecutive samples shall be collected at each well site at intervals of at least six (6) months, with the first sample being collected at least six (6) months after the effective date of the pesticide use prohibition designation. A monitoring well approved by the Director may be substituted for any well site which is no longer available for testing. As areas of pesticide prohibition are repealed, the area automatically becomes an area of pesticide concern; (4-6-05)

b. Tests conducted at other well sites in the area of pesticide prohibition during the same retesting period, if any, reveal no other concentrations of the pesticide and its metabolites that exceed fifty percent (50%) of the reference point; and (4-6-05)

c. The Director determines, based on credible scientific evidence, that renewed use of a pesticide product in the area of pesticide prohibition is not likely to cause a renewed violation of the reference point. (4-6-05)

411. -- 419. (RESERVED)

420. ADVISORY COMMITTEE.

When pesticide management practices are needed under Section 200, the Director's advisory committee, as established pursuant to Section 22-103, Idaho Code, shall provide appropriate guidance on this rule. This advisory committee shall include but is not limited to: applicators from the area of pesticide detection; pesticide, water user, and commodity groups; University of Idaho Extension staff and specialists; and staff from the USDA, NRCS, SCC, DEQ, and the Department. The duties of the advisory committee include but are not limited to the following: (4-6-05)

01. Review Existing Information. Review the existing information related to the area of pesticide detection and develop pesticide management practices options; (4-6-05)

02. Recommendations. Make recommendations to the Director for approval of pesticide management practices prior to implementation at the voluntary and regulatory levels; (4-6-05)

03. Research. Evaluate the potential for gaining government or private research or cost share funding; and (4-6-05)

04. Evaluate Effectiveness. Review information related to pesticide management practices effectiveness and make recommendations for changing and improving pesticide management practices. (4-6-05)

421. PESTICIDE USE AND RECORD KEEPING REQUIREMENTS.

Pursuant to Title 22, Chapter 34, Idaho Code, and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application," the Director shall inspect pesticide records to meet the need as described in Section 200. (4-6-05)

422. -- 449. (RESERVED)

450. RESEARCH.

The Director shall authorize cooperative pesticide and ground water quality protection research programs with state agencies, university systems and associated agricultural experiment stations, federal agencies, and other appropriate organizations and persons. (4-6-05)

451. -- 459. (RESERVED)

460. EDUCATIONAL PROGRAMS.

The Department, in cooperation with the University of Idaho Extension Service, shall develop and conduct appropriate educational programs. (4-6-05)

461. -- 469. (RESERVED)

470. EXEMPTIONS.

Notwithstanding any provision of this chapter, the Director may authorize the use of a pesticide for bona fide research purposes. A person seeking a research exemption shall apply to the Director in writing. The application shall describe the proposed research, and the amounts and locations of proposed pesticide applications. The Director may require an applicant to file other information which the Director considers necessary for review of the application. (4-6-05)

471. -- 479. (RESERVED)

480. PENALTIES.

Any person who violates or fails to comply with any provision of these rules shall be subject to penalties listed under Section 22-3423, Idaho Code. (4-6-05)

481. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.03.03 – IDAHO DEPARTMENT OF AGRICULTURE RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION

DOCKET NO. 02-0303-1901

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE AND HISTORY NOTES: The effective date of the temporary rule is July 1, 2019. Traditionally effective dates are published for every subsection, paragraph and subparagraph of a rule. These individualized effective dates provide a rich history for legal scholars and interested members of the public to explore the broader context of each rule. This docket retains these important history notes while establishing the effective date for each chapter to ensure there is no gap with the expiring rules. Where technical corrections only have been made to any section of a rule, or subpart thereof, the historic effective date is retained.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 22-3421, Idaho Code, and Federal Insecticide Fungicide Rodenticide Act (FIFRA) - CFR 40 part 150 through 180.

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

This temporary rulemaking adopts and re-publishes a previously approved and codified chapter under IDAPA 02, rules of the Idaho State Department of Agriculture.

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

This temporary rule is necessary to protect the public health, safety, and welfare of the citizens of Idaho and confers a benefit on its citizens. This previously approved and codified rule implements the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assists in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules.

Rules Governing Pesticide and Chemigation Use and Application requires licensure, record keeping and financial responsibility for applicators and distributors of pesticides. These rules also outline the minimum standards of safety for the storage, handling and use of pesticides in Idaho. These rules provide minimum standards designed to protect the environment regarding storage and disposal of unused pesticides, pesticide containers and certain application procedures. They also provide minimum standards for chemigation equipment, posting, use, and prohibition from chemigation over waters of the state.

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

The fees outlined in this rule are for specific licenses for professional and private pesticide applicators and for pesticide dealers selling restricted use pesticides. License requirements ensure competency for storage, handling and use of pesticides in Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Vic Mason (208) 332-8628.

Dated this 6th day of June, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road

P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 02-0303-1901

IDAPA 02
TITLE 03
CHAPTER 03

**02.03.03 – IDAHO DEPARTMENT OF AGRICULTURE RULES GOVERNING
PESTICIDE AND CHEMIGATION USE AND APPLICATION**

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-3421, Idaho Code. (3-23-98)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.03.03, “Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application.” (4-5-00)

02. Scope. This chapter has the following scope: to govern the use and application of pesticides; licensing of pesticide applicators and registration of pesticides for use in Idaho; registration and licensing requirements for use of the Livestock Protection Collar; testing and recertification of licensees; record keeping requirements; financial responsibilities; aerial applications of pesticides; wind restrictions; pesticide/fertilizer mix restrictions; experimental use permits; restrictions to protect pollinators; storage of pesticide containers; non-domestic pesticides; phenoxy herbicide restrictions; application of pesticides near hazard areas; microencapsulated methyl parathion restrictions; daminozide (Alar) restrictions; pesticide use on alfalfa, carrot, onion, radish, or clover seed; unusable pesticides collection and disposal; and to govern licensing and responsibilities for chemigation; signage for chemical usage; shut down requirements; pressure switch, chemical injection, metering pump, system interlock requirements, and wind speed precautions; irrigation system connections; flood, basin, furrow, border chemigation; sprinkler, drip chemigation; anti-pollution devices; irrigation line check valve model certification; use of Anhydrous Ammonia; and to include variances. (4-5-00)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-20-97)

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Idaho Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (3-20-97)

004. DEFINITIONS.

The Idaho Department of Agriculture adopts the definitions set forth in Section 22-3401, Idaho Code, and the following definitions: (3-20-97)

01. Air Gap. A physical separation between the free flowing discharge end of a domestic water supply system pipeline and an open or non-pressure receiving vessel. (4-5-00)

02. Basin Irrigation. Irrigation by flooding areas of level land surrounded by dikes. (4-5-00)

03. Border Irrigation. Irrigation by flooding strips of land, rectangular in shape and cross leveled, bordered by dikes. (4-5-00)

04. Certification. Passing one (1) or more examinations, to initially demonstrate an applicant’s

competence, as required by the licensing provisions of this act, in order to use or distribute pesticides, or to act as a pesticide consultant. (3-20-97)

05. Check Valve. A certified valve designed and constructed to close a water supply pipeline, chemical injection line, or other conduit in a chemigation system to prevent reverse flow in that line. (4-5-00)

06. Chemigator. Any person engaged in the application of chemicals through any type of irrigation system. (4-5-00)

07. Cross-Connection. Any connection that may have chemical injected or introduced into the domestic water supply system and has the potential of or is connected to the domestic water supply system. (4-5-00)

08. Demonstration and Research. The use of restricted use pesticides to demonstrate the action of the pesticide or conduct research. (3-20-97)

09. Domestic Water Supply System. Any system providing water for human use. (4-5-00)

10. Drip Irrigation. A method of microirrigation wherein water is applied as drops or small streams through emitters. (4-5-00)

11. Flood Irrigation. Method of irrigation where water is applied to the soil surface without flow controls, such as furrows, borders or corrugations. (4-5-00)

12. Flow Rate. The weight or volume of flowable material per unit of time. (4-5-00)

13. Furrow Irrigation. Method of surface irrigation where the water is supplied to small ditches or furrows for guiding the water across the field. (4-5-00)

14. Hazard Area. Cities, towns, subdivisions or densely populated areas. (3-20-97)

15. High Volatile Esters. Formulations of 2,4-D which contain methyl, ethyl, butyl, isopropyl, octylamyl and pentyl esters. (3-20-97)

16. Injection Pump. A pump that uses a gear, rotary, piston or diaphragm to develop the pressures exceeding the irrigation system pressure to inject a chemical. (4-5-00)

17. Inspection Port. An orifice or other viewing device from which the low pressure drain and check valve may be observed. (4-5-00)

18. Low Volatile Esters. Formulations of 2,4-D; 2,4-DP; MCPA and MCPB which contain butoxyethanol, propylene glycol, tetrahydrofurfuryl, propylene glycol butyl ether, butoxy propyl, ethylhexyl and isocetyl esters. (3-20-97)

19. Mixer-Loader. Any person who works under the supervision of a professional applicator in the mixing and loading of pesticides to prepare for, but not actually make, applications. (3-20-97)

20. Pressure Switch. A device which will stop the chemical injection pump when the water pressure decreases to the point where chemical distribution is adversely affected. (4-5-00)

21. Recertification. The requalification of a certified person through seminar attendance over a set period of time, or taking an examination at the end of a set period of time, to ensure that the person continues to meet the requirements of changing technology and maintains competence. (3-20-97)

22. Reduced Pressure Principle Backflow Prevention Assembly (RP). An assembly containing two (2) independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The unit shall include properly located resilient seated test cocks and tightly closing resilient seated test cocks and

tightly closing resilient seated shutoff valves at each end of the assembly. (4-5-00)

23. Seminar. Any Department-approved meeting or activity convened for the purpose of presenting pesticide recertification information. (3-20-97)

24. Sprinkler Irrigation. Method of irrigation in which the water is sprayed, or sprinkled, through the air to the ground surface. (4-5-00)

25. System Interlock. Safety equipment used to ensure that a chemical injection pump will stop if the irrigation pumping plant stops to prevent the entire chemical mixture from emptying from the supply tank into the irrigation pipeline. The safety equipment may also be used to shut down the irrigation system if the injection system fails. (4-5-00)

26. Vacuum Relief Valve. A device to automatically relieve or break a vacuum. (4-5-00)

27. Venturi. A differential pressure injector that operates on a pressure difference between the inlet and outlet of the injector and creates a vacuum inside the body, which results in suction through the suction port. (4-5-00)

28. Venturi Injection System. A chemical injection system which operates with a Venturi using the suction from the Venturi that can be used to inject and mix chemicals into the water. (4-5-00)

29. Working Pressure. The internal operating pressure of a vessel, tank or piping used to hold or transport liquid. (4-5-00)

30. Waters of the State. Any surface waters such as canals, ditches, laterals, lakes, streams, or rivers. (4-5-00)

005. FINDINGS.

These rules are promulgated pursuant to Section 67-5226, Idaho Code, in compliance with the deadlines in the governing law, Title 22, Chapter 34, Idaho Code. The rule changes are necessitated by the passage of H.B. 99 in the 1999 legislative session combining the Idaho Pesticide and Chemigation Laws. These rules will combine IDAPA 02.03.03, "Idaho Department of Agriculture Rules Governing Pesticide Use and Application," and IDAPA 02.03.04, "Rules Governing Chemigation," and name the combined rule IDAPA 02.03.03, "Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application." The existing Chemigation rules (IDAPA 02.03.04, "Rules Governing Chemigation") will be repealed in their entirety. In addition, the rule adds two (2) crops to the list of non-food crops; provides for consistent licensing by issuing two (2) year Pesticide Dealer licenses so all pesticide licenses will be effective for two (2) years; revises the aquatic weed applicator category to more accurately reflect activities in this licensing category; and the livestock protection collar rule changes are incorporated pursuant to SCR 115. (4-5-00)

006. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (3-30-01)

007. INCORPORATION BY REFERENCE.

01. Incorporated Document. IDAPA 02.03.03 incorporates by reference 40 CFR Part 165 Subpart E - Standards For Pesticide Containment Structures, Sections 165.80 through 165.97 as published in the Federal Register, Volume 71, Number 158, on August 16, 2006. (5-8-09)

02. Availability of Documents. Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, P.O. Box 7249, Boise, ID 83707 or through the U.S. Government Printing Office at <http://www.gpo.gov/fdsys/>. (5-8-09)

008. -- 049. (RESERVED)

050. PRIVATE APPLICATOR LICENSING.

01. Applying for a Private Applicator's License. Applicants who wish to obtain a private applicator's license shall: (4-4-13)

a. Fill out an application prescribed by the Department; and (4-4-13)

b. Take an examination based on the Environmental Protection Agency (EPA) core manual and score a minimum of seventy percent (70%). For the purpose of becoming licensed, examination scores shall be valid for twelve (12) months from the date of the examination. The examination procedure shall be the same as for professional applicators (Subsection 100.03), except private applicators shall not be assessed an examination fee. (3-20-14)

02. License Categories. (4-4-13)

a. Private applicators shall be certified and licensed in one or more of the following categories: (4-4-13)

i. Restricted Use Pesticide (RU). For persons who use or supervise the use of restricted use pesticides to produce agricultural commodities or forest crops on land they or their employer(s) own(s) or operate(s). (3-20-97)

ii. Chemigation (CH). For persons who apply chemicals through irrigation systems on land they or their employer(s) own(s) or operate(s). (3-20-97)

iii. Soil Fumigation (SF). For persons who apply soil fumigants on land they or their employer(s) own(s) or operate(s). In order to be certified and licensed in this category, private applicators must pass both the RU examination and the SF examination. (4-4-13)

b. Non-reading applicators may be certified to purchase and apply a single restricted use pesticide when they have demonstrated their competence in the safe and proper use of such pesticide to the Director or other designated agent. (3-20-97)

03. License Recertification. In order for a private applicator's license to be renewed, the license holder must complete the recertification provisions of this section. Beginning July 1, 1996, licenses belonging to private applicators with last names beginning with A through L, inclusive, shall expire on the last day of the month listed on the chart in Subsection 050.03.a. in every odd-numbered year, and licenses belonging to private applicators with last names beginning with M through Z, inclusive, shall expire on the last day of the month listed on the chart in Subsection 050.03.a., in every even-numbered year. The recertification period shall be concurrent with the licensing period. Those persons who are currently licensed as a private applicator or chemigator on June 30, 1996, shall be reissued a private applicator license with the appropriate categories. Those persons who are currently licensed as a private applicator or chemigator on June 30, 1996, shall be grandfathered into the licensing schedule at Subsection 050.03.a. Any person with less than thirteen (13) months in the initial licensing period shall not be required to obtain recertification credits for the initial period. Upon issuance of the replacement license, the previous license shall be null and void. Any private applicator license without an expiration date shall be null and void on December 31, 1996. Recertification and relicensing may be accomplished by complying with either Subsection 050.03.b. or 050.03.c. (4-4-13)

a. Licensing schedule.

Last Name		Month to License
Odd Year	Even Year	
A-D	M-P	March
E-H	Q-T	July

Last Name		Month to License
Odd Year	Even Year	
I-L	U-Z	October

(3-20-97)

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

i. A minimum of six (6) credits shall be earned during each recertification period. (3-23-98)

ii. Guidelines for obtaining recertification credits shall be the same as for professional applicators, as described in Subsections 100.04.a.ii. through 100.04.a.v. Any credits accumulated beyond the required six (6) in a recertification period may not be carried over to the next recertification period. (3-23-98)

iii. Upon earning the recertification credits as described above, a person shall be considered by the Department to be recertified and eligible for license renewal for the next licensing period, provided that the license renewal application is submitted within twelve (12) months from the expiration date of the license. (3-20-14)

c. A person shall pass the Department’s private applicator recertification examination(s) for all categories in which the person intends to license with a minimum score of seventy percent (70%). (3-20-97)

i. Recertification examinations may be taken by a person beginning the thirteenth (13th) month of the license period. (3-20-97)

ii. The examination procedures as outlined in Subsection 100.03 shall be followed, except that an examination fee shall not be assessed. (3-20-97)

iii. Upon passing the recertification examinations, a person shall be considered by the Department to be recertified and eligible for license renewal for the next licensing period. For the purpose of becoming licensed, recertification examination scores shall be valid for twelve (12) months from the date of the examination. (3-20-14)

051. -- 099. (RESERVED)

100. LICENSING PROFESSIONAL APPLICATORS AND PESTICIDE DEALERS.

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

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

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

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

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

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

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

- v. Mixing and loading, including interpretation of labels, safety precautions, compatibility of mixtures, and protection of the environment. (3-20-97)
- vi. Methods of use or application, including types of equipment, calibration, application techniques, and prevention of drift and other types of pesticide migration. (3-20-97)
- vii. Pests to be controlled, including identification, damage characteristics, biology and habitat. (3-20-97)
- viii. Types of pesticides, including formulations, mode of action, toxicity, persistence, and hazards of use. (3-20-97)
- ix. Chemigation practices involving the application of chemicals through irrigation systems, calibration, management, and equipment requirements. (4-5-00)
- x. For use of the Livestock Protection Collar (LPC), in addition to the requirements of Subsection 100.01.b.i. through 100.01.b.viii., professional applicators shall have training in and knowledge of the following: (3-19-99)
- (1) Characteristics and habits of predatory animals, and particularly, coyotes. (3-19-99)
 - (2) Properties of the collars and of Sodium Fluoroacetate (Compound 1080). (3-19-99)
 - (3) Recordkeeping requirements set forth in Subsection 150.01 that will additionally include a record of each animal found poisoned or suspected of having been poisoned as a result of the use of Compound 1080, including target and non-target species. (3-19-99)
 - (4) The requirement for immediate reporting of suspected poisonings of non-target species and suspected poisonings of humans or domestic animals by the use of Compound 1080 to the United States Environmental Protection Agency (US EPA) and the Idaho State Department of Agriculture (ISDA). (3-19-99)
 - (5) How to properly dispose of animal remains, vegetation, or soil contaminated by a punctured LPC. (3-19-99)
 - (6) Practical treatment of Compound 1080 poisonings in humans and domestic animals. (3-19-99)
 - (7) Safe handling, attachment, and storage of LPC collars. (3-19-99)
 - (8) The requirement to post and maintain bilingual (English/Spanish or other second language appropriate for the region) signs at logical points of access to areas where LPCs are in use. (3-19-99)
 - (9) The requirement to perform inspections once every week to ensure that collars in use are accounted for, properly positioned, and intact. (3-19-99)
 - (10) Knowledge of alternative controls of predation. (4-5-00)
- xi. For use of the LPC, in addition to the requirements of Subsections 100.01.b.i. through 100.01.b.x., professional applicators shall have training in and the ability to: (3-19-99)
- (1) Recognize potential hazards to humans, domestic animals, and non-target wildlife from the use of the LPC. (3-19-99)
 - (2) Read and understand the labeling specific to the LPC. (3-19-99)
 - (3) Recognize general symptoms of poisoning by Compound 1080 in humans and domestic animals and take appropriate action. (3-19-99)

(4) Recognize where the LPC can be used safely and effectively and, conversely, where alternative methods of control would be more appropriate. (3-19-99)

(5) Assess damaged LPCs to determine which can be repaired and which must be disposed of properly. (3-19-99)

(6) Properly dispose of the LPCs. (3-19-99)

02. Certification. A person shall be certified by passing Department examinations with a minimum of seventy percent (70%) in the applicable pesticide categories. For the purpose of becoming licensed, examination scores shall be valid for twelve (12) months from the date of the examination. (3-20-14)

a. Professional applicators shall be certified and licensed in one (1) or more of the following categories: (3-20-97)

i. Law and Safety (LS). This shall include general knowledge of pesticides including proper use and disposal, product characteristics, first aid, labeling, and laws. Certification in this category is required when certifying in Subsections 100.02.a.ii. through 100.02.a.ix. (3-20-97)

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

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

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

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

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

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

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

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

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

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

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

- xiii. Seed Treatment (ST). For persons doing treatments to protect seeds used for plant reproduction. (3-20-97)
- xiv. Commodity Pest Control (CP). For persons controlling pests in stored commodities. (3-20-97)
- xv. Potato Cellar Pest Control (PC). For persons who apply sprout inhibitors in potato cellars. (3-20-97)
- xvi. Wood Preservative (WP). For persons who apply wood preservatives. (3-20-97)
- xvii. Pest Control Consultant-Statewide (SW). For persons who make recommendations or supply technical advice concerning the use of any pesticide for agricultural purposes. (3-20-97)
- xviii. Demonstration and Research (DR). For persons who apply or supervise the use of restricted use pesticides at no charge to demonstrate the action of the pesticide or conduct research with restricted use pesticides. A person shall be eligible to license in this category by passing the Pest Control Consultant examination. (3-20-97)
- xix. Chemigation (CH). For persons who apply chemicals through an irrigation system, excluding Aquatic Weed and Pest Control applicators (see Subsection 100.02.xii.). (4-5-00)
- xx. Livestock Protection Collars (LPC). For use of Livestock Protection Collars (LPC) containing the restricted use pesticide Compound 1080 to control predatory coyotes. (3-19-99)
- b.** Pesticide Dealers shall be certified and licensed in any category listed in Subsection 100.02 that pertains to the types of restricted use pesticides sold or distributed. (3-23-98)
- c.** Persons with an active license category on June 30, 1996, shall retain said category under the rules which became effective on July 1, 1996, until the expiration of the certification period or suspension of the license by the Department. (3-23-98)
- d.** Mixer-Loaders. Effective December 31, 1998, mixer-loader licenses issued by the Department shall expire. No person shall act as a mixer-loader for a professional applicator without first obtaining annual training. (3-23-98)
- i. Training shall be conducted and certified by the professional applicator who employs the mixer-loader. Certification of training shall be on a form prescribed by the Department and must include the signatures of both the mixer-loader and the professional applicator providing the training. (3-23-98)
- ii. Training shall include areas relevant to the pesticide mixing and loading operation and instruction on the interpretation of pesticide labels, safety precautions, first aid, compatibility of mixtures, and protection of the environment. (3-23-98)
- iii. Employers of mixer-loaders shall comply with federal and state laws related to hazardous occupations and shall provide and ensure the use of personal protective equipment required in the label directions. (3-23-98)
- 03. Department Examination Procedures.** (3-20-97)
- a.** Examinations shall be administered by a designated agent. (3-20-97)
- b.** To pass a Department examination, professional applicators and pesticide dealers shall obtain a score of seventy percent (70%) or higher. (3-23-98)
- c.** Payment of examination fees shall be received by the Idaho Department of Agriculture before examination results may be released. (3-20-97)

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

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

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

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

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

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

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

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

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

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

viii. Upon earning the recertification credits as described above, a person shall be considered by the Department to be recertified for the next recertification period corresponding with the next issuance of a license, provided that the license renewal application is submitted within twelve (12) months from the expiration date of the license. (3-20-14)

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

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

- ii. The examination procedures as outlined in Subsection 100.03 shall be followed. (3-23-98)
- iii. In addition to examinations for categories listed under Subsections 100.02.a.ii. through 100.02.a.ix., a person must also pass a Law and Safety recertification examination. (3-23-98)
- iv. Recertification shall not be achieved by passing an entry-level examination. (3-20-97)
- v. Upon passing the recertification examination(s), a person shall be considered by the Department to be recertified for the next recertification period. (3-20-97)
- c. Any person who fails to accumulate the required recertification credits prior to the expiration date of their license shall be required to pass the appropriate recertification examination(s) before being licensed. (3-20-97)

05. Licensed Professional Applicator. Only a licensed professional applicator shall operate or supervise the operation of commercial application equipment by being present during the time of operation. Licensed professional applicators that start the application of chemicals through chemigation equipment do not have to be present during the entire application, but must return to monitor the proper application at least once every four (4) hours for the duration of the application. (3-29-12)

06. Interim Exemption from Pesticide Dealer Licensing and Recordkeeping. Until such time as the director promulgates specific rules pertaining to distribution of general use pesticides (GUPs), persons selling only GUPs shall not be required to obtain a pesticide dealer license or maintain distribution records of these products. (3-30-01)

101. REGISTRATION AND LICENSING REQUIREMENTS FOR USE OF THE LPC.

01. Registration. Use restricted to United States Department of Agriculture, Animal and Plant Health Inspection Service, wildlife services (USDA, APHIS, WS) employees, licensing, and recordkeeping requirements for the LPC. (3-19-99)

a. Only the USDA, APHIS, WS shall register the LPC. USDA, APHIS, WS shall hereinafter be known as the registrant for the purpose of these rules. (3-19-99)

b. The LPC shall be transferred only by the registrant and only to professional applicators who are certified in the LC category and who are current employees of USDA, APHIS, WS. (3-19-99)

c. The LPC shall be used only by professional applicators with certification in the LC category who are current employees of the USDA, APHIS, WS. (3-19-99)

d. Before obtaining certification and licensing, LC applicants shall receive training and demonstrate competency in the areas listed in Subsection 100.01.b.x. and 100.01.b.xi. of these rules and satisfy Section 22-3404, Idaho Code. (3-19-99)

e. Only the manufacturer or registrant is authorized to fill collars with Compound 1080. Certified professional applicators or any other person shall not fill collars or remove the pesticide from the collars. (4-5-00)

02. Use of the LPC (Compound 1080). (3-19-99)

a. Use of collars shall conform to all applicable federal and state regulations. (3-19-99)

b. Collars shall be used to take coyotes only. (3-19-99)

c. Warning signs shall be posted at all usual points of entry to the area, including any access roads, or footpath or other walking route that enters the area. When there are no usual points of entry, signs shall be posted in the corners of the area or in any other location affording maximum visibility. (3-19-99)

- i. The signs shall remain visible and legible throughout the collar use. (3-19-99)
- ii. All warning signs shall be posted and inspected once a week by the certified Wildlife Services employee to ensure their continued presence and legibility, and will be removed when all collars are removed and accounted for. (3-19-99)
- iii. Warning signs shall be at least fourteen (14) inches by sixteen (16) inches with letters at least one (1) inch in height. (3-19-99)
- iv. All warning signs shall have a background color that contrasts with red. The words “DANGER” and “PELIGRO,” plus “PESTICIDES” and “PESTICIDAS,” shall be at the top of the sign, and the words “KEEP OUT” and “NO ENTRE” shall be at the bottom of the sign. Letters for all words shall be clearly legible. A circle containing an upraised hand on the left and a stern face on the right shall be near the center of the sign. The inside of the circle shall be red, except that the hand and a large portion of the face shall be in a shade that contrasts with red. The length of the hand shall be at least twice the height of the smallest letters. The length of the face shall be only slightly smaller than the hand. (3-19-99)
- v. The name of the pesticide (Compound 1080) and the date collars were placed on the sheep or goats shall appear on the warning sign. (4-5-00)
- d.** If a collar is found to have been punctured by a predator attacking a collared animal, a complete and intensive search shall be conducted for the predator that punctured the collar. (3-19-99)
 - i. Disposal of punctured or unserviceable collars and contaminated gloves, clothing, vegetation or soil shall be as prescribed by the 1080 LPC label and technical bulletin or through the ISDA pesticide disposal program. Disposal of animal remains shall be in accordance with label directions. (4-5-00)
- e.** Prior to any intended use or application of the LPCs, the professional applicator shall submit to ISDA a written notice of intended use, as prescribed by the ISDA. The notice shall contain the following: (3-19-99)
 - i. The professional applicator’s license number issued by the ISDA; (3-19-99)
 - ii. A list of the names and addresses of the owners or persons in charge of the areas to be treated and a map of the geographic location of such areas; (3-19-99)
 - iii. The approximate size of the area where treatment will take place; (3-19-99)
 - iv. The intended period of use; and (3-19-99)
 - v. The number of collars to be used. (3-19-99)
- f.** USDA, APHIS, WS shall accurately keep and maintain the following records and reports:(3-19-99)
 - i. Records of all collars distributed; (3-19-99)
 - ii. The name and address of each professional applicator receiving the collars; and (3-19-99)
 - iii. The dates and the number of collars received by each professional applicator. (3-19-99)
 - iv. These records shall be maintained by USDA, APHIS, WS for a period of three (3) years and shall be made available to the ISDA for inspection, duplication, and verification upon request by the ISDA. (3-19-99)
- g.** The professional applicator shall accurately keep and maintain the following records and reports: (3-19-99)
 - i. Any suspected poisoning of humans, threatened or endangered species, domestic animals, or non-

target wild animals shall be reported within seventy-two (72) hours or less to the ISDA and US EPA; (3-19-99)

ii. The name and address of the person on whose property the LPC was used or, if different from the property owner, the same information for the person in charge of the area where the collars will be used; (3-19-99)

iii. A map of the geographic location and size of the area in which the LPCs were used; (3-19-99)

iv. A summary report of the date each individual collar was obtained by the professional applicator, placed on sheep, punctured or ruptured (along with apparent cause), lost or unrecovered, or removed and put in storage, or disposed of through the ISDA Pesticide Disposal Program; (3-19-99)

v. The species, date, and location of each animal found poisoned or suspected of having been poisoned as a result of the use of Compound 1080 in LPCs; (3-19-99)

vi. The dates and results of each collar inspection; and (3-19-99)

vii. A written description of any complete and intensive search for missing collars or poisoned animals conducted as specified in these rules. (3-19-99)

viii. The records required by this rule shall be maintained by the professional applicator for a period of three (3) years and shall be made available to the ISDA for inspection, duplication and verification upon request of the ISDA. (3-19-99)

ix. A report of the records required by Subsection 101.02.g. shall be submitted to the ISDA as an annual summary report. (4-5-00)

h. Collars shall be used only upon sheep or goats within fenced pastures no larger than two thousand five hundred sixty (2,560) acres (four (4) square miles). Fenced pastures include all pastures that are enclosed by livestock fencing. In addition to wire livestock fences, and other man-made fences, such as rock walls, natural barriers such as escarpments, lakes, or large rivers may be used as fences, as long as they will prevent escape of sheep or goats. Fenced pastures and fences as herein defined shall be referred to elsewhere in this section as "area." Collars shall not be used on unfenced, open range. (4-5-00)

i. All appropriate alternative control methods must be considered before implementing use of the LPC. (4-5-00)

j. Each collar in use shall be inspected by the professional applicator once a week to ensure that it is properly positioned and unbroken. An inspection report on a form prescribed by the director shall be forwarded to ISDA following the conclusion of the project. (4-5-00)

i. If any collared animal is not accounted for in any two (2) consecutive checks, a complete and intensive search for the collared animal shall be conducted. (4-5-00)

ii. If more than four (4) LPCs are unaccounted for during any thirty (30) day period, WS employees shall remove all LPCs from all animals and terminate their use. Use of collars shall not be resumed until WS employees have provided ISDA with a written protocol defining adequate steps they shall take to prevent any losses of LPCs. (4-5-00)

k. Intact LPCs containing Compound 1080 shall be stored by USDA, APHIS, WS under lock and key in a dry place away from food, feed, domestic animals and corrosive chemicals, and in outbuildings or in outdoor storage areas attached to, but separate from, human living quarters. (4-5-00)

102. RESTRICTIONS AND PENALTIES.

Any person who violated or fails to comply with any provision of these rules, or Title 22, Chapter 34, Idaho Code, shall be subject to one (1) or more of the following actions. (3-19-99)

01. Revocation, Suspension or Denial to Issue or Renew. Revocation, suspension, or denial to issue

or renew the license or certification of an applicant, licensee, or certificate holder in accordance with Title 22, Chapter 34, Idaho Code, Section 22-3409, Idaho Code. (3-19-99)

02. Amendment, Suspension, or Revocation of the LPC Registration. Amendment, suspension, or revocation of the LPC registration in accordance with Title 22, Chapter 34, Idaho Code, Section 22-3408. (3-19-99)

03. Imposition of Civil Penalty. Imposition of a civil penalty, in accordance with Title 22, Chapter 34, Idaho Code, Section 22-3423, Idaho Code. (3-19-99)

04. Initiation or Pursuit of Any Other Action. Initiation or pursuit of any other action of an enforcement nature available through Title 22, Chapter 34, Idaho Code. (3-19-99)

103. -- 149. (RESERVED)

150. RECORDS REQUIREMENTS.

01. Applicator Records. Professional applicators shall maintain pesticide application records for three (3) years, ready to be inspected, duplicated, or submitted when requested by the Director. The records shall be maintained in a location designated by the professional applicator. (4-5-00)

02. Record Contents. Such records shall contain: (3-20-97)

a. The name and address of the owner or operator of each property treated; and (3-20-97)

b. The specific crop, animal, or property treated; and (3-20-97)

c. The location by the address, general legal description (township, range, and section) or latitude/longitude of the specific crop, animal, or property treated; and (3-23-98)

d. The size or amount of specific crop, animal, or property treated; and (3-23-98)

e. The trade name or brand name of the pesticide applied; and (3-23-98)

f. The total amount of pesticide applied; and (3-23-98)

g. The dilution applied or rate of application; and (3-23-98)

h. The EPA registration number of the pesticide applied; and (3-23-98)

i. The date of application; and (3-20-97)

j. The time of day when the pesticide is applied; and (3-20-97)

k. The approximate wind velocity; and (3-20-97)

l. The approximate wind direction; and (3-23-98)

m. The full name of the person recommending the pesticide application; and (3-23-98)

n. The full name of the professional applicator applying the pesticide; and (3-23-98)

o. The license number of the professional applicator applying the pesticide; and (3-23-98)

p. Worker protection information exchange, if required by the worker protection standard, prior to pesticide application, shall be documented by: (3-30-01)

i. Date of contact; and (3-23-98)

ii. Time of contact; and (3-23-98)

iii. Name of grower or operator contacted. (3-23-98)

03. Pesticide Dealer Records. Pesticide dealers shall maintain restricted use pesticide distribution records for three (3) years, ready to be inspected, duplicated, or submitted when requested by the Director. The records shall be maintained in a location designated by the pesticide dealer. (3-30-01)

04. Record Contents. Such records shall contain: (3-30-01)

a. The name and address of the person purchasing or receiving the restricted use pesticide (RUP); and (3-30-01)

b. The certified applicator name, license number, and expiration date of the license for the person certified to use the RUP; or (3-30-01)

c. In the case of distribution of a RUP to another pesticide dealer, the name, license number, and expiration date of the license of the licensed pesticide dealer. (3-30-01)

d. The brand name and Environmental Protection Agency (EPA) Registration Number for each RUP distributed; and (3-30-01)

e. Date of the distribution of each RUP; and (3-30-01)

f. The quantity and size of each RUP container distributed and the total quantity of RUP distributed; and (3-30-01)

g. The pesticide dealer's name, address, and pesticide dealer license number distributing the RUP. (3-30-01)

151. -- 199. (RESERVED)

200. FEES.

01. Pesticide Registration. On and after July 1, 2006, one hundred sixty dollars (\$160) per product. (3-30-06)

02. Professional Applicator's License. On and after July 1, 1996, one hundred twenty dollars (\$120) per licensing period of fourteen (14) months or more, sixty dollars (\$60) per licensing period of thirteen (13) months or less. (3-20-97)

03. Pesticide Dealer's License. Beginning August 31, 2000, one hundred dollars (\$100) per licensing period of fourteen (14) months or more, fifty dollars (\$50) per licensing period of thirteen (13) months or less. Prior to August 31, 2000, fifty dollars (\$50) for an annual license or partial year if the license is issued after August 31, 1999. (4-5-00)

04. Private Applicator's License. A Restricted Use Category, ten dollars (\$10); a Chemigation Category, twenty dollars (\$20); or thirty dollars (\$30) for both categories. (3-20-97)

05. Examination Fee per Examination Category. Ten dollars (\$10). (3-20-97)

201. -- 249. (RESERVED)

250. FINANCIAL RESPONSIBILITY.

01. Proof of Financial Ability. A professional applicator's license will not be issued by the

Department until an applicant submits written proof of financial responsibility by any of the following methods: (3-20-97)

a. Liability insurance with an insurance company licensed to do business in Idaho and documented on a form approved by the Director; or (3-23-98)

b. A bond that is approved by the Director; or (3-20-97)

c. A cash certificate of deposit in escrow with a bank or trust company; or (3-20-97)

d. An annuity; or (3-20-97)

e. An irrevocable letter of credit. (3-20-97)

f. Any certificate of deposit, annuity, or irrevocable letter of credit must be payable to the Director as trustee and shall remain on file with the Department until it is released, canceled or discharged by the Director. Any certificate of deposit, annuity, or irrevocable letter of credit must maintain a cash value equal to the requirements of Subsection 250.02, less any penalty for early withdrawal. Accrued interest upon a certificate of deposit or annuity shall be payable to the purchaser of the certificate or annuity. (3-20-97)

g. Under the provisions of this chapter, an irrevocable letter of credit shall not be acceptable unless it is issued by a national bank in Idaho or by an Idaho state-chartered bank insured by the federal deposit insurance corporation. Under the provisions of this chapter, an annuity shall not be accepted by the Department unless it is issued by an insurance company, bank or other financial institution found acceptable by the Director. (3-20-97)

h. Exclusions. Any exclusion to liability insurance, bond, cash certificate of deposit, annuity or irrevocable letter of credit coverage shall be listed on a form approved by the Director. (3-19-99)

02. Minimum Coverage Required. (3-20-97)

a. Professional applicators. (3-20-97)

i. Bodily injury - fifty thousand dollars (\$50,000) per person/one hundred thousand dollars (\$100,000) per occurrence. (3-23-98)

ii. Property damage - fifty thousand dollars (\$50,000) per occurrence. (3-23-98)

iii. Maximum deductible - five thousand dollars (\$5,000). (3-23-98)

iv. All new professional applicator licenses issued on or after September 1, 1997, shall require financial responsibility at or exceeding the coverage limits as specified in Subsections 250.02.a.i. and 250.02.a.ii. (3-23-98)

v. In order to maintain an existing professional applicator license the coverage limits specified in Subsections 250.02.a.i. and 250.02.a.ii. shall be met or exceeded on or before December 31, 1998. (3-23-98)

03. Target Property Not Required to Be Covered. The immediate property being treated is not required to be covered as prescribed in Subsection 250.02.a.ii. (3-19-99)

04. Cancellation or Reduction. The Department shall be notified by the applicator in writing immediately after cancellation or reduction of the financial coverage. (3-23-98)

05. Coverage Waived. Coverage waivers which have been issued prior to September 1, 1997, shall remain in effect until the first license expiration date subsequent to September 1, 1997. (3-23-98)

251. -- 299. (RESERVED)

300. DEVIATIONS FROM PESTICIDE LABELS AND LABELING.

Any licensed professional or private applicator may deviate from pesticide label directions for use only as EPA or state laws, rules, and regulations permit. (3-20-97)

301. -- 309. (RESERVED)

310. LOW-FLYING PROHIBITIONS.

01. Low-Flying Prohibitions. Aircraft pilots during spray operations are prohibited from turning or low-flying: (3-20-97)

a. Over cities, towns, schools, hospitals and densely populated areas unless the pilot obtains an agreement in writing for pesticide applications from the authorized agent for the city, town, school, hospital, or densely populated area in question; or (3-23-98)

b. Directly over an occupied structure without prior notification by some effective means such as daily newspapers, radio, television, telephone, or door-to-door notice. (3-23-98)

02. Restriction. The low-flying restrictions listed in Subsection 310.01 shall only pertain to persons other than those persons whose property is to be treated. (3-20-97)

311. -- 319. (RESERVED)

320. WIND VELOCITY RESTRICTIONS.

01. Restrictions. No person shall apply any pesticide in sustained wind conditions exceeding ten (10) miles per hour or in wind conditions exceeding product label directions, except as provided in Subsection 320.04. (4-5-00)

02. Exceptions. Application of pesticides by injection into application site or by impregnated granules shall be made according to label directions. (3-23-98)

03. Approval for Use of Other Application Techniques. Other pesticide application techniques or methods may be approved by the Director or his agent on a case-by-case basis. (3-23-98)

04. Chemigation Wind Speed Precautions. Chemicals shall not be applied when wind speed favors drift beyond the area intended for treatment or when chemical distribution is adversely affected. (4-5-00)

321. CHANGE OF LICENSE STATUS.

01. Change Notification. Any person who is licensed by this act shall immediately notify the Director, in writing, of any change of status of any person or agent so named, or of any change in the business name, organization, or any other information shown in the licensing application. (3-20-97)

02. Transferable. Licenses are not transferable. (3-23-98)

322. (RESERVED)

323. PESTICIDE-FERTILIZER MIX RESTRICTIONS.

No person shall distribute, sell, offer for sale, or hold for sale any dry pesticide incorporated in a dry blended bulk fertilizer mix. (3-20-97)

324. EXPERIMENTAL PERMITS.

Any person who wishes to obtain an experimental permit to accumulate information necessary to register a pesticide for a special local need under Section 22-3402(5), Idaho Code, shall file an application with the Department which contains: (3-20-97)

- 01. Name.** The company name. (3-20-97)
- 02. Applicant.** The name, address, and telephone number of the applicant. (3-20-97)
- 03. Shipment.** The proposed date of shipment or proposed shipping period not to exceed one (1) year. (3-20-97)
- 04. Active Ingredient.** A statement listing the active ingredient. (3-20-97)
- 05. Quantity Statement.** A statement of the approximate quantity to be tested. (3-20-97)
- 06. Acute Toxicity.** Available data or information or reference to available data on the acute toxicity of the pesticide. (3-20-97)
- 07. Statement of Scope.** A statement of the scope of the proposed experimental program, including the type of pests or organisms involved, the crops and animals for which the pesticide is to be used, the areas where the applicant proposes to conduct the program, and when requested by the Director, the results of previous tests. (3-20-97)
- 08. Temporary Tolerance.** When the pesticide is to be used on food or feed, a temporary tolerance must be obtained from the EPA or evidence that the proposed experiment will not result in injury to humans or animals, or illegal residues entering the food chain. (3-20-97)
- 09. Proposed Labeling.** Proposed labeling which must bear: (3-20-97)
- a.** The prominent statement “For Experimental Use Only” on the container label and any labeling that accompanies the product. (3-20-97)
- b.** An adequate caution or warning statement to protect those who may handle or be exposed to the experimental formulation. (3-20-97)
- c.** The name and address of the applicant for the permit. (3-20-97)
- d.** The name or designation of the formulation. (3-20-97)
- e.** Directions for use. (3-20-97)
- f.** A statement listing the name and percentage of each active ingredient and the total percentage of inert ingredients. (3-20-97)
- 10. Quantity Limit.** The Director may limit the quantity of pesticide covered by the permit or make such other limitations as he may determine to be necessary for the protection of humans or the environment. (3-20-97)
- 11. Experimental Use.** A pesticide for experimental use shall not be offered for sale unless a written permit has been obtained from the Director. (3-20-97)

325. -- 399. (RESERVED)

400. RESTRICTIONS TO PROTECT POLLINATORS.

- 01. Bee Restrictions.** Any pesticide that is toxic to bees shall not be applied to any agricultural crop when such crop is in bloom or when bees are actively foraging on blooming weeds in the crop being sprayed except during the period beginning three (3) hours before sunset until three (3) hours after sunrise. (3-30-01)
- 02. Green Pea Exception.** In the counties of Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone: Green (white) pea crops may be sprayed or dusted at any time. (3-20-97)

03. Other Exceptions. Pesticides may be applied at any time to sweet corn for processing, hops, potatoes, and beans other than lima beans, subject to all other applicable regulations. (3-20-97)

401. -- 449. (RESERVED)

450. STORAGE OF PESTICIDE CONTAINERS.

01. Protecting Humans and Environment. No person shall handle, transport, display, or distribute pesticides in such a manner as to endanger humans and their environment, or to contaminate food, feed, or any other product that may be transported, stored, displayed, or distributed with such pesticides. (3-20-97)

02. Storage by Professional Applicators or Pesticide Dealers. Storage of pesticide containers by professional applicators and pesticide dealers: (3-20-97)

a. Empty or partially full pesticide containers which contain Class 1 - highly toxic pesticides (LD50 of 50 or below) and which require the skull and crossbones insignia and the words "Danger - Poison" on the label; and Class 2 (moderately toxic) pesticides (LD50 - 500) which carry a "Warning" statement on the label; and Class 3 (slightly toxic) pesticides (LD50 of 500-5000) and which carry a "Caution" statement on the label, shall be stored in one of the following enclosures which when unattended shall be locked to prevent unauthorized persons, livestock or animals from gaining entry: (3-20-97)

- i. Closed vehicle; (3-20-97)
- ii. Closed trailer; (3-20-97)
- iii. Building or room; (3-20-97)
- iv. Fenced area with a fence at least six (6) feet high; (3-20-97)
- v. Truck or trailer with solid sideracks and secured tailgate at least six (6) feet above ground level. (3-20-97)

b. Empty or partially full pesticide containers which contain Class 4 pesticides (LD50 over 5000) shall be stored in secured storage out of the reach of children in one of the above enclosures. (3-20-97)

c. Warning notices, visible from any direction, shall be posted around all storage areas where partially full or empty containers which hold or have held pesticides required to be labeled with the signal words "Warning" or "Danger - Poison" are stored. Each warning notice shall be of such size that it is readable at a distance of twenty-five (25) feet and be substantially as follows:

"D A N G E R"

**"POISON STORAGE AREA
ALL UNAUTHORIZED PERSONS
KEEP OUT"**

The notice shall be repeated in an appropriate language other than English when it may be reasonably anticipated that persons who do not understand the English language will come to the enclosure. The notice shall also contain the name and telephone number of a person to contact in case of an emergency. (3-20-97)

03. Exceptions. The provisions of Subsection 450.02 shall not apply to drums of petroleum oils, lime sulfur, and copper sulfate. (3-20-97)

04. Disposal. Any person applying pesticides shall be responsible for the proper disposal of such empty containers. (3-20-97)

451. -- 499. (RESERVED)

500. NON-DOMESTIC PESTICIDES.

01. Home and Garden Restrictions. The following listed pesticides shall not be sold to home and garden users, nor shall they be applied by professional applicators around any home or garden. These pesticides shall be registered only when labeled, distributed, sold or held for sale and use other than home and garden use. (3-20-97)

- a. Bidrin (Foliar applications). (3-20-97)
- b. Disyston (two point one percent (2.1%) and above). (3-20-97)
- c. Guthion (fifteen percent (15%) and above). (3-20-97)
- d. Strychnine (one percent (1%) and above). (3-20-97)
- e. Zinc Phosphide (two point one percent (2.1%) and above). (3-20-97)
- f. All high volatile liquid ester formulations of 2,4-D. (3-20-97)

02. Ester Restriction. Low volatile liquid ester formulations of herbicides shall not be applied around any home or garden at any time when ambient air temperature exceeds or is forecasted to exceed eighty (80) degrees Fahrenheit during the day of application. (4-11-15)

501. -- 549. (RESERVED)

550. PHENOXY HERBICIDE RESTRICTIONS.

01. High Volatile Ester Restrictions. No aircraft pilot shall apply high volatile ester formulations of 2,4-D: (3-20-97)

- a. In Latah, Nez Perce, and Clearwater Counties in Idaho; or (3-20-97)
- b. Within five (5) miles of a susceptible crop or hazard area in any other county in Idaho. (3-20-97)
- c. Waiver of the restriction is Subsections 550.01.a. and 550.01.b. may be issued on a project-by-project basis by the Director. (3-20-97)

02. Low Volatile Ester Restrictions. No aircraft pilot shall apply low volatile ester formulations of 2,4-D; MCPA and MCPB: (3-20-97)

- a. In Latah, Nez Perce, and Clearwater Counties in Idaho, unless ambient air temperatures are not above or expected to exceed eighty-five (85) degrees fahrenheit within twenty-four (24) hours of the expected application time, or (3-30-01)
- b. Within one (1) mile of a hazard area in any other county in Idaho. (3-20-97)
- c. Waiver of the restriction in Subsection 550.02.a. may be issued on a project-by-project basis by the Director. (3-20-97)

03. Hazard Area. Aircraft pilots shall maintain the following spray distances from hazard areas when applying amine or acid formulations of 2,4-D; MCPA; MCPB; and Dicamba:

Mean Sustained Wind Velocity	Downwind	Upwind
0-3 MPH	1/2 mile	600 feet
4-7 MPH	1 mile	200 feet

Mean Sustained Wind Velocity	Downwind	Upwind
8-10 MPH	1 mile	50 feet
Over 10 MPH	Do not apply	Do not apply

(3-23-98)

04. Airflow and Temperature Inversion Indicators. A continuous smoke column or other device satisfactory to the Director shall be employed to indicate to the pilot of any aircraft the direction and velocity of the airflow, and indicate a temperature inversion by layering of smoke, at the time and place of application when applying any formulation of 2,4-D; MCPA; MCPB and Dicamba. (3-20-97)

05. Other Spraying Equipment. If any aerial applicator wishes to use spraying equipment other than the equipment specified, such equipment must be approved by the Director prior to use. (3-20-97)

551. -- 599. (RESERVED)

600. APPLICATION NEAR HAZARD AREAS.

An aircraft pilot shall not apply any pesticide within one-half (1/2) mile of a hazard area unless there is air movement away from the hazard area. (3-20-97)

601. MICROENCAPSULATED METHYL PARATHION RESTRICTION.

An aircraft pilot shall not apply microencapsulated methyl parathion within one-half (1/2) mile of any canyon breaks or the perimeter thereof, of the Clearwater-Snake River drainage within the boundaries of Latah, Lewis, Clearwater, and Nez Perce Counties in Idaho. (3-20-97)

602. -- 799. (RESERVED)

800. PESTICIDE USE ON SEED CROP FIELDS.

01. Nonfood and Nonfeed Site Conditions. For purposes of pesticide registration, all alfalfa seed, carrot seed, chicory seed, clover seed, collard seed, coriander/cilantro seed, dill seed, endive seed, garden beet seed, kale seed, kohlrabi seed, leek seed, lettuce seed, mustard seed, onion seed, parsnip seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, sugar beet seed, Swiss chard seed, and turnip seed crop fields are considered nonfood and nonfeed sites for pesticide use and the following conditions shall be met: (3-20-14)

a. No portion of the seed alfalfa, carrot seed, chicory seed, clover seed, collard seed, coriander/cilantro seed, dill seed, endive seed, garden beet seed, kale seed, kohlrabi seed, leek seed, lettuce seed, mustard seed, onion seed, parsnip seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, sugar beet seed, Swiss chard seed, or turnip seed plant, including but not limited to seed screenings, green chop, hay, chaff, combine tailings, pellets, meal, whole seed and cracked seed, may be grazed, used, or distributed for food or feed purposes. (3-20-14)

b. The seed conditioner shall keep records of individual growers' alfalfa seed, carrot seed, chicory seed, clover seed, collard seed, coriander/cilantro seed, dill seed, endive seed, garden beet seed, kale seed, kohlrabi seed, leek seed, lettuce seed, mustard seed, onion seed, parsnip seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, sugar beet seed, Swiss chard seed, and turnip seed dirt weight and clean weight for three (3) years and shall furnish the records to the Director forthwith upon request. (3-20-14)

c. All seed screenings shall be disposed of at a sanitary landfill, incinerator, or other equivalent disposal site or by a procedure approved by the Director. (3-23-98)

d. The seed conditioner shall keep seed screening disposal records for three (3) years from the date of disposal and shall furnish the records to the Director forthwith, upon request. Disposal records shall consist of documentation from the disposal site and shall show the total weight of disposed screenings and the date of disposal. (3-20-97)

e. All alfalfa seed, carrot seed, chicory seed, clover seed, collard seed, coriander/cilantro seed, dill seed, endive seed, garden beet seed, kale seed, kohlrabi seed, leek seed, lettuce seed, mustard seed, onion seed, parsnip seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, sugar beet seed, Swiss chard seed, or turnip seed grown or conditioned in this state shall bear a tag or container label which forbids the use of the seed for human consumption or animal feed. (3-20-14)

f. No alfalfa seed, carrot seed, chicory seed, clover seed, collard seed, coriander/cilantro seed, dill seed, endive seed, garden beet seed, kale seed, kohlrabi seed, leek seed, lettuce seed, mustard seed, onion seed, parsnip seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, sugar beet seed, Swiss chard seed, or turnip seed grown or conditioned in this state shall be distributed for human consumption or animal feed. (3-20-14)

g. All portions of the seed alfalfa, seed carrot, seed chicory, seed clover, seed collard, seed coriander/cilantro, seed dill, seed endive, seed of garden beet, seed onion, seed parsnip, pollinator rows of hybrid canola seed, seed radish, seed rutabaga, seed of sugar beets, seed of Swiss chard, or seed turnip plant, including but not limited to seed screenings, pellets, meal, whole seed and cracked seed may be composted. All composted material may be applied to agricultural crop land as approved by the Director. (3-20-14)

02. Exemption. Alfalfa seed, kale seed and radish seed crops grown for human consumption shall be exempt from the requirements of Subsection 800.01 provided: (3-29-10)

a. All pesticides used are labeled for use on alfalfa seed, kale seed, and radish seed crops and have established residue tolerances which allow food or feed use; and (3-29-10)

b. All producers maintain for three (3) years complete records of all pesticides applied as specified in Pesticide Use and Application Rules Subsection 150.02. These records shall be ready to be inspected, duplicated, or submitted when requested by the Director. (3-20-97)

801. -- 849. (RESERVED)

850. UNUSABLE PESTICIDES COLLECTION AND DISPOSAL.

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

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

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

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

c. Sign a release, transferring the ownership of the product to the Department. (3-20-97)

d. Comply with all applicable federal, state and local laws, regulations and ordinances. (3-20-97)

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

a. Secure appropriate collection site(s) in cooperation with local government and other organizations. (3-20-97)

b. Obtain an Environmental Protection Agency identification number as a hazardous waste generator. (3-20-97)

- c. Provide and ensure the use of personal protective equipment for Department employees. (3-20-97)
- d. Ensure that workers unload chemicals from participant's vehicle only in an area developed to contain possible spills. (3-20-97)
- e. Sign a transfer of ownership, releasing the participant of the product. (3-20-97)
- f. Transfer the unusable pesticide products as hazardous waste to a hazardous waste contractor(s) for transport and disposal. (3-20-97)
- g. Comply with all applicable federal, state and local laws, regulations and ordinances. (3-20-97)
- 04. Contract Transport and Disposal.** The contractor(s) providing for the transport and disposal of the hazardous waste shall: (3-20-97)
 - a. Provide a representative to participate in the collection site evaluation and selection process. (3-20-97)
 - b. Prepare the selected site collection area in such a manner as to contain possible spills. (3-20-97)
 - c. Certify to the Department that their employees handling the hazardous waste materials meet Occupational Safety and Health Administration safety and training requirements. (3-20-97)
 - d. Certify to the Department that their employees handling or transporting the hazardous waste materials meet United States Department of Transportation training requirements. (3-20-97)
 - e. Provide and ensure the use of personal protective equipment for their employees during collection events. (3-20-97)
 - f. Overpack the hazardous waste materials as required by the disposal facility and the United States Department of Transportation. (3-20-97)
 - g. Obtain and provide the Department with written approval for hazardous waste acceptance from the treatment, storage and disposal facility prior to the collection. (3-20-97)
 - h. Provide the manifest forms, labels and markings for the overpacked containers and provide the placards for the commercial hazardous waste transport vehicles. (3-20-97)
 - i. Label, manifest, mark, and placard the load for proper transportation. (3-20-97)
 - j. Transport hazardous waste materials to the approved disposal site(s). (3-20-97)
 - k. Certify to the Department that the commercial hazardous waste transporter: (3-20-97)
 - i. Is registered through the Environmental Protection Agency and possesses an Environmental Protection Agency identification number. (3-20-97)
 - ii. Is registered through the Environmental Protection Agency in each state through which the hazardous waste is transported. (3-20-97)
 - iii. Is registered with the United States Department of Transportation, Research and Special Programs Administration to transport hazardous waste. (3-20-97)
 - iv. Has obtained an Idaho Department of Transportation hazardous waste trip permit and hazardous materials endorsement. (3-20-97)
 - v. Has obtained a satisfactory safety rating from the United States Department of Transportation.

(3-20-97)

- l.** Perform a final cleanup in such a manner as to ensure that the collection site is returned to its original condition. (3-20-97)
- m.** Provide complete documentation of collections, transportation and disposal to the Department in a timely manner. (3-20-97)
- n.** Comply with all applicable Federal, State and local laws, regulations, and ordinances. (3-20-97)

851. -- 960. (RESERVED)

961. GENERAL CHEMIGATION REQUIREMENTS.

This Section prescribes equipment listing requirements, posting requirements for certain types of pesticides, use of pesticide label directions, a prohibition from chemigation over waters of the state. (4-5-00)

01. Chemigation Equipment Standards. Equipment manufacturers shall provide to the Department of Agriculture verification that the equipment meets the standards established in these rules. If the equipment meets the standards, it shall be placed on the Department's list of approved chemigation equipment. (4-5-00)

02. Posting Requirements. Labels of toxicity category I pesticide products (those with the label signal word "DANGER." allow chemigation on their label and contain posting requirements specific to chemigation) shall be posted in accordance with their label. (4-5-00)

03. Pesticides Labeled for Chemigation. The chemigator shall use only pesticides labeled for chemigation when chemigating. (4-5-00)

04. Chemigating Over Waters of the State. Chemigating over waters of the state shall be prohibited, except for variances allowed in Section 971. (4-5-00)

962. IRRIGATION SYSTEMS.

This Section prescribes the equipment required for each type of irrigation system when chemigation is to be used. (4-5-00)

01. Sprinkler or Drip Irrigation. If chemicals are being chemigated through the sprinkler or drip irrigation system, the chemigator shall verify that the system complies with either Subsection 962.01.a. or 962.01.g. and shall include all of the additionally specified equipment for each: (4-5-00)

a. Irrigation Line Check Valve Requirement. The system shall contain a functional Irrigation Line Check Valve, (Section 966); and (4-5-00)

b. Low Pressure Drain Requirement. The system shall contain an Automatic Low Pressure Drain, (Section 970); and (4-5-00)

c. Inspection Port Requirement. The system shall contain an Inspection Port, (Section 969); and (4-5-00)

d. Vacuum Relief Valve Requirement. The system shall contain a Vacuum Relief Valve or a combination Air and Vacuum Relief Valve, (Section 968); and (4-5-00)

e. Chemical Injection System Requirement. The system shall contain a Chemical Injection System, (Section 965); and (4-5-00)

f. Chemical Injection Line Shut Down (System Interlock) Requirement. The system shall contain a Chemical Injection Line Shut Down (System Interlock), (Section 963); or (4-5-00)

g. Gooseneck Pipe Loop, Downhill and Over-A-Hill Requirement. For surface water impoundments

the system may use a Gooseneck Pipe Loop, Downhill and Over-A-Hill system rather than the requirements of Subsections 962.01.a. through 962.01.f., (Section 967); and (4-5-00)

h. Chemical Injection System Requirement. The system shall contain a Chemical Injection System, (Section 965); and (4-5-00)

i. Chemical Injection Line Shut Down (System Interlock) Requirement. The system shall contain a Chemical Injection Line Shut Down (System Interlock), (Section 963). (4-5-00)

02. Flood, Basin, Furrow, or Border Irrigation. If a chemical, including anhydrous ammonia, will be applied by flood, basin, furrow, or border chemigation through a gravity flow system, the chemigator shall verify that the system complies with the following requirements: systems using a gravity flow dispensing system shall meter the chemical into the water at the head of the field and downstream of a hydraulic discontinuity such as a drop structure or weir box to decrease potential for water source contamination from backflow if water flow stops. (4-5-00)

03. Domestic Water Supply System Cross-Connected for Chemigation. Any irrigation system used for chemical application cross-connected to a domestic water supply system shall verify that the system complies with either Subsection 962.03.a. or 962.03.d. and shall include all other additionally specified equipment for each; (4-5-00)

a. Reduced Pressure Principle Backflow Prevention Assembly (RP). The irrigation system shall contain a functional reduced pressure backflow preventer assembly (RP); and (4-5-00)

i. The RP assembly shall be located on the irrigation pipeline between the water supply pump and the point of chemical injection, and downstream from any domestic water supply diversion point. (4-5-00)

ii. The purpose of a Reduced Pressure Principle Backflow Prevention Assembly (RP) is to keep contaminated water from flowing back into a domestic water supply system when some abnormality in the system causes pressure to be temporarily higher in the contaminated part of the system than in the domestic water supply system piping. (4-5-00)

iii. The RP assembly shall have been manufactured in full conformance with the American National Standards Institute (ANSI)/American Water Works Association (AWWA) ANSI/WWA C511 Standard for Reduced Pressure Principle Backflow Prevention Assemblies established by the AWWA; and have met completely the laboratory and field performance specifications of the Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California (USC FCCCHR); or an equivalent, Department-approved testing facility. (4-5-00)

b. Chemical Injection System Requirement. The system shall contain a Chemical Injection System, (Section 965); and (4-5-00)

c. Chemical Injection Line Shut Down (System Interlock) Requirement. The system shall contain a Chemical Injection Line Shut Down (System Interlock), (Section 963); or (4-5-00)

d. Air Gap (AG). The water from the domestic water supply system shall be discharged into a reservoir tank prior to the chemical injection. An air gap shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the vessel – in no case less than one (1) inch. Chemical injection shall not occur upstream of the air gap; and (4-5-00)

e. Chemical Injection System Requirement. The system shall contain a Chemical Injection System, (Section 965); and (4-5-00)

f. Chemical Injection Line Shut Down (System Interlock) Requirement. The system shall contain a Chemical Injection Line Shut Down (System Interlock), (Section 963). (4-5-00)

963. CHEMICAL INJECTION LINE SHUT DOWN (SYSTEM INTERLOCK).

In every chemigation system, there shall be a functional system interlock designed and installed to shut down the

chemical injection unit when chemical distribution is adversely affected. The system interlock shall connect the water supply pump and the chemical injection unit or connect the irrigation line pressure switch and the chemical injection unit if there is no water supply pump and the system is pressurized. The chemical injection line shall contain one (1) of the following options found in Subsections 963.01 through 963.05, to ensure that a chemical injection pump will stop if the irrigation pump stops to prevent the entire chemical mixture from emptying from the supply tank into the irrigation pipeline: (4-5-00)

01. Electrical Interlock. The electrical interlock shall contain one (1) of the options in Subsections 963.01.a. through 963.01.d. and shall include all of the additionally specified equipment for each: (4-5-00)

a. Electric Motor-Driven Irrigation Pump or Power Panel: (4-5-00)

i. The electrical controls for the irrigation pump panel or power panel at the pivot or linear shall be interlocked with an electric powered chemical injection pump so that if the water pump shuts off or the pressure switch shuts off power at the panel, the chemical injection pump shall shut off (it is recommended that the interlock also be provided to shut off the irrigation system if the chemical injection pump shuts off); and (4-5-00)

ii. Injection Line Check Valve, (Section 964), shall be installed; and (4-5-00)

iii. In pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch. (4-5-00)

b. Solenoid Operated Valve. A functional automatic quick-closing check valve and a functional normally closed solenoid operated valve connected to the system interlock shall be: (4-5-00)

i. Normally closed; and (4-5-00)

ii. Located on the intake side of the injection pump; and (4-5-00)

iii. Open only when there is adequate pressure in the irrigation line to insure uniform chemical distribution; and (4-5-00)

iv. In pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch. (4-5-00)

c. A functional automatic quick-closing check valve and a functional normally closed hydraulically operated check valve. The hydraulically operated check valve shall be connected to the main water line such that the valve only opens when the main water line is adequately pressurized. In addition, in pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch; or (4-5-00)

d. A functional automatic quick-closing check valve and a functional vacuum relief valve located in the chemical injection line between the positive displacement chemical injection pump and the chemical check valve. This alternative is appropriate only for those chemigation systems using a positive displacement chemical injection pump and is not for use with Venturi injection systems. This valve shall be elevated at least twelve (12) inches above the highest fluid level in the chemical supply tank and shall be the highest point in the injection line. The valve shall open at six (6) inches water vacuum or less and shall be spring-loaded or otherwise constructed such that it does not leak on closing. It shall prevent leakage from the chemical supply tank on system shutdown. The valve shall be constructed of chemically resistant materials. In addition, in pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch. (4-5-00)

02. Mechanical Interlock. The mechanical interlock shall contain one (1) of the options in Subsections 963.02.a. or 963.01.b. and shall include all of the additionally specified equipment for each: (4-5-00)

a. Irrigation pumps driven by an internal combustion engine shall be interlocked between the chemical injection pump and the irrigation pump by operating the chemical injection equipment from the engine electrical system, or an electrical generator driven by the pumping plant power unit: (4-5-00)

- i. Injection Line Check Valve, (Section 964), shall be installed; and (4-5-00)
- ii. In pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch; or (4-5-00)
- b. Irrigation pumps driven by an internal combustion engine shall be interlocked between the chemical injection pump and the irrigation pump by belt from the drive shaft of the irrigation pump or an accessory pulley of the engine: and (4-5-00)
 - i. Injection Line Check Valve, (Section 964), shall be installed; and (4-5-00)
 - ii. In pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch. (4-5-00)
- 03. Hydraulic Interlock.** Functional, normally closed, hydraulically operated check valve. The control line must be connected to the main water line such that the valve opens only when the main water line is adequately pressurized. This valve must prevent leakage from the chemical supply tank on system shutdown. The valve must be constructed of chemically resistant materials, such as a Venturi System. (4-5-00)
- 04. Human Interlock.** (4-5-00)
 - a. A human interlock shall consist of human supervision on-site during the injection of a chemical into the irrigation system for one (1) hour or less to shut down the system in case of failure of the injection pump or irrigation system; and (4-5-00)
 - b. Injection Line Check Valve (Section 964) shall be installed; and (4-5-00)
 - c. In pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch. (4-5-00)
- 05. Other Approved Option.** Any other option approved by the Director. (4-5-00)

964. INJECTION LINE CHECK VALVE.

- 01. Injection Line Check Valve.** A functional, spring-loaded injection line check valve with a minimum of ten (10) pounds per square inch (psi) opening (cracking) pressure plus one (1) psi per one (1) foot of elevation between the chemical supply tank and the point of chemical injection and shall be: (4-5-00)
 - a. Located between the chemical injection pump and the point of chemical injection into the irrigation line; and (4-5-00)
 - b. Made of chemically resistant material; and (4-5-00)
 - c. Designed to prevent irrigation water under operating pressure from entering the chemical injection line; and (4-5-00)
 - d. Designed to prevent leakage from the chemical supply tank on system shut down; and (4-5-00)
- 02. A Substitute System.** The injection line check valve shall be a substitute for both the solenoid-operated valve and the functional, automatic, quick closing check valve in the chemical injection line. (4-5-00)

965. CHEMICAL INJECTION SYSTEM.

All chemical injection systems, except for flood, basin, furrow, or border chemigation through a gravity flow system, shall use: (4-5-00)

- 01. Metering Pump.** A metering pump such as a positive displacement injection pump effectively designed and constructed of materials that are compatible with chemicals and capable of being fitted with a system

interlock; or (4-5-00)

02. Venturi System. Venturi systems including those inserted directly into the main water line, those installed in a bypass system, and those bypass systems boosted with an auxiliary water pump. Booster or auxiliary water pumps shall be connected with the system interlock such that they are automatically shut off when the main line irrigation pump stops, or in cases where there is no main line irrigation pump, when the water pressure decreases to the point where pesticide distribution is adversely affected. Venturies shall be constructed of chemically resistant materials. The line from the chemical supply tank to the Venturi shall contain a functional, automatic, quick closing check valve to prevent the flow of liquid back toward the chemical supply tank. This valve shall be located immediately adjacent to the Venturi chemical inlet. This same supply line shall also contain either a functional normally closed solenoid-operated valve connected to the system interlock or a functional normally closed hydraulically operated valve which opens only when the main water line is adequately pressurized. In bypass systems as an option to placing both valves in the line from the chemical supply tank, the check valve may be installed in the bypass immediately upstream of the Venturi water inlet and either the normally closed solenoid or hydraulically operated valve may be installed immediately downstream of the Venturi water outlet. (4-5-00)

966. IRRIGATION LINE CHECK VALVE.

- 01. Construction.** Construction shall: (4-5-00)
- a.** Consist of at least a single check valve; (4-5-00)
 - b.** Be of heavy duty construction with all materials resistant to corrosion or protected to resist corrosion; (4-5-00)
 - c.** Be spring-loaded with a chemically resistant and resilient seal that provides a watertight seal against reverse flow; (4-5-00)
 - d.** Not consist of metal to metal seal surfaces; (4-5-00)
 - e.** Be rated at a pressure equal to or greater than the system working pressure; and (4-5-00)
 - f.** Be positioned and oriented according to manufacturer specifications to ensure proper functioning. (4-5-00)
- 02. Location.** The Irrigation Line Check Valve shall: (4-5-00)
- a.** Be located in the pipeline between the irrigation pump and the point of chemical injection into the irrigation pipeline, and downstream from a vacuum relief valve and automatic low pressure drain. (4-5-00)
 - b.** When installed, be on a horizontal plane and level. A deviation of not more than ten (10) degrees from horizontal is permitted. (4-5-00)
- 03. Labeling of the Check Valve or Valve Assembly.** Shall be labeled with the following: (4-5-00)
- a.** Manufacturer's name and model; (4-5-00)
 - b.** Working pressure in pounds per square inch (psi); (4-5-00)
 - c.** Maximum flow rate in gallons per minute; and (4-5-00)
 - d.** Direction of flow. (4-5-00)
- 04. Model Certification.** The manufacturer of the irrigation line check valve shall provide verification to the director that the valve model has been tested and certified by an independent laboratory such as the Center For Irrigation Technology, Fresno, California and Great Plains Meter, Inc. Aurora, Nebraska, or other Department approved facility as meeting the following leakage test criteria: (4-5-00)

a. Low Pressure Drip Test. A check valve shall withstand for sixteen (16) hours without leakage at the valve seat an internal hydrostatic pressure equivalent to the head of a column of water five (5) feet (1.5m) high retained within the downstream portion of the valve body. No leakage shall occur as evidenced by wetting of paper placed beneath the valve assembly. This test is to be conducted with the valve in both the horizontal and vertical position if intended for such use. (4-5-00)

b. High Pressure Test. A check valve shall withstand for one (1) minute, without leakage at joints or at the valve seat, an internal hydrostatic pressure of two (2) times the rate of working pressure of the valve. (4-5-00)

967. GOOSENECK PIPE LOOP, DOWNHILL AND OVER-A-HILL.

01. Location. Shall be located in the main water line immediately downstream of the irrigation water pump. (4-5-00)

02. Position. The bottom side of the pipe at the loop apex shall be at least twenty-four (24) inches above the highest sprinkler or other type of water emitting device on the highest part of the field. (4-5-00)

03. Pipe Loop. The loop shall contain either a vacuum relief or combination air and vacuum relief valve at the apex of the pipe loop, and if the water pump is portable and the apex is a straight, horizontal section of pipe, the pipe shall be level. (4-5-00)

04. Location of Chemical Injection Port. The chemical injection port shall be located downstream of the apex of the pipe loop and at least six (6) inches below the bottom side of the pipe at the loop apex. (4-5-00)

05. Use Restriction. Shall not be allowed when pumping from a groundwater source. (4-5-00)

968. VACUUM RELIEF VALVE OR COMBINATION AIR AND VACUUM RELIEF VALVE.

01. Location. Shall be located on top of the horizontal irrigation pipeline on the upstream side of the check valve. (4-5-00)

02. Orifice Size. Shall have a total (individually or combined) orifice size of at least three-fourths (3/4) inch diameter for a four (4) inch pipe, a one (1) inch diameter for a five (5) to eight (8) inch pipe, a two (2) inch diameter for a nine (9) to eighteen (18) inch pipe, and a three (3) inch diameter for a nineteen (19) inch and greater pipe. (4-5-00)

969. INSPECTION PORT.

01. Inspection Port. The inspection port can be combined with a mounting of a vacuum relief or combination air and vacuum relief valve and shall: (4-5-00)

a. Be located on the pipeline between the irrigation pump and the irrigation pipeline check valve directly above the low pressure drain; (4-5-00)

b. Have a minimum diameter opening of four (4) inches from which the check valves and low pressure drain shall be visible; (4-5-00)

c. Be mounted with quick disconnects, quick coupler, ring lock or flange fittings, dresser couplings or other fittings that allow for easy removal of the inspection port. Any bolts shall be located on the outside of the irrigation water pipe; and (4-5-00)

d. Be located near the irrigation line check valve to allow for inspections and check for malfunctioning of the irrigation line check valve and low pressure drain. (4-5-00)

970. AUTOMATIC LOW PRESSURE DRAIN.

- 01. Automatic Low Pressure Drain.** Automatic low pressure drain shall: (4-5-00)
- a.** Be installed upstream of the irrigation line check valve at the lowest point of the horizontal water supply pipeline; (4-5-00)
 - b.** Not extend into the horizontal pipe beyond the inside surface of the bottom of the pipe; (4-5-00)
 - c.** Be at least three-fourths (3/4) inch in diameter with a closing pressure of not less than five (5) psi; (4-5-00)
 - d.** If the drain is within twenty (20) feet of the water source, contain a corrosion resistant tube, pipe, hose, or similar conduit three-fourths (3/4) inch in diameter to discharge a solution at least twenty (20) feet down slope from the irrigation water source and away from any other water sources; and (4-5-00)
 - e.** Not have any valves located on the outlet side of the drain tube. (4-5-00)

971. VARIANCES.

The Department may grant variances with such conditions and safeguards as it determines are necessary to prevent contamination or pollution of the waters of the state. Issuance of variances shall not relieve the recipient from compliance with all other responsibilities under the Pesticide and Chemigation Act and Rules. Such variances may be granted upon a request from the owner or operator of the property affected and approval by the Director. The application will state fully the grounds of the application and the facts relied upon. Upon the Department's further investigation, if certain antipollution devices otherwise required by these rules or the Pesticide and Chemigation Act, are not necessary or consequences inconsistent with the rules or act, such variances may be granted. (4-5-00)

972. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.14 – RULES GOVERNING DAIRY BYPRODUCT

DOCKET NO. 02-0414-1901

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE AND HISTORY NOTES: The effective date of the temporary rule is July 1, 2019. Traditionally effective dates are published for every subsection, paragraph and subparagraph of a rule. These individualized effective dates provide a rich history for legal scholars and interested members of the public to explore the broader context of each rule. This docket retains these important history notes while establishing the effective date for each chapter to ensure there is no gap with the expiring rules. Where technical corrections only have been made to any section of a rule, or subpart thereof, the historic effective date is retained.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 37-603, Idaho Code.

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

This temporary rulemaking adopts and re-publishes a previously approved and codified chapter under IDAPA 02, rules of the Idaho State Department of Agriculture.

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

This temporary rule is necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. This previously approved and codified rule implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of this rule without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by this rule.

The Rules Governing Dairy Byproduct outline standards for dairy environmental management plans governing the storage, containment and land application of dairy byproduct. The rule sets limits on certain nutrient loading at land application sites and establishes prohibitions of discharges of dairy byproduct beyond property boundaries and/or into waters of the state.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Dr. Scott Leibsle (208) 332-8614.

Dated this 6th day of June, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 02-0414-1901

IDAPA 02
TITLE 04
CHAPTER 14

02.04.14 – RULES GOVERNING DAIRY BYPRODUCT

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 37, Chapters 3, 4, and 6, Idaho Code. (3-29-17)

001. TITLE AND SCOPE.

01. Title. The title of this chapter of the Idaho State Department of Agriculture is IDAPA 02.04.14, “Rules Governing Dairy Byproduct.” (3-29-17)

02. Scope. This chapter has the following scope: These rules govern the Department’s review, approval, and enforcement of dairy environmental management plans to ensure that dairy environmental management systems are constructed, operated and maintained in a manner that protects the natural resources of the state. This section’s citation is 37-602(2), Idaho Code. Nothing in this rule affects the authority of the department of environmental quality to enforce an IPDES permit for dairy farms that discharge pollutants to waters of the United States, including without limitation, the authority to issue permits, access records, conduct inspections and take enforcement actions. The provisions of this rule do not alter the requirements, liabilities, and authorities with respect to or established by the IPDES program. (3-29-17)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-20-97)

003. ADMINISTRATIVE APPEAL.

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeal before the Department of Agriculture under these rules. (3-20-97)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this chapter. (3-29-10)

01. Natural Resources Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D) (1997 Edition) (USDA, NRCS). This document is available online at https://agri.idaho.gov/main/wp-content/uploads/2017/08/nrcs_10d_1997.pdf. (3-29-10)

02. Nutrient Management Standard (NMS). The 1999 publication by the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard, Nutrient Management Code 590, available online at https://agri.idaho.gov/main/wp-content/uploads/2017/08/nutrient_Management_code_590.pdf. (3-29-10)

03. Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004. This document is available online at https://agri.idaho.gov/main/wp-content/uploads/2017/10/nrcs_313_Dec_2004.pdf. (3-29-10)

04. American Society of Agricultural and Biological Engineers Specification ASAE EP393.3

Manure Storages February 2004. This document is part of a copyrighted publication and is available for viewing at the ISDA offices or a copy may be purchased online at <http://www.asabe.org/>. (3-29-10)

05. Natural Resources Conservation Service (NRCS) Web Soil Survey Database. This document is available online at <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>. (3-28-18)

06. Natural Resources Conservation Service (NRCS) Part 630, Hydrology National Engineering Handbook, Chapter 7, (Hydrologic Soil Groups), January 2009. This document is available online at <https://www.wcc.nrcs.usda.gov/ftpref/wntsc/H&H/NEHhydrology/ch7.pdf>. (3-28-18)

07. The Phosphorus Site Index: A Systematic Approach to Assess the Risk of Nonpoint Source Pollution of Idaho Waters by Agricultural Phosphorus, 2017. This document is available online at <https://agri.idaho.gov/main/wp-content/uploads/2018/12/Phosphorus-Site-Index-reference-2017-revised.pdf>. (3-28-18)

005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (4-11-15)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records and are available for inspection and copying at the Idaho State Department of Agriculture. (3-29-10)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The following definitions apply in the interpretation and enforcement of this chapter: (3-20-97)

01. Agricultural Stormwater Discharge. A precipitation-related discharge of dairy byproducts from land areas under the control of a dairy farm where the dairy byproducts have been mechanically land applied in accordance with an approved nutrient management plan. (3-29-17)

02. Best Management Practice. A practice, technique, or measure that is determined to be a reasonable precaution, a cost-effective and practicable means of preventing or reducing the discharge of pollutants from a point source or a nonpoint source to a level compatible with environmental goals, including water quality goals and standards. (4-11-15)

03. Certified Planner. A person who has completed nutrient management certification in accordance with the Nutrient Management Standard (NMS) and is approved by the Department. (3-29-10)

04. Certified Soil Sampler. An individual qualified and approved by the Department to collect soil samples according to the 1997 University of Idaho Soil Sampling protocols or other method as approved by the Department. (3-29-10)

05. Dairy Animal. Milking cows, sheep or goats. (3-29-17)

06. Dairy Byproduct. Solids and liquids associated with dairy animal rearing and milk production including, but not limited to, manure, manure compost, process water, bedding, spilled feed, and feed leachate. (3-29-17)

07. Dairy Environmental Management Plan. A plan for managing a dairy environmental management system. The dairy environmental management plan shall consist of dairy storage and containment facilities criteria and a dairy nutrient management plan that are approved by the Director. (3-29-17)

08. Dairy Environmental Management System. The areas and structures within a dairy farm where dairy byproducts are collected, stored, treated, or applied to land. These areas and structures may include corrals,

feeding areas, collection systems, conveyance systems, storage ponds, treatment lagoons, and evaporative ponds and land application areas, but do not include pastures as defined in these rules. (3-29-17)

09. Dairy Farm. The land owned or operated by a person as an integral component of a Department-permitted grade A or manufacture grade facility where one (1) or more milking cows, sheep, or goats are kept, and from which all or a portion of the milk produced thereon is delivered, sold or offered for sale for human consumption. A dairy farm does not include those lands that contain non-dairy animals provided a physical separation exists from lands owned or operated by the dairy, byproducts remain separate, and dairy animals are not comingled with non-dairy animals. (3-29-17)

10. Dairy Nutrient Management Plan (DNMP). A plan prepared in conformance with the NMS for managing the land application of dairy byproducts that is prepared by a certified planner and approved by the Department. (3-29-17)

11. Dairy Storage and Containment Facilities. The areas and structures within a dairy farm where dairy byproducts are collected, stored, or treated in conformance with engineering standards and specifications published by the USDA Natural Resources Conservation Service or by the ASABE, or other equally protective criteria approved by the Director. These areas may include corrals, feeding areas, collection systems, conveyance systems, storage ponds, treatment lagoons, evaporative ponds, and compost areas, but do not include pastures as defined in these Rules. (3-29-17)

12. Department. The Idaho State Department of Agriculture. (3-29-10)

13. Director. The Director of the Idaho State Department of Agriculture or his designee. (3-29-10)

14. Export. The delivery of dairy byproducts from a dairy farm to a third party for the third party's use. (3-29-17)

15. Fieldman. An individual qualified and approved by the Department to perform dairy farm inspections. (3-20-97)

16. Idaho Pollutant Discharge Elimination System (IPDES). Idaho's program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under these rules and the Clean Water Act sections 307, 402, 318, and 405. (3-29-17)

17. Inspector. A qualified, trained person employed by the Department to perform dairy farm inspections. (3-20-97)

18. Land Application. Mechanical spreading on, or incorporating into the soil mantle, dairy byproduct as a soil amendment for agricultural use of nutrients and for other beneficial purposes. Land application does not include pasturing animals as defined in these rules. (3-29-17)

19. Modification or Modified. Structural changes and alterations to the dairy storage and containment facility that would require increased storage or containment capacity or the function of the facility. (3-29-17)

20. Non-Compliance. A practice or condition that does not meet the requirements of a dairy environmental management plan. Noncompliance does not include an upset condition. (3-29-17)

21. Nutrient Management Standard (NMS). Criteria for managing the land application of nutrients and soil amendments published in the USDA NRCS conservation practice standard nutrient management code 590 or other equally protective criteria approved by the Director. (3-29-17)

22. Pasture, Pasturing, and Pastured. For purposes of these rules, a pasture is an irrigated or dryland field with forage plant growth covering a minimum of fifty percent (50%) of the field. Pasturing and pastured is dairy animals and other animals owned, leased, or otherwise under the control of the producer, grazing in the same dairy farm pasture. (3-29-17)

23. Permit. A permit issued by the Department allowing the sale of Grade A milk or manufacture grade milk. (3-29-17)

24. Person. Any individual, partnership, association, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency, or instrumentality; or any legal entity that is recognized by law as the subject of rights and duties. (4-11-15)

25. Phosphorus Site Index. A method to evaluate the relative potential for off-site movement of phosphorus from a field or pasture based upon risk factors relating to surface transport, phosphorus loss potential and nutrient management practices. (3-28-18)

26. Process Water. Water directly or indirectly used or produced in dairy animal rearing, milk production and environmental management processes including, but not limited to: (3-29-17)

a. Excess milk: spillage or overflow from watering, washing, spraying or cooling dairy animals; (3-29-17)

b. Water containing dairy manure: water used in washing, cleaning, or flushing barns, manure pits and other areas involved in the milk production and environmental management processes; (3-29-17)

c. Water used for dust control; and (3-29-17)

d. Water that comes into contact with any raw materials, products, or byproducts of the dairy production and environmental management processes. (3-29-17)

27. Producer. The person who owns or operates a permitted dairy farm. (3-29-17)

28. Unauthorized Discharge. A discharge of pollutants from a dairy farm to waters of the United States as defined in the federal clean water act that is required to be but is not authorized by an IPDES permit. Unauthorized discharge does not include an upset condition or agricultural stormwater discharge. (3-29-17)

29. Unauthorized Release. A release of dairy byproducts to ground water or surface waters of the state that are not waters of the United States or beyond land owned or operated by the dairy farm that results from a dairy farm's failure to comply with its environmental management plan. Unauthorized release shall not include an upset condition, an agricultural stormwater discharge or infiltration from storage and containment facilities that is within engineering standards and specifications published by the USDA, NRCS or by the ASABE, or other equally protective criteria approved by the Director. (3-29-17)

30. Upset Condition. Precipitation, earthquake, vandalism, or other occurrence beyond the control of the dairy farm owner or operator that exceeds criteria for storage and containments facilities and nutrient management in an approved environmental management plan. (3-29-17)

011. ABBREVIATIONS.

01. ASABE. American Society of Agricultural and Biological Engineers. (3-29-17)

02. IPDES. Idaho Pollutant Distribution Elimination System. (3-29-17)

03. NMS. Nutrient Management Standard (3-29-17)

04. NRCS. Natural Resources Conservation Service. (3-29-17)

05. USDA. United States Department of Agriculture. (3-29-17)

012. -- 029. (RESERVED)

030. DAIRY ENVIRONMENTAL MANAGEMENT PLAN APPROVAL.

The Department is authorized to approve environmental management plans, as provided in Section 37-606A, Idaho Code. (3-29-17)

01. Dairy Storage and Containment Facility Criteria. (3-29-17)

a. Dairy storage and containment facilities shall be constructed to meet a minimum of one hundred eighty (180) days of holding capacity. Process water containment structures that are utilized as the secondary or final storage for effluent shall have a minimum two (2) vertical feet of freeboard. (3-29-17)

b. Earthen dairy storage and containment facilities less than ten (10) vertical feet high with a maximum high water line of eight (8) vertical feet shall be required to have a top embankment width of at least eight (8) feet and a minimum of one (1) vertical foot of freeboard shall be maintained. The combined inside and outside embankment slopes must be at least five (5) horizontal to one (1) vertical, and neither slope shall be steeper than two (2) horizontal to one (1) vertical. Earthen dairy storage and containment facilities with outside embankments higher than ten (10) vertical feet from the naturally occurring ground level shall meet the NRCS Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004 embankment requirements as incorporated by reference in Subsection 004.03 of these rules. (3-29-17)

c. The inside bottom of the dairy storage and containment facility shall be a minimum of two (2) feet above the high water table, bed rock, gravel, or permeable soils. For an earthen dairy storage and containment facility, a soil liner shall be installed such that the specific discharge rate of the containment structure meet $1 \times 10^{-6} \text{ cm}^3/\text{cm}^2/\text{sec}$ or less as described in Appendix 10D. Concrete or synthetic liners must be constructed to the American Society of Agricultural and Biological Engineers Specification ASABE EP393.3 Manure Storages February 2004 and Appendix 10D as incorporated by reference in Section 004 of these rules. (3-29-17)

d. Storage areas for dairy byproduct, including compost and solid manure storage areas, shall be located on approved soils and appropriately protected to prevent run on and run off. (3-29-17)

e. Dairy environmental management systems shall be maintained in a condition that allows the producer to regularly inspect the integrity of the systems. (3-29-17)

02. Dairy Nutrient Management Plan (DNMP). Except as provided below, each dairy farm shall have a dairy nutrient management plan that is approved by the Department and included in the dairy farm's environmental management plan. The DNMP shall cover the dairy farm site and other land owned and operated by the dairy farm owner or operator to which dairy byproducts are land applied. A new dairy farm governed by the IPDES program is not required to submit a DNMP to the Department. An existing dairy farm with an approved DNMP that has a discharge to waters of the U.S. that requires an IPDES permit must comply with the nutrient management plan requirements under the IPDES rules and IPDES permit, notwithstanding the Department approved DNMP. Requirements to comply with the provisions of a DNMP include the following: (3-29-17)

a. Producer annual soil tests shall be conducted as set forth in IDAPA 02.04.30, "Rules Governing Nutrient Management." (3-29-17)

b. Regulatory soil tests will be conducted at frequencies sufficient to provide assurance of compliance with Section 031 and with IDAPA 02.04.30, "Rules Governing Nutrient Management." (3-28-18)

c. Accurate DNMP records shall be maintained. These records shall include at a minimum: (3-29-17)

i. Regulatory soil samples shall be taken by a Certified Soil Sampler and tested by a laboratory that meets the requirements and performance standards of the North American Proficiency Testing Program under the auspices of the Soil Science Society of America outlined in the NMS, as incorporated by reference in Subsection 004.02, as part of NMS 590 or other methods as approved by the Department; (3-29-10)

ii. Annual soil analysis; (3-29-10)

iii. Date and amount of dairy byproduct and commercial fertilizer applied to individual dairy owned or operated fields; (3-29-17)

- iv. Date(s) of exported dairy byproduct, number of acres applied, amount of dairy byproduct exported, and to whom dairy byproduct was exported; and (3-29-17)
 - v. Actual crop yields on dairy owned or operated fields. (3-29-10)
 - vi. A nitrogen management plan worksheet (pages 35-36 of the 2017 Idaho Phosphorus Site Index Standards) shall be completed for all fields and pastures receiving land application of nutrients. (3-28-18)
- d.** Pasturing. Pastures utilized for grazing of dairy animals, and other animals owned, leased or otherwise under the control of a producer within the same pasture, shall be incorporated in and subject to the DNMP. These pastures are also subject to the following requirements: (3-29-17)
- i. Soil testing. Soil tests shall be conducted pursuant to the NMS and Section 031 on all lands utilized as pasture. (3-28-18)
 - ii. Surface water access. If pastured animals have access to surface water within a pasture, the producer may be required to implement one (1) or more NRCS conservation practice standards to minimize adverse impact on surface water quality. (3-29-17)
 - iii. Land application. If land application occurs within a pasture, soil tests shall be conducted annually on that pasture. (3-29-17)
 - iv. Confinement areas. Confinement areas shall not be considered part of a pasture. (3-29-17)

031. PHOSPHORUS MANAGEMENT.

Dairy farms shall utilize either Phosphorus Indexing (Section 031.01) or the Phosphorus Threshold (Section 031.02) to manage nutrient application. After June 30, 2023, dairy farms will no longer be allowed to use the Phosphorus Threshold (Section 031.02) provision and all facilities will be required to use Phosphorus Indexing (Section 031.01). (3-28-18)

01. Phosphorus Indexing. The dairy farm shall utilize phosphorus site indexing (PSI) for each field where dairy byproducts and/or commercial fertilizers are land applied and for each pasture utilized for grazing, in accordance with the 2017 Idaho Phosphorus Site Index Standards. The PSI shall be calculated by a Nutrient Management Planner, certified by the Department, and be included as a component of the DNMP in the dairy farm's Environmental Management Plan. It shall be the dairy farm's responsibility to provide updated information, including annual soil test results, to the Nutrient Management Planner for calculation of the PSI on all fields and pastures on an annual basis. Failure to abide by the nutrient application and management provisions of a field or pasture's PSI risk classification in the DNMP shall constitute a non-compliance and the producer may be penalized as provided in these rules. (3-28-18)

a. Notwithstanding anything to the contrary in the 2017 Idaho Phosphorus Site Index Standards, no land application of phosphorus shall be permitted on any fields or pastures that possess a soil phosphorus level exceeding three hundred (300) parts per million, as determined by the required annual soil test (via Olsen method). Further, the dairy farm shall not receive BMP Coefficient credit for implementing any best management practice designed to reduce phosphorus loss on fields exceeding three hundred (300) parts per million, via Olsen method. (3-28-18)

b. The Department may award zero (0) or partial BMP Coefficient credit when a dairy farm implements a best management practice designed to reduce phosphorus loss from fields that does not fully conform to NRCS standards or the standards set forth in the 2017 Idaho Phosphorus Site Index Standards BMP definition section. (3-28-18)

02. Phosphorus Threshold. If the regulatory or producer soil tests reveal that phosphorus thresholds on fields and pastures have exceeded the levels established in the NMS, the producer shall only apply phosphorus at the appropriate phosphorus crop uptake rate. Subsequent regulatory soil test(s) on fields and pastures that were identified as exceeding the phosphorus threshold will be conducted. If two (2) out of three (3) tests reveal the

phosphorus index continues to trend upward, the producer will be penalized as provided in these rules. These tests shall be taken in the top one (1) foot of soil. (3-28-18)

032. -- 039. (RESERVED)

040. INSPECTIONS.

Each dairy farm shall be inspected by an inspector or fieldman at least annually or at intervals sufficient to determine that dairy byproducts and process water have been managed to prevent an unauthorized discharge, unauthorized release, or contamination of surface and ground water. An official inspection report form as described in Section 041 will be completed at the time of inspection. (3-29-17)

041. INSPECTION REPORT FORMS.

An inspection report form shall be established by the Department based on parameters established in the NMP, NMS, and Appendix 10D. Each inspection item on the form shall indicate compliance and non-compliance. (3-29-10)

042. -- 049. (RESERVED)

050. COMPLIANCE SCHEDULES.

01. Non-Compliance or Unauthorized Release Violations Identified. When the Director identifies items of non-compliance or unauthorized release violations, the deficiencies will be noted and discussed with the producer. Appropriate corrective actions will be identified and scheduled informally. The Director may develop a formal compliance schedule in the following cases: (3-29-17)

- a. When corrective actions cannot be completed within thirty (30) days; or (4-5-00)
- b. When corrective actions require significant capital investment; or (4-5-00)
- c. When informal schedules have not been followed. (3-29-17)

02. Re-Inspection. Re-inspection of the dairy farm will be conducted as appropriate, to ensure compliance. An unauthorized release violation shall be corrected immediately, when at all possible. (3-29-17)

051. -- 059. (RESERVED)

060. UNAUTHORIZED DISCHARGES AND UNAUTHORIZED RELEASES -- PENALTIES.

01. Unauthorized Discharge. No dairy farm shall cause an unauthorized discharge. (4-11-15)

02. Unauthorized Release. No dairy farm shall cause an unauthorized release. (3-29-17)

03. Non-Compliance. Non-compliance with requirements for dairy environmental systems, the NMS, and DNMP shall be addressed through corrective actions and compliance schedules pursuant to these rules. (3-29-17)

04. Penalties. For unauthorized releases and non-compliance conditions, the Director shall have the authority to assess a fine of up to ten thousand dollars (\$10,000) per occurrence. Civil penalties collected under this subsection shall be remitted to the county where the violation occurred for deposit in the county current expense fund. (3-29-17)

05. Suspend Planners or Soil Samplers Certification. The Director may suspend certification of Certified Planners or Certified Soil Samplers in the event such Certified Planners or Soil Samplers fail to develop DNMPs or collect soil samples as required by these rules. (3-29-17)

061. COMPLIANCE WITH IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM RULES.

The department of environmental quality shall be solely responsible and authorized to determine whether the discharge of pollutants from a dairy farm to waters of the United States is required to be authorized by an IPDES

permit. The provisions of this rule do not define when a dairy farm is required to obtain a permit for a discharge, do not exempt a dairy farm from permitting requirements for such discharges or alter the authority of DEQ with respect to such discharges. (3-29-17)

062. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.15 – RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATIONS

DOCKET NO. 02-0415-1901

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE AND HISTORY NOTES: The effective date of the temporary rule is July 1, 2019. Traditionally effective dates are published for every subsection, paragraph and subparagraph of a rule. These individualized effective dates provide a rich history for legal scholars and interested members of the public to explore the broader context of each rule. This docket retains these important history notes while establishing the effective date for each chapter to ensure there is no gap with the expiring rules. Where technical corrections only have been made to any section of a rule, or subpart thereof, the historic effective date is retained.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 22-4903, Idaho Code.

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

This temporary rulemaking adopts and re-publishes a previously approved and codified chapter under IDAPA 02, rules of the Idaho State Department of Agriculture.

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

This temporary rule is necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. This previously approved and codified rule implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of this rule without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by this rule.

The Rules Governing Beef Cattle Feeding Operations establish standards for the confine storage, management and application of nutrients on Concentrated Animal Feeding Operations (CAFO) that manage over one thousand (1,000) beef cattle in Idaho. These rules also outline the construction standards for all storage containment structures that are designed to protect the environment regarding the storage and land application of manure and other nutrients produced, handled and transported by CAFOs from discharging into waters of the state.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Dr. Scott Leibsle (208) 332-8614.

Dated this 6th day of June, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 02-0303-1901

IDAPA 02
TITLE 04
CHAPTER 15

02.04.15 – RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATIONS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 22, Chapter 1 and 49, Idaho Code. (3-16-01)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Rules Governing Beef Cattle Animal Feeding Operations.” (4-6-05)

02. Scope. These rules govern the design, function, and management practices of waste systems on beef cattle animal feeding operations. The official citation of this chapter is IDAPA 02.04.15.000 et seq. For example this section’s citation is IDAPA 02.04.15.001. Nothing in this rule affects the authority of the Department of Environmental Quality to enforce an IPDES permit for dairy farms that discharge pollutants to waters of the United States, including without limitation, the authority to issue permits, access records, conduct inspections and take enforcement actions. The provisions of this rule do not alter the requirements, liabilities, and authorities with respect to or established by the IPDES program. (3-29-17)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-16-01)

003. ADMINISTRATIVE APPEAL.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (3-15-02)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this chapter: (3-16-01)

01. The 1997 United States Department of Agriculture Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10 D. This document can be viewed online at <http://directives.sc.egov.usda.gov/OpenNonWebContent.aspx?content=17767.wba>. (3-16-01)

02. Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004. This document is part of a copyrighted publication and is available for viewing at the ISDA offices or a copy may be purchased online at <http://www.asabe.org/>. (3-29-17)

03. The 1999 Publication by the United States Department of Agriculture, Natural Resource Conservation Service, Conservation Practice Standard, Nutrient Management Code 590. This can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/08/nutrient_Management_code_590.pdf. (3-16-01)

005. IDAHO PUBLIC RECORDS ACT.

These rules are public records and are available for inspection and copying at the Department. (3-16-01)

006. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (4-6-05)

010. DEFINITIONS.

The following definitions apply in the interpretation and enforcement of this chapter. (3-16-01)

01. Administrator. The administrator of the Idaho State Department of Agriculture, Division of Animal Industries or his designee. (4-6-05)

02. Animal. Bovidae, ovidae, suidae, equidae, captive cervidae, captive antilocapridae, camelidae, and ratitidae. (3-16-01)

03. Animal Feeding Operation. A lot or facility where slaughter and feeder cattle or dairy heifers are confined and fed for a total of forty-five (45) days or more during any twelve-month (12) period and crops, vegetation forage growth, or post harvest residues are not sustained in the normal growing season over any portion of the lot or facility. (4-6-05)

04. Beef Cattle Animal Feeding Operation. An animal feeding operation that confines slaughter and feeder cattle or dairy heifers. (3-29-17)

05. Best Management Practices. As defined in Title 22, Chapter 49, Idaho Code, practices, techniques, or measures that are determined to be reasonable precautions, are a cost-effective and practicable means of preventing or reducing pollutants from point or non-point sources to a level compatible with state environmental goals, including water quality goals and standards for water of the state. Best management practices for water quality shall be adopted pursuant to the state water quality management plan, the Idaho ground water quality plan or Title 22, Chapter 49, Idaho Code. (3-29-17)

06. Compost. A biologically stable material derived from the biological decomposition of organic matter. (3-16-01)

07. Concentrated Animal Feeding Operation. An AFO that is defined as a large CAFO or as a medium CAFO by the terms of this section and designated by the Director. Two (2) or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other, or if they use a common area or system for the disposal of wastes. (3-29-17)

08. Director. The Director of the Idaho State Department of Agriculture or his designee. (4-6-05)

09. Discharge. Release of process wastewater or manure from a beef cattle animal feeding operation to waters of the state. (3-16-01)

10. Idaho Pollutant Discharge Elimination System (IPDES). Idaho's program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under these rules and the Clean Water Act sections 307, 402, 318, and 405. (3-29-17)

11. Land Application. The spreading on, or incorporation of manure or process wastewater into the soil. (3-16-01)

12. Large Concentrated Animal Feeding Operation. An AFO is defined as a large CAFO if it stables or confines as many as or more than the numbers of cattle specified in any of the following categories: (3-29-17)

a. Seven hundred (700) mature dairy cows, whether milked or dry; (3-29-17)

b. One thousand (1,000) veal calves; (3-29-17)

- c. One thousand (1,000) cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs; (3-29-17)
- 13. Manure.** Animal excrement generated on a beef cattle animal feeding operation that may also contain bedding, spilled feed, water, or soil. (3-15-02)
- 14. Medium Concentrated Animal Feeding Operation.** A medium CAFO includes any AFO that has been defined or designated as CAFO and stables or confines the number of cattle that fall within any of the following ranges: (3-29-17)
- a. Two hundred (200) to six hundred ninety-nine (699) mature dairy cows, whether milked or dry; (3-29-17)
- b. Three hundred (300) to nine hundred ninety-nine (999) veal calves; (3-29-17)
- c. Three hundred (300) to nine hundred ninety-nine (999) cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs; (3-29-17)
- 15. Modified.** Structural changes and alterations to the wastewater storage containment facility, which would require increased storage or containment capacity or such changes, which would alter the function of the wastewater storage or containment facility. (3-16-01)
- 16. Non-Compliance.** A practice or condition that causes an unauthorized discharge, or a practice or condition, that if left uncorrected, will cause an unauthorized discharge. (3-16-01)
- 17. Nutrient Management Plan (NMP).** A plan prepared in conformance with the nutrient management standard, provisions required by 40 CFR 122.42(e)(1), or other equally protective standard for managing the amount, placement, form, and timing of the land application of nutrients and soil amendments. (3-29-17)
- 18. Nutrient Management Standard.** The 1999 publication by the United States Department of Agriculture Natural Resources Conservation Service, Conservation Practice Standard, Nutrient Management Code 590, or other equally protective standard approved by the Director. (3-16-01)
- 19. Operate.** Confining and feeding slaughter and feeder cattle in the state of Idaho. (4-6-05)
- 20. Operator.** The person who has power or authority to manage, or direct, or has financial control of a beef cattle animal feeding operation. (3-16-01)
- 21. Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state, or federal governmental department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties. (3-16-01)
- 22. Process Wastewater.** Liquid containing beef cattle manure, process-generated wastewater and any precipitation which comes into direct contact with livestock manure and facility products or by-products. (4-6-05)
- 23. Runoff.** Any precipitation that comes into contact with manure, compost, bedding, or feed on a beef cattle animal feeding operation. (3-15-02)
- 24. Slaughter and Feeder Cattle.** All cattle except those cattle located on a dairy farm permitted by the Idaho State Department of Agriculture pursuant to IDAPA 02.04.14, "Rules of the Department of Agriculture Governing Dairy Waste." (4-6-05)
- 25. Small Concentrated Animal Feeding Operation.** An AFO that is designated as a CAFO and is not a medium or large CAFO. (3-29-17)

26. Unauthorized Discharge. A discharge of process wastewater or manure from a beef cattle animal feeding operation to state surface waters that does not meet the requirements of these rules or water quality standards. (3-29-17)

27. Wastewater Storage and Containment Facility. That portion of a beef cattle animal feeding operation where manure or process wastewater is stored or collected. This may include corrals, feeding areas, waste collection systems, waste conveyance systems, waste storage ponds, waste treatment lagoons and evaporative ponds. (3-16-01)

28. Waters of the State. All accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof that are wholly or partially within, that flow through or border upon the state. (3-29-17)

011. ABBREVIATIONS.

- 01. AFO.** Animal Feeding Operation. (3-29-17)
- 02. CAFO.** Concentrated Animal Feeding Operation. (3-29-17)
- 03. IPDES.** Idaho Pollutant Discharge Elimination System. (3-29-17)
- 04. NMP.** Nutrient Management Plan. (4-6-05)
- 05. NRCS.** United States Department of Agriculture, Natural Resources Conservation Service. (4-6-05)

012. PROHIBITED DISCHARGES.

Unauthorized discharges of manure or process wastewater from beef cattle animal feeding operations or land application sites owned or controlled by a beef cattle animal feeding operation are prohibited. (4-6-05)

013. NOTIFICATION OF DISCHARGE.

01. Notification Within Twenty-Four Hours of Discharge. Within twenty-four (24) hours of learning of a discharge, the operator of a beef cattle animal feeding operation shall verbally notify the Director of such a discharge. (3-16-01)

02. Written Notification Within Five Days. If the Idaho Department of Agriculture has not begun a discharge investigation within five (5) days of the verbal notification to the Director, the operator shall submit a written report to the Director which includes: (3-16-01)

- a.** A description of the discharge, a description of the flow path to the receiving water body; (3-16-01)
- b.** An estimation of the flow rate and volume discharged; (3-16-01)
- c.** The period of discharge, including dates and times, and if not already corrected, the anticipated time the discharge is expected to continue; and (3-16-01)
- d.** Steps taken to reduce, eliminate and prevent recurrence of the discharge. (3-16-01)

014. -- 019. (RESERVED)

020. WASTEWATER STORAGE AND CONTAINMENT FACILITIES.

01. Wastewater Storage and Containment Facilities. All beef cattle animal feeding operations where process wastewater leaves the confinement area and has the potential to impact surface water or be in violation of state water quality standards shall have wastewater storage and containment facilities designed, constructed, operated, and maintained sufficient to contain: (3-16-01)

- a. All process wastewater generated on the facility during the non-land application season; and (3-16-01)
- b. The runoff from a twenty-five (25) year, twenty-four (24) hour rainfall event; and (3-16-01)
- c. Either three (3) inches of runoff from the accumulation of winter precipitation or the amount of runoff from the accumulation of precipitation from a one-in-five (1 in 5) year winter. (3-16-01)

02. All Substances Entering Wastewater Storage and Containment Facilities. All substances entering wastewater storage and containment facilities shall be composed of manure and process wastewater from the operation of the beef cattle animal feeding operation. The disposal of any other materials into a wastewater storage and containment facility, including, but not limited to, human waste, is prohibited. (3-16-01)

021. NEW OR MODIFIED BEEF CATTLE ANIMAL FEEDING OPERATIONS.

Each new or modified beef cattle animal feeding operation shall design and construct wastewater storage and containment facilities completed after July 1, 2000, in accordance with the engineering standards and specifications contained in the Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10D or the American Society of Agricultural Engineers Standard EP393.3, or other equally protective standards approved by the Director. (3-16-01)

022. -- 029. (RESERVED)

030. NUTRIENT MANAGEMENT.

Each beef cattle animal feeding operation shall submit a nutrient management plan for land owned or controlled by the operator, which conforms to the nutrient management standard and addresses odors generated in excess of odors normally associated with raising beef cattle in Idaho, to the Director for approval. Following department review and approval, the plan, and all copies of the plan, shall be returned to the operation and maintained on site. (4-6-05)

01. Existing Beef Cattle Animal Feeding Operations. Beef cattle animal feeding operations that are operating on or before July 1, 2000 shall submit a NMP to the director for approval no later than January 1, 2005. The Director shall respond to or approve such plan in writing within forty-five (45) days of submission. (4-6-05)

02. New Beef Cattle Animal Feeding Operations. Any new beef cattle animal feeding operation commencing operations after July 1, 2000, shall not operate prior to the Director's approval of a NMP. The Director shall respond to or approve such plan within forty-five (45) days of submission. (4-6-05)

03. Implementation of a Nutrient Management Plan. Failure to implement an approved NMP is a violation of these rules. (4-6-05)

031. NUTRIENT MANAGEMENT PLAN RETENTION.

All approved NMPs shall be maintained on site at the beef cattle animal feeding operation and available to the Administrator upon request. (4-6-05)

032. NUTRIENT MANAGEMENT RECORDS.

The operators of beef cattle animal feeding operations shall keep complete and accurate records of: (4-6-05)

01. Land Application. The dates and amounts of any manure or process wastewater applied on land owned or controlled by the operator. (4-6-05)

02. Manure Transferred to Another Person. The name and address of any third party that receives manure or process wastewater from the operation, including the dates of the transfer and the amount of manure or process wastewater transferred. (4-6-05)

03. Records Retention. All records shall be maintained for a period of five (5) years and presented to the Administrator upon request. (4-6-05)

033. -- 039. (RESERVED)

040. DESIGNATION OF BEEF CATTLE ANIMAL FEEDING OPERATIONS.

01. Designation of Animal Feeding Operations. The Director, on a case by case basis, may designate any animal feeding operation that confines slaughter and feeder cattle as a beef cattle animal feeding operation if, after an inspection, the Director determines that the animal feeding operation is a significant contributor of pollution to waters of the state. The designation shall be provided to the operator of the animal feeding operation in writing setting forth the basis for the Director's decision. When designated, these operations shall be considered existing beef cattle animal feeding operations. The Director shall consider the following factors when making such designation: (4-6-05)

- a.** Size of the animal feeding operation and the amount of manure, process wastewater, and runoff reaching waters of the state; (3-15-02)
- b.** Location of the animal feeding operation relative to waters of the state; (3-15-02)
- c.** Means of conveyance of manure, process wastewater, and runoff into waters of the state; and (3-15-02)
- d.** Slope, vegetation, precipitation, and other factors affecting the likelihood or frequency of discharge of manure, process wastewater, or runoff into waters of the state. (3-15-02)

02. Redesignation of a Beef Cattle Animal Feeding Operation. Upon request by the operator, the Director shall redesignate a facility previously designated under Section 040, if the facility is no longer a significant contributor of pollution to waters of the state. Such redesignation shall be provided to the operator in writing. (3-15-02)

041. -- 049. (RESERVED)

050. AUTHORITY TO INSPECT.

The Director is authorized to inspect any animal feeding operation that confines slaughter or feeder cattle in accordance with Title 22, Chapter 49, Idaho Code, to ensure compliance with these rules. The Director shall comply with the operation's biosecurity protocol so long as the protocol does not inhibit reasonable access to: (4-6-05)

- 01. Entry.** Enter and inspect at reasonable times the premises or land application site(s) of a beef cattle animal feeding operation. (4-6-05)
- 02. Access to Records.** Review or copy any records that must be kept in accordance with these rules. (4-6-05)
- 03. Sample or Monitor.** Sample or monitor at reasonable times, substances or parameters directly related to compliance with these rules or an IPDES permit. (3-29-17)

051. INSPECTIONS.

Each beef cattle animal feeding operation shall be inspected annually or at intervals sufficient to determine that the facility is being operated and managed to prevent an unauthorized discharge. Inspections may include evaluating effectiveness of best management practices, collecting samples, taking photographs, video taping facilities or collecting other information as necessary. An official inspection report form shall be completed at the time of the inspection and a copy provided to the operator. (3-16-01)

052. ADMINISTRATION OF IPDES PROGRAM.

The Director of the Department of Agriculture and the Director of the Department of Environmental Quality shall, as appropriate, establish an agreement relating to the administration of an IPDES program that recognizes the expertise of the Department of Agriculture. (3-29-17)

053. COMPLIANCE WITH IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM RULES.

The Department of Environmental Quality shall be solely responsible and authorized to determine whether the discharge of pollutants from a beef cattle feeding operation is required to be authorized by an IPDES permit. The provisions of this rule do not define when a beef cattle feeding operations is required to obtain a permit for a discharge, do not exempt a beef cattle feeding operation from permitting requirements for such discharges or alter the authority of DEQ with respect to such discharges. (3-29-17)

054. -- 079. (RESERVED)

080. COMPLIANCE ORDERS.

When the Director identifies items of non-compliance or unauthorized discharges, the deficiencies will be noted and discussed with the operator. Unauthorized discharges shall be corrected immediately, or as soon as possible as determined by the Director. Appropriate corrective actions will be identified and scheduled informally. Formal compliance orders shall be developed, as the Director deems necessary as provided by Section 22-4909, Idaho Code. (3-16-01)

081. -- 089. (RESERVED)

090. PENALTIES.

Failure to comply with any provision of these rules or any formal compliance order of the Director shall be a violation of these rules. Such violation may subject the operator to an administrative enforcement action or a civil enforcement action in district court and a civil penalty not to exceed ten thousand dollars (\$10,000) per violation or one thousand dollars (\$1,000) for each day of a continuing violation as provided in Title 22, Chapter 49, Idaho Code. Civil penalties collected shall be deposited in the state treasury and credited to the State School Building Fund. (3-16-01)

091. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.04.16 – RULES GOVERNING AGRICULTURE ODOR MANAGEMENT
DOCKET NO. 02-0416-1901
NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE AND HISTORY NOTES: The effective date of the temporary rule is July 1, 2019. Traditionally effective dates are published for every subsection, paragraph and subparagraph of a rule. These individualized effective dates provide a rich history for legal scholars and interested members of the public to explore the broader context of each rule. This docket retains these important history notes while establishing the effective date for each chapter to ensure there is no gap with the expiring rules. Where technical corrections only have been made to any section of a rule, or subpart thereof, the historic effective date is retained.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 25-3802, Idaho Code.

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

This temporary rulemaking adopts and re-publishes a previously approved and codified chapter under IDAPA 02, rules of the Idaho State Department of Agriculture.

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

This temporary rule is necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. This previously approved and codified rule implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of this rule without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by this rule.

The Rules Governing Agriculture Odor Management establishes standards for the management of odor generated on certain agricultural operations. The rule outlines best management practices designed to minimize odors that are in excess of what would be considered an accepted agricultural practice. The rule provides requirements for development and implementation of an Odor Management Plan for certain agricultural operations.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Dr. Scott Leibsle (208) 332-8614.

Dated this 6th day of June, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 02-0303-1901

IDAPA 02
TITLE 04
CHAPTER 16

02.04.16 – RULES GOVERNING AGRICULTURE ODOR MANAGEMENT

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 25, Chapter 38, Idaho Code. (3-15-02)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.04.16, “Rules Governing Agriculture Odor Management.” (3-15-02)

02. Scope. These rules govern the management of odor generated on agricultural operations, except beef cattle animal feeding operations and large swine and poultry operations. (3-15-02)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-15-02)

003. ADMINISTRATIVE APPEAL.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (3-15-02)

004. INCORPORATION BY REFERENCE.

Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, P.O. Box 7249, Boise, ID 83707. IDAPA 02.04.16 incorporates by reference: (3-15-02)

01. Idaho NRCS Nutrient Management Standard 590, June 1999. (3-15-02)

02. Best Management Practices listed in the “Idaho Agricultural Pollution Abatement Plan,” August 2001. (3-15-02)

03. ASAE Standard EP379.2 Sections 5 and 6 in their entirety, November 1997. (3-15-02)

04. NRCS Conservation Practice Standard 317, March 2001. (3-15-02)

005. IDAHO PUBLIC RECORDS ACT.

These rules are public records and are available for inspection and copying at the department. (3-15-02)

006. ADDRESS, OFFICE HOURS, TELEPHONE AND FAX NUMBERS.

01. Physical Address. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (3-15-02)

02. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (3-15-02)

03. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 7249, Boise, ID 83707. (3-15-02)

04. Telephone Number. The telephone number of the central office is (208) 332-8500. (3-15-02)

05. Fax Number. The fax number of the central office is (208) 334-4062. (3-15-02)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The following definitions apply in the interpretation and enforcement of this chapter. (3-15-02)

01. Accepted Agricultural Practices. Those management practices normally associated with agriculture in Idaho, including but not limited to those practices identified in Section 100 of these rules, and which include management practices intended to control odor generated by an agricultural operation. (5-3-03)

02. Agricultural Animals. Those animals, including but not limited to mink, domestic cervidae, horses, and ratites raised for agricultural purposes. (3-15-02)

03. Agricultural Operation. Those operations where livestock or other agricultural animals are raised, or crops are grown, for commercial purposes, not to include those operations set forth within Section 25-3801(2), Idaho Code. (5-3-03)

04. Animal. Livestock and agricultural animals. (5-3-03)

05. BAT. The best application of science that is accessible and obtainable to achieve a desired objective. (5-3-03)

06. Beef Cattle. All cattle except those located on a dairy farm that have been permitted by the Idaho State Department of Agriculture pursuant to IDAPA 02.04.14, "Rules Governing Dairy Byproduct." (3-29-17)

07. Beef Cattle Animal Feeding Operation. Those operations regulated pursuant to IDAPA 02.04.15, "Rules Governing Beef Cattle Animal Feeding Operations." (3-29-17)

08. Best Management Practices. Practices, techniques, or measures that are determined by the Department to be a cost-effective and practicable means of managing odor generated on an agriculture operation to a level associated with accepted agriculture practices. (3-15-02)

09. Compost. A biologically stable material derived from the biological decomposition of organic matter. (3-15-02)

10. Composting. The aerobic degradation of manure and other organic material to a biologically stable form. (3-15-02)

11. Department. The Idaho State Department of Agriculture. (3-15-02)

12. Director. The Director of the Idaho State Department of Agriculture. (3-15-02)

13. Land Application. The spreading on, or incorporation into the soil of agricultural by-products including, but not limited to, manure, wastewater, compost, cull potatoes, cull onions, or crop residues. (3-15-02)

14. Large Swine And Poultry Operations. Those swine operations regulated pursuant to IDAPA 58.01.09, "Rules Regulating Swine Facilities," and those poultry operations regulated pursuant to IDAPA 02.04.32, "Rules Governing Poultry Operations." (3-29-17)

15. Livestock. Cattle, sheep, swine and poultry. (3-15-02)

16. **Liquid-Solid Separation.** The removal of solid manure from water through mechanical or settling means. (3-15-02)
17. **Liquid Waste System.** Wastewater storage and containment facilities and associated waste collection and conveyance systems where water is used as the primary carrier of manure and manure is added to the wastewater storage and containment facilities on a regular basis including the final distribution system. (5-3-03)
18. **Manure.** Animal excrement that may also contain bedding, spilled feed, or soil. (5-3-03)
19. **Modified.** Structural changes and alterations to agricultural operations which would require increased wastewater storage or containment capacity or such changes which would increase the amount of manure entering wastewater storage and containment facilities. (5-3-03)
20. **Nutrient Management Plan.** A plan prepared in conformance with the nutrient management standard. (3-15-02)
21. **Nutrient Management Standard.** The 1999 publication by the United States Department of Agriculture Natural Resources Conservation Service, Conservation Practice Standard, Nutrient Management Code 590, or other equally protective standard approved by the Director. (3-15-02)
22. **Odor.** The property or quality of a substance that stimulates or is perceived by the sense of smell, the standards for which shall be judged on criteria that shall include intensity, duration, frequency, offensiveness, and health risks. (5-3-03)
23. **Odor Management Plan.** A site-specific plan approved by the Director to manage odor generated on an agricultural operation to a level associated with accepted agricultural practices by utilizing best management practices. (3-15-02)
24. **Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (3-15-02)
25. **Waste Collection and Conveyance Systems.** The areas and systems used in the collection and transfer of manure from the point of generation to the wastewater storage and containment facilities, prior to land application. (3-15-02)
26. **Wastewater.** Water containing manure, which is generated on a livestock operation. (3-15-02)
27. **Wastewater Storage and Containment Facilities.** Wastewater storage ponds, wastewater treatment lagoons, and evaporative ponds. (3-15-02)
28. **Wastewater Treatment.** A process by which wastewater is treated through aerobic or anaerobic degradation or other means. (3-15-02)
- 011. ABBREVIATIONS.**
01. **ASAE.** American Society of Agricultural Engineers. (3-15-02)
02. **BAT.** Best Available Technology. (3-15-02)
03. **BMP.** Best Management Practice. (3-15-02)
04. **DEQ.** Idaho Department of Environmental Quality. (3-15-02)
05. **NMP.** Nutrient Management Plan. (3-15-02)

- 06. NOV. Notice Of Violation. (3-15-02)
- 07. NRCS. The United States Department of Agriculture, Natural Resources Conservation Service. (3-15-02)
- 08. OMP. Odor Management Plan. (3-15-02)

012. -- 099. (RESERVED)

100. ACCEPTED AGRICULTURAL PRACTICES.

Management practices conducted in accordance with applicable laws, rules and best management practices, as referenced in Subsections 100.01 and 100.02, or in the absence of referenced best management practices, management practices conducted in a manner that demonstrates reasonable efforts to minimize odors, shall be considered accepted agricultural practices for purposes of this rule. (3-15-02)

- 01. **Applicable Rules.** The following are applicable rules for the purpose of Section 100: (3-15-02)
 - a. IDAPA 02.04.14, "Rules Governing Dairy Byproduct." (3-29-17)
 - b. IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application." (3-15-02)
 - c. IDAPA 02.06.17, "Rules Concerning Disposal of Cull Onion and Potatoes." (3-15-02)
 - d. IDAPA 02.04.17, "Rules Governing Dead Animal Movement and Disposal." (3-15-02)

02. **Applicable Best Management Practices.** The following practices, or other management practices approved by the Director that are conducted in a manner that demonstrates reasonable efforts to minimize odors shall be considered accepted agricultural practices for purposes of this rule. (3-15-02)

- a. Idaho NRCS Nutrient Management Standard 590, June 1999. (3-15-02)
- 2001. b. Best Management Practices listed in the "Idaho Agricultural Pollution Abatement Plan," August (3-15-02)
- 1997. c. "Control of Manure Odors," ASAE Standard EP379.2 Sections 5 and 6 in their entirety, November (3-15-02)
- d. "Composting Facility," NRCS Conservation Practice Standard 317, March 2001. (3-15-02)

03. **Excess Odors.** An agricultural operation using an accepted agricultural practice that generates odors in excess of levels normally associated with such practice, as determined by the Department on a site specific basis, shall develop and submit an odor management plan to the Director in accordance with Section 500. (3-15-02)

101. -- 199. (RESERVED)

200. APPLICABILITY.

These rules apply to all agricultural operations, except: (3-15-02)

01. **Beef Cattle.** Beef cattle animal feeding operations regulated pursuant to IDAPA 02.04.15, "Rules Governing Beef Cattle Animal Feeding Operations." (3-29-17)

02. **Swine and Poultry.** Large swine operations regulated pursuant to IDAPA 58.01.09, "Rules Regulating Swine Facilities," and large poultry operations regulated pursuant to IDAPA 02.04.32, "Rules Governing Poultry Operations." (3-29-17)

201. -- 299. (RESERVED)

300. LIQUID WASTE SYSTEMS.

No person shall begin construction of a new or modified liquid waste system prior to approval of such system by the Director. (3-15-02)

01. Department Review. Department engineering staff shall provide to the Director a review and assessment of all new or modified liquid waste systems for his consideration prior to final approval of such systems by the Director. The Director may order the construction to cease if the construction of a new or modified liquid waste system has commenced prior to the Director's approval. (5-3-03)

02. Design Requirements. All new or modified liquid waste systems shall be designed by licensed professional engineers, approved in writing by the Director, and constructed in accordance with standards and specifications approved by the Director for management of odors. (5-3-03)

a. If construction is commenced prior to the Director's written approval, the Director may order construction activities to be ceased. (5-3-03)

b. No material deviation shall be made from the approved plans and specifications without the prior written approval of the director. (5-3-03)

c. Within thirty (30) days of completion of construction, alteration or modification of any new or modified liquid waste system, complete and accurate plans and specifications depicting the actual construction, alteration, or modification performed must be submitted by the operator to the Director. (5-3-03)

d. If construction does not materially deviate from the plans approved by the Director, a statement to that effect shall be filed by the agricultural operation with the Director. (5-3-03)

301. STANDARDS AND SPECIFICATIONS FOR LIQUID WASTE SYSTEMS.

All new or modified liquid waste systems shall be designed and constructed in accordance with applicable laws and rules, and for the purpose of managing odors. The Director shall require techniques and management practices as standards and specifications of liquid waste systems for the management of odors. These techniques and management practices may include but are not be limited to the following: (3-15-02)

01. Wastewater Storage and Containment Facilities: (3-15-02)

a. Liquid-solid separation. (3-15-02)

b. Wastewater treatment. (3-15-02)

c. Use of chemical or biological additives. (3-15-02)

d. Dilution of wastewater. (3-15-02)

e. Impermeable or permeable storage covers. (3-15-02)

f. Biofilters. (3-15-02)

g. Enhancing dispersion. (3-15-02)

h. Location of wastewater discharge into storage and containment facilities. (3-15-02)

02. Wastewater Collection and Conveyance Systems. (3-15-02)

a. Wastewater Treatment. (3-15-02)

b. Use of chemical or biological additives. (3-15-02)

c. Dilution of wastewater. (3-15-02)

- d. Impermeable or permeable covers of collection areas. (3-15-02)
- e. Timing of collection and conveyance system operation. (3-15-02)
- f. Frequency and duration of collection and conveyance system operation. (3-15-02)
- g. Enhancing dispersion. (3-15-02)

302. -- 399. (RESERVED)

400. INSPECTIONS.

The Director or his designee is authorized to enter and inspect any agricultural operation, and during normal business hours have access to or copy any facility records deemed necessary to ensure compliance with these rules. (3-15-02)

01. Notification of County Commissioners. Prior to conducting an inspection, the Department shall notify the board of county commissioners for the county in which the agricultural operation is located and the board of county commissioners may have a designee accompany the department during the inspection. (3-15-02)

02. Records Obtained by the Department. All records copied or obtained by the Department as the result of an inspection under this section shall be exempt from public disclosure under Title 9, Chapter 3, Idaho Code, except the following: (3-15-02)

a. Records otherwise deemed to be public records not exempt from disclosure under Title 9, Chapter 3, Idaho Code. (3-15-02)

b. Inspection reports, determinations of compliance or noncompliance and all other records created by the department pursuant to this section. (3-15-02)

401. -- 499. (RESERVED)

500. ODOR MANAGEMENT PLANS.

OMPs shall be designed to work in conjunction with any required NMP and shall be submitted to the Director in writing. Upon approval by the Director, the Director and either the owner or operator of the agricultural operation shall sign the OMP. (3-15-02)

01. OMP Development. Within sixty (60) days of receiving a NOV for a first time violation, the owner or operator of the agriculture operation receiving the NOV shall submit to the Director an OMP for approval. (3-15-02)

02. Interim Measures. The Department shall work with the owner or operator of an agriculture operation that has received a NOV for a first time violation to identify interim measures that can be implemented in a timely manner to begin the process of reducing odors while the OMP is being developed. (3-15-02)

03. Department Approval. The Director shall approve, reject, or request additional information within thirty (30) days of receiving an OMP from the owner or operator of an agricultural operation deemed to have committed a first time violation. The approval, rejection, or request for additional information shall be provided to the owner or operator of the agricultural operation in writing. (3-15-02)

a. If the Director rejects an OMP or requests additional information, the owner or operator of the agricultural operation shall submit to the Director the additional information or a rewritten OMP that address the reasons for the rejection within thirty (30) days of receiving written notification from the Director. (3-15-02)

b. Within fifteen (15) days of receiving the additional information or a rewritten OMP, the Director shall approve or reject the OMP. If the OMP is rejected, the Director may issue a subsequent violation under Section 701 and assess the penalty provisions specified in Section 900 of these rules. (3-15-02)

c. The Director may, on a case by case basis, grant extensions to the deadlines contained in Section 500. (3-15-02)

04. Implementation. OMPs shall be implemented as approved by the Director. (3-15-02)

05. Review of OMP. The Department shall review OMPs no less than annually for three (3) years after the Director approves the OMP. If the Department determines an approved OMP has not reduced odors to a level associated with accepted agricultural practices after a reasonable period of time, as determined by the Department, the Department shall review the OMP with the owner or operator of the agricultural operation and adjust the OMP to meet the goals of the Agriculture Odor Management Act. (3-15-02)

501. CONTENTS OF AN ODOR MANAGEMENT PLAN.

Contents of an OMP for an agricultural operation may include, but are not limited to the following: (3-15-02)

01. Owner's Name. Name and telephone number of the owner of the operation. (3-15-02)

02. Address. Physical address of the operation. (3-15-02)

03. Location. County in which the operation is located. (3-15-02)

04. Operation Description. A description of the operation that includes, as applicable: (3-15-02)

a. Type of operation. (3-15-02)

b. General description of operation. (3-15-02)

c. Number and type of any animals including age groups. (3-15-02)

d. Any plans for expansion. (3-15-02)

e. Type of housing used related to age groups of animals. (3-15-02)

f. General description of nearby residential areas, public use areas, and pertinent agricultural operations. (3-15-02)

g. Type of crop and number of acres grown. (3-15-02)

05. Scaled Vicinity Map. A map that shall include all residences, public use areas, roads, general topography of the area, and other pertinent agricultural operations within a two (2) mile radius of the facility. (3-15-02)

06. Manure Management System. A detailed description of the present manure handling systems including timing, frequency, duration, volumes, dimensions, and flow rates where applicable for the following: (3-15-02)

a. Manure cleaning systems. (3-15-02)

b. Manure transfer systems. (3-15-02)

c. Manure separation systems. (3-15-02)

07. Scaled Site Plan. A site plan showing all buildings, housing facilities, waste/manure storage areas, piping, feed storage areas, and roadways. (3-15-02)

08. Land Application System. A detailed description of the present management practices and methods used to make land application including: (3-15-02)

- a. Timing, frequency, and duration of practices. (3-15-02)
- b. Proximity of land application sites to residential and public use areas. (3-15-02)
- 09. Climatic Data.** A description of the typical climatic conditions for a minimum period of two (2) years that exist in the geographical area of the operation or have been recorded on-site for the operation including: (3-15-02)
 - a. Wind Speed and direction(s). (3-15-02)
 - b. Temperature range. (3-15-02)
 - c. Relative humidity range. (3-15-02)
 - d. Precipitation data. (3-15-02)
- 10. Facility Odor Sources.** A list of all primary odor sources located on the operation with a general ranking of low, moderate, or high with respect to overall odor production. Each odor source must have an explanation of why it is listed as a source and the reasoning for the overall ranking. (3-15-02)
- 11. Tiered Implementation.** A three-tier process shall be used to reduce odor production from the facility. Each tier shall contain a list of the primary BMPs and BATs that are going to be implemented by the facility. For each tier BMP and BAT listed, the plan shall include, but not be limited to: (3-15-02)
 - a. Process of how the BMP or BAT will be designed or managed. (3-15-02)
 - b. Implementation schedule that defines when the BMP or BAT will be implemented on the facility and justification for why this time frame was chosen. (3-15-02)
 - c. Monitoring program that will be implemented to evaluate the effectiveness of the BMP or BAT, with quantitative or qualitative reduction goals. (3-15-02)
- 12. Public Involvement.** This section shall describe how the public in the area of the facility will be involved in the implementation or evaluation of the OMP. (3-15-02)
- 13. Timeframe for Review of OMP.** A designated period of time when each tier of the plan will be evaluated to determine if further implementation is necessary, how each tier will be evaluated, which Department staff will conduct the review, and a period of time in which the agricultural operation will attain full compliance with the plan. (3-15-02)
- 502. -- 599. (RESERVED)**
- 600. COMPLAINTS.**
The Department shall respond to all odor complaints lodged against agriculture operations. (3-15-02)
- 601. CONTENTS OF COMPLAINTS.**
Complaints shall contain the name, address, and telephone number of the complainant. (3-15-02)
- 602. RESPONSE TO COMPLAINTS.**
The response of the Department may be limited to informing the complainant that an odor management plan is being developed or implemented. (5-3-03)
- 603. -- 699. (RESERVED)**
- 700. FIRST TIME VIOLATIONS.**
If the Department determines that an agricultural operation is generating odors in excess of levels of odors normally associated with accepted agricultural practices, the agricultural operations shall be deemed to have committed a first

time violation of IDAPA 02.04.16, "Rules Governing Agriculture Odor Management." (3-15-02)

01. Notice of Violation. The Department shall provide the owner or operator of the agriculture operation with written notice of the violation, and an opportunity for a hearing pursuant to Title 67, Chapter 52, Idaho Code. (3-15-02)

02. Cooperation with the Department. The Department shall require agricultural operations deemed to have committed a first time violation to cooperate with the Department to develop and submit to the Director for approval an OMP. (3-15-02)

701. SUBSEQUENT VIOLATIONS. Agricultural operations shall be deemed to have committed a subsequent violation if the operation is determined to have committed a subsequent violation within three (3) years, has failed to comply with a required OMP, or the Department determines that the owner or operator of the agriculture operation has not cooperated with the department by failing to submit an OMP that meets Department approval requirements. (3-15-02)

702. ODOR EMISSIONS CAUSED BY AN ACT OF GOD. Odor emissions caused by an act of God or a mechanical failure shall not constitute a violation, provided that the agricultural operation takes reasonable steps to promptly repair the cause of the emission. This provision is applicable whether or not an agricultural operation is required to have an OMP. (5-3-03)

703. -- 899. (RESERVED)

900. PENALTIES. Agricultural operations determined by the Department to have committed a subsequent violation of these rules shall be assessed a civil penalty by the Department or its duly authorized agent not to exceed ten thousand dollars (\$10,000) for each offense and be liable for reasonable costs and attorney's fees. (3-15-02)

01. Assessment of Civil Penalty. Assessment of a civil penalty may be made in conjunction with any other Department administrative action. No civil penalty may be imposed unless the person charged was given notice and opportunity for a hearing pursuant to Title 67, Chapter 52, Idaho Code. (3-15-02)

02. Inability to Collect Civil Penalty. If the Department is unable to collect the civil penalty or if any person fails to pay all or a set portion of a civil penalty as determined by the Department, the Department may recover such amount by action in the appropriate district court. (3-15-02)

03. Appeal of Civil Penalty. Any person against whom the Department has assessed a civil penalty may, within thirty (30) days of the final action making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the Department to have occurred. (3-15-02)

04. Computation of Monetary Penalties. The imposition or computation of monetary penalties shall take into account the seriousness of the violation and such other matters as justice requires. (5-3-03)

05. Reports for Basis of Penalty. The Director shall prepare a written report setting forth the basis upon which any monetary penalty is imposed or computed and shall retain the report on file with the Department. (5-3-03)

06. Moneys Collected from Violations. Moneys collected for violations of these rules shall be deposited in the state treasury and credited to the General Fund. (3-15-02)

901. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.17 – RULES GOVERNING DEAD ANIMAL MOVEMENT AND DISPOSAL

DOCKET NO. 02-0417-1901

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE AND HISTORY NOTES: The effective date of the temporary rule is July 1, 2019. Traditionally effective dates are published for every subsection, paragraph and subparagraph of a rule. These individualized effective dates provide a rich history for legal scholars and interested members of the public to explore the broader context of each rule. This docket retains these important history notes while establishing the effective date for each chapter to ensure there is no gap with the expiring rules. Where technical corrections only have been made to any section of a rule, or subpart thereof, the historic effective date is retained.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 25-203, Idaho Code.

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

This temporary rulemaking adopts and re-publishes a previously approved and codified chapter under IDAPA 02, rules of the Idaho State Department of Agriculture.

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

This temporary rule is necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. This previously approved and codified rule implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of this rule without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by this rule.

The Rules Governing Dead Animal Movement and Disposal establish standards for the management and disposal of livestock carcasses to best protect the environment and human health. The rule outlines the acceptable methods for properly disposing of livestock carcasses and establishes setbacks, where applicable, to minimize the potential for the spread of disease and degradation of the environment.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Dr. Scott Leibsle (208) 332-8614.

Dated this 6th day of June, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 02-0417-1901

IDAPA 02
TITLE 04
CHAPTER 17

02.04.17 – RULES GOVERNING DEAD ANIMAL MOVEMENT AND DISPOSAL

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 25, Chapter 2, Idaho Code. (3-15-02)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Rules Governing Dead Animal Movement and Disposal.” (3-15-02)

02. Scope. These rules govern the management, movement and disposal of dead animals. (3-15-02)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-15-02)

003. ADMINISTRATIVE APPEAL.

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeal before the State Department of Agriculture under these rules. (3-15-02)

004. INCORPORATION BY REFERENCE.

IDAPA 02.04.17 does not incorporate any materials by reference. (3-15-02)

005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (3-15-02)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records and are available for inspection at the State Department of Agriculture and on the internet. Official copies may be obtained from the Department of Administration, Office of Administrative Rules. (3-15-02)

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Abandon. To desert or intentionally leave a dead animal without proper disposal as provided in these rules. (3-15-02)

02. Administrator. The administrator of the Idaho State Department of Agriculture, Division of Animal Industries. (3-15-02)

- 03. Air Curtain Incineration.** A mechanical process of incineration by which super-heated air is continuously circulated to enhance combustion. (3-15-02)
- 04. Burial.** Interment of a dead animal below the natural surface of the ground. (3-15-02)
- 05. Burning.** The act of consuming or destroying by fire with or without the use of an accelerant. (3-15-02)
- 06. Composting.** The biological decomposition of organic matter under controlled conditions. (3-15-02)
- 07. Dead Animals.** Carcasses and parts of carcasses from dead animals including domesticated livestock, sheep, goats, poultry, pets, and commercial fish. (3-15-02)
- 08. Dead Animal Emergencies.** Those situations involving dead animals that may require extenuating disposal measures as determined by the Administrator. (3-15-02)
- 09. Decomposition.** The decay of dead animals under natural conditions. (3-15-02)
- 10. Digestion.** A process by which organic matter is hydrolyzed. (3-15-02)
- 11. Director.** The director of the Idaho State Department of Agriculture. (3-15-02)
- 12. Disposal.** The management of a dead animal. (3-15-02)
- 13. Domesticated Livestock.** Bovidae, suidae, equidae, captive cervidae, camelidae, ratitidae, gallinaceous birds and captive waterfowl. (4-2-08)
- 14. Harvested.** Domesticated livestock killed by a person if any portion of the carcass is salvaged. (4-2-08)
- 15. Incineration.** The controlled and monitored combustion of dead animals for the purposes of volume reduction and pathogen control. (3-15-02)
- 16. Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal government department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties. (3-15-02)
- 17. Pets.** Cats, dogs, and other non-human species of animals that are kept as household companions. (3-15-02)
- 18. Rendering.** The process or business of recycling dead animals and animal by-products. (3-15-02)
- 19. Sanitary Landfill.** A solid waste disposal site permitted or approved by the Idaho Department of Environmental Quality. (3-15-02)
- 011. EXCLUSIONS.**
The following establishments and animals shall be excluded from the provisions of these rules. (3-15-02)
- 01. Slaughter Establishments.** Establishments that slaughter livestock for human consumption. (3-15-02)
- 02. Free-Ranging Wildlife.** Non-captive wildlife or wild fish. (3-15-02)
- 03. House Pets.** House pets less than one hundred (100) pounds in weight. (3-15-02)
- 04. Pets Buried in a Licensed Pet Cemetery.** Pets of any weight buried in a licensed pet cemetery.

(3-15-02)

012. -- 019. (RESERVED)

020. ABANDONMENT OF DEAD ANIMALS.

No person who owns or is caring for an animal that has died shall abandon the dead animal. Animals that are being disposed of by decomposition in accordance with these rules shall not be considered abandoned. (3-15-02)

021. -- 029. (RESERVED)

030. DISPOSAL OF DEAD ANIMALS.

Dead animals shall be disposed of within seventy-two (72) hours after knowledge of the death of the animal or as provided by the Administrator. No person shall dispose of a dead animal on the land of another without the permission of the property owner. Disposal shall be by one (1) of the following methods: (3-15-02)

01. Dead Animals on Federally Managed Land. Animals that die on federally managed rangeland from causes other than significant infectious or contagious diseases or agents shall be disposed of as provided by the rules and regulations of the responsible land management agency. (3-15-02)

02. Disposal Methods Determined by the Administrator. The Administrator may determine the appropriate method of disposal for animals that die of significant infectious or contagious diseases or agents. (3-15-02)

03. Rendering. If a licensed and approved rendering facility accepts the dead animal, rendering is an approved method of disposal. (3-15-02)

a. When carcasses are held for pickup, the site shall be screened from public view, in a dry area and not in a water runoff or drainage area. (3-15-02)

b. Run-off from the holding area must be contained. (3-15-02)

04. Burial. Dead animals shall be buried to such a depth that no part of the dead animal shall be nearer than three (3) feet to the natural surface of the ground. Every part of the dead animal shall be covered with at least three (3) feet of earth. The location of a burial site shall be: (3-15-02)

a. At least three hundred (300) feet from any wells, surface water intake structures, and public or private drinking water supply lakes or springs. (3-15-02)

b. At least three hundred (300) feet from any existing residences. (3-15-02)

c. At least fifty (50) feet from property lines. (3-15-02)

d. At least one hundred (100) feet from public roadways. (3-15-02)

e. At least two hundred (200) feet from any body of surface water such as a river, stream, lake, pond, intermittent stream, or sinkhole. (3-15-02)

f. Burial sites shall not be located in low-lying areas subject to flooding, or in areas with a high water table where the seasonal high water level may contact the burial pit. (3-15-02)

05. Disposal in an Approved Sanitary Landfill. Arrangements shall be made with a city, county, regional, or private landfill official in order to dispose of a dead animal in a city, county, regional, or private landfill. (3-15-02)

06. Composting. (3-15-02)

a. Composting of dead animals shall be accomplished in a manner approved by the Administrator.

(3-15-02)

b. No composters that have been approved by other agencies shall begin composting dead animals without the approval of the Administrator. (3-15-02)

07. Digestion. Digestion of dead animals shall be accomplished in a properly designed and sized dead animal digester approved by the Administrator. (3-15-02)

08. Incineration. (3-15-02)

a. Incineration of dead animals shall be accomplished in an approved incineration facility, or by a mobile air curtain incinerator at a site approved by the Administrator. (3-15-02)

b. The incineration shall be thorough and complete, reducing the carcass to mineral residue. (3-15-02)

09. Burning. Open burning of dead animals is not allowed, except as authorized by the Administrator, in coordination with the Department of Environmental Quality. (3-15-02)

10. Decomposition. Animals that die on private or state rangeland, except domesticated livestock that are harvested, from causes other than significant infectious or contagious diseases or agents may be left to decompose naturally provided that: (4-2-08)

a. They are at least one thousand three hundred twenty (1,320) feet from any wells, lakes, ponds, streams, surface water intake structures, public or private drinking water supply lakes, springs or sinkholes. (3-15-02)

b. They are at least one thousand three hundred twenty (1,320) feet from any public roadways. (3-15-02)

c. They are at least one thousand three hundred twenty (1,320) feet from any residence not owned by the owner of the dead animal. (3-15-02)

11. Allowance for Variances by the Administrator. The Administrator may grant written variances to the requirements of Section 030 on a case-by-case basis. (4-2-08)

031. -- 039. (RESERVED)

040. MOVEMENT OF DEAD ANIMALS.

No dead animals shall be loaded into the same vehicle with live animals. (3-15-02)

01. Vehicles Used for Transporting Dead Animals. Vehicles used for transporting dead animals shall be constructed and maintained, or be prepared prior to receiving dead animals into the vehicle, so that no liquid or fluid from the dead animals is allowed to drip or seep from the vehicle during transport. (3-15-02)

02. Dead Animals Concealed from View. Dead animals shall be concealed from public view during transportation. (3-15-02)

03. Direct to Destination. Vehicles hauling dead animals shall travel to their destination directly. (3-15-02)

04. Disinfection. Vehicles that have hauled dead animals off an owner's property shall not be used to haul live animals, feeds or similar commodities to the property of another person until they have been thoroughly cleaned and disinfected. (3-15-02)

05. Transport of Dead Animals. No person shall transport a dead animal across or through the property of another person without the landowner's permission. (3-15-02)

041. -- 049. (RESERVED)

050. DEAD ANIMAL EMERGENCIES.

Dead animal emergencies are those situations involving dead animals that have been determined by the Administrator to require extraordinary disposal measures. (3-15-02)

01. Situations Requiring Extraordinary Disposal Measures. These situations include, but are not limited to, the following: (3-15-02)

a. Situations where one (1) or more animals die of an infectious or contagious disease or agent that may pose a significant threat to humans or animals; (3-15-02)

b. Situations wherein the number of dead animals is large enough to require extraordinary disposal measures. (3-15-02)

02. Administrator to Determine Disposal Methods. The Administrator may employ exceptional or extraordinary methods of dead animal disposal as necessary to protect the health and welfare of the human and animal populations of the state of Idaho. Such methods may include, but shall not be limited to: (3-15-02)

a. Open burning; (3-15-02)

b. Pit burning; (3-15-02)

c. Burning with accelerants; (3-15-02)

d. Pyre burning; (3-15-02)

e. Air curtain incineration; (3-15-02)

f. Mass burial; or (3-15-02)

g. Natural decomposition. (3-15-02)

051. -- 089. (RESERVED)

090. PENALTIES.

Pursuant to 25-237, Idaho Code. (3-15-02)

01. Civil Penalty. Any person violating any of the provisions of these rules may be assessed a civil penalty by the department or its agent of not more than five thousand dollars (\$5,000) for each offense. Persons against whom civil penalties are assessed are liable for reasonable attorney's fees. (3-15-02)

a. Civil penalties may be assessed in conjunction with any other department administrative action. Civil penalties may not be assessed unless the person charged has been given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act, Chapter 52, Title 67, Idaho Code. If the department is unable to collect an assessed civil penalty or if any person fails to pay all or a set portion of a civil penalty as determined by the department, the department may recover such amount by action in the appropriate district court. (3-15-02)

b. Any person against whom the department has assessed a civil penalty under these rules may, within twenty-eight (28) days of the final agency action making the assessment, seek judicial review of the assessment in accordance with the provisions of Chapter 52, Title 67, Idaho Code. (3-15-02)

c. Moneys collected for violations of these rules shall be deposited in the state treasury and credited to the Livestock Disease Control and T.B. Indemnity Fund. (3-15-02)

d. If the Director determines that a person has not complied with these rules, the director shall identify appropriate corrective actions. The Director may develop a formal compliance schedule to correct deficiencies caused by noncompliance. The Director may, through a formal compliance schedule, allow all or part of the value of

the assessed civil penalties to apply toward correction of the deficiencies. (3-15-02)

02. Criminal Penalty. Any person violating any of the provisions of these rules shall be guilty of a misdemeanor. Upon conviction, violators are subject to a fine of not less than one hundred dollars (\$100) and not more than five thousand dollars (\$5,000) for each offense, or by imprisonment in the county jail not exceeding six (6) months. (3-15-02)

03. Minor Violations. Nothing in this section requires the Director to report minor violations for prosecution when he believes that the public interest will be best served by suitable warnings or other administrative action. (3-15-02)

091. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.23 – RULES GOVERNING COMMERCIAL LIVESTOCK TRUCK WASHING FACILITIES

DOCKET NO. 02-0423-1901

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE AND HISTORY NOTES: The effective date of the temporary rule is July 1, 2019. Traditionally effective dates are published for every subsection, paragraph and subparagraph of a rule. These individualized effective dates provide a rich history for legal scholars and interested members of the public to explore the broader context of each rule. This docket retains these important history notes while establishing the effective date for each chapter to ensure there is no gap with the expiring rules. Where technical corrections only have been made to any section of a rule, or subpart thereof, the historic effective date is retained.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 22-103(15), Idaho Code.

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

This temporary rulemaking adopts and re-publishes a previously approved and codified chapter under IDAPA 02, rules of the Idaho State Department of Agriculture.

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

This temporary rule is necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. This previously approved and codified rule implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of this rule without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by this rule.

This rule establishes standards for the permitting and management of commercial livestock truck washing facilities in Idaho. These rules also outline the construction standards for all containment structures that are designed to protect the environment regarding the storage and management of all nutrients and process wastewater that accumulate when washing a commercial livestock vehicle to prevent from discharging into waters of the state.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Dr. Scott Leibsle (208) 332-8614.

Dated this 6th day of June, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 02-0423-1901

IDAPA 02
TITLE 04
CHAPTER 23

02.04.23 – RULES GOVERNING COMMERCIAL LIVESTOCK TRUCK WASHING FACILITIES

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 22, Chapter 103 (17), Idaho Code. (5-3-03)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.04.23, “Rules Governing Commercial Livestock Truck Washing Facilities.” (5-3-03)

02. Scope. These rules govern the permitting, construction, and management of commercial livestock truck washing facilities. (5-3-03)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (5-3-03)

003. ADMINISTRATIVE APPEAL.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (5-3-03)

004. INCORPORATION BY REFERENCE.

Copies of these documents may be obtained from the Idaho State Department of Agriculture central office and the State Law Library. (5-3-03)

01. The 1997 United States Department of Agriculture Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10 D. (5-3-03)

02. The 2000 American Society of Agricultural Engineers Standard EP393.3. (5-3-03)

03. The 1999 Publication by the United States Department Of Agriculture, Natural Resource Conservation Service, Conservation Practice Standard, Nutrient Management Code 590. (5-3-03)

005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (5-3-03)

006. IDAHO PUBLIC RECORDS ACT.

These rules are public records available for inspection and copying at the central office of ISDA and the State Law Library. (5-3-03)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The following definitions apply in the interpretation and enforcement of this chapter. (5-3-03)

01. Commercial Livestock Truck Washing Facilities. Livestock truck washing facilities that charge a fee to wash livestock trucks and trailers, or those facilities where the process wastewater is not regulated pursuant IDAPA 02.04.14 “Rules Governing Dairy Waste,” or 02.04.15 “Rules of the Department of Agriculture Governing Beef Cattle Animal Feeding Operations.” (5-3-03)

02. Compost. A biologically stable material derived from the biological decomposition of organic matter. (5-3-03)

03. Director. The Director of the Idaho State Department of Agriculture or his designee. (5-3-03)

04. Discharge. Release of process wastewater or manure from a commercial livestock truck washing facility to waters of the state. (5-3-03)

05. Land Application. The spreading on, or incorporation of manure or process wastewater into the soil. (5-3-03)

06. Livestock. Bovidae, ovidae, suidae, and equidae. (5-3-03)

07. Livestock Truck Washing Facilities. Those facilities utilized primarily for washing and cleaning trucks and trailers that haul livestock. (5-3-03)

08. Manure. Livestock excrement that may also contain bedding, spilled feed, water, or soil. (5-3-03)

09. Modified. Structural or management changes, or alterations to the livestock truck washing facility which would require increased storage or containment capacity or such changes, which would alter the function of the wastewater storage or containment facility. (5-3-03)

10. Non-Compliance. A practice or condition that causes an unauthorized discharge or a practice or condition that if left uncorrected will cause an unauthorized discharge. (5-3-03)

11. Non-Land Application Season. The portion of the year during which land application is not allowed pursuant to an approved NMP. (5-3-03)

12. Nutrient Management Plan. A plan prepared in conformance with the nutrient management standard or other equally protective standard for managing the amount, source, placement, form, and timing of the land application of nutrients or soil amendments. (5-3-03)

13. Nutrient Management Standard. The 1999 publication by the United States Department of Agriculture Natural Resources Conservation Service, Conservation Practice Standard, Nutrient Management Code 590, or other equally protective standard approved by the Director. (5-3-03)

14. Operate. Washing or cleaning livestock trucks. (5-3-03)

15. Operator. The person who has power or authority to manage, or direct, or has financial control of a commercial livestock truck washing facility. (5-3-03)

16. Person. Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state, or federal governmental department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties. (5-3-03)

17. Process Wastewater. Any water generated on a commercial livestock truck washing facility that comes into contact with manure, compost, bedding, or feed. (5-3-03)

18. Runoff. Any precipitation that comes into contact with manure, compost, bedding, or feed on a commercial livestock truck washing facility. (5-3-03)

19. Unauthorized Discharge. A discharge of process wastewater or manure from a commercial livestock truck washing facility to surface waters of the state that is not authorized by a National Pollutant Discharge Elimination System permit issued by the United States Environmental Protection Agency. (5-3-03)

20. Wastewater Storage and Containment Facility. That portion of a CLTWF where manure or process wastewater is stored or collected. This includes, but is not limited to, waste collection systems, waste conveyance systems, waste storage ponds, waste treatment lagoons and evaporative ponds. (5-3-03)

21. Waters of the State. All surface and ground water located within the boundaries of the state or boundary streams, rivers and lakes except for private waters as defined in Title 42, Chapter 2, Idaho Code. (5-3-03)

011. ABBREVIATIONS.

01. CLTWF. Commercial Livestock Truck Washing Facility. (5-3-03)

02. FEMA. Federal Emergency Management Agency. (5-3-03)

03. ISDA. Idaho State Department of Agriculture. (5-3-03)

04. NMP. Nutrient Management Plan. (5-3-03)

05. NPDES. National Pollutant Discharge Elimination System. (5-3-03)

06. NRCS. Natural Resources Conservation Service. (5-3-03)

07. USDA. United States Department of Agriculture. (5-3-03)

012. APPLICABILITY.

These rules apply to all CLTWF. (5-3-03)

013. -- 049. (RESERVED)

050. INSPECTIONS.

In order to ascertain compliance with this chapter, the Director shall have reasonable access to: (5-3-03)

01. Inspect Facilities. Inspect any facility or land application site listed in the CLTWF's NMP. (5-3-03)

02. Inspect Records. Inspect, review, or copy any CLTWF's records deemed necessary, during normal business hours. (5-3-03)

051. -- 099. (RESERVED)

100. PERMIT REQUIRED.

No person shall construct or operate a CLTWF without first obtaining a permit to do so from the Director. (5-3-03)

101. APPLICATION FOR PERMIT.

Applications for permits submitted to the Director shall contain the following: (5-3-03)

01. Name, Telephone Number, and Address. The name, telephone number, and address of the owner and operator of the CLTWF. (5-3-03)

02. Physical Address. The physical address of the CLTWF. (5-3-03)

03. Scaled Vicinity Map With Site Location. A detailed sketch of the proposed or existing CLTWF site location, on an aerial photograph if available, which includes the following: (5-3-03)

a. The location of all homes, schools, churches, etc. within a one (1) mile radius of the proposed CLTWF; and (5-3-03)

b. Private and community domestic water wells, irrigation wells, existing monitoring wells, and existing injection wells as documented by Idaho Department of Water Resources or other sources, which are within a one (1) mile radius of the proposed or existing CLTWF; and (5-3-03)

c. Irrigation canals, irrigation laterals, rivers, streams, springs, lakes, reservoirs, and designated wetlands, which are within a one (1) mile radius of the proposed CLTWF; and (5-3-03)

d. Location of all land application sites; and (5-3-03)

e. FEMA flood zones or other appropriate flood data for the CLTWF site and all land application sites. (5-3-03)

04. Scaled Site Plan. A site plan showing all buildings, process wastewater and manure storage areas, piping, and roadways. (5-3-03)

05. Land Application System. A detailed description of the current or proposed management practices and methods used to make land application including: (5-3-03)

a. Timing, frequency, and duration of practices. (5-3-03)

b. Proximity of land application sites to residential and public use areas. (5-3-03)

06. Nutrient Management Plan. A NMP for all land where manure or process wastewater from the CLTWF is land applied. (5-3-03)

102. -- 109. (RESERVED)

110. DURATION OF PERMIT. Permits issued pursuant to this chapter shall be valid for a period of two (2) years. (5-3-03)

111. RENEWAL OF PERMIT. The operator of a CLTWF shall submit an application to renew the permit to the Director for approval ninety (90) days prior to the expiration of the existing permit. (5-3-03)

112. -- 119. (RESERVED)

120. REVOCATION OF PERMIT. The Director may revoke the permit of any CLTWF that violates any of the provisions of this Chapter. (5-3-03)

121. -- 199. (RESERVED)

200. UNAUTHORIZED DISCHARGES. Unauthorized discharges of manure or process wastewater from CLTWF or land application sites owned or controlled by a CLTWF are prohibited. (5-3-03)

201. -- 209. (RESERVED)

210. NOTIFICATION OF DISCHARGE. Within twenty-four (24) hours of learning of a discharge, the operator of a CLTWF shall verbally notify the Director of such a discharge. (5-3-03)

211. WRITTEN NOTIFICATION.

If the ISDA has not begun a discharge investigation within five (5) days of the verbal notification to the director, the operator shall submit a written report to the Director which includes: (5-3-03)

01. A Description of the Discharge. A description of the flow path to the receiving water body; and (5-3-03)

02. Flow Rate. An estimation of the flow rate and volume discharged; and (5-3-03)

03. Dates and Time. The period of discharge, including dates and times, and if not already corrected, the anticipated time the discharge is expected to continue; and (5-3-03)

04. Steps Taken. Steps taken to reduce, eliminate, and prevent recurrence of the discharge. (5-3-03)

212. -- 299. (RESERVED)

300. WASTEWATER STORAGE AND CONTAINMENT FACILITIES.

All CLTWF shall have wastewater storage and containment facilities designed, constructed, operated, and maintained sufficient to contain: (5-3-03)

01. Process Wastewater. All process wastewater generated on the CLTWF during the non-land application season; and (5-3-03)

02. Rainfall. The runoff from a twenty-five (25) year, twenty-four (24) hour rainfall event; and (5-3-03)

03. Winter Precipitation. Either three (3) inches of runoff from the accumulation of winter precipitation or the amount of runoff from the accumulation of precipitation from a one-in-five (1 in 5) year winter. (5-3-03)

301. -- 309. (RESERVED)

310. CONSTRUCTION REQUIREMENTS.

All CLTWF shall have wastewater storage and containment facilities designed and constructed in accordance with the engineering standards and specifications contained in the Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10D or the American Society of Agricultural Engineers Standard EP393.3, or other equally protective standards approved by the Director. (5-3-03)

311. -- 319. (RESERVED)

320. SUBSTANCES ENTERING WASTEWATER STORAGE AND CONTAINMENT FACILITIES.

Only manure and process wastewater from the operation of the CLTWF shall be allowed to enter wastewater storage and containment facilities. The disposal of any other materials into a wastewater storage and containment facility, including, but not limited to oil, grease, heavy metals, chlorinated solvents, and human waste is prohibited. (5-3-03)

321. -- 329. (RESERVED)

330. NUTRIENT MANAGEMENT.

Each CLTWF shall submit, to the Director for approval, a NMP that conforms to the nutrient management standard. (5-3-03)

01. Odor. Each NMP shall address odors generated on the CLTWF, and land application sites. Odors shall not be generated in excess of odors normally associated with livestock production in Idaho. (5-3-03)

02. Land Application. Each NMP shall include all land to which manure or process wastewater from the CLTWF is land applied. (5-3-03)

03. Duty of Operator. It shall be the duty of the operator of a CLTWF to ensure that the NMP, for any land included in the NMP, is implemented. (5-3-03)

04. Implementation of NMP. Failure to implement and abide by an approved NMP is a violation of this chapter. (5-3-03)

331. -- 349. (RESERVED)

350. EXISTING CLTWF.
CLTWF that are operating on or before July 1, 2002 shall submit a NMP to the director for approval no later than January 1, 2003. (5-3-03)

351. -- 359. (RESERVED)

360. NEW CLTWF.
Any new CLTWF, commencing operations after July 1, 2002, shall submit a NMP to the Director for approval with its application for a permit to operate a CLTWF. The Director shall respond to or approve such NMP within sixty (60) days of submission. (5-3-03)

361. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.30 – RULES GOVERNING NUTRIENT MANAGEMENT

DOCKET NO. 02-0430-1902

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE AND HISTORY NOTES: The effective date of the temporary rule is July 1, 2019. Traditionally effective dates are published for every subsection, paragraph and subparagraph of a rule. These individualized effective dates provide a rich history for legal scholars and interested members of the public to explore the broader context of each rule. This docket retains these important history notes while establishing the effective date for each chapter to ensure there is no gap with the expiring rules. Where technical corrections only have been made to any section of a rule, or subpart thereof, the historic effective date is retained.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 37-401(4), 37-606(1), 37-405, 22-4903, 25-4012(2), 37-603(1) Idaho Code.

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

This temporary rulemaking adopts and re-publishes a previously approved and codified chapter under IDAPA 02, rules of the Idaho State Department of Agriculture.

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

This temporary rule is necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. This previously approved and codified rule implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of this rule without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by this rule.

The Rules Governing Nutrient Management establishes standards for the certification of soil samplers and nutrient management planners in Idaho. The rule also describes the process for collecting soil samples to be used in developing a nutrient management plan (NMP) for Grade A dairies, Beef Cattle Animal Feeding Operations and commercial Poultry Operations in Idaho. These rules identify the nutrient management standards to be used in the writing and approval of an NMP.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Dr. Scott Leibsle (208) 332-8614.

Dated this 6th day of June, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 02-0430-1902

IDAPA 02
TITLE 04
CHAPTER 30

02.04.30 – RULES GOVERNING NUTRIENT MANAGEMENT

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 37, Chapter 4, Title 22, Chapters 1 and 49, and Title 25, Chapter 40, Idaho Code. (3-29-12)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Rules Governing Nutrient Management.” (4-2-08)

02. Scope. These rules shall govern the certification process for soil samplers and nutrient management planners, and the process for collecting and handling soil samples. (4-2-08)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (4-2-08)

003. ADMINISTRATIVE APPEAL.

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. (4-2-08)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this chapter. (3-29-12)

01. August 1997 University of Idaho, Soil Sampling Bulletin 704 (revised). This document can be viewed online at <http://www.cals.uidaho.edu/edComm/pdf/EXT/EXT0704.pdf>. (3-29-12)

02. Nutrient Management Standard (NMS). (3-29-12)

a. The 1999 publication by the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard, Nutrient Management Code 590. This document can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/08/nutrient_Management_code_590.pdf. (3-29-12)

b. The 2007 publication by the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard, Nutrient Management Code 590. This document can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/10/june_2007_NRCS_590.pdf. (3-29-12)

005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (4-2-08)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records and are available for inspection and copying at the Idaho State Department of Agriculture central office. (4-2-08)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter: (4-2-08)

01. Certified Soil Sampler. A person who has completed a Department approved soil sampler certification program and has received written certification from the Department. (4-2-08)

02. Department. The Idaho State Department of Agriculture. (4-2-08)

03. Director. The Director of the Idaho State Department of Agriculture or his designee. (3-29-12)

04. Nutrient Management Plan. A plan prepared in conformance with the Nutrient Management Standard for managing the amount, source, placement, form, and timing of the land application of nutrients and soil amendments for plant production. (4-2-08)

05. Nutrient Management Standard. For dairies and beef cattle animal feeding operations, the Nutrient Management Standard is the 1999 publication by the United States Department of Agriculture Natural Resources Conservation Service Conservation Practice Standard, Nutrient Management Code 590 or other standard approved by the Director. For poultry concentrated animal feeding operations, the Nutrient Management Standard is the 2007 publication by the United States Department of Agriculture Natural Resources Conservation Service Conservation Practice Standard, Nutrient Management Code 590 or other standard approved by the director. (3-29-12)

06. Person. Any individual, partnership, association, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency, or instrumentality, or any legal entity, that is recognized by law as the subject of rights and duties. (3-29-12)

07. Operation(s). Animal feeding operation(s). (3-29-12)

08. Representative Soil Sample. A representative soil sample is a soil sample obtained as outlined by the August 1997 University of Idaho, Soil Sampling Bulletin 704 (revised) or other equivalent method as approved by the Department. (4-2-08)

09. Resource Concerns. Surface water runoff that leaves the operation from normal storm events, rain or snow, frozen ground or irrigation; and ground water concerns on the operation from a high water table, fractured bedrock, cobbles, gravel, coarse textured soils or other environmental considerations such as tile drains or shallow soils that are conducive for the downward movement of water and associated nutrients. (4-2-08)

011. ABBREVIATIONS.

01. CNMP. Certified Nutrient Management Planner. (4-2-08)

02. CSS. Certified Soil Sampler. (4-2-08)

03. NMP. Nutrient Management Plan. (4-2-08)

04. NMS. Nutrient Management Standard. (4-2-08)

05. NRCS. United States Department of Agriculture, Natural Resources Conservation Service. (4-2-08)

06. SSB. August 1997 University of Idaho Soil Sampling Bulletin 704 (revised). (4-2-08)

07. **USDA.** United States Department of Agriculture. (4-2-08)

012. -- 019. (RESERVED)

020. APPLICABILITY.

These rules apply to nutrient management on the following operations: (3-29-12)

01. Dairies. All Manufactured Grade and Grade A dairies located in Idaho licensed to sell milk for human consumption. (3-29-12)

02. Beef Cattle Animal Feeding Operations. All beef cattle animal feeding operations in Idaho required to implement a NMP pursuant to IDAPA 02.04.15, "Rules Governing Beef Cattle Animal Feeding Operations." (4-2-08)

03. Poultry Concentrated Animal Feeding Operations. All poultry operations required to implement an NMP pursuant to Title 25, Chapter 40, Idaho Code. (3-29-12)

021. -- 099. (RESERVED)

100. NUTRIENT MANAGEMENT PLANS.

All NMPs required by IDAPA 02.04.14, "Rules Governing Dairy Byproduct," IDAPA 02.04.15, "Rules Governing Beef Cattle Animal Feeding Operations," and IDAPA 02.04.32, "Rules Governing Poultry Operations," must be written by nutrient management planners who have been certified by the Department. (3-29-12)

101. -- 149. (RESERVED)

150. NUTRIENT MANAGEMENT PLANNER CERTIFICATION.

All persons who develop NMPs must be certified through the Department Certification Program. (4-2-08)

01. Certification. The Nutrient Management Planner Certification will be valid unless revoked by the Department. (4-2-08)

02. Development. Nothing shall prohibit any person from developing an NMP for his own operation provided the person possesses a valid Nutrient Management Planner Certification issued by the Department. (4-2-08)

03. Continuing Education. The Department may require a CNMP to complete periodic continuing education training to retain certification. (4-2-08)

151. -- 189. (RESERVED)

190. REVOCATION OF NUTRIENT MANAGEMENT PLANNER CERTIFICATION.

Nutrient Management Planner Certification may be revoked by the Department if the CNMP: (4-2-08)

01. Submits Inaccurate Information. Submits NMPs that contain falsified or materially inaccurate information. (4-2-08)

02. Fails to Submit Plans. Fails to submit an NMP to the ISDA within thirty (30) days after being paid by a producer. (4-2-08)

03. Fails to Follow Provisions. Fails to meet any requirement of this rule. (4-2-08)

191. -- 199. (RESERVED)

200. SOIL SAMPLES.

The owners or operators of all dairies, beef cattle operations, and poultry operations required to implement nutrient management plans pursuant to IDAPA 02.04.14, "Rules Governing Dairy Byproduct," IDAPA 02.04.15, "Rules

Governing Beef Cattle Animal Feeding Operations,” and IDAPA 02.04.32, “Rules Governing Poultry Operations,” must have soil samples collected each year from all fields owned or operated by the dairy, beef, or poultry operation to which livestock waste, manure, or process wastewater from the operation was land applied. In addition, a poultry operation must have soil samples collected each year from all fields owned or operated by the poultry operation to which soil amendments from the operation were land applied. (3-29-12)

201. -- 219. (RESERVED)

220. SOIL SAMPLE COLLECTION.

01. CSS. All soil samples required to be collected pursuant to this chapter must be collected by a CSS. (4-2-08)

02. Representative Samples. All soil samples collected by a CSS must be representative samples pursuant to the provisions of the SSB. (4-2-08)

03. Sampling Depth. The soil samples shall be obtained from depths outlined in each operation’s NMP unless soil survey data or site specific situations warrant alternative sampling depths. (4-2-08)

04. Alternative Sampling Depths. If the CSS determines that an alternative sampling depth is necessary due to resource concerns, the CSS must indicate such deviation in sampling depths on soil samples and laboratory soil sample submission forms. (4-2-08)

221. -- 229. (RESERVED)

230. SOIL SAMPLE SUBMISSION.

All soil samples collected pursuant to this chapter must be appropriately handled to protect the integrity of the sample and must be submitted to an approved laboratory by the CSS who collected the soil sample. (4-2-08)

231. -- 299. (RESERVED)

300. APPROVED LABORATORIES.

Only laboratories that hold a current valid certification from the North American Laboratory Proficiency Testing Program or equivalent method approved by the Department are approved laboratories for the purposes of this chapter. (3-29-12)

301. -- 399. (RESERVED)

400. RECORDS OF NUTRIENT ANALYSIS.

Owners or operators of facilities who are required to implement NMPs pursuant to IDAPA 02.04.14, “Rules Governing Dairy Byproduct,” IDAPA 02.04.15, “Rules Governing Beef Cattle Animal Feeding Operations,” and IDAPA 02.04.32, “Rules Governing Poultry Operations,” must retain records of nutrient analysis for a minimum of five (5) years. (3-29-12)

01. Complete Records. Records must be complete, readily available, and identified to the fields listed in the facility’s NMP. (4-2-08)

02. Available to the Director. Records must be made available to the director for inspection and copying upon request. (4-2-08)

401. -- 499. (RESERVED)

500. SOIL SAMPLER CERTIFICATION.

All persons who collect soil samples from operations that are required to sample and test soil for nutrients pursuant to this chapter must be certified through the Department Certification Program. (4-2-08)

01. Certification. The Soil Sampler Certification will be valid unless revoked by the Department.

(4-2-08)

02. Sampling. Nothing shall prohibit any person from sampling their own operation as outlined in these rules provided the person possesses a valid Soil Sampler Certification issued by the Department. (4-2-08)

03. Continuing Education. The Department may require CSS to complete continuing education training to ensure compliance within the provisions of this chapter. (4-2-08)

501. -- 899. (RESERVED)

900. REVOCATION OF SOIL SAMPLER CERTIFICATION.

Soil Sampler Certification is subject to revocation by the Department if the Certified Soil Sampler fails to meet the soil sampling criteria set forth in these rules. (4-2-08)

901. -- 989. (RESERVED)

990. PENALTIES.

Any person violating any of the provisions of this Chapter may be subject to the penalty provisions of Title 22, Chapter 1 and 49, Title 37, Chapter 4, and Title 25, Chapter 40, Idaho Code. (3-29-12)

01. Monetary Penalties. The imposition or computation of monetary penalties shall take into account the seriousness of the violation, good faith efforts to comply with the law, the economic impact of the penalty on the violator and such other matters as justice requires. (4-2-08)

02. Minor Violations. The Director may issue suitable warnings or other administrative actions for minor violations. (4-2-08)

991. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.31 – RULES GOVERNING THE STOCKPILING OF AGRICULTURAL WASTE

DOCKET NO. 02-0431-1901

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE AND HISTORY NOTES: The effective date of the temporary rule is July 1, 2019. Traditionally effective dates are published for every subsection, paragraph and subparagraph of a rule. These individualized effective dates provide a rich history for legal scholars and interested members of the public to explore the broader context of each rule. This docket retains these important history notes while establishing the effective date for each chapter to ensure there is no gap with the expiring rules. Where technical corrections only have been made to any section of a rule, or subpart thereof, the historic effective date is retained.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 22-110, Idaho Code.

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

This temporary rulemaking adopts and re-publishes a previously approved and codified chapter under IDAPA 02, rules of the Idaho State Department of Agriculture.

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

This temporary rule is necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. This previously approved and codified rule implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of this rule without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by this rule.

The Rules Governing the Stockpiling of Agricultural Waste establish certain safeguards to protect animals, humans and the environment from the storage of large quantities of agricultural waste. The rule identifies setback requirements for stockpiles of agricultural waste in excess of fifty (50) cubic yards from dwellings, domestic wells, waters of the State and other public entities to minimize the risk to public health and the environment.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Dr. Scott Leibsle (208) 332-8614.

Dated this 6th day of June, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 02-0431-1901

IDAPA 02
TITLE 04
CHAPTER 31

02.04.31 – RULES GOVERNING THE STOCKPILING OF AGRICULTURAL WASTE

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-110, Idaho Code. (3-29-10)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is “Rules Governing the Stockpiling of Agricultural Waste.” (3-29-10)

02. Scope. These Rules govern the Stockpiling of Agricultural Waste at Agricultural Operations to safeguard and protect animals, man, and the environment. The official citation of this chapter is IDAPA 02.04.31.000 et seq. For example, this section’s citation is IDAPA 02.04.31.001. (3-29-10)

002. WRITTEN INTERPRETATIONS.

The Idaho State Department of Agriculture may have written statements that pertain to the interpretation of the rules in this chapter. Any such written statement shall be available for review at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83712. (3-29-10)

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to administrative appeal as set forth in Title 67, Chapter 52, Idaho Code. (3-29-10)

004. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (3-29-10)

005. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records and are available for inspection and copying at the Idaho State Department of Agriculture. (3-29-10)

006. -- 009. (RESERVED)

010. DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter: (3-29-10)

01. Agricultural Operation. Facilities that generate or receive and stockpile agricultural waste and that are not regulated under IDAPA 02.04.14, “Rules Governing Dairy Byproduct,” or IDAPA 02.04.15, “Rules Governing Beef Cattle Animal Feeding Operations.” (3-29-10)

02. Agricultural Waste. Agricultural waste means livestock waste. (3-29-10)

03. Department. The Idaho State Department of Agriculture. (3-29-10)

04. Director. The Director of the Idaho State Department of Agriculture or his designee. (3-29-10)

05. Duration. The length of time agricultural waste is stockpiled. (3-29-10)

06. Dwelling. The house, residence, abode, or other structure where a person lives. (3-29-10)

07. Livestock. Bovidae, suidae, equidae, captive cervidae, camelidae, ratitidae, gallinaceous birds, and captive waterfowl. (3-29-10)

08. Livestock Waste. Manure that may also contain bedding, spilled feed, feathers, water, or soil. It also includes wastes not particularly associated with manure, such as milking center or washing wastes, milk, feed leachate, or livestock carcasses or parts thereof. (3-29-10)

09. Non-Compliance. A practice or facility condition that does not comply with Section 22-110, Idaho Code, or the provisions of these rules. (3-29-10)

10. Person. Any individual, partnership, association, firm, joint stock company, trust, political subdivision, public or private corporation, or any other legal entity which is recognized by law as the subject of rights and duties. (3-29-10)

11. Public Highway. All highways open to public use in the state, whether maintained by the state or by any county, highway district, city, or other political subdivision. (3-29-10)

12. Responsible Party. A person who generates or receives and stockpiles agricultural waste on property the person owns, leases, or otherwise has permission to use as a stockpile site. (3-29-10)

13. Setbacks for a Stockpile Site. The distance from a stockpile site to a location identified in Section 020 of this rule. (3-29-10)

14. Stockpile Staging Site. A physical area where stockpiling occurs for a duration of no longer than thirty (30) days. (3-29-10)

15. Stockpile Site. A physical location where agricultural waste is stockpiled for a duration of more than thirty (30) days and that stockpiles more than fifty (50) cubic yards of agricultural waste. (3-29-10)

16. Stockpiling. The accumulation of agricultural waste on an agricultural operation. (3-29-10)

17. Surface Waters of the State. All accumulations of surface water, natural and artificial, public and private, or parts thereof that are wholly or partially within, that flow through or border upon the state. (3-29-10)

011. -- 019. (RESERVED)

020. SETBACKS FOR STOCKPILE SITES. Stockpile sites at agricultural operations must meet the following setback requirements. (3-29-10)

01. Setback Distances. Stockpile sites shall maintain the following setbacks: (3-29-10)

a. Three hundred (300) feet from a non-responsible party's dwelling. (3-29-10)

b. Five hundred (500) feet from a hospital, church, or school. (3-29-10)

c. One hundred (100) feet from a domestic or irrigation well. (3-29-10)

d. One hundred (100) feet from surface waters of the State. (3-29-10)

e. Fifty (50) feet from a public highway. (3-29-10)

02. Responsible Party's Dwellings. Stockpile sites shall not have setbacks from a responsible party's dwelling or dwellings owned by the responsible party. (3-29-10)

03. Stockpile Staging Sites. Stockpile staging sites shall not be subject to the setbacks set forth in these rules. (3-29-10)

021. -- 039. (RESERVED)

040. RESPONSE TO COMPLAINTS.

Complaints regarding a stockpile site or a stockpile staging site will be investigated by the Department to determine compliance with these rules. (3-29-10)

041. -- 059. (RESERVED)

060. PENALTIES.

Penalties for violations of this chapter will be assessed in accordance with Section 22-110(3), Idaho Code. (3-29-10)

061. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.32 – RULES GOVERNING POULTRY OPERATIONS

DOCKET NO. 02-0432-1901

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE AND HISTORY NOTES: The effective date of the temporary rule is July 1, 2019. Traditionally effective dates are published for every subsection, paragraph and subparagraph of a rule. These individualized effective dates provide a rich history for legal scholars and interested members of the public to explore the broader context of each rule. This docket retains these important history notes while establishing the effective date for each chapter to ensure there is no gap with the expiring rules. Where technical corrections only have been made to any section of a rule, or subpart thereof, the historic effective date is retained.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 25-4012, Idaho Code.

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

This temporary rulemaking adopts and re-publishes a previously approved and codified chapter under IDAPA 02, rules of the Idaho State Department of Agriculture:

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

This temporary rule is necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. This previously approved and codified rule implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of this rule without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by this rule.

The Rules Governing Poultry Operations establish standards for the storage, containment and application of nutrients from commercial poultry facilities. These rules also outline the construction standards for all storage containment structures. The rule sets limits on certain nutrient loading at land application site and establishes prohibitions of discharges into waters of the state.

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

The fees outlined in this rule fund the required activities. The program outlines waste management standards for poultry operations in Idaho. The fee assessed funds bi-annual inspections of each facility and nutrient management plan review.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Dr. Scott Leibsle (208) 332-8614.

Dated this 6th day of June, 2019.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 02-0432-1901

IDAPA 02
TITLE 04
CHAPTER 32

02.04.32 – RULES GOVERNING POULTRY OPERATIONS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 25-4012, Idaho Code. (3-21-12)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.04.32, “Rules Governing Poultry Operations.” (3-21-12)

02. Scope. These rules govern the design, function and management practices of waste systems on poultry concentrated animal feeding operations. These rules also establish the procedures and requirements for issuance of a permit to construct, operate, or expand poultry concentrated animal feeding operations. (3-21-12)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-21-12)

003. ADMINISTRATIVE APPEAL.

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeal before the department of Agriculture under these rules. (3-21-12)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference and copies of these documents may be obtained from the Idaho State Department of Agriculture central office. (3-21-12)

01. The 2004 Code of Federal Regulations (CFR) Title 40 Part 122 Section 122.23 (b). This document can be viewed online at http://www.access.gpo.gov/nara/cfr/waisidx_04/40cfrv20_04.html. (3-21-12)

02. Natural Resources Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D) (March 2008 Edition) (USDA, NRCS). This document can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/10/2008_Appendix_10D.pdf. (3-21-12)

03. Nutrient Management Standard (NMS). The June 2007 publication by the United States Department of Agriculture (USDA) Idaho Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard, Nutrient Management Code 590. This document can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/10/june_2007_NRCS_590.pdf. (3-21-12)

04. Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004. This document can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/10/nrcs_313_Dec_2004.pdf. (3-21-12)

05. American Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004. This document can be viewed online at https://agri.idaho.gov/main/wp-content/uploads/2017/10/asae_EP393.3_Feb_04.pdf. (3-21-12)

005. ADDRESS, OFFICE HOURS, TELEPHONE, FAX NUMBERS, WEB ADDRESS.

The Idaho State Department of Agriculture central office is located at 2270 Old Penitentiary Road, Boise, ID 83712-8298. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is PO Box 7249, Boise, Idaho 83707. The phone number is (208) 332-8500 and the fax number is (208) 334-2170. The Department web address is <https://agri.idaho.gov/>. (3-21-12)

006. IDAHO PUBLIC RECORDS ACT.

These rules are public records and are available for inspection and copying at the Idaho State Department of Agriculture central office. (3-21-12)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The definitions set forth in Section 25-4002, Idaho Code, must apply in the interpretation and the enforcement of this chapter. (3-21-12)

01. Discharge. Release of process wastewater or manure from a poultry animal feeding operation, including its land application area, to waters of the state or beyond the poultry facility's property boundaries or beyond the property boundary of any facility. Contract manure haulers, producers and other persons who haul manure beyond the operator's property boundaries are responsible for releases of manure between the property boundaries of the operator and the property boundaries at the point of application. A discharge does not include aerosolized matter, or manure that has been reasonably incorporated on the land application area. (3-21-12)

02. Idaho Pollutant Discharge Elimination System (IPDES). Idaho's program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under these rules and the Clean Water Act sections 307, 402, 318, and 405. (3-29-17)

03. Runoff. Any precipitation that comes into contact with manure, compost, bedding, or feed on a poultry feeding operation and flows off the production area or flows off land application areas where the manure, compost, bedding, or feed has not been reasonably incorporated into the soil. (3-21-12)

011. ABBREVIATIONS.

- 01. AFO.** Animal Feeding Operation. (3-21-12)
- 02. ASABE.** American Society of Agricultural and Biological Engineers. (3-21-12)
- 03. CAFO.** Concentrated Animal Feeding Operation. (3-21-12)
- 04. DEQ.** Department of Environmental Quality. (3-21-12)
- 05. FEMA.** Federal Emergency Management Agency. (3-21-12)
- 06. IPDES.** Idaho Pollutant Discharge Elimination System. (3-29-17)
- 07. NMP.** Nutrient Management Plan. (3-21-12)
- 08. NMS.** Nutrient Management Standard. (3-21-12)
- 09. NRCS.** United States Department of Agriculture, Natural Resources Conservation Service. (3-21-12)
- 10. USGS.** United States Geological Survey. (3-21-12)

012. -- 099. (RESERVED)

100. PERMIT REQUIRED.

No person may construct, operate, or expand a poultry CAFO after April 6, 2011, without first obtaining a permit issued by the director as provided in these rules. (3-21-12)

01. Common Control. Two (2) or more poultry CAFOs under common control of the same person may be considered, for purposes of permitting, to be a single facility, even though separately their capacity is less than a large or medium poultry CAFO, if they use a common animal waste system or land application site. (3-21-12)

02. Existing Poultry Facilities. Poultry operations that existed on or before April 6, 2011, are not required to obtain a permit unless the facility is expanding to the extent that it will meet the definition of a poultry CAFO. Existing poultry facilities must register and submit an NMP in accordance with Section 170 of these rules, and must otherwise comply with these rules. (3-21-12)

101. -- 109. (RESERVED)

110. PERMIT APPLICATION.

01. Permit Application. Every person required by these rules to obtain a permit must submit a permit application to the department. The permit application will be used to determine if the construction and operation of the poultry CAFO will be in conformance with these rules. (3-21-12)

02. Contents of Application. Each application must include, in the format set forth by the director and when determined applicable by the director, the information set forth in Section 110 in sufficient detail to allow the director to make necessary application review decisions concerning design and environmental protection. (3-21-12)

03. Relevant Information. (3-21-12)

a. Name, mailing address and phone number of the facility owner. (3-21-12)

b. Name, mailing address and phone number of the facility operator. (3-21-12)

c. Name and mailing address of the facility. (3-21-12)

d. Legal description of the facility location. (3-21-12)

e. The one-time animal capacity, by head, of the facility. (3-21-12)

f. The type of animals to be confined at the facility. (3-21-12)

g. The facility's biosecurity and sanitary standards. (3-21-12)

04. Construction Plans. Plans and specifications for the facility's animal waste management system that include the following information: (3-21-12)

a. Vicinity map(s) prepared on one (1) or more seven and one-half minute (7.5') USGS topographic quadrangle maps or a high quality reproduction(s) that includes the following: (3-21-12)

i. Layout of the facility, including buildings and animal waste management system; (3-21-12)

ii. The one hundred (100) year FEMA flood zones or other appropriate flood data for the facility site and land application sites owned or leased by the applicant; and (3-21-12)

iii. Private and community domestic water wells, irrigation wells, monitoring wells, and injection wells, irrigation conveyance and drainage structures, wetlands, streams, springs, and reservoirs that are within a one (1) mile radius of the facility. (3-21-12)

b. A site plan showing: (3-21-12)

- i. Building locations; (3-21-12)
- ii. Waste facilities; (3-21-12)
- iii. All waste conveyance systems; and (3-21-12)
- iv. All irrigation systems used for land application, including details of approved water supply protection devices. (3-21-12)
- c. Building plans showing: (3-21-12)
 - i. All wastewater collection systems in housed units; (3-21-12)
 - ii. All freshwater supply systems, including details of approved water supply protection devices; (3-21-12)
 - iii. Detailed drawings of wastewater collection and conveyance systems and containment construction. (3-21-12)
- d. If a CAFO Site Advisory Team suitability determination was not conducted for the facility, the following additional information must be provided: (3-21-12)
 - i. Idaho DEQ delineated source water assessment areas within a one (1) mile radius of the facility and land application area; (3-21-12)
 - ii. Idaho DEQ delineated nitrate priority areas that intersect the facility or land application area; (3-21-12)
 - iii. Soil characteristics from NRCS; and (3-21-12)
 - iv. Well logs associated with wells listed in Subsection 110.04.a.iii. (3-21-12)
- e. All construction plans will specify how the facility will meet the engineering standards outlined in the Natural Resources Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D) (March 2008 Edition) (USDA, NRCS), Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004, or American Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004. (3-21-12)

05. Nutrient Management Plan. NMPs must be prepared in conformance with the Nutrient Management Standard or other equally protective standard for managing the amount, source, placement, form and timing of the land application of nutrients or soil amendments. (3-21-12)

06. Other Information. An applicant must provide any other information required by Section 110 as deemed necessary by the director to assess whether the facility poses or will pose a threat to the state's water resources. (3-21-12)

111. -- 119. (RESERVED)

120. APPLICATION PROCESSING PROCEDURE.

01. Application Completeness. Within thirty (30) days of receipt of an application, the department will provide written notice to the applicant as to whether the application contains all of the information required in Section 110. If the application is incomplete, the department will provide a specific list of the missing information. The application will not be processed until it is deemed complete by the department. (3-21-12)

02. Application Processing. Within sixty (60) days of receiving a complete application, the

department will review the application materials and determine whether the design of the facility is in accordance with the engineering standards and specifications provided by the NRCS or ASABE. The department will notify the applicant of the results of that review. (3-21-12)

121. -- 129. (RESERVED)

130. PERMIT CONDITIONS.

The following conditions will apply to all permittees: (3-21-12)

01. Compliance Required. The permittee must comply with all conditions of the permit. The permit must not relieve the permittee of the responsibility of complying with all applicable local, state, and federal laws. (3-21-12)

02. Construction, Operation, and Maintenance of the Facility. The permittee must ensure that construction, operation, and maintenance of the facility proceed according to the construction plans and specifications and the approved nutrient management plans, and comply with the following: (3-21-12)

a. Within thirty (30) days of construction completion, submit as-built construction plans. (3-21-12)

b. Apply best management practices as approved by the director. (3-21-12)

c. The facility or operations associated with the facility must not adversely affect waters of the state or create nuisance conditions including odor. (3-21-12)

d. The removal of animal waste from an impoundment or storage structure must be performed in a manner not to damage the integrity of the liner. (3-21-12)

e. Dead animals must be handled in accordance with IDAPA 02.04.17, "Rules Governing Dead Animal Movement and Disposal." (3-21-12)

f. Nutrient management plans must be amended in accordance with IDAPA 02.04.30.000 et seq. "Rules Governing Nutrient Management." (3-21-12)

g. Soil tests must be conducted annually on all land application sites owned or leased by the permittee to determine compliance with the NMP and NMS. The director may require more frequent soil tests if he deems it necessary. (3-21-12)

03. Information to be Provided. The permittee must furnish to the director, within a reasonable time, any information which the director may reasonably require to determine whether causes exists to modify or revoke the permit, or to determine compliance with the permit or applicable rules. (3-21-12)

04. Entry and Access. The permittee must allow the director entry and access in accordance with Section 25-4008, Idaho Code. (3-21-12)

05. Reporting. Permittees must report discharges or noncompliance issues within the following time frames: (3-21-12)

a. Within twenty-four (24) hours of the time the permittee knows or should have known of a discharge or unauthorized discharge, the permittee must verbally report the discharge. (3-21-12)

b. Within five (5) working days from the time a permittee knows or reasonably should have known of any event which has resulted or which may result in noncompliance with these rules, the permittee must file a written report with the director. The report must contain: (3-21-12)

i. A description of the event and its cause or if the cause is not known, steps taken to investigate and determine the cause; (3-21-12)

- ii. The period of the event including, to the extent possible, times and dates; (3-21-12)
- iii. Measures taken to mitigate or eliminate the event; and (3-21-12)
- iv. Steps taken to prevent recurrence of the event. (3-21-12)
- c. Immediately, whenever the permittee knows or learns or should reasonably know of material relevant acts not submitted or incorrect information submitted in a permit application or any report or notice to the director. (3-21-12)

06. Construction Commencement. If a permittee fails to begin construction or expansion of a facility within five (5) years of the effective date of the permit, the director may void the permit and require a new permit application. (3-21-12)

07. Permit Renewal. If a permittee intends to continue operation of the permitted facility after expiration of an existing permit, the permittee must apply for a new permit at least one hundred eighty (180) days prior to the expiration of the permit. (3-21-12)

08. Specific Permit Conditions. The director may establish specific permit conditions on a case by case basis. Specific conditions will be established in consideration of facility's specific characteristics and will be designed to protect the state's water resources. (3-21-12)

131. -- 139. (RESERVED)

140. FEES AND ASSESSMENTS.

01. Annual Fees or Assessments. The director may establish annual fees or assessments for each permittee of no more than three cents (\$0.03) per square foot of containment area. (3-21-12)

02. Payment of Annual Fees or Assessments. The director must notify each permittee with a fee or assessment invoice by December 20th of each calendar year. Annual fees or assessments are due annually by January 20th of the next calendar year. (3-21-12)

03. Adjustment in Fees or Assessments. The director will provide at least thirty (30) days written notice to each permittee before fees or assessments are increased or decreased. (3-21-12)

141. -- 149. (RESERVED)

150. PERMIT MODIFICATION.

01. Minor Modifications. Minor permit modifications are those which do not have a potential effect on the state's water resources. Such modifications will be made by the director, and are generally limited to: (3-21-12)

- a. The correction of typographical or clerical errors; (3-21-12)
- b. Transfer of ownership or operational control in accordance with Section 160; or (3-21-12)
- c. Certain minor changes in monitoring or operational conditions. (3-21-12)

02. Major Modifications. All permit modifications not considered minor will be deemed major. The procedure for making major modifications is the same as that used for a new permit under these rules. (3-21-12)

151. -- 159. (RESERVED)

160. TRANSFER OF PERMITS.

01. Transfer Application. A new owner or operator of a facility must submit a transfer application to the director that includes at least the following: (3-21-12)

- a. The relevant information required by Subsection 110.03; and (3-21-12)
- b. Any change of conditions at the facility resulting from the ownership or operation transfer. (3-21-12)

02. Transfer Application Review. The director will review the transfer application and either approve or deny the application within sixty (60) days of its receipt. (3-21-12)

a. An approved transfer will be considered a minor modification pursuant to Subsection 150.01 as long as there are no major changes of conditions at the facility. Major changes of conditions at the facility are subject to Subsection 150.02. (3-21-12)

b. If the director denies the transfer application, he will set forth the specific reasons for the denial, the steps necessary to meet the requirements for a permit transfer, and the opportunity to request a hearing. (3-21-12)

161. -- 169. (RESERVED)

170. REGISTRATION OF EXISTING POULTRY CAFOS.

All large and medium poultry CAFOs in existence on or before April 6, 2011, must register with the department no later than January 1, 2012, upon forms furnished by the department. (3-21-12)

01. Information Required. The following information must be provided to the department in order to register an existing medium or large poultry CAFO. (3-21-12)

- a. Name, mailing address, phone number and email address (if applicable) of the facility owner; (3-21-12)
- b. Name, mailing address, phone number and email address (if applicable) of the facility operator; (3-21-12)
- c. Physical address of the facility; (3-21-12)
- d. Facility site map; (3-21-12)
- e. Facility capacity; and (3-21-12)
- f. Average poultry population over the twelve (12) months preceding the date the registration information is provided by the operator. (3-21-12)

02. Nutrient Management Plan. No later than April 6, 2012, existing medium and large poultry CAFOs must submit an NMP, prepared in conformance with the NMS or other equally protective standard for managing the amount, source, placement, form and timing of the land application of nutrients or soil amendments. The NMP must accurately reflect the operation of the facility. (3-21-12)

03. Permit Allowed. An existing medium or large CAFO may, in the alternative, seek a permit pursuant to Section 110. (3-21-12)

04. Permit Required. An existing facility must obtain a permit in accordance with Section 110, prior to increasing the one-time animal capacity of the facility by ten percent (10%) or more. (3-21-12)

05. Ownership Transfer. If an existing poultry CAFO has registered with the department and ownership is subsequently transferred to a new owner, the new owners must apply for and obtain a new permit in accordance with Section 110. (3-21-12)

171. -- 199. (RESERVED)

200. WASTE STORAGE AND CONTAINMENT FACILITIES.

01. Wastewater Storage and Containment Facilities. All poultry AFOs where process wastewater leaves the confinement area and has the potential to impact water of the state or be in violation of state water quality standards or ground water quality standards must have wastewater storage and containment facilities designed, constructed, operated, and maintained sufficient to contain: (3-21-12)

- a. All process wastewater generated on the facility during the non-land application season; (3-21-12)
- b. The runoff from a twenty-five (25) year, twenty-four (24) hour rainfall event; and (3-21-12)
- c. Either three (3) inches of runoff from the accumulation of winter precipitation or the amount of runoff from the accumulation of precipitation from a one-in-five (1 in 5) year winter. (3-21-12)

02. All Substances Entering Wastewater Storage and Containment Facilities. All substances entering wastewater storage and containment facilities must be composed of manure and process wastewater from the operation of the poultry AFO. The disposal of any other materials into a wastewater storage and containment facility, including, but not limited to, human waste, is prohibited. (3-21-12)

03. Waste Storage. Storage areas for poultry waste including compost and solid manure storage areas must be located on approved soils and appropriately protected to prevent run on and run off. (3-21-12)

04. Waste and Wastewater System Maintenance. Waste and wastewater storage and containment systems must be maintained in a condition that allows the producer to regularly inspect the integrity of the systems. (3-21-12)

05. Additional Ground Water Protection Requirements. The permittee must construct and maintain all waste containment structures within the parameters of this rule, including the Natural Resources Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D) (March 2008 Edition) (USDA, NRCS), Natural Resources Conservation Service (NRCS) Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004, or American Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004 (see Section 004, Incorporation by Reference). After inspection, if the Department has information that the waste containment structure(s) has been compromised severely enough to no longer meet the requirements of this rule, the Department may require an evaluation to be conducted by a licensed professional engineer. The engineer will make recommendations on steps needed to bring the facility into compliance with this rule. The permittee is responsible for engineering and reconstruction costs. If the permittee has a repeat waste containment compromise, as determined by the department, the Director may require ground water monitoring by the permittee. (3-21-12)

201. -- 249. (RESERVED)

250. NUTRIENT MANAGEMENT.

Each poultry CAFO must submit an NMP for land owned or controlled by the operator to the director for approval. The NMP must conform to the NMS and address odors generated in excess of odors normally associated with raising poultry in Idaho. (3-21-12)

01. Existing Poultry CAFOs. Poultry CAFOs that are operating on or before April 6, 2011, must submit an NMP to the director for approval no later than April 6, 2012. (3-21-12)

02. New Poultry CAFOs. Any poultry CAFO which commences operations after April 6, 2011, must not operate prior to the director's approval of the NMP. (3-21-12)

03. Designated Poultry CAFOs. Any poultry AFO which is designated as a CAFO by the department in accordance with Section 400 must submit an NMP within forty-five (45) days of designation. (3-21-12)

04. NMP Approval. The director will respond to or approve an NMP in writing within forty-five (45) days of submission. (3-21-12)

05. NMP Updates or Amendments. Nutrient management plans must be updated as needed to accurately reflect the facility and its nutrient management system. (3-21-12)

251. NUTRIENT MANAGEMENT PLAN RETENTION.

All NMPs which have been approved by the department and returned to the CAFO must be maintained on site at the CAFO and available to the department upon request. The department will retain a copy of the NMP. (3-21-12)

252. NUTRIENT MANAGEMENT RECORDS.

01. Required Nutrient Management Records. The CAFO operator must keep complete and accurate records of: (3-21-12)

- a. Land application records, consisting of, at a minimum:** (3-21-12)
 - i. The dates, methods and approximate amounts of any manure or process wastewater applied on land owned or controlled by the operator.** (3-21-12)
 - ii. Weather conditions and soil moisture at the time of application.** (3-21-12)
 - iii. The lapsed time to manure incorporation, rainfall or irrigation event.** (3-21-12)
 - iv. Documentation of the actual rate at which nutrients were applied. When the actual rate used differs from the recommended and planned rates, nutrient management records must indicate the rationale for the difference.** (3-21-12)
- b. The name and address of any third party receiving manure or process wastewater from the facility, including the dates of the transfer and the amount of manure or process wastewater transferred.** (3-21-12)
- c. Nutrient Application. The quantities, analyses and sources of nutrients applied.** (3-21-12)
- d. Soil Analysis. Complete soil analysis to create nutrient budget.** (3-21-12)
- e. Crops. Crops planted, planting and harvest dates, yields and crop residues removed.** (3-21-12)
- f. Record Review. Dates of annual review, person performing the review, and recommendations determined from the review.** (3-21-12)

02. Records Retention. All nutrient management records must be maintained for a period of five (5) years and provided to the department upon request. (3-21-12)

253. NMP VIOLATIONS.

The failure to implement an approved NMP, failure to retain and maintain an NMP at the CAFO, or failure to retain nutrient management records is a violation of these rules. (3-21-12)

254. -- 259. (RESERVED)

260. GROUND WATER QUALITY MONITORING.

At least annually, the department will sample and test the facility's production well water for nitrogen. (3-21-12)

261. -- 299. (RESERVED)

300. PROHIBITED DISCHARGES.

Discharges or unauthorized discharges of manure or process wastewater from poultry CAFO or land application sites owned or controlled by a poultry CAFO are prohibited. (3-21-12)

301. -- 309. (RESERVED)

310. NOTIFICATION OF DISCHARGE.

Within twenty-four (24) hours of learning of a discharge or unauthorized discharge, the operator of a poultry CAFO must verbally notify the department of the discharge or unauthorized discharge. (3-21-12)

311. -- 399. (RESERVED)

400. DESIGNATION OF POULTRY CONCENTRATED ANIMAL FEEDING OPERATIONS.

01. Designation of Animal Feeding Operations. The director may designate any poultry AFO as a CAFO if, after inspection, the director determines that the AFO is a significant contributor of pollution to waters of the state. The director will consider the following factors when making a designation: (3-21-12)

a. The size of the AFO and the amount of manure, process wastewater and runoff reaching waters of the state; (3-21-12)

b. Location of the AFO relative to waters of the state; (3-21-12)

c. Means of conveyance of manure, process wastewater, and runoff into waters of the state; (3-21-12)

d. Slope, vegetation, precipitation and other factors that affect the likelihood or frequency of discharge of manure, process wastewater and runoff into waters of the state; (3-21-12)

e. Unauthorized discharges into waters of the state through a man-made ditch, flushing system, or other similar man-made device; (3-21-12)

f. Unauthorized discharges directly into waters of the state that originate outside of and pass over, across or through the facility or otherwise come into contact with the animals confined in the AFO; and (3-21-12)

g. Repeated instances of noncompliance. (3-21-12)

02. Effect of Designation. Upon designation, a poultry facility will be required to follow all permit requirements for a medium poultry CAFO. (3-21-12)

03. Redesignation of a Poultry CAFO. The operator may request that the director redesignate a facility previously designated under Subsection 400.01. The director will redesignate the CAFO only if the facility is no longer a significant contributor of pollution to waters of the state. If granted, the redesignation will be provided to the operator in writing. No fees or assessments paid by the facility after designation will be refunded. (3-21-12)

401. -- 499. (RESERVED)

500. INSPECTIONS.

Pursuant to Title 25, Chapter 40, Idaho Code, the director or his designee is authorized to inspect any poultry AFO, and to have access to and copy any facility records deemed necessary to ensure compliance with Title 25, Chapter 40, Idaho Code, and these rules. (3-21-12)

01. Frequency. All poultry CAFOs will be inspected at least annually, or at intervals sufficient to determine that waste has been managed to prevent an unauthorized discharge or contamination of waters of the state. (3-21-12)

02. Inspection Methods. Inspections may include, but are not limited to, evaluating effectiveness of best management practices, collecting samples, taking photographs, video recording or collecting other information as necessary. (3-21-12)

03. Inspection Report Forms. An official inspection report form will be completed at the time of the

inspection and provided to the operator.

(3-21-12)

501. -- 549. (RESERVED)

550. VIOLATIONS.

01. Failure to Comply. Failure by a permittee to comply with the provisions of these rules or with any permit condition is a violation of these rules. (3-21-12)

02. Falsification of Statements and Records. It is a violation of these rules for any person to knowingly make a false statement, representation, or certification in any application, report, document, or record developed, maintained, or submitted pursuant to these rules or the conditions of a permit. (3-21-12)

03. Discharge. Any discharge or unauthorized discharge from a facility is a violation of these rules. (3-21-12)

551. -- 999. (RESERVED)

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.02.02 – RULES GOVERNING PLUMBING PERMITS

DOCKET NO. 07-0202-1901 (FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2019.

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

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

In compliance with the Red Tape Reduction Act (Executive Order 2019-02), this proposed rulemaking consolidates certain provisions from IDAPA 07.02.03, 07.02.04, and 07.02.07, which are being repealed in this Bulletin, and includes them in IDAPA 07.02.02; and eliminates obsolete provisions and simplifies provisions of the consolidated rules.

Additionally, IDAPA 07.02.03.011.08 and 07.02.03.011.09 refer to “mobile homes” and “mobile home parks.” “Mobile home” is a term of art that refers to a mobile residential structure constructed prior to June 15, 1976. “Manufactured home” is a term of art that refers to a transportable residential structure constructed on or after June 15, 1976, in accordance with United States Department of Housing and Urban Development regulations. In addition, a “modular building” is a prefabricated structure or building component that is constructed in accordance with locally adopted codes. The Division of Building Safety (Division) issues permits and performs on-site plumbing inspections for mobile homes, manufactured homes, and modular buildings. The Division currently imposes one fee for permitting and inspection of plumbing for mobile homes, manufactured homes, and modular buildings, despite differences in the structures.

This proposed rulemaking imposes the correct fee that corresponds to each structure by adding a fee for a modular building. This proposed rulemaking also adds the term “manufactured home” to the fee for a mobile home in IDAPA 07.02.03.

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

This proposed rulemaking would impose the correct fee that corresponds to a modular building or mobile or manufactured home by adding a fee for a modular building. The fee for a modular building is currently imposed as a fee for a mobile or manufactured home. All of the fees only cover the costs of processing the permit and performing the inspection.

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

This proposed rulemaking will have no fiscal impact, positive or negative, to any state programs or funds, including the state plumbing program, General Fund, and the Idaho Plumbing Board Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted on the amendments that repeal, consolidate, eliminate, or simplify provisions of the rules pursuant to the Red Tape Reduction Act (Executive Order 2019-02) because those amendments are simple in nature.

Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted on the amendments to the fee portion of the rules under Docket No. 07-0203-1901. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2019 Idaho Administrative Bulletin, [Vol. 19-5, pages 47 through 48](#).

Due to the repeal of IDAPA 07.02.03 under this docket, Docket No. 07-0203-1901 has been combined with this Docket No. 07-0202-1901.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact John Nielsen, Plumbing Program Manager, Division of Building Safety at (208) 332-7112 or at john.nielsen@dbs.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2019.

Dated this 7th day of June, 2019.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840
ron.whitney@dbs.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 07-0202-1901
(Only Those Sections With Amendments Are Shown.)**

000. LEGAL AUTHORITY.

In accordance with Section 54-2605(1) and 54-2606(3), Idaho Code, the Idaho Plumbing Board is authorized to make, promulgate, and publish such rules as may be necessary for carrying out the provisions of ~~this act~~ Title 54, Chapter 26, Idaho Code, in order to effectuate the purposes thereof and for the orderly and efficient administration thereof, ~~and except as may be limited or prohibited by law and the provisions of this act, such rules so made and promulgated have the force of statute.~~ (2-26-93)()

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 07.02.02, “Rules Governing Plumbing Permits, Fees, Inspections, and Civil Penalties.” ~~Division of Building Safety.~~ (2-26-93)()

02. Scope. These rules prescribe ~~the~~ criteria for plumbing permits ~~issued under the provisions of Title 54, Chapter 26, Idaho Code.~~ fee schedules for plumbing permits, inspections of plumbing installations, and civil penalties. (2-26-93)()

002. WRITTEN INTERPRETATIONS.

This agency has no written interpretations of this chapter. (2-26-93)

003. ADMINISTRATIVE APPEALS.

~~This chapter does not provide for administrative relief of the provisions contained herein~~ Within ten (10) days of receiving notice of a civil penalty, the notified party shall comply with the penalty or file a written request for an administrative appeal before the Board and pay a bond in the amount of the penalty. Title 67, Chapter 52, Idaho Code,

and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," govern administrative appeals and judicial review thereof. (2-26-93)()

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into this rule. ()

005. OFFICE – MAILING ADDRESS – STREET ADDRESS – OFFICE HOURS – WEB ADDRESS.

The Division's mailing address and central office street address is 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The Division's central office is open from 8 a.m. to 5 p.m., except on Saturday, Sunday, and legal holidays. The Division's web address is <http://dbs.idaho.gov>. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are promulgated in accordance with the Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. These rules and all records of the Board are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. ()

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Administrator. The Division of Building Safety Administrator. ()

02. Board. The Idaho State Plumbing Board, created under the provisions of Section 54-2605, Idaho Code. ()

03. Division. The Division of Building Safety ~~of the state of Idaho~~. (1-22-82)()

04. Fixture. Any water using or waste producing unit attached to the plumbing system, and includes sewers, water treatment equipment, solar systems, sprinkler systems, hot tubs and spas. (1-22-82)

~~**05. Board.** The Idaho State Plumbing Board, created under the provisions of Section 54-2605, Idaho Code. (1-14-85)~~

011. PERMITS.

01. Serial Number. Each permit must bear a serial number. (6-4-76)

02. Plumbing Contractors. Permits will be furnished by the Division to licensed plumbing contractors upon request. ~~The Permit~~ serial numbers ~~of such permits~~ must be registered in the name of the plumbing contractor ~~to whom they are issued~~ and are transferable only as provided herein these rules. (3-24-17)()

03. Home Owners, ~~Commercial, Industrial, and Others.~~ Home owners making plumbing installations on their own premises, ~~coming~~ under the provisions of Section 54-2602, Idaho Code, must secure a plumbing permit by making application to the Division as provided by Section 54-2620, Idaho Code. ()

04. Commercial and Industrial. Application forms for commercial and industrial plumbing installations must be ~~printed by the Division and~~ made available online and at the ~~office of the~~ Division's in Meridian central and regional offices. The application form must be properly completed, ~~signed by the contractor~~ and mailed returned to the Division ~~at 1090 E. Watertower Street, Suite 150, Meridian, Idaho, 83642~~, together with a verified copy of bid acceptance and the proper permit fee as hereinafter provided. ~~Persons, companies, firms, associations, or corporations making plumbing installations, other than on their own property, must be licensed as a contractor by the state of Idaho as provided by Section 54-2610, Idaho Code.~~ (11-14-85)()

05. Expiration of Permit. Every permit issued by the administrative authority under the provisions of Idaho Code expires by limitation and becomes null and void if the work authorized by such permit is not commenced within one hundred twenty (120) days from the date of permit issuance ~~of such permit~~, or if work authorized by such permit is suspended or abandoned at any time after work is commenced for a period of one hundred twenty (120)

days. Before such work can be recommenced, a new permit must *first* be obtained, and the fee is one-half (1/2) the amount required for a new permit for such work; provided, no changes have been made, or will be made in the original plans and specifications for such work; and provided further, that such suspension or abandonment has not exceeded one (1) year. All plumbing fixtures must be listed on the application for permit. (11-14-84)()

056. Transferring a Permit. A plumbing permit may be transferred to another eligible party if such party provides to the Division written authorization signed and notarized by the original permit holder consenting to the transfer itself, as well as assignment of all responsibilities and conditions incorporated into the original permit issuance. A permit may be transferred to the owner of the property on which the plumbing work is to be performed and for which the permit was issued, or such owner’s designated legal agent in cases where the property owner has terminated their legal relationship with the plumbing contractor who originally obtained the permit. An administrative fee in the amount of forty-five dollars (\$45) for the transfer of a permit will be assessed by the Division. (3-24-17)

067. Refunds of Permits. ~~The administrator may authorize a refund for any permit fee paid on the following bases:~~ (3-24-17)()

a. The Administrator may authorize a refund of the entire permit fee paid when no work has been performed related to the installation of plumbing work covered by a permit issued by the Division. A lesser amount up to fifty percent (50%) of the permit fee amount may be refunded if work has commenced and the project is less than fifty percent (50%) complete as determined by the Division; and (3-24-17)

b. The Administrator will not authorize a refund of any permit fee paid except upon written application for such filed by the original permit holder or the property owner’s representative not less than one hundred eighty (180) days after the date the permit was issued. (3-24-17)

012. PERMIT FEE SCHEDULE.

01. New Residential. Includes all buildings with plumbing systems being constructed on each property. The following fees shall apply to new residential construction:

<u>One-Family Dwelling</u>	
<u>Square feet</u>	<u>Fee</u>
<u>Up to 1,500</u>	<u>\$130</u>
<u>1,501 to 2,500</u>	<u>\$195</u>
<u>2,501 to 3,500</u>	<u>\$260</u>
<u>3,501 to 4,500</u>	<u>\$325</u>
<u>Over 4,500</u>	<u>\$325 plus \$65 for each additional 1,000 square feet or portion thereof</u>
<u>Two or Multi-Family Dwelling</u>	
<u>Dwelling</u>	<u>Fee</u>
<u>Two-family dwelling</u>	<u>\$260</u>
<u>Multi-family dwelling</u>	<u>\$130 per building plus \$65 per unit</u>

()

02. Miscellaneous. The following fees shall apply for the types of permits listed:

Type	Fee
<u>Existing residential</u>	<u>\$65 per inspection plus \$10 for each additional fixture</u>
<u>Requested inspection</u>	<u>\$65 per hour or portion thereof plus costs of out-of-state travel</u>
<u>Technical service</u>	<u>\$65 per hour or portion thereof</u>
<u>Plan check</u>	
<u>Mobile home, manufactured home, or recreational vehicle park</u>	<u>Calculated under Subsection 011.03 of these rules</u>
<u>Sewer or water service line - nonresidential (new construction, installations, and replacements)</u>	
<u>Reclaimed water system</u>	
<u>Lawn sprinkler system - nonresidential</u>	
<u>Lawn sprinkler system - residential</u>	<u>\$65 per inspection</u>
<u>Water conditioner</u>	
<u>Sewer or water service line - residential (new construction, installations, and replacements)</u>	
<u>Sewer and water service lines - residential (new construction, installations, and replacements)</u>	
<u>Mobile or manufactured home</u>	
<u>Modular building</u>	
<u>Multipurpose residential fire sprinkler</u>	
<u>Gray water system</u>	<u>\$130 per inspection</u>

()

03. Other Installations Including Industrial and Commercial. The fees listed in this Subsection shall apply to plumbing installations in this schedule that refer to this Subsection and installations not specifically mentioned elsewhere in this schedule. The plumbing system cost shall be the cost to the owner of labor charges and other costs incurred to complete the installation of plumbing equipment and materials installed as part of the plumbing system. All fees calculated under this Subsection must be based on the total plumbing system cost, which must be listed on the permit.

Plumbing system cost	Fee
<u>Up to \$10,000</u>	<u>\$60 plus 2% of plumbing system cost</u>
<u>\$10,000 to \$100,000</u>	<u>\$260 plus 1% of plumbing system cost exceeding \$10,000</u>
<u>Over \$100,000</u>	<u>\$1,160 plus 5% of plumbing system cost exceeding \$100,000</u>

()

04. Additional Fees. A fee of sixty-five dollars (\$65) per hour or portion thereof shall apply to trips to inspect when the permit holder has given notice to the Division of Building Safety that the work is ready for inspection and it is not:

()

- b. If the permit holder has not accurately identified the work location: ()
 - c. If the inspector cannot gain access to make the inspection: ()
 - d. Corrections required by the inspector as a result of the permit holder improperly responding to a corrective notice. ()
 - e. When corrections have not been made in the prescribed time, unless an extension has been requested and granted. ()
05. No Permit. Failure to purchase a permit before commencing work may result in the assessment of a double fee. ()

013. REQUIRED INSPECTIONS.

- 01. Ground Work Inspection Tags. For ground work to be covered, with acceptance by the inspector. A tag will be attached in a prominent location, preferably to a vertical riser. ()
- 02. Rough-In Inspection Tags. For rough-in, prior to covering or concealing, with acceptance by the inspector. A tag will be placed in a prominent location. ()
- 03. Final Inspection Tags. For final, attached when the plumbing as specified on the permit is complete and conforms to the requirements of the code. ()
- 04. Inspection Tags for Unacceptable Plumbing. Correction Notice - when attached to the plumbing system means that the plumbing is not acceptable and that corrections will be required. A reinspection and reinspection fee for such installations shall be required in accordance with this chapter. ()

014. REQUIREMENTS IN ADDITION TO THE PLUMBING CODE.

- 01. Jurisdiction/Septic Systems. Septic tank and drain fields: Under the definition of a plumbing system as set forth in Section 54-2604(h), Idaho Code, the plumbing contractor's interest and responsibility ceases with the "connection" to the septic tank. ()
- 02. Waste Disposal. The Department of Environmental Quality is the inspection authority on waste disposal. ()

015. CIVIL PENALTIES.

Except for the acts described in Subsections 015.01 and 015.07 of this rule, the acts described in this section shall subject the violator to a civil penalty of not more than two hundred dollars (\$200) for the first offense and not more than one thousand dollars (\$1,000) for each offense that occurs thereafter within one (1) year of an earlier violation. ()

- 01. Plumbing Contractor. Except as provided by Section 54-2602, Idaho Code, any person who acts, or purports to act as a plumbing contractor, as defined by Section 54-2611(a), Idaho Code, without a valid Idaho certificate of competency authorizing him to do so shall be subject to a civil penalty of not more than five hundred dollars (\$500) for the first offense and not more than one thousand dollars (\$1,000) for each offense that occurs thereafter within one (1) year of an earlier violation. ()
- 02. Certification or Registration. Except as provided by Section 54-2602, Idaho Code, performing plumbing as defined in Section 54-2603, Idaho Code, without an appropriate certificate of competency or registration. ()
- 03. Failure to Disclose. Failure to disclose upon request any required information on an application for a plumbing registration or certificate of competency, including complete licensure history or previous licensure as a journeyman or master plumber in another jurisdiction. ()

04. Performance Outside Scope of Specialty Certificate. Performance of any plumbing installation, alteration, or maintenance by a plumbing specialty contractor or specialty journeyman outside the scope of the specialty certificate of competency. ()

05. Fees, Permits, and Inspections. Failure to obtain a required permit, pay applicable fees, properly post a plumbing permit, or request an inspection of all pipes, fittings, valves, vents, fixtures, appliances, appurtenances, and water treatment installations or repairs. ()

06. Corrections. Failure to make corrections in the time allotted in the notice on any plumbing installation as set forth in Section 54-2625, Idaho Code. ()

07. Gross Violation. In the case of continued, repeated or gross violation of Title 54, Chapter 26, Idaho Code, or this chapter, disciplinary action shall be initiated against certificate holders under this chapter or the matter shall be referred for prosecution. ()

0126. -- 999. (RESERVED)

IDAPA 07 – DIVISION OF BUILDING SAFETY
07.02.03 – RULES GOVERNING PERMIT FEE SCHEDULE
DOCKET NO. 07-0203-1902 (CHAPTER REPEAL)
NOTICE OF RULEMAKING – PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2019.

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

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

This rulemaking is needed to comply with the Red Tape Reduction Act (Executive Order 2019-02). IDAPA Chapter 07.02.03 is being repealed, and certain of the repealed rules are being moved into IDAPA 07.02.02. This rulemaking also eliminates and simplifies provisions in these rules.

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

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

This rulemaking will not have a fiscal impact on any funds. This rulemaking will not change the way the Division enforces these rules.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking is simple in nature, repealing and consolidating rules and eliminating and simplifying provision in the rules pursuant to the Red Tape Reduction Act (Executive Order 2019-02).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact John Nielsen, Plumbing Program Manager, Division of Building Safety at (208) 332-7112 or at john.nielsen@dbs.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2019.

Dated this 7th day of June, 2019.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840
ron.whitney@dbs.idaho.gov

IDAPA 07 – DIVISION OF BUILDING SAFETY
07.02.04 – RULES GOVERNING PLUMBING SAFETY INSPECTIONS
DOCKET NO. 07-0204-1901 (CHAPTER REPEAL)
NOTICE OF RULEMAKING – PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2019.

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

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

This rulemaking is needed to comply with the Red Tape Reduction Act (Executive Order 2019-02). IDAPA Chapter 07.02.04 is being repealed, and certain of the repealed rules are being moved into IDAPA 07.02.02. This rulemaking also eliminates and simplifies provisions in these rules.

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

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

This rulemaking will not have a fiscal impact on any funds. This rulemaking will not change the way the Division enforces these rules.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking is simple in nature, repealing and consolidating rules and eliminating and simplifying provision in the rules pursuant to the Red Tape Reduction Act (Executive Order 2019-02).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact John Nielsen, Plumbing Program Manager, Division of Building Safety at (208) 332-7112 or at john.nielsen@dbs.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2019.

Dated this 7th day of June, 2019.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840
ron.whitney@dbs.idaho.gov

IDAPA 07 – DIVISION OF BUILDING SAFETY
07.02.05 – RULES GOVERNING PLUMBING SAFETY LICENSING
DOCKET NO. 07-0205-1901
NOTICE OF RULEMAKING – PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2019.

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

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

Subparagraph 07.02.05.016.03.b. conflicts with Section 54-2617(3), Idaho Code. This proposed rulemaking aligns the rule with the statute, allowing revival of a lapsed plumbing license without examination within two years of the lapse. This proposed rulemaking also eliminates and simplifies provisions in IDAPA 07.02.05 to comply with the Red Tape Reduction Act (Executive Order 2019-02).

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2019 Idaho Administrative Bulletin, [Vol. 19-5, pages 49 through 50](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact John Nielsen, Plumbing Program Manager, Division of Building Safety at (208) 332-7112 or at john.nielsen@dbs.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2019.

Dated this 7th day of June, 2019.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840
ron.whitney@dbs.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 07-0205-1901
(Only Those Sections With Amendments Are Shown.)**

016. CERTIFICATES OF COMPETENCY -- ISSUANCE, RENEWAL, EXPIRATION, REVIVAL -- FEES.

01. Issuance. Certificates of competency will be issued in such a manner as to create a renewal date that coincides with the birthdate of the individual to whom the certificate is issued and allows for renewals every three (3) years. (4-6-05)

a. Certificates of competency will be issued for a period of no less than one (1) year and no more than three (3) years. For example: a qualified applicant who applies for a certificate of competency in August of year one (1) but whose birthday will not occur until March of year two (2) will be issued a certificate of competency renewable on the anniversary of the applicant's birthdate. (4-6-05)

b. The fee for issuance of certificates of competency will be prorated based on the number of months for which it is issued. (4-6-05)

02. Renewal. Certificates of competency will be renewed in such a manner as will achieve a staggered system of certificate renewal using the birthdate of the individual to whom the certificate is issued as the expiration date. (4-6-05)

a. Certificates of competency will be renewed for a period of no less than one (1) year and no more than three (3) years. (4-6-05)

b. The fee for renewal of certificates of competency will be prorated based on the number of months for which it is issued. (4-6-05)

c. Continuing Education. The Idaho Plumbing Board will establish criteria for approval of instruction and instructors and courses and instructors will be approved by the Division of Building Safety. Proof of completion of the following continuing education requirements must be submitted to the Division prior to, or with the application for, licensure renewal by any licensee in order to renew a journeyman or contractors plumbing license. (3-29-12)

i. Journeymen must complete eight (8) hours of continuing education for every three-year license cycle, or complete an exam administered by the Division. Of the required eight (8) hours, four (4) hours must be plumbing code update related and the other four (4) hours may be industry related training. (3-29-10)

ii. Contractors must complete sixteen (16) hours of continuing education for every three-year license cycle. Hours accrued obtaining journeyman education may be applied toward this requirement whenever applicable. (3-29-10)

03. Expiration - Revival. (4-6-05)

~~**a.** Certificates that are not timely renewed will expire.~~ (4-6-05)

ba. A certificate that has expired may be revived within ~~twelve (12) months of its expiration~~ in accordance with Section 54-2617(3), Idaho Code, by submitting a completed application and ~~paying the same fee as for an initial certificate and~~ meeting all other certification requirements. (4-6-05)()

eb. Revived certificates will be issued in such a manner as to create a renewal date that coincides with the birthdate of the applicant to achieve a staggered system of renewal. (4-6-05)

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.02.07 – RULES GOVERNING CIVIL PENALTIES

DOCKET NO. 07-0207-1901 (CHAPTER REPEAL)

NOTICE OF RULEMAKING – PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2019.

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

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

This rulemaking is needed to comply with the Red Tape Reduction Act (Executive Order 2019-02). IDAPA Chapter 07.02.07 is being repealed, and certain of the repealed rules are being moved into IDAPA 07.02.02. This rulemaking also eliminates and simplifies provisions in these rules.

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

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

This rulemaking will not have a fiscal impact on any funds. This rulemaking will not change the way the Division enforces these rules.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking is simple in nature, repealing and consolidating rules and eliminating and simplifying provision in the rules pursuant to the Red Tape Reduction Act (Executive Order 2019-02).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact John Nielsen, Plumbing Program Manager, Division of Building Safety at (208) 332-7112 or at john.nielsen@dbs.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2019.

Dated this 7th day of June, 2019.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840
ron.whitney@dbs.idaho.gov

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.03.12 – RULES GOVERNING MANUFACTURED OR MOBILE HOME INSTALLATIONS

DOCKET NO. 07-0312-1901

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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 44-2201, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

PUBLIC MEETING	
Tuesday, July 9th, 2019 - 9:30 a.m. (MDT)	
Idaho Division of Building Safety 1090 E. Watertower Street, Suite 150 Meridian, ID 83642	
Via VIDEO TELECONFERENCE	
Coeur d’Alene Regional Office 1250 Ironwood Drive Suite 220 Coeur d’Alene, ID 83814	Pocatello Regional Office 2055 Garrett Way Bldg. 1, Suite 4 Pocatello, ID 83201

Additional negotiated rulemaking meetings may be established, if necessary. Adequate notice of the dates, locations, and manner of participation of any such additional meetings will be posted on the Idaho Division of Building Safety (Division) website at <http://dbs.idaho.gov/>.

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to the Idaho Factory Built Structures Advisory Board (Board) on designated forms available on the Division’s website at <http://dbs.idaho.gov/> and at the Division’s offices in Meridian, Coeur d’Alene and Pocatello. Individuals may also attend the public meeting to be conducted on the date listed above. The Board invites oral comments or presentations to be made at the meeting. More information on the meeting is available by contacting Deputy Administrator Ron Whitney at (208) 332-7150 or at ron.whitney@dbs.idaho.gov.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The Department of Housing and Urban Development requires manufactured homes to withstand a snow load of thirty pounds per square foot (30 psf) when the units are first manufactured. In certain parts of the state that receive heavy snowfall, homes must withstand a snow load that is more than 30 psf to avoid damage. For used manufactured

and mobile homes, local jurisdictions may require a higher snow load when the homes are installed. Additionally, used manufactured and mobile homes are set on footings that are often subject to frost heaving in freezing climates.

The purpose of the intended negotiated rulemaking is to invite public comment regarding the following:

The proposed amendments to the Idaho Manufactured Home Installation Standard would provide for increased snow load protection for used manufactured and mobile homes. The proposed amendments to the Idaho Manufactured Home Installation Standard would also require footings to be designed and placed in a manner that minimizes the effects of frost heaving.

In addition, this rulemaking may make other amendments to the Idaho Manufactured Home Installation Standard determined through negotiated rulemaking and eliminate or simplify provisions in IDAPA 07.03.12 in compliance with the Red Tape Reduction Act (Executive Order 2019-02).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, if available, contact Ron Whitney, Deputy Administrator, Division of Building Safety at (208) 332-7150 or at ron.whitney@dbs.idaho.gov. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Division's website at <http://dbs.idaho.gov/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and delivered by July 8, 2019.

Dated this 7th day of June, 2019.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840
ron.whitney@dbs.idaho.gov

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.07.01 – RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS, DIVISION OF BUILDING SAFETY

DOCKET NO. 07-0701-1901

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-5001, 54-5004, and 54-5005, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2019.

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

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

This proposed rulemaking adopts parts V (mechanical) and VI (fuel gas) of the 2018 edition of the International Residential Code (IRC) and the 2018 editions of the International Fuel Gas Code (IFGC) and International Mechanical Code (IMC), but retains existing Idaho amendments to the 2012 editions of these codes, as applicable.

This proposed rulemaking allows an out-of-state applicant for an Idaho HVAC contractor license to meet the work experience requirement for such license by providing satisfactory proof of twenty-four (24) months of work experience as an HVAC journeyman in another jurisdiction or forty-eight (48) months of work experience equivalent in nature to the work experience of an Idaho HVAC journeyman. In addition, this proposed rulemaking requires such an applicant to obtain an Idaho HVAC journeyman license, pay applicable application and licensing fees, and pass the Idaho HVAC contractor examination before receiving an Idaho HVAC contractor license.

This proposed rulemaking also eliminates or simplifies provisions in IDAPA 07.07.01 to comply with the Red Tape Reduction Act (Executive Order 2019-02).

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

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

This proposed rulemaking will not have any fiscal impact on the state general fund. This proposed rulemaking will have a negative fiscal impact of approximately \$8,000 on the Idaho HVAC Board dedicated fund due to the cost of implementing the new code, including training and new code books for inspectors and staff.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 1, 2019 Idaho Administrative Bulletin, [Vol. 19-5, pages 59 through 60](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

This proposed rulemaking adopts parts V and VI of the 2018 edition of the IRC and the 2018 editions of the IFGC and IMC, but retains existing Idaho amendments to the 2012 editions of these codes, as applicable. Parts V and VI of the 2018 edition of the IRC and the 2018 editions of the IFGC and IMC provide revisions and clarifications that make the codes easier to understand and apply. The 2018 editions of these codes also provide enhanced safety requirements for HVAC installations, including new safety requirements for emerging HVAC technologies. Examples of noteworthy changes to these codes include the following: parts V and VI of the 2018 IRC revise requirements regarding makeup air serving domestic cooking exhaust, the 2018 IFGC includes express prohibition of the use of PVC and CPVC for fuel gas systems, and the 2018 IMC provides detailed requirements regarding pedicure and

manicure station exhaust systems and rates. More detailed information about changes to parts V and VI of the 2018 edition of the IRC and the 2018 editions of the IFGC and IMC is available upon request to the Division of Building Safety.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact John Nielsen, HVAC Program Manager, Division of Building Safety at (208) 332-7112 or at john.nielsen@dbs.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2019.

Dated this 7th day of June, 2019.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840
ron.whitney@dbs.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 07-0701-1901
(Only Those Sections With Amendments Are Shown.)**

003. ADMINISTRATIVE APPEALS.

Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Section 100, et seq., applies to contested cases, in addition to IDAPA 07.07.01, "Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems, Division of Building Safety" and the provisions of Title 54, Chapter 50, Idaho Code govern administrative appeals and judicial review thereof. (3-16-04)(____)

004. ADOPTION AND INCORPORATION BY REFERENCE OF THE INTERNATIONAL MECHANICAL CODE, 2012~~8~~ EDITION; THE INTERNATIONAL FUEL GAS CODE, 2018 EDITION; AND PART V (MECHANICAL) AND PART VI (FUEL GAS) OF THE INTERNATIONAL RESIDENTIAL CODE FOR ONE (1)- AND TWO (2)-FAMILY DWELLINGS, 2018 EDITION.

The 2018 editions of the International Residential Code for One (1)- and Two (2)-Family Dwellings, International Mechanical Code, and International Fuel Gas Code are available at the Division's offices located at 1090 E. Watertower St., Suite, 150 Meridian, Idaho 83642; 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814; and 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. (____)

01. International Mechanical Code. The 2012~~8~~ Edition, including appendix "A," (herein IMC) is adopted and incorporated by reference with the following amendments: (3-20-14)(____)

a. Where differences occur between the IMC and Title 54, Chapter 50, Idaho Code and IDAPA 07, Title 07, the provisions in Idaho Code and IDAPA rules apply. (4-11-06)

b. All references to the International Plumbing Code (IPC) are construed as referring to the Idaho State Plumbing Code (ISPC) as adopted and amended by the Idaho State Plumbing Board. (3-20-14)

c. All references to the International Code Council Electrical Code (ICC EC) are construed as

referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board.

(4-11-06)

d. Section 109. Delete.

(7-1-10)

e. Section 202 Definitions. Delete the definitions provided in the code for the terms identified herein this paragraph and replace with the following:

(3-29-17)

i. Light-Duty Cooking Appliance. Light-duty cooking appliances include gas and electric ovens (including standard, bake, roasting, revolving, retherm, convection, combination convection/steamer, countertop conveyerized baking/finishing, deck, pastry, and electric and gas conveyor pizza ovens), electric and gas steam jacketed kettles, electric and gas pasta cookers, electric and gas compartment steamers (both pressure and atmospheric) and electric and gas cheesemelters.

(3-29-17)

ii. Medium-Duty Cooking Appliance. Medium-duty cooking appliances include electric discrete element ranges (with or without oven), electric and gas hot-top ranges, electric and gas griddles, electric and gas double sided griddles, electric and gas fryers (including open deep fat fryers, donut fryers, kettle fryers and pressure fryers), electric and gas tilting skillets (braising pans) and electric and gas rotisseries.

(3-29-17)

f. Section 401.1 Scope. Add the following: Exception: The principles specified in ASHREA 62-2010 may be used as an alternative to this chapter to demonstrate compliance with required ventilation air for occupants.

(4-7-11)

g. Section 504.68.1 Material and size. Add the following exception: Dryer duct may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available. ~~(3-20-14)~~()

h. Table 603.4 Duct Construction Minimum Sheet Metal Thickness for Single Dwelling Units. Add the following exception to the Table: Round duct, enclosed rectangular ducts and fittings less than fourteen (14) inches may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available.

(3-20-14)

~~02. Availability of the International Mechanical Code. The 2012 Edition is available at the Division of Building Safety offices located at 1090 E. Watertower St., Suite 150, Meridian, Idaho 83642, 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814, and 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. (3-20-14)~~

~~005. ADOPTION AND INCORPORATION BY REFERENCE OF THE INTERNATIONAL FUEL GAS CODE, 2012 EDITION.~~

~~042. International Fuel Gas Code. The 20128 Edition, including appendixes "A, B, C, and D," (herein IFGC) is adopted and incorporated by reference with the following amendments: ~~(3-20-14)~~()~~

~~(3-20-14)~~()

a. Where differences occur between the IFGC and Title 54, Chapter 50, Idaho Code and IDAPA 07, Title 07, the provisions in Idaho Code and IDAPA rules apply.

(4-11-06)

b. All references to the International Plumbing Code (IPC) are construed as referring to the Idaho State Plumbing Code (ISPC) as adopted and amended by the Idaho State Plumbing Board.

(3-20-14)

c. All references to the International Code Council Electrical Code (ICC EC) are construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board.

(4-11-06)

d. Section 109. Delete.

(7-1-10)

e. Section 406.4. Change the last sentence to: Mechanical gauges used to measure test pressure must have a range such that the highest end of the scale is not greater than two (2) times the test pressure nor lower than one and one-half (1.5) times the test pressure.

(4-11-06)

f. Section 406.4.1. Test Pressure. Not less than twenty (20) psig (140kPa gauge) test pressure is required for systems with a maximum working pressure up to ten (10) inches water column. For systems with a maximum working pressure between ten (10) inches water column and ten (10) psig (70kPa gauge); not less than sixty (60) psig (420kPa gauge) test pressure is required. For systems over ten (10) psig (70kPa gauge) working pressure, minimum test pressure may be no less than six (6) times working pressure. (4-11-06)

g. Section 406.4.2. The test duration may not be less than twenty (20) minutes. (4-11-06)

~~**h.** Section 408.4. Sediment Trap. Delete the last sentence and replace it with the following: Illuminating appliances, ranges, clothes dryers, outdoor grills, decorative vented appliances for installation in vented fireplaces, and gas fireplaces need not be so equipped. (4-7-11)~~

ih. Add a new section 503.4.1.2 as follows: Testing. All plastic pipe within a dwelling used for venting flue gases must be tested at five (5) psi for fifteen (15) minutes. (4-4-13)

ji. Section 505.1.1. Addition. An interlock between the cooking appliance and the exhaust hood system is not be required for appliances that are of the manually operated type and are factory equipped with standing pilot burner ignition systems. (4-11-06)

~~**02-** *Availability of the International Fuel Gas Code. The 2012 Edition is available at the Division of Building Safety offices located at 1090 E. Watertower St., Suite 150 Meridian, Idaho 83642, 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814, and 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. (3-20-14)*~~

~~**006.** *ADOPTION AND INCORPORATION BY REFERENCE OF PART V (MECHANICAL) AND PART VI (FUEL GAS) OF THE INTERNATIONAL RESIDENTIAL CODE FOR ONE (1) AND TWO (2) FAMILY DWELLINGS, 2012 EDITION.*~~

~~**013.** **Part V (Mechanical) and Part VI (Fuel Gas) of the International Residential Code for One (1)- and Two (2)-Family Dwellings.** The 2012²⁸ Edition, including appendixes “A, B, C, and D,” (herein IRC) is adopted and incorporated by reference with the following amendments: (3-20-14)()~~

a. Where differences occur between the IRC and Title 54, Chapter 50, Idaho Code, and IDAPA 07, Title 07, Chapter 01, the provisions in Idaho Code and IDAPA rules apply. (4-7-11)

b. All references to the International Plumbing Code (IPC) are construed as referring to the Idaho State Plumbing Code (ISPC) as adopted and amended by the Idaho State Plumbing Board. (3-20-14)

c. All references to the International Code Council Electrical Code (ICC EC) are construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board. (4-7-11)

d. Add the following as section M1201.3 and section G2402.4 (201.4): Alternative materials, design and methods of construction equipment. The provisions of this part of the code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction must be approved where the authority having jurisdiction finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code. Compliance with the specific performance-based provisions of this part of the code in lieu of specific requirements of this code will also be permitted as an alternate. (4-4-13)

e. Add the following as section M1201.3.1 and section G2402.4.1 (201.4.1): Tests. Whenever there is insufficient evidence of compliance with the provisions of this part of the code, or evidence that a material or method does not conform to the requirements of this part of the code, or in order to substantiate claims for alternative materials or methods, the authority having jurisdiction has the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods are as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the authority having jurisdiction approves the

testing procedures. Tests must be performed by an approved agency. Reports of such tests must be retained by the authority having jurisdiction for the period required for retention of public records. (4-4-13)

f. Add the following as section M1203.1: Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm must be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units within which fuel-fired appliances are installed and in dwelling units that have attached garages. (4-4-13)

g. Add the following as section M1203.2: Where required in existing dwellings. Where work requiring a permit occurs in existing dwellings that have attached garages or in existing dwellings within which fuel-fired appliances exist, carbon monoxide alarms must be provided in accordance with Subsection 006.01.f. of these rules. (4-4-13)

h. Add the following as section M1203.3: Alarm requirements. Single station carbon monoxide alarms must be listed as complying with UL 2034 and must be installed in accordance with this code and the manufacturer's installation instructions. (4-4-13)

i. Section M1502.4.1 Material and size. Add the following exception: Dryer duct may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available. (3-20-14)

j. Delete Section M1502.4.2 Duct Installation and replace with the following: Exhaust ducts must be supported at four (4) foot (1,219 mm) intervals and secured in place. The insert end of the duct must extend into the adjoining duct or fitting in the direction of airflow. Ducts must not be joined with screws or similar fasteners that protrude into the inside of the duct. (3-20-14)

k. Table M1601.1.1 (2) Gauges of Metal Ducts and Plenums Used for Heating or Cooling. Add the following exception: Round duct, enclosed rectangular ducts and fittings less than fourteen (14) inches may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available. (3-20-14)

l. Section G2417.4 (406.4). Change the last sentence to: Mechanical gauges used to measure test pressure must have a range such that the highest end of the scale is not greater than two (2) times the test pressure nor lower than one and one-half (1.5) times the test pressure. (4-7-11)

m. Section G2417.4.1 (406.4.1). Test Pressure. Not less than twenty (20) psig (one hundred forty (140) kPa gauge) test pressure is required for systems with a maximum working pressure up to ten (10) inches water column. For systems with a maximum working pressure between ten (10) inches water column and ten (10) psig (seventy (70) kPa gauge), not less than sixty (60) psig (four hundred twenty (420) kPa gauge) test pressure is required. For systems over ten (10) psig (seventy (70) kPa gauge) working pressure, minimum test pressure may be no less than six (6) times working pressure. (4-7-11)

n. Section G2417.4.2 (406.4.2). The test duration may not be less than twenty (20) minutes. (4-7-11)

o. Add a new section G2427.4.1.2 as follows: Testing. All plastic pipe within a dwelling used for venting flue gases must be tested at five (5) psi for fifteen (15) minutes. (4-4-13)

~~**02.** *Availability of the International Residential Code for One (1) and Two (2) Family Dwellings.* The 2012 Edition is available at the Division of Building Safety offices located at 1090 E. Watertower St., Suite 150 Meridian, Idaho 83642, 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814, and 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201.~~ (3-20-14)

~~**0075.** OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.~~

The principal place of business of the Division's ~~of Building Safety~~, HVAC Program is located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is: Division of Building Safety, HVAC Program, 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The office telephone number is (208) 334-6180 and the facsimile number is (208) 855-0768. (4-4-13)()

00~~8~~6. FILING OF DOCUMENTS.

All written communications and documents that are intended to be part of an official record for decision in a rulemaking or contested case, must be filed with the Administrator of the Division. Communications and documents must be filed by mail, hand-delivery, or by facsimile transmission. One (1) original must be filed with the Administrator, and one (1) copy must be submitted to the opposing parties. Whenever documents are filed by facsimile transmission, originals must be deposited in the mail the same day or hand-delivered the following business day to the Administrator and opposing parties. (3-16-04)

00~~9~~7. PUBLIC RECORDS ACT COMPLIANCE.

These rules were promulgated in accordance with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. These rules and all records of the ~~HVAC~~ Board are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-16-04)()

0~~4~~08. CHANGES IN NAME AND ADDRESS -- ADDRESS FOR NOTIFICATION PURPOSES.

01. Change of Name. Whenever a change of name occurs for a certified contractor, journeyman, specialty journeyman, specialty contractor, registered apprentice, or specialty apprentice, the ~~HVAC~~ Board must be notified immediately, in writing, of the change. Documentation confirming the change of name must be provided to the Board on request. (4-11-06)()

02. Change of Address. Whenever a change of mailing address occurs for a certificated contractor, journeyman, specialty journeyman, specialty contractor, registered apprentice, or specialty apprentice, the ~~HVAC~~ Board must be notified immediately, in writing, of the change. (4-11-06)()

03. Address for Notification Purposes. The most recent mailing address on record with the ~~HVAC~~ Board will be utilized for purposes of all written communication with certified contractors, journeymen, specialty journeymen, specialty contractors, registered apprentices, and specialty apprentices, including, but not limited to, notification of renewal and notices related to inspections. (4-11-06)()

0~~4~~09. MEETINGS.

~~HVAC~~ Board meetings are subject to the provisions of the Idaho Open Meeting Law, Title 67, Chapter 23, Idaho Code. (3-16-04)()

01~~2~~0. DEFINITIONS.

0~~4~~1. Additional Definitions. Terms defined in Section 54-5003, Idaho Code, will have the same meaning when utilized in these rules. (3-16-04)

0~~4~~2. Administrator. The Administrator of the Idaho Division of Building Safety. (3-16-04)

0~~2~~3. Board. The Idaho Heating, Ventilation, and Air Conditioning (HVAC) Board. (3-16-04)

04. Division. The Idaho Division of Building Safety. (3-16-04)

05. ~~Rules: IDAPA 07.07.01, "Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems, Division of Building Safety."~~ Recognized Jurisdiction. A jurisdiction with an HVAC program that is recognized by the Board as being substantially equivalent to Idaho's HVAC program. (3-16-04)()

01~~3~~1. CERTIFICATES OF COMPETENCY -- ISSUANCE, RENEWAL, EXPIRATION -- REVIVAL.

01. Issuance. Certificates of competency will be issued in such a manner as to create a renewal date that coincides with the birth month of the individual to whom the certificate is issued and allows for renewals every three (3) years. (4-6-05)

a. Certificates of competency are issued for a period of no less than one (1) year and no more than (3) three years. For example: a qualified applicant who applies for a certificate of competency in August of year one (1),

but whose birthday will not occur until March of year two (2) will be issued a certificate of competency renewable on the anniversary of the applicant's birth month. (4-6-05)

b. The fee for issuance of certificates of competency will be prorated based on the number of months for which the certificate is issued. (4-6-05)

02. Renewal. Certificates of competency will be renewed in such a manner as to create a staggered system of certificate renewals using the birth month of the individual to whom the certificate is issued as the expiration date. (4-6-05)

a. Certificates of competency are renewed for a period of no less than one (1) year and no more than three (3) years. (4-6-05)

b. The fee for renewal of certificates of competency will be prorated based on the number of months for which the certificate is issued. (4-6-05)

03. Expiration-Revival. (4-6-05)

a. Certificates that are not timely renewed will expire on the last day of the month in which the renewal is due. (4-6-05)

b. Revived certificates will be issued in such a manner as to create a renewal date that coincides with the birth month of the applicant so as to create a staggered system of renewal. (4-6-05)

0142. -- 019. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

021. HVAC CONTRACTOR CERTIFICATE OF COMPETENCY - REQUIREMENTS.

01. Bond. Applicants must provide a compliance bond in the amount of two thousand dollars (\$2,000). Any such bond is required to be effective for the duration of the contractor licensing period. (3-29-12)

02. Qualification. Applicants must provide proof, satisfactory to the Board, of having legally acted as an HVAC journeyman for a period of not less than twenty-four (24) months. (3-16-04)

03. Examination. Applicants for certification as HVAC contractors must successfully complete the examination designated by the Board. (3-16-04)

04. Out-of-State Contractor Applications. ()

a. An out-of-state applicant for a contractor certificate of competency shall first obtain an Idaho journeyman certificate of competency in accordance with Section 023 of these rules. The applicant shall pay all applicable application and examination fees to the Division and successfully complete the contractor examination administered by the Division. The applicant shall file the compliance bond required by Section 54-5007, Idaho Code, with the Division upon successful completion of the examination. Applications that are incomplete in any detail will be returned as unacceptable or denied. ()

b. An applicant for a contractor certificate of competency who has previously been licensed as an HVAC journeyman in a Recognized Jurisdiction shall provide to the Division satisfactory proof of two (2) years of work experience as an HVAC journeyman in such jurisdiction. ()

c. An applicant for a contractor certificate of competency who has never been previously licensed as a journeyman in a Recognized Jurisdiction shall provide proof of four (4) years of experience performing HVAC work of a nature equivalent to that which an HVAC journeyman in Idaho must demonstrate to qualify for a contractor

certificate of competency. Proof of such work experience may be provided by the submission of three (3) sworn affidavits from individuals attesting that the applicant has had at least four (4) years' experience performing such work. ()

(BREAK IN CONTINUITY OF SECTIONS)

023. HVAC JOURNEYMAN CERTIFICATES OF COMPETENCY: REQUIREMENTS.

01. Experience. Demonstrate, to the satisfaction of the Board, a minimum of four (4) years' experience working in the trade, in compliance with the requirements of the state in which the applicant received his supervision, or as a registered HVAC apprentice making HVAC installations on the job under the supervision of a qualified HVAC journeyman. Notwithstanding the requirement that an HVAC apprentice demonstrate four (4) years of on-the-job work experience under the supervision of a qualified HVAC journeyman, any HVAC apprentice who successfully completes a Board-approved, full-time, one (1)-academic-year HVAC training course may receive credit for up to one (1) year of on-the-job work experience. (4-11-19)

02. Education. Successfully complete any required apprenticeship training courses. (3-16-04)

03. Examination. Applicants for certification as HVAC journeymen must successfully complete the examination designated by the Board. (3-16-04)

a. Each HVAC apprentice who desires to take the HVAC journeyman examination must complete a Board-approved training course as described in Subsection 025.02 of these rules prior to the date of the examination and provide a certificate of completion with the apprentice's application for examination. There is no minimum work experience requirement to be eligible to take the HVAC journeyman examination. (4-11-19)

b. The Division will not issue a certificate of competency to an HVAC apprentice until the apprentice furnishes to the Division proof of satisfaction of the requirements contained in Subsection 023.01 of these rules and successful completion of the journeyman examination. (4-11-19)

04. Out of State Journeyman Applications. (3-24-17)

a. An out-of-state applicant for a journeyman certificate of competency shall pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. ()

~~**b.** Exhibition of a license issued by another Recognized Jurisdiction may be accepted as proof of meeting the experience and schooling requirements listed in Subsections 023.01 and 023.02 of these rules. An application for a journeyman certificate of competency from an individual who has previously been licensed as a journeyman in another a Recognized Jurisdiction recognized by the Idaho HVAC Board must include provide satisfactory proof of licensure in such jurisdiction. The applicant must pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. (3-24-17)()~~

~~**b.c.** An application for a journeyman certificate of competency from an individual who has never been previously licensed as a journeyman in a Recognized Jurisdiction recognized by the Idaho HVAC Board must include evidence that demonstrates that the applicant has provide one (1) of the following: ()~~

~~**i.** Proof of four (4) years, defined as eight thousand (8,000) hours, of HVAC work experience or of a nature at least equivalent to that which an HVAC apprentice must perform in Idaho, as well as and four (4) years of schooling training equivalent to that which an HVAC apprentice must complete in Idaho. ()~~

~~**ii.** Alternatively, such an applicant may submit sufficient proof verifying of eight (8) years, defined as a minimum of sixteen thousand (16,000) hours, of HVAC work experience of a nature at least equivalent to that which an HVAC apprentice must perform in Idaho. Upon submission of sufficient proof of having completed such~~

~~experience and schooling requirements, such applicant must also pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division.(3-24-17)()~~

(BREAK IN CONTINUITY OF SECTIONS)

050. HVAC PERMITS.

01. Serial Number. Each permit must bear a serial number. (3-16-04)

02. HVAC Contractors and HVAC Specialty Contractors. The Division will furnish permits to certified HVAC contractors and HVAC specialty contractors upon request. The serial numbers of such permits must be registered in the name of the HVAC contractor or HVAC specialty contractor to whom they are issued. ~~Permits are not transferable.~~ (3-16-04)()

03. Home Owners. Home owners or a contract purchaser of residential property, making HVAC installations on their own residences, coming under the provisions of Section 54-5002, Idaho Code, must secure an HVAC permit by making application to the Division as provided in Section 54-5016, Idaho Code. (3-16-04)

04. HVAC Contractors and HVAC Specialty Contractors. HVAC contractors and HVAC specialty contractors must secure an HVAC permit by making application to the Division as provided in Section 54-5016, Idaho Code. (3-16-04)

05. Transferring a Permit. A HVAC permit may be transferred to another eligible party if such party provides to the Division written authorization signed and notarized by the original permit holder consenting to the transfer itself as well as assignment of all the responsibilities and conditions incorporated into the original permit issuance. A permit may be transferred to the owner of the property on which the HVAC work is to be performed and for which the permit was issued for such owners' designated legal agent, in cases where the property owner has terminated their legal relationship with the HVAC contractor who originally obtained the permit. An administrative fee in the amount of forty-five dollars (\$45) for the transfer of a permit will be assessed by the Division. (3-24-17)

06. Refunds of Permits. The Administrator may authorize a refund for any permit fee paid on the following bases: (3-24-17)

a. The Administrator may authorize a refund of the entire permit fee paid when no work has been performed related to the installations or HVAC work covered by a permit issued by the Division. A lesser amount up to fifty percent (50%) of the permit fee amount may be refunded if work has commenced and the project is less than fifty percent (50%) complete as determined by the Division; and (3-24-17)

b. The Administrator will not authorize a refund of any permit fee paid except upon written application for such filed by the original permit holder or the property owner's representative not less than one hundred eighty (180) days after the date the permit was issued. (3-24-17)

(BREAK IN CONTINUITY OF SECTIONS)

060. REQUIRED INSPECTIONS.

~~All work performed under a HVAC permit must be inspected by a designated, qualified, properly identified agent of the authority having jurisdiction to ensure compliance with Title 54, Chapter 50, Idaho Code, and IDAPA 07-07-01.~~ (3-16-04)

01. Request for Division ~~of Building Safety~~ Inspection. (3-16-04)()

a. Inspection. Each permit holder must notify the Division at least one (1) day prior to the desired inspection, Sundays and holidays excluded, that the project is ready for inspection. (3-16-04)

b. Reinspection. If a reinspection is required after the final inspection, due to a failure to meet requirements of Title 54, Chapter 50, Idaho Code, and/or these rules, the permit holder will be charged a fee not to exceed the actual cost of each reinspection. (3-16-04)

02. Inspection Tags. Inspectors certify to the permit holder that an inspection has been done by securely attaching the inspection tag in a prominent location. (5-8-09)

a. Final Inspection Tags. An inspection tag indicating that a final inspection has been performed is attached when the HVAC installation as specified on the permit is complete and conforms to the requirements of the code and rules. (5-8-09)

b. Inspection Tags for Unacceptable HVAC Installations. "Notice of Correction" inspection tags are attached to indicate that the HVAC installation is not acceptable and that corrections are required. (3-29-12)

c. Work-in-Progress Tag. An inspection tag indicating that a work-in-progress inspection has been performed is attached following inspection of ground work, rough-in work, or any portion of the installation that is to be covered or otherwise concealed before completion of the entire HVAC installation as specified on the permit. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

070. CIVIL PENALTIES.

~~Except for the acts described in Subsections 070.01 and 07.08 of these rules, the following acts described in this section subject the violator to penalties based on the following schedule a civil penalty of not more than two hundred dollars (\$200) for the first offense and not more than one thousand dollars (\$1,000) for each offense that occurs thereafter within one (1) year of an earlier violation. (3-30-07)()~~

01. Heating, Ventilation, and Air Conditioning Contractor or Specialty Contractor. Except as provided by Section 54-5001, Idaho Code, any person who acts, or purports to act, as an HVAC contractor or specialty contractor as defined by Section 54-5003(3) and 54-5003(6), Idaho Code, without a valid Idaho state HVAC contractor or specialty contractor certification is subject to a civil penalty of not more than five hundred dollars (\$500) for the first offense and ~~a civil penalty of~~ not more than one thousand dollars (\$1,000) for each offense ~~that occurs~~ thereafter ~~within one (1) year of an earlier violation.~~ (3-30-07)()

02. Employees Knowingly Employing. ~~Any person, who knowingly employing~~ a person who does not hold a valid Idaho ~~state~~ HVAC certification or apprentice registration, as required by Section 54-5008, Idaho Code, to perform HVAC installations, ~~is subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter.~~ (3-30-07)()

03. Certification or Registration. Except as provided by Section 54-5001, Idaho Code, ~~any person~~ performing HVAC work as an HVAC journeyman as defined by Section 54-5003(4), Idaho Code; ~~specialty journeyman as defined by Section 54-5003(7), Idaho Code;~~ apprentice as defined by Section 54-5003(2), Idaho Code; ~~or a specialty apprentice as defined by Section 54-5003(5), Idaho Code,~~ without a valid certification or registration ~~is subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter.~~ (3-30-07)()

04. Supervision. ~~Any Working as an~~ HVAC apprentice or specialty apprentice ~~working~~ without the required journeyman supervision or ~~any HVAC contractor or industrial account~~ employing ~~an~~ apprentices without providing the required ~~HVAC~~ journeyman supervision ~~is subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter.~~ (3-30-07)()

05. Performance Outside Scope of Specialty License. ~~Any HVAC specialty contractor or specialty~~

~~journeyman performing~~ **Performance of any** HVAC installations, alterations, or maintenance **by an HVAC specialty contractor or specialty journeyman** outside the scope of the specialty certification ~~is subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter.~~ (3-30-07)()

06. Fees and Permits. ~~Any person f~~**ailing** to pay applicable fees or properly post an HVAC permit for, or to request an inspection of, any installation, alteration, improvement, or extension of any piping, venting, ductwork, appliances and appurtenances in connection with any ~~heating, ventilation, or air conditioning~~ **HVAC** system or subsystems of such ~~is subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter.~~ (3-29-10)()

07. Corrections. ~~Any person who fails~~ **Failure** to make corrections in the time allotted in the notice on any HVAC installation as set forth in Section 54-5019, Idaho Code, ~~is subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter.~~ (3-30-07)()

08. Gross Violation. In the case of continued, repeated, or gross violation of Title 54, Chapter 50, Idaho Code, or ~~IDAPA 07.07.01, "Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems, Division of Building Safety,"~~ **these rules**, a certification revocation will be initiated for certificated individuals under this chapter and non-certificated individuals is subject to prosecution by the appropriate jurisdiction under Idaho law. (3-30-07)()

~~**09. Judicial Review.** Any party aggrieved by the final action of the board is entitled to a judicial review thereof in accordance with the provisions of Title 67, Chapter 52, Idaho Code.~~ (3-30-07)

IDAPA 07 – DIVISION OF BUILDING SAFETY

**07.07.01 – RULES GOVERNING INSTALLATION OF HEATING, VENTILATION,
AND AIR CONDITIONING SYSTEMS, DIVISION OF BUILDING SAFETY**

DOCKET NO. 07-0701-1902

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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 54-5001, 54-5004, and 54-5005, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

PUBLIC MEETING	
Friday, July 19th, 2019 - 9:30 a.m. (MDT)	
Idaho Division of Building Safety 1090 E. Watertower Street, Suite 150 Meridian, ID 83642	
Via VIDEO TELECONFERENCE	
Coeur d’Alene Regional Office 1250 Ironwood Drive, Suite 220 Coeur d’Alene, ID 83814	Pocatello Regional Office 2055 Garrett Way, Bldg. 1, Suite 4 Pocatello, ID 83201

Additional negotiated rulemaking meetings may be established, if necessary. Adequate notice of the dates, locations, and manner of participation of any such additional meetings will be posted on the Idaho Division of Building Safety (Division) website at <http://dbs.idaho.gov/>.

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to the Idaho Heating, Ventilation, and Air Conditioning Board (Board) on designated forms available on the Division’s website at <http://dbs.idaho.gov/> and at the Division’s offices in Meridian, Coeur d’Alene and Pocatello. Individuals may also attend the public meeting to be conducted on the date listed above. The Board invites oral comments or presentations to be made at the meeting. More information on the meeting is available by contacting Deputy Administrator Ron Whitney at (208) 332-7150 or at ron.whitney@dbs.idaho.gov.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The purpose of the intended negotiated rulemaking is to invite public comment regarding the following:

The proposed amendments would change the way the Division calculates residential HVAC permit fees. Instead of calculating permit fees based on the square footage of a home, the proposed amendments would charge a base

permit fee for each home plus additional fees for each system, fixture, appliance, zone, outlet, or duct. The proposed amendments would also add fees for services and permits the Division already offers, such as inspection of mobile and manufactured homes and modular buildings, technical service, fuel gas piping systems, and hydronic systems.

The proposed amendments would also allow renewal of an HVAC apprentice registration upon completion of eight (8) hours of continuing education.

In addition, this rulemaking would eliminate or simplify provisions in IDAPA 07.07.01 to comply with the Red Tape Reduction Act (Executive Order 2019-02).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, if available, contact John Nielsen, HVAC Program Manager, Division of Building Safety at (208) 332-7112 or at john.nielsen@db.s.idaho.gov. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Division's website at <http://db.s.idaho.gov/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and delivered by July 16, 2019.

Dated this 7th day of June, 2019.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840
ron.whitney@db.s.idaho.gov

IDAPA 08 – STATE BOARD OF EDUCATION

08.01.13 – RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM

DOCKET NO. 08-0113-1901

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 33-4303, Idaho Code.

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below. To participate, responses must be received by close of business on July 19, 2019.

Should a reasonable number of persons respond to this notice, negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the agency website at the address listed below.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event, the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

Upon the conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

IDAPA 08.01.13, Rules Governing the Opportunity Scholarship Program, set academic and financial eligibility requirements and application procedures and deadlines for the Idaho Opportunity Scholarship Program. Historically, this scholarship has been targeted towards traditional full-time students. SB1279 (2018) amended Section 33-4303, Idaho Code, authorizing the Board to award up to 20% of the funds appropriated for the Idaho Opportunity Scholarship to non-traditional students with 24 or more credits. In order to make awards to this population of students amendments need to be made to the existing student eligibility requirements and deadlines for the scholarship that will allow for non-traditional students, with some credits and no degree, who are more likely to be working full-time and supporting a family, to take a smaller course load than full-time. Additional areas identified for amendments for making awards to this population include amendments to the application deadline and FAFSA completion deadline, minimum grade point average, and establishing the amount of time this population of students needs to be out of school prior to being eligible for the scholarship. This rule will allow for alternate deadlines and course load requirements for students that meet the definition of the “Adult Learner” with 24 or more credits and are eligible for the Idaho Opportunity Scholarship. Additional amendments to this section of rule will include any technical corrections identified during the negotiated rulemaking process.

ASSISTANCE ON TECHNICAL QUESTIONS, MEETING ACCOMMODATIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, requests for special meeting accommodations or accessibility, contact Tracie Bent at tracie.bent@osbe.idaho.gov or (208) 332-1582. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho State Board of Education web site at the following web address: <https://boardofed.idaho.gov>.

Dated this 27th day of June, 2019.

Tracie Bent
Chief Planning and Policy Officer
Phone: (208) 332-1582
Fax: (208) 334-2632

State Board of Education
650 W. State Street
P.O. Box 83720
Boise, ID and 8370-0037

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.01 – RULES GOVERNING ADMINISTRATION

DOCKET NO. 08-0201-1901

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-116, 33-1001, 33-1002, 33-1004, 33-1004B, 33-1612, and 33-1027, Idaho Code.

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below. To participate, responses must be received by close of business on July 19, 2019.

Should a reasonable number of persons respond to this notice, negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the agency website at the address listed below.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event, the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

Upon the conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

HB 293 (2019) requires the State Board of Education to promulgate rules establishing how enrollment would be counted and reported to the state for students who attend public schools part-time or attend more than one public school at the same time. This bill also establishes additional provisions on how school districts and charter schools will report on the student populations based on specific student characteristics and how school districts use appropriated funds. The intent of the negotiated rulemaking is to establish a methodology for reporting student enrollment and provide any additional clarification identified by school districts for meeting the requirements established in HB 293 (2019). Additional amendments will be considered for technical corrections or cleanup to existing provisions pertaining to funding and student counts that are identified during the negotiated rulemaking process as well as the removal of outdated or obsolete sections.

ASSISTANCE ON TECHNICAL QUESTIONS, MEETING ACCOMMODATIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, requests for special meeting accommodations or accessibility, contact Tracie Bent at tracie.bent@osbe.idaho.gov or (208) 332-1582. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho State Board of Education web site at the following web address: <https://boardofed.idaho.gov>.

Dated this 27th day of June, 2019.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, ID and 8370-0037
Phone: (208) 332-1582
Fax: (208) 334-2632

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.01 – RULES GOVERNING ADMINISTRATION

DOCKET NO. 08-0201-1902

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107 and 33-116, 33-320, 33-1212A, 33-1614, and 33-1616, Idaho Code.

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below. To participate, responses must be received by close of business on July 19, 2019.

Should a reasonable number of persons respond to this notice, negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the agency website at the address listed below.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event, the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

Upon the conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

SB 1057 (2019) removed requirements for school district and charter school continuous improvement plans. This rule amendment will remove clarifying language that was based on those requirements, bringing it into alignment with the new amended language in Section 33-320, Idaho Code, that went into effect on July 1, 2019. Additional amendments will remove outdated or unnecessary sections of rule and make technical corrections identified during the negotiated rulemaking process. Identified outdated sections include section 700, Veterans Education, 750, Idaho State Penitentiary, and 800, Private Correspondence and Trade Schools. The final amendments will update the Literacy Growth Targets established in section 802 as required by Section 33-1616, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, MEETING ACCOMMODATIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, requests for special meeting accommodations or accessibility, contact Tracie Bent at tracie.bent@osbe.idaho.gov or (208) 332-1582. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho State Board of Education web site at the following web address: <https://boardofed.idaho.gov>.

Dated this 27th day of June, 2019.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, ID and 8370-0037
Phone: (208) 332-1582
Fax: (208) 334-2632

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.02 – RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1903

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-1004B, 33-1201, 33-1201A, 33-1204, and 33-1612, Idaho Code.

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below. To participate, responses must be received by close of business on July 19, 2019.

Should a reasonable number of persons respond to this notice, negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the agency website at the address listed below.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event, the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

Upon the conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The amendments to this section of rule will update subsection 240 (Juvenile Detention Centers) to bring it back into alignment with Section 33-2009, Idaho Code, and streamline and remove additional redundant language and make technical changes identified during the negotiated rulemaking process.

ASSISTANCE ON TECHNICAL QUESTIONS, MEETING ACCOMMODATIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, requests for special meeting accommodations or accessibility, contact Tracie Bent at tracie.bent@osbe.idaho.gov or (208) 332-1582. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho State Board of Education web site at the following web address: <https://boardofed.idaho.gov>.

Dated this 27th day of June, 2019.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, ID and 8370-0037
Phone: (208) 332-1582
Fax: (208) 334-2632

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.03 – RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1901

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, 33-118, 33-1612, and 33-2211, Idaho Code.

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below. To participate, responses must be received by close of business on July 19, 2019.

Should a reasonable number of persons respond to this notice, negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the agency website at the address listed below.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event, the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

Upon the conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

These changes are part of the Division of Career Technical Education's ongoing initiative to formalize career technical education program standards. The proposed amendments would add existing career technical education standards to administrative rule that were not previously included in the initiative. The program areas for inclusion are: Agriculture and Natural Resources (Mechanics and Power Systems, Food Science and Processing Technology, Ecology and Natural Resource Management, Ag Leadership and Applied Communication), Business and Marketing Education (Hospitality Management), Engineering and Technology Education (Computer Support, Journalism), Family and Consumer Sciences (Cosmetology, Education Assistant), Health Sciences (Fire fighting, Pharmacy Technician, Rehabilitation Services), and Skilled and Technical Sciences (Automated Manufacturing, Electrical Apprenticeship, HVAC Apprenticeship, Plumbing Apprenticeship, Precision Machining).

ASSISTANCE ON TECHNICAL QUESTIONS, MEETING ACCOMMODATIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, requests for special meeting accommodations or accessibility, contact Tracie Bent at tracie.bent@osbe.idaho.gov or (208) 332-1582. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho State Board of Education web site at the following web address: <https://boardofed.idaho.gov>.

Dated this 27th day of June, 2019.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, ID and 8370-0037
Phone: (208) 332-1582
Fax: (208) 334-2632

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.03 – RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1902

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-133, Idaho Code.

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below. To participate, responses must be received by close of business on July 19, 2019.

Should a reasonable number of persons respond to this notice, negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the agency website at the address listed below.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event, the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

Upon the conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

Section 33-133, Idaho Code requires any new data elements that are added to the state longitudinal data system to be added through the negotiated rulemaking process. This rule will add chronic absenteeism to the state longitudinal data system. Additional elements may be identified by education stakeholders as part of the negotiated rulemaking process being conducted under an alternate docket number in response to the reporting requirements created in HB 293 (2019). Any elements identified would be combined with this negotiated rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, MEETING ACCOMMODATIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, requests for special meeting accommodations or accessibility, contact Tracie Bent at tracie.bent@osbe.idaho.gov or (208) 332-1582. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho State Board of Education web site at the following web address: <https://boardofed.idaho.gov>.

Dated this 27th day of June, 2019.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, ID and 8370-0037
Phone: (208) 332-1582
Fax: (208) 334-2632

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.04 – RULES GOVERNING PUBLIC CHARTER SCHOOLS

DOCKET NO. 08-0204-1901

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-116, 33-5203, 33-5209A, 33-5209B, 33-5209C, and 33-5210, Idaho Code.

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below. To participate, responses must be received by close of business on July 19, 2019.

Should a reasonable number of persons respond to this notice, negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the agency website at the address listed below.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event, the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

Upon the conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

Pursuant to Section 33-5208B, Idaho Code, a chartering entity may “nonrenew or grant renewal” to a charter. This rule will add language to the charter renewal and performance certificate review process to clarify what happens when an authorizing chartering entity chooses not to review their performance certificate and takes no action to renew or nonrenew a charter. Any additional technical corrections identified during the negotiated rulemaking process will also be considered.

ASSISTANCE ON TECHNICAL QUESTIONS, MEETING ACCOMMODATIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, requests for special meeting accommodations or accessibility, contact Tracie Bent at tracie.bent@osbe.idaho.gov or (208) 332-1582. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho State Board of Education web site at the following web address: <https://boardofed.idaho.gov>.

Dated this 27th day of June, 2019.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, ID and 8370-0037
Phone: (208) 332-1582
Fax: (208) 334-2632

IDAPA 09 – IDAHO DEPARTMENT OF LABOR

09.01.30 – UNEMPLOYMENT INSURANCE BENEFITS ADMINISTRATION RULES

DOCKET NO. 09-0130-1902

(SECOND) 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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 72-1333, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

PUBLIC MEETING	
Thursday, July 25, 2019 9:30 a.m. – 12:30 p.m. (MDT)	
Idaho Department of Labor 317 Main Street Boise ID 83735	
Via VIDEO TELECONFERENCE (same date and time as above) At the following Department of Labor locations:	
Kootenai County Local Office 600 N. Thornton Street Post Falls ID 83854	Lewiston Local Office 1158 Idaho Street Lewiston ID 83501
Magic Valley Local Office 420 Falls Avenue Twin Falls ID 83301	Pocatello Local Office 430 N. 5th Avenue Pocatello ID 83205
Idaho Falls Local Office 1515 E. Lincoln Road Idaho Falls ID 83401	

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate may submit any written comments for the record, questions, recommendations, or ideas to the Idaho Department of Labor addressed to Josh.McKenna@labor.idaho.gov. Individuals may also attend the public meeting to be conducted on the above date during which the Idaho Department of Labor will allow oral comments. Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The intended changes to 09.01.30.175.23 will:

1. Define the circumstances under which an unemployment insurance claimant can leave the local labor market area to attend training or school; and
2. Specify unemployment insurance claimants cannot leave their local labor market to leave the country while collecting benefits.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Josh McKenna, (208)332-3577 x3919. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Department of Labor's web site at the following web address: <https://www.labor.idaho.gov/dnn/Administrative-Rule-Changes/Unemployment-Rule-Changes>.

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 July 24, 2019.

Dated this 5th day of June, 2019.

Josh McKenna
UI Benefits Bureau Chief
Idaho Department of Labor/ UI Division
219 Main Street
Boise ID 83735
Phone: (208) 332-3577 x3919
Fax: (208) 639-3256

IDAPA 09 – IDAHO DEPARTMENT OF LABOR

09.01.30 – UNEMPLOYMENT INSURANCE BENEFITS ADMINISTRATION RULES

DOCKET NO. 09-0130-1903

(SECOND) 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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 72-1333, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

PUBLIC MEETING	
Wednesday, July 10, 2019 1:30 p.m. – 4:30 p.m. (MDT)	
Idaho Department of Labor 317 Main Street Boise, ID 83735	
Via VIDEO TELECONFERENCE (same date and time as above) At the following Department of Labor locations:	
Kootenai County Local Office 600 N. Thornton Street Post Falls, ID 83854	Lewiston Local Office 1158 Idaho Street Lewiston, ID 83501
Magic Valley Local Office 420 Falls Avenue Twin Falls, ID 83301	Pocatello Local Office 430 N. 5th Avenue Pocatello, ID 83205
Idaho Falls Local Office 1515 E. Lincoln Road Idaho Falls ID 83401	

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate may submit any written comments for the record, questions, recommendations, or ideas to the Idaho Department of Labor addressed to Josh.McKenna@labor.idaho.gov. Individuals may also attend the public meeting to be conducted on the above date during which the Idaho Department of Labor will allow oral comments. Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The intended changes to IDPA 09.01.30 will:

1. Clarify unemployment insurance benefit eligibility for individuals with disabilities is determined by Idaho law;
2. Identify unemployment insurance claimants as responsible for providing competent evidence they are qualified individuals with disabilities under the Americans with Disabilities Act; and
3. Remove language concerning long- term disability inconsistent with the definition of disability under the Americans with Disabilities Act.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Josh McKenna, (208)332-3577 x3919. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Department of Labor’s web site at the following web address: <https://www.labor.idaho.gov/dnn/Administrative-Rule-Changes/Unemployment-Rule-Changes>.

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 July 9, 2019.

Dated this 5th day of June, 2019.

Josh McKenna
UI Benefits Bureau Chief
Idaho Department of Labor/ UI Division
219 Main Street
Boise ID 83735
Phone: (208) 332-3577 x3919
Fax: (208) 639-3256

**IDAPA 11 – IDAHO STATE POLICE
STATE BRAND BOARD**

11.02.01 – RULES OF THE IDAHO STATE BRAND BOARD

DOCKET NO. 11-0201-1902

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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 25-1102, 25-1110, and 25-1160, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

PUBLIC MEETING

**July 22, 2019
10:00 a.m. – 12:00 p.m.**

**Idaho State Police Headquarters
Building 9 Conference Room
700 S. Stratford Drive
Meridian, ID 83642**

TELECONFERENCE CALL-IN

(Same meeting time as above once date is established)

**Toll Free: 1-877-820-7831
Guest Code: 681205**

Additional meetings will be held if deemed necessary or at request as determined by the Idaho State Brand Board. If additional meetings are scheduled, they will be announced at a later date on the Idaho State Brand Board website: <https://isp.idaho.gov/brands>

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate must submit written comments, questions, recommendations, or ideas addressed to the Idaho State Brand Board, State Brand Inspector, Cody D. Burlile, by mail at P.O. Box 1177 Meridian, ID 83680-1177, or in person at 700 S. Stratford Dr., Meridian, Idaho 83642, or by email to Cody.Burlile@isp.idaho.gov. Individuals may also attend the public meeting to be conducted on the above date(s) during which the Idaho State Brand Board will allow oral comments and discussion. All oral comments or presentations must be submitted in writing for the record.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

Per request from the livestock industries, the Brand Board conducted a review of the fees associated with the equine brand inspection program. The review concluded the fees charged for equine brand inspections do not cover

the cost of service for equine inspections. The purpose of the rule is to negotiate the schedule of fees as allowed under the cap set in Idaho Code 25-1160, to more accurately reflect the cost for service of Ownership and Transportation Certificates and Brand Inspection (per head) for horses, mules, and asses.

The rule is also needed to confirm essential changes to IDAPA 11.02.01.034 in order to comply with amendments to 25-1160 Idaho Code, which implement an Equine Farm Service Fee to be charged. This is a convenience fee to equine owners who choose to have a brand inspector come to their residence to perform brand inspection duties on horses, mules, or asses. In lieu of the convenience fee, equine owners may transport their animals to a brand inspector's assigned duty post, livestock market or feedlot approved by the Idaho State Department of Agriculture for inspection. The Brand Board adopted temporary rule Docket No. 11-0201-1901 to comply with the amendments to 25-1160, Idaho Code, which become effective July 1, 2019. The negotiated rule codifies the Equine Farm Service Fee in IDAPA 11.02.01.034 and negotiates the schedule of fees to be charged as allowed under the cap set in Idaho Code 25-1160 for the Equine Farm Service Fee.

The proposed rule will also include a complete review for amendment of select sections in IDAPA 11.02.01 which are no longer relevant, outdated or duplicated to comply with [Executive Order No. 2019-02 – Red Tape Reduction Act](#).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Brand Board Management Assistant, Debbie Neider at (208) 884-7070 or by email at debbie.neider@isp.idaho.gov. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho State Brand Board web site at the following web address: <https://isp.idaho.gov/brands>

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 July 26, 2019.

Dated this 7th day of May, 2019.

Cody D. Burlile
State Brand Inspector
Idaho State Brand Board
700 S. Stratford Dr.
P.O. Box 1177
Meridian, ID 83680-1177
Phone: (208) 884-7070
Fax: (208) 884-7097

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.02.01 – RULES OF THE IDAHO TIME SENSITIVE EMERGENCY SYSTEM COUNCIL

DOCKET NO. 16-0201-1901

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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 56-1028, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

PUBLIC (LIVE) MEETING

Tuesday, July 9, 2019 - 10:15 a.m. (MDT)

**Time Sensitive Emergency System Council
Oxford Suites
1426 S Entertainment Avenue
Boise, ID 83709**

WebEx Information:

**Call-in number: 1-240-454-0879
Meeting Number: 809 865 705
Meeting Password: JQJ7HBwE (57574293 from phone)**

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may do any of the following:

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

Send to:
Idaho Department of Health & Welfare
Bureau of Emergency Medical Services & Preparedness
Attn: Melissa Ball
P.O. Box 83720
Boise, ID 83720-0036
e-mail: Melissa.Ball@dhw.idaho.gov

Hand Deliver to:
Bureau of EMS
2224 E. Old Penitentiary Rd.
Boise, ID 83712-8249
Attn: Melissa Ball

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The Department will be seeking public input on updates to the Time Sensitive Emergency System (TSE) Standards Manual, including TSE EMS designation criteria.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:

For assistance on technical questions concerning this negotiated rulemaking, please contact Melissa Ball at (208) 334-2124.

All written comments on the negotiated rules must be directed to the contact person specified above under “Method of Participation” and must be delivered on or before Friday, July 12, 2019.

Dated this 4th day of June, 2019.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500
Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.02.08 – VITAL STATISTICS RULES

DOCKET NO. 16-0208-1901

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 39-242, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2019.

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

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

This rule requires, as part of an application for a change of sex designation on a minor's birth certificate, an attestation from a medical or mental health professional confirming that the requested change of sex designation is the gender to which the minor identifies.

Requiring an attestation advances the public health, safety, and welfare of minors because it ensures the decision to amend the sex designation is informed and supported by independent professional judgment.

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

This temporary rule is justified because it promotes the protection of the public health, safety, and welfare of minors by ensuring the decision to amend the sex designation on a minor's birth certificate is informed and supported by independent professional judgment.

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

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

There will be no impact to state general funds. There will be a small cost to modify the current instruction packet and forms and upload them to the Bureau's website which will be covered with current receipts budgets.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this additional requirement is narrowly tailored to promote the veracity of the application within the specific legal framework.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Elke Shaw-Tulloch, (208) 334-5950.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2019.

Dated this 4th day of June, 2019.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720, Boise, ID 83720-0036
Phone: (208) 334-5500 / Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 16-0208-1901
(Only Those Sections With Amendments Are Shown.)**

201. COMPLETION AND CORRECTION OF CERTIFICATES.

01. Correction of Minor Errors on Certificates During the First Year. Except as otherwise provided in these rules, correction of obvious errors or transposition of letters in words of common knowledge, may be made by the State Registrar or an authorized agent within the first year after the date of the event either upon individual observation or query or upon request of any person with a direct and tangible interest as defined in IDAPA 16.05.01, "Use and Disclosure of Department Records," Subsections 011.01 and 011.03, or any person listed in Subsection 201.07.d. of these rules. The method of correction will be determined by the State Registrar, and is not subject to the requirements of Subsection 201.09 of these rules. When such minor corrections are made by the State Registrar, a notation as to the source of the information, together with the date the change was made and the initials of the authorized agent making the change must be made on the certificate in such a way as not to become a part of any certification issued. The certificate must not be marked as amended. (3-30-07)

02. Amendment of Registrant's Given Names or Surname on Birth Certificates Within the First Year. (12-26-83)

a. Until the registrant's first birthday, given names or surname may be amended upon written notarized request of: (11-20-87)

i. Both parents; (12-26-83)

ii. The mother in the case of a child born out of wedlock and the father's name is not shown on the certificate; (4-5-00)

iii. The father in the case of the death or incapacity of the mother; (12-26-83)

iv. The mother in the case of the death or incapacity of the father; or (12-26-83)

v. The legal guardian or agency having legal custody of the registrant. (12-26-83)

b. The certificate must be marked as amended. (3-30-07)

03. Amendment of Registrant's Given Name on Birth Certificate After the First Year. (12-26-83)

a. After one (1) year from the date of birth, the provisions of Subsection 201.07 of these rules must be followed to amend the given name if the name was entered in error at the time of the preparation of the birth certificate. (3-30-07)

b. In all other cases, a legal change of name order from a court of competent jurisdiction must be submitted to change a given name after one (1) year. (12-26-83)

04. Addition of Given Names on Birth Certificates. (12-26-83)

a. Until the registrant's seventh birthday, given names, for a child whose birth was recorded without given names, may be added to the certificate upon written notarized request of: (12-26-83)

i. Both parents; (12-26-83)

ii. The mother in the case of a child born out of wedlock and the father's name is not shown on the certificate; (4-5-00)

iii. The father in the case of the death or incapacity of the mother; (12-26-83)

iv. The mother in the case of the death or incapacity of the father; or (12-26-83)

v. The legal guardian or agency having legal custody of the registrant. (12-26-83)

b. The certificate shall be marked as amended. (12-26-83)

c. After the registrant's seventh birthday, the provisions of Subsection 201.07 of these rules must be followed to add a given name. (3-30-07)

05. Acknowledgment of Paternity. (12-26-83)

a. Subject to the provisions of Subsection 201.05.b. of these rules, a new certificate of birth will be prepared by the State Registrar for a child born out of wedlock in this state upon receipt of an affidavit of paternity signed by both parents and a written request by both parents. The child's surname will be changed on the certificate to that of the father if both parents so request. (3-30-07)

b. If another man is shown as the father of the child on the original certificate, a new certificate may be prepared only when a determination of paternity is made by a court of competent jurisdiction, or following adoption. (12-26-83)

c. The certificate must not be marked as amended. (3-30-07)

06. Amendment of Indicator of Gender. (4-11-19)

a. The State Registrar must issue an amended Idaho certificate of live birth for the change of the indicator of sex upon receipt of the following: (4-11-19)

i. For a registrant eighteen (18) years of age and older, a completed and notarized application on a form approved by the State Registrar that includes the following information: (4-11-19)

(1) The identity of the applicant; (4-11-19)

(2) The Idaho certificate of live birth to be amended; (4-11-19)

(3) A declaration that the registrant's indicator of sex on the Idaho certificate of live birth does not match the registrant's gender identity; and (4-11-19)

(4) The gender indicator as it should appear on the amended certificate of live birth. (4-11-19)

ii. For a registrant under the age of eighteen (18), a completed and notarized application on a form approved by the State Registrar that includes the following information: (4-11-19)

- (1) The identity of the applicant; (4-11-19)
 - (2) The Idaho certificate of live birth to be amended; (4-11-19)
 - (3) A declaration that the registrant's indicator of sex on the Idaho certificate of live birth does not match the registrant's gender identity; (4-11-19)
 - (4) The gender indicator as it should appear on the amended certificate of live birth; ~~and~~ (7-1-19)T
 - (5) The consent of all parents listed on the certificate of live birth or the consent of the registrant's legal guardian. If a parent is deceased, a copy of the death certificate must be submitted with the application. If a parent cannot be located, the applicant must also submit a certified copy of an order from an Idaho court of competent jurisdiction ordering that the consent of only one (1) parent is required; ~~and~~ (7-1-19)T
 - (6) A signed form from one (1) of the following licensed professionals: physician (medical or osteopathic), psychiatrist, nurse practitioner, physician's assistant, psychologist, or professional counselor stating that in their professional judgment the requested change of sex designation accurately reflects the gender to which the registrant identifies. (7-1-19)T
- b.** The amended certificate of live birth issued under this rule must not be marked amended, must not refer to the original certificate of live birth sex, and must show the amended gender as requested. The certificate of live birth being amended, application, signed form from one (1) of the following licensed professionals: physician (medical or osteopathic), psychiatrist, nurse practitioner, physician's assistant, psychologist, or professional counselor for registrants under the age of eighteen (18), and court order if required, must be placed in a sealed file which may only be opened by an order from an Idaho court of competent jurisdiction. (7-1-19)T
- c.** A one-time name change made under an amendment of sex on the certificate of live birth, whether made prior to, at the time of, or subsequent to a change of indicator of gender on a certificate of live birth must not be marked amended and must not refer to the original birth certificate name or indicator of sex. Any additional name changes are governed by Subsections 201.08 and 201.09 of this rule. (4-11-19)
- 07. All Other Amendments.** Unless otherwise provided in these rules or in Section 39-250, Idaho Code, all other amendments to vital records must be supported by: (3-30-07)
- a.** An affidavit setting forth: (12-26-83)
 - i. Information to identify the certificate; (12-26-83)
 - ii. The incorrect data as it is listed on the certificate; and (3-30-07)
 - iii. The correct data as it should appear. (12-26-83)
 - b.** If one (1) year has elapsed since the date the event occurred, one (1) or more items of documentary evidence which support the alleged facts and which were established at least five (5) years prior to the date of application for amendment or within seven (7) years of the date of the event. (12-26-83)
 - c.** Any item of a medical nature can be amended only upon receipt of an affidavit from the person certifying such item, except that queries originating in the vital statistics office and subsequently completed and signed by the certifier may be used to complete or modify the reported cause of death. The State Registrar may require documentary evidence to substantiate the requested amendment. (3-30-07)
 - d.** Applications to amend a specific vital record will be accepted as follows: (12-26-83)
 - i. An application to amend a birth certificate may only be made by one (1) or both of the parents, the legal guardian, the registrant if eighteen (18) years of age or older, or the individual responsible for filing the certificate. (12-26-83)

ii. An application to amend a death certificate may only be made by the informant, the next of kin, the funeral director or person acting as such who signed the death certificate, or the certifying physician or coroner. (12-26-83)

iii. An application to amend a stillbirth certificate may only be made by a person listed in Subsections 201.07.d.i. or 201.07.d.ii. of these rules. (3-30-07)

iv. An application to amend a marriage or divorce certificate may only be made by the custodian of the official record from which the certificate was prepared, either of the parties to the marriage or divorce, or the individual responsible for filing the certificate. (12-26-83)

e. The State Registrar will evaluate the evidence submitted in support of any amendment, or require additional documentation. The State Registrar's decision and determination will be based upon serving the objectives of the vital statistics statutes and the best interests of the public. In the event the application is rejected or additional information is required, the State Registrar must advise the applicant of the reason for the action and the right to appeal pursuant to Section 39-250(5), Idaho Code. (3-30-07)

08. Amendment of the Same Item More Than Once. Once an item is amended on a vital record, that item can not be amended again except upon receipt of a court order from an Idaho court of competent jurisdiction. (3-30-07)

09. Methods of Amending Certificates. (12-26-83)

a. Certificates of birth, death, stillbirth, marriage, and divorce may only be amended by the State Registrar as follows: (12-26-83)

i. Preparing a new certificate showing the correct information when the State Registrar deems that the nature of the amendment so requires. The new certificate may be prepared on the form used for registering current events at the time of amendment. Except as provided elsewhere in these rules, the item number of the entry that was amended must be identified on the new certificate. In every case, except as provided elsewhere in these rules or the Idaho Code, the new certificate must show the date the amendment was made and be given the same state file number as the existing certificate. Signatures appearing on the existing certificate must be typed on the new certificate. (3-30-07)

ii. Completing the item in any case where the item was left blank on the existing certificate. (12-26-83)

iii. Drawing a single line through the item to be amended and inserting the correct data immediately above or to the side. The line drawn through the original entry must not obliterate such entry. (3-30-07)

iv. A certificate of birth amended in accordance with the provisions of Section 39-250(4), Idaho Code, must be amended as prescribed in Subsection 201.09.a.iii. of these rules. The fact that the name was changed in accordance with a court order must be stated on the certificate. (3-30-07)

b. Unless prohibited by statute or rule, there must be inserted on the face of the certificate the date the amendment was made and the initials of the person making the change; the certificate must be marked as amended. (3-30-07)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.09 – MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1803

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2019.

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

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

PUBLIC HEARING (IN PERSON)	
Wednesday, July 17, 2019 9:30 - 11:30a.m. (MDT)	
3232 Elder Street Conference Rm. D East & D West Boise, ID 83705	
VIA VIDEO CONFERENCE	
Wednesday, July 17, 2019	
COEUR D’ALENE 8:30 - 10:30 a.m. (PDT)	POCATELLO 9:30 - 11:30 a.m. (MDT)
1120 Ironwood Large Conference Rm. Coeur d’Alene, ID 83814	1070 Hiline Conference Rm. 230 Pocatello, ID 83201

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

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

These changes will comply with a federal mandate. Children's intervention services currently offered under federal Home and Community-Based waiver authorities will be moved into the State Plan to allow access to these intervention services for all eligible children who have a medically necessary need and functional and/or behavioral need for such services. Rules regarding children's state plan services (school-based services) are set forth in IDAPA 16.03.09 and rules regarding Home and Community-Based Services (HCBS) 1915(c) waiver and 1915(i) (state plan option benefits) are set forth in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits. To change children's intervention services from waiver to state plan, the descriptions of the following services will be moved from IDAPA 16.03.10 to IDAPA 16.03.09 under the heading "Children's Habilitation Intervention Services":

The existing intervention service of Habilitative Intervention is being divided into two separate services to capture skill training interventions and therapeutic-type behavioral interventions. The Family-directed Services in the Children's Developmental Disability Services 1915(c) waiver are also contained in the 1915(i) Extended State Plan authority. Even though the 1915(c) will expire in June of this year, the Family-directed Services will remain in IDAPA 16.03.10. under the 1915(i) benefit authority. The support services in this rule are Respite, Habilitative Supports, Family Education and Family-Directed Community Supports. This group of services will be re-titled "Children's Developmental Disabilities (DD) Home and Community-Based Services (HCBS) State Plan Option."

Because these rule changes move intervention services into the State Plan, all Medicaid-eligible children with an identified need may access services, therefore a cost increase is anticipated. However, by providing intervention services to children in need at an earlier age, more costly intervention may be avoided as the child ages. Additionally, these rule changes add language to establish a tiered provider structure allowing for providers, with higher credentials than those currently allowed in rule, to deliver these services. These changes will add a higher reimbursement rate for these higher credentialed providers resulting in an increase to the overall cost of providing these services. Again, higher quality services provided to children may cause a reduction in need for more intensive services as the child ages.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, Compliance with deadlines in amendments to governing law or federal programs; and (c), Confers a benefit, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The Centers for Medicare & Medicaid Services (CMS) Informational Bulletin dated July 7, 2014, directed States to move intervention services for children with Autism under one (1) of the Medicaid State Plan 1905(a) benefit categories to continue to receive Federal Financial Participation (FFP). Currently, intervention services for children with autism and other developmental disabilities in Idaho are offered under 1915(c) waiver authorities. This rule change is necessary to comply with federal requirements to ensure federal funding match for services provided to participants and ensure benefits are available to eligible children. The existing 1915(c) waivers (Children's DD and Act Early) are set to expire on June 30, 2019, which require the State to either renew the waivers or move the services into the State plan to be able to continue to offer intervention services after this date to children with developmental limitations. CMS has indicated they will not approve waiver renewal amendments that are not compliant with the federal requirements. The 2019 Legislature approved funding to support the program benefit changes described.

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

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

These rule changes will result in a total additional cost of \$2,860,000 (\$820,800 General Funds and \$2,039,200 Federal Funds). Additional costs will support an increase in rates paid to providers with higher credentials than the program currently pays to existing providers. An increase in costs will also result from moving these services to the State Plan, which will allow all eligible children with an established need for children's habilitation intervention services to access these services. Analysis of this cost increase was requested in Medicaid's 2019 Budget under Budget Bill JGT008 and approved for funding by the 2019 Legislature.

Based on the Rough Order of Magnitude (ROM) requested through Medicaid Management Information System (MMIS), the changes required in the payment system will not involve any additional expenditures outside of Molina's existing contract scope of work.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 4, 2018, Idaho Administrative Bulletin, [Vol. 18-7, pages 100-102](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Angie Williams, (208) 287-1169.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2019.

Dated this 4th day of June, 2019.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500
Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 16-0309-1803
(Only Those Sections With Amendments Are Shown.)**

399. COVERED SERVICES UNDER BASIC PLAN BENEFITS.

Individuals who are eligible for Medicaid Basic Plan Benefits are eligible for the following benefits, subject to the coverage limitations contained in these rules. Those individuals eligible for services under IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” are also eligible for the services covered under this chapter of rules, unless specifically exempted. (5-8-09)

01. Hospital Services. The range of hospital services covered is described in Sections 400 through 449 of these rules. (5-8-09)

- a.** Inpatient Hospital Services are described in Sections 400 through 406. (3-30-07)
- b.** Outpatient Hospital Services are described in Sections 410 through 416. (3-30-07)
- c.** Reconstructive Surgery services are described in Sections 420 through 426. (3-30-07)
- d.** Surgical procedures for weight loss are described in Sections 430 through 436. (3-30-07)
- e.** Investigational procedures or treatments are described in Sections 440 through 446. (3-30-07)

02. Ambulatory Surgical Centers. Ambulatory Surgical Center services are described in Sections 450 through 499 of these rules. (5-8-09)

03. Physician Services and Abortion Procedures. Physician services and abortion procedures are described in Sections 500 through 519 of these rules. (5-8-09)

- a.** Physician services are described in Sections 500 through 506. (3-30-07)
- b.** Abortion procedures are described in Sections 510 through 516. (3-30-07)

04. Other Practitioner Services. Other practitioner services are described in Sections 520 through 559 of these rules. (5-8-09)

- a.** Non-physician practitioner services are described in Sections 520 through 526. (7-1-17)
- b.** Chiropractic services are described in Sections 530 through 536. (3-30-07)
- c.** Podiatrist services are described in Sections 540 through 545. (3-29-12)

- d. Licensed midwife (LM) services are described in Sections 546 through 552. (3-29-12)
- e. Optometrist services are described in Sections 553 through 556. (3-29-12)
- 05. Primary Care Case Management.** Primary care case management services are described in Sections 560 through 579 of these rules. (5-8-09)
- a. Healthy Connections services are described in Sections 560 through 566. (4-4-13)
- 06. Prevention Services.** The range of prevention services covered is described in Sections ~~5870~~
through 649 of these rules. ~~(4-4-13)~~(7-1-19)T
- ~~a.~~ Children's habilitation intervention services are described in Sections 570 through 577. (7-1-19)T
- ~~b.~~ Child Wellness Services are described in Sections 580 through 586. (3-30-07)
- ~~b.c.~~ Adult Physical Services are described in Sections 590 through 596. (3-30-07)
- ~~d.~~ Screening mammography services are described in Sections 600 through 606. (3-30-07)
- ~~e.~~ Diagnostic Screening Clinic services are described in Sections 610 through 614. (4-4-13)
- ~~f.~~ Additional Assessment and Evaluation services are described in Section 615. (4-4-13)
- ~~g.~~ Health Questionnaire Assessment is described in Section 618. (4-4-13)
- ~~h.~~ Preventive Health Assistance benefits are described in Sections 620 through 626. (5-8-09)
- ~~i.~~ Nutritional services are described in Sections 630 through 636. (3-30-07)
- ~~j.~~ Diabetes Education and Training services are described in Sections 640 through 646. (3-30-07)
- 07. Laboratory and Radiology Services.** Laboratory and radiology services are described in Sections 650 through 659 of these rules. (5-8-09)
- 08. Prescription Drugs.** Prescription drug services are described in Sections 660 through 679 of these rules. (5-8-09)
- 09. Family Planning.** Family planning services are described in Sections 680 through 689 of these rules. (5-8-09)
- 10. Outpatient Behavioral Health Services.** Community-based outpatient services for behavioral health treatment are described in Sections 707 through 711 of these rules. (3-20-14)
- 11. Inpatient Psychiatric Hospital Services.** Inpatient Psychiatric Hospital services are described in Sections 700 through 706. (3-20-14)
- 12. Home Health Services.** Home health services are described in Sections 720 through 729 of these rules. (5-8-09)
- 13. Therapy Services.** Occupational therapy, physical therapy, and speech-language pathology services are described in Sections 730 through 739 of these rules. (5-8-09)
- 14. Audiology Services.** Audiology services are described in Sections 740 through 749 of these rules. (5-8-09)
- 15. Durable Medical Equipment and Supplies.** The range of covered durable medical equipment and

- supplies is described in Sections 750 through 779 of these rules. (5-8-09)
- a. Durable Medical Equipment and supplies are described in Sections 750 through 756. (3-30-07)
 - b. Oxygen and related equipment and supplies are described in Sections 760 through 766. (3-30-07)
 - c. Prosthetic and orthotic services are described in Sections 770 through 776. (3-30-07)
16. **Vision Services.** Vision services are described in Sections 780 through 789 of these rules. (5-8-09)
17. **Dental Services.** The dental services covered by Medicaid are covered under a selective contract as described in Section 800 through 819 of these rules. (4-11-19)
18. **Essential Providers.** The range of covered essential services is described in Sections 820 through 859 of these rules. (5-8-09)
- a. Rural health clinic services are described in Sections 820 through 826. (3-30-07)
 - b. Federally Qualified Health Center services are described in Sections 830 through 836. (3-30-07)
 - c. Indian Health Services Clinic services are described in Sections 840 through 846. (3-30-07)
 - d. School-Based services are described in Sections 850 through 857. (3-20-14)
19. **Transportation.** The range of covered transportation services is described in Sections 860 through 879 of these rules. (5-8-09)
- a. Emergency transportation services are described in Sections 860 through 866. (3-30-07)
 - b. Non-emergency medical transportation services are described in Sections 870 through 876. (4-4-13)
20. **EPSDT Services.** EPSDT services are described in Sections 880 through 889 of these rules. (5-8-09)
21. **Specific Pregnancy-Related Services.** Specific pregnancy-related services are described in Sections 890 through 899 of these rules. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

567. -- ~~576~~9. (RESERVED)

**SUB AREA: PREVENTION SERVICES
(Sections ~~587~~0 - 649)**

570. CHILDREN'S HABILITATION INTERVENTION SERVICES.
Children's habilitation intervention services are medically necessary, evidence-informed or evidence-based therapeutic techniques based on applied behavior analysis principles used to result in positive outcomes. These intervention services are delivered directly to Medicaid-eligible participants with identified developmental limitations that impact the participant's functional skills and behaviors across an array of developmental domains. Case Management is an available option to assist participants accessing children's habilitation intervention services by the Department as described in the Medicaid Provider Handbook. (7-1-19)T

571. CHILDREN'S HABILITATION INTERVENTION SERVICES: DEFINITIONS.

- 01. Annual.** Every three hundred sixty-five (365), days except during a leap year which equals three hundred sixty-six (366) days. (7-1-19)T
- 02. Assessment and Clinical Treatment Plan.** A comprehensive assessment that guides the formation of the treatment plan that includes developmentally appropriate objectives and strategies related to identified goals. (7-1-19)T
- 03. Aversive Intervention.** Uses unpleasant physical or sensory stimuli in an attempt to reduce undesired behavior. The stimuli usually cannot be avoided, is pain inducing, or both. (7-1-19)T
- 04. Baseline.** A participant's skill level prior to receiving intervention that is written in measurable terms that identify their functional, behavioral status or both. (7-1-19)T
- 05. Community.** Natural, integrated environments outside the participant's home, school, or DDA center-based settings. (7-1-19)T
- 06. Developmental Disabilities Agency (DDA).** A DDA is an agency that is: (7-1-19)T
- a.** A type of developmental disabilities facility, as defined in Section 39-4604, Idaho Code, that is non-residential and provides services on an outpatient basis; (7-1-19)T
- b.** Certified by the Department to provide services to participants with developmental disabilities; and (7-1-19)T
- c.** A business entity, open for business to the general public. (7-1-19)T
- 07. Duplication of Services.** Services are considered duplicate when: (7-1-19)T
- a.** Goals are not separate and unique to each service provided; or (7-1-19)T
- b.** When more than one (1) service is provided at the same time, unless otherwise authorized. (7-1-19)T
- 08. Evidence-Based Interventions.** Interventions that have been scientifically researched and reviewed in peer-reviewed journals, replicated successfully by multiple independent investigators, have been shown to produce measurable and substantiated beneficial outcomes, and are delivered with fidelity by certified or credentialed individuals trained in the evidence-based model. (7-1-19)T
- 09. Evidence-Informed Interventions.** Interventions that use elements or components of evidence-based techniques and are delivered by a qualified individual, but are not certified or credentialed in an evidence-based model. (7-1-19)T
- 10. Human Services Field.** A diverse field that is focused on improving the quality of life for participants. Areas of academic study include, but are not limited to, sociology, special education, counseling, and psychology or other areas of academic study as referenced in the Medicaid Provider Handbook. (7-1-19)T
- 11. Intervention Services.** Intervention services include outcome-based therapeutic services, and crisis assistance for eligible participants. Intervention services include assessment and teaching and coordinating methods of training with family members or others caring for the eligible participant. (7-1-19)T
- 12. Objective.** A behavioral outcome statement developed to address a need identified for a participant. An objective is written in measurable terms and includes criteria for successful achievement. (7-1-19)T
- 13. Practitioner of the Healing Arts, Licensed.** Advanced practice registered nurse, nurse practitioner, or physician assistant. (7-1-19)T

14. Restrictive Intervention. Any intervention that is used to restrict the rights or freedom of movement of a person and includes chemical restraint, mechanical restraint, physical restraint, and seclusion. (7-1-19)T

15. Telehealth. Telehealth is an electronic real-time synchronized audio-visual contact between a qualified professional and participant for the purpose of treatment. The professional and participant interact as if they were having a face-to-face service. Telehealth services must be delivered in accordance with the Idaho Medicaid Telehealth Policy at <https://healthandwelfare.idaho.gov/Portals/0/Providers/Medicaid/TelehealthPolicy.pdf>. (7-1-19)T

16. Treatment Fidelity. The consistent and accurate implementation of children's habilitation services accordance with the modality, manual, protocol or model. (7-1-19)T

572. CHILDREN'S HABILITATION INTERVENTION SERVICES: ELIGIBILITY REQUIREMENTS.

01. Medicaid Eligibility. Participants must be eligible for Medicaid and the service for which the children's habilitation intervention services provider is seeking reimbursement. (7-1-19)T

02. Age of Participants. Children's habilitation intervention services are available to participants from birth through the month of their twenty-first birthday. (7-1-19)T

03. Eligibility Determination. Participants eligible to receive children's habilitation intervention services must have a demonstrated functional need or a combination of functional and behavioral needs that require intervention services, or requires intervention to correct or ameliorate their condition in accordance with Section 880 of these rules. A functional or behavioral need is determined by the Department approved screening tool when a deficit is identified in three (3) or more of the following areas: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, economic self-sufficiency, or maladaptive behavior. A deficit is defined as one-point-five (1.5) or more standard deviations below the mean for functional areas or above the mean for maladaptive behavior. (7-1-19)T

573. CHILDREN'S HABILITATION INTERVENTION SERVICES: COVERAGE AND LIMITATIONS.

01. Excluded for Medicaid Payment. For the children's habilitation intervention services, the following are excluded for Medicaid payment: (7-1-19)T

- i. Vocational services; (7-1-19)T
- ii. Educational services; and (7-1-19)T
- iii. Recreational services. (7-1-19)T

02. Service Delivery. The children's habilitation intervention services allowed under the Medicaid state plan authority include evaluations, diagnostic and therapeutic treatment services provided on an outpatient basis. These services help improve individualized functional skills, develop replacement behaviors, and promote self-sufficiency of the participant. Children's habilitation intervention services may be delivered in the community, the participant's home, or in a DDA in accordance with the requirements of this chapter. Duplication of services is not reimbursable. (7-1-19)T

03. Required Recommendation. Children's habilitation intervention services must be recommended by a physician or other practitioner of the healing arts within his or her scope of practice, under state law. (7-1-19)T

a. The children's habilitation intervention services provider may not seek reimbursement for services provided more than thirty (30) calendar days prior to the signed and dated recommendation. (7-1-19)T

b. The recommendation must be current within three hundred sixty-five (365) calendar days. If the participant has not accessed children's habilitation intervention services for more than three hundred sixty-five (365)

calendar days, then and new recommendation must be completed. (7-1-19)T

04. Required Screening. Needs are determined through the current version of the Vineland Adaptive Behavior Scales or other Department-approved screening tools that are conducted by the family's chosen children's habilitation intervention services provider, the Department, or its designee, and are administered in accordance with the protocol of the tool. The screening must be completed prior to implementation of any service and the following apply: (7-1-19)T

a. If a screening tool has been completed within the last three hundred sixty-five (365) calendar days by the Department, or its designee, an additional screening is not required. (7-1-19)T

b. If the participant has a current eligibility assessment and has been determined eligible, a new screening tool is not required. (7-1-19)T

c. If the participant has not accessed children's habilitation intervention services for more than three hundred sixty-five (365) calendar days, a new screening must be completed. (7-1-19)T

d. The screening cannot be billed more than once unless an additional screening is required in accordance with guidelines as outlined in the Medicaid Provider Handbook. (7-1-19)T

05. Services. All children's habilitation intervention services recommended on a participant's Assessment and Clinical Treatment Plan must be prior authorized by the Department, or its contractor. The following children's habilitation intervention services are available for eligible participants and are reimbursable services when provided in accordance with these rules: (7-1-19)T

a. Habilitative Skill. This direct intervention service includes techniques used to develop, improve, and maintain, to the maximum extent possible, the developmentally appropriate functional abilities and daily living skills needed by a participant. This service may include teaching and coordinating methods of training with family members or others who regularly participate in caring for the eligible participant. Services include participant or group interventions. (7-1-19)T

i. Group services must be provided by one (1) qualified staff providing direct services for two (2) or three (3) participants. (7-1-19)T

ii. As the number and needs of the participants increase, the staff-to-participant ratio must be adjusted accordingly. (7-1-19)T

iii. Group services will only be reimbursed when the participant's objectives relate to benefiting from group interaction. (7-1-19)T

b. Behavioral Intervention. This service utilizes direct intervention techniques used to produce positive meaningful changes in behavior that incorporate functional replacement behaviors and reinforcement-based strategies while also addressing any identified habilitative skill needs. These services are provided to participants who exhibit interfering behaviors that impact the independence or abilities of the participant, such as impaired social skills and communication or destructive behaviors. Intervention services may include teaching and coordinating methods of training with family members or others who regularly participate in caring for the eligible participant. Evidence-based or evidence-informed practices are used to promote positive behaviors and learning while reducing interfering behaviors and developing behavioral self-regulation. Services include participant or group Behavioral Intervention. (7-1-19)T

i. Group services must be provided by one (1) qualified staff providing direct services for two (2) or three (3) participants. (7-1-19)T

ii. As the number and severity of the participants with behavioral issues increases, the staff-to-participant ratio must be adjusted accordingly. (7-1-19)T

iii. Group services should only be delivered when the participant's objectives relate to benefiting from

group interaction. (7-1-19)T

c. Interdisciplinary Training. This is a companion service to behavioral intervention and habilitative skill and is used to assist with implementing a participant's health and medication monitoring, positioning and physical transferring, use of assistive equipment, and intervention techniques in a manner that meets the participant's needs. This service is to be utilized for collaboration, with the participant present, during the provision of services between the intervention specialist or professional and a Speech Language and Hearing Professional (SLP), Physical Therapist (PT), Occupational Therapist (OT), medical professional, behavioral or mental health professional.

(7-1-19)T

d. Crisis Intervention. This service may include providing training to staff directly involved with the participant, delivering emergency backup intervention directly with the eligible participant, and developing a crisis plan that directly addresses the behavior occurring and the necessary intervention strategies to minimize the behavior and future occurrences. Emergency backup crisis is defined as decreasing an interfering behavior or increasing a skill to reduce further crisis. This service may provide training and staff development related to the needs of a participant.

(7-1-19)T

i. Crisis intervention is available for participants who have an unanticipated event, circumstance, or life situation that places a participant at risk of at least one (1) of the following:

(7-1-19)T

(1) Hospitalization; (7-1-19)T

(2) Out of home placement; (7-1-19)T

(3) Incarceration; or (7-1-19)T

(4) Physical harm to self or others, including a family altercation or psychiatric relapse. (7-1-19)T

ii. Children's crisis intervention services: (7-1-19)T

(1) Are provided in the home and community. (7-1-19)T

(2) Are provided on a short-term basis typically not to exceed thirty (30) days. (7-1-19)T

(3) Must use positive behavior interventions prior to, and in conjunction with, the implementation of any restrictive intervention. (7-1-19)T

e. Assessment and Clinical Treatment Plan (ACTP). Using the information obtained from the required screening tool, the qualified provider conducts an assessment to evaluate the participant's strengths, needs, and functional abilities across environments. This process guides the development of intervention strategies and recommendations for services related to the participant's identified needs. The ACTP must be monitored and adjusted to reflect the current needs of the participant. The children's habilitation intervention services provider must document that a copy of the ACTP was offered to the participant's parent or legal guardian. The ACTP must be completed on a Department approved form as referenced in the Medicaid Provider Handbook and contain the following minimum standards:

(7-1-19)T

i. Clinical interview(s) must be completed with the parent or legal guardian; (7-1-19)T

ii. Administer or obtain a current, objective, and validated comprehensive skills assessment, or comprehensive developmental assessment approved by the Department; (7-1-19)T

iii. Review of assessments, reports, and relevant history; (7-1-19)T

iv. Observations in at least one (1) environment; (7-1-19)T

v. A reinforcement inventory or preference assessment; (7-1-19)T

- vi. A transition plan; and (7-1-19)T
- vii. Be signed by the individual completing the assessment and the parent or legal guardian. (7-1-19)T

574. CHILDREN'S HABILITATION INTERVENTION SERVICES: PROCEDURAL REQUIREMENTS.

All children's habilitation intervention services identified on a participant's assessment and clinical treatment plan must be prior authorized by the Department, or its contractor, and must be maintained in each participant's file. The children's habilitation intervention provider is responsible for documenting and submitting the participant's assessment and clinical treatment plan to obtain prior authorization before delivering any children's habilitation intervention services. (7-1-19)T

01. Prior Authorization Request. The request must be submitted to the Department, or its contractor, who will review and approve or deny prior authorization requests and notify the provider and the parent or legal guardian of the decision. Prior authorization is intended to help ensure the provision of medically necessary services and will be approved according to the timeframes established by the Department and as described in the Medicaid Provider Handbook. (7-1-19)T

a. Once the initial request for prior authorization is submitted, children's habilitation intervention services may be delivered for a maximum of twenty-four (24) total hours for up to thirty (30) calendar days or until the prior authorization is approved. Initial prior authorization requests must include: (7-1-19)T

- i. The Service Eligibility Determination Form; (7-1-19)T
- ii. A recommendation from a physician or other practitioner of the healing arts; (7-1-19)T
- iii. The assessment and clinical treatment plan; and (7-1-19)T
- iv. Implementation plan(s). (7-1-19)T

b. Ongoing prior authorization requests must include: (7-1-19)T

- i. A list of the participant's objectives; (7-1-19)T
- ii. Graphs showing change lines; (7-1-19)T
- iii. A brief analysis of data regarding progress or lack of progress to meeting each objective; (7-1-19)T
- iv. A list of all children's habilitation intervention services, hours being requested, and the qualification of the individual(s) who will provide them; (7-1-19)T

v. Request for the annual ACTP, if applicable; (7-1-19)T

vi. New implementation plans; (7-1-19)T

vii. An updated annual assessment and clinical treatment plan; and (7-1-19)T

viii. An annual written summary with an analysis of data regarding the participant's progress or lack of progress, justification for any changes made to implementation of programming for new objectives, discontinuation of objectives, if applicable, and a summary of parent(s) or caregiver(s) response to teaching of coordinated methods. (7-1-19)T

c. The following services do not need to be prior authorized: (7-1-19)T

- i. The initial assessment and clinical treatment plan; and (7-1-19)T
- ii. Authorization for crisis intervention may be requested retroactively as a result of a crisis, when no

other means of support is available to the participant. In retroactive authorizations, the crisis intervention provider must submit a request for crisis intervention to the Department, or its contractor, within seventy-two (72) hours of the service initiation. (7-1-19)T

02. Implementation Plan(s). Using the information from the assessment and clinical treatment plan, the qualified provider will create implementation plans to provide details on how intervention will be implemented. All implementation plan objectives must be related to a need identified on the assessment and clinical treatment plan. The implementation plan(s) must include the following requirements: (7-1-19)T

- a.** Participant's name; (7-1-19)T
- b.** Measurable, behaviorally-stated objectives, a baseline statement; target date for completion; (7-1-19)T
- c.** Identification of the type of environment(s) and community location(s) where objectives will be implemented; (7-1-19)T
- d.** Precursor behaviors for participants receiving behavioral intervention; (7-1-19)T
- e.** Description of the treatment modality to be utilized; (7-1-19)T
- f.** Discriminative stimulus or direction; (7-1-19)T
- g.** Targets, steps, task analysis or prompt level; (7-1-19)T
- h.** Correction procedure; (7-1-19)T
- i.** Data collection; (7-1-19)T
- j.** Reinforcement, including type and frequency; (7-1-19)T
- k.** A plan for generalization and a plan for family training; (7-1-19)T
- l.** A behavior response plan for participants receiving behavioral intervention; (7-1-19)T
- m.** Any restrictive or aversive interventions being implemented and the documentation of review and approval by a licensed individual working within the scope of their practice; and (7-1-19)T
- n.** A signature of the qualified provider who completed the document(s), as indicated by signature, credential, date, and must document that a copy of the participant's implementation plan(s) was offered to the participant's parent or legal guardian. (7-1-19)T

03. Requirements for Program Documentation. Providers must maintain records for each participant served. Failure to maintain such documentation may result in the recoupment of funds paid for undocumented services. For each participant, the following program documentation is required for each visit made or service provided to the participant, including at a minimum the following information: (7-1-19)T

- a.** Date and time of visit; (7-1-19)T
- b.** Documentation of service provided including a statement of the participant's response to the service including any changes in his or her condition, and if interdisciplinary training is provided documentation must include who the service was delivered to and the content covered; (7-1-19)T
- c.** Data documentation that corresponds to the implementation plans; (7-1-19)T
- d.** Length of visit, including time in and time out; (7-1-19)T

- e. Location of service delivery; and (7-1-19)T
- f. Signature of the individual providing the service, date signed, and credential. (7-1-19)T

04. Supervision. Supervision includes both face-to-face observation and direction to the staff regarding developmental and behavioral techniques, progress measurement, data collection, function of behaviors, and generalization of acquired skills for a participant. Supervision is provided to ensure staff demonstrate the necessary skills to correctly provide the services as defined in this rule and informs of any modification needed to the methods implemented to support the accomplishment of outcomes identified in the Assessment and Clinical Treatment Plan. Supervision must be provided in accordance with the requirements of the evidence-based model or in accordance with each individual provider qualification. Supervision is required for the provider qualifications as defined in Sections 575.01 through 575.06 of this rule. Intervention Specialists providing services to children birth to three (3) years old must be supervised by an Intervention Specialist or Intervention Professional who also meets the birth to three (3) years old requirements. (7-1-19)T

575. CHILDREN'S HABILITATION INTERVENTION SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

Children's habilitation intervention services are delivered by individuals who meet one (1) of the qualifying criteria below in Subsections 575.01 through 575.07 of this rule, and are employed by a certified DDA, or who meet the criteria as defined in Subsection 575.08 of this rule and is enrolled as an independent children's habilitation intervention services provider. All providers of children's habilitation intervention services must meet the continuing training requirements in Subsection 575.09 of this rule. (7-1-19)T

01. Crisis Intervention Technician. A crisis intervention technician can only deliver emergency backup crisis intervention directly with the eligible participant and must meet the qualifications of a community-based supports staff as defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 526. This technician must be under the supervision of a specialist or professional who is observing and reviewing the direct crisis intervention services performed. This must occur on a monthly basis, or more often as necessary, to ensure the technician demonstrates the necessary skills to correctly provide the crisis intervention service. (7-1-19)T

02. Habilitative Skill Technician. This type of provider can deliver habilitative skill and emergency backup crisis intervention. This is a provisional position intended to allow an individual to gain the necessary degree or experience needed to qualify as an intervention specialist. They must be an employee of a DDA or school and be under the supervision of a specialist or professional who is observing and reviewing the direct services performed by the habilitative skill technician. Supervision must occur on a monthly basis, or more often as necessary, to ensure the habilitative skill technician demonstrates the necessary skills to correctly provide the habilitative skill service. Provisional status is limited to a single eighteen (18) successive month period. The qualifications for this type of provider can be met by one (1) of the following: (7-1-19)T

a. An individual who is currently enrolled and is within fifteen (15) semester credits, or equivalent, to complete their bachelor's degree from an accredited institution in a human services field; or (7-1-19)T

b. An individual who holds a bachelor's degree in a human services field from an accredited institution. (7-1-19)T

03. Intervention Specialist. This type of provider can deliver all types of children's habilitation intervention services, complete assessments and implementation plans, and must be under the supervision of a specialist or professional who is observing and reviewing the direct children's habilitation intervention services performed. Supervision must occur on a monthly basis, or more often as necessary, to ensure the intervention specialist demonstrates the necessary skills to correctly provide the service. An intervention specialist who will complete assessments or supervise an individual completing assessments must have a minimum of ten (10) hours of documented training and five (5) hours of supervised experience in completing comprehensive assessments and implementation plans for participants with functional or behavioral needs. The qualifications for this type of provider can be met by one (1) of the following: (7-1-19)T

a. An individual who holds a current Habilitative Intervention Certificate of Completion (HI COC) in Idaho prior to July 1, 2019, will be allowed to continue providing services as an intervention specialist as long as

there is not a gap of more than three (3) successive years of employment as an intervention specialist; or (7-1-19)T

b. An individual who holds a bachelor's degree from an accredited institution in a human services field or a has a bachelor's degree and a minimum of twenty-four (24) semester credits, or equivalent, in a human services field; and (7-1-19)T

i. Can demonstrate one thousand forty (1,040) hours of supervised experience working with participants birth to twenty-one (21) years of age who demonstrate functional or behavioral needs; and (7-1-19)T

ii. Meets the competency requirements by completing one (1) of the following: (7-1-19)T

(1) A Department-approved competency checklist referenced in the Medicaid Provider Handbook; or (7-1-19)T

(2) A minimum of forty (40) hours of applied behavior analysis training delivered by an individual who is certified or credentialed to provide the training; or (7-1-19)T

(3) Other Department-approved competencies as defined in the Medicaid Provider Handbook. (7-1-19)T

c. An individual who provides services to children birth to three (3) years of age must also demonstrate a minimum of two hundred forty (240) hours of professionally supervised experience providing assessment or evaluation, curriculum development, and service provision in the areas of communication, cognition, motor, adaptive (self-help), and social-emotional development with infants and toddlers birth to five (5) years of age with developmental delays or disabilities. Experience must be through paid employment or university internship or practicum experience and may be documented within the supervised experience listed in Subsection 575.02.b.i. of this rule, and have one (1) of the following: (7-1-19)T

i. An elementary education certificate or special education certificate with an endorsement in early childhood special education; or (7-1-19)T

ii. A blended Early Childhood or Early Childhood Special Education (EC or ECSE) certificate; or (7-1-19)T

iii. A bachelor's or master's degree in special education, elementary education, speech-language pathology, early childhood education, physical therapy, occupational therapy, psychology, social work, counseling, or nursing. This individual must have a minimum of twenty-four (24) semester credits from an accredited college or university, which can be within their bachelor's or master's degree coursework, or can be in addition to the degree coursework. Courses taken must appear on college or university transcripts and must cover all of the following standards in their content: (7-1-19)T

(1) Promotion of development and learning for children from birth to five (5) years of age. Course descriptions must provide an overview of typical and atypical infant and young child development and learning, and must include physical, social emotional, communication, adaptive (self-help), and cognitive development of infants and toddlers; (7-1-19)T

(2) Assessment and observation methods that are developmentally appropriate assessment of young children with developmental delays or disabilities. Course descriptions must include the assessment and evaluation process in using both formal and informal assessment strategies. Strategies and tools for screening, assessing, and evaluating the development of infants and children birth through five (5) years of age, including typical and atypical development to support young children and families; (7-1-19)T

(3) Building family and community relationships to support early interventions. Course descriptions must include working with families who have children with developmental disabilities, strengthening and developing family, professional and interagency partnerships, researching and linking families with community resources, parent or teacher or professional, communication, and collaborating with other professionals; (7-1-19)T

(4) Development of appropriate curriculum for young children. Course descriptions must include instructional strategies for working with infants, toddlers, and young children through third grade with developmental delays and disabilities, linking assessment to curriculum and designing instructional programming in natural settings and formal settings for young children with special needs, involving families in the process; (7-1-19)T

(5) Implementation of instructional and developmentally effective approaches for early learning, including strategies for children and their families. Course descriptions must include a focus on implementing strategies to meet outcomes for children with developmental delays and disabilities, and monitoring children's responses and overall progress; and (7-1-19)T

(6) Demonstration of knowledge of policies and procedures in special education and early intervention and demonstration of knowledge of exceptionalities in children's development. Course descriptions include foundations of special education, knowledge and understanding of young children with developmental disabilities. (7-1-19)T

04. Intervention Professional. This type of provider can deliver all types of children's habilitation intervention services and complete assessments and implementation plans. Intervention professionals must meet the following minimum qualifications: (7-1-19)T

a. An individual who holds a master's degree or higher from an accredited institution in psychology, education, applied behavior analysis, or have a related discipline with one thousand five hundred (1,500) hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis, or behavior analysis which may be documented within the individual's degree program, other coursework, or training; (7-1-19)T

b. One thousand two hundred (1,200) hours of relevant experience in completing and implementing comprehensive behavioral therapies for participants with functional or behavioral needs, which may be documented within the individual's degree program, other coursework, or training; and (7-1-19)T

c. An individual who provides services to children birth to three (3) years of age must meet the requirements defined in Subsection 575.03.c. of this rule. (7-1-19)T

05. Evidence-Based Model (EBM) Intervention Paraprofessional. This type of provider can deliver habilitative skill, emergency backup crisis intervention, and behavioral intervention, and must be supervised in accordance with the evidence-based model. The qualifications for this type of provider are: (7-1-19)T

a. An individual who holds a high school diploma or general equivalency diploma; and (7-1-19)T

b. Holds a para-level certification or credential in an evidence-based model approved by the Department. (7-1-19)T

06. Evidence-Based Model (EBM) Intervention Specialist. This type of provider can deliver all types of children's habilitation intervention services and complete assessments and implementation plans. This individual must be supervised in accordance with the evidenced-based model and may also supervise the evidence-based paraprofessional working within the same evidence-based model. The qualifications for this type of provider are: (7-1-19)T

a. An individual who holds a bachelor's degree from an accredited institution in accordance with their certification or credentialing requirements; and (7-1-19)T

b. Who is certified or credentialed in an evidence-based model approved by the Department. (7-1-19)T

c. An individual who provides services to children birth to three (3) years of age must also have a minimum of two hundred forty (240) hours of professionally supervised experience providing assessment or evaluation, curriculum development, and service provision in the areas of communication, cognition, motor, adaptive (self-help), and social-emotional development with infants and toddlers birth to five (5) years of age with

developmental delays or disabilities. Experience must be through paid employment or university activities. (7-1-19)T

07. Evidence-Based Model (EBM) Intervention Professional. This type of provider can deliver all types of children's habilitation intervention services and complete assessments and implementation plans. The qualifications for this type of provider are: (7-1-19)T

a. An individual who holds a master's degree or higher from an accredited institution in accordance with their certification or credentialing requirements; (7-1-19)T

b. An individual who is certified or credentialed in an evidence-based model approved by the Department; and (7-1-19)T

c. An individual who provides services to children birth to three (3) years of age must meet the requirements defined in Subsection 575.06.c. of this rule. (7-1-19)T

08. Independent Children's Habilitation Intervention Services Provider. This type of provider can deliver all types of children's habilitation intervention services, complete assessments and implementation plans in accordance with their provider qualification. Documentation of supervision must be maintained in accordance with the Department's record retention requirements. (7-1-19)T

a. To be an independent provider, the individual must: (7-1-19)T

i. Be an intervention specialist as defined in Subsection 575.03 of this rule; (7-1-19)T

ii. Be an intervention professional as defined in Subsection 575.04 of this rule; (7-1-19)T

iii. Be an Evidence-Based Model (EBM) intervention specialist as defined in Subsection 575.06 of this rule; or (7-1-19)T

iv. Be an EBM intervention professional as defined in Subsection 575.07 of this rule. (7-1-19)T

b. In addition to meeting one (1) requirement in Subsection 575.08.a., all of the following must be met: (7-1-19)T

i. Obtain an independent Medicaid provider agreement through the Department and maintain in good standing; (7-1-19)T

ii. Be certified in CPR and first aid prior to delivering services and maintain current certification thereafter; (7-1-19)T

iii. Compete a criminal history and background check, including clearance in accordance with IDAPA 16.05.06, "Criminal History and Background Checks"; (7-1-19)T

iv. Follow all applicable requirements in Sections 570 through 577 of these rules; and (7-1-19)T

v. Not receive supervision from an individual that they are directly supervising. (7-1-19)T

09. Continuing Training Requirements. Each individual providing children's habilitation intervention services must complete a minimum of twelve (12) hours of training each calendar year, including one (1) hour of ethics and six (6) hours of behavior methodology or evidence-based intervention. The following criteria applies: (7-1-19)T

a. Training must be relevant to the services being delivered. (7-1-19)T

b. Individuals who have not completed the required training during the previous calendar year, may not provide services in the current calendar year until the required number of training hours have been completed. (7-1-19)T

c. Training hours may not be earned in the current calendar year to be applied to a future calendar year. (7-1-19)T

d. Training topics can be repeated but the content of the continuing training must be different each calendar year; and (7-1-19)T

e. Any training or coursework in CPR or First Aid, fire and safety, or agency policies and procedures cannot be applied to the individual's continuing training requirements as outlined in Subsection 575.08 of this rule (7-1-19)T

576. CHILDREN'S HABILITATION INTERVENTION SERVICES: PROVIDER REIMBURSEMENT.

01. Reimbursement. The statewide reimbursement rate for children's habilitation intervention services was derived by using Bureau of Labor Statistics mean wage for the direct care staff providing the service, adjusted for employment-related expenditures, program-related costs, and general and administrative costs based on a cost survey. Reimbursement rates are set at a percentage of the statewide target reimbursement rate. The Department will take into consideration the factors of efficiency, economy, quality of care, and access to care when determining rates. (7-1-19)T

02. Cost Survey. The Department will conduct a cost survey every five (5) years from a statistically appropriate number of provider association representatives in order to obtain cost data for employment-related expenditures, program-related costs, and general and administrative costs. (7-1-19)T

03. Claim Forms. Provider claims for payment must be submitted on claim forms provided or approved by the Department. General billing instructions will be provided by the Department. (7-1-19)T

04. Rates. The reimbursement rates calculated for children's habilitation intervention services include both services and mileage. No separate charges for mileage will be paid by the Department for provider transportation to and from the participant's home or other service delivery location. (7-1-19)T

577. CHILDREN'S HABILITATION INTERVENTION SERVICES: QUALITY ASSURANCE.

The Department will establish performance criteria to meet federal assurances that measure the outcomes and effectiveness of the children's habilitation intervention services. Quality assurance activities will include the observation of service delivery with participants, face-to-face visits to review program protocol, and review of participant records maintained by the provider. All children's habilitation intervention services providers must grant the Department immediate access to all information requested to review compliance with these rules. (7-1-19)T

01. Quality Assurance. Quality assurance consists of reviews to assure compliance with the Department's rules and regulations for children's habilitation intervention services. The Department will visit providers to monitor outcomes, assure treatment fidelity, and assure health and safety. The Department will also gather information to assess family and participant satisfaction with services. These findings may lead to quality improvement activities to enhance provider processes and outcomes for the participant. If problems are identified that impact health and safety or are not resolved through quality improvement activities, implementation of a corrective action process will occur. (7-1-19)T

02. Quality Improvement. Quality improvement consists of the Department working with the provider to resolve identified issues and enhance services provided. Quality improvement activities may include any of the following: (7-1-19)T

a. Consultation; (7-1-19)T

b. Technical assistance and recommendations; or (7-1-19)T

c. A Corrective Action. (7-1-19)T

03. Corrective Action. Corrective action is a formal process used by the Department to address

significant, ongoing, or unresolved deficient practices identified during the review process as provided in Section 205.03 of these rules. Corrective action, as outlined in the Department's corrective action plan process, includes:

(7-1-19)T

- a. Issuance of a corrective action plan; (7-1-19)T
- b. Referral to Medicaid Program Integrity Unit; or (7-1-19)T
- c. Action against a provider agreement. (7-1-19)T

578. -- 579. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

850. SCHOOL-BASED SERVICE: DEFINITIONS.

01. Activities of Daily Living (ADL) ~~for Personal Care Services~~. The performance of basic self-care activities in meeting ~~an individual's~~ participant's needs for sustaining him in a daily living environment, including, but not limited to, bathing, washing, dressing, toileting, grooming, eating, communication, continence, mobility, and associated tasks. (7-1-16)(7-1-19)T

02. Children's Habilitation Intervention Services. Children's habilitation intervention services are medically necessary, evidence-informed or evidence-based therapeutic techniques based on applied behavior analysis principles used to result in positive outcomes. These intervention services are delivered directly to Medicaid eligible students with identified developmental limitations that impact the student's functional skills and behaviors across an array of developmental domains. Children's habilitation intervention services include habilitative skill, behavioral intervention, behavioral consultation, crisis intervention, and interdisciplinary training services. (7-1-19)T

023. Educational Services. Services that are provided in buildings, rooms, or areas designated or used as a school or an educational setting, which are provided during the specific hours and time periods in which the educational instruction takes place in the school day and period of time for these students, which are included in the individual educational plan (IEP) for the student. (7-1-16)

04. Evidence-Based Interventions. Interventions that have been scientifically researched and reviewed in peer reviewed journals, replicated successfully by multiple independent investigators, have been shown to produce measurable and substantiated beneficial outcomes, and are delivered with fidelity by certified or credentialed participants trained in the evidence-based model. (7-1-19)T

05. Evidence-Informed Interventions. Interventions that use elements or components of evidence-based techniques and are delivered by a qualified individual but are not certified or credentialed in an evidence-based model. (7-1-19)T

06. Human Services Field. A diverse field that is focused on improving the quality of life for participants. Areas of academic study include sociology, special education, counseling, and psychology, or other areas of academic study as referenced in the Medicaid Provider Handbook. (7-1-19)T

037. School-Based Services. School-based services are health-related and rehabilitative services provided by Idaho public school districts and charter schools under the Individuals with Disabilities Education Act (IDEA). (7-1-13)

048. The Psychiatric Rehabilitation Association (PRA). An association that works to improve and promote the practice and outcomes of psychiatric rehabilitation and recovery. The PRA also maintains a certification program to promote the use of qualified staff to work for individuals with mental illness. <http://www.psychrehabassociation.org>. (7-1-16)

059. **PRA Credential.** Certificate or certification in psychiatric rehabilitation based upon the primary population with whom the individual works in accordance with the requirements set by the PRA. (7-1-19)

106. **Practitioner of the Healing Arts.** A physician's assistant, nurse practitioner, or clinical nurse specialist who is licensed and approved by the state of Idaho to make such recommendations or referrals for Medicaid services. (7-1-13)

0711. **Serious Mental Illness (SMI).** In accordance with 42 CFR 483.102(b)(1), a person with SMI: (3-20-14)

a. Currently or at any time during the year, must have had a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet the diagnostic criteria specified in the DSM-V; and (3-20-14)

b. Must have a functional impairment that substantially interferes with or limits one (1) or more major life activities. Functional impairment is defined as difficulties that substantially interfere with or limit role functioning with an individual's basic daily living skills, instrumental living skills, and functioning in social, family, vocational or educational contexts. Instrumental living skills include maintaining a household, managing money, getting around the community, and taking prescribed medication. An adult who met the functional impairment criteria during the past year without the benefit of treatment or other support services is considered to have a serious mental illness. (3-20-14)

0812. **Serious and Persistent Mental Illness (SPMI).** A participant must meet the criteria for SMI, have at least one (1) additional functional impairment, and have a diagnosis under DSM-V with one (1) of the following: Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Borderline Personality Disorder. The only Not Otherwise Specified (NOS) diagnosis included is Psychotic Disorder NOS for a maximum of one hundred twenty (120) days without a conclusive diagnosis. (3-20-14)

13. **Telehealth.** Telehealth is an electronic real-time synchronized audio-visual contact between a qualified professional and participant for the purpose of treatment. The professional and participant interact as if they were having a face-to-face service. Telehealth services must be delivered in accordance with the Idaho Medicaid Telehealth Policy at <https://healthandwelfare.idaho.gov/Portals/0/Providers/Medicaid/TelehealthPolicy.pdf>. (7-1-19)T

(BREAK IN CONTINUITY OF SECTIONS)

852. SCHOOL-BASED SERVICE: SERVICE-SPECIFIC PARTICIPANT ELIGIBILITY.

Skills Building/Community Based Rehabilitation Services (CBRS). Behavioral Intervention, Behavioral Consultation, and Personal Care Services (PCS) have additional eligibility requirements. (7-1-19)

01. **Skills Building/Community Based Rehabilitation Services (CBRS).** To be eligible for Skills Building/CBRS, the student must meet one (1) of the following: (7-1-19)

a. A student who is a child under eighteen (18) years of age must meet the Serious Emotional Disturbance (SED) eligibility criteria for children in accordance with the Children's Mental Health Services Act, Section 16-2403, Idaho Code. A child who meets the criteria for SED must experience a substantial impairment in functioning. The child's level and type of functional impairment must be documented in the school record. A Department-approved assessment must be used to obtain the child's initial functional impairment score. Subsequent scores must be obtained at least annually in order to determine the child's change in functioning that occurs as a result of mental health treatment. (7-1-16)

b. A student who is eighteen (18) years old or older must meet the criteria of Serious and Persistent Mental Illness (SPMI). This requires that a student participant meet the criteria for SMI, as described in 42 CFR 483.102(b)(1), have at least one (1) additional functional impairment, and have a diagnosis under DSM-V, or later edition, with one (1) of the following: Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Borderline Personality Disorder. The

only Not Otherwise Specified (NOS) diagnosis included is Psychotic Disorder NOS for a maximum of one hundred twenty (120) days without a conclusive diagnosis. In addition, the psychiatric disorder must be of sufficient severity to affect the participant's functional skills negatively, causing a substantial disturbance in role performance or coping skills in at least two (2) of the areas listed below on either a continuous or intermittent basis, at least once per year. The skill areas that are targeted must be consistent with the participant's ability to engage and benefit from treatment. The detail of the participant's level and type of functional impairment must be documented in the medical record in the following areas: (7-1-16)

- i. Vocational~~/or~~ educational; ~~(3-20-14)~~(7-1-19)T
- ii. Financial; (3-20-14)
- iii. Social relationships~~/or~~ support; ~~(3-20-14)~~(7-1-19)T
- iv. Family; (3-20-14)
- v. Basic living skills; (3-20-14)
- vi. Housing; (3-20-14)
- vii. Community~~/or~~ legal; or ~~(3-20-14)~~(7-1-19)T
- viii. Health~~/or~~ medical. ~~(3-20-14)~~(7-1-19)T

02. ~~Behavioral Intervention and Behavioral Consultation~~ Children's Habilitation Intervention Services. ~~To be~~ Students eligible for to receive habilitative skill, behavioral intervention, and behavioral consultation, crisis intervention, and interdisciplinary training services, the student must have a standardized Department-approved assessment to identify functional, or behavioral needs, or both, that interfere with the student's ability to access an education or require intervention services to correct or ameliorate their condition in accordance with Section 880 of these rules. ~~(3-20-14)~~(7-1-19)T

a. ~~Meet the criteria for developmental disabilities as identified in Section 66-402(5), Idaho Code, and have documentation to support eligibility using the standards under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 501-503; and~~ A functional need is determined when the student exhibits a deficit in an overall adaptive composite or deficits in three (3) or more of the following areas: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency. A deficit is defined as one point five (1.5) or more standard deviations below the mean for all functional areas. ~~(7-1-16)~~(7-1-19)T

b. A behavioral need is determined when the student ~~E~~exhibits maladaptive behaviors that include frequent disruptive behaviors, aggression, self-injury, criminal or dangerous behavior evidenced by a score of at least one point five (1.5) standard deviations from the mean in at least two (2) behavior domains and by a rater familiar with the student, or at least two (2) standard deviations from the mean in one (1) composite score that consists of at least three (3) behavior domains by a rater familiar with the student, on a standardized behavioral assessment approved by the Department; and ~~(7-1-16)~~(7-1-19)T

e. ~~Have maladaptive behaviors that interfere with the student's ability to access an education.~~ ~~(3-20-14)~~

03. Personal Care Services. To be eligible for personal care services (PCS), the student must have a completed children's PCS assessment and allocation tool approved by the Department. To determine eligibility for PCS, the assessment results must find the student requires PCS due to a medical condition that impairs the physical or functional abilities of the student. (7-1-16)

853. SCHOOL-BASED SERVICE: COVERAGE AND LIMITATIONS.

The Department will pay school districts and charter schools for covered rehabilitative and health-related services. Services include medical or remedial services provided by school districts or other cooperative service agencies, as

defined in Section 33-317, Idaho Code. (7-1-13)

01. Excluded Services. The following services are excluded from Medicaid payments to school-based programs: (3-30-07)

a. Vocational Services. (3-30-07)

b. Educational Services. Educational services (other than health related services) or education-based costs normally incurred to operate a school and provide an education. Evaluations completed for educational services only cannot be billed. (3-30-07)

c. Recreational Services. (3-30-07)

d. Payment for school-related services will not be provided to students who are inpatients in nursing homes or hospitals. (7-1-16)

02. Evaluation and Diagnostic Services. Evaluations to determine eligibility or the need for health-related services may be reimbursed even if the student is not found eligible for health-related services. Evaluations completed for educational services only cannot be billed. Evaluations completed must: (3-30-07)

a. Be recommended or referred by a physician or other practitioner of the healing arts. A school district or charter school may not seek reimbursement for services provided more than thirty (30) days prior to the signed and dated recommendation or referral; (3-28-18)

b. Be conducted by qualified professionals for the respective discipline as defined in Section 855 of these rules; (3-20-14)

c. Be directed toward a diagnosis; (7-1-16)

d. Include recommended interventions to address each need; and (7-1-16)

e. Include name, title, and signature of the person conducting the evaluation. (7-1-16)

03. Reimbursable Services. School districts and charter schools can bill for the following health-related services provided to eligible students when the services are provided under the recommendation of a physician or other practitioner of the healing arts for the Medicaid services for which the school district or charter school is seeking reimbursement. A school district or charter school may not seek reimbursement for services provided more than thirty (30) days prior to the signed and dated recommendation or referral. The recommendations or referrals are valid up to three hundred sixty-five (365) days. (3-28-18)

a. Behavioral Intervention. Behavioral Intervention is a direct intervention used to promote positive, meaningful changes in behavior that incorporate functional replacement behaviors and reinforcement-based strategies, while also addressing any identified habilitative skill needs and the student's ability to participate in educational services, as defined in Section 850 of these rules, through a consistent, assertive, and continuous intervention process to address behavior goals identified on the IEP. ~~# Behavioral intervention includes the development of replacement behaviors by~~ conducting a functional behavior assessment and developing a behavior implementation plan with the purpose of preventing or treating behavioral conditions for. This service is provided to students who exhibit maladaptive behaviors. Services include individual or group behavioral interventions. ~~(7-1-16)~~(7-1-19)T

i. Group services must be provided by one (1) qualified staff providing direct services for ~~a maximum of two (2) or~~ three (3) students. ~~(7-1-16)~~(7-1-19)T

ii. As the number and severity of the students with behavioral issues increases, the staff-to-student ratio must be adjusted accordingly. (7-1-16)

iii. Group services should only be delivered when the ~~child~~ student's goals relate to benefiting from

group interaction.

~~(7-1-13)~~(7-1-19)T

b. Behavioral Consultation. Behavioral consultation assists other service professionals by consulting with the IEP team during the assessment process, performing advanced assessment, coordinating the implementation of the behavior implementation plan and providing ongoing training to the behavioral interventionist and other team members. (7-1-13)

i. Behavioral consultation cannot be provided as a direct intervention service. (7-1-13)

ii. Behavioral consultation must be limited to thirty-six (36) hours per student per year. (7-1-13)

c. Crisis Intervention. Crisis intervention services may include providing training to staff directly involved with the student, delivering emergency backup intervention directly with the eligible student, and developing a crisis plan that directly addresses the behavior occurring and the necessary intervention strategies to minimize the behavior and future occurrences. Emergency backup crisis is defined as decreasing an interfering behavior or increasing a skill to reduce further crisis. This service is provided on a short-term basis typically not to exceed thirty (30) school days and defined as an unanticipated event, circumstance, or life situation that places a student at risk of at least one (1) of the following: (7-1-19)T

i. Hospitalization; (7-1-19)T

ii. Out-of-home placement; (7-1-19)T

iii. Incarceration; or (7-1-19)T

iv. Physical harm to self or others, including a family altercation or psychiatric relapse. (7-1-19)T

d. Habilitative Skill. Habilitative Skill is a direct intervention service that includes techniques used to develop, improve and maintain, to the maximum extent possible, the developmentally appropriate functional abilities and daily living skills needed by a student. This service may include teaching and coordinating methods of training with family members or others who regularly participate in caring for the eligible student. Services include individual or group interventions. (7-1-19)T

i. Group services must be provided by one (1) qualified staff providing direct services for two (2) or three (3) students. (7-1-19)T

ii. As the number and needs of the students increase, the staff-to-student ratio must be adjusted accordingly. (7-1-19)T

iii. Group services should only be delivered when the student's goals relate to benefiting from group interaction. (7-1-19)T

e. Interdisciplinary Training. Interdisciplinary training is a companion service to behavioral intervention and habilitative skill and is used to assist with implementing a student's health and medication monitoring, positioning and physical transferring, use of assistive equipment, and intervention techniques in a manner that meets the student's needs. This service is to be utilized for collaboration, with the student present, during the provision of services between the intervention specialist or professional and a Speech Language and Hearing Professional (SLP), Physical Therapist (PT), Occupational Therapist (OT), medical professional, or behavioral or mental health professional. (7-1-19)T

ef. Medical Equipment and Supplies. Medical equipment and supplies that are covered by Medicaid must be medically necessary, ordered by a physician, and prior authorized. Authorized items must be for use at the school where the service is provided. Equipment that is too large or unsanitary to transport from home to school and back may be covered, if prior authorized. The equipment and supplies must be for the student's exclusive use and must be transferred with the student if the student changes schools. All equipment purchased by Medicaid belongs to the student. (7-1-16)

g. Nursing Services. Skilled nursing services must be provided by a licensed nurse, within the scope of his or her practice. Emergency, first aid, or non-routine medications not identified on the plan as a health-related service are not reimbursed. (7-1-16)

h. Occupational Therapy and Evaluation. Occupational therapy and evaluation services for vocational assessment, training or vocational rehabilitation are not reimbursed. (3-30-07)

f. Personal Care Services. School based personal care services include medically oriented tasks having to do with the student's physical or functional requirements. Personal care services do not require a goal on the plan of service. The provider must deliver at least one (1) of the following services: (7-1-16)

i. Basic personal care and grooming to include bathing, care of the hair, assistance with clothing, and basic skin care; (7-1-13)

ii. Assistance with bladder or bowel requirements that may include helping the student to and from the bathroom or assisting the student with bathroom routines; (7-1-16)

iii. Assistance with food, nutrition, and diet activities including preparation of meals if incidental to medical need; (7-1-13)

iv. Assisting the student with physician-ordered medications that are ordinarily self-administered, in accordance with IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," Subsection 490.05; (7-1-13)

v. Non-nasogastric gastrostomy tube feedings, if the task is not complex and can be safely performed in the given student care situation, and the requirements are met in accordance with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Subsection 303.01. (7-1-13)

i. Physical Therapy and Evaluation. (3-30-07)

k. Psychological Evaluation. (3-30-07)

l. Psychotherapy. (3-30-07)

m. Skills Building/Community Based Rehabilitation Services (CBRS). Skills Building/CBRS are interventions to reduce the student's disability by assisting in gaining and utilizing skills necessary to participate in school. They are designed to build competency and confidence while increasing mental health and/or decreasing behavioral symptoms. Skills Building/CBRS provides training in behavior control, social skills, communication skills, appropriate interpersonal behavior, symptom management, activities of daily living, and coping skills. These services are intended to prevent placement of the student into a more restrictive educational situation. (7-1-19)

n. Speech/Audiological Therapy and Evaluation. (3-30-07)

o. Social History and Evaluation. (3-30-07)

p. Transportation Services. School districts and charter schools can receive reimbursement for mileage for transporting a student to and from home and school when: (7-1-16)

i. The student requires special transportation assistance, a wheelchair lift, an attendant, or both, when medically necessary for the health and safety of the student; (3-28-18)

ii. The transportation occurs in a vehicle specifically adapted to meet the needs of a student with a disability; (3-30-07)

iii. The student requires and receives another Medicaid reimbursable service billed by the school-based services provider, other than transportation, on the day that transportation is being provided; (3-30-07)

iv. Both the Medicaid-covered service and the need for the special transportation are included on the

student's plan; and (3-30-07)

v. The mileage, as well as the services performed by the attendant, are documented. See Section 855 of these rules for documentation requirements. (3-20-14)

***g.** Interpretive Services. Interpretive services needed by a student who is deaf or does not adequately speak or understand English and requires an interpreter to communicate with the professional or paraprofessional providing the student with a health-related service may be billed with the following limitations: (7-1-13)

i. Payment for interpretive services is limited to the specific time that the student is receiving the health-related service; documentation for interpretive service must include the Medicaid reimbursable health-related service being provided while the interpretive service is provided. (7-1-16)

ii. Both the Medicaid-covered service and the need for interpretive services must be included on the student's plan; and (3-30-07)

iii. Interpretive services are not covered if the professional or paraprofessional providing services is able to communicate in the student's primary language. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

855. SCHOOL-BASED SERVICE: PROVIDER QUALIFICATIONS AND DUTIES.

Medicaid will only reimburse for services provided by qualified staff. The following are the minimum qualifications for providers of covered services: (7-1-13)

01. Behavioral Intervention. Behavioral intervention must be provided by, or under the supervision of, an intervention specialist or professional. Individuals providing behavioral intervention must be one (1) of the following: (7-1-13)(7-1-19)T

~~a. A behavioral intervention professional must meet the following~~ Intervention Paraprofessional. Intervention paraprofessionals may provide direct services. Intervention paraprofessionals must be under the supervision of an intervention specialist or professional. The specialist or professional must observe and review the direct services performed by the paraprofessional on a monthly basis, or more often as necessary, to ensure the paraprofessional demonstrates the necessary skills to correctly provide the direct service. An intervention paraprofessional must: (7-1-13)(7-1-19)T

~~i. An individual with an Exceptional Child Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 028; or~~ Be at least eighteen (18) years of age; (7-1-13)(7-1-19)T

~~ii. An individual with an Early Childhood/Early Childhood Special Education Blended Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 019; or~~ Demonstrate the knowledge, have the skills needed to support the program to which they are assigned; and (7-1-13)(7-1-19)T

~~iii. A Special Education Consulting Teacher who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 029; or~~ Meet the paraprofessional requirements as defined in IDAPA 08.02.02, "Rules Governing Uniformity." (7-1-13)(7-1-19)T

~~iv. Habilitative intervention professional who meets the requirements defined in IDAPA 16.03.10 "Medicaid Enhanced Plan Benefits," Section 685; or~~ (7-1-13)

~~v. Individuals employed by a school as certified Intensive Behavioral Intervention (IBI) professionals prior to July 1, 2013, are qualified to provide behavioral intervention; and~~ (7-1-13)

~~vi. Must be able to provide documentation of one (1) year's supervised experience working with children with developmental disabilities. This can be achieved by previous work experience gained through paid employment, university practicum experience, or internship. It can also be achieved by increased on-the-job supervision experience gained during employment at a school district or charter school. (7-1-13)~~

~~b. A paraprofessional under the direction of a qualified behavioral intervention professional, must meet the following Intervention Specialist. Intervention specialists may provide direct services, complete assessments, and develop implementation plans. Intervention specialists who will complete assessments must have documented training and experience in completing assessments and designing and implementing comprehensive therapies for students with functional or behavioral needs, or both. The qualifications for this provider type can be met by one (1) of the following: (7-1-13)(7-1-19)T~~

~~i. Must be at least eighteen (18) years of age; An individual who holds an Idaho Standard Instructional Certificate who meets qualifications for an endorsement specific to special education as defined in IDAPA 08.02.02, "Rules Governing Uniformity," Sections 021-024; or (7-1-13)(7-1-19)T~~

~~ii. Demonstrate the knowledge, have the skills needed to support the program to which they are assigned; and An individual who holds their Habilitative Intervention Certificate of Completion (HI COC) in Idaho prior to July 1, 2019, and does not have a gap of more than three (3) years of employment as an Intervention Specialist, or (7-1-16)(7-1-19)T~~

~~iii. Must meet the paraprofessional requirements under the Elementary and Secondary Education Act of 1965, as amended, Title I, Part A, Section 1119. An individual who holds a bachelor's degree from an accredited institution in a human services field or has a bachelor's degree and a minimum of twenty-four (24) semester credits in a human services field, can demonstrate one thousand forty (1,040) hours of supervised experience working with children who demonstrate functional or behavioral needs, and meets the competency requirements by completing one (1) of the following: (7-1-13)(7-1-19)T~~

~~(1) A Department-approved competency checklist referenced in the Medicaid Provider Handbook; (7-1-19)T~~

~~(2) A minimum of forty (40) hours of applied behavior analysis training delivered by an individual who is certified or credentialed to provide the training; or (7-1-19)T~~

~~(3) Other Department-approved competencies as defined in the Medicaid Provider Handbook. (7-1-19)T~~

~~c. A paraprofessional delivering behavioral intervention services must be under the supervision of a behavioral intervention professional or behavioral consultation provider. The professional must observe and review the direct services performed by the paraprofessional on a monthly basis, or more often as necessary, to ensure the paraprofessional demonstrates the necessary skills to correctly provide the behavioral intervention service. Intervention Professional. Intervention professionals may provide direct services, complete assessments, and develop implementation plans. Intervention professionals who will complete assessments must have documented training and experience in completing assessments and designing and implementing comprehensive therapies for students with functional or behavioral needs, or both. The qualifications for this provider type can be met by one (1) of the following: (7-1-13)(7-1-19)T~~

~~i. An individual who holds a master's degree or higher from an accredited institution in psychology, education, applied behavior analysis, or have a related discipline with one thousand five hundred (1,500) hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis, or behavior analysis which may be documented within the individual's degree program, other coursework, or training; and (7-1-19)T~~

~~ii. One thousand two hundred (1,200) hours of relevant experience in completing and implementing comprehensive behavioral therapies for participants with functional or behavioral needs, which may be documented within the individual's degree program, other coursework, or training. (7-1-19)T~~

d. Evidence-Based Model (EBM) Intervention Paraprofessional. EBM intervention paraprofessionals may provide direct services. EBM intervention paraprofessionals must be supervised in accordance with the evidence-based model in which they are certified or credentialed. The EBM intervention specialist or professional must observe and review the direct services performed by the paraprofessional to ensure the paraprofessional demonstrates the necessary skills to correctly provide the direct service. An EBM intervention paraprofessional must: (7-1-19)T

- i. Hold a high school diploma; and (7-1-19)T
- ii. Hold a para-level certification or credential in an evidence-based model approved by the Department. (7-1-19)T

e. Evidence- Based Model (EBM) Intervention Specialist. EBM intervention specialists may provide direct services, complete assessments, and develop implementation plans. EBM intervention specialists must be supervised in accordance with the evidence-based model in which they are certified or credentialed. The EBM intervention professional must observe and review the direct services performed by the specialist to ensure the specialist demonstrates the necessary skills to correctly provide the direct service. The specialist may supervise the EBM intervention paraprofessional working within the same evidence-based model. An EBM intervention specialist must: (7-1-19)T

- i. Hold a bachelor's degree from an accredited institution in accordance with their certification or credentialing requirements; and (7-1-19)T
- ii. Hold a certification or credential in an evidence-based model approved by the Department. (7-1-19)T

f. Evidence-Based Model (EBM) Intervention Professional. EBM intervention professionals may provide direct services, complete assessments, and develop implementation plans. EBM intervention professionals may supervise EBM intervention paraprofessionals or specialists working within the same evidence-based model in which they are certified or credentialed. An EBM intervention professional must: (7-1-19)T

- i. Hold a master's degree or higher from an accredited institution in accordance with their certification or credentialing requirements; and (7-1-19)T
- ii. Hold a certification or credential in an evidence-based model approved by the Department. (7-1-19)T

02. Behavioral Consultation. Behavioral consultation must be provided by a professional who has a Doctoral or Master's degree in psychology, education, applied behavioral analysis, or has a related discipline with one thousand five hundred (1,500) hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis, or behavior analysis (may be included as part of degree program); and who meets one (1) of the following: (7-1-13)(7-1-19)T

a. An individual with an Exceptional Child Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 028. An individual who holds an Idaho Standard Instructional Certificate who meets qualifications for an endorsement specific to special education as defined in IDAPA 08.02.02, "Rules Governing Uniformity"; (7-1-13)(7-1-19)T

b. An individual with an Early Childhood/Early Childhood Special Education Blended Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 019. An individual with a Pupil Personnel Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," excluding a licensed registered nurse or audiologist; (7-1-13)(7-1-19)T

c. A Special Education Consulting Teacher who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity" Section 029. An occupational therapist who is qualified and registered to practice in Idaho; (7-1-13)(7-1-19)T

~~d. An individual with a Pupil Personnel Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 027, excluding a licensed registered nurse or audiologist. An intervention professional, as defined in Subsection 855.01 of this rule; or~~ (7-1-13)(7-1-19)T

~~e. An occupational therapist who is qualified and registered to practice in Idaho~~ An Evidence-Based Model (EBM) intervention professional, as defined in Subsection 855.01 of this rule. (7-1-13)(7-1-19)T

~~f. Therapeutic consultation professional who meets the requirements defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 685.~~ (7-1-13)

03. Crisis Intervention. Crisis intervention must be provided by, or under the supervision of a professional. Participants providing crisis intervention must be one (1) of the following: (7-1-19)T

a. An intervention paraprofessional, as defined in Subsection 855.01 of this rule; (7-1-19)T

b. An intervention specialist, as defined in Subsection 855.01 of this rule; (7-1-19)T

c. An intervention professional, as defined in Subsection 855.01 of this rule; (7-1-19)T

d. An EBM intervention paraprofessional, as defined in Subsection 855.01 of this rule; (7-1-19)T

e. An EBM intervention specialist, as defined in Subsection 855.01 of this rule; (7-1-19)T

f. An EBM intervention professional, as defined in Subsection 855.01 of this rule; (7-1-19)T

g. A licensed physician, licensed practitioner of the healing arts; (7-1-19)T

h. An advanced practice registered nurse; (7-1-19)T

i. A licensed psychologist; (7-1-19)T

j. A licensed clinical professional counselor or professional counselor; (7-1-19)T

k. A licensed marriage and family therapist; (7-1-19)T

l. A licensed masters social worker, licensed clinical social worker, or licensed social worker; (7-1-19)T

m. A psychologist extender registered with the Bureau of Occupational Licenses; (7-1-19)T

n. A licensed registered nurse (RN); (7-1-19)T

o. A licensed occupational therapist; or (7-1-19)T

p. An endorsed or certified school psychologist. (7-1-19)T

04. Habilitative Skill. Habilitative skill must be provided by, or under the supervision of, an intervention specialist or professional. Participants providing habilitative skill must be one (1) of the following: (7-1-19)T

a. Habilitative Skill Technician. Habilitative skill technician is a provisional position intended to allow a student to gain the necessary degree or experience needed to qualify as an intervention specialist. Provisional status is limited to eighteen (18) months. Habilitative skill technicians must be under the supervision of an intervention specialist or professional. The specialist or professional must observe and review the direct services performed by the paraprofessional on a monthly basis, or more often as necessary, to ensure the technician demonstrates the necessary skills to correctly provide the direct service. An intervention paraprofessional under the direction of a qualified intervention specialist or professional, must: (7-1-19)T

- i. Be within fifteen (15) semester credits, or equivalent, to complete their bachelor's degree from an accredited institution in a human services field; or (7-1-19)T
- ii. Hold a bachelor's degree from an accredited institution in a human services field. (7-1-19)T
- b. An intervention paraprofessional, as defined in Subsection 855.01 of this rule; (7-1-19)T
- c. An Intervention specialist, as defined in Subsection 855.01 of this rule; (7-1-19)T
- d. An intervention professional, as defined in Subsection 855.01 of this rule; (7-1-19)T
- e. An EBM intervention paraprofessional, as defined in Subsection 855.01 of this rule; (7-1-19)T
- f. An EBM intervention specialist, as defined in Subsection 855.01 of this rule; or (7-1-19)T
- g. An EBM intervention professional, as defined in Subsection 855.01 of this rule. (7-1-19)T
- 035. Medical Equipment and Supplies.** See Subsection 853.03 of these rules. (3-20-14)
- 046. Nursing Services.** Nursing services must be provided by a licensed registered nurse (RN) or by a licensed practical nurse (LPN) licensed to practice in Idaho. (7-1-13)
- 057. Occupational Therapy and Evaluation.** For therapy-specific rules, refer to Sections 730 through 739 of these rules. (7-1-16)
- 068. Personal Care Services.** Personal care services must be provided by or under the direction of a registered nurse licensed by the State of Idaho. (7-1-13)

 - a.** Providers of PCS must have at least one (1) of the following qualifications: (7-1-13)

 - i.** Licensed Registered Nurse (RN). A person currently licensed by the Idaho State Board of Nursing as a licensed registered nurse; (7-1-13)
 - ii.** Licensed Practical Nurse (LPN). A person currently licensed by the Idaho State Board of Nursing as a licensed practical nurse; (7-1-16)
 - iii.** Certified Nursing Assistant (CNA). A person currently certified by the State of Idaho; or (7-1-16)
 - iv.** Personal Assistant. A person who meets the standards of Section 39-5603, Idaho Code, and receives training to ensure the quality of services. The assistant must be at least age eighteen (18) years of age. (4-11-19)
 - b.** The licensed registered nurse (RN) must review or complete, or both, the PCS assessment and develop or review, or both, the written plan of care annually. Oversight provided by the RN must include all of the following: (7-1-16)

 - i.** Development of the written PCS plan of care; (7-1-13)
 - ii.** Review of the treatment given by the personal assistant through a review of the student's PCS service detail reports as maintained by the provider; and (7-1-16)
 - iii.** Reevaluation of the plan of care as necessary, but at least annually. (7-1-13)
 - c.** The RN must conduct supervisory visits on a quarterly basis, or more frequently as determined by the IEP team and defined as part of the PCS plan of care. (7-1-16)

~~079.~~ **Physical Therapy and Evaluation.** For therapy-specific rules, refer to Sections 730 through 739 of these rules. (7-1-16)

~~108.~~ **Psychological Evaluation.** A psychological evaluation must be provided by a: (7-1-13)

a. Licensed psychiatrist; (7-1-13)

b. Licensed physician; (7-1-13)

c. Licensed psychologist; (7-1-13)

d. Psychologist extender registered with the Bureau of Occupational Licenses; or (7-1-13)

e. Endorsed or certified school psychologist. (7-1-16)

~~0911.~~ **Psychotherapy.** Provision of psychotherapy services must have, at a minimum, one (1) or more of the following credentials: (7-1-13)

a. Psychiatrist, M.D.; (7-1-13)

b. Physician, M.D.; (7-1-13)

c. Licensed psychologist; (7-1-13)

d. Licensed clinical social worker; (7-1-13)

e. Licensed clinical professional counselor; (7-1-13)

f. Licensed marriage and family therapist; (7-1-13)

g. Certified psychiatric nurse (R.N.), as described in Subsection 707.13 of these rules; (7-1-13)

h. Licensed professional counselor whose provision of psychotherapy is supervised in compliance with IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; (7-1-13)

i. Licensed masters social worker whose provision of psychotherapy is supervised as described in IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners"; (7-1-13)

j. Licensed associate marriage and family therapist whose provision of psychotherapy is supervised as described in IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; or (7-1-13)

k. Psychologist extender, registered with the Bureau of Occupational Licenses, whose provision of diagnostic services is supervised in compliance with IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners." (7-1-13)

~~102.~~ **Skills Building/Community Based Rehabilitation Services (CBRS).** Skills Building/CBRS must be provided by one (1) of the following. Skills Building/Community Based Rehabilitation Services (CBRS) provider who is not required to have a PRA credential must be one (1) of the following: (7-1-19)

a. Licensed physician, licensed practitioner of the healing arts; (7-1-16)

b. Advanced practice registered nurse; (7-1-16)

c. Licensed psychologist; (7-1-13)

- d. Licensed clinical professional counselor or professional counselor; (7-1-13)
 - e. Licensed marriage and family therapist; (7-1-16)
 - f. Licensed masters social worker, licensed clinical social worker, or licensed social worker; (7-1-13)
 - g. Psychologist extender registered with the Bureau of Occupational Licenses; (7-1-13)
 - h. Licensed registered nurse (RN); (7-1-13)
 - i. Licensed occupational therapist; (7-1-13)
 - j. Endorsed or certified school psychologist; (7-1-16)
 - k. Skills Building/Community Based Rehabilitation Services specialist. A Skills Building/CBRS specialist must:
 - i. Be an individual who has a Bachelor's degree and holds a current PRA credential; or (7-1-19)
 - ii. Be an individual who has a Bachelor's degree or higher, but does not hold a current PRA credential and was hired on or after November 1, 2010, to work as a Skills Building/CBRS specialist to deliver Medicaid-reimbursable mental health services. This individual may continue to provide Medicaid-reimbursable Skills Building/CBRS without a current PRA credential for a period not to exceed thirty (30) months. This thirty-month (30) period does not restart with new employment as a Skills Building/CBRS specialist when transferring to a new school district, charter school, or agency. The individual must show documentation that they are working towards obtaining the required PRA credential. In order to continue providing Skills Building/CBRS as a Skills Building/CBRS specialist beyond a total period of thirty (30) months, the individual must have obtained the required current PRA credential; (7-1-19)
 - iii. Be under the supervision of a licensed behavioral health professional, a physician, nurse, or an endorsed ~~or~~ certified school psychologist. The supervising practitioner is required to have regular one-to-one (1:1) supervision of the specialist to review treatment provided to student participants on an ongoing basis. The frequency of the one-to-one (1:1) supervision must occur at least on a monthly basis. Supervision can be conducted using telehealth when it is equally effective as direct on-site supervision; and ~~(7-1-19)~~(7-1-19)I
 - iv. Have a credential required for CBRS specialists. (7-1-19)
 - (1) Skills Building/CBRS specialists who intend to work primarily with adults, age eighteen (18) or older, must obtain a current PRA credential to work with adults. (7-1-19)
 - (2) Skills Building/CBRS specialists who intend to work primarily with adults, but also with participants under the age of eighteen (18), must obtain a current PRA credential to work with adults, and must have additional training addressing children's developmental milestones, or have evidence of classroom hours in equivalent courses. The individual's supervisor must determine the scope and amount of training the individual needs in order to work competently with children assigned to the individual's caseload. (7-1-19)
 - (3) Skills Building/CBRS specialists who intend to work primarily with children under the age of eighteen (18) must obtain a current PRA credential to work with children. (7-1-19)
 - (4) Skills Building/CBRS specialists who intend to primarily work with children, but also work with participants eighteen (18) years of age or older, must obtain a current PRA credential to work with children, and must have additional training or have evidence of classroom hours addressing adult issues in psychiatric rehabilitation. The individual's supervisor must determine the scope and amount of training the worker needs in order to competently work with adults assigned to the individual's caseload. (7-1-19)
- 1-43. Speech/Audiological Therapy and Evaluation.** For therapy-specific rules, refer to Sections 730 through 739 of these rules. (7-1-16)

124. **Social History and Evaluation.** Social history and evaluation must be provided by a licensed registered nurse (RN), psychologist, M.D, school psychologist, certified school social worker, or by a person who is licensed and qualified to provide social work in the state of Idaho. (7-1-13)

135. **Transportation.** Transportation must be provided by an individual who has a current Idaho driver's license and is covered under vehicle liability insurance that covers passengers for business use. (7-1-13)

146. **Therapy Paraprofessionals.** The schools may use paraprofessionals to provide occupational therapy, physical therapy, and speech therapy if they are under the supervision of the appropriate professional. The services provided by paraprofessionals must be delegated and supervised by a professional therapist as defined by the appropriate licensure and certification rules. The portions of the treatment plan that can be delegated to the paraprofessional must be identified in the IEP or transitional IFSP. (7-1-16)

a. Occupational Therapy (OT). Refer to IDAPA 24.06.01, "Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants," for qualifications, supervision, and service requirements. (7-1-16)

b. Physical Therapy (PT). Refer to IDAPA 24.13.01, "Rules Governing the Physical Therapy Licensure Board," for qualifications, supervision and service requirements. (7-1-16)

c. Speech-Language Pathology (SLP). Refer to IDAPA 24.23.01, "Rule of the Speech and Hearing Services Licensure Board," and the American Speech-Language-Hearing Association (ASHA) guidelines for qualifications, supervision and service requirements for speech-language pathology. The guidelines have been incorporated by reference in Section 004 of these rules. (7-1-16)

i. Supervision must be provided by an SLP professional as defined in Section 734 of this chapter of rules. (7-1-16)

ii. The professional must observe and review the direct services performed by the paraprofessional on a monthly basis, or more often as necessary, to ensure the paraprofessional demonstrates the necessary skills to correctly provide the SLP service. (7-1-16)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.10 – MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-1806

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2019.

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

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

PUBLIC HEARING (IN PERSON)	
Wednesday, July 17, 2019 9:30 - 11:30a.m. (MDT)	
3232 Elder Street Conference Rm. D East & D West Boise, ID 83705	
VIA VIDEO CONFERENCE	
Wednesday, July 17, 2019	
COEUR D’ALENE 8:30 - 10:30 a.m. (PDT)	POCATELLO 9:30 - 11:30 a.m. (MDT)
1120 Ironwood Large Conference Rm. Coeur d’Alene, ID 83814	1070 Hiline Conference Rm. 230 Pocatello, ID 83201

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

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

These changes will comply with a federal mandate. Children's intervention services currently offered under federal Home and Community-Based waiver authorities will be moved into the State Plan to allow access to these intervention services for all eligible children who have a medically necessary need and functional and/or behavioral need for such services. Rules regarding children's state plan services (school-based services) are set forth in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," and rules regarding Home and Community-Based Services (HCBS) 1915(c) waiver and 1915(i) (state plan option benefits) are set forth in IDAPA 16.03.10. To change children's intervention services from waiver to state plan, the descriptions of the following services will be moved from IDAPA 16.03.10 to IDAPA 16.03.09 under the heading "Children's Habilitation Intervention Services."

The existing intervention service of habilitative intervention is being divided into two separate services to capture skill training interventions and therapeutic-type behavioral interventions. The Family Directed Services in the Children's Developmental Disability Services 1915(c) waiver are also contained in the 1915(i) Extended State Plan authority. Even though the 1915(c) will expire in June of this year, the family directed services will remain in IDAPA 16.03.10 under the 1915(i) benefit authority. The support services in this rule are respite, habilitative supports, family education, and family-directed community supports. This group of services will be re-titled "Children's Developmental Disabilities (DD) Home and Community-Based Services (HCBS) State Plan Option."

Because these rule changes move intervention services into the State Plan, all Medicaid-eligible children with an identified need may access services, therefore a cost increase is anticipated. However, by providing intervention services to children in need at an earlier age, more costly intervention may be avoided as the child ages. Additionally, these rule changes add language to establish a tiered provider structure allowing for providers, with higher credentials than those currently allowed in rule, to deliver these services. These changes will add a higher reimbursement rate for these higher credentialed providers resulting in an increase to the overall cost of providing these services. Again, higher quality services provided to children may cause a reduction in need for more intensive services as the child ages.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, Compliance with deadlines in amendments to governing law or federal programs; and (c), Confers a benefit, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The Centers for Medicare & Medicaid Services (CMS) Informational Bulletin dated July 7, 2014, directed states to move intervention services for children with autism under one of the Medicaid State Plan 1905(a) benefit categories to continue to receive Federal Financial Participation (FFP). Currently, intervention services for children with autism and other developmental disabilities in Idaho are offered under 1915(c) waiver authorities. This rule change is necessary to comply with federal requirements to ensure federal funding match for services provided to participants and ensure benefits are available to eligible children. The existing 1915(c) waivers (Children's DD and Act Early) are set to expire on June 30, 2019, which requires the State to either renew the waivers or move the services into the State plan to be able to continue to offer intervention services after this date to children with developmental limitations. CMS has indicated they will not approve waiver renewal amendments that are not compliant with the federal requirements. The 2019 Legislature approved funding to support the program benefit changes described.

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

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

These rule changes will result in a total additional cost of \$2,860,000 (\$820,800 General Funds and \$2,039,200 Federal Funds). Additional costs will support an increase in rates paid to providers with higher credentials than the program currently pays to existing providers. An increase in costs will also result from moving these services to the State Plan, which will allow all eligible children with an established need for children's habilitation intervention services to access these services. Analysis of this cost increase was requested in Medicaid's 2019 Budget under Budget Bill JGT008 and approved for funding by the 2019 Legislature.

Based on the Rough Order of Magnitude (ROM) requested through Medicaid Management Information System (MMIS), the changes required in the payment system will not involve any additional expenditures outside of Molina's existing contract scope of work.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 4, 2018, Idaho Administrative Bulletin, [Vol. 18-7, pages 120-122](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Angie Williams, (208) 287-1169.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2019.

Dated this 4th day of June, 2019.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500
Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 16-0310-1806
(Only Those Sections With Amendments Are Shown.)**

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance With Department Criminal History Check. Agencies must verify that individuals working in the area listed in Subsection 009.03 of these rules whom are employed or whom they contract have complied with the provisions in IDAPA 16.05.06, “Rules Governing Mandatory Criminal History Checks.”(3-19-07)

02. Additional Criminal Convictions. Once an individual has received a criminal history clearance, any additional criminal convictions must be reported by the agency to the Department when the agency learns of the conviction. (3-19-07)

03. Providers Subject to Criminal History and Background Check Requirements. The following providers are required to have a criminal history and background check: (3-19-07)

a. Adult Day Health Providers. The criminal history and background check requirements applicable to providers of adult day health as provided in Sections 329 and 705 of these rules. (4-4-13)

b. Adult Residential Care Providers. The criminal history and background check requirements applicable to adult residential care providers as provided in Section 329 of these rules. (4-2-08)

c. Attendant Care Providers. The criminal history and background check requirements applicable to attendant care providers as provided in Section 329 of these rules. (4-2-08)

d. Behavior Consultation or Crisis Management Providers. The criminal history and background check requirements applicable to behavior consultation or crisis management providers as provided in Section 705 of these rules. (4-4-13)

e. Certified Family Home Providers and All Adults in the Home. The criminal history and background check requirements applicable to certified family homes are found in Sections 305, 329 and 705 of these rules, and as provided in IDAPA 16.03.19, “Rules Governing Certified Family Homes.” (4-2-08)

f. Chore Services Providers. The criminal history and background check requirements applicable to chore services providers as provided in Sections 329 and 705 of these rules. (4-2-08)

~~**g. Crisis Intervention Providers.** The criminal history and background check requirements applicable to crisis intervention providers as provided in Section 685 of these rules. (7-1-11)~~

h.g. Companion Services Providers. The criminal history and background check requirements applicable to companion services providers as provided in Section 329 of these rules. (4-2-08)

h.h. Day Habilitation Providers. The criminal history and background check requirements applicable to day habilitation providers as provided in Section 329 of these rules. (4-4-13)

h.i. Developmental Disabilities Agencies (DDA). The criminal history and background check for DDA and staff as provided in IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," Section 009. (7-1-11)

h.j. Homemaker Services Providers. The criminal history and background check requirements applicable to homemaker services providers as provided in Section 329 of these rules. (4-2-08)

h.k. Personal Assistance Agencies Acting As Fiscal Intermediaries. The criminal history and background check requirements applicable to the staff of personal assistance agencies acting as fiscal intermediaries as provided in Subsection 329.02 of these rules. (3-19-07)

h.l. Personal Care Providers. The criminal history and background check requirements applicable to personal care providers as provided in Subsection 305.06 of these rules. (3-19-07)

h.m. Residential Habilitation Providers. The criminal history and background check requirements applicable to residential habilitation providers as provided in Sections 329 and 705 of these rules, and IDAPA 16.04.17 "Rules Governing Residential Habilitation Agencies," Sections 202 and 301. (4-2-08)

h.n. Respite Care Providers. The criminal history and background check requirements applicable to respite care providers as provided in Sections 329, 665, and 705 of these rules. (7-1-11)

h.o. Service Coordinators and Paraprofessionals. The criminal history and background check requirements applicable to service coordinators and paraprofessionals working for an agency as provided in Section 729 of these rules. (3-19-07)

h.p. Skilled Nursing Providers. The criminal history and background check requirements applicable to skilled nursing providers as provided in Sections 329 and 705 of these rules. (4-4-13)

h.q. Supported Employment Providers. The criminal history and background check requirements applicable to supported employment providers as provided in Sections 329 and 705 of these rules. (4-2-08)

h.r. Therapeutic Consultant. The criminal history and background check requirements applicable to therapeutic consultation providers as provided in Section 685 of these rules. (7-1-11)

(BREAK IN CONTINUITY OF SECTIONS)

038. GENERAL REIMBURSEMENT: TYPES OF PARTICIPANT SERVICES.
The following types of services are reimbursed as provided in Section 037 of these rules. (4-4-13)

01. Personal Care Services. The fees for personal Care Services (PCS) described in Section 300 of these rules. (4-4-13)

02. Aged and Disabled Waiver Services. The fees for personal care services (PCS) described in Section 320 of these rules. (4-4-13)

03. Children's ~~Waiver Services~~ Developmental Disabilities (DD) Home and Community-Based Services (HCBS) State Plan Option. The fees for ~~e~~Children's ~~waiver services~~ DD HCBS state plan option described in Section ~~680~~ 520 of these rules. ~~(4-4-13)~~ (7-1-19)T

04. Adults with Developmental Disabilities Waiver Services. The fees for adults with developmental disabilities waiver services described in Section 700 of these rules. (4-4-13)

05. Service Coordination. The fees for service coordination described in Section 720 of these rules. (4-4-13)

06. Therapy Services. The fees for physical therapy, occupational therapy, and speech-language pathology services described in Section 215 of these rules include the use of therapeutic equipment to provide the modality or therapy. No additional charge may be made to either the Medicaid program or the client for the use of such equipment. (4-4-13)

(BREAK IN CONTINUITY OF SECTIONS)

SUB-PART: CHILDREN'S DEVELOPMENTAL DISABILITIES ~~PRIOR AUTHORIZATION (DD)~~ HOME AND COMMUNITY-BASED SERVICES (HCBS) STATE PLAN OPTION
(Sections 520 - 528)

520. CHILDREN'S ~~DEVELOPMENTAL DISABILITY PRIOR AUTHORIZATION (PA)~~ DD HCBS STATE PLAN OPTION.

~~The purpose of the children's DD Prior Authorization is to ensure the provision of the right care, in the right place, at the right price, and with the right outcomes in order to enhance health and safety, and to promote participants' rights, self determination, and independence. Prior authorization involves the assessment of the need for services, development of a budget, development of a plan of service, prior approval of services, and a quality improvement program. Prior authorization is intended to help ensure the provision of necessary and appropriate services and supports. Services are reimbursable if they are identified on the authorized plan of service and are consistent with the purpose and rule for prior authorization as well as rules for HCBS as described in Section 310 through 317 of these rules, and for the specific services included on the plan. Delivery of each service identified on the plan of service cannot be initiated until after the plan has been signed by the provider agency professional responsible for service provision. In accordance with Section 1915(i) of the Social Security Act, the Department will pay for home and community-based services provided by individuals or agencies that have entered into a provider agreement with the Department.~~ (7-1-16)(7-1-19)T

521. CHILDREN'S ~~DEVELOPMENTAL DISABILITY PRIOR AUTHORIZATION (PA)~~ DD HCBS STATE PLAN OPTION: DEFINITIONS.

For the purposes of Sections 520 through 528 of these rules, the following terms are used as defined below. (7-1-11)(7-1-19)T

~~**01. Assessment.** A process that is described in Section 522 of these rules for program eligibility and in Section 526 of these rules for plan of service.~~ (7-1-11)

~~**021. Baseline Annual.** A participant's skill level prior to intervention written in measurable, behaviorally-stated terms. Every three hundred sixty-five (365) days, except during a leap year which equals three hundred sixty-six (366) days.~~ (7-1-11)(7-1-19)T

~~**032. Child Community.** A person who is under the age of eighteen (18) years. Natural, integrated environments outside of the participant's home, school, or DDA center-based settings.~~ (7-1-11)(7-1-19)T

~~**043. Family Developmental Disabilities Agency (DDA).** The participant and his parent(s) or legal guardian.~~ (7-1-11)(7-1-19)T

~~**a.** A type of developmental disabilities facility, as defined in Section 39-4604, Idaho Code, that is non-residential and provides services on an outpatient basis;~~ (7-1-19)T

b. Certified by the Department to provide services to participants with developmental disabilities; and (7-1-19)T

c. A business entity, open for business to the general public. (7-1-19)T

054. **Family-Centered Planning Process.** A participant-focused planning process directed by the participant or the participant's decision-making authority and facilitated by the paid or non-paid plan developer. The family-centered planning team discusses the participant's strengths, needs, and preferences, including the participant's safety and the safety of those around the participant. This discussion helps the participant or the participant's decision-making authority make informed choices about the services and supports included on the plan of service. (7-1-16)

065. **Family-Centered Planning Team.** The planning group who helps inform the participant about available services *and supports* in order to develop the participant's plan of service. This group includes, at a minimum, the *child* participant, the participant's decision-making authority, and the plan developer. If the participant is unable to attend the family-centered planning (FCP) meeting, the Plan of Service must contain documentation to justify the participant's absence. The family-centered planning team must include people chosen by the participant and the family, or agreed upon by the participant and the family as important to the process. (7-1-16)(7-1-19)T

076. **~~ICF/IAD~~ Home and Community-Based Services State (HCBS) Plan Option.** *Intermediate care facility for persons with intellectual disabilities* The federal authority under Section 1915(i) of the Social Security Act that allows a state to provide through a state plan amendment, medical assistance for home and community-based services for elderly and participants with disabilities, without determining that without the provision of services the participants would require institutional level of care. (7-1-16)(7-1-19)T

087. **~~Individualized Family Service Plan (IFSP) Integration.~~** *An initial or annual plan of service for providing early intervention services to children from birth to three (3) years of age (thirty-six (36) months old). The plan is developed by the family-centered planning team that includes the child participant, the participant's decision-making authority and other planning team members chosen by the participant's decision making authority, and the Department or its designee. The IFSP must meet the provisions of the Individuals with Disabilities Education Act (IDEA), Part C, and must be developed in accordance with Sections 316 through 317 of these rules. The IFSP may serve as the plan of service if it meets all of the components of the plan of service. The IFSP may also serve as a program implementation plan* The process of promoting a lifestyle for participants with developmental disabilities that is as much as possible like that of other citizens of the community, including living in the community and having access to community resources. A further goal of this process is to enhance the social image and personal competence of participants with developmental disabilities. (7-1-11)(7-1-19)T

098. **Level of Support.** The amount of services and supports necessary to allow the *individual participant* to live independently and safely in the community. (7-1-11)(7-1-19)T

109. **Medical, Social, and Developmental Assessment Summary.** A form used by the Department or its contractor to gather a participant's medical, social and developmental history and other summary information. It is required for all participants receiving home and community-based services under a plan of service. The information is used in the assessment and authorization of a participant's services. (7-1-11)(7-1-19)T

110. **Plan Developer.** A paid or non-paid person who, under the direction of the participant or the participant's decision-making authority, is responsible for developing a single plan of service and subsequent addenda. The plan of service *plan* must *that* cover all services and supports identified during the family-centered planning process and must meet the HCBS person-centered plan requirements as described in Section 317 of these rules. (7-1-16)(7-1-19)T

121. **Plan Monitor.** A person who oversees the provision of services on a paid or non-paid basis and is identified on the participant's person-centered plan of service. (7-1-16)

132. **Plan of Service.** An initial or annual plan of service, developed by the participant, the participant's decision-making authority, and the family-centered planning team, that identifies all services *and supports* that were determined through a family-centered planning process. The plan development is required in order to provide DD

services to children from birth through seventeen (17) years of age. This plan must be developed in accordance with Sections 316 and 317 of these rules. ~~(7-1-16)~~(7-1-19)T

~~143.~~ **Practitioner of the Healing Arts, Licensed.** A licensed physician, physician assistant, or nurse practitioner. (7-1-11)

~~154.~~ **Prior Authorization (PA).** A process for determining a participant's eligibility for services and medical necessity prior to the delivery or payment of services as ~~provided by~~ described in Sections 520 ~~and~~ through 528 of these rules. ~~(7-1-11)~~(7-1-19)T

~~165.~~ **Provider Status Review.** The written documentation that identifies the participant's progress toward goals defined in the plan of service, and demonstrates the continued need for the service. (7-1-11)

~~176.~~ **Right Care.** Accepted treatment for defined diagnosis, functional needs and abilities to achieve the desired outcome. The right care is consistent with best practice and continuous quality improvement. (7-1-11)

~~187.~~ **Right Place.** Services delivered in the most integrated setting in which they normally occur, based on the participant's choice to promote independence. (7-1-11)

~~198.~~ **Right Price.** The most integrated and least expensive services that are sufficiently intensive to address the participant's needs. The amount is based on the individual's needs for services and supports as identified in the assessment. (7-1-11)

~~2019.~~ **Right Outcomes.** Services based on assessed need that ensure the health and safety of the participant and result in progress, maintenance, or delay or prevention of regression for the participant. (7-1-11)

~~210.~~ **Services Supervisor.** ~~Evaluation, diagnostic, therapy, training, assistance, and support services that are provided to persons with developmental disabilities.~~ For the purposes of these rules, the supervisor is the individual responsible for the supervision of DDA staff as outlined in IDAPA 16.03.09, "Children's Habilitation Intervention Services." ~~(7-1-11)~~(7-1-19)T

~~21.~~ **Support Services.** Services that provide supervision and assistance to a participant or facilitates integration into the community. (7-1-19)T

522. CHILDREN'S ~~DEVELOPMENTAL DISABILITY PRIOR AUTHORIZATION (PA)~~ DD HCBS STATE PLAN OPTION: ELIGIBILITY DETERMINATION.

~~The Department will make the final determination of a child's eligibility, based upon the assessments administered by the Department. Initial and annual assessments must be performed by the Department or its contractor. The purpose of the eligibility assessment is to determine a participant's eligibility for developmental disabilities services in accordance with Section 66-402, Idaho Code, and Sections 500 through 506 of these rules, to determine a participant's eligibility for children's home and community-based state plan option services in accordance with Section 662 of these rules, and to determine a participant's eligibility for ICF/ID level of care for children's waiver services in accordance with Section 682 of these rules. Prior to receiving Children's DD HCBS State Plan Option services as described in Section 523 of these rules, the participant must be determined to have a developmental disability in accordance with Section 66-402, Idaho Code, and Sections 500, 501, and 503 of these rules, and meet the criteria to receive Home and Community-Based Services. Final determination of an participant's eligibility will be made by the Department.~~ ~~(7-1-11)~~(7-1-19)T

01. Initial Eligibility Assessment Developmental Disability Determination. ~~For new applicants, an assessment must be completed by the Department or its contractor within thirty (30) calendar days from the date a complete application is submitted. The Department, or its contractor, will determine if a child meets established criteria for a developmental disability by completing the following:~~ ~~(7-1-11)~~(7-1-19)T

- a.** Documentation of a participant's developmental disability diagnosis, demonstrated by: (7-1-19)T
 - i.** A medical assessment that contains medical information that accurately reflects the current status of the participant or establishes categorical eligibility in accordance with Section 66-402(5)(a), Idaho Code; or

(7-1-19)T

ii. The results of psychometric testing, if eligibility for developmental disabilities services is based on intellectual disability and there is no prior testing, or prior testing is inconclusive or invalid. Initial eligibility determinations also require documentation of diagnosis for a participant whose eligibility is based on developmental disabilities other than intellectual disability. (7-1-19)T

b. An assessment of functional skills that reflects the participant's current functioning. The Department, or its contractor, will administer a functional assessment for use in initial eligibility determination of developmental disability eligibility. Annually, a new functional assessment may be required if the assessor determines that additional documentation is necessary to determine the participant's level of care criteria and must be completed sixty (60) calendar days before the expiration of the current plan of service. (7-1-19)T

c. Medical, social, and developmental summary. (7-1-19)T

02. ~~Annual Eligibility Determination~~ for Children's Home and Community-Based State Plan Option. ~~Eligibility determination must be completed annually for current participants. The assessor must reassess the participant, or establish and document that the existing assessments reflect the participant's current level of care needs. At least sixty (60) calendar days before the expiration of the current plan of service~~ The Department, or its contractor, will determine if a child meets the established criteria necessary to receive children's home and community-based state plan option services by verifying: (7-1-19)T

a. ~~The eligibility determination process must be completed to determine level of care needs~~ The participant is birth through seventeen (17) years of age; and (7-1-19)T

b. ~~The assessor must provide the results of the eligibility determination to the participant. The participant has a developmental disability as defined under Sections 500, 501, and 503 these rules and Section 66-402, Idaho Code, and has a demonstrated need for Children's HCBS state plan option services; and~~ (7-1-19)T

c. The participant qualifies for Medicaid under an eligibility group who meets the needs-based criteria of the 1915(i) benefit for children with developmental disabilities and falls within the income requirements as specified in Attachment 2.2-A of the Idaho State Plan under Title XIX. (7-1-19)T

03. ~~Determination of Developmental Disability Eligibility~~ Individualized Budget Methodology. ~~The following four (4) categories are used when determining individualized budgets for children with developmental disabilities.~~ (7-1-19)T

a. ~~The assessments that are required and completed by the Department or its contractor for determining a participant's eligibility for developmental disabilities services must include:~~ Children's DD - Level I, Children meeting developmental disabilities criteria. (7-1-19)T

i. ~~Medical, Social, and Developmental Assessment Summary;~~ (7-1-19)T

ii. ~~A functional assessment that reflects the participant's current functioning. The Department or its contractor will administer a functional assessment for use in initial eligibility determination of developmental disability eligibility. Thereafter, a new functional assessment will be required if the assessor determines that additional documentation is necessary to determine the participant's level of care criteria.~~ (7-1-19)T

b. ~~The Department or its contractor must obtain the following:~~ Children's DD - Level II. (7-1-19)T

i. ~~A medical assessment that contains medical information that accurately reflects the current status of the participant or establishes categorical eligibility in accordance with Section 66-402(5)(a), Idaho Code~~ Children who qualify based on functional limitations when their composite full-scale standard score of less than fifty (50); or (7-1-19)T

ii. ~~The results of psychometric testing if eligibility for developmental disabilities services is based on~~

~~intellectual disability and there is no prior testing, or prior testing is inconclusive or invalid. Initial eligibility determinations also require documentation of diagnosis for participants whose eligibility is based on developmental disabilities other than intellectual disability~~ Children who have an overall standard score up to fifty-three (53) when combined with a maladaptive behavior score of greater than one (1) to less than two (2) standard deviations from the mean. (7-1-11)(7-1-19)T

- ~~c. Children's DD - Level III. (7-1-19)T~~
- ~~i. Children who qualify based on functional limitations when their composite full-scale standard score is less than fifty (50); and (7-1-19)T~~
- ~~ii. Have an autism spectrum disorder diagnosis. (7-1-19)T~~
- ~~d. Children's DD - Level IV. Children who qualify based on maladaptive behaviors when their maladaptive behavior score is two (2) standard deviations or greater from the mean. (7-1-19)T~~

~~04. **ICF/ID Level of Care Determination for Waiver Services** Participant Notification of Budget Amount. The Department or its contractor will determine ICF/ID level of care for children in accordance with Section 584 of these rules. The Department, or its contractor, notifies each participant of his set budget amount as part of the eligibility determination process. The notification will include how the participant may appeal the set budget amount. (7-1-11)(7-1-19)T~~

~~05. **Determination for Children's Home and Community-Based State Plan Option Annual Re-Evaluation.** The Department or its contractor will determine if a child meets the established criteria necessary to receive children's home and community-based state plan option services in accordance with Section 662 of these rules. Individualized budgets will be re-evaluated annually. At the request of the participant, the Department, or its contractor, will also re-evaluate the set budget amount when there are documented changes that may support placement in a different budget category as outlined in Subsection 522.03 of this rule. (7-1-11)(7-1-19)T~~

~~523. **(RESERVED) CHILDREN'S DD HCBS STATE PLAN OPTION: COVERAGE AND LIMITATIONS.**~~

~~All children's Home and Community-Based Services must be identified on a plan of service developed by the family-centered planning team. The following services must be prior authorized and are reimbursable when provided in accordance with these rules. (7-1-19)T~~

~~01. **Respite.** Respite provides supervision to the participant on an intermittent or short-term basis because of the need for relief of the primary unpaid caregiver or in response to a family emergency or crisis. Respite may be provided by a qualified agency provider DDA or by an independent respite provider. An independent respite provider may be a relative of the participant. Payment for respite does not include room and board. Respite may be provided in the participant's home, the private home of the independent respite provider, a DDA, or in the community. The following limitations apply: (7-1-19)T~~

- ~~a. Respite must not be provided on a continuous, long-term basis as a daily service that would enable an unpaid caregiver to work. (7-1-19)T~~
- ~~b. Respite must only be offered to participants living with an unpaid caregiver who requires relief. (7-1-19)T~~
- ~~c. Respite cannot exceed fourteen (14) consecutive days. (7-1-19)T~~
- ~~d. Respite must not be provided at the same time other Medicaid services are being provided with the exception of when an unpaid caregiver is receiving family education. (7-1-19)T~~
- ~~e. The respite provider must not use restraints on participants, other than physical restraints in the case of an emergency. Physical restraints may be used in an emergency to prevent injury to the participant or others and must be documented in the participant's record. (7-1-19)T~~

f. When respite is provided as group respite, the following applies: (7-1-19)T

i. When group respite is center-based, there must be a minimum of one (1) qualified staff providing direct services to every two (2) to six (6) participants. As the number and severity of the participants with functional impairments or behavioral needs increase, the staff-to-participant ratio must be adjusted accordingly. (7-1-19)T

ii. When group respite is community-based, there must be a minimum of one (1) qualified staff providing direct services to two (2) or three (3) participants. As the number and severity of the participants with functional impairments or behavioral needs increase, the staff-to-participant ratio must be adjusted accordingly. (7-1-19)T

g. Respite cannot be provided as center-based by an independent respite provider. An independent respite provider may only provide group respite when the following are met: (7-1-19)T

i. The independent respite provider is a relative; (7-1-19)T

ii. The independent respite provider is delivering respite to no more than three (3) eligible siblings; (7-1-19)T

and

iii. The service is delivered in the home of the participants or the independent respite provider. (7-1-19)T

02. Community-Based Supports. Community-based supports provides assistance to an participant with a disability by facilitating the participant's independence and integration into the community. This service provides an opportunity for participants to explore their interests, practice skills learned in other therapeutic environments, and learn through interactions in typical community activities. Integration into the community enables participants to expand their skills related to activities of daily living and reinforces skills to achieve or maintain mobility, sensory-motor, communication, socialization, personal care, relationship building, and participation in leisure and community activities. Community-based supports must: (7-1-19)T

a. Not supplant services provided in school or therapy, or supplant the role of the primary caregiver; (7-1-19)T

b. Ensure the participant is involved in age-appropriate activities in environments typical peers access according to the ability of the participant; and (7-1-19)T

c. Have a minimum of one (1) qualified staff providing direct services to two (2) or three (3) participants when provided as group community-based supports. As the number and severity of the participants with functional impairments or behavioral needs increase, the staff participant ratio must be adjusted accordingly. (7-1-19)T

03. Family Education. Family education is professional assistance to family members, or others, who participate in caring for the eligible participant to help them better meet the needs of the participant. It offers education that is specific to the needs of the family and participant as identified on the plan of service. Family education is delivered to families, or others, who participate in caring for the eligible participant to provide an orientation to developmental disabilities and to educate families on generalized strategies for behavioral modification and intervention techniques specific to the participant's diagnoses. (7-1-19)T

a. Family education providers must maintain documentation of the training in the participant's record including the provision of activities outlined in the plan of service. (7-1-19)T

b. Family education may be provided in a group setting not to exceed five (5) participants' families. (7-1-19)T

04. Family-Directed Community Supports (FDCS). Families of participants eligible for the children's home and community-based state plan option may choose to direct their individualized budget rather than receive the traditional services described in Subsections 523.01 through 523.04 of this rule when the participant lives

at home with his parent or legal guardian. All services provided under FDCS option must be delivered on a one-to-one basis, must be identified on a plan of service developed by the family-centered planning team, and must be prior authorized. The requirements for this option are outlined in Sections 520 through 522, Subsections 524.01-03, 523.06, 524.07-10, and 525.01, and Section 528, of these rules, and IDAPA 16.03.13, "Consumer-Directed Services." (7-1-19)T

05. Limitations. (7-1-19)T

a. HCBS state plan option services are limited by the participant's individualized budget amount. (7-1-19)T

b. Services offered in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," may not be authorized under these rules. (7-1-19)T

c. Duplication of services cannot be provided. Services are considered duplicate when: (7-1-19)T

i. An adaptive equipment and support service address the same goal; (7-1-19)T

ii. Multiple adaptive equipment items address the same goal; (7-1-19)T

iii. Goals are not separate and unique to each service provided; or (7-1-19)T

iv. When more than one (1) service is provided at the same time, unless otherwise authorized. (7-1-19)T

d. For the children's HCBS state plan option services listed in Subsections 523.01, 523.02, and 523.03 of this rule, the following are excluded for Medicaid payment: (7-1-19)T

i. Vocational services; (7-1-19)T

ii. Educational services; and (7-1-19)T

iii. Recreational services. (7-1-19)T

06. HCBS Compliance. Providers of children's developmental disability services are responsible for ensuring that they meet the setting quality requirements described in Section 313 of these rules, as applicable, and must comply with associated Department quality assurance activities. The Department may take enforcement actions as described in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 205, if the provider fails to comply with any term or provision of the provider agreement, or any applicable state or federal regulation. (7-1-19)T

524. CHILDREN'S ~~DEVELOPMENTAL DISABILITY PRIOR AUTHORIZATION (PA): COVERAGE AND LIMITATIONS~~ DD HCBS STATE PLAN OPTION: PLAN OF SERVICE PROCESS.

The scope of these rules defines prior authorization for the following Medicaid developmental disabilities services for children included in Section 310 of these rules: In collaboration with the participant, the Department must ensure that the participant has one (1) plan of service. This plan of service is developed within the individualized participant budget referred to in Section 522 of these rules and must identify all services. The plan of service must identify services and supports if available outside of Medicaid-funded services that can help the participant meet desired goals. Paid plan development must be provided by the Department, or its contractor, in accordance with Section 316 of these rules. (7-1-16)(7-1-19)T

01. ~~Children's Home and Community Based State Plan Option Services~~ History and Physical. Children's home and community based state plan option services as described in Sections 660 through 666 of these rules; and Prior to the development of the plan of service, the plan developer must obtain a current history and physical completed by a practitioner of the healing arts. This is required at least annually or more frequently as determined by the practitioner. For participants in Healthy Connections, the Healthy Connections physician may conduct the history and physical and refer the participant for other evaluations. (7-1-11)(7-1-19)T

02. ~~Children's DD Waiver Plan of Services Development.~~ Children's DD waiver services as described in Sections 680 through 686 of these rules The plan of service must be developed with the child participant, the participant's decision-making authority, and facilitated by the Department, or its designee. If the participant is unable to attend the family-centered planning (FCP) meeting, the plan of service must contain documentation to justify the participant's absence. With the decision-making authority's consent, the family-centered planning team may include other family members or participants who are significant to the participant. ~~(7-1-11)~~(7-1-19)T

03. Requirements for Collaboration. Providers of Home and Community-Based Services must coordinate with the family-centered planning team as specified on the plan of service. (7-1-19)T

04. Plan Monitoring. The family-centered planning team must identify the frequency of monitoring, which must be at least every six (6) months and document the plan monitor's name along with the monitoring frequency on the plan. The plan developer is considered the plan monitor and must meet face-to-face with the participant and the participant's decision-making authority at least annually. Plan monitoring includes reviewing the plan of service with the participant and the participant's decision-making authority to identify the current status of programs, identifying any barriers to services, and making changes to the plan of service if needed. (7-1-19)T

05. Provider Status Reviews. The service providers identified in Subsection 523.03 of these rules must report the participant's progress toward goals to the plan monitor. The provider must complete a six (6) month and annual provider status review. The six (6) month status review must be submitted thirty (30) days prior to the six (6) month date listed on the plan of service and provider status review must be submitted to the plan monitor forty-five (45) calendar days prior to the expiration of the existing plan of service. (7-1-19)T

06. Addendum to the Plan of Service. A plan of service may be adjusted during the year with an addendum to the plan and these adjustments must be based on changes in a participant's need and requested by the parent or legal guardian. Adjustment of the plan of service requires the decision-making authority's signature and prior authorization by the Department. The Department will distribute the addendum to the providers involved in the addendum's implementation. Upon receipt by the provider, the addendum must be reviewed, signed, and returned to the Department, with a copy maintained in the participant's record. (7-1-19)T

07. Annual Reauthorization of Services. A participant's plan of service must be reauthorized annually. The Department must review and authorize the new plan of service prior to the expiration of the current plan. (7-1-19)T

08. Annual Eligibility Determination Results. An annual determination must be completed in accordance with Section 522 of these rules. (7-1-19)T

09. Adjustments to the Annual Budget and Services. The annual budget may be adjusted when there are documented changes that may support placement in a different budget category as identified in Section 522 of these rules. Services may be adjusted at any time during the plan year. (7-1-19)T

10. Reapplication After a Lapse in Service. For participants who are re-applying for service, the assessor must evaluate whether assessments are current and accurately describe the status of the participant. (7-1-19)T

525. CHILDREN'S ~~DEVELOPMENTAL DISABILITY PRIOR AUTHORIZATION (PA)- PROCEDURAL REQUIREMENTS~~ DD HCBS STATE PLAN OPTION; PROCEDURAL REQUIREMENTS. ~~Prior to the development of the plan of service, the plan developer will gather and make referrals for the following information to facilitate the family-centered planning process: (7-1-16)~~(7-1-19)T

01. ~~Eligibility Determination Documentation~~ Requirements for Prior Authorization. ~~Eligibility determination documentation completed by the Department or its contractor as defined in Subsection 522.03 of these rules~~ Prior authorization is to ensure the provision of the right care, in the right place, at the right price, and with the right outcomes in order to enhance health and safety, and to promote participants' rights, self-determination, and independence. Prior authorization is intended to help ensure the provision of necessary and appropriate services and supports. Services are reimbursable if they are identified on the authorized plan of service and are consistent with rules for HCBS as described in Sections 310 through 313 and 316 and 317 of these rules, and for the specific services

included on the plan. Delivery of each service identified on the plan of service cannot be initiated until the plan has been signed by the parent or participant's decision-making authority, the provider agency responsible for service provision, and has been authorized by the Department. (7-1-H)(7-1-19)T

02. History and Physical Requirements for Supervision. ~~A current history and physical completed by a practitioner of the healing arts is required at least annually or more frequently as determined by the practitioner. For participants in Healthy Connections, the Healthy Connections physician must conduct the history and physical, and may refer the participant for other evaluations.~~ All DDA support services must be provided under supervision. The supervisor must meet the qualifications as outlined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 575, "Children's Habilitation Intervention Services." The observation and review of the direct services performed by all staff on at least a monthly basis, or more often as necessary, to ensure staff demonstrate the necessary skills to correctly provide the services as defined in this rule set. (7-1-H)(7-1-19)T

03. Discipline Specific Assessments Requirements for Quality Assurance. ~~Participants must be referred for an occupational therapy, physical therapy, or speech language pathology assessment when the participant has a targeted need in one of these disciplines. The assessment is used to guide the provision of services identified on the plan of service.~~ Providers of children's home and community-based state plan option services must demonstrate high quality of services through an internal quality assurance review process. (7-1-H)(7-1-19)T

04. Additional Information General Requirements for Program Documentation. ~~Gather assessments and information related to the participant's medical conditions, risk of deterioration, living conditions, individual goals, and behavioral or psychiatric needs. The provider must maintain records for each participant served.~~ Each participant's record must include documentation of the participant's involvement in and response to the services provided. Program documentation must be maintained by the independent provider or DDA in accordance with IDAPA 16.05.07, "Investigation and Enforcement of Fraud, Abuse, and Misconduct," Section 101. Failure to maintain such documentation will result in the recoupment of funds paid for undocumented services. For each participant, the following program documentation is required: (7-1-H)(7-1-19)T

- a.** Date and time of visit; (7-1-19)T
- b.** Support services provided during the visit; (7-1-19)T
- c.** A statement of the participant's response to the service; (7-1-19)T
- d.** Length of visit, including time in and time out; (7-1-19)T
- e.** Location of service; and (7-1-19)T
- f.** Signature of the individual providing the service and date signed. (7-1-19)T

05. Community-Based Supports Documentation. In addition to the general requirements listed in Subsection 525.04 of this rule, the supervisor must complete at a minimum, six (6) month and annual provider status reviews for community-based support services provided. These provider status reviews must be completed more frequently when required on the plan of service and must: (7-1-19)T

- a.** Be submitted to the plan monitor; and (7-1-19)T
- b.** Be submitted on Department-approved forms. (7-1-19)T

06. Family Education Documentation. In addition to the general requirements listed in Subsection 525.04 of this rule, the DDA must survey the parent or legal guardian's satisfaction of the service immediately following a family education session. (7-1-19)T

526. CHILDREN'S ~~DEVELOPMENTAL DISABILITY PRIOR AUTHORIZATION (PA): PLAN OF SERVICE PROCESS~~ DD HCBS STATE PLAN OPTION: PROVIDER QUALIFICATIONS AND DUTIES. In collaboration with the participant, the Department must ensure that the participant has one (1) plan of service. This plan of service is developed within the individualized participant budget referred to in Section 527 of these rules.

~~and must identify all services and supports. The participant and his parent or legal guardian may develop their own plan or use a paid or non paid plan developer to assist with plan development. The plan of service must identify services and supports if available outside of Medicaid-funded services that can help the participant meet desired goals. All providers of HCBS state plan option services must have a valid provider agreement with the Department. Performance under this agreement will be monitored by the Department.~~ (7-1-16)(7-1-19)T

01. ~~Plan-Development~~ **Respite. ~~Paid plan development must be provided by the Department or its contractor in accordance with Section 316 of these rules. Non paid plan development may be provided by the family, or a person of their choosing, in accordance with the Home and Community-Based Services (HCBS) regulations in Section 316 of these rules, when this person is not a paid provider of services identified on the child's plan of service. Respite may be provided by an agency that is certified as a DDA or by an independent respite provider. An independent respite provider is an individual who has entered into a provider agreement with the Department. Providers of respite must meet the following minimum qualifications:~~ (7-1-16)(7-1-19)T**

~~a. The plan developer is responsible for the documentation of the developed plan and any subsequent plan changes as determined by the family-centered planning team. Be at least sixteen (16) years of age when employed by a DDA; or~~ (7-1-16)(7-1-19)T

~~b. Individuals responsible for facilitating the person-centered planning meeting and developing the plan of service cannot be providers of direct services to the participant. Be at least eighteen (18) years of age and be a high school graduate, or have a GED, to act as an Independent Respite Provider; and~~ (7-1-16)(7-1-19)T

~~c. Meet the qualifications prescribed for the type of services to be rendered, or must be an individual selected by the participant, the family, or the participant's guardian;~~ (7-1-19)T

~~d. Have received instructions in the needs of the participant who will be provided the service;~~ (7-1-19)T

~~e. Demonstrate the ability to provide services according to a plan of service;~~ (7-1-19)T

~~f. Must satisfactorily complete a criminal history background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks,"; and~~ (7-1-19)T

~~g. When employed by a DDA, must be certified in CPR and first aid in accordance with the general training requirements under IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)." Independent respite providers must be certified in CPR and first aid prior to delivering services and must maintain current certification thereafter.~~ (7-1-19)T

02. ~~Plan of Service Development~~ **Community-Based Support. ~~The plan of service must meet the requirements described in Section 317 of these rules. The service plan must be developed with the child participant, the participant's decision making authority, and facilitated by the Department or its designee. If the participant is unable to attend the family-centered planning (FCP) meeting, the Plan of Service must contain documentation to justify the participant's absence. With the decision-making authority's consent, the family-centered planning team may include other family members or individuals who are significant to the participant. Community-based supports must be provided by an agency certified as a DDA with staff who are capable of supervising the direct services provided. Providers of community-based supports must meet the following minimum qualifications:~~ (7-1-16)(7-1-19)T**

~~a. In developing the plan of service, the family-centered planning team must identify any services and supports available outside of Medicaid-funded services that can help the participant meet desired goals. The development of the service plan must be conducted in accordance with the Home and Community-Based Services requirements in Section 317 of these rules. Must be at least eighteen (18) years of age;~~ (7-1-16)(7-1-19)T

~~b. The plan of service must identify, at a minimum, the type of service to be delivered, goals and desired outcomes to be addressed within the plan year, strengths and preferences of the participant, including the participant's safety and the safety of those around the participant, target dates, and methods for collaboration. Must be at least eighteen (18) years of age;~~ (7-1-16)(7-1-19)T

- c. Have received instructions in the needs of the participant who will be provided the service; (7-1-19)T
- d. Demonstrate the ability to provide services according to a plan of service; (7-1-19)T
- e. Must have six (6) months supervised experience working with children with developmental disabilities. This can be achieved in the following ways: (7-1-19)T

 - i. Have previous work experience gained through paid employment, university practicum experience, or internship; or (7-1-19)T
 - ii. Have on-the-job supervised experience gained through employment at a DDA with increased supervision. Experience is gained by completing at least six (6) hours of job shadowing prior to the delivery of direct support services, and a minimum of weekly face-to-face supervision with the supervisor for a period of six (6) months while delivering services. (7-1-19)T
 - iii. For individuals providing community-based supports to children birth to age three (3), the six (6) months of documented experience must be with infants, toddlers, or children birth to age three (3) years of age with developmental delays or disabilities. (7-1-19)T
 - f. Must complete competency coursework approved by the Department to demonstrate competencies related to the requirements to provide community-based supports. (7-1-19)T
- 03.** ~~*No Duplication of Services*~~ **Family Education.** ~~*The plan developer must ensure that there is no duplication of services.*~~ Family Education can be provided by an agency certified as a DDA or an individual who holds an independent habilitation intervention provider agreement with the Department in one (1) of the following: Providers of Family Education must meet one (1) of the following minimum qualifications: (7-1-11)(7-1-19)T

 - a. Must meet the qualifications of an intervention specialist as defined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Subsection 575.03; (7-1-19)T
 - b. Meet the minimum qualifications of an intervention professional as defined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Subsection 575.04; (7-1-19)T
 - c. Meet the minimum qualifications to provide services under a Department-approved Evidence-Based Model (EBM) intervention specialist, as outlined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Subsection 575.06; or (7-1-19)T
 - d. Meet the minimum qualification to provide services under a Department-approved Evidence-Based Model (EBM) intervention professional, as outlined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Subsection 575.07. (7-1-19)T
- 04.** ~~*Plan Monitoring. The family-centered planning team must identify the frequency of monitoring, which must be at least every six (6) months, and document the plan monitor's name along with the monitoring frequency on the plan. The plan developer is considered the plan monitor and must meet face-to-face with the participant and the participant's decision making authority at least annually. Plan monitoring must include the following:*~~ (7-1-16)

 - ~~*a.*~~ Review of the plan of service with the participant and the participant's decision making authority to identify the current status of programs and changes if needed; (7-1-16)
 - ~~*b.*~~ Maintain contact with service providers to identify and remediate barriers to service provision; (7-1-16)
 - ~~*c.*~~ Discuss with the participant and his decision making authority their satisfaction regarding quality and quantity of services; and (7-1-16)

- ~~d. Review of provider status reviews for compliance with the plan of service. (7-1-16)~~
- ~~05. **Provider Status Reviews.** The service providers in Sections 664 and 684 of these rules must report to the plan monitor the participant's progress toward goals. The provider must complete a six (6) month and annual provider status review. The provider status review must be submitted to the plan monitor within forty five (45) calendar days prior to the expiration of the existing plan of service. (7-1-11)~~
- ~~06. **Informed Consent.** The participant and the participant's decision-making authority must make decisions regarding the type and amount of services required. (7-1-16)~~
- ~~a. Prior to plan development, the plan developer must document that they have provided information and support to the participant and the participant's decision-making authority to maximize their ability to make informed choices regarding the services and supports they receive and from whom. (7-1-16)~~
- ~~b. During plan development and amendments, planning team members must document whether they believe the plan is in accordance with the participant's choices of the services and supports identified in the meeting and whether they believe the plan meets the needs of the participant. (7-1-16)~~
- ~~e. If there is a conflict that cannot be resolved among the family-centered planning members or if the participant or the participant's decision-making authority does not believe the plan meets the participant's needs or represents the participant's choice, the plan or amendment may be referred to the Bureau of Developmental Disability Services to negotiate a resolution with the planning team. (7-1-16)~~
- ~~07. **Program Implementation Plan.** Providers of children's waiver services listed under Section 684 of these rules must develop an implementation plan that identifies specific objectives that demonstrate how the provider will assist the participant to meet the participant's goals and needs identified in the plan of service. (7-1-13)~~
- ~~a. The implementation plan must be completed within fourteen (14) calendar days after the initial provision of service, and revised whenever participant needs change. (7-1-11)~~
- ~~b. Documentation of implementation plan changes will be included in the participant's record. This documentation must include, at a minimum, the reason for the change, documentation of coordination with other service providers (where applicable), the date the change was made, and the signature of the person making the change complete with his title and the date signed. (7-1-11)~~
- ~~08. **Addendum to the Plan of Service.** A plan of service may be adjusted during the year with an addendum to the plan. These adjustments must be based on changes in a participant's need or demonstrated outcomes that result in the need for an addition or reduction of a service, or a change in a provider. Additional assessments or information may be clinically necessary. Adjustment of the plan of service requires the decision-making authority's signature and prior authorization by the Department. The Department will distribute the addendum to the providers involved in the addendum's implementation. Upon receipt by the provider, the addendum must be reviewed, signed, and returned to the Department, with a copy maintained in the participant's record. (7-1-16)~~
- ~~09. **Annual Reauthorization of Services.** A participant's plan of service must be reauthorized annually. The Department must review and authorize the new plan of service prior to the expiration of the current plan. (7-1-11)~~
- ~~a. **Annual Eligibility Determination Results.** An annual determination must be completed in accordance with Section 522 of these rules. (7-1-11)~~
- ~~b. **Plan Developer Responsibilities for Annual Reauthorization.** A new plan of service must be provided to the Department by the plan developer at least ten (10) calendar days prior to the expiration date of the current plan. Prior to this, the plan developer must: (7-1-13)~~
- ~~i. Notify the providers who appear on the plan of service of the annual review date. (7-1-11)~~

- ~~ii. Obtain a copy of the current annual provider status review from each provider for use by the family-centered planning team. Each provider status review must meet the requirements in Subsection 526.06 of these rules. (7-1-11)~~
- ~~iii. Convene the family-centered planning team to develop a new plan of service. (7-1-11)~~
- ~~e. Evaluation and Prior Authorization of the Plan of Service. The plan of service must be evaluated and prior authorized in accordance with the requirements in Sections 520 and 526 of these rules. (7-1-11)~~
- ~~d. Adjustments to the Annual Budget and Services. The annual budget may be adjusted when there are documented changes that may support placement in a different budget category as identified in Section 527 of these rules. Services may be adjusted at any time during the plan year. (7-1-13)~~
- ~~e. Reapplication After a Lapse in Service. For participants who are re-applying for service after at least a thirty (30) calendar day lapse in service, the assessor must evaluate whether assessments are current and accurately describe the status of the participant. (7-1-11)~~

527. CHILDREN'S ~~DEVELOPMENTAL DISABILITY PRIOR AUTHORIZATION (PA)~~ DD HCBS STATE PLAN OPTION; PROVIDER REIMBURSEMENT.

~~Providers are reimbursed on a fee-for-service basis for services identified on the participant's plan of service and within the participant's individualized budget. The Department will monitor the budget setting methodology on an ongoing basis to ensure that participant needs are accurately reflected in the methodology. Providers are reimbursed on a fee-for-service basis for services identified on the participant's plan of service and within the participant's individualized budget. The Department will monitor the budget setting methodology on an ongoing basis to ensure that participant needs are accurately reflected in the methodology. (7-1-11)(7-1-19)T~~

01. Individualized Budget Methodology Reimbursement. ~~The following five (5) categories are used when determining individualized budgets for children with developmental disabilities: The statewide reimbursement rate for children's HCBS state plan option services listed in Subsections 523.01 through 523.04 of these rules was derived by using Bureau of Labor Statistics mean wage for the direct care staff providing the service, adjusted for employment-related expenditures, program-related costs, and general and administrative costs based on a cost survey as described in Subsection 527.02 of this rule. Reimbursement rates are set at a percentage of the statewide target reimbursement rate. The Department will take into consideration the factors of efficiency, economy, quality of care, and access to care when determining rates. (7-1-11)(7-1-19)T~~

- ~~a. HCBS State Plan Option. Children meeting developmental disabilities criteria. (7-1-11)~~
- ~~b. Children's DD Waiver – Level I. (7-1-11)~~
 - ~~i. Children meeting ICF/ID level of care criteria who qualify based on functional limitations when their composite full scale functional age equivalency is less than fifty percent (50%) of their chronological age; or (7-1-11)~~
 - ~~ii. Children who have an overall age equivalency up to fifty three percent (53%) of their chronological age when combined with a General Maladaptive Index between minus seventeen (-17), and minus twenty one (-21) inclusive. (7-1-11)~~
- ~~e. Children's DD Waiver – Level II. (7-1-11)~~
 - ~~i. Children meeting ICF/ID level of care criteria who qualify based on functional limitations when their composite full scale functional age equivalency is less than fifty percent (50%) of their chronological age; and (7-1-11)~~
 - ~~ii. Have an autism spectrum disorder diagnosis. (7-1-11)~~
 - ~~d. Children's DD Waiver – Level III. Children meeting ICF/ID level of care criteria who qualify based~~

~~on maladaptive behaviors when their General Maladaptive Index is minus twenty-two (-22) or less. (7-1-11)~~

- ~~e. Act Early Waiver. (7-1-11)~~
- ~~i. Children age three (3) through six (6) meeting ICF/ID level of care criteria who qualify based on maladaptive behaviors when their General Maladaptive Index is minus twenty-two (-22) or less, and their composite full-scale functional age equivalency is less than fifty percent (50%) of their chronological age; or (7-1-11)~~
- ~~ii. Children age three (3) through six (6) meeting ICF/ID level of care criteria who have an autism spectrum disorder diagnosis. (7-1-11)~~

02. Participant Notification of Budget Amount Cost Survey. ~~The Department notifies each participant of his set budget amount as part of the eligibility determination process. The notification will include how the participant may appeal the set budget amount. The Department will conduct a cost survey every five (5) years from a statistically appropriate number of provider association representatives in order to obtain cost data for employment-related expenditures, program-related costs, and general and administrative costs. (7-1-11)(7-1-19)T~~

03. Annual Re-Evaluation Claim Forms. ~~Individualized budgets will be re-evaluated annually. At the request of the participant, the Department will also re-evaluate the set budget amount when there are documented changes that may support placement in a different budget category as identified in this rule. Provider claims for payment will be submitted on claim forms provided or approved by the Department. Billing instructions will be provided by the Department. (7-1-13)(7-1-19)T~~

04. Rates. ~~The reimbursement rates calculated for children's HCBS include both services and mileage. No separate charges for mileage will be paid by the Department for provider transportation to and from the participant's home or other service delivery location when the participant is not being provided transportation. (7-1-19)T~~

528. CHILDREN'S DEVELOPMENTAL DISABILITIES PRIOR AUTHORIZATION (PA) DD HCBS STATE PLAN OPTION; DEPARTMENT'S QUALITY ASSURANCE AND IMPROVEMENT PROCESSES. ~~Quality assurance activities will include the observation of service delivery with participants, review of participant records, and complete satisfaction interviews. All providers of support services must grant the Department immediate access to all information required to review compliance with these rules. (7-1-19)T~~

01. Quality Assurance. ~~Quality Assurance consists of audits and reviews to ensure compliance with the Department's rules and regulations. If problems are identified during the review or audit, the provider must implement a corrective action plan within forty-five (45) calendar days after the results are received. The Department may terminate authorization of service or the provider agreement for providers who do not comply with the corrective action plan. If the Department finds a provider's deficiency or deficiencies immediately jeopardize the health or safety of its participants, the Department may immediately terminate the provider agreement. The Department will conduct quality assurance by collaborating with providers to complete audits and reviews to ensure compliance with the Department's rules and regulations. These findings may lead to quality improvement activities to enhance provider processes and outcomes for the child. If problems are identified that impact health and safety or are not resolved through quality improvement activities, implementation of a corrective action process may occur. (7-1-11)(7-1-19)T~~

02. Quality Improvement. ~~The Department may gather and utilize information from participants and providers to evaluate customer satisfaction, participant satisfaction, outcomes monitoring, care management, quality assurance, quality improvement activities, and health and safety. These findings lead to quality improvement activities to improve provider processes and outcomes for participants. Quality improvement consists of the Department working with the provider to resolve identified issues and enhance services provided. Quality improvement activities must include: (7-1-11)(7-1-19)T~~

- ~~a. Consultation; (7-1-19)T~~
- ~~b. Technical assistance and recommendations; or (7-1-19)T~~

c. Corrective Action. (7-1-19)T

03. ~~Plan of Service Review~~ **Corrective Action. *The Department will obtain the necessary information to determine that participants continue to meet eligibility criteria, services continue to be clinically necessary, services continue to be the choice of the participant, and services constitute appropriate care to warrant continued authorization or need for the service. Corrective action is a formal process used by the Department to address significant, ongoing, or unresolved deficient practice identified during the review process as provided in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 205, and includes:* (7-1-11)(7-1-19)T**

a. Issuance of a corrective action plan; (7-1-19)T

b. Referral to Medicaid Program Integrity Unit; or (7-1-19)T

c. Action against a provider agreement. (7-1-19)T

04. ~~HCBS Compliance.~~ *Providers of children's developmental disability services are responsible for ensuring that they meet the setting quality requirements described in Section 313 of these rules, as applicable, and must comply with associated Department quality assurance activities. The Department may take enforcement actions as described in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 205, if the provider fails to comply with any term or provision of the provider agreement, or any applicable state or federal regulation.* (7-1-16)

(BREAK IN CONTINUITY OF SECTIONS)

658. -- 659: **(RESERVED)**

**~~CHILDREN'S HOME AND COMMUNITY BASED SERVICES (HCBS) STATE PLAN OPTION
(SECTIONS 660—669)~~**

660. ~~CHILDREN'S HOME AND COMMUNITY BASED SERVICES (HCBS) STATE PLAN OPTION.~~ *In accordance with Section 1915i of the Social Security Act, the Department will pay for home and community-based services provided by individuals or agencies that have entered into a provider agreement with the Department. Services provided by a developmental disabilities agency to children birth to three (3) years of age must meet the requirements and provisions of the Individuals with Disabilities Education Act (IDEA), Part C; the Family Education Rights and Privacy Act; Sections 16-101, et seq., Idaho Code, regarding early intervention services; and the Idaho State Plan for Early Intervention Services under IDEA, Part C. These requirements include adherence to procedural safeguards and time lines, multi-disciplinary assessments, evaluations, individualized family service plans, provision of early intervention services in the natural environment, transition planning, and enrollment and reporting requirements.* (7-1-18)

661. ~~CHILDREN'S HCBS STATE PLAN OPTION: DEFINITIONS.~~ *For the purposes of these rules, the definitions in Section 521 of these rules apply. Additionally, the following terms apply to the Children's Home and Community Based Services State Plan Option:* (7-1-11)

01. ~~Agency.~~ *A developmental disabilities agency (DDA) as defined in IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)."* (7-1-11)

02. ~~Annual.~~ *Every three hundred sixty five (365) days except during a leap year which equals three hundred sixty six (366) days.* (7-1-11)

03. ~~Clinical Supervisor.~~ *For the purposes of these rules, the clinical supervisor is the professional responsible for the supervision of DDA staff as outlined in IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)."* (7-1-18)

04. ~~Community.~~ *Natural, integrated environments outside of the home, school, or DDA center based settings.* (7-1-11)

- ~~05. **Developmental Disabilities Agency (DDA).** A DDA is an agency that is: (7-1-11)~~
- ~~a. A type of developmental disabilities facility, as defined in Section 39-4604(7), Idaho Code, that is non-residential and provides services on an outpatient basis; (7-1-11)~~
- ~~b. Certified by the Department to provide home and community based services to people with developmental disabilities, in accordance with these rules; (7-1-11)~~
- ~~c. A business entity, open for business to the general public; and (7-1-11)~~
- ~~d. Primarily organized and operated to provide home and community based services and the corresponding assessments to people with developmental disabilities. DDA services include evaluations, diagnostic, treatment, and support services that are provided on an outpatient basis to persons with developmental disabilities and may be community-based, home-based, or center-based in accordance with the requirements of this chapter. (7-1-11)~~
- ~~06. **Home and Community Based Services State (HCBS) Plan Option.** The federal authority under section 1915(i) of the Social Security Act that allows a state to provide through a state plan amendment, medical assistance for home and community based services for elderly and individuals with disabilities, without determining that without the provision of services the individuals would require institutional level of care. (7-1-11)~~
- ~~07. **Human Services Field.** A particular area of academic study in health care, social services, education, behavioral science or counseling. (7-1-11)~~
- ~~08. **Integration.** The process of promoting a life for individuals with developmental disabilities that is as much as possible like that of other citizens of the community, including living in the community and having access to community resources. A further goal of this process is to enhance the social image and personal competence of individuals with developmental disabilities. (7-1-11)~~
- ~~09. **Paraprofessional.** A person qualified to provide direct support services which include respite and habilitative supports. (7-1-11)~~
- ~~10. **Professional.** A person qualified to provide direct intervention services which include habilitative intervention, therapeutic consultation, family education, family training, interdisciplinary training, and crisis intervention. (7-1-11)~~
- ~~11. **Support Services.** Support services may provide supervision for a participant, as well as may provide assistance to a participant by facilitating integration into the community. (7-1-11)~~
- ~~662. **CHILDREN'S HCBS STATE PLAN OPTION: PARTICIPANT ELIGIBILITY.** Children's Home and Community Based State Plan Option eligibility will be determined by the Department as described in Section 520 of these rules. HCBS state plan option participants must meet the following requirements: (7-1-11)~~
- ~~01. **Age of Participants.** Participants eligible to receive children's HCBS must be birth through seventeen (17) years of age. (7-1-11)~~
- ~~02. **Eligibility Determinations.** The Department must determine that prior to receiving children's HCBS state plan option services, an individual must be determined to have a developmental disability under Sections 500 through 506 of these rules and Section 66-402, Idaho Code, and have a demonstrated need for Children's HCBS state plan option services. (7-1-11)~~
- ~~03. **Financial Eligibility.** The Department must determine that prior to receiving children's HCBS state plan option services, the individual is in an eligibility group covered under the Title XIX Medicaid State plan, and has an income that does not exceed one hundred fifty percent (150%) of the Federal Poverty Level (FPL). (7-1-13)~~

~~663. CHILDREN'S HCBS STATE PLAN OPTION: COVERAGE AND LIMITATIONS.~~

~~All children's home and community based services must be identified on a plan of service developed by the family-centered planning team, and must be recommended by a physician or other practitioner of the healing arts. The following services are reimbursable when provided in accordance with these rules: (7-1-16)~~

~~**01. Respite.** Respite provides supervision to the participant on an intermittent or short-term basis because of the need for relief of the primary unpaid caregiver. Respite is available in response to a family emergency or crisis, or may be used on a regular basis to provide relief to the caregiver. Respite may be provided in the participant's home, the private home of the respite provider, a DDA, or in the community. Payment for respite services are not made for room and board. (7-1-11)~~

~~**a.** Respite must only be offered to participants living with an unpaid caregiver who requires relief. (7-1-11)~~

~~**b.** Respite cannot exceed fourteen (14) consecutive days. (7-1-11)~~

~~**c.** Respite must not be provided at the same time other Medicaid services are being provided. (7-1-11)~~

~~**d.** Respite must not be provided on a continuous, long-term basis as a daily service that would enable an unpaid caregiver to work. (7-1-11)~~

~~**e.** The respite provider must not use restraints on participants, other than physical restraints in the case of an emergency. Physical restraints may be used in an emergency to prevent injury to the participant or others, and must be documented in the participant's record. (7-1-11)~~

~~**f.** When respite is provided as group respite, the following applies: (7-1-11)~~

~~**i.** When group respite is center based, there must be a minimum of one (1) qualified staff providing direct services to every six (6) participants. As the number and severity of the participants with functional impairments or behavioral issues increases, the staff-to-participant ratio must be adjusted accordingly. (7-1-11)~~

~~**ii.** When group respite is community based, there must be a minimum of one (1) qualified staff providing direct services to every three (3) participants. As the number and severity of the participants with functional impairments or behavioral issues increases, the staff to participant ratio must be adjusted accordingly. (7-1-11)~~

~~**g.** Respite cannot be provided as group or center based respite when delivered by an independent respite provider. (7-1-11)~~

~~**h.** For Act Early waiver participants, the cost of respite services cannot exceed ten (10) percent of the child's individualized budget amount to ensure the child receives the recommended amount of intervention based on evidence-based research. (7-1-11)~~

~~**02. Habilitative Supports.** Habilitative Supports provides assistance to a participant with a disability by facilitating the participant's independence and integration into the community. This service provides an opportunity for participants to explore their interests, practice skills learned in other therapeutic environments, and learn through interactions in typical community activities. Integration into the community enables participants to expand their skills related to activities of daily living and reinforces skills to achieve or maintain mobility, sensory-motor, communication, socialization, personal care, relationship building, and participation in leisure and community activities. Habilitative Supports must: (7-1-11)~~

~~**a.** Not supplant services provided in school or therapy, or supplant the role of the primary caregiver; (7-1-11)~~

~~**b.** Ensure the participant is involved in age appropriate activities and is engaging with typical peers according to the ability of the participant; and (7-1-11)~~

~~e. Have a minimum of one (1) qualified staff providing direct services to every three (3) participants when provided as group habilitative supports. As the number and severity of the participants with functional impairments increases, the staff-participant ratio shall be adjusted accordingly. (7-1-11)~~

~~03. **Family Education.** Family education is professional assistance to families to help them better meet the needs of the participant. It offers education to the parent or legal guardian that is specific to the individual needs of the family and child as identified on the plan of service. Family education is delivered to families to provide an orientation to developmental disabilities and to educate families on generalized strategies for behavioral modification and intervention techniques specific to their child's diagnoses. (7-1-11)~~

~~a. Family education may also provide assistance to the parent or legal guardian in educating other unpaid caregivers regarding the needs of the participant. (7-1-11)~~

~~b. The family education providers must maintain documentation of the training in the participant's record documenting the provision of activities outlined in the plan of service. (7-1-11)~~

~~e. Family education may be provided in a group setting not to exceed five (5) participants' families. (7-1-11)~~

~~04. **Family Directed Community Supports.** Families of participants eligible for the children's home and community based state plan option may choose to direct their individualized budget rather than receive the traditional services described in Subsections 663.01 through 663.03 of this rule when the participant lives at home with his parent or legal guardian. The requirements for this option are outlined in IDAPA 16.03.13 "Consumer Directed Services." (7-1-11)~~

~~05. **Limitations.** (7-1-11)~~

~~a. HCBS state plan option services are limited by the participant's individualized budget amount. (7-1-11)~~

~~b. For the children's HCBS state plan option services listed in Subsections 663.01, 663.02, and 663.04 of this rule, the following are excluded for Medicaid payment: (7-1-11)~~

~~i. Vocational services; and (7-1-11)~~

~~ii. Educational services. (7-1-11)~~

~~664. **CHILDREN'S HCBS STATE PLAN OPTION: PROCEDURAL REQUIREMENTS.**~~

~~01. **General Requirements for Program Documentation.** The provider must maintain records for each participant served. Each participant's record must include documentation of the participant's involvement in and response to the services provided. For each participant, the following program documentation is required: (7-1-11)~~

~~a. Direct service provider information that includes written documentation of the service provided during each visit made to the participant, and contains, at a minimum, the following information: (7-1-11)~~

~~i. Date and time of visit; and (7-1-11)~~

~~ii. Intervention and support services provided during the visit; and (7-1-11)~~

~~iii. A statement of the participant's response to the service; and (7-1-11)~~

~~iv. Length of visit, including time in and time out; and (7-1-11)~~

~~v. Specific place of service. (7-1-11)~~

~~vi. A copy of the above information will be maintained by the independent provider or DDA. Failure to maintain such documentation will result in the recoupment of funds paid for undocumented services. (7-1-11)~~

~~**02. Habilitative Supports Documentation.** In addition to the general requirements listed in Subsection 664.01 of this rule, the following must be completed: (7-1-11)~~

~~a. On a monthly basis, the habilitative support staff must complete a summary of the participant's response to the support service and submit the monthly summary to the clinical supervisor. (7-1-11)~~

~~b. The clinical supervisor reviews the summary on a monthly basis and when recommendations for changes to the type and amount of support are identified, submits the recommendations to the plan developer. (7-1-11)~~

~~**03. Family Education Documentation.** In addition to the general requirements listed in Subsection 664.01 of this rule, the DDA must survey the parent or legal guardian's satisfaction of the service immediately following a family education session. (7-1-18)~~

~~**04. Reporting Requirements.** The clinical supervisor must complete at a minimum, six (6) month and annual provider status reviews for habilitative support services provided. These provider status reviews must be completed more frequently, when so required on the plan of service. (7-1-11)~~

~~a. Documentation of the six (6) month and annual reviews must be submitted to the plan monitor. (7-1-11)~~

~~b. The provider must use Department-approved forms for provider status reviews. (7-1-11)~~

~~**665. CHILDREN'S HCBS STATE PLAN OPTION: PROVIDER QUALIFICATIONS AND DUTIES.** All providers of HCBS state plan option services must have a valid provider agreement with the Department. Performance under this agreement will be monitored by the Department. (7-1-11)~~

~~**01. Respite.** Respite services may be provided by an agency that is certified as a DDA and is capable of supervising the direct services provided, by an independent respite provider. An independent respite provider is an individual who has entered into a provider agreement with the Department. Providers of respite services must meet the following minimum qualifications: (7-1-18)~~

~~a. Must be at least sixteen (16) years of age when employed by a DDA; or (7-1-18)~~

~~b. Must be at least eighteen (18) years of age and be a high school graduate, or have a GED, to act as an independent respite provider; and (7-1-11)~~

~~c. Meet the qualifications prescribed for the type of services to be rendered, or must be an individual selected by the participant, the family, or the participant's guardian; and (7-1-11)~~

~~d. Have received instructions in the needs of the participant who will be provided the service; and (7-1-11)~~

~~e. Demonstrate the ability to provide services according to a plan of service; and (7-1-11)~~

~~f. Must satisfactorily complete a criminal history background check in accordance with IDAPA 16.05.06 "Criminal History and Background Checks"; and (7-1-11)~~

~~g. When employed by a DDA, must be certified in CPR and first aid in accordance with the general training requirements under IDAPA 16.03.21, "Developmental Disabilities Services (DDA)." Independent respite providers must be certified in CPR and first aid prior to delivering services, and must maintain current certification thereafter. (7-1-18)~~

~~**02. Habilitative Support Staff.** Habilitative supports must be provided by an agency certified as a DDA~~

~~with staff who are capable of supervising the direct services provided. Providers of habilitative supports must meet the following minimum qualifications: (7-1-18)~~

- ~~a. Must be at least eighteen (18) years of age; (7-1-11)~~
- ~~b. Must be a high school graduate or have a GED; (7-1-11)~~
- ~~c. Have received instructions in the needs of the participant who will be provided the service; (7-1-11)~~
- ~~d. Demonstrate the ability to provide services according to a plan of service; (7-1-11)~~
- ~~e. Must have six (6) months supervised experience working with children with developmental disabilities. This can be achieved in the following ways: (7-1-11)~~
 - ~~i. Have previous work experience gained through paid employment, university practicum experience, or internship; or (7-1-11)~~
 - ~~ii. Have on-the-job supervised experience gained through employment at a DDA with increased supervision. Experience is gained by completing at least six (6) hours of job shadowing prior to the delivery of direct support services, and a minimum of weekly face-to-face supervision with the clinical supervisor for a period of six (6) months while delivering services. (7-1-18)~~
- ~~f. Must complete competency coursework approved by the Department to demonstrate competencies related to the requirements to provide habilitative supports. (7-1-11)~~
- ~~g. In addition to the habilitative support qualifications listed in Subsections 665.02.a. through f. of this rule, habilitative support staff serving infants and toddlers from birth to three (3) years of age must meet the following qualifications: (7-1-11)~~
 - ~~i. Have transcribed courses for a minimum of a Child Development Associate degree (CDA) or the equivalent through completion of twelve (12) semester credits from an accredited college or university in child development, special education, or closely-related coursework; or (7-1-11)~~
 - ~~ii. Have three (3) years of documented experience providing care to infants, toddlers, or children less than five (5) years of age with developmental delays or disabilities under the supervision of a child development professional, certified educator, licensed therapist, or Developmental Specialist. (7-1-11)~~
- ~~**03. Family Education.** Family education must be provided by an agency certified as a DDA and with staff who are capable of supervising the direct services provided. Providers of family education must meet the following minimum qualifications: (7-1-18)~~
 - ~~a. Must hold at least a bachelor's degree in a human services field from a nationally-accredited university or college, and has: (7-1-11)~~
 - ~~i. One (1) year experience providing care to children with developmental disabilities; (7-1-11)~~
 - ~~ii. Must complete competency coursework approved by the Department to demonstrate competencies related to the requirements to provide family education; or (7-1-11)~~
 - ~~b. Individuals working as Developmental Specialists for children ages birth through three (3) or three (3) through seventeen (17), and individuals certified as Intensive Behavioral Interventionist professionals prior to July 1, 2011, are qualified to provide family education until June 30, 2013. The individual must meet the requirements of the Department-approved competency coursework by June 30, 2013, to maintain his certification. (7-1-11)~~
 - ~~c. Each professional providing family education services must complete at least twelve (12) hours of~~

~~yearly training, six (6) hours of which must cover behavior methodology or interventions shown to be effective. If the individual has not completed the required training during any yearly training period, he may not provide family education services beginning with the anniversary date of the following period, and thereafter, until the required number of training hours have accumulated. As training hours accumulate, they will be accounted first to any training deficient prior yearly period before being applied to the current annual training period. Training hours may not be earned in a current annual training period to be applied to a future training period.~~ (7-1-11)

~~**04. Family Education for Children Birth to Three.** In addition to the family education qualifications listed in Subsections 665.03.a. through 665.03.e. of this rule, family education staff serving infants and toddlers from birth to three (3) years of age must have a minimum of two hundred forty (240) hours of professionally supervised experience with young children who have developmental disabilities and one (1) of the following:~~ (7-1-11)

~~**a.** An Elementary Education Certificate or Special Education Certificate with an Endorsement in Early Childhood Special Education; or~~ (7-1-11)

~~**b.** A Blended Early Childhood/Early Childhood Special Education (EC/ECSE) Certificate; or~~ (7-1-11)

~~**c.** A bachelor's or master's degree in special education, elementary education, speech language pathology, early childhood education, physical therapy, occupational therapy, psychology, social work, or nursing plus a minimum of twenty-four (24) semester credits in Early Childhood/Early Childhood Special Education (EC/ECSE) from an accredited college or university. Courses taken must appear on college or university transcripts and must cover the following standards in their content:~~ (7-1-11)

~~**i.** Promotion of development and learning for children from birth to three (3) years;~~ (7-1-11)

~~**ii.** Assessment and observation methods for developmentally appropriate assessment of young children;~~ (7-1-11)

~~**iii.** Building family and community relationships to support early interventions;~~ (7-1-11)

~~**iv.** Development of appropriate curriculum for young children, including IFSP and IEP development;~~ (7-1-11)

~~**v.** Implementation of instructional and developmentally effective approaches for early learning, including strategies for children who are medically fragile and their families; and~~ (7-1-11)

~~**vi.** Demonstration of knowledge of policies and procedures in special education and early intervention and demonstration of knowledge of exceptionalities in children's development.~~ (7-1-11)

~~**d.** Electives closely related to the content under Subsection 665.04.c.iii. of this rule may be approved by the Department with a recommendation from an institution of higher education.~~ (7-1-11)

~~**e.** Developmental specialists who possess a bachelor's or master's degree listed above under Subsection 665.04.c.ii. of this rule, have completed a minimum of twenty (20) semester credits in EC/ECSE, and with Department approval are serving children under three (3) years of age as of July 1, 2005, will be allowed to continue providing services in accordance with their approved, conditional hiring agreement.~~ (7-1-11)

~~**f.** When the Department in its role as lead agency for implementation of Part C of the Individuals with Disabilities Education Act (IDEA) has determined that there is a shortage of such qualified personnel to meet service needs in a specific geographic area:~~ (7-1-11)

~~**i.** The Department may approve the most qualified individuals who are demonstrating satisfactory progress toward completion of applicable course work in accordance with the individual's approved plan to meet the required standard within three (3) years of being hired.~~ (7-1-11)

~~**ii.** Satisfactory progress will be determined on an annual review by the Department.~~ (7-1-11)

~~iii. Individuals who have an approved plan for completion of twenty (20) semester credits in EC/ECSE prior to July 1, 2005, will be allowed to continue providing services so long as they demonstrate satisfactory progress on the plan and complete the requirements on the plan within three (3) years of their date of hire. (7-1-11)~~

~~05. **Requirements for Clinical Supervision.** All DDA services must be provided under the supervision of a clinical supervisor. The clinical supervisor must meet the qualifications to provide habilitative intervention as defined in Section 685 of these rules. Clinical supervisor(s) are professionals employed by a DDA on a continuous and regularly scheduled basis. (7-1-18)~~

~~a. The clinical supervisor is responsible for the oversight and supervision of service and support elements of the agency, including face-to-face supervision of agency staff providing direct services. (7-1-11)~~

~~b. The clinical supervisor must observe and review the direct services performed by all paraprofessional and professional staff on a monthly basis, or more often as necessary, to ensure staff demonstrate the necessary skills to correctly provide the services and support. (7-1-11)~~

~~c. Each DDA must employ an adequate number of clinical supervisors to ensure quality service delivery and participant satisfaction. (7-1-18)~~

~~06. **Requirements for Collaboration.** Providers of home and community based services must coordinate with the family centered planning team as specified on the plan of service. (7-1-11)~~

~~07. **Requirements for Quality Assurance.** Providers of children's home and community based state plan option services must demonstrate high quality of services through an internal quality assurance review process. (7-1-11)~~

~~08. **DDA Services.** In order for a DDA to provide respite, habilitative supports, and family education the DDA must be certified to provide support services. Each DDA is required to provide habilitative supports. (7-1-11)~~

666. CHILDREN'S HCBS STATE PLAN OPTION: PROVIDER REIMBURSEMENT:

~~01. **Reimbursement.** The statewide reimbursement rate for children's HCBS state plan option services listed in Subsections 663.01 through 663.03 of these rules was derived by using Bureau of Labor Statistics mean wage for the direct care staff providing the service, adjusted for employment related expenditures, program related costs, and general and administrative costs based on a cost survey as described in Subsection 666.02 of this rule. Reimbursement rates are set at a percentage of the statewide target reimbursement rate. The Department will take into consideration the factors of efficiency, economy, quality of care, and access to care when determining rates. (7-1-11)~~

~~02. **Cost Survey.** The Department will conduct a cost survey every five (5) years from a statistically appropriate number of provider association representatives in order to obtain cost data for employment related expenditures, program related costs, and general and administrative costs. (7-1-11)~~

~~03. **Claim Forms.** Provider claims for payment will be submitted on claim forms provided or approved by the Department. Billing instructions will be provided by the Department. (7-1-11)~~

~~04. **Rates.** The reimbursement rates calculated for children's HCBS include both services and mileage. No separate charges for mileage will be paid by the Department for provider transportation to and from the participant's home or other service delivery location when the participant is not being provided transportation. (7-1-11)~~

~~667.—679. (RESERVED)~~

CHILDREN'S WAIVER SERVICES

~~(SECTIONS 680–699)~~

~~680. CHILDREN'S WAIVER SERVICES.~~

~~01. Purpose of and Eligibility for Waiver Services. Under 42 CFR Section 440.180, it is the intention of the Department to provide waiver services to eligible children to prevent unnecessary institutional placement, provide for the greatest degree autonomy and of independence possible, enhance the quality of life, encourage individual choice, and achieve and maintain community integration. For a participant to be eligible, the Department must find that the participant requires services due to a developmental disability that impairs his mental or physical function or independence, is capable of being maintained safely and effectively in a non-institutional setting, and would, in the absence of such services, need to reside in an ICF/ID. (7-1-16)~~

~~02. Waiver Services Provided by a DDA. Services provided by a developmental disabilities agency to children birth to three (3) years of age must meet the requirements and provisions of the Individuals with Disabilities Education Act (IDEA), Part C; the Family Education Rights and Privacy Act; Sections 16-101, et seq., Idaho Code, regarding early intervention services; and the Idaho State Plan for Early Intervention Services under IDEA, Part C. These requirements include adherence to procedural safeguards and time lines, multi-disciplinary assessments, evaluations, individualized family service plans, provision of early intervention services in the natural environment, transition planning, and enrollment and reporting requirements. (7-1-18)~~

~~681. CHILDREN'S WAIVER SERVICES: DEFINITIONS.~~

~~For the purposes of Sections 680 through 686 of these rules, the following terms are used as defined below; in addition, the definitions in Sections 521 and 661 of these rules apply. (7-1-11)~~

~~01. Crisis. An unanticipated event, circumstance, or life situation that places a participant at risk of at least one of the following: (7-1-11)~~

~~a. Hospitalization; (7-1-11)~~

~~b. Loss of housing; (7-1-11)~~

~~c. Loss of employment; (7-1-11)~~

~~d. Incarceration; or (7-1-11)~~

~~e. Physical harm to self or others, including family altercation or psychiatric relapse. (7-1-11)~~

~~02. Intervention Services. Intervention services include outcome based therapeutic services, professional consultation services, and education and training for families caring for participants with developmental disabilities. (7-1-11)~~

~~03. Objective. A behavioral outcome statement developed to address a particular need identified for a participant. An objective is written in measurable terms that specify a target date for completion, no longer than one (1) year in duration, and include criteria for successful attainment of the objective. (7-1-11)~~

~~04. Probe. A probe is data gathered on an intermittent basis, after a baseline is established, to measure a participant's level of independent performance as related to an identified objective. (7-1-11)~~

~~05. Program Implementation Plan. A plan that details how intervention goals from the plan of service will be accomplished. (7-1-11)~~

~~06. Specific Skill Assessment. A type of assessment used to determine the baseline or the need for further supports or intervention for the discipline area being assessed. (7-1-11)~~

~~07. Telehealth. Telehealth is an electronic real-time synchronized audio-visual contact between a consultant and participant related to the treatment of the participant. The consultant and participant interact as if they were having a face-to-face service. (7-1-11)~~

~~08. **Treatment Fidelity.** Accurately and consistently administering a program or intervention from a manual, protocol, or model. (7-1-11)~~

~~682. **CHILDREN'S WAIVER SERVICES: ELIGIBILITY.**~~

~~Waiver eligibility will be determined by the Department as described in Section 522 of these rules. Children's waiver participants must meet the following requirements: (7-1-11)~~

~~01. **Age of Participants.** The following waiver programs are available for children: (7-1-11)~~

~~a. **Children's DD Waiver.** Children's DD waiver participants must be birth through seventeen (17) years of age. (7-1-11)~~

~~b. **Act Early Waiver.** Act Early waiver participants must be three (3) through six (6) years of age. (7-1-11)~~

~~02. **Eligibility Determinations.** The Department must determine that: (7-1-11)~~

~~a. The participant would qualify for ICF/ID level of care as set forth in Section 584 of these rules, if the waiver services listed in Section 683 of these rules were not made available; and (7-1-11)~~

~~b. The participant could be safely and effectively maintained in the requested or chosen community residence with appropriate waiver services. This determination must be made by a team of individuals with input from the family-centered planning team. Prior to any denial of services, it must be determined by the plan developer that services to correct the concerns of the team are not available. (7-1-11)~~

~~c. The average annual cost of waiver services and other medical services to participants would not exceed the average annual cost to Medicaid of ICF/ID care and other medical costs. (7-1-11)~~

~~d. Following the approval by the Department for services under the waiver, the participant must receive and continue to receive a waiver service as described in these rules. A participant who does not use a waiver service for thirty (30) consecutive days will be terminated from the waiver program. (7-1-11)~~

~~03. **Additional Act Early Waiver Requirements.** In addition to the requirements listed in Subsections 682.01 and 682.02 of this rule, a participant must have the following characteristics to qualify for Act Early waiver services: (7-1-11)~~

~~a. An autism spectrum diagnosis; or (7-1-11)~~

~~b. Self-injurious, aggressive, or severely maladaptive behavior as evidenced by a General Maladaptive Index score of minus twenty two (22) or below on a Department approved assessment tool or other behavioral assessment indicators identified by the Department and a severe deficit, defined as having a composite full-scale functional age equivalency of fifty percent (50%) or less of the participant's chronological age. (7-1-18)~~

~~04. **Children's Waiver Eligible Participants.** A participant who is determined by the Department to be eligible for services under the children's waivers may elect not to use waiver services, but may choose admission to an ICF/ID. (7-1-11)~~

~~05. **Home and Community Based Waiver Participant Limitations.** The number of Medicaid participants to receive waiver services under the children's waivers for participants with developmental disabilities will be limited to the projected number of users contained in the Department's approved waiver. Individuals who apply for waiver services after the waiver maximum has been reached will be placed on a waiting list and will have their applications processed after June 30th of each new waiver year. (7-1-11)~~

~~683. **CHILDREN'S WAIVER SERVICES: COVERAGE AND LIMITATIONS.**~~

~~All children's DD waiver services must be identified on a plan of service developed by the family centered planning team, and must be recommended by a physician or other practitioner of the healing arts. In addition to the children's~~

~~home and community based state plan option services described in Section 663 of these rules, the following services are available for waiver eligible participants and are reimbursable services when provided in accordance with these rules:~~ (7-1-16)

~~**01. Family Training.** Family training is professional one on one (1 on 1) instruction to families to help them better meet the needs of the waiver participant receiving intervention services. (7-1-11)~~

~~**a.** Family training is limited to training in the implementation of intervention techniques as outlined in the plan of service. (7-1-11)~~

~~**b.** Family training must be provided to the participant's parent or legal guardian when the participant is present. (7-1-11)~~

~~**c.** The family training provider must maintain documentation of the training in the participant's record documenting the provision of activities outlined in the plan of service. (7-1-11)~~

~~**d.** The parent or legal guardian of the waiver participant is required to participate in family training when the participant is receiving habilitative interventions. The following applies for each waiver program: (7-1-11)~~

~~**i.** For participants enrolled in the Children's DD Waiver, the amount, duration, and frequency of the training must be determined by the family-centered planning team and the parent or legal guardian, and must be listed as a service on the plan of service. (7-1-11)~~

~~**ii.** For participants enrolled in the Act Early Waiver, the parent or legal guardian will be required to be present and actively participate during the intervention service session for at least twenty percent (20%) of the intervention time provided to the child. (7-1-11)~~

~~**02. Interdisciplinary Training.** Interdisciplinary training is professional instruction to the direct service provider. Interdisciplinary training must only be provided during the provision of a support or intervention service. Interdisciplinary training is provided to assist the direct provider to meet the needs of the waiver participant. (7-1-11)~~

~~**a.** Interdisciplinary training includes: (7-1-11)~~

~~**i.** Health and medication monitoring; (7-1-11)~~

~~**ii.** Positioning and transfer; (7-1-11)~~

~~**iii.** Intervention techniques; (7-1-11)~~

~~**iv.** Positive Behavior Support; (7-1-11)~~

~~**v.** Use of equipment; (7-1-11)~~

~~**b.** Interdisciplinary training must only be provided to the direct service provider when the participant is present. (7-1-11)~~

~~**c.** The interdisciplinary training provider must maintain documentation of the training in the participant's record documenting the provision of activities outlined in the plan of service. (7-1-11)~~

~~**d.** Interdisciplinary training between a habilitative interventionist and a therapeutic consultant is not a reimbursable service. (7-1-11)~~

~~**e.** Interdisciplinary training between employees of the same discipline is not a reimbursable service. (7-1-11)~~

~~**03. Habilitative Intervention Evaluation.** The purpose of the habilitative intervention evaluation is to~~

~~guide the formation of developmentally appropriate objectives and intervention strategies related to goals identified through the family centered planning process. The habilitative interventionist must complete an evaluation prior to the initial provision of habilitative intervention services. The evaluation must include:~~ (7-1-11)

- ~~a. Specific skills assessments for deficit areas identified through the eligibility assessment; (7-1-11)~~
- ~~b. Functional behavioral analysis; (7-1-11)~~
- ~~c. Review of all assessments and relevant histories provided by the plan developer; and (7-1-11)~~
- ~~d. Clinical Opinion. Professional summary that interprets and integrates the results of the testing. This summary includes functional, developmentally appropriate recommendations to guide treatment. (7-1-11)~~

~~**04. Habilitative Intervention.** Habilitative intervention services must be consistent, aggressive, and continuous and are provided to improve a child's functional skills and minimize problem behavior. Services include individual or group behavioral interventions and skill development activity. Habilitative intervention must be based upon the well known and widely regarded principles of evidence based treatment. Evidence based treatment (EBT) refers to the use of mental and behavioral health interventions for which systematic empirical research has provided evidence of statistically significant effectiveness as treatments for specific problems. As "promising practices" meet statistically significant effectiveness, they could be included as approved approaches. (7-1-11)~~

~~a. Habilitative intervention must be provided to meet the intervention needs of the participant by developing adaptive skills for all participants, and addressing maladaptive behaviors for participants who exhibit them. (7-1-11)~~

~~i. When goals to address maladaptive behavior are identified on the plan of service, the intervention must include the development of replacement behavior rather than merely the elimination or suppression of maladaptive behavior that interferes with the child's overall general development, community, and social participation. (7-1-11)~~

~~ii. When goals to address skill development are identified on the plan of service, the intervention must provide for the acquisition of skills that are functional. (7-1-11)~~

~~b. Habilitative intervention must be provided in the participant's home or community setting, and in addition may be provided in a center based setting. (7-1-11)~~

~~c. Group intervention may be provided in the community and center. When habilitative intervention is provided as group intervention, the following applies: (7-1-11)~~

~~i. There must be a minimum of one (1) qualified staff providing direct services for every three (3) participants. As the number and severity of the participants with functional impairments or behavioral issues increases, the staff participant ratio must be adjusted accordingly. (7-1-11)~~

~~ii. When group intervention is community based, the child must be integrated in the community in a natural setting with typically developing peers. (7-1-11)~~

~~iii. Group intervention must be directly related to meeting the needs of the child, and be identified as an objective in accordance with a plan of service goal. (7-1-11)~~

~~**05. Therapeutic Consultation.** Therapeutic consultation provides a higher level of expertise and experience to support participants who exhibit severe aggression, self-injury, and other dangerous behaviors. Therapeutic consultation is provided when a participant receiving habilitative intervention has been assessed as requiring a more advanced level of training and assistance based on the participant's complex needs. A participant requires therapeutic consultation when interventions are not demonstrating outcomes and it is anticipated that a crisis event may occur without the consultation service. (7-1-11)~~

- ~~a. The therapeutic consultant assists the habilitative interventionist by: (7-1-11)~~

- ~~i. Performing advanced assessments as necessary; (7-1-11)~~
- ~~ii. Developing and overseeing the implementation of a positive behavior support plan; (7-1-11)~~
- ~~iii. Monitoring the progress and coordinating the implementation of the positive behavioral support plan across environments; and (7-1-11)~~
- ~~iv. Providing consultation to other service providers and families. (7-1-11)~~
- ~~b. Telehealth resources may be used by a therapeutic consultant to provide consultation as appropriate and necessary. (7-1-11)~~
- ~~e. Therapeutic consultation providers are subject to the following limitations: (7-1-11)~~
 - ~~i. Therapeutic consultation cannot be provided as a direct intervention service. (7-1-11)~~
 - ~~ii. Participants must be receiving rehabilitative intervention services prior to accessing therapeutic consultation, with the exception of crisis situations. (7-1-11)~~
 - ~~iii. Therapeutic consultation is limited to eighteen (18) hours per year per participant. (7-1-11)~~
 - ~~iv. Therapeutic consultation must be prior authorized by the Department. (7-1-11)~~
- ~~06. **Crisis Intervention.** Crisis intervention services provide direct consultation and clinical evaluation of participants who are currently experiencing or may be expected to experience a psychological, behavioral, or emotional crisis. The need for crisis intervention must meet the definition of crisis in Section 681 of these rules. This service may provide training and staff development related to the needs of a participant, and also provides emergency back up involving the direct support of the participant in crisis. Children's crisis intervention services: (7-1-11)~~
 - ~~a. Are provided in the home and community. (7-1-11)~~
 - ~~b. Are provided on a short term basis typically not to exceed thirty (30) days. (7-1-11)~~
 - ~~c. Cannot exceed fourteen (14) days of out of home placement. (7-1-11)~~
 - ~~d. Must be prior authorized by the Department. (7-1-11)~~
 - ~~i. Authorization for crisis intervention may be requested retroactively as a result of a crisis, defined in Section 681 of these rules, when no other means of support is available to the participant. In retroactive authorizations, the crisis intervention provider must submit a request for crisis intervention to the Department within seventy-two (72) hours of providing the service. (7-1-11)~~
 - ~~ii. If staying in the home endangers the health and safety of the participant, the family, or both, the provider may request short term out of home placement for the participant. Out of home placement must be prior authorized by the Department. (7-1-11)~~
 - ~~e. Must use positive behavior interventions prior to and in conjunction with the implementation of any restrictive intervention. (7-1-11)~~
 - ~~f. Telehealth resources may be used by a crisis interventionist to provide consultation in a crisis situation. (7-1-11)~~
- ~~07. **Family Directed Community Supports.** Families of participants eligible for the children's DD waiver may choose to direct their individualized budget rather than receive the traditional services described in Subsections 683.01 through 683.06 of this rule when the participant lives at home with the parent or legal guardian. The requirements for selecting and participating in this option are outlined in IDAPA 16.03.13 "Consumer Directed~~

~~Services.” Act Early Waiver participants do not have the option to choose the family directed services path. The Act Early Waiver is intended to be a more structured program that requires increased involvement from families, and ensures children receive an intense amount of services based on evidence-based research. (7-1-11)~~

~~**08. Service limitations.** Children’s waiver services are subject to the following limitations: (7-1-11)~~

~~**a. Place of Service Delivery.** Waiver services may be provided in the participant’s personal residence, community, or DDA. The following living situations are specifically excluded as a place of service for waiver services: (7-1-11)~~

~~i. Licensed skilled or intermediate care facilities, certified nursing facility (NF) or hospital; and (7-1-11)~~

~~ii. Licensed Intermediate Care Facility for persons with Intellectual Disabilities (ICF/ID); and (7-1-11)~~

~~iii. Residential Care or Assisted Living Facility; (7-1-11)~~

~~iv. Additional limitations to specific services are listed under that service definition. (7-1-11)~~

~~**b.** According to 42 CFR 440.180, Medicaid Waiver services cannot be used to pay for special education and related services that are included in a child’s Individual Educational Plan (IEP) under the provisions of Individuals with Disabilities Education Improvement Act of 2004 (IDEA), that are otherwise available through a local educational agency. (7-1-11)~~

~~**c.** Children’s waiver services are limited by the participant’s individualized budget amount, excluding crisis intervention. (7-1-11)~~

~~**d.** For the children’s waiver services listed in Subsections 683.01 through 683.07 of these rules, the following are excluded for Medicaid payment: (7-1-11)~~

~~i. Vocational services; (7-1-11)~~

~~ii. Educational services; and (7-1-11)~~

~~iii. Recreational services. (7-1-11)~~

~~**684. CHILDREN’S WAIVER SERVICES: PROCEDURAL REQUIREMENTS.**~~

~~**01. Authorization of Services on a Written Plan.** All children’s waiver services must be identified on the plan of service and authorized by the Department. The plan of service must be reviewed by a plan developer at least every six (6) months or at a frequency determined by the family-centered planning team. (7-1-11)~~

~~**02. General Requirements for Program Documentation.** Children’s waiver providers must maintain records for each participant the agency serves. Each participant’s record must include documentation of the participant’s involvement in and response to the services provided. For each participant the following program documentation is required: (7-1-11)~~

~~**a.** Direct service provider information which includes written documentation of each visit made or service provided to the participant, and will record at a minimum the following information: (7-1-11)~~

~~i. Date and time of visit; and (7-1-11)~~

~~ii. Services provided during the visit; and (7-1-11)~~

~~iii. A statement of the participant’s response to the service, including any changes in the participant’s condition; and (7-1-11)~~

- ~~iv. Length of visit, including time in and time out; and (7-1-11)~~
- ~~v. Specific place of service. (7-1-11)~~
- ~~b. A copy of the above information must be maintained by the independent provider or DDA. Failure to maintain such documentation will result in the recoupment of funds paid for undocumented services. (7-1-18)~~
- ~~**03. Program Implementation Plan Requirements.** For each participant receiving intervention and family training services, the DDA must develop a program implementation plan to determine objectives to be included on the participant's required plan of service. (7-1-18)~~
- ~~a. All program implementation plan objectives must be related to a goal on the participant's plan of service. (7-1-11)~~
- ~~b. The program implementation plan must be written, implemented, and submitted to the plan developer within fourteen (14) days after the first day of ongoing programming and be revised whenever participant needs change. If the program implementation plan is not completed within this time frame, the participant's records must contain documented participant-based justification for the delay. (7-1-13)~~
- ~~c. The program implementation plan must be completed by the habilitative interventionist, and must include the following requirements: (7-1-11)~~
 - ~~i. The participant's name. (7-1-11)~~
 - ~~ii. A baseline statement. (7-1-11)~~
 - ~~iii. Measurable, behaviorally-stated objectives that correspond to those goals or objectives previously identified on the required plan of service. (7-1-11)~~
 - ~~iv. Written instructions to the staff that may include curriculum, interventions, task analyses, activity schedules, type and frequency of reinforcement and data collection including probe, directed at the achievement of each objective. These instructions must be individualized and revised as necessary to promote participant progress toward the stated objective. (7-1-11)~~
 - ~~v. Identification of the type of environment(s) and specific location(s) where services will be provided. (7-1-11)~~
 - ~~vi. A description of the evidence-based treatment approach used for the service provided. (7-1-11)~~
 - ~~vii. When the child has a current positive behavior support plan, it must be incorporated into the program implementation plan. (7-1-11)~~
 - ~~viii. When interdisciplinary training is provided, identification of the type of interdisciplinary training and the objectives related to the training must be included on the program implementation plan. (7-1-11)~~
 - ~~ix. Target date for completion, not to exceed one (1) year. (7-1-11)~~
 - ~~x. The program implementation plan must be reviewed and approved by the clinical supervisor, as indicated by signature, credential, and date on the plan. (7-1-13)~~
- ~~**04. Reporting Requirements.** The clinical supervisor must complete, at a minimum, six (6) month and annual provider status reviews for habilitative intervention and family training services provided. These provider status reviews must be completed more frequently when so required on the plan of service. (7-1-11)~~
- ~~a. Documentation of the six (6) month and annual reviews must be submitted to the plan developer. (7-1-11)~~

~~b. The provider must use Department approved forms for provider status reviews. (7-1-11)~~

~~05. **Provider Responsibility for Notification.** It is the responsibility of the service provider to notify the plan developer when any significant changes in the participant's condition, as defined by the family centered planning team, are noted during service delivery. Such notification will be documented in the service record. (7-1-11)~~

~~06. **Records Maintenance.** When a participant leaves the waiver services program, the records will be retained by the Department as part of the participant's closed case record. Provider agencies will be responsible to retain their participant's records for five (5) years following the date of service. (7-1-11)~~

~~685. **CHILDREN'S WAIVER SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.**~~

~~01. **Family Training.** Providers of family training must meet the requirements for habilitative intervention providers defined in Subsections 685.03 and 685.04 of this rule. (7-1-11)~~

~~02. **Interdisciplinary Training.** Providers of interdisciplinary training must meet the following requirements: (7-1-11)~~

~~a. Occupational Therapist, as defined in Section 734 under IDAPA 16.03.09, "Medicaid Basic Plan Benefits"; (7-1-11)~~

~~b. Physical Therapist, as defined in Section 734 under IDAPA 16.03.09, "Medicaid Basic Plan Benefits"; (7-1-11)~~

~~c. Speech Language Pathologist, as defined in Section 734 under IDAPA 16.03.09, "Medicaid Basic Plan Benefits"; (7-1-11)~~

~~d. Practitioner of the healing arts; (7-1-11)~~

~~e. Habilitative intervention provider as defined in Subsections 685.03 and 685.04 of this rule; or (7-1-11)~~

~~f. Therapeutic consultation provider as defined in Subsection 685.05 of this rule. (7-1-11)~~

~~03. **Habilitative Intervention.** Habilitative intervention must be provided by a DDA certified to provide both support and intervention services under IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)." The DDA must be capable of supervising the direct services provided. Providers of habilitative intervention must meet the following minimum qualifications: (7-1-18)~~

~~a. Must hold at least a bachelor's degree in a human services field from a nationally accredited university or college; (7-1-11)~~

~~b. Must be able to provide documentation of one (1) year's supervised experience working with children with developmental disabilities. Experience must be gained through paid employment or university practicum experience or internship; (7-1-11)~~

~~c. Must complete competency coursework approved by the Department to demonstrate competencies related to the requirements to provide habilitative intervention; or (7-1-11)~~

~~d. Individuals working as Developmental Specialists for children age birth through three (3) or three (3) through 17, and individuals certified as Intensive Behavioral Intervention professionals prior to July 1, 2011, are qualified to provide habilitative intervention until June 30, 2013. The individual must meet the requirements of the Department approved competency coursework by June 30, 2013 to maintain his certification. (7-1-11)~~

~~04. **Habilitative Intervention for Children Birth to Three.** In addition to the habilitative intervention qualifications listed in Subsections 685.03.a. through d. of this rule, habilitative intervention staff serving infants and~~

~~toddlers from birth to three (3) years of age must have a minimum of two hundred forty (240) hours of professionally-supervised experience with young children who have developmental disabilities and one (1) of the following:~~

~~(7-1-11)~~

~~a. An Elementary Education Certificate or Special Education Certificate with an Endorsement in Early Childhood Special Education; or~~

~~(7-1-11)~~

~~b. A Blended Early Childhood/Early Childhood Special Education (EC/ECSE) Certificate; or~~

~~(7-1-11)~~

~~e. A bachelor's or master's degree in special education, elementary education, speech language pathology, early childhood education, physical therapy, occupational therapy, psychology, social work, or nursing plus a minimum of twenty-four (24) semester credits in Early Childhood/Early Childhood Special Education (EC/ECSE) from an accredited college or university. Courses taken must appear on college or university transcripts and must cover the following standards in their content:~~

~~(7-1-11)~~

~~i. Promotion of development and learning for children from birth to three (3) years;~~

~~(7-1-11)~~

~~ii. Assessment and observation methods for developmentally appropriate assessment of young children;~~

~~(7-1-11)~~

~~iii. Building family and community relationships to support early interventions;~~

~~(7-1-11)~~

~~iv. Development of appropriate curriculum for young children, including IFSP and IEP development;~~

~~(7-1-11)~~

~~v. Implementation of instructional and developmentally effective approaches for early learning, including strategies for children who are medically fragile and their families; and~~

~~(7-1-11)~~

~~vi. Demonstration of knowledge of policies and procedures in special education and early intervention and demonstration of knowledge of exceptionalities in children's development.~~

~~(7-1-11)~~

~~d. Electives closely related to the content under Subsection 685.04.e.iii. of this rule may be approved by the Department with a recommendation from an institution of higher education.~~

~~(7-1-11)~~

~~e. Developmental specialists who possess a bachelor's or master's degree listed above under Subsection 685.04.c.ii. of this rule, have completed a minimum of twenty (20) semester credits in EC/ECSE, and with Department approval are serving children under three (3) years of age as of July 1, 2005, will be allowed to continue providing services in accordance with their approved, conditional hiring agreement.~~

~~(7-1-11)~~

~~f. When the Department in its role as lead agency for implementation of Part C of the Individuals with Disabilities Education Act (IDEA) has determined that there is a shortage of such qualified personnel to meet service needs in a specific geographic area:~~

~~(7-1-11)~~

~~i. The Department may approve the most qualified individuals who are demonstrating satisfactory progress toward completion of applicable course work in accordance with the individual's approved plan to meet the required standard within three (3) years of being hired.~~

~~(7-1-11)~~

~~ii. Satisfactory progress will be determined on an annual review by the Department.~~

~~(7-1-11)~~

~~iii. Individuals who have an approved plan for completion of twenty (20) semester credits in EC/ECSE prior to July 1, 2005, will be allowed to continue providing services so long as they demonstrate satisfactory progress on the plan and complete the requirements on the plan within three (3) years of their date of hire.~~

~~(7-1-11)~~

~~05. **Therapeutic Consultation.** Therapeutic consultation may be provided by a DDA certified to provide both supports and intervention services under IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," or by an independent Medicaid provider under agreement with the Department. Providers of therapeutic~~

~~consultation must meet the following minimum qualifications: (7-1-18)~~

~~a. Doctoral or Master's degree in psychology, education, applied behavioral analysis, or have a related discipline with one thousand five hundred (1500) hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis, or behavior analysis (may be included as part of degree program); and (7-1-11)~~

~~b. Two (2) years relevant experience in designing and implementing comprehensive behavioral therapies for children with DD and challenging behavior. (7-1-11)~~

~~c. Therapeutic consultation providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-11)~~

~~d. Therapeutic consultation providers employed by a DDA must be certified in CPR and first aid in accordance with the general training requirements under IDAPA 16.03.21 "Developmental Disabilities Services (DDA)." Independent therapeutic consultation providers must be certified in CPR and first aid prior to delivering services, and must maintain current certification thereafter. (7-1-18)~~

~~06. **Crisis Intervention.** Crisis intervention may be provided by a DDA certified to provide support and intervention services under IDAPA 16.03.21, "Developmental Disabilities Services (DDA)," by an independent Medicaid provider under agreement with the Department. Providers of crisis intervention must meet the following minimum qualifications: (7-1-18)~~

~~a. Crisis Intervention professionals must meet the minimum therapeutic consultation provider qualifications described in Subsection 685.05 of this rule. (7-1-11)~~

~~b. Emergency intervention technician providers must meet the minimum habilitative support provider qualifications described under Subsection 665.02 of these rules. (7-1-11)~~

~~c. Crisis intervention providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-11)~~

~~07. **Continuing Training Requirements for Professionals.** Each professional providing waiver services must complete at least twelve (12) hours of yearly training, six (6) hours of which must cover behavior methodology or interventions shown to be effective. If the individual has not completed the required training during any yearly training period, he may not provide waiver services beginning with the anniversary date of the following period, and thereafter, until the required number of training hours have accumulated. As training hours accumulate, they will be accounted first to any training deficient prior yearly period before being applied to the current annual training period. Training hours may not be earned in a current annual training period to be applied to a future training period. (7-1-11)~~

~~08. **Requirements for Clinical Supervision.** All DD services must be provided under the supervision of a clinical supervisor. The clinical supervisor must meet the qualifications to provide habilitative intervention as defined in this rule. Clinical supervisor(s) are professionals employed by a DDA on a continuous and regularly scheduled basis. (7-1-18)~~

~~a. The clinical supervisor is responsible for the oversight and supervision of service and support elements of the agency, including face to face supervision of agency staff providing direct services. (7-1-11)~~

~~b. The clinical supervisor must observe and review the direct services performed by all paraprofessional and professional staff on a monthly basis, or more often as necessary, to ensure staff demonstrate the necessary skills to correctly provide the services and support. (7-1-11)~~

~~c. Each DDA must employ an adequate number of clinical supervisors to ensure quality service delivery and participant satisfaction. (7-1-18)~~

~~09. **Requirements for Collaboration with Other Providers.** Providers of waiver services must coordinate with the family-centered planning team as specified on the plan of service. When a participant has had a psychological or psychiatric assessment, the results of the psychological or psychiatric assessment must be used when developing objectives to ensure therapies provided accommodate the participant's mental health needs and to ensure that none of the therapeutic methods are contra-indicated or delivered in a manner that presents a risk to the participant's mental health status.~~ (3-20-14)

~~10. **Requirements for Quality Assurance.** Providers of children's waiver services must demonstrate high quality of services, including treatment fidelity, through an internal quality assurance review process.~~ (7-1-11)

~~11. **DDA Services.** In order for a DDA to provide waiver services, the DDA must be certified to provide both support and intervention services. Each DDA is required to provide habilitative supports. When a DDA opts to provide habilitative intervention services, the DDA must also provide habilitative supports and family training.~~ (7-1-11)

686. CHILDREN'S WAIVER SERVICES: PROVIDER REIMBURSEMENT.

~~01. **Reimbursement.** The statewide reimbursement rate for children's HCBS state plan option services listed in Subsections 683.01 through 683.06 of these rules was derived by using Bureau of Labor Statistics mean wage for the direct care staff providing the service, adjusted for employment-related expenditures, program-related costs, and general and administrative costs based on a cost survey as described in Subsection 686.02 of this rule. Reimbursement rates are set at a percentage of the statewide target reimbursement rate. The Department will take into consideration the factors of efficiency, economy, quality of care, and access to care when determining rates.~~ (7-1-11)

~~02. **Cost Survey.** The Department will conduct a cost survey every five (5) years from a statistically appropriate number of provider association representatives in order to obtain cost data for employment-related expenditures, program-related costs, and general and administrative costs.~~ (7-1-11)

~~03. **Claim Forms.** Provider claims for payment will be submitted on claim forms provided by or approved by the Department. Billing instructions will be provided by the Department.~~ (7-1-11)

~~04. **Rates.** The reimbursement rates calculated for waiver services include both services and mileage. No separate charges for mileage will be paid by the Department for provider transportation to and from the participant's home or other service delivery location when the participant is not being provided transportation.~~ (7-1-11)

~~687.—~~ 699. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.22 – RESIDENTIAL CARE OR ASSISTED LIVING FACILITIES IN IDAHO

DOCKET NO. 16-0322-1901

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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 39-3305, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

PUBLIC (LIVE) MEETING

Tuesday, July 16 2019 - 2:00 to 4:00 p.m. (MDT)

**Department of Health & Welfare
Medicaid Central Office
3232 Elder Street
Conference Room D-East/West
Boise, ID 83705**

WebEx Information:

**Call-in number: 1-240-454-0879
Meeting Number: 808 565 843
Meeting Password: 28495767**

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may do any of the following:

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

Send to:
Idaho Department of Health & Welfare
Division of Licensing and Certification
Attn: Tamara Prisock
P.O. Box 83720
Boise, ID 83720-0036
e-mail: DHWRules@dhw.idaho.gov

Hand Deliver to:
3232 Elder Street
Boise, ID 83705
Attn: Tamara Prisock

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The Department is seeking public input on updates to the rules for Residential Care and Assisted Living Facilities in Idaho. The topics will include the following:

1. Update of references to the National Fire Protection Association Standards;
2. Option of national accreditation for facilities in lieu of regular recertification surveys;
3. Update and clarification of existing licensure requirements; and
4. Relaxation or elimination of requirements identified through the negotiation process.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:

For assistance on technical questions concerning this negotiated rulemaking, please contact Tamara Prisock (208) 364-1959.

All written comments on the negotiated rules must be directed to the contact person specified above under “Method of Participation” and must be delivered on or before Wednesday, July 17, 2019.

Dated this 4th day of June, 2019.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500
Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.05.04 – RULES OF THE IDAHO COUNCIL ON DOMESTIC VIOLENCE
AND VICTIM ASSISTANCE GRANT FUNDING**

DOCKET NO. 16-0504-1901

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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 39-5209, Idaho Code.

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

PUBLIC (LIVE) MEETINGS		
Monday, July 8, 2019 12:00 p.m. (PDT)	Wednesday, July 10, 2019 9:00 a.m. (MDT)	Thursday, July 11, 2019 1:00 p.m. (MDT)
Coeur d'Alene City Hall Conference Room 6 710 E Mullan Ave. Coeur d'Alene, ID 83814	Borah Station 304 N. 8th Street Room 146 Boise, ID 83702	Human Development Center Conference Room 210 421 Memorial Drive Pocatello, ID 83201

Conference Call Information:

**Call-in Number: 1-605-313-3753
Conference Code: 475380**

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may do any of the following:

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

Send to:
Idaho Council on Domestic Violence & Victim Assistance
c/o Idaho Department of Health & Welfare
Attn: Nicole Fitzgerald
P.O. Box 83720
Boise, ID 83720-0036
e-mail: Nicole.Fitzgerald@icdv.idaho.gov

Hand Deliver to:
ICDVVA
304 North 8th Street, Suite 140
Boise, ID 83702
Attn: Nicole Fitzgerald

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The Department will be seeking public input on updates to this chapter of rules, which has not been updated since 2011. The Council realizes that certain prior grant awarding practices are restrictive to rural communities, are no longer inclusive of victim's services organizations, or are reasonable for the Council to continue.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:

For assistance on technical questions concerning this negotiated rulemaking, please contact Nicole Fitzgerald at (208) 332-1542.

All written comments on the negotiated rules must be directed to the contact person specified above under "Method of Participation" and must be delivered on or before Friday, July 12, 2019.

Dated this 4th day of June, 2019.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500
Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.04.16 – RULES GOVERNING SHORT-TERM HEALTH INSURANCE COVERAGE

DOCKET NO. 18-0416-1901 (NEW CHAPTER)

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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 41-211, 41-4207, and 41-5211, Idaho Code; and House Bill 275.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

PUBLIC MEETING

Wednesday, July 24, 2019 at 3:00 p.m.

Idaho Department of Insurance
700 W. State Street — 3rd Floor
Boise, ID 83720

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

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the agency either in writing (paper or email) or by calling the phone number listed below, and/or by attending the public meeting.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

House Bill 275 passed the legislature and was signed into law by the Governor amending sections 41-5203, 41-5207, Chapter 52, Title 41. It added a new section of Idaho Code to define and provide for the purchase of enhanced short-term health insurance plans. Enhanced short-term plans will have an initial period of less than twelve (12) months. This rule will offer choices to consumers for individual health insurance and define the consumer protections required to offer such plans.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking contact Weston Trexler at weston.trexler@doi.idaho.gov, or (208) 334-4315. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Department of Insurance web site at the following web address: <https://doi.idaho.gov>.

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 July 26, 2019.

Dated this 27th day of June, 2019.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720, Boise, ID 83702-0043
Phone: (208) 334-4250 / Fax: (208) 334-4398

IDAPA 19 – IDAHO STATE BOARD OF DENTISTRY

19.01.01 – RULES OF THE IDAHO STATE BOARD OF DENTISTRY

DOCKET NO. 19-0101-1901

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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 54-912, Idaho Code.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the meetings. Individuals may participate by telephone during the July 12, 2019 meeting by contacting the undersigned by the date provided in the table below. For those who cannot participate in the meetings, information for submitting written comments is provided at the end of this notice.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be posted on the agency website.

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

PUBLIC MEETINGS	
Friday, July 12, 2019 9:00 a.m. - 12:00 pm (MDT)	Friday, July 26, 2019 8:30 - 11:30 am (MDT)
Idaho State Capitol – Room W433 700 W. Jefferson Street Boise, ID 83702	Hyatt Place – Meeting Space 1 1024 W. Bannock St. Boise, ID 83702
<i>Contact the undersigned by July 10, 2019, to make arrangements for telephone participation in the July 12 meeting</i>	

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

PRELIMINARY DRAFT RULE: The preliminary draft rule is available at www.isbd.idaho.gov under the rulemaking tab.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

Recently enacted legislation authorizes the practice of dental therapy under Title 54, Chapter 9, Idaho Code. The Board of Dentistry is mandated to promulgate rules for the licensure and regulation of dental therapists. Upon conclusion of negotiations, the Board of Dentistry intends to publish a temporary/proposed rule for public comment.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this negotiated rulemaking, contact Susan Miller, Executive Director of the Board of Dentistry at (208) 334-2369. Any materials pertaining to the negotiated rulemaking can be found on the Board of Dentistry's web site at the following web address: www.isbd.idaho.gov

SUBMISSION OF WRITTEN COMMENTS: 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 July 24, 2019.

Dated this 6th day of June, 2019.

Susan Miller, Executive Director
Phone: (208) 334-2369 / Fax: (208) 334-3247
susan.miller@isbd.idaho.gov

Idaho State Board of Dentistry
P.O. Box 83720
350 N. 9th Street, Suite M-100
Boise, ID 8 3720-0021

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

26.01.20 – RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

DOCKET NO. 26-0120-1901

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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 67-4210, 67-4223, and 67-4249, Idaho Code.

MEETING SCHEDULE: A public meetings on the negotiated rulemaking will be held as follows:

PUBLIC MEETINGS		
Tuesday, July 9, 2019 5:30 p.m. - 6:30 p.m. (MDT)	Tuesday, July 16, 2019 5:30 p.m. - 6:30 p.m. (PDT)	Tuesday, July 23, 2019 5:30 p.m. - 6:30 p.m. (MDT)
5657 Warm Springs Ave. Boise, Idaho	2885 Kathleen Ave., Ste. 1 Coeur d'Alene, Idaho	4279 Commerce Circle, Ste. B Idaho Falls, Idaho

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

1. Attend the public meeting and provide comments,
2. Submit written comments at the public meeting, or
3. Submit written comments as detailed below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The rule change would update fee caps on camping and facilities, update definitions and standards, reduce the number of campsite types, create new fees for pets and cleaning, consolidate rules governing the winter recreational parking permit program, and incorporate edits for clarity and brevity consistent with the Red Tape Reduction Act.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Anna Canning at (208) 514-2252. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Department of Parks and Recreation web site at the following web address: www.parksandrecreation.idaho.gov.

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 July 24, 2019.

Dated this 6th day of June, 2019.

Anna Canning, Management Services Administrator
Idaho Department of Parks and Recreation
(208) 514-2252

5657 Warm Springs Avenue
P.O. Box 83720
Boise, ID 83720-0065

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

26.01.36 – RULES GOVERNING THE WINTER RECREATIONAL PARKING PERMIT PROGRAM

DOCKET NO. 26-0136-1901

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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 67-4223, 67-4249, and 67-7115 through 67-7118, Idaho Code.

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

PUBLIC MEETINGS		
Tuesday, July 9, 2019 5:30 p.m. - 6:30 p.m. (MDT)	Tuesday, July 16, 2019 5:30 p.m. - 6:30 p.m. (PDT)	Tuesday, July 23, 2019 5:30 p.m. - 6:30 p.m. (MDT)
5657 Warm Springs Ave. Boise, Idaho	2885 Kathleen Ave., Ste. 1 Coeur d'Alene, Idaho	4279 Commerce Circle, Ste. B Idaho Falls, Idaho

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

1. Attend the public meeting and provide comments,
2. Submit written comments at the public meeting, or
3. Submit written comments as detailed below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The proposed change would delete the rule in its entirety and relocate the provisions and fees into IDAPA 26.01.20 – Rules Governing the Administration of Parks & Recreation Areas and Facilities. Consistent with the Red Tape Reduction Act, the consolidated rule will clarify the provisions of both winter ski programs offered by Idaho Department of Parks and Recreation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Anna Canning at (208) 514-2252. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Department of Parks and Recreation web site at the following web address: www.parksandrecreation.idaho.gov.

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 July 24, 2019.

Dated this 6th day of June, 2019.

Anna Canning, Management Services Administrator
Idaho Department of Parks and Recreation
(208) 514-2252

5657 Warm Springs Avenue
P.O. Box 83720
Boise, ID 83720-0065

IDAPA 27 – BOARD OF PHARMACY

27.01.01 – RULES OF THE IDAHO STATE BOARD OF PHARMACY

DOCKET NO. 27-0101-1901

(SECOND) 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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 54-1717.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

PUBLIC MEETING
Thursday, July 11, 2019 - 7:00 a.m. (MDT)
Board of Pharmacy 1199 Shoreline Lane, Suite 303 Boise, Id 83702
TELECONFERENCE CALL-IN (Same time as listed above)

**Toll Free: 1-877-820-7831
Guest Passcode: 381637**

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Written comments received by July 9, 2019 will be included in the Board’s distributed meeting materials for consideration. Written comments received after July 9, 2019 will be printed and distributed to Board members at the meeting. For those planning to attend the open, public meeting, written and verbal comments will be accepted by and/or presented before the Board.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

These proposed rule changes were prompted by the Red Tape Reduction Act and the Board’s continued efforts to clarify and streamline its rules.

These proposed rule changes are also intended to make the Board’s rules consistent with recent statutory changes, clarify and simplify existing language, and reduce or eliminate unnecessary restrictions.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, if available, contact Nicole Chopski, Executive Director, at (208) 334-2356.

Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Board of Pharmacy's web site at the following web address: <https://bop.idaho.gov/index.html>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered as described above.

Dated this 20th day of June, 2019.

Nicole Chopski
Executive Director
Board of Pharmacy
1199 W. Shoreline Ln., Ste. 303
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

IDAPA 35 – STATE TAX COMMISSION
35.01.01 – INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-1903
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 63-105 and 63-3039, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2019.

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

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

Rule 075 – The changes to this rule add the tax brackets for calendar year 2019 and remove the information for calendar year 2014 so only five years of historical data is retained in the rule.

Rule 263 – The changes to this rule add the amount of guaranteed payments that are sourced as compensation for services for calendar year 2019.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rules are simple in nature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cynthia Adrian, (208) 334-7670.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2019.

DATED this 3rd day of July, 2019.

Cynthia Adrian, Income Tax Policy Specialist
State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7670
Fax: (208) 334-7690
cynthia.adrian@tax.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0101-1903
(Only Those Sections With Amendments Are Shown.)

075. TAX ON INDIVIDUALS, ESTATES, AND TRUSTS (RULE 075).
Section 63-3024, Idaho Code

01. **In General.** The tax rates applied to the Idaho taxable income of an individual, trust or estate for the latest five (5) years are identified in Subsection 075.03 of this rule. The Idaho income tax brackets are adjusted for inflation. The maximum tax rate as listed for the applicable taxable year in Subsection 075.03 of this rule applies in computing the tax attributable to the S corporation stock held by an electing small business trust. See Rule 078 of these rules. (4-7-11)

02. **Tax Computation.** (5-3-03)

a. The tax rates and income tax brackets listed in Subsection 075.03 of this rule are those for a single individual or married individuals filing separate returns. (4-6-05)

b. The tax imposed on individuals filing a joint return, filing as a surviving spouse, or filing as a head of household is twice the tax that would be imposed on one-half (1/2) of the total Idaho taxable income of a single individual. (4-7-11)

c. For example, if a married couple filing a joint return reports Idaho taxable income of thirty thousand dollars (\$30,000), the tax is computed as if they had taxable income of fifteen thousand dollars (\$15,000). The tax amount is multiplied by two (2). (4-7-11)

03. **Tables Identifying the Idaho Tax Rates and Income Tax Brackets.** (3-20-04)

~~a.~~ *For taxable years beginning in 2014:*

<i>IF IDAHO TAXABLE INCOME IS</i>		<i>IDAHO TAX</i>		
<i>At least</i>	<i>But less than</i>	<i>Is</i>		<i>Plus</i>
\$1	\$1,429	\$0	+	1.6% of taxable income
\$1,429	\$2,858	\$22.86	+	3.6% of the amount over \$1,429
\$2,858	\$4,287	\$74.30	+	4.1% of the amount over \$2,858
\$4,287	\$5,716	\$132.89	+	5.1% of the amount over \$4,287
\$5,716	\$7,145	\$205.77	+	6.1% of the amount over \$5,716
\$7,145	\$10,718	\$292.94	+	7.1% of the amount over \$7,145
\$10,718 or more		\$546.59	+	7.4% of the amount over \$10,718

Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2014.

(4-11-15)

~~b~~a. For taxable years beginning in 2015:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,452	\$0	+	1.6% of taxable income
\$1,452	\$2,904	\$23.23	+	3.6% of the amount over \$1,452
\$2,904	\$4,356	\$75.50	+	4.1% of the amount over \$2,904
\$4,356	\$5,808	\$135.03	+	5.1% of the amount over \$4,356
\$5,808	\$7,260	\$209.08	+	6.1% of the amount over \$5,808
\$7,260	\$10,890	\$297.65	+	7.1% of the amount over \$7,260
\$10,890 or more		\$555.38	+	7.4% of the amount over \$10,890

Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2015.

(3-25-16)

eb. For taxable years beginning in 2016:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,454	\$0	+	1.6% of taxable income
\$1,454	\$2,908	\$23.26	+	3.6% of the amount over \$1,454
\$2,908	\$4,362	\$75.60	+	4.1% of the amount over \$2,908
\$4,362	\$5,816	\$135.21	+	5.1% of the amount over \$4,362
\$5,816	\$7,270	\$209.36	+	6.1% of the amount over \$5,816
\$7,270	\$10,905	\$298.05	+	7.1% of the amount over \$7,270
\$10,905 or more		\$556.14	+	7.4% of the amount over \$10,905

Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2016.

(3-29-17)

dc. For taxable years beginning in 2017:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,472	\$0	+	1.6% of taxable income
\$1,472	\$2,945	\$23.56	+	3.6% of the amount over \$1,472
\$2,945	\$4,417	\$76.57	+	4.1% of the amount over \$2,945
\$4,417	\$5,890	\$136.94	+	5.1% of the amount over \$4,417
\$5,890	\$7,362	\$212.03	+	6.1% of the amount over \$5,890
\$7,362	\$11,043	\$301.85	+	7.1% of the amount over \$7,362

\$11,043 or more		\$563.21	+	7.4% of the amount over \$11,043
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2017.				

(3-28-18)

ed. For taxable years beginning in 2018:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,504	\$0	+	1.125% of taxable income
\$1,504	\$3,008	\$16.92	+	3.125% of the amount over \$1,504
\$3,008	\$4,511	\$63.91	+	3.625% of the amount over \$3,008
\$4,511	\$6,015	\$118.42	+	4.625% of the amount over \$4,511
\$6,015	\$7,519	\$187.97	+	5.625% of the amount over \$6,015
\$7,519	\$11,279	\$272.56	+	6.625% of the amount over \$7,519
\$11,279 or more		\$521.63	+	6.925% of the amount over \$11,279
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2018.				

(3-26-19)

e. For taxable years beginning in 2019:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,541	\$0	+	1.125% of taxable income
\$1,541	\$3,081	\$17.33	+	3.125% of the amount over \$1,541
\$3,081	\$4,622	\$65.47	+	3.625% of the amount over \$3,081
\$4,622	\$6,162	\$121.32	+	4.625% of the amount over \$4,622
\$6,162	\$7,703	\$192.57	+	5.625% of the amount over \$6,162
\$7,703	\$11,554	\$279.22	+	6.625% of the amount over \$7,703
\$11,554 or more		\$534.37	+	6.925% of the amount over \$11,554
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2019.				

()

(BREAK IN CONTINUITY OF SECTIONS)

263. IDAHO SOURCE INCOME OF NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- DISTRIBUTIVE SHARE OF S CORPORATION AND PARTNERSHIP INCOME (RULE 263).
Section 63-3026A(3), Idaho Code

01. In General. The taxable amount of a shareholder’s pro rata share or a partner’s distributive share of business income, gains, losses, and other pass-through items from an S corporation or partnership operating both within and without Idaho is determined by multiplying each pass-through item by the Idaho apportionment factor of the business. The Idaho apportionment factor is determined pursuant to Section 63-3027, Idaho Code, and related rules. (3-20-97)

02. Nonbusiness Income. Pass-through items of identifiable nonbusiness income, gains, or losses of an S corporation or partnership constitute Idaho source income to the shareholder or partner if allocable to Idaho pursuant to the principles set forth in Section 63-3027, Idaho Code. (3-20-97)

03. Pass-Through Items. Whether a pass-through item of income or loss is business or nonbusiness income is determined at the pass-through entity level. Pass-through items of business income or loss may include: (3-20-97)

- a. Ordinary income or loss from trade or business activities; (3-20-97)
- b. Net income or loss from rental real estate activities; (3-20-97)
- c. Net income or loss from other rental activities; (3-20-97)
- d. Interest income; (3-20-97)
- e. Dividends; (3-20-97)
- f. Royalties; (3-20-97)
- g. Capital gain or loss; (3-20-97)
- h. Other portfolio income or loss; (3-20-97)
- i. Gain or loss recognized pursuant to Section 1231, Internal Revenue Code. (3-20-97)

04. Guaranteed Payments Treated As Compensation. (3-20-14)

a. Guaranteed payments to an individual partner up to the amount shown in paragraph 263.04.b. in any calendar year is sourced as compensation for services. If a nonresident partner performs services on behalf of the partnership within and without Idaho, the amount included in Idaho compensation is determined as provided in Rule 270 of these rules. (3-20-14)

b. The amount of guaranteed payments that are sourced as compensation for services is as follows:

TAX YEAR	AMOUNT
2019	\$269,500
2018	\$263,000
2017	\$257,500
2016	\$254,250
2015	\$254,000
2014	\$250,000
2013	\$250,000

~~(3-26-19)~~()

05. Distributions. (2-27-12)

- a.** Partnerships. The amount of distributions received by a partner that is from Idaho sources is determined by multiplying the taxable amount of distributions pursuant to Section 731, Internal Revenue Code, by the Idaho apportionment factor of the partnership. (2-27-12)
- b.** S Corporations. The amount of distributions received by a shareholder that is from Idaho sources is determined by multiplying the taxable amount of distributions pursuant to Section 1368, Internal Revenue Code, by the Idaho apportionment factor of the S corporation. (2-27-12)
- c.** The Idaho apportionment factor for purposes of Paragraphs 263.05.a. and 263.05.b. of this rule is determined pursuant to Section 63-3027, Idaho Code, and related rules. (2-27-12)

IDAPA 35 – STATE TAX COMMISSION

35.01.02 – IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-1907

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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 63-105(2), 63-3624(a), 63-3622, Idaho Code.

MEETING SCHEDULE: Negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the following agency website address: <https://tax.idaho.gov/i-1090.cfm>.

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

1. Attend the negotiated rulemaking meeting(s), in person or through teleconference, and participate in the negotiation process,
2. Submit written comments to the address below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

Rule 128 - This rule lists exemption claim forms and provides a brief description about their use – Updating to reflect form change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), contact Leah Parsons, (208) 334-7531. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the commission web site at the following web address: <https://tax.idaho.gov>.

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 July 29, 2019.

Dated this 3rd day of July, 2019.

Leah Parsons, Sales Tax Policy Specialist
State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7531
Fax: (208) 334-7690
Leah.parsons@tax.idaho.gov

IDAPA 35 – STATE TAX COMMISSION

35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1908

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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 67-5221(1) and 63-105A, Idaho Code

MEETING SCHEDULE: Negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the following agency website address: <https://tax.idaho.gov/i-1090.cfm>.

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

1. Attend the negotiated rulemaking meeting(s), in person or through teleconference, and participate in the negotiation process;
2. Submit written comments to the address below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

Rule 980 “Valuation of Mines for Taxation” - Rule 980 is to be deleted as it conflicts with Section 63-2801, Idaho Code, restricting the permissive language found in statute regarding the assessed value per acre once the mining claim is conveyed from the original purchaser.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), contact Alan Dornfest, (208) 334-7742. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the commission web site at the following web address: <https://tax.idaho.gov>.

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 July 29, 2019.

Dated this 3rd day of July, 2019.

Alan Dornfest, Property Tax Policy Bureau Chief
State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7742
Fax: (208) 334-7844
Alan.Dornfest@tax.idaho.gov

IDAPA 35 – STATE TAX COMMISSION

35.01.09 – IDAHO COUNTY OPTION KITCHEN AND TABLE WINE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0109-1901 (CHAPTER REPEAL)

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 63-105, 23-1323, Idaho Code.

MEETING SCHEDULE: Negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the following agency website address: <https://tax.idaho.gov/i-1090.cfm>.

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

1. Attend the negotiated rulemaking meeting(s), in person or through teleconference, and participate in the negotiation process;
2. Submit written comments to the address below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The “Idaho County Option Kitchen and Table Wine Tax Administrative Rules” and the “Idaho Beer Tax Administrative Rules” will be repealed. A new chapter called the “Idaho Beer and Wine Tax Administrative Rules” will replace them.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Don Williams, (208) 334-7855. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the commission website at the following web address: <https://tax.idaho.gov>.

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 July 29, 2019.

Dated this 3rd day of July, 2019.

Don Williams, Product Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7855
Fax: (208) 334-7690
Don.Williams@tax.idaho.gov

IDAPA 35 – STATE TAX COMMISSION

35.01.12 – IDAHO BEER TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0112-1901 (CHAPTER REPEAL)

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 63-105, 23-1051, Idaho Code.

MEETING SCHEDULE: Negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the following agency website address: <https://tax.idaho.gov/i-1090.cfm>.

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

1. Attend the negotiated rulemaking meeting(s), in person or through teleconference, and participate in the negotiation process;
2. Submit written comments to the address below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The “Idaho County Option Kitchen and Table Wine Tax Administrative Rules” and the “Idaho Beer Tax Administrative Rules” will be repealed. A new chapter called the “Idaho Beer and Wine Tax Administrative Rules” will replace them.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Don Williams, (208) 334-7855. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the commission website at the following web address: <https://tax.idaho.gov>.

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 July 29, 2019.

Dated this 3rd day of July, 2019.

Don Williams, Product Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7855
Fax: (208) 334-7690
Don.Williams@tax.idaho.gov

IDAPA 35 – STATE TAX COMMISSION

35.01.15 – IDAHO BEER AND WINE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0115-1901 (NEW CHAPTER)

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 63-105, 23-1051, and 23-1323, Idaho Code.

MEETING SCHEDULE: Negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the following agency website address: <https://tax.idaho.gov/i-1090.cfm>.

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

1. Attend the negotiated rulemaking meeting(s), in person or through teleconference, and participate in the negotiation process;
2. Submit written comments to the address below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The “Idaho County Option Kitchen and Table Wine Tax Administrative Rules” and the “Idaho Beer Tax Administrative Rules” will be repealed. A new chapter called the “Idaho Beer and Wine Tax Administrative Rules” will replace them.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Don Williams, (208) 334-7855. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the commission website at the following web address: <https://tax.idaho.gov>.

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 July 29, 2019.

Dated this 3rd day of July, 2019.

Don Williams, Product Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7855
Fax: (208) 334-7690
Don.Williams@tax.idaho.gov

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

**39.02.05, 39.02.07, 39.02.11, 39.02.12, 39.02.24:
RULES REGULATING VEHICLE TITLES**

DOCKET NO. 39-0200-19010M

NOTICE OF INTENT TO PROMULGATE RULES – OMNIBUS NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 40-312 & 49-201, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows in the information below.

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Participation in-person is available in-person or via the following methods:

Wednesday, July 24, 2019 – 3:30pm to 6:00pm (MDT)
LIVE MEETING
ITD Headquarters 3311 W. State Street Boise, ID 83703
Join Webex Meeting
Meeting Number (Access Code): 801 948 211 Event Password: 12345
Join by Phone at:
1-844-740-1264 USA Toll Free 1-415-655-0003 US Toll

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This rulemaking involves the consolidation and update of special title handling in an effort to improve customer service and add clarity to the process. This rule consolidation effort will streamline five (5) existing title rules into one (1). It will align with Idaho Code and current practices, eliminate outdated and redundant language, provide clarification and reduce restrictive language. This consolidated rule will reduce confusion and makes it easier for stakeholders and customers. This consolidation effort is in alignment with the Governor’s **Red Tape Reduction Act**.

The following rule chapters are germane to this rulemaking:

39.02.05, Rules Governing Lien Filing on Certificate of Title

39.02.07, Rules Governing Titling of Salvage, Specially Constructed, Replica and Rebuilt Salvage Motor Vehicles

39.02.11, Rules Governing Odometer Readings on Title Records

39.02.12, Rules Governing Issuing Certificates of Title and Bonded Certificates of Title

39.02.24, Rules Governing ‘Gray Market’ Vehicle Registration and Titling

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), please contact Barry Takeuchi, Titles Program Specialist, at 208.334.4490. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Transportation Department’s website at the following web address: <https://itd.idaho.gov/rulemaking/>.

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 Monday, July 29, 2019.

Dated this 7th day of June, 2019.

Ramón Hobdey-Sánchez
Governmental Affairs Specialist
Idaho Transportation Department
3311 W. State Street
P.O. Box 7129
Boise, ID 83707-1129
Phone: (208) 334-8810
ramon.hobdey-sanchez@itd.idaho.gov

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT
39.02.42 – TEMPORARY VEHICLE REGISTRATION WHEN PROOF
OF OWNERSHIP IS INSUFFICIENT

DOCKET NO. 39-0242-1901

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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 40-312 & 49-201, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows in the information below.

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Participation in-person is available in-person or via the following methods:

Monday, July 29, 2019 – 1:30 pm to 2:30 pm (MDT)
LIVE MEETING
ITD Headquarters 3311 W. State Street Boise, ID 83703
Join Webex Meeting
Meeting Number (Access Code): 806 932 787 Event Password: 12345
Join by Phone at:
1-844-740-1264 USA Toll Free 1-415-655-0003 US Toll

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This rule change will add clarity to temporary ownership documents when standard documents may not be available. This rule change removes a requirement to sign an affidavit in the presence of the county assessor/deputy assessor when said documents cannot be obtained. The change also allows a second type of title (conditional title) to be issued when an applicant cannot meet standard titling requirements. The changes will remove redundant and outdated sections. This rule is in alignment with the Governor's **Red Tape Reduction Act** as it lifts current requirements.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), please contact Chris Fisher, DMV Program Specialist, at (208) 334-8167. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Transportation Department's website at the following web address: <https://itd.idaho.gov/rulemaking/>.

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 Wednesday, July 31, 2019.

Dated this 7th day of June 2019.

Ramón Hobdey-Sánchez
Governmental Affairs Specialist
Idaho Transportation Department
3311 W. State Street
P.O. Box 7129
Boise, ID 83707-1129
Phone: (208) 334-8810
ramon.hobdey-sanchez@itd.idaho.gov

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.75 – RULES GOVERNING NAMES ON DRIVER’S LICENSES AND IDENTIFICATION CARDS

DOCKET NO. 39-0275-1901

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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 40-312 & 49-201, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows in the information below.

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Participation in-person is available in-person or via the following methods:

Wednesday, July 24, 2019 – 1:30 pm to 3:00 pm (MDT)
LIVE MEETING
ITD Headquarters 3311 W. State Street Boise, ID 83703
Join Webex Meeting
Meeting Number (Access Code): 801 948 211 Event Password: 12345
Join by Phone at:
1-844-740-1264 USA Toll Free 1-415-655-0003 US Toll

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

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This rule was previously established to provide regulations on name change options and required documentation. The rule is outdated and has caused confusion regarding married and divorced applicant name options. Under the Governor’s **Red Tape Reduction Act**, this rule change will decrease regulations and restrictions on Idaho residents. The modifications to the language in this rule will simplify name structure in cases of marriage and divorce and remove a specific requirement for the order of a hyphenated last name for the purpose of issuing driver licenses and identification cards.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), please contact Brendan Floyd, DMV Program Specialist, at (208)

334-8474. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Transportation Department's website at the following web address: <https://itd.idaho.gov/rulemaking/>.

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 Monday, July 29, 2019.

Dated this 7th day of June 2019.

Ramón Hobdey-Sánchez
Governmental Affairs Specialist
Idaho Transportation Department
3311 W. State Street
P.O. Box 7129
Boise, ID 83707-1129
Phone: (208) 334-8810
ramon.hobdey-sanchez@itd.idaho.gov

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

**39.02.76 – RULES GOVERNING DRIVER'S LICENSE RENEWAL-BY-MAIL
AND ELECTRONIC RENEWAL PROCESS**

DOCKET NO. 39-0276-1901

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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 40-312 & 49-201, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows in the information below.

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Participation in-person is available in-person or via the following methods:

Wednesday, July 17, 2019 – 1:30 pm to 2:30 pm (MDT)
LIVE MEETING
ITD Headquarters 3311 W. State Street Boise, ID 83703
Join Webex Meeting
Meeting Number (Access Code): 808 191 012 Event Password: 12345
Join by Phone at:
1-844-740-1264 USA Toll Free 1-415-655-0003 US Toll

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

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The modification of this rule offers applicants the ability to apply for a renewal or replacement driver's license or identification card electronically, making it easier on our customers by reducing wait times and foot traffic in often overcrowded county driver license offices. This rule change provides a more convenient alternative for customers.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), please contact Brendan Floyd, DMV Program Specialist, at (208)

334-8474. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Transportation Department's website at the following web address: <https://itd.idaho.gov/rulemaking/>.

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 Monday, July 29, 2019.

Dated this 7th day of June 2019.

Ramón Hobdey-Sánchez
Governmental Affairs Specialist
Idaho Transportation Department
3311 W. State Street
P.O. Box 7129
Boise, ID 83707-1129
Phone: (208) 334-8810
ramon.hobdey-sanchez@itd.idaho.gov

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.22, 39.03.01, 39.03.05, 39.03.06: COMMERCIAL MOTOR VEHICLE PERMITS AND REGISTRATION RULES

DOCKET NO. 39-0300-19010M

NOTICE OF INTENT TO PROMULGATE RULES – OMNIBUS NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 40-312 & 49-201, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows in the information below.

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Participation in-person is available in-person or via the following methods:

Wednesday, July 17, 2019 – 3:00pm to 6:00pm (MDT)
LIVE MEETING
ITD Headquarters 3311 W. State Street Boise, ID 83703
Join Webex Meeting
Meeting Number (Access Code): 808 191 012 Event Password: 12345
Join by Phone at:
1-844-740-1264 USA Toll Free 1-415-655-0003 US Toll

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This rulemaking will address changes to four (4) administrative rules relating to commercial motor vehicle permits and online registration. 39.02.22: will clarify and update installment payment arrangements for commercial vehicle customers registering in Idaho. It also provides online methods for obtaining registrations from the Department. 39.03.01: will define in definitions a disabled vehicle, a snowplow and how overhang is measured. 39.03.05: will clarify load allowances for standard 53 foot and longer trailers for oversize non-reducible loads for drivers and carriers. 39.03.06: will eliminate specifically referenced route colors within rule and allow the Department to create and modify maps more efficiently. It also decreases the number of attachments for permit holders and removes the requirement for rule to be updated each time a route color is changed. These changes will reduce confusion and make it easier for stakeholders and customers by enabling the streamlining of documents to a single source and will eliminate the need for multiple attachments for permit carriers. This consolidation effort is in alignment with the Governor's [Red Tape Reduction Act](#), because it removes unnecessary language within administrative rule.

The following rule chapters are germane to this rulemaking:

- 39.02.22**, Rules Governing Registration and Permit Fee Administration
- 39.03.01**, Rules Governing Definitions Regarding Overlegal Permits
- 39.03.05**, Rule Governing Variable Load Suspension Axles
- 39.03.06**, Rules Governing Allowable Vehicle Size

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), please contact Lance Green, Permits Program Specialist, at (208) 334-8427. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Transportation Department's website at the following web address: <https://itd.idaho.gov/rulemaking/>.

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 Monday, July 29, 2019.

Dated this 7th day of June, 2019.

Ramón Hobdey-Sánchez
Governmental Affairs Specialist
Idaho Transportation Department
3311 W. State Street
P.O. Box 7129
Boise, ID 83707-1129
Phone: (208) 334-8810
ramon.hobdey-sanchez@itd.idaho.gov

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

**39.03.41, 39.03.60, 39.03.61, 39.03.62, 39.03.63, 39.03.64:
TRAFFIC SIGNS AND RIGHT-OF-WAY RULES**

DOCKET NO. 39-0300-1902OM

NOTICE OF INTENT TO PROMULGATE RULES – OMNIBUS NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 40-312 & 49-201, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows in the information below.

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Participation in-person is available in-person or via the following methods:

Monday, July 29, 2019 – 3:30pm to 6:00pm (MDT)
LIVE MEETING
ITD Headquarters 3311 W. State Street Boise, ID 83703
Join Webex Meeting
Meeting Number (Access Code): 806 932 787 Event Password: 12345
Join by Phone at:
1-844-740-1264 USA Toll Free 1-415-655-0003 US Toll

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This rulemaking will consolidate rules involving traffic signs, advertising and memorials within Department right-of-ways. This rule consolidation effort should streamline six (6) existing rules into two (2). It will align with Idaho Code and current practices, eliminate outdated and redundant language and provide clarification. The changes to these rules will be focused on consolidation, clean-up and combining rule chapters that address the Manual on Uniform Traffic Control Devices (MUTCD). These changes will reduce confusion and make it easier for stakeholders and customers. This consolidation effort is in alignment with the Governor’s [Red Tape Reduction Act](#).

The following rule chapters are germane to this rulemaking:

- 39.03.41**, Rules Governing Traffic Control Devices
- 39.03.60**, Rules Governing Outdoor Advertising
- 39.03.61**, Rules Governing Directional and Other Official Signs and Notices

- 39.03.62, Rules Governing Logo Signs
- 39.03.63, Rules Governing Traffic Accident Memorials
- 39.03.64, Rules Governing Tourist Oriented Directional Signs (TODS)

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), please contact Kevin Sablan, Traffic Manager, at (208) 334-8558 or Justin Pond, Right-of-Way Manager, at (208) 334-8832. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Transportation Department's website at the following web address: <https://itd.idaho.gov/rulemaking/>.

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 Wednesday, July 31, 2019.

Dated this 7th day of June, 2019.

Ramón Hobdey-Sánchez
Governmental Affairs Specialist
Idaho Transportation Department
3311 W. State Street
P.O. Box 7129
Boise, ID 83707-1129
Phone: (208) 334-8810
ramon.hobdey-sanchez@itd.idaho.gov

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.03.06 – RULES GOVERNING SPECIAL PERMITS FOR EXTRA-LENGTH/EXCESS WEIGHT, UP TO 129,000 POUND VEHICLE COMBINATIONS

DOCKET NO. 39-0306-1901

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2019.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 40-312 & 49-201, Idaho Code and Sections 49-1004, 49-1004A and 49-1010, Idaho Code.

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

This rule change will eliminate specifically referenced route colors within rule and allow the Department to create and modify maps more efficiently. It also decreases the number of attachments for permit holders and removes the requirement for rule to be updated each time a route color is changed. These changes will reduce confusion and make it easier for stakeholders and customers by enabling the streamlining of documents to a single source and it will eliminate the need for multiple attachments for permit carriers. This consolidation effort is in alignment with the Governor's Red Tape Reduction Act, because it removes unnecessary language within administrative rule.

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

These rule changes add clarity to the 129,000 lb. truck route request hearing process, benefiting route applicants and Department customers by clarifying the appeals process for denied route applications. Additionally, the removal of reference to the colored routes ensures consistency with the Department's new online permitting system which goes live on July 1, 2019.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, please contact Lance Green, Permits Program Specialist, at (208) 334-8427.

Dated this 7th day of June, 2019.

Ramón Hobdey-Sánchez
Governmental Affairs Specialist
Idaho Transportation Department
3311 W. State St.
P.O. Box 7129
Boise, ID 83707-1129
Phone: 208.334.8810
ramon.hobdey-sanchez@itd.idaho.gov

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 39-0306-1901
(Only Those Sections With Amendments Are Shown.)

~~051. – 099.~~ (RESERVED)

~~100. DESIGNATED ROUTES FOR EXTRA LENGTH VEHICLE COMBINATIONS CARRYING UP TO ONE HUNDRED FIVE THOUSAND FIVE HUNDRED (105,500) POUNDS SHALL BE DESIGNATED IN FOUR CATEGORIES.~~

~~The “Extra Length Map” listing the designated routes for vehicles operating up to one hundred five thousand five hundred (105,500) pounds is available at the Idaho Transportation Department offices. This map is not the same as the “Designated Routes Up to 129,000 Pound Map” listed in Section 200 of these rules. (7-1-19)~~

~~01. Blue Coded Routes. Routes for combinations not exceeding ninety five (95) feet in overall length including load overhang (blue coded routes). A vehicle combination operating on routes designated for up to ninety five (95) feet shall be designed and assembled in a manner whereby its maximum off tracking will not exceed five point five zero (5.50) feet on a one hundred sixty five (165) foot radius when computed. (7-1-19)~~

~~02. Red Coded Routes. Routes for combinations of vehicles not exceeding one hundred fifteen (115) feet in overall length including load overhang (red coded routes). A vehicle combination operating on routes designated for up to one hundred fifteen (115) feet shall be designed and assembled in a manner whereby its maximum off tracking will not exceed six point five zero (6.50) feet on a one hundred sixty five (165) foot radius when computed. (7-1-19)~~

~~03. Black Coded Routes. Interstate system routes and specified interchanges providing access to approved breakdown areas located in close proximity to the Interstate system (black coded routes). A vehicle combination operating on routes in this category shall be designed and assembled in such a manner that its off tracking may exceed six point five zero (6.50) feet but shall not exceed eight point seventy five (8.75) feet when computed. Specified interchanges providing access to approved breakdown areas are required to be used by combinations that exceed six point five zero (6.50) feet off tracking. The specified interchanges will be authorized for either combinations in excess of six point five zero (6.50) feet off tracking, but not in excess of seven (7) feet off tracking, or for combinations in excess of seven (7) feet off tracking but not in excess of eight point seventy five (8.75) feet off tracking. (7-1-19)~~

~~04. Green Coded Routes. Selected state highway routes (green coded routes) for operation of a vehicle combination whereby its maximum off tracking will not exceed three (3) feet on a one hundred sixty five (165) foot radius when computed, and its overall length including load overhang does not exceed eighty five (85) feet. Route approval shall be subject to analysis of pavement condition, bridge capacity, safety considerations, pavement width, curvature, traffic volumes, and traffic operations. (7-1-19)~~

~~101.—199.~~ (RESERVED)

200. DESIGNATED ROUTES FOR EXTRA LENGTH VEHICLE COMBINATIONS UP TO ONE HUNDRED TWENTY-NINE THOUSAND (129,000) POUNDS.

In addition to the requirements listed in Sections 300 and 400, vehicle combinations operating up to one hundred twenty-nine thousand (129,000) pounds, must meet the following requirements: ~~(7-1-19)~~**(7-1-19)T**

01. Brakes. All axles shall be equipped with brakes that meet the Federal Motor Carrier Safety Regulations and shall be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. (7-1-19)

02. Designated Routes for Vehicle Lengths. All designated state approved routes for vehicle combinations to operate at designated lengths are identified on the “Designated Extra Length Excess Weight up to

129,000 Pound Map” which is available at the Idaho Transportation Department.

(7-1-19)T

023. Designated Routes for Vehicle Weight. All designated state approved routes for vehicle combinations to operate at weights above one hundred five thousand five hundred (105,500) pounds will be identified on the “Designated Routes Extra Length Excess Weight up to 129,000 Pound Map” which is available at the Idaho Transportation Department. (7-1-19)(7-1-19)T

~~a. **Black Coded Routes.** Interstate system routes and specified interchanges providing access to approved breakdown areas located in close proximity to the Interstate system (black-coded routes). A vehicle combination operating on routes in this category shall be designed and assembled in such a manner that its off-tracking may exceed six point five zero (6.50) feet but shall not exceed eight point seven five (8.75) feet when computed. Specified interchanges providing access to approved breakdown areas are required to be used by combinations that exceed six point five zero (6.50) feet off-tracking. The specified interchanges will be authorized for either combinations in excess of six point five zero (6.50) feet off-tracking, but not in excess of seven (7) feet off-tracking, or for combinations in excess of seven (7) feet off-tracking but not in excess of eight point seven five (8.75) feet off-tracking.~~ (7-1-19)

~~b. **Magenta-Coded Routes.** Routes for combinations of vehicles not exceeding one hundred fifteen (115) feet in overall length including load overhang (magenta-coded routes). A vehicle combination operating on routes designated for up to one hundred fifteen (115) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed six point five zero (6.50) feet on a one hundred sixty five (165) foot radius when computed.~~ (7-1-19)

~~c. **Brown-Coded Routes.** Routes for combinations not exceeding ninety five (95) feet in overall length including load overhang (brown-coded routes). A vehicle combination operating on routes designated for up to ninety five (95) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed five point five zero (5.50) feet on a one hundred sixty five (165) foot radius when computed.~~ (7-1-19)

~~d. **Routes for combinations operating on non state maintained highways (orange-coded routes).** Local jurisdictions adding, modifying or deleting non state maintained routes for vehicle combinations operating up to one hundred twenty nine thousand (129,000) pounds shall provide the route information to the Department.~~ (7-1-19)

034. Requests for Adding Idaho Transportation Department Maintained Non-Interstate Routes. Routes not currently designated to operate at up to one hundred twenty-nine thousand (129,000) pounds may be added as follows: (7-1-19)

a. Request Form Submission. The request form (ITD form number 4886) will be completed and submitted to the Idaho Transportation Department Office of the Chief Engineer by the requestor. The requestor will forward the form to the adjacent local jurisdictions. (7-1-19)

b. Request Review/Analysis Process. (7-1-19)

i. Once submitted, the request will be reviewed for completeness and the department’s analysis will be completed for engineering and safety criteria. The criteria shall include assessment of pavement and bridges to allow legal tire, axle, and gross weight limits as per Section 49-1001 and 49-1002, Idaho Code, and route off-track requirements which includes road width and curvature. Additional consideration shall be given to traffic volumes and other safety factors. (7-1-19)

ii. Once the analysis is completed, the request will be submitted to the Chief Engineer, who will report to the Idaho Transportation Board Sub-committee. (7-1-19)

iii. The Idaho Transportation Board Sub-committee will make a recommendation (~~proceed to hearing~~ approve, reject, or request additional information) to the Idaho Transportation Board based upon the Department's analysis. (7-1-19)(7-1-19)T

iv. If the Idaho Transportation Board recommends ~~that the request proceed to hearing~~ approval or

denial, it shall instruct the Chief Engineer to ~~schedule a hearing in the district(s) where the requested route is located~~ issue a letter of determination. An adverse person may contest the letter of determination and request a hearing. The hearing will be conducted pursuant to the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code.

~~(7-1-19)~~(7-1-19)T

v. The Chief Engineer or designee will conduct the hearing(s) and make a determination after the hearing(s) are held. Following the determination, the Chief Engineer will issue Findings and a Preliminary Order, hereafter referred to as Preliminary Order. (7-1-19)

vi. The Department will notify the requestor of the Chief Engineer's Preliminary Order and post to the Idaho Transportation Department Web site. (7-1-19)

vii. An appeal of the Preliminary Order may be made pursuant to the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. The appeal shall be made to the Director of the Idaho Transportation Department. (7-1-19)

c. Local Highways Approved for Travel Up to 129,000 Pounds. Local routes will be added or removed on the "Designated Routes Up to 129,000 Pound Map" when information and approval is provided to the Department by the local jurisdiction having authority over the local route. (7-1-19)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.03.49 – RULES GOVERNING IGNITION INTERLOCK BREATH ALCOHOL DEVICES

DOCKET NO. 39-0349-1901

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 40-312 & 49-201, Idaho Code and Sections 18-8008, 18-8010 and 19-3506, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 17, 2019.

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

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

This rule change is a direct result of the passage of **HB78aa,aaS** passed during the 2019 legislative session. This rule change requires the addition of a camera to accompany all ignition interlock devices as well as provides for a diversion program coordinated and run by county prosecuting attorneys. The prosecuting attorney, diversion program administrator or its designee were added as contacts for receiving documentation and notifications.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rule is simple in nature as the proposed changes are a direct result of passed legislation during the 2019 legislative session.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, please contact Amy Smith, DMV Business Analyst, at (208) 334-8708.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, July 24, 2019.

Dated this 7th day of June 2019.

Ramón Hobdey-Sánchez
Governmental Affairs Specialist
Idaho Transportation Department
3311 W. State Street
P.O. Box 7129
Boise, ID 83707-1129
Phone: (208) 334-8810
ramon.hobdey-sanchez@itd.idaho.gov

THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 39-0349-1901
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

01. **Alcohol.** The generic class of organic compounds known as alcohols and, specifically, the chemical compound ethyl alcohol. For the purpose of Ignition Interlock Devices, ~~there is no requirement expressed or implied that the device be specifically for ethyl alcohol~~ all devices will be specific for ethyl alcohol. (12-26-90)()

02. **Breath Alcohol Concentration (BAC).** The weight amount of alcohol contained in a unit volume of breath, measured in grams Ethanol/two hundred ten (210) liters of breath. (12-26-90)

03. **Court (Or Originating Court).** The particular Idaho state court that has required the use of an ignition interlock ~~breath alcohol~~ device by a particular individual. (12-26-90)()

04. **Certification.** The approval process required by the Idaho Transportation Department. (12-26-90)

05. **Department.** The Idaho Transportation Department. (7-1-96)

06. **Device.** An breath alcohol ignition interlock device. (7-1-96)

~~07.~~ **Diversion Program Administer or Designee.** The prosecuting attorney or an individual or business appointed by a prosecuting attorney of any Idaho county, to administer the diversion program established by the prosecuting attorney on their behalf. ()

~~078.~~ **Ignition Interlock Device.** An instrument designed to measure the BAC of an individual and which prevents a motorized vehicle from starting when the BAC exceeds a predetermined and preset level. (7-1-96)

~~089.~~ **Independent Testing Laboratory.** A laboratory facility that is not subject to the control of the manufacturer of the device. (7-1-96)

~~109.~~ **Interlock.** The state in which a motor vehicle is prevented from starting by a device. (12-26-90)

~~101.~~ **Lessee.** The person ordered by a court to drive only vehicles that have certified devices installed. (12-26-90)

~~172.~~ **Manufacturer or Manufacturer's Representative.** The person, company or corporation who produces the device, or a recognized representative who sells, rents, leases, installs, maintains and removes the device. (7-1-96)

011. -- 099. (RESERVED)

100. CERTIFICATION PROCESS.

01. **Equipment Standards.** ~~To be certified, a~~ Δ device must meet or exceed the ~~federal~~ National Highway Traffic Safety Administration's (NHTSA) model specifications for breath alcohol ignition interlock devices (BAIIDs) as published in the Federal Register/Vol. 578, No. ~~67/Tuesday, April 7, 1992~~ 89/Wednesday, May 8, 2013 and are subject to ~~any~~ subsequent standards published by NHTSA. ~~Only a~~ Δ notarized statement and a copy of the Certification Test Report, from an independent testing laboratory performing the tests as specified, will be accepted as proof of meeting or exceeding the standards. The statement shall include the calibration dates and the name and signature of the person in charge of the tests under the following sentence: All tests on two (2) samples of (model names) _____ manufactured by _____ were conducted in accordance with specifications listed in [the above referenced Federal Register]. (7-1-96)()

a. A manufacturer must report to the Department any changes in the design of the device along with a notarized re-certification statement from an independent testing laboratory thirty (30) days prior to implementing device usage in Idaho. (7-1-96)

b. Devices that were certified under less stringent IDAPA rules governing BAIID devices or previous model specifications as published in the Federal Register will be grandfathered for use in the state for a period no longer than one hundred eighty (180) days from the effective date of the most recent published device specifications. (7-1-96)

02. Proof of Insurance. The manufacturer shall annually provide to the ~~Idaho Transportation~~ Department proof of insurance with minimum liability limits of one million dollars (\$1,000,000) per occurrence, with three million dollars (\$3,000,000) aggregate total. The liability covered shall include defects in product design and materials, as well as workmanship during manufacture, calibration, installation and removal. The proof of insurance shall include a statement from the insurance carrier that thirty (30) days' notice shall be given to the Idaho Transportation Department prior to cancellation. (7-1-96)()

03. Hold Harmless. The manufacturer shall provide to the ~~Idaho Transportation~~ Department a notarized statement that the manufacturer will be totally responsible for product liability and will indemnify the following from any liability resulting from the device or its installation or use: (7-1-96)()

a. The state of Idaho; and (7-1-96)

b. The court that ordered the installation of the device. (7-1-96)

c. The county, its employees and designees administering the program. (7-1-96)

04. Manufacturer's Reporting Requirements. The manufacturer shall provide the Department a description of its installation and monitoring procedures, maintenance technician training program, and set of criteria for monitoring and reporting offenders. (7-1-96)

05. Criteria for Certification and/or Revocation. Upon receipt of a notarized statement ~~from a testing laboratory that two (2) samples of a device have successfully passed the test procedures specified in this rule, the required documentation, and the certificate of insurance~~ and required documentation from the Manufacturer or Manufacturer's Representative, the Department shall issue a Letter of Certification for the device. The Letter of Certification shall be valid until voluntarily surrendered by the manufacturer or until revoked by the Department for cause. Reasons for revocation include, but are not limited to: (7-1-96)()

a. Evidence of repeated device failures due to gross defects in design, materials and/or workmanship during manufacture, installation or calibration of the device; (12-26-90)

b. Notice of cancellation of manufacturer's liability insurance is received; or (12-26-90)

c. Notification that the manufacturer is no longer in business. (12-26-90)

d. Voluntary request of the manufacturer to remove a device from the certified list; (7-1-96)

e. Any other reasonable cause to believe the device was inaccurately represented to meet the performance standards; or (7-1-96)

f. Failure to submit required reports to the Department. (7-1-96)

06. Notice of Revocation. Unless necessary for the immediate good and welfare of the public, revocation shall be effective ten (10) days after manufacturer's receipt of notice, which shall be sent via certified mail, return receipt requested. A copy of each Notice of Revocation shall be provided to all originating courts or their designees and lessees utilizing the revoked device with notice to contact the manufacturer for a replacement. (7-1-96)

07. Removal of Revoked Devices. Upon revocation or voluntary surrender of a certified device, a manufacturer shall be responsible for removal of all like devices from lessees' vehicles. (7-1-96)

a. A manufacturer shall be responsible for any costs connected with removal of their revoked devices from lessees' vehicles and the installation of certified replacement devices. (7-1-96)

08. Right to Appeal. Upon voluntary surrender, or revocation of a Letter of Certification for a manufacturer's device, manufacturers may request a review of revocation. Such request shall be submitted to the Department, in writing, within twenty (20) days of revocation. (7-1-96)

09. Repository for Letter of Certification. The ~~Idaho Transportation~~ Department shall maintain a file of all existing Letters of Certification. ~~The Department shall provide the administrative office of the courts and each trial court administrator or designee of the court with a copy of each Letter of Certification.~~ (7-1-96)()

101. TEST SPECIFICATIONS FOR CERTIFICATION.

A device must meet or exceed the federal National Highway Traffic Safety Administration's safety specifications and safety tests for breath alcohol ignition interlock devices (BAIID) as published in the Federal Register/Vol.57, No.67/~~Tuesday, April 7, 1992~~ 89/Wednesday, May 8, 2013 and are subject to any subsequent standards published by NHTSA. (7-1-96)()

01. Ground Elevation Accuracy. The BAIID must maintain accuracy to ground elevations up to two and one half (2.5) km. (7-1-96)

02. High Altitude and Low Temperature Accuracy. The BAIID must maintain accuracy in combined situations of high altitude (two and one half kilometers (2.5 km.)) and low temperature (minus forty degrees Centigrade (-40° C)). (7-1-96)

102. -- 199. (RESERVED)

200. INSTALLATION STANDARDS.

01. Installer. Device must be installed by a manufacturer or its representative. (12-26-90)

02. Unauthorized Persons. Lessees or other unauthorized persons shall not be allowed to watch the installation of the device. (12-26-90)

03. Security. Adequate security measures must be taken to prevent unauthorized persons from accessing secured materials (tamper seals, installation instructions, etc.) (12-26-90)

04. Installation Instructions. Each manufacturer shall develop written instructions for installation of his device(s). (12-26-90)

05. Vehicle Condition Screen. The installer must screen vehicles for acceptable mechanical and electrical condition, in accordance with the device manufacturer's instructions. (12-26-90)

06. Mandatory Vehicle Maintenance. Conditions that would interfere with the function of the device, (e.g. low battery or alternator voltage, stalling frequent enough to require additional breath tests, etc.) must be corrected to an acceptable level. (12-26-90)

07. Installation Standards. Installations must be made in a workmanlike manner, within accordance to accepted trade standards, and according to the instructions provided by the manufacturer. (12-26-90)

08. Device Removal Standards. ~~Whenever~~ a device is removed, the vehicle must be reasonably restored to its original condition. All severed wires must be permanently reconnected and insulated with heat shrink tubing or its equivalent. (12-26-90)()

201. -- 299. (RESERVED)

300. DEVICE MAINTENANCE AND REPORTS.

01. Device Examination Schedule. Each lessee shall have the device examined by a manufacturer or its representative for correct calibration and evidence of tampering every sixty (60) days, or more often as may be ordered by the originating court, or less frequently, as may be ordered by the originating court ~~to a maximum of one hundred and twenty (120) days.~~ (12-26-90)()

02. Report of Examination. A report on the results of each check shall be provided to the trial court administrator or designee of the originating court. The report shall reflect what adjustments, if any, were necessary in the calibration of the device, any evidence of tampering, and any other available information the originating court may order. (7-1-96)

03. Corrective Action Report. Complaints by the lessee shall be accompanied by a statement of the actions taken to correct the problem(s). Reports of the problem(s) and action(s) taken shall be submitted to the originating court or its designee within three (3) business days. (7-1-96)

04. Additional Report. An additional report shall be provided to the *Idaho Transportation* Department on a quarterly basis summarizing all periodic checks ordered by the originating court and all complaints received by the manufacturer from the lessee for each model or type of certified device. These reports shall be categorized by: (7-1-96)()

- a. Customer error of operation. (12-26-90)
- b. Faulty automotive equipment other than the device. (12-26-90)
- c. Apparent misuse or attempts to circumvent the device, causing damage. (12-26-90)
- d. Device failure due to material defect, design defect, workmanship errors in construction, installation or calibration. (12-26-90)

301. DEVICE SECURITY.

01. Tampering Precaution. The manufacturer shall take all reasonable steps necessary to prevent tampering or physical circumvention of the device. ~~These steps shall include special locks, seals and installation procedures that prevent and/or record evidence of tampering and/or circumvention attempts.~~ (12-26-90)()

02. Device Identification. Each device shall be uniquely serial numbered. All reports to the trial court administrator or designee of an originating court concerning a particular device shall include the name and address of the lessee, the originating court's file number, and the unique number of the device. (7-1-96)

03. Warning Label. The manufacturer shall provide a label containing a notice (at least ten (10) point boldface type) on each certified device which is visible to the lessee at all times reading: WARNING: ANY PERSON TAMPERING, CIRCUMVENTING, OR OTHERWISE MISUSING THIS DEVICE MAY BE SUBJECT TO CRIMINAL SANCTIONS. (Section 18-8009, Idaho Code) (12-26-90)()

- ~~a. The label shall be capable of being affixed to the device. (12-26-90)~~
- ~~b. The manufacturer shall provide an area on the outside of the device where the label is most likely to be seen by the operator of the vehicle. (12-26-90)~~
- ~~c. The label must be affixed to the device at all times while installed in the lessee's vehicle. (12-26-90)~~

04. Physical Anti-Tamper Security. (7-1-96)

- a. Use unique, easily identifiable wire, covering or sheathing over all wires used to install the device,

which are not inside a secured enclosure. (12-26-90)

~~b.~~ Use unique, easily identifiable covering, seal, epoxy or resin at all exposed electrical connections for the device. (12-26-90)

~~e.b.~~ Make all connections to the vehicle under the dash or in an inconspicuous area of the vehicle. (12-26-90)

~~#c.~~ Use unique, easily identifiable tamper seal, epoxy or resin at all openings and exposed electrical connections for the device (except breath or exhaust ports). (12-26-90)()

05. Personnel Requirements. Devices must be installed, inspected, tested and maintained by a qualified manufacturer or its representative. (12-26-90)

a. Installers must have the training and skills necessary to install, troubleshoot and check for proper operation of the device, and to screen the vehicle for acceptable condition. (12-26-90)

b. Personnel whose functions and duties include installing, calibrating, and performing tamper inspections and reporting duties, should not have been convicted of a crime substantially related to the convicted lessee's violation. This may include, but is not limited to, persons convicted of: Driving under the influence (DUI) within the last five (5) years; more than one (1) DUI overall; probation violation; and perjury. (7-1-96)

c. For the purposes of this section, "convicted" shall include entering a plea of guilty, nolo contendere, or to have been found guilty or been given a withheld judgment. (12-26-90)

302. -- 399. (RESERVED)

400. MANDATORY OPERATIONAL FEATURES.

Notwithstanding other provisions of this rule, a certified device must comply with the following: (12-26-90)

01. Device Setpoint. The ~~actual~~ setpoint of each device to interlock when the breath sample is provided ~~shall be determined by the originating court~~ .025 or greater (Section 18-8008(2), Idaho Code). The capability to change this setting shall be made secure, by the manufacturer, to prevent unauthorized adjustment of the device. (7-1-96)()

401. OTHER PROVISIONS.

Notwithstanding other provisions of this rule, each manufacturer of a certified device: (12-26-90)

01. Repair Deadline. Shall guarantee repair or replacement of a defective device within the state of Idaho within a maximum of forty-eight (48) hours of receipt of complaint. (12-26-90)

02. Statement of Charges. Shall provide the originating court, diversion program administrator or its designee and the lessee a statement of charges clearly specifying warranty details, purchased cost, and/or monthly lease amount, any additional charges anticipated for routine calibration and service checks, what items (if any) are provided without charge, and under what conditions a lessee is responsible for payment for service calls and/or damage to the device. (7-1-96)()

03. Notice of Installation. Upon installation of each device, the manufacturer or its representative will provide the trial court administrator, diversion program administrator or designee of the originating court with a notice of installation that includes the name, address and telephone number of the lessee, the originating court's file number, and the unique number of the device. (7-1-96)()

04. Notice of Charges. Shall provide written notice to the ~~Idaho Transportation~~ Department and each trial court administrator or diversion program administrator or designee of the court a statement of charges for each device model. (7-1-96)()

05. Nationwide Service Locations. Shall provide to all lessees at the time of installation: (12-26-90)

a. A list of all calibration/service locations in the continental United States. The list shall include the business name, address and telephone number of all such locations. (12-26-90)

b. A twenty-four (24) hour telephone number to call for service support for those who may be traveling outside service areas. (12-26-90)

06. Statewide Service Locations. Shall provide to all lessees at the time of installation: (7-1-96)

a. A list of all calibration/service locations in the state of Idaho. The list shall include the business name, address and telephone number of all such locations. (7-1-96)

b. Shall notify the ~~Idaho Transportation~~ Department of the location, including address, phone number and contact person, of each installation station in Idaho. ~~(7-1-96)~~()

07. Attempts to Disobey Court Order. Shall report to the originating court, diversion program administrator or its designee any requests to disconnect or circumvent, without court order, any device of their own or another manufacturer. ~~(7-1-96)~~()

08. Removal of Device. Shall advise the originating court, diversion program administrator or its designee prior to removing the device under circumstances other than: ~~(7-1-96)~~()

a. Completion of sentence or other terms of a court order. (12-26-90)

b. Immediate device repair needs. (12-26-90)

09. Substitute Device. Whenever a device is removed for repair and cannot immediately be reinstalled, a substitute device shall be utilized. Under no circumstances shall a lessee's vehicle be permitted to be driven without a required device. (12-26-90)

402. REMOVAL PROCEDURES.

When so notified in writing by the originating court, the manufacturer shall remove the device and return the vehicle to normal operating condition. A final report, which includes a summary of all fees paid by the lessee over the life of the contract, shall be forwarded to the originating court, diversion program administrator or its designee and the ~~Idaho Transportation~~ Department. ~~(7-1-96)~~()

403. -- 499. (RESERVED)

500. PRIMARY RESPONSIBILITIES OF AGENCIES/OFFICES MONITORING THIS RULE.

Listed below are some of the primary responsibilities of the indicated offices/agencies, as outlined in this rule. (12-26-90)

01. Testing Lab. (12-26-90)

a. Test devices for minimum standards. (12-26-90)

b. Submit notarized statement and copy of the Certification Test Report to manufacturer. (7-1-96)

c. Keep log of test results. (12-26-90)

02. Manufacturer. (12-26-90)

a. Submit device to lab for testing. (12-26-90)

b. Install, maintain and remove device as required by court. (12-26-90)

c. Set interlock level as established by ~~court~~ code. ~~(12-26-90)~~()

- d. Submit quarterly (or more frequent) maintenance reports to originating court or its designee. (7-1-96)
- e. Submit quarterly reports to ~~Idaho Transportation~~ the Department summarizing periodic device examinations and all complaints received. (7-1-96)()
- f. Provide court, diversion program administrator or its designee, or lessee and ~~Idaho Transportation~~ Department with statement of charges and/or any additional fees. (12-26-90)()
- g. Provide lessee with service and repair information. (12-26-90)
- h. Provide the Idaho Transportation Department with proof of insurance annually. (7-1-96)()
- i. Report any attempt to disconnect any device to originating court, diversion program administrator or its designee. (7-1-96)()
- j. Advise court, ~~or~~ diversion program administrator or its designee before removing any device unless authorized or in need of immediate repair. (7-1-96)()
- 03. Idaho Transportation Department.** (12-26-90)
 - a. Maintain a list of known calibration/service locations in the state. (7-1-96)
 - b. Issue Letter of Certification for each device model to manufacturer ~~(copy to courts or their designees).~~ (7-1-96)()
 - c. When necessary, revoke Letter of Certification ~~(copy to courts or their designees).~~ (7-1-96)()
 - d. Maintain file of all letters. (12-26-90)
 - e. Maintain file of statement of charges (by device model). (12-26-90)
 - f. Maintain proof of insurance. (12-26-90)
- 04. Court.** (12-26-90)
 - a. The judge or prosecuting attorney as the diversion program administrator or their designee will order device installation ~~(including interlock setting),~~ maintenance and removal. (12-26-90)()
 - b. The trial court administrator, diversion program administrator or their designee of the originating court will receive maintenance reports on each device installed pursuant to order. (7-1-96)()
 - c. The trial court administrator, diversion program administrator or their designee of the originating court will receive statement of charges. (7-1-96)()
 - d. The trial court administrator, diversion program administrator or their designee of the originating court will receive manufacturer's reports of attempts to disconnect any device. (7-1-96)()
 - e. The trial court administrator or diversion program administrator or their designee will receive reports and a declaration from the lessee's ignition interlock vendor, on a form provided or approved by the diversion program administrator or their designee, certifying that none of the following incidents occurred while the system was installed in the lessee's vehicle(s): ()
 - i. Attempt to start vehicle with a BAC of 0.04 or more; ()
 - ii. Failure of the lessee to take any random test; or ()

- iii. Failure of the lessee to pass any random retest with a BAC of 0.025 or lower. ()
- iv. Failure of the lessee to appear when required at vendor's place of business for maintenance, repair, calibration, monitoring, inspection or replacement of the system. ()
- 05. Lessee. (12-26-90)**

 - a. Have device installed and maintained as ordered by court. (7-1-96)**
 - b. Receive statement of charges and remit fees as scheduled. (7-1-96)**
 - c. Receive and comply with guidelines regarding repairing and maintaining the vehicle in good working order. (7-1-96)**
- 501. -- 999. (RESERVED)**

IDAPA 55 – STATE BOARD OF CAREER TECHNICAL EDUCATION

55.01.03 – RULES OF CAREER TECHNICAL SCHOOLS

DOCKET NO. 55-0103-1901

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-2202 through 33-2212, Idaho Code.

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below. To participate, responses must be received by close of business on July 19, 2019.

Should a reasonable number of persons respond to this notice, negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the agency website at the address listed below.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event, the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

Upon the conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The current process of using Average Daily Attendance to calculate funding for career technical schools does not align with the actual costs associated with delivering a program through a career technical school. Amendments to this section of rule would modernize career technical school funding, including strategies to reduce the reporting burden and data entry obligations. The proposed amendments would update the funding structure to an enrollment-based approach that includes funding based on capstone enrollment, number of technical skill assessments taken, and total credit hours enrolled in intermediate, capstone course, and work-based learning courses. Additional amendments would further define work-based learning, clarify other required components of a career technical school and make any technical corrections identified during the negotiated rulemaking process.

ASSISTANCE ON TECHNICAL QUESTIONS, MEETING ACCOMMODATIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, requests for special meeting accommodations or accessibility, contact Tracie Bent at tracie.bent@osbe.idaho.gov or (208) 332-1582. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho State Board of Education web site at the following web address: <https://boardofed.idaho.gov>.

Dated this 27th day of June, 2019.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W. State Street
P.O. Box 83720
Boise, ID and 8370-0037
Phone: (208) 332-1582
Fax: (208) 334-2632

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY
BIG LOST RIVER SUBBASIN TEMPERATURE TOTAL MAXIMUM DAILY LOAD (TMDL):
2019 ADDENDUM AND FIVE-YEAR REVIEW (HUC 17040218)

DOCKET NO. 58-0000-1903
NOTICE OF FINAL DECISION

AUTHORITY: In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the Big Lost River Subbasin Temperature Total Maximum Daily Load: 2019 Addendum and Five-Year Review.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Big Lost River Subbasin Temperature TMDL: 2019 Addendum and Five-Year Review. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality.” The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the Big Lost River Subbasin Temperature TMDL: 2019 Addendum and Five-Year Review (Hydrologic Unit Code 17040218) establishes eleven (11) temperature TMDLs on a water quality impaired stream reach (assessment unit). DEQ has submitted this TMDL to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

AVAILABILITY OF THE TMDL: Electronic copy of the TMDL can be obtained at <http://www.deq.idaho.gov/media/60180395/big-lost-river-sba-temperature-tmdl-addendum-five-year-review-2019.pdf> or by contacting Graham Freeman, TMDL Program Coordinator, (208) 373-0461, graham.freeman@deq.idaho.gov

Dated this 3rd day of July, 2019.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208) 373-0418 / Fax: (208) 373-0481
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. 58-0101-1904

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY FEE RULE

EFFECTIVE DATE AND HISTORY NOTES: The effective date of the temporary rule is June 30, 2019. Traditionally effective dates are published for every subsection, paragraph and subparagraph of a rule. These individualized effective dates provide a rich history for legal scholars and interested members of the public to explore the broader context of each rule. This docket retains these important history notes while establishing the effective date for each chapter to ensure there is no gap with the expiring rules.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that the Idaho Board of Environmental Quality has adopted a temporary rule. The action is authorized pursuant to Idaho §§ 39-105, 107, 114(4), 115(3), and 116B.

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

This rulemaking adopts and re-publishes the following existing and previously approved and codified fee rule chapter under IDAPA 58 rules of the Department of Environmental Quality:

IDAPA 58.01.01, Rules for the Control of Air Pollution in Idaho

As soon as reasonably possible, DEQ will commence promulgation of a proposed rule in accordance with the rulemaking requirements of Chapter 52, Title 67, Idaho Code.

More information regarding this rule docket is available at www.deq.idaho.gov/58-0101-1904.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. The Department of Environmental Quality (DEQ) would not be able to fulfill its statutory obligations without these rules. The state of Idaho would lose primacy over federal environmental laws without these rules. These rules are central to DEQ's mission to protect human health and the quality of Idaho's air, land, and water.

The fees or charges imposed by the rules are necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. Temporary adoption of these rules is necessary to ensure that (1) the state of Idaho maintains primacy over federal programs; (2) DEQ is able to continue to offer services such as permit issuance; and (3) DEQ is able to continue to administer programs such as crop residue burning. Listed below are the fee categories and statutory authority for imposition of the fees.

Idaho Code § 39-114(4), crop residue burn fee
Idaho Code § 39-115(3), application fee for industrial or commercial air pollution source permits
Idaho Code § 39-116B, motor vehicle inspection fee

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed by this rulemaking. This rulemaking does not impose a fee or charge beyond what was previously approved and codified in the prior rules. A description of each fee category is provided in the preceding section.

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

This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rules, contact the undersigned.

Dated this 3rd day of July, 2019.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton/Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 58-0101-1904

IDAPA 58
TITLE 01
CHAPTER 01

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

000. LEGAL AUTHORITY.

The Board of Environmental Quality is authorized to promulgate rules for the Department of Environmental Quality governing air pollution pursuant to Sections 39-105 and 39-107, Idaho Code. (5-1-94)

001. TITLE AND SCOPE.

These rules are titled IDAPA 58.01.01, Rules of the Department of Environmental Quality, IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." These rules provide for the control of air pollution in Idaho. (5-1-94)

002. WRITTEN INTERPRETATIONS.

The Department of Environmental Quality has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. The written statements are available for public inspection and copying at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373-0502. (5-1-94)

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

004. (RESERVED)

005. DEFINITIONS.

The purpose of Sections 005 through 008 is to assemble definitions used throughout this chapter. (5-1-94)

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)
- i. Municipal incinerators capable of charging more than two hundred fifty (250) tons of refuse per day; (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: PM₁₀; PM_{2.5}; sulfur oxides; ozone, nitrogen dioxide; carbon monoxide; lead. (4-11-15)
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 = $10 \ln_e (b_{\text{ext}}/10\text{Mm}^{-1})$ 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. (3-29-10)
- 50. Gasoline Cargo Tank.** Any tank or trailer used for the transport of gasoline from sources of supply to underground gasoline storage tanks. (3-29-10)
- 51. Gasoline Dispensing Facility (GDF).** Any facility with underground gasoline storage tanks used for dispensing gasoline. (3-29-10)
- 52. Grain Elevator.** Any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded. (5-1-94)
- 53. 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)
- 54. 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)
- 55. 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)
- 56. 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:
- 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)
- 57. 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)
- 58. 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)
- 59. 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)

- 60. 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)
- 61. Kraft Pulping.** Any pulping process which uses, for a cooking liquor, an alkaline sulfide solution containing sodium hydroxide and sodium sulfide. (5-1-94)
- 62. 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)
- 63. 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)
- 64. Mandatory Class I Federal Area.** Any area identified in 40 CFR 81.400 through 81.437. (3-30-07)
- 65. Member of the Public.** For purposes of Subsection 006.108.a.xvi., a person located at any off-site point where there is a residence, school, business or office. (3-30-07)
- 66. Mercury.** Total mercury including elemental mercury and mercury compounds. (4-7-11)
- 67. Mercury Best Available Control Technology (MBACT).** An emission standard for mercury based on the maximum degree of reduction practically achievable as specified by the Department on an individual case-by-case basis taking into account energy, economic and environmental impacts, and other relevant impacts specific to the source. A Department approved MBACT shall be valid until the source subject to the MBACT is modified. If the proposed modification to the source subject to MBACT occurs within ten (10) years of the MBACT determination, a new MBACT review shall not be triggered as long as the source can meet the existing MBACT requirements. If the proposed modification occurs more than ten (10) years after the MBACT determination, then the proposed modification shall be subject to a new MBACT review. (4-7-11)
- 68. 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 before January 6, 1975 and use of such fuel or raw material is not specifically prohibited in a permit. (4-4-13)

69. 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)

70. 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)

71. 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)

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

73. 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)

74. 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)

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

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

77. 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)

78. 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)

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

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

81. 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)

82. Permit to Construct. A permit issued by the Director pursuant to Sections 200 through 228. (7-1-02)

83. Person. Any individual, association, corporation, firm, partnership or any federal, state or local governmental entity. (5-1-94)

84. PM₁₀. 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)

85. PM₁₀ 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)

86. PM_{2.5}. All particulate matter in the ambient air with an aerodynamic diameter less than or equal to a nominal two point five (2.5) micrometers measured by a reference method based on Appendix L 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. (4-11-15)

87. PM_{2.5} Emissions. All particulate matter, including condensible particulates, with an aerodynamic diameter less than or equal to a nominal two point five (2.5) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method in accordance with Section 157. (4-11-15)

88. 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)

89. Portable Equipment. Equipment which is designed to be dismantled and transported from one (1) job site to another job site. (5-1-94)

90. PPM (parts per million). Parts of a gaseous contaminant per million parts of gas by volume. (5-1-94)

91. 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)
- 92. 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)
- 93. 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)
- 94. 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)
- 95. 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)
- 96. 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)
- 97. Radionuclide.** A type of atom which spontaneously undergoes radioactive decay. (5-1-94)
- 98. 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)
- 99. 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 006.99.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)

100. 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)

101. 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)

102. 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)

103. 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)

104. 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)

105. 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)

106. 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)

107. 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)

108. 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: (4-4-13)
 - (1) Twenty-five (25) tons per year of particulate matter emissions; (4-4-13)
 - (2) Fifteen (15) tons per year of PM₁₀ emissions; or (4-4-13)
 - (3) Ten (10) tons per year of direct PM_{2.5} emissions; or forty (40) tons per year of sulfur dioxide emissions; or forty (40) tons per year of nitrogen oxide emissions; (4-4-13)
 - 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 (H₂S), ten (10) tons per year; (5-1-94)
 - x. Total reduced sulfur (including H₂S), ten (10) tons per year; (5-1-94)
 - xi. Reduced sulfur compounds (including H₂S), 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; or (4-11-19)

xv. Municipal solid waste landfill emissions (measured as nonmethane organic compounds), fifty (50) tons per year. (4-11-19)

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 006.108.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)

109. 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. PM₁₀: (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; (4-4-13)

e. PM_{2.5}: (4-4-13)

i. Three-tenths (0.3) microgram per cubic meter, annual average; (4-4-13)

ii. One point two (1.2) micrograms per cubic meter, twenty-four (24) hour average. (4-4-13)

110. 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)

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

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

113. 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)
- 114. Source.** A stationary source. (5-1-94)
- 115. 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)
- 116. 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. (3-29-10)
- 117. 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)
- 118. 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. (3-29-10)
- 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. (3-29-10)
- 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. (3-29-10)
- 119. 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)
- 120. 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)
- 121. 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)
- 122. 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)
- 123. Total Suspended Particulates.** Particulate matter as measured by the method described in 40 CFR 50 Appendix B. (5-1-94)
- 124. 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)
- 125. 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/m³) 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)
- 126. 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)
- 127. 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)
- 128. 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)
- 129. TRS (Total Reduced Sulfur).** Hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide and any other organic sulfide present. (5-1-94)
- 130. 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)
- 131. Uncontrolled Emission.** An emission which has not been treated by control equipment. (5-1-94)
- 132. Upset.** An unplanned disruption in the normal operations of any equipment or emissions unit which may cause excess emissions. (4-5-00)
- 133. 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)
- 134. Visibility in Any Mandatory Class I Federal Area.** Includes any integral vista associated with that area. (3-30-07)
- 135. 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)
- 136. 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)
- 007. DEFINITIONS FOR THE PURPOSES OF SECTIONS 200 THROUGH 228 AND 400 THROUGH 461.**
- 01. Agricultural Activities and Services.** For the purposes of Subsection 222.02.f., the usual and customary activities of cultivating the soil, producing crops and raising livestock for use and consumption. Agricultural activities and services do not include manufacturing, bulk storage, handling for resale or the formulation of any agricultural chemical listed in Sections 585 or 586. (5-1-94)

02. Baseline Actual Emissions. The rate of emissions, in tons per year, of a regulated air pollutant as determined by the following provisions: (4-11-06)

a. For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the regulated air pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the five (5) year period immediately preceding when the owner or operator begins actual construction of the project. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. (4-11-06)

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. (4-11-06)

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive twenty-four (24) month period. (4-11-06)

iii. For a regulated air pollutant, when a project involves multiple emissions units, only one (1) consecutive twenty-four (24) month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated air pollutant. (4-11-06)

iv. The average rate shall not be based on any consecutive twenty-four (24) month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subsection 007.02.a.ii. (3-30-07)

b. For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the regulated air pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the ten (10) year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Director for a permit required under these rules, whichever is earlier, except that the ten (10) year period shall not include any period earlier than November 15, 1990. (4-11-06)

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. (4-11-06)

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive twenty-four (24) month period. (4-11-06)

iii. The average rate shall be adjusted downward to exclude any emission limitation with which the source must currently comply, had such source been required to comply with such limitations during the consecutive twenty-four (24) month period; however, if an emission limitation is part of a standard or other requirement under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the Department has taken credit for such emissions reductions in an attainment demonstration or maintenance plan. (4-11-06)

iv. For a regulated air pollutant, when a project involves multiple emissions units, only one (1) consecutive twenty-four (24) month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated air pollutant. (4-11-06)

v. The average rate shall not be based on any consecutive twenty-four (24) month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subsections 007.02.b.ii. and 007.02.b.iii. (4-11-06)

c. For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero (0); and, thereafter, for all other purposes, shall equal the unit's potential to emit. (4-11-06)

d. For a plantwide applicability limit (PAL) for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in Subsection 007.02.a, for other existing emissions units in accordance with the procedures contained in Subsection 007.02.b, and for a new emissions unit in accordance with the procedures contained in Subsection 007.02.c. (3-30-07)

03. Begin Actual Construction. Commence construction. (4-11-06)

04. Emissions Increase. The amount by which projected actual emissions exceed baseline actual emissions of an emissions unit. (4-11-06)

05. Innovative Control Technology. Any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice, or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental effects. (5-1-94)

06. Net Emissions Increase. For purposes of Sections 204 and 205, a net emissions increase shall be defined by the federal regulations incorporated by reference. For purposes of Section 210, a net emissions increase shall be an emissions increase from a particular modification plus any other increases and decreases in actual emissions at the facility that are creditable and contemporaneous with the particular modification, where: (4-11-06)

a. A creditable increase or decrease in actual emissions is contemporaneous with a particular modification if it occurs between the date five (5) years before the commencement of construction or modification on the particular change and the date that the increase from the particular modification occurs. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred and eighty (180) days; (4-5-00)

b. A decrease in actual emissions is creditable only if it satisfies the requirements for emission reduction credits (Section 460) and has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular modification, and is federally enforceable at and after the time that construction of the modification commences. (4-5-00)

c. The increase in toxic air pollutant emissions from an already operating or permitted source is not included in the calculation of the net emissions increase for a proposed new source or modification if: (5-1-95)

i. The already operating or permitted source commenced construction or modification prior to July 1, 1995; or (5-1-95)

ii. The uncontrolled emission rate from the already operating or permitted source is ten per cent (10%) or less of the applicable screening emissions level listed in Section 585 or 586; or (6-30-95)

iii. The already operating or permitted source is an environmental remediation source subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and IDAPA 58.01.05, "Idaho Rules and Standards for Hazardous Waste," (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order. (6-30-95)

07. Pilot Plant. A stationary source located at least one quarter (1/4) mile from any sensitive receptor that functions to test processing, mechanical, or pollution control equipment to determine full-scale feasibility and which does not produce products that are offered for sale except in developmental quantities. (5-1-94)

08. Projected Actual Emissions. (4-11-06)

a. The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated air pollutant in any one (1) of the five (5) years (twelve (12) month period) following the date the unit resumes regular operation after the project, or in any one (1) of the ten (10) years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated air pollutant and full

utilization of the unit would result in a significant emissions increase or a significant net emissions increase at an existing major stationary source. (4-11-06)

b. In determining the projected actual emissions, the owner or operator of the stationary source: (4-11-06)

i. Shall consider all relevant information including, but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with state or federal regulatory authorities, and compliance plans under the approved state implementation plan; and (4-11-06)

ii. Shall include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions; and (4-11-06)

iii. Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive twenty-four (24) month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or (4-11-06)

iv. In lieu of using the method set out in Subsections 007.08.b.i. through 007.08.b.iii., may elect to use the emissions unit's potential to emit, in tons per year. (4-11-06)

09. Reasonable Further Progress (RFP). Annual incremental reductions in emissions of the applicable air pollutant as identified in the SIP which are sufficient to provide for attainment of the applicable ambient air quality standard by the required date. (4-11-06)

10. Sensitive Receptor. Any residence, building or location occupied or frequented by persons who, due to age, infirmity or other health based criteria, may be more susceptible to the deleterious effects of a toxic air pollutant than the general population including, but not limited to, elementary and secondary schools, day care centers, playgrounds and parks, hospitals, clinics and nursing homes. (5-1-94)

11. Short Term Source. Any new stationary source or modification to an existing source, with an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. (5-1-94)

12. Toxic Air Pollutant Reasonably Available Control Technology (T-RACT). An emission standard based on the lowest emission of toxic air pollutants that a particular source is capable of meeting by the application of control technology that is reasonably available, as determined by the Department, considering technological and economic feasibility. If control technology is not feasible, the emission standard may be based on the application of a design, equipment, work practice or operational requirement, or combination thereof. (5-1-94)

008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 386.

01. Affected States. All States: (5-1-94)

a. Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)

b. That are within fifty (50) miles of the Tier I source. (5-1-94)

02. Allowance. An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one (1) ton of sulfur dioxide. (5-1-94)

03. Applicable Requirement. All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (5-1-94)

- a.** Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (5-1-94)
- b.** Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (4-5-00)
- c.** Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (5-1-94)
- d.** Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)
- e.** Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)
- f.** Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128 of these rules; (3-23-98)
- g.** Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)
- h.** Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (5-1-94)
- i.** Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (5-1-94)
- j.** Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 324. (5-1-94)
- 04. Designated Representative.** A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (5-1-94)
- 05. Draft Permit.** The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (5-1-94)
- 06. Emergency.** For the purposes of Section 332, an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (4-5-00)
- 07. Final Permit.** The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (5-1-94)
- 08. General Permit.** A Tier I permit issued pursuant to Section 335. (3-23-98)
- 09. Insignificant Activity.** Those activities that qualify as insignificant in accordance with Section 317. (3-23-98)
- 10. Major Facility.** A facility (as defined in Section 006) is major if the facility meets any of the following criteria: (3-23-98)

a. For hazardous air pollutants: (3-23-98)

i. The facility emits or has the potential to emit ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

ii. The facility emits or has the potential to emit twenty-five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

b. For non-attainment areas: (3-23-98)

i. The facility is located in a "serious" particulate matter (PM-10) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM-10. (5-1-94)

ii. The facility is located in a "serious" carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide. (5-1-94)

iii. The facility is located in an ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds. (5-1-94)

iv. The facility is located in an ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen shall not be included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2) if the area is "marginal" or "moderate," one hundred (100) tpy or more, if the area is "serious," fifty (50) tpy or more, if the area is "severe," twenty-five (25) tpy or more, and if the area is "extreme," ten (10) tpy or more. (3-23-98)

c. The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant. The fugitive emissions shall not be considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: (4-11-06)

i. Designated facilities. (3-23-98)

ii. All other source categories regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, but only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. (4-5-00)

009. DEFINITIONS FOR THE PURPOSES OF 40 CFR PART 60.

Notwithstanding the definitions listed in Sections 006 through 008, the definitions in 40 CFR Part 60 shall have the meaning given in that Part, except that the term "Administrator" shall mean "Department." (5-1-94)

010. DEFINITIONS FOR THE PURPOSES OF 40 CFR PART 61 AND 40 CFR PART 63.

Notwithstanding the definitions listed in Sections 006 through 008, the definitions in 40 CFR Part 61 and 40 CFR Part 63 shall have the meaning given in those Parts, except that the term "Administrator" shall mean "Department." (5-1-94)

011. DEFINITIONS FOR THE PURPOSES OF SECTIONS 790 THROUGH 799.

01. Best Management Practice. The best management practice (BMP) employed within an industry to control fugitive emissions. (3-15-02)

02. Control Strategy Trigger. An event or condition that indicates that a control action is needed to prevent violation of a standard or a provision of the rule. (3-15-02)

03. Nonmetallic Mineral Processing Plant. Any combination of equipment that is used to crush or grind any nonmetallic mineral or rock wherever it may be located, including equipment located at lime plants, power plants, steel mills, asphalt concrete plants, portland cement plants, or any other facility or location processing nonmetallic minerals. (3-15-02)

04. NSPS Regulated Facility or Plant. A facility or processing plant that is subject to a standard, limitation, or other requirement of 40 CFR 60, Standards for the Performance of New Stationary Sources. (3-15-02)

05. Permit by Rule. A provision of the rules under which a facility or source registers with the Department and meets the specific requirements for that type of source. The source is then deemed to have a permit, thereby authorizing construction and operation without first obtaining a "Permit to Construct" as required in Section 201. Operating in accordance with a "Permit by Rule" (PBR) does not relieve the owner or operator from complying with all applicable federal, state, and local rules and regulations. (3-15-02)

06. Progressive Control Strategy. A sequence of control actions that when progressively employed can reduce the potential for violation of a standard or a provision of the rules. Control actions, beginning with those early in the sequence, shall be progressively applied until an adequate level of control is achieved. (3-15-02)

07. Site of Operations. The specific operating location of a nonmetallic mineral processing plant. (3-15-02)

012. -- 105. (RESERVED)

106. ABBREVIATIONS.

- 01. AAC.** Acceptable Ambient Concentration. (5-1-94)
- 02. AACC.** Acceptable Ambient Concentration for a Carcinogen. (5-1-94)
- 03. ACGIH.** American Conference of Government Industrial Hygienists. (5-1-94)
- 04. CAS.** Chemical Abstract Service. (5-1-94)
- 05. CL.** Derived from ACGIH ceiling Limit UF = 10. (5-1-94)
- 06. EL.** Emissions Screening Level. (5-1-94)
- 07. ID.** Idaho Division of Environmental Quality. Not OEL based. (5-1-94)
- 08. LA.** From LA Dept. of Environmental Quality. Not OEL based eight (8) hour TWA. (5-1-94)
- 09. MA.** From MA Dept. of Environmental Protection, Div. of Air Quality Control. Not OEL based, annual averaging time, no uf. (5-1-94)
- 10. MI.** From MI Dept. of Natural Resources, Air Quality Div. Based on toxicological data, annual av. time, no uf. (5-1-94)
- 11. NY.** From New York Dept. of Conservation, Div. of Air Quality. Not OEL based, one (1) yr. Av. time no uncertainty factor (uf). (5-1-94)
- 12. OEL.** Reference Occupational Exposure Level. (5-1-94)
- 13. PL.** From Phil. Dept. of Air Management Services. Not OEL based, one (1) yr. averaging time no

- uf. (5-1-94)
14. **PL1.** From Phil. Dept. of Air Management Services. Unspecified OEL based, one (1) yr. averaging time, uf=10. (5-1-94)
15. **PL2.** From Phil. Dept. of Air Management Services. Not OEL based one (1) yr. Av. time, uf=10. (5-1-94)
16. **PL3.** From Phil. Dept. of Air Management Services. Not OEL based, one (1) yr. av. time, uf=1000. (5-1-94)
17. **TWA.** Time Weighted Average. (5-1-94)
18. **UF.** Uncertainty Factor. (5-1-94)
19. **URF.** Unit Risk Factor from the US Environmental Protection Agency. (5-1-94)
20. **WA.** From Washington Dept. of Ecology, Air Programs. Acceptable Source Impact Level based. (5-1-94)

107. INCORPORATIONS BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term “documents” includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-1-94)

02. Availability of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (5-1-94)

- and;
- a. All federal publications: U.S. Government Printing Office at <http://www.ecfr.gov/cgi-bin/ECFR>; (3-25-16)
- b. Statutes of the state of Idaho: <http://legislature.idaho.gov/idstat/TOC/IDStatutesTOC.htm>; and (3-20-14)
- c. All documents herein incorporated by reference: (7-1-97)
0502. i. Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373- (7-1-97)
- ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)

03. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (5-1-94)

- a. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, **40 CFR Part 51** revised as of July 1, 2018. The following portions of 40 CFR Part 51 are expressly excluded from any incorporation by reference into these rules: (4-11-19)
- i. All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, except that 40 CFR 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules; and (3-30-07)
- ii. Appendix Y to Part 51, Guidelines for BART Determinations Under the Regional Haze Rule.

- (3-30-07)
- b.** National Primary and Secondary Ambient Air Quality Standards, [40 CFR Part 50](#), revised as of July 1, 2018. (4-11-19)
- c.** Approval and Promulgation of Implementation Plans, [40 CFR Part 52](#), Subparts A and N and Appendices D and E, revised as of July 1, 2018. (4-11-19)
- d.** Ambient Air Monitoring Reference and Equivalent Methods, [40 CFR Part 53](#), revised as of July 1, 2018. (4-11-19)
- e.** Ambient Air Quality Surveillance, [40 CFR Part 58](#), revised as of July 1, 2018. (4-11-19)
- f.** Standards of Performance for New Stationary Sources, [40 CFR Part 60](#), revised as of July 1, 2018. (4-11-19)
- g.** National Emission Standards for Hazardous Air Pollutants, [40 CFR Part 61](#), revised as of July 1, 2018. (4-11-19)
- h.** Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or Before December 1, 2008, [40 CFR Part 62, Subpart HHH](#), revised as of July 1, 2018. (4-11-19)
- i.** National Emission Standards for Hazardous Air Pollutants for Source Categories, [40 CFR Part 63](#), revised as of July 1, 2018. (4-11-19)
- j.** Compliance Assurance Monitoring, [40 CFR Part 64](#), revised as of July 1, 2018. (4-11-19)
- k.** State Operating Permit Programs, [40 CFR Part 70](#), revised as of July 1, 2018. (4-11-19)
- l.** Permits, [40 CFR Part 72](#), revised as of July 1, 2018. (4-11-19)
- m.** Sulfur Dioxide Allowance System, [40 CFR Part 73](#), revised as of July 1, 2018. (4-11-19)
- n.** Protection of Stratospheric Ozone, [40 CFR Part 82](#), revised as of July 1, 2018. (4-11-19)
- o.** Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-19-99)
- p.** Medical Waste Combustors, [Section 39-128, Idaho Code \(1992\)](#). (3-20-14)

108. -- 120. (RESERVED)

121. COMPLIANCE REQUIREMENTS BY DEPARTMENT.

Any person engaged in an activity which may violate the air quality provisions of the Act, violate an air quality order issued or entered in accordance with the Act or these rules, or violate any of these rules, may be required by the Department to do any of the following: (5-1-94)

- 01. Schedule.** Prepare a proposed schedule whereby the unlawful activity will be brought into compliance over a specified period of time. (5-1-94)
- 02. Report.** Submit periodic reports to the Department indicating progress in achieving compliance. (5-1-94)
- 03. Records.** Submit, keep and maintain appropriate records. (5-1-94)
- 04. Monitoring.** Monitor air pollutants at the source, in the ambient air, or in vegetation to demonstrate compliance. (5-1-94)

05. Episode Plans. Develop emergency episode plans to help prevent ambient air pollution concentrations from reaching levels which would cause substantial endangerment to health or the environment. (5-1-94)

122. INFORMATION ORDERS BY THE DEPARTMENT.

The Department may issue information orders as follows: (5-1-94)

01. Purpose. For the purpose of: (5-1-94)

a. Developing or assisting in the development of any implementation plan, any standard of performance, any emission standard or any rule; (5-1-94)

b. Determining whether any person is in violation of any standard of performance, any emission standard, any implementation plan or any rule; or (5-1-94)

c. Carrying out any air quality provisions of the Act, any air quality order issued or entered in accordance with the Act or rules, or any of these rules. (5-1-94)

02. Persons. The Department may issue an information order to any person who: (5-1-94)

a. Owns or operates any emission source; (5-1-94)

b. Manufactures emission control equipment; (5-1-94)

c. The Department believes may have information necessary to meet the intent of these rules; or (5-1-94)

d. Is subject to any requirement of these rules. (5-1-94)

03. Requirements. The information order may require the person to perform the following on a one-time, periodic or continuous basis: (5-1-94)

a. Establish, maintain and submit records; (5-1-94)

b. Make reports; (5-1-94)

c. Install, use, and maintain monitoring equipment, and use audit procedures or methods; (5-1-94)

d. Sample emissions in accordance with procedures or methods, at such locations, at such intervals, during such periods and in such manner as the Department shall prescribe; (5-1-94)

e. Keep records on control equipment parameters, production variables or other indirect data when the Department determines that direct monitoring of emissions is impractical; (5-1-94)

f. Submit compliance certifications including: (5-1-94)

i. Identification of the applicable requirement that is the basis of the certification; (5-1-94)

ii. The method(s) or other means used by the owner or operator for determining the compliance status for each applicable requirement, and whether such methods or other means provide continuous or intermittent data; and (4-5-00)

iii. The status of compliance with each applicable requirement, based on the method or means designated in Subsection 122.03.f.ii. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under 40 CFR Part 64 occurred; and (4-5-00)

- g. Provide such other information as the Department may require. (5-1-94)

123. CERTIFICATION OF DOCUMENTS.

All documents, including but not limited to, application forms for permits to construct, application forms for operating permits, progress reports, records, monitoring data, supporting information, requests for confidential treatment, testing reports or compliance certifications submitted to the Department shall contain a certification by a responsible official. The certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. (5-1-94)

124. TRUTH, ACCURACY AND COMPLETENESS OF DOCUMENTS.

All documents submitted to the Department shall be truthful, accurate and complete. (5-1-94)

125. FALSE STATEMENTS.

No person shall knowingly make any false statement, representation, or certification in any form, notice, or report required under any permit, or any applicable rule or order in force pursuant thereto. (3-23-98)

126. TAMPERING.

No person shall knowingly render inaccurate any monitoring device or method required under any permit, or any applicable rule or order in force pursuant thereto. (3-23-98)

127. FORMAT OF RESPONSES.

All responses and information submitted to the Department shall be provided in a format approved by the Department. (5-1-94)

128. CONFIDENTIAL INFORMATION.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code and Section 39-111, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 74-114, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality." If the information for which the person is requesting confidential treatment is submitted to the Department under Sections 300 through 386 or the terms or conditions of a Tier I operating permit, the person shall also submit the same information directly to the EPA. (4-5-00)

129. (RESERVED)

130. STARTUP, SHUTDOWN, SCHEDULED MAINTENANCE, SAFETY MEASURES, UPSET AND BREAKDOWN.

The purpose of Sections 130 through 136 is to establish procedures and requirements to be implemented in all excess emissions events and to establish criteria to be applied by the Department in determining whether to take enforcement action to impose penalties for an excess emissions event where the excess emissions are caused by startup, shutdown, scheduled maintenance, upset, or breakdown of any emissions unit or which occur as a direct result of the implementation of any safety measure. (4-5-00)

131. EXCESS EMISSIONS.

01. Applicability. The owner or operator of a facility or emissions unit generating excess emissions shall comply with Sections 131, 132, 133.01, 134.01, 134.02, 134.03, 135, and 136, as applicable. If the owner or operator anticipates requesting consideration under Subsection 131.02, then the owner or operator shall also comply with the applicable provisions of Subsections 133.02, 133.03, 134.04, and 134.05. (4-5-00)

02. Enforcement Action Criteria. Where an excess emissions event occurs as a direct result of startup, shutdown, or scheduled maintenance, or an unavoidable upset or unavoidable breakdown, or the implementation of a safety measure, the Department shall consider the sufficiency of the information submitted and the following criteria to determine if an enforcement action to impose penalties is warranted: (4-5-00)

- a. Whether prior to the excess emissions event, the owner or operator submitted and implemented

procedures pursuant to Subsections 133.02 and 133.03 or Subsections 134.04 and 134.05, as applicable; (4-5-00)

b. Whether the owner or operator complied with all relevant portions of Subsections 131, 132, 133.01, 134.01, 134.02, 134.03, 135, and 136; (4-5-00)

c. Whether the excess emissions event was part of a recurring pattern of excess emissions events indicative of inadequate design, operation or maintenance of the facility or emissions unit; and (4-5-00)

d. Where appropriate, whether the excess emissions event was caused by an activity necessary to prevent loss of life, personal injury or severe property damage. (4-5-00)

03. Effect of Determination. Any decision by the Department under Subsection 131.02 shall not excuse the owner or operator from compliance with the relevant emission standard and shall not preclude the Department from taking an enforcement action to enjoin the activity causing the excess emissions. Any decision made by the Department under Subsection 131.02 shall not preclude the Department from taking an enforcement action for future or other excess emission events. The affirmative defense for emergencies under Section 332 of these Rules may be applied in addition to the provisions of Sections 130 through 136. (4-5-00)

132. CORRECTION OF CONDITION.

The person responsible for, or in charge of a facility during, an excess emissions event shall, with all practicable speed, initiate and complete appropriate and reasonable action to correct the conditions causing such excess emissions event; to reduce the frequency of occurrence of such events; to minimize the amount by which the emission standard is exceeded; and shall, as provided below or upon request of the Department, submit a full report of such occurrence, including a statement of all known causes, and of the scheduling and nature of the actions to be taken. (4-5-00)

133. STARTUP, SHUTDOWN AND SCHEDULED MAINTENANCE REQUIREMENTS.

The requirements in Subsection 133.01 shall apply in all cases where startup, shutdown, or scheduled maintenance of any equipment or emissions unit is expected to result or results in an excess emissions event. The owner or operator of the facility or emissions unit generating the excess emissions shall demonstrate compliance with all of the requirements of Subsection 133.01, as well as the development and implementation of procedures pursuant to Subsections 133.02 and 133.03 as a prerequisite to any consideration under Subsection 131.02. (4-5-00)

01. General Provisions. The following shall pertain to all startup, shutdown, and scheduled maintenance activities expected to result or resulting in excess emissions: (4-5-00)

a. No scheduled startup, shutdown, or maintenance resulting in excess emissions shall occur during any period in which an Atmospheric Stagnation Advisory and/or a Wood Stove Curtailment Advisory has been declared by the Department within an area designated by the Department as a PM-10 nonattainment area, unless the permittee demonstrates that such is reasonably necessary to facility operations and cannot be reasonably avoided and the Department approves such activity in advance, to the extent advance approval by the Department is feasible. This prohibition on scheduled startup, shutdown or maintenance activities during Advisories does not apply to situations where shutdown is necessitated by urgent situations, such as imminent equipment failure, power curtailment, worker safety concerns or similar situations. (3-20-97)

b. The owner or operator of a source of excess emissions shall notify the Department of any startup, shutdown, or scheduled maintenance event that is expected to cause an excess emissions event. Such notification shall identify the time of the excess emissions, specific location, equipment involved, and type of excess emissions event (i.e. startup, shutdown, or scheduled maintenance). The notification shall be given as soon as reasonably possible, but no later than two (2) hours prior to the start of the excess emissions event unless the owner or operator demonstrates to the Department's satisfaction that a shorter advanced notice was necessary. The Department may prohibit or postpone any scheduled startup, shutdown, or maintenance activity upon consideration of the factors listed in Subsection 134.03. (4-5-00)

c. The owner or operator of a source of excess emissions shall report and record the information required pursuant to Sections 135 and 136 for each excess emissions event due to startup, shutdown, or scheduled maintenance. (3-20-97)

d. The owner or operator of a source of excess emissions must make the maximum reasonable effort, including off-shift labor where practicable to accomplish maintenance during periods of nonoperation of any related source operations or equipment. (4-5-00)

02. Excess Emissions Procedures. For all equipment or emissions unit from which excess emissions may occur during startup, shutdown, or scheduled maintenance, the facility owner or operator shall prepare, implement and file with the Department specific procedures which will be used to minimize excess emissions during such events. Specific information for each of the types of excess emissions events (i.e. startup, shutdown and scheduled maintenance) shall be established or documented for each piece of equipment or emissions unit and shall include all of the following (which may be based upon the facility owner or operator's knowledge of the process or emissions where measured data is unavailable): (4-5-00)

- a. Identification of the specific equipment or emissions unit and the type of event anticipated. (4-5-00)
- b. Identification of the specific emissions in excess of applicable emission standards during the startup, shutdown, or scheduled maintenance period. (4-11-06)
- c. The estimated amount of excess emissions expected to be released during each event. (3-20-97)
- d. The expected duration of each excess emissions event. (3-20-97)
- e. An explanation of why the excess emissions are reasonably unavoidable for each of the types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance). (3-20-97)
- f. Specification of the frequency at which each of the types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance) are expected to occur. (3-20-97)
- g. For scheduled maintenance, the owner or operator shall also document detailed explanations of:
 - i. Why the maintenance is needed. (3-20-97)
 - ii. Why it is impractical to reduce or cease operation of the equipment or emissions unit during the scheduled maintenance period. (4-5-00)
 - iii. Why the excess emissions are not reasonably avoidable through better scheduling of the maintenance or through better operation and maintenance practices. (3-20-97)
 - iv. Why, where applicable, it is necessary to by-pass, take off line, or operate equipment or emissions unit at reduced efficiency while the maintenance is being performed. (4-5-00)
- h. Justification to explain why the piece of equipment or emissions unit cannot be modified or redesigned to eliminate or reduce the excess emissions which occur during startup, shutdown, and scheduled maintenance. (4-5-00)
- i. Detailed specification of the procedures to be followed by the owner or operator which will minimize excess emissions at all times during startup, shutdown, and scheduled maintenance. These procedures may include such measures as preheating or otherwise conditioning the emissions unit prior to its use or the application of auxiliary equipment or emissions unit to reduce the excess emissions. (4-5-00)

03. Amendments to Procedures. The owner or operator shall amend, and the Department may require amendments to, the procedures established pursuant to Section 133 from time to time and as deemed reasonably necessary to ensure that the procedures are and remain consistent with good pollution control practices. (4-5-00)

04. Filing of Excess Emissions Procedures. (4-5-00)

a. Unless otherwise required by the Department, the failure to prepare or file procedures pursuant to Subsection 133.02 shall not be a violation of these Rules in and of itself. (4-5-00)

b. To the extent procedures or plans for excess emissions resulting from startup, shutdown, or scheduled maintenance are required to be or are otherwise submitted to the Department with any permit application, such submission, if deemed adequate by the Department, shall fulfill the requirement under this Section to file plans and procedures with the Department. (4-5-00)

134. UPSET, BREAKDOWN AND SAFETY REQUIREMENTS.

The requirements in Subsections 134.01, 134.02, and 134.03 shall apply in all cases where upset or breakdown of equipment or an emissions unit, or the initiation of safety measures, result or may result in an excess emissions event. The owner or operator of the facility or emissions unit generating the excess emissions shall demonstrate compliance with all of the requirements of Subsections 134.01, 134.02 and 134.03 as well as the development and implementation of procedures pursuant to Subsections 134.04 and 134.05 as a prerequisite to any consideration under Subsection 131.02. Where the owner or operator demonstrates that because of the unforeseeable nature of the excess emissions event it is impractical to develop procedures pursuant to Subsection 134.04, the Department shall exercise its enforcement discretion on a case by case basis. (4-5-00)

01. Routine Maintenance and Repairs. For all equipment or emissions units from which excess emissions may occur during upset conditions or breakdowns or implementation of safety measures, the facility owner or operator shall: (4-5-00)

a. Implement routine preventative maintenance and operating procedures consistent with good pollution control practices for minimizing upsets and breakdowns or events requiring implementation of safety measures, and (3-20-97)

b. Make routine repairs in an expeditious fashion when the owner or operator knew or should have known that an excess emissions event was likely to occur. Off-shift labor and overtime shall be utilized, to the extent practicable, to ensure that such repairs are made expeditiously. (3-20-97)

02. Excess Emissions Minimization and Notification. For all equipment or emissions units from which excess emissions result during upset or breakdown conditions, or for other situations that may necessitate the implementation of safety measures which cause excess emissions, the facility owner or operator shall comply with the following: (4-5-00)

a. The owner or operator shall immediately undertake all appropriate measures to reduce and, to the extent possible, eliminate excess emissions resulting from the event and to minimize the impact of such excess emissions on the ambient air quality and public health. (4-5-00)

b. The owner or operator shall notify the Department of any upset/breakdown/safety event that results in excess emissions. Such notification shall identify the time, specific location, equipment or emissions unit involved, and (to the extent known) the cause(s) of the occurrence. The notification shall be given as soon as reasonably possible, but no later than twenty-four (24) hours after the event, unless the owner or operator demonstrates to the Department's satisfaction that the longer reporting period was necessary. (4-5-00)

c. The owner or operator shall report and record the information required pursuant to Sections 135 and 136 for each excess emissions event caused by an upset, breakdown, or safety measure. (3-20-97)

03. Discretionary Reduction or Cessation Provisions. During any period of excess emissions caused by upset, breakdown, or operation under facility safety measures, the Department may require the owner or operator to immediately reduce or cease operation of the equipment or emissions unit causing the excess emissions until such time as the condition causing the excess emissions has been corrected or brought under control. Such action by the Department shall be taken upon consideration of the following factors and after consultation with the facility owner or operator: (4-5-00)

a. Potential risk to the public or the environment. (3-20-97)

b. Whether ceasing operations could result in physical damage to the equipment, emissions unit or facility, or cause injury to employees. (4-5-00)

c. Whether continued excess emissions were reasonably unavoidable as determined by the Department. (4-5-00)

d. The effect of the increase in pollution resulting from the shutdown and subsequent restart of the equipment or emissions unit or facility. (4-5-00)

e. The owner or operator shall not be required to reduce or cease operations at the entire facility if reducing or ceasing operations at a portion of the facility eliminates or adequately reduces the excess emissions. (4-5-00)

04. Excess Emissions Procedures. For equipment or emissions units and process upsets and breakdowns and situations that require implementation of safety measures, which events can reasonably be anticipated to occur periodically but which cannot be reasonably avoided or predicted with certainty, the owner or operator shall prepare, implement, and file with the Department specific procedures which will be used to minimize such events and excess emissions during such events. To the extent possible and reasonably practicable (and based upon knowledge of the process or emissions where measured data is not available), specify the following information for each type of anticipated upset/ breakdown/safety event: (4-5-00)

a. The specific air pollution control equipment or emissions unit and the type of event anticipated. (3-20-97)

b. The specific emissions in excess of applicable emission standards during the event. (4-11-06)

c. The estimated amount of excess emissions expected to be released during each event. (3-20-97)

d. The expected duration of each excess emissions event. (3-20-97)

e. An explanation of why the excess emissions are reasonably unavoidable. (3-20-97)

f. The frequency of the type of event, based on historic occurrences. (3-20-97)

g. Justification to explain why the piece of control equipment or emissions unit cannot be modified or redesigned to eliminate or reduce the particular type of event. (3-20-97)

h. Detailed specification of the procedures to be followed by the owner or operator which will minimize excess emissions at all times during such events, including without limitation those procedures listed under Subsection 134.05. (3-20-97)

05. Amendments to Procedures. The owner or operator shall amend, and the Department may require amendments to, the procedures established pursuant to Section 134 from time to time and as deemed reasonably necessary to ensure that the procedures are and remain consistent with good pollution control practices. (4-5-00)

06. Filing of Excess Emissions Procedures. (4-5-00)

a. Failure to follow procedures filed with the Department shall not preclude the Department from making a determination under Subsection 131.02 if the owner or operator demonstrates to the Department's satisfaction that alternate and equivalent procedures were used and were necessitated by the exigency of the circumstances. (4-5-00)

b. Unless otherwise required by the Department, the failure to prepare or file procedures pursuant to Subsection 134.04 shall not be a violation of these Rules in and of itself. (4-5-00)

c. To the extent procedures or plans for excess emissions resulting from upsets, breakdowns or safety

measures are required to be or are otherwise submitted to the Department with any permit application, such submission, if deemed adequate by the Department, shall fulfill the requirement under this Section to file plans and procedures with the Department. (4-5-00)

135. EXCESS EMISSIONS REPORTS.

01. Deadline for Excess Emissions Reports. A written report for each excess emissions event shall be submitted to the Department by the owner or operator no later than fifteen (15) days after the beginning of each such event. (3-20-97)

02. Contents of Excess Emissions Reports. Each report shall contain the following information: (3-20-97)

a. The time period during which the excess emissions occurred; (3-20-97)

b. Identification of the specific equipment or emissions unit which caused the excess emissions; (3-20-97)

c. An explanation of the cause, or causes, of the excess emissions and whether the excess emissions occurred as a result of startup, shutdown, scheduled maintenance, upset, breakdown or a safety measure; (3-20-97)

d. An estimate of the emissions in excess of any applicable emission standard (based on knowledge of the process and facility where emissions data is unavailable); (4-11-06)

e. A description of the activities carried out to eliminate the excess emissions; and (3-20-97)

f. Certify compliance status with the requirements of Sections 131, 132, 133.01, 134.01 through 134.03, 135, and 136. (4-5-00)

g. If requesting consideration under Subsection 131.02, certify compliance status with Sections 131, 132, 133.01 through 133.03, 134.01 through 134.05, 135, and 136. (4-5-00)

136. EXCESS EMISSIONS RECORDS.

01. Maintenance of Excess Emissions Records. The owner or operator shall maintain excess emissions records at the facility for the most recent five (5) calendar year period. (3-20-97)

02. Availability of Excess Emissions Records. The excess emissions records shall be made available to the Department upon request. (3-20-97)

03. Contents of Excess Emissions Records. The excess emissions records shall include the following: (3-20-97)

a. An excess emissions log book for each emissions unit or piece of equipment containing copies of all reports that have been submitted to the Department pursuant to Section 135 for the particular emissions unit or equipment; and (4-5-00)

b. Copies of all startup, shutdown, and scheduled maintenance procedures and upset/breakdown/safety preventative maintenance plans which have been developed by the owner or operator in accordance with Sections 133 and 134, and facility records as necessary to demonstrate compliance with such procedures and plans. (3-20-97)

04. Protections Under Section 128. The protections under Section 128 for confidential information shall be available for excess emissions reports and records upon proper request of the owner or operator in accordance with Section 128. (3-23-98)

137. -- 139. (RESERVED)

140. VARIANCES.

The purpose of Sections 140 through 149 is to establish procedures for obtaining variances. (5-1-94)

141. PETITION.

A variance proceeding shall be commenced by filing three (3) copies of a petition for variance with the Department. The complaint may be accompanied by such affidavits or other proof as the petitioner may submit in order to make it possible for the Department, if it so desires, to dispose of the matter without a hearing. The petition shall contain the following: (5-1-94)

01. Statement of Facts. A concise statement of the facts upon which the variance is requested, including a description of the business or activity in question; the quantity and type of raw materials processed; an estimate of the quantity and type of contaminants discharged; a description of existing and proposed equipment for the control of discharges; and a time schedule for bringing the activity into compliance. (5-1-94)

02. Statement of Reasons. A concise statement of why the petitioner believes that compliance with the provision from which variance is sought would impose an arbitrary or unreasonable hardship, including a description of the costs that compliance would impose on the petitioner and others, and of the injury that the grant of the variance would impose on the public. (5-1-94)

03. Requested Relief. A clear statement of the precise extent of the relief sought. (5-1-94)

142. NOTICE.

The Department shall give notice of all variance petitions as required by law. (5-1-94)

143. INVESTIGATION AND RECOMMENDATION.

After investigating the variance petition and considering the views of persons who might be adversely affected by the grant of the variance, the Department staff shall, within twenty-one (21) days after the filing of the petition, make a recommendation to the Department as to the disposition of the petition. The recommendation, a copy of which shall be served on the petitioner, shall include: (5-1-94)

01. Efforts. A description of the efforts made by the staff to investigate the facts as alleged and to ascertain the views of persons who might be affected, and a summary of the views so ascertained. (5-1-94)

02. Disputed Facts. A statement of the degree to which, if at all, the staff disagrees with the facts as alleged in the petition. (5-1-94)

03. Other Facts. Allegations of any other facts the staff believes relevant to the disposition of the petition. (5-1-94)

04. Costs. The staff's assessment of the costs that compliance would impose on the petitioner and on others and of the injury that the grant of the variance would impose on the public. (5-1-94)

05. Recommendations. The staff's reasoned recommendations as to what disposition should be made of the petition. (5-1-94)

144. OBJECTIONS TO PETITION.

Any person may file with the Department, within twenty-one (21) days after the filing of the petition, a written objection to the grant of the variance. A copy of such objection shall be provided by the Department to the petitioner. (5-1-94)

145. AUTHORIZATION OF HEARING.

01. No Objection. If no objection is made by the staff or by any other person to the grant of the variance within twenty-one (21) days after the filing of the petition, the Department shall authorize a hearing unless it determines either: (5-1-94)

a. That even if all the facts alleged in the petition are true, the petitioner is not entitled to variance; or (5-1-94)

b. That the petitioner has shown from affidavits or other proof that compliance with the provision from which variance is sought would impose an arbitrary or unreasonable hardship. (5-1-94)

02. No Hearing. If the Department decides not to hold a hearing, it shall pass upon the petition and shall prepare an opinion stating its reasons both for the grant or denial of the petition and for its decision not to hold a hearing. (5-1-94)

03. Early Hearing. The Department may authorize a hearing without waiting for the expiration of the twenty-one (21) days during which objections may be filed; provided that if a hearing is not held the Department shall not rule upon the petition until the twenty-one (21) days have elapsed. (5-1-94)

146. NOTICE OF HEARING.

The Hearing Officer, after appropriate consultation with the parties, shall set a time and place for hearing and give notice to the petitioner, the EPA, and anyone who has filed an objection to the petition at least twenty-one (21) days prior to the date of the hearing. The hearing shall be set for a date no later than sixty (60) days after the filing of the petition. Any request by the petitioner for a continuance shall constitute a waiver of the right to a decision within ninety (90) days for the period of the continuance. (5-1-94)

147. DECISION.

The Department shall render a final decision upon the petition within ninety (90) days after the filing of the petition, except that time included in a continuance granted at the request of the petitioner shall not be counted. When exigencies of time require, the Department may delay the filing of an opinion until not more than thirty (30) days after the filing of its final order. (5-1-94)

148. PROOF OF HARDSHIP.

No variance shall be granted, with or without hearing, without adequate proof by the petitioner that compliance would impose an arbitrary or unreasonable hardship. (5-1-94)

149. VARIANCE FROM NEW RULE.

If any person files a petition for variance from a rule within twenty (20) days after the original effective date of such a rule, the operation of such rule shall be stayed as to such person, pending the disposition of the petition. The Department may hold a hearing upon said petition within five (5) days from the notice of such hearing, but in all other respects, the rules in Sections 140 through 149 shall apply to the extent they are consistent with the hearing date set by the hearing officer. (5-1-94)

150. -- 154. (RESERVED)

155. CIRCUMVENTION.

No person shall willfully cause or permit the installation or use of any device or use of any means that conceals emissions of pollutants that would otherwise violate the provisions of this chapter without resulting in a reduction in the total amount of emissions. (4-11-06)

156. TOTAL COMPLIANCE.

Where more than one (1) section of these rules applies to a particular situation, all such rules must be met for total compliance, unless otherwise provided for in these rules. (5-1-94)

157. TEST METHODS AND PROCEDURES.

The purpose of this Section is to establish procedures and requirements for test methods and results. Unless otherwise specified in these rules, permit, order, consent decree, or prior written approval by the Department: (4-5-00)

01. General Requirements. If a source test is performed to satisfy a performance test requirement or a compliance test requirement imposed by state or federal regulation, rule, permit, order or consent decree, then the test methods and procedures shall be conducted in accordance with the requirements of Section 157. (4-5-00)

a. Prior to conducting any emission test, owners or operators are strongly encouraged to submit to the Department in writing, at least thirty (30) days in advance, the following for approval: (4-5-00)

- i. The type of method to be used; (4-5-00)
- ii. Any extenuating or unusual circumstances regarding the proposed test; and (4-5-00)
- iii. The proposed schedule for conducting and reporting the test. (4-5-00)

b. Without prior Department approval, any alternative testing is conducted solely at the owner's or operator's risk. If the owner or operator fails to obtain prior written approval by the Department for any testing deviations, the Department may determine the test does not satisfy the testing requirements. (4-5-00)

02. Test Requirements. Tests shall be conducted in accordance with the following requirements. (4-5-00)

a. The test must be conducted under operational conditions specified in the applicable state or federal regulation, rule, permit, order, consent decree or by Department approval. If the operational requirements are not specified, the source should test at worst-case normal operating conditions. Worst-case normal conditions are those conditions of fuel type, and moisture, process material makeup and moisture and process procedures which are changeable or which could reasonably be expected to be encountered during the operation of the facility and which would result in the highest pollutant emissions from the facility. (4-5-00)

b. The Department may impose operational limitations or require additional testing in a permit, order or consent decree if the test is conducted under conditions other than worst-case normal. (4-5-00)

c. The Department will accept the methods approved for the applicable pollutants, source type and operating conditions found in 40 CFR Parts 51, 60, 61, and 63 in determining the appropriate test method for an emission limit where one is not otherwise specified. (4-5-00)

d. The following requirements apply to owners or operators requesting minor changes in the test method. As stated in Subsection 157.01 above, without prior Department approval, other changes may result in rejection of the test results by the Department. (4-5-00)

i. For federal emission standards codified at 40 CFR Parts 60, 61, and 63, the Department will accept those minor changes which have received written approval of the U.S. EPA Administrator so long as the Department determines they are appropriate for the specific application. (4-5-00)

ii. For all other emission standards in these rules or for permit requirements, the Department will accept those minor changes that the Department determines are appropriate for the specific application. (4-5-00)

e. An owner or operator proposing to use an alternative test method not considered a minor change in Subsection 157.02.d. above, must: (4-5-00)

i. Demonstrate to the Department by comparative testing or sufficient analysis, that the alternative method is comparable and equivalent to the designated test method. (4-5-00)

ii. Submit the request for approval to use an alternative test method to the Department at least thirty (30) days in advance of a scheduled test. (4-5-00)

iii. Obtain, and submit to the Department, EPA approval for use of the alternative test method for emission standards in these rules (except for state only toxic air pollutant standards) or for federal emission standards codified at 40 CFR Parts 60, 61, and 63. (4-5-00)

iv. Obtain verification that any prior approval of an alternative test method by the Department continues to be acceptable. Alternative methods may cease to be acceptable if new or different information indicates that the alternative test method is less accurate, less reliable, or not comparable with any current state or federal

regulation, rule order, permit, or consent decree. (4-5-00)

f. Prior approval by the Department may not constitute Department approval for subsequent tests if new or different information indicates that a previously Department approved test method is less accurate, less reliable or not comparable with any current state or federal regulation, rule, order, permit or consent decree. (4-5-00)

03. Observation of Tests by Department Staff. The owner or operator shall provide notice of intent to test to the Department at least fifteen (15) days prior to the scheduled test, or shorter time period as provided in a permit, order, consent decree or by Department approval. The Department may, at its option, have an observer present at any emissions tests conducted on a source. (4-5-00)

04. Reporting Requirements. If the source test is performed to satisfy a performance test requirement imposed by state or federal regulation, rule, permit, order, or consent decree, a written report shall be submitted to the Department within sixty (60) days of the completion of the test. The written report shall: (4-11-15)

a. Meet the format and content requirements specified by the Department in any applicable rule, regulation, guidance, permit, order, or consent decree. Any deviations from the format and contents specified require prior written approval from the Department. Failure to obtain such approval may result in the rejection of the test results. (4-5-00)

b. Include all data required to be noted or recorded in any referenced test method. (4-5-00)

05. Test Results Review Criteria. The Department will make every effort to review test results within a reasonable time. The Department may reject tests as invalid for: (4-5-00)

a. Failure to adhere to the approved/required method; (4-5-00)

b. Using a method inappropriate for the source type or operating conditions; (4-5-00)

c. An incomplete written report; (4-5-00)

d. Computational or data entry errors; (4-5-00)

e. Clearly unreasonable results; (4-5-00)

f. Failure to comply with the certification requirements of Section 123 of these rules; or (4-5-00)

g. Failure of the source to conform to operational requirements in orders, permits, or consent decrees at the time of the test. (4-5-00)

158. -- 159. (RESERVED)

160. PROVISIONS GOVERNING SPECIFIC ACTIVITIES AND CONDITIONS.

Sections 160 through 164 establish provisions governing specific activities and conditions. Test methods and procedures shall comply with Section 157. (4-5-00)

161. TOXIC SUBSTANCES.

Any contaminant which is by its nature toxic to human or animal life or vegetation shall not be emitted in such quantities or concentrations as to alone, or in combination with other contaminants, injure or unreasonably affect human or animal life or vegetation. (6-30-95)

162. MODIFYING PHYSICAL CONDITIONS.

When physical conditions such as tall adjacent buildings, valley and mountain terrain, etc., are such as to limit the normal dispersion of air pollutants, the Board may set more restrictive emission limitations on those sources affected by the unusual conditions when air quality standards would reasonably be expected to be exceeded. (5-1-94)

163. SOURCE DENSITY.

Should areas develop where each individual source is meeting the requirements of this chapter, yet the ambient air quality standards are being exceeded or might reasonably be expected to be exceeded, the Board may set more restrictive emission limits than are contained in this chapter. (5-1-94)

164. POLYCHLORINATED BIPHENYLS (PCBS).

01. Prohibition on Burning. Burning any material containing greater than five (5) parts per million of polychlorinated biphenyls (PCBs) is prohibited, except for incineration for the purpose of disposal. Incineration for disposal shall comply with the following provisions: (5-1-94)

a. No person shall commence construction or modification of a PCB incinerator without a permit issued according to Sections 200 through 225. (5-1-94)

b. The Department must provide opportunity for public comments prior to a final decision for a permit to construct or modify a new PCB incinerator. (5-1-94)

c. A permit issued according to Sections 200 through 225 for construction or modification of a PCB incinerator shall require, as a minimum, best available control technology and monitoring instrumentation. (5-1-94)

d. No permit to operate, construct or modify a PCB incinerator shall be processed or issued prior to March 16, 1987, or such earlier date as shall be determined by the State Board of Environmental Quality. (5-1-94)

02. Prohibition on Sales. No person shall sell, distribute or provide any materials containing greater than five (5) parts per million PCBs for home or commercial heating equipment. (5-1-94)

165. -- 174. (RESERVED)

175. PROCEDURES AND REQUIREMENTS FOR PERMITS ESTABLISHING A FACILITY EMISSIONS CAP.

The purpose of Sections 176 through 181 is to establish uniform procedures to obtain a Facility Emissions Cap (FEC) for stationary sources or facilities (hereinafter referred to as facility or facilities). A permit establishing a FEC will be issued pursuant to Sections 200 through 228 or Sections 400 through 410. (4-11-06)

176. FACILITY EMISSIONS CAP.

01. Optional Facility Emissions Cap. An owner or operator of a facility may request a FEC to establish an enforceable facility-wide emission limitation. (4-11-06)

02. Applicability. (4-11-06)

a. The owner or operator of any facility, which is not a major facility as defined in Sections 204 or 205, may apply to the Department for a permit to establish a FEC. (4-11-06)

b. FECs are available for new and existing facilities that are not major as defined in Section 204 or 205 or existing facilities undergoing a modification that does not make the facility a major facility as defined in Section 204 or 205. (4-11-15)

c. Facilities that become major facilities as defined in Section 204 or 205 are no longer eligible for a FEC under Section 176. (4-11-15)

03. Definitions. For the purposes of Sections 175 through 181, the following terms shall be defined as below. (4-11-06)

a. Baseline actual emissions. As defined in Section 007. (4-11-06)

b. Design concentration. The ambient concentration used in establishing the FEC. (4-11-06)

c. Facility emissions cap (FEC). A facility-wide emission limitation expressed in tons per year, for any criteria pollutant or hazardous air pollutant established in accordance with Sections 176 through 181. A FEC is calculated using baseline actual emissions plus an operational variability component and a growth component. A FEC, which is defined in tons per year on a twelve (12) month rolling basis, must be set below major facility thresholds as defined in Sections 204 and 205. (4-11-15)

d. FEC pollutant. The pollutant for which a FEC is established. (4-11-06)

e. Growth component. The level of emissions requested by the applicant and approved by the Department to allow for potential future business growth or facility changes that may increase emissions above baseline actual emissions plus the operational variability component. (4-11-06)

f. Operational variability component. The level of emissions up to the significant emission rate (SER) minus one (1) ton per year but no more than the facility's potential to emit (PTE). If the proposed FEC pollutant does not have a SER listed in Section 006 or has a SER less than or equal to ten (10) tons per year, the operational variability component is the level of emissions requested by the applicant and approved by the Department. The operational variability component cannot be more than the facility's PTE. (4-11-15)

177. APPLICATION PROCEDURES.

In addition to the information required pursuant to Sections 202 or 402, whichever is applicable, applications requesting a FEC must include the information required under Sections 176 through 181 and Subsections 177.01 through 177.03. (4-11-06)

01. Estimates of Emissions. A proposed FEC for each pollutant requested by the facility, including the basis for calculating the FEC. (4-11-06)

02. Estimates of Ambient Concentrations. (4-11-06)

a. Estimates of ambient concentrations will be determined as described in Subsection 202.02. (4-11-15)

b. Estimates of ambient concentrations may include projections of alternative future changes within the proposed FEC. (4-11-06)

c. For a new, existing, or modified facility, a demonstration that for each FEC pollutant, the FEC will not cause or significantly contribute to a violation of any ambient air quality standard. (4-11-06)

d. For renewal of terms and conditions establishing a FEC, it is presumed that the previous permitting analysis is satisfactory, unless the Department determines otherwise. (4-11-06)

03. Monitoring and Recordkeeping. The application must include proposed means for the facility to determine facility emissions on a rolling twelve (12) month consecutive basis. (4-11-06)

178. STANDARD CONTENTS OF PERMITS ESTABLISHING A FACILITY EMISSIONS CAP.

In addition to the elements required by Sections 203 and 211 or Sections 403 and 405, whichever is applicable, the Department shall have the authority to impose, implement and enforce the terms in Subsections 178.01 through 178.05 and conditions establishing a FEC. (4-11-06)

01. Emission Limitations and Standards. All permits establishing use of a FEC shall contain annual facility wide emissions limitations for each FEC pollutant. (4-11-06)

02. Monitoring. All permits establishing a FEC shall contain sufficient monitoring to ensure compliance with the FEC on a rolling twelve (12) month consecutive basis. (4-11-06)

03. Recordkeeping. All permits establishing a FEC shall include the following: (4-11-06)

a. Sufficient recordkeeping to assure compliance with the FEC. (4-11-06)

b. Retention of required monitoring records and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report or application. Supporting information includes, but is not limited to, calibration and maintenance records and original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the permit. (4-11-06)

04. Reporting. All permits establishing a FEC shall include the following: (4-11-06)

a. Sufficient reporting to assure compliance with the permit establishing the FEC. (4-11-06)

b. Submittal of an annual report each year on or before the anniversary date of permit issuance. All required reports must be certified in accordance with Section 123. (4-11-06)

05. Duration. Each permit establishing a FEC shall state that the terms and conditions establishing the FEC are effective for a fixed term of five (5) years. (4-11-06)

179. PROCEDURES FOR ISSUING PERMITS ESTABLISHING A FACILITY EMISSIONS CAP.

01. General Procedures. Procedures for issuing permits establishing a FEC will follow Sections 209 or 404, whichever is applicable. (4-11-06)

02. Renewal. The renewal of the terms and conditions establishing a FEC are subject to the same procedural requirements for issuing permits (Subsection 179.01) and Subsections 179.02.a. through 179.02.d.: (4-11-06)

a. The permittee shall submit a complete application to the Department for a renewal of the terms and conditions establishing the FEC at least six (6) months before, but no earlier than eighteen (18) months before, the expiration date of the existing permit. To ensure that the term of the permit does not expire before the terms and conditions are renewed, the permittee is encouraged to submit the application nine (9) months prior to expiration. (4-11-06)

b. If a timely and complete application for a renewal of the terms and conditions establishing the FEC is submitted, but the Department fails to issue or deny the renewal permit before the end of the term of the previous permit, then all the terms and conditions of the previous permit shall remain in effect until the renewal permit has been issued or denied. (4-11-06)

c. Expiration of the terms and conditions establishing a FEC may be grounds to terminate the facility's right to operate pursuant to Sections 176 through 181, unless a timely and complete renewal application has been submitted. (4-11-06)

d. On renewal, the Department may adjust a FEC with an unused growth component in accordance with the Idaho Environmental Protection and Health Act, Chapter 1, Title 39, Idaho Code, and these rules. (4-11-06)

03. Reopening the FEC. The Department may reopen a FEC to: (4-11-06)

a. Reduce the FEC to reflect newly applicable federal requirements (for example, NSPS) with compliance dates after the issuance of the permit establishing the FEC. (4-11-06)

b. Reduce the FEC consistent with any other requirement that is enforceable as a practical matter, and that the state may impose on the facility under the Idaho Environmental Protection and Health Act, Chapter 1, Title 39, Idaho Code, and these rules. (4-11-06)

04. FEC Termination. The Director may approve a revision of a permit establishing a FEC to terminate the FEC, provided the permittee complies with Subsections 209.04 or 404.04, as applicable, and Subsections 179.04.a. through 179.04.c.: (4-11-06)

a. The permittee may request a revision of the permit establishing the FEC to terminate the FEC at

anytime prior to the expiration of the permit. The permittee is encouraged to submit an application for a permit to construct or Tier I operating permit, as applicable, six (6) months prior to the time the permittee wishes to terminate the FEC. (4-11-06)

b. The FEC established in the permit shall remain in effect until the Department issues a new permit to construct or Tier I operating permit, as applicable. (4-11-06)

c. Nothing in Section 179 prohibits a permittee from requesting a permit revision to terminate the FEC during the permit renewal process. (4-11-06)

180. REVISIONS TO PERMITS ESTABLISHING A FACILITY EMISSIONS CAP.

Section 180 requires revisions to terms and conditions establishing a FEC. The permittee is exempt from Sections 200 through 228 unless the permittee chooses to use those rules to process any change to the permit, except as provided in Subsection 180.02. (4-11-06)

01. Criteria. A permit revision is required for the following: (4-11-06)

a. A change to existing monitoring, reporting or recordkeeping requirements in the permit establishing the FEC; (4-11-06)

b. A change to the FEC; or (4-11-06)

c. A change to the facility that would impose new requirements not included in the permit establishing the FEC. (4-11-06)

02. Permit Revision Application Procedures. A permittee may initiate a permit revision by submitting a permit revision application to the Department or by complying with other applicable sections (Sections 200 or 400). For revision of terms and conditions establishing the FEC, it is presumed that the previous permitting analysis is satisfactory unless the Department determines otherwise. A permit revision application shall: (4-11-06)

a. Meet the standard application requirements of Section 177; (4-11-06)

b. Describe the proposed permit revision; (4-11-06)

c. Describe and quantify the change in emissions above the FEC permit limit; and (4-11-06)

d. Identify new requirements resulting from the change. (4-11-06)

03. Permit Revisions. The Department will process permit revisions pursuant to Section 209 or Section 404. (4-11-06)

181. NOTICE AND RECORD-KEEPING OF ESTIMATES OF AMBIENT CONCENTRATIONS.

Section 181 authorizes facility changes that comply with the terms and conditions establishing the FEC, but that are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC. No permit revision shall be required for facility changes implemented in accordance with Section 181. (4-11-06)

01. Notice. For facility changes that comply with the terms and conditions establishing the FEC, but are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee shall review the estimate of ambient concentration analysis. (4-11-06)

a. In the event that the facility change would result in a significant contribution above the design concentration determined by the estimate of ambient concentration analysis approved for the permit establishing the FEC, but does not cause or significantly contribute to a violation to any ambient air quality standard, the permittee shall provide notice to the Department in accordance with Subsection 181.01.b. (4-11-06)

b. Notice procedures. The permittee may make a facility change under Section 181 if the permittee

provides written notification to the Department so that the notification is received at least seven (7) days in advance of the proposed change or, in the event of an emergency, the permittee provides the notification so that it is received at least twenty-four (24) hours in advance of the proposed change. For each such change, the written notification shall: (4-11-06)

- i. Describe the proposed change; (4-11-06)
- ii. Describe and quantify expected emissions; and (4-11-06)
- iii. Provide the estimated ambient concentration analysis. (4-11-06)

02. Recordkeeping. For facility changes that comply with the terms and conditions establishing the FEC, but are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee shall review the estimate of ambient concentration analysis. In the event the facility change would not result in a significant contribution above the design concentration determined by the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee shall record and maintain documentation on-site of the review. (4-11-06)

03. Estimates of Ambient Concentrations. Estimates of ambient concentrations shall be determined during the term of this permit using the same model and model parameters as used with the estimate of ambient concentration analysis approved for the permit establishing the FEC. The permittee shall include any changes to the facility that are not included in the originally approved estimate of ambient concentration analysis. (4-11-15)

182. -- 199. (RESERVED)

200. PROCEDURES AND REQUIREMENTS FOR PERMITS TO CONSTRUCT.

The purposes of Sections 200 through 228 is to establish uniform procedures and requirements for the issuance of "Permits to Construct." As used throughout Sections 200 through 228 and 578 through 581, major facility shall be defined as major stationary source in 40 CFR 52.21(b) and 40 CFR 51.165, incorporated by reference into these rules at Section 107, and major modification shall be defined as in 40 CFR 52.21(b) and 40 CFR 51.165, incorporated by reference into these rules at Section 107. These CFR sections have been codified in the electronic CFR which is available at www.ecfr.gov. (3-25-16)

201. PERMIT TO CONSTRUCT REQUIRED.

No owner or operator may commence construction or modification of any stationary source, facility, major facility, or major modification without first obtaining a permit to construct from the Department which satisfies the requirements of Sections 200 through 228 unless the source is exempted in any of Sections 220 through 223, or the owner or operator complies with Section 213 and obtains the required permit to construct, or the owner or operator complies with Sections 175 through 181, or the source operates in accordance with all of the applicable provisions of a permit by rule. (4-11-06)

202. APPLICATION PROCEDURES.

Application for a permit to construct must be made using forms furnished by the Department, or by other means prescribed by the Department. The application shall be certified by the responsible official in accordance with Section 123 and shall be accompanied by all information necessary to perform any analysis or make any determination required under Sections 200 through 228. (7-1-02)

01. Required Information. Depending upon the proposed size and location of the new or modified stationary source or facility, the application for a permit to construct shall include all of the information required by one or more of the following provisions: (5-1-94)

- a. For any new or modified stationary source or facility: (5-1-94)
 - i. Site information, plans, descriptions, specifications, and drawings showing the design of the stationary source, facility, or modification, the nature and amount of emissions (including secondary emissions), and the manner in which it will be operated and controlled. (5-1-94)

- ii. A schedule for construction of the stationary source, facility, or modification. (5-1-94)
- b.** For any new major facility or major modification in a nonattainment area which would be major for the nonattainment regulated air pollutant(s): (4-5-00)
 - i. A description of the system of continuous emission control proposed for the new major facility or major modification, emission estimates, and other information as necessary to determine that the lowest achievable emission rate would be applied. (5-1-94)
 - ii. A description of the emission offsets proposed for the new major facility or major modification, including information on the stationary sources, mobile sources, or facilities providing the offsets, emission estimates, and other information necessary to determine that a net air quality benefit would result. (4-5-00)
 - iii. Certification that all other facilities in Idaho, owned or operated by (or under common ownership of) the proposed new major facility or major modification, are in compliance with all local, state or federal requirements or are on a schedule for compliance with such. (5-1-94)
 - iv. An analysis of alternative sites, sizes, production processes, and environmental control techniques which demonstrates that the benefits of the proposed major facility or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. (5-1-94)
 - v. An analysis of the impairment to visibility of any federal Class I area, Class I area designated by the Department, or integral vista of any mandatory federal Class I area that the new major facility or major modification would impact (including the monitoring of visibility in any Class I area near the new major facility or major modification, if requested by the Department). (4-6-05)
- c.** For any new major facility or major modification in an attainment or unclassifiable area for any regulated air pollutant. (4-6-05)
 - i. A description of the system of continuous emission control proposed for the new major facility or major modification, emission estimates, and other information as necessary to determine that the best available control technology would be applied. (5-1-94)
 - ii. An analysis of the effect on air quality by the new major facility or major modification, including meteorological and topographical data necessary to estimate such effects. (5-1-94)
 - iii. An analysis of the effect on air quality projected for the area as a result of general commercial, residential, industrial, and other growth associated with the new major facility or major modification. (5-1-94)
 - iv. A description of the nature, extent, and air quality effects of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the new major facility or major modification would affect. (5-1-94)
 - v. An analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the new major facility or major modification and general commercial, residential, industrial, and other growth associated with establishment of the new major facility or major modification. The owner or operator need not provide an analysis of the impact on vegetation or soils having no significant commercial or recreational value. (5-1-94)
 - vi. An analysis of the impairment to visibility of any federal Class I area, Class I area designated by the Department, or integral vista of any mandatory federal Class I area that the new major facility or major modification would affect. (5-1-94)
 - vii. An analysis of the existing ambient air quality in the area that the new major facility or major modification would affect for each regulated air pollutant that a new major facility would emit in significant amounts or for which a major modification would result in a significant net emissions increase. (4-5-00)
 - viii. Ambient analyses as specified in Subsections 202.01c.vii., 202.01c.ix., 202.01c.x., and

202.01c.xii., may not be required if the projected increases in ambient concentrations or existing ambient concentrations of a particular regulated air pollutant in any area that the new major facility or major modification would affect are less than the amounts listed under 40 CFR 52.21(i)(5)(i), or the regulated air pollutant is not listed therein. (4-11-15)

ix. For any regulated air pollutant which has an ambient air quality standard, the analysis shall include continuous air monitoring data, gathered over the year preceding the submittal of the application, unless the Department determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one (1) year, but not less than four (4) months, which is adequate for determining whether the emissions of that regulated air pollutant would cause or contribute to a violation of the ambient air quality standard or any prevention of significant deterioration (PSD) increment. (4-5-00)

x. For any regulated air pollutant which does not have an ambient air quality standard, the analysis shall contain such air quality monitoring data that the Department determines is necessary to assess ambient air quality for that air pollutant in any area that the emissions of that air pollutant would affect. (4-5-00)

xi. If requested by the Department, monitoring of visibility in any Class I area the proposed new major facility or major modification would affect. (5-1-94)

xii. Operation of monitoring stations shall meet the requirements of Appendix B to 40 CFR Part 58 or such other requirements as extensive as those set forth in Appendix B as may be approved by the Department. (5-1-94)

02. Estimates of Ambient Concentrations. All estimates of ambient concentrations shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR 51, Appendix W (Guideline on Air Quality Models). (4-5-00)

a. Where an air quality model specified in the "Guideline on Air Quality Models," is inappropriate, the model may be modified or another model substituted, subject to written approval of the Administrator of the U.S. Environmental Protection Agency and public comment pursuant to Subsection 209.01.c.; provided that modifications and substitutions of models used for toxic air pollutants will be reviewed by the Department. (4-5-00)

b. Methods like those outlined in the U.S. Environmental Protection Agency's "Interim Procedures for Evaluating Air Quality Models (Revised)" (September 1984) should be used to determine the comparability of air quality models. (5-1-94)

03. Additional Information. Any additional information, plans, specifications, evidence or documents that the Department may require to make the determinations required under Sections 200 through 225 shall be furnished upon request. (5-1-94)

203. PERMIT REQUIREMENTS FOR NEW AND MODIFIED STATIONARY SOURCES.

No permit to construct shall be granted for a new or modified stationary source unless the applicant shows to the satisfaction of the Department all of the following: (5-1-94)

01. Emission Standards. The stationary source or modification would comply with all applicable local, state or federal emission standards. (5-1-94)

02. NAAQS. The stationary source or modification would not cause or significantly contribute to a violation of any ambient air quality standard. (5-1-94)

03. Toxic Air Pollutants. Using the methods provided in Section 210, the emissions of toxic air pollutants from the stationary source or modification would not injure or unreasonably affect human or animal life or vegetation as required by Section 161. Compliance with all applicable toxic air pollutant carcinogenic increments and toxic air pollutant non-carcinogenic increments will also demonstrate preconstruction compliance with Section 161 with regards to the pollutants listed in Sections 585 and 586. (6-30-95)

204. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN NONATTAINMENT AREAS.

New major facilities or major modifications proposed for location in a nonattainment area and which would be major for the nonattainment regulated air pollutant are considered nonattainment new source review (NSR) actions and are subject to the requirements in Section 204. Section 202 contains application requirements and Section 209 contains processing requirements for nonattainment NSR permitting actions. The intent of Section 204 is to incorporate the federal nonattainment NSR rule requirements. (4-6-05)

01. Incorporated Federal Program Requirements. Requirements contained in the following subparts of 40 CFR 51.165 are incorporated by reference into these rules at Section 107. Requirements contained in the following subparts of 40 CFR 52.21, are incorporated by reference at Section 107 of these rules. These CFR sections have been codified in the electronic CFR at www.ecfr.gov.

40 CFR Reference	40 CFR Reference Title
40 CFR 51.165(a)(1)	Definitions
40 CFR 51.165(a)(2)(ii) - 51.165(a)(3)	Applicability Provisions
40 CFR 51.165(a)(6)(i) - (v)	Applicability Provisions
40 CFR 52.21(aa)	Actual PALs

(4-2-08)

02. Additional Requirements. The applicant must demonstrate to the satisfaction of the Department the following: (4-6-05)

a. LAER. Except as otherwise provided in Section 204, the new major facility or major modification would be operated at the lowest achievable emission rate (LAER) for the nonattainment regulated air pollutant, specifically: (4-6-05)

i. A new major facility would meet the lowest achievable emission rate at each new emissions unit which emits the nonattainment regulated air pollutant; and (4-5-00)

ii. A major modification would meet the lowest achievable emission rate at each new or modified emissions unit which has a net emissions increase of the nonattainment regulated air pollutant. (4-5-00)

b. Required offsets. Allowable emissions from the new major facility or major modification are offset by reductions in actual emissions from stationary sources, facilities, and/or mobile sources in the nonattainment area so as to represent reasonable further progress. All offsetting emission reductions must satisfy the requirements for emission reduction credits (Section 460) and provide for a net air quality benefit which satisfies the requirements of Section 208. If the offsets are provided by other stationary sources or facilities, a permit to construct shall not be issued for the new major facility or major modification until the offsetting reductions are made enforceable through the issuance of operating permits. The new major facility or major modification may not commence operation, and an operating permit for the new major facility or major modification shall not be effective before the date the offsetting reductions are achieved. (4-5-00)

c. Compliance status. All other sources in the State owned or operated by the applicant, or by any entity controlling, controlled by or under common control with such person, are in compliance with all applicable emission limitations and standards or subject to an enforceable compliance schedule. (5-1-94)

d. Effect on visibility. The effect on visibility of any federal Class I area, Class I area designated by the Department, or integral vista of a mandatory Class I Federal Area, by the new major facility or major modification, is consistent with making reasonable progress toward the national visibility goal referred to in 40 CFR 51.300(a). The Department may take into account the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance and the useful life of the source. Any integral vista which the Federal Land Manager has not identified at least six (6) months prior to the submittal of a complete

application, or which the Department determines was not identified in accordance with the criteria adopted pursuant to 40 CFR 51.304(a), may be exempted from Section 204 by the Department. (3-30-07)

03. Nonmajor Requirements. If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 51.165 or 40 CFR 52.21 incorporated in Section 204, the nonmajor facility or stationary source permitting requirements of Sections 200 through 228 apply, including the exemptions in Sections 220 through 223. (4-6-05)

205. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN ATTAINMENT OR UNCLASSIFIABLE AREAS.

The prevention of significant deterioration (PSD) program is a construction permitting program for new major facilities and major modifications to existing major facilities located in areas in attainment or in areas that are unclassifiable for any criteria air pollutant. Section 202 contains application requirements and Section 209 contains processing requirements for PSD permit actions. The intent of Section 205 is to incorporate the federal PSD rule requirements. (4-6-05)

01. Incorporated Federal Program Requirements. Requirements contained in the following subparts of 40 CFR 52.21 are incorporated by reference into these rules at Section 107. These CFR sections have been codified in the electronic CFR which is available at www.ecfr.gov.

40 CFR Reference	40 CFR Reference Title
40 CFR 52.21(a)(2)	Applicability Procedures
40 CFR 52.21(b)	Definitions
40 CFR 52.21(i)	Review of Major Stationary Sources and Major Modifications - Source Applicability and Exempting
40 CFR 52.21(j)	Control Technology Review
40 CFR 52.21(k)	Source Impact Analysis
40 CFR 52.21(r)	Source Obligation
40 CFR 52.21(v)	Innovative Control Technology
40 CFR 52.21(w)	Permit Rescission
40 CFR 52.21(aa)	Actual PALS

(4-2-08)

02. Effect on Visibility. The applicant must demonstrate that the effect on visibility of any federal Class I area, Class I area designated by the Department, or integral vista of a mandatory Class I Federal Area, by the new major facility or major modification, is consistent with making reasonable progress toward the national visibility goal referred to in 40 CFR 51.300(a). The Department may take into account the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance and the useful life of the source. Any integral vista which the Federal Land Manager has not identified at least six (6) months prior to the submittal of a complete application, or which the Department determines was not identified in accordance with the criteria adopted pursuant to 40 CFR 51.304(a), may be exempted from this requirement by the Department. (3-30-07)

03. Exception to Incorporation by Reference of 40 CFR 52.21. Every use of the word Administrator in 40 CFR 52.21 means the Department except for the following: (4-6-05)

- a.** In 40 CFR 52.21(b)(17), the definition of federally enforceable, Administrator means the EPA Administrator. (4-6-05)
- b.** In 40 CFR 52.21(l)(2), air quality models, Administrator means the EPA Administrator. (4-6-05)

c. In 40 CFR 52.21(b)(43), permit program approved by the Administrator, Administrator means the EPA Administrator. (4-6-05)

d. In 40 CFR 52.21(b)(48)(ii)(c), MACT standard that is proposed or promulgated by the Administrator, Administrator means the EPA Administrator. (4-6-05)

e. In 40 CFR 52.21(b)(50)(i), regulated NSR pollutant as defined by Administrator, Administrator means the EPA Administrator. (4-6-05)

04. Nonmajor Requirements. If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 52.21 incorporated in Section 205, the nonmajor facility or stationary source permitting requirements of Sections 200 through 228 apply, including the exemptions in Sections 220 through 223. (4-6-05)

206. OPTIONAL OFFSETS FOR PERMITS TO CONSTRUCT.

The owner or operator of any proposed new or modified stationary source, new major facility, or major modification, which cannot meet the requirements of Subsections 202.01.c.vi., 203.02, 203.03, 204.02.d., 205.01 (40 CFR 52.21(k)), and 209.02.b.vi., may propose the use of an emission offset in order to meet those requirements and thereby obtain a permit to construct. Any proposed emission offset must satisfy the requirements for emission reduction credits, Section 460, and demonstrate, through appropriate dispersion modeling, that the offset will reduce ambient concentrations sufficiently to meet the requirements at all modeled receptors which could not otherwise have met the requirements. (4-6-05)

207. REQUIREMENTS FOR EMISSION REDUCTION CREDIT.

In order to be credited in a permit to construct, any emission reduction credit must satisfy the requirements of Section 460. (5-1-94)

208. DEMONSTRATION OF NET AIR QUALITY BENEFIT.

The demonstration of net air quality benefit shall: (5-1-94)

01. VOCs. For trades involving volatile organic compounds, show that total emissions are reduced for the air basin in which the stationary source or facility is located; (5-1-94)

02. Other Regulated Air Pollutants. For trades involving any other regulated air pollutant, show through appropriate dispersion modeling that the trade will not cause an increase in ambient concentrations at any modeled receptor; (4-5-00)

03. Mobile Sources. For trades involving mobile sources, show a reduction in the ambient impact of emissions upon air quality by obtaining sufficient emission reductions to, at a minimum, compensate for adverse ambient impact where the major facility or major modification would otherwise cause or significantly contribute to a violation of any national ambient air quality standard. (4-5-00)

209. PROCEDURE FOR ISSUING PERMITS.

01. General Procedures. General procedures for permits to construct. (5-1-94)

a. Within thirty (30) days after receipt of the application for a permit to construct, the Department shall determine whether the application is complete or whether more information must be submitted and shall notify the applicant of its findings in writing. (5-1-94)

b. Within sixty (60) days after the application is determined to be complete the Department shall: (5-1-94)

i. Upon written request of the applicant, provide a draft permit for applicant review. Agency action on the permit under this Section may be delayed if deemed necessary to respond to applicant comments. (4-5-00)

ii. Notify the applicant in writing of the approval, conditional approval, or denial of the application if

an opportunity for public comment is not required pursuant to Subsection 209.01.c. The Department shall set forth reasons for any denial; or (5-1-94)

iii. Issue a proposed approval, proposed conditional approval, or proposed denial. (5-1-94)

c. An opportunity for public comment will be provided on all applications requiring a permit to construct. Public comment shall be provided on an application for any new major facility or major modification, any new facility or modification which would affect any Class I area, any application which uses fluid modeling or a field study to establish a good engineering practice stack height pursuant to Sections 510 through 516, any application which uses an interpollutant trade pursuant to Subsection 210.17, any application which the Director determines an opportunity for public comment should be provided, and any application upon which the applicant so requests. (5-3-03)

i. The Department's proposed action, together with the information submitted by the applicant and the Department's analysis of the information, shall be made available to the public in at least one (1) location in the region in which the stationary source or facility is to be located. (5-1-94)

ii. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. (5-1-94)

iii. A copy of such notice shall be sent to the applicant and to appropriate federal, state and local agencies. (5-1-94)

iv. There shall be a thirty (30) day period after initial publication for comment on the Department's proposed action, such comment to be made in writing to the Department. (5-1-94)

v. After consideration of comments and any additional information submitted during the comment period, and within forty-five (45) days after initial publication of the notice, or notice of public hearing if one is requested under Subsections 209.02.b.iv. or 209.02.a.ii., unless the Director deems that additional time is required to evaluate comments and information received, the Department shall notify the applicant in writing of approval, conditional approval, or denial of the permit. The Department shall set forth the reasons for any denial. (5-1-94)

vi. All comments and additional information received during the comment period, together with the Department's final determination, shall be made available to the public at the same location as the preliminary determination. (5-1-94)

d. A copy of each permit will be sent to the U.S. Environmental Protection Agency. (5-1-94)

02. Additional Procedures for Specified Sources. (5-1-94)

a. For any new major facility or major modification in an attainment or unclassifiable area for any regulated air pollutant. (4-6-05)

i. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the degree of increment consumption that is expected from the new major facility or major modification; and (5-1-94)

ii. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effects of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. (3-23-98)

b. For any new major facility or major modification which would affect a federal Class I area or an integral vista of a mandatory federal Class I area. (5-1-94)

i. If the Department is notified of the intent to apply for a permit to construct, it shall notify the appropriate Federal Land Manager within thirty (30) days; (5-1-94)

ii. A copy of the permit application and all relevant information, including an analysis of the anticipated effects on visibility in any federal Class I area, shall be sent to the Administrator of the U.S. Environmental Protection Agency and the Federal Land Manager within thirty (30) days of receipt of a complete application and at least sixty (60) days prior to any public hearing on the application; (5-1-94)

iii. Notice of every action related to the consideration of the permit shall be sent to the Administrator of the U.S. Environmental Protection Agency; (5-1-94)

iv. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effect of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. (3-23-98)

v. The notice of public hearing, if required, shall explain any differences between the Department's preliminary determination and any visibility analysis performed by the Federal Land Manager and provided to the Department within thirty (30) days of the notification pursuant to Subsection 209.02.b.ii. (5-1-94)

vi. Upon a sufficient showing by the Federal Land Manager that a proposed new major facility or major modification will have an adverse impact upon the air quality related values (including visibility) of any federal mandatory Class I area, the Director may deny the application notwithstanding the fact that the concentrations of regulated air pollutants would not exceed the maximum allowable increases for a Class I area. (4-5-00)

03. Establishing a Good Engineering Stack Height. The Department will notify the public of the availability of any fluid model or field study used to establish a good engineering practice stack height and provide an opportunity for a public hearing before issuing a permit or setting an emission standard based thereon. (5-1-94)

04. Revisions of Permits to Construct. The Director may approve a revision of any permit to construct provided the stationary source or facility continues to meet all applicable requirements of Sections 200 through 228. Revised permits will be issued pursuant to procedures for issuing permits (Section 209), except that the requirements of Subsections 209.01.c., 209.02.a., and 209.02.b., shall only apply if the permit revision results in an increase in emissions authorized by the permit or if deemed appropriate by the Director. (7-1-02)

05. Permit to Construct Procedures for Tier I Sources. For Tier I sources that require a permit to construct, the owner or operator shall either: (5-1-94)

a. Submit only the information required by Sections 200 through 219 for a permit to construct, in which case: (3-23-98)

i. A permit to construct or denial will be issued in accordance with Subsections 209.01.a. and 209.01.b. (5-1-94)

ii. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (3-23-98)

iii. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02. (4-5-00)

iv. Unless a different time is prescribed by these rules, the applicable requirements contained in a permit to construct will be incorporated into the Tier I operating permit during renewal (Section 369). Where an existing Tier I permit would prohibit such construction or change in operation, the source must obtain a permit

revision before commencing operation. Tier I sources required to meet the requirements under Section 112(g) of the Clean Air Act (Section 214), or to have a permit under the preconstruction review program approved into the applicable implementation plan under Part C (Section 205) or Part D (Section 204) of Title I of the Clean Air Act, shall file a complete application to obtain a Tier I permit revision within twelve (12) months after commencing operation. (4-11-06)

v. The application or minor or significant permit modification request shall be processed in accordance with timelines: Section 361 and Subsections 367.02 through 367.05. (3-19-99)

vi. The final Tier I operating permit action shall incorporate the relevant terms and conditions from the permit to construct; or (4-5-00)

b. Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 386 for a Tier I operating permit, or Tier I operating permit modification, in which case: (4-5-00)

i. Completeness of the application shall be determined within thirty (30) days. (5-1-94)

ii. The Department shall prepare a proposed permit to construct or denial in accordance with Sections 200 through 219 and a draft Tier I operating permit or Tier I operating permit modification in accordance with Sections 300 through 386 within sixty (60) days. (4-5-00)

iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364 and 365 on the proposed permit to construct or denial and draft Tier I operating permit or Tier I operating permit modification. (4-5-00)

iv. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial within fifteen (15) days of the close of the public comment period. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (4-5-00)

v. The final permit to construct will be sent to EPA, along with the proposed Tier I operating permit or modification. The proposed Tier I operating permit or modification shall be sent for review in accordance with Section 366. (4-5-00)

vi. The Tier I operating permit, or Tier I operating permit modification, will be issued in accordance with Section 367. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02; or (4-5-00)

c. Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 381 for a Tier I operating permit, or Tier I operating permit modification, in which case: (4-5-00)

i. Completeness of the application shall be determined within thirty (30) days. (4-5-00)

ii. The Department shall prepare a draft permit to construct or denial in accordance with Sections 200 through 219 and that also meets the requirements of Sections 300 through 381 within sixty (60) days. (4-5-00)

iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364, and 365 on the draft permit to construct or denial. (4-5-00)

iv. The Department shall prepare and send a proposed permit to construct or denial to EPA for review in accordance with Section 366. EPA review of the proposed permit to construct or denial in accordance with Section 366 can occur concurrently with public comment and affected state review of the draft permit, as provided in Subsection 209.05.c.iii. above, except that if the draft permit or denial is revised in response to public comment or affected state review, the Department must send the revised proposed permit to construct or denial to EPA for review in accordance with Section 366. (4-5-00)

v. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial in accordance with Section 367. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (4-5-00)

vi. The permittee may, at any time after issuance, request that the permit to construct requirements be incorporated into the Tier I operating permit through an administrative amendment in accordance with Section 381. The owner or operator may operate the source or modification upon submittal of the request for an administrative amendment. (4-5-00)

06. Transfer of Permits to Construct. (4-11-06)

a. Transfers by Revision. A permit to construct may be transferred to a new owner or operator in accordance with Subsection 209.04. (4-11-06)

b. Automatic Transfers. Any permit to construct, with or without transfer prohibition language, may be automatically transferred if: (4-11-06)

i. The current permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date; (4-11-06)

ii. The notice provides written documentation signed by the current and proposed permittees containing a date for transfer of permit responsibility, designation of the proposed permittee's responsible official, and certification that the proposed permittee has reviewed and intends to operate in accordance with the permit terms and conditions; and (4-11-06)

iii. The Department does not notify the current permittee and the proposed permittee within thirty (30) days of receipt of the notice of the Department's determination that the permit must be revised pursuant to Subsection 209.04. If the Department does not issue such notice, the transfer is effective on the date provided in the notice described in Subsection 209.06.b.ii. (4-11-06)

210. DEMONSTRATION OF PRECONSTRUCTION COMPLIANCE WITH TOXIC STANDARDS.

In accordance with Subsection 203.03, the applicant shall demonstrate preconstruction compliance with Section 161 to the satisfaction of the Department. The accuracy, completeness, execution and results of the demonstration are all subject to review and approval by the Department. (6-30-95)

01. Identification of Toxic Air Pollutants. The applicant may use process knowledge, raw materials inputs, EPA and Department references and commonly available references approved by EPA or the Department to identify the toxic air pollutants emitted by the stationary source or modification. (6-30-95)

02. Quantification of Emission Rates. (6-30-95)

a. The applicant may use standard scientific and engineering principles and practices to estimate the emission rate of any toxic air pollutant at the point(s) of emission. (6-30-95)

i. Screening engineering analyses use unrefined conservative data. (6-30-95)

ii. Refined engineering analyses utilize refined and less conservative data including, but not limited to, emission factors requiring detailed input and actual emissions testing at a comparable emissions unit using EPA or Department approved methods. (6-30-95)

b. The uncontrolled emissions rate of a toxic air pollutant from a source or modification is calculated using the maximum capacity of the source or modification under its physical and operational design without the effect of any physical or operational limitations. (6-30-95)

i. Examples of physical and operational design include but are not limited to: the amount of time equipment operates during batch operations and the quantity of raw materials utilized in a batch process. (6-30-95)

ii. Examples of physical or operational limitations include but are not limited to: shortened hours of operation, use of control equipment, and restrictions on production which are less than design capacity. (6-30-95)

c. The controlled emissions rate of a toxic air pollutant from a source or modification is calculated using the maximum capacity of the source or modification under its physical and operational design with the effect of any physical or operational limitation that has been specifically described in a written and certified submission to the Department. (6-30-95)

d. The T-RACT emissions rate of a toxic air pollutant from a source or modification is calculated using the maximum capacity of the source or modification under its physical and operational design with the effect of:

i. Any physical or operational limitation other than control equipment that has been specifically described in a written and certified submission to the Department; and (6-30-95)

ii. An emission standard that is T-RACT. (6-30-95)

03. Quantification of Ambient Concentrations. (6-30-95)

a. The applicant may use the modeling methods provided in Subsection 202.02 to estimate the ambient concentrations at specified receptor sites for any toxic air pollutant emitted from the point(s) of emission. (6-30-95)

b. The point of compliance is the receptor site that is estimated to have the highest ambient concentration of the toxic air pollutant of all the receptor sites that are located either at or beyond the facility property boundary or at a point of public access; provided that, if the toxic air pollutant is listed in Section 586, the receptor site is not considered to be at a point of public access if the receptor site is located on or within a road, highway or other transportation corridor transecting the facility. (6-30-95)

c. The uncontrolled ambient concentration of the source or modification is estimated by modeling the uncontrolled emission rate. (6-30-95)

d. The controlled ambient concentration of the source or modification is estimated by modeling the controlled emission rate. (6-30-95)

e. The approved net ambient concentration from a modification for a toxic air pollutant at each receptor is calculated by subtracting the estimated decreases in ambient concentrations for all sources at the facility contributing an approved creditable decrease at the receptor site from the estimated ambient concentration from the modification at the receptor. (6-30-95)

f. The approved offset ambient concentration from a source or modification for a toxic air pollutant at each receptor is calculated by subtracting the estimated decreases in ambient concentrations for all sources contributing an approved offset at the receptor from the estimated ambient concentration for the source or modification at the receptor. (6-30-95)

g. The T-RACT ambient concentration of the source or modification is estimated by using refined modeling and the T-RACT emission rate. (6-30-95)

h. The approved interpollutant ambient concentration from a source or modification for a toxic air pollutant at each receptor is calculated as follows: (6-30-95)

i. Step 1: Calculate the estimated decrease in ambient concentrations for each toxic air pollutant from each source contributing an approved interpollutant trade at the receptor by multiplying the approved interpollutant ratio by the overall decrease in the ambient concentration of the toxic air pollutant at the receptor site. (6-30-95)

ii. Step 2: Calculate the total estimated decrease at the receptor by summing all of the individual estimated decreases calculated in Subsection 210.03.h.i. for that receptor. (6-30-95)

iii. Step 3: Calculate the approved interpollutant ambient concentration by subtracting the total estimated decrease at the receptor from the estimated ambient concentration for the source or modification at the receptor. (6-30-95)

04. Preconstruction Compliance Demonstration. The applicant may use any of the Department approved standard methods described in Subsections 210.05 through 210.08, and may use any applicable specialized method described in Subsections 210.09 through 210.12 to demonstrate preconstruction compliance for each identified toxic air pollutant. (6-30-95)

05. Uncontrolled Emissions. (6-30-95)

a. Compare the source's or modification's uncontrolled emissions rate for the toxic air pollutant to the applicable screening emission level listed in Sections 585 or 586. (6-30-95)

b. If the source's or modification's uncontrolled emission rate is less than or equal to the applicable screening emission level, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

06. Uncontrolled Ambient Concentration. (6-30-95)

a. Compare the source's or modification's uncontrolled ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. (6-30-95)

b. If the source's or modification's uncontrolled ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

07. Controlled Emissions. (4-11-19)

a. Compare the source's or modification's controlled emissions rate for the toxic air pollutant to the applicable screening emission level listed in Sections 585 or 586. (4-11-19)

b. If the source's or modification's controlled emission rate is less than or equal to the applicable screening emission level, no further procedure for demonstrating preconstruction compliance is required for that toxic air pollutant as part of the application process. (4-11-19)

08. Controlled Ambient Concentration. (6-30-95)

a. Compare the source's or modification's controlled ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. (6-30-95)

b. If the source's or modification's controlled ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

c. The Department shall include an emission limit for the toxic air pollutant in the permit to construct that is equal to or, if requested by the applicant, less than the emission rate that was used in the modeling. (6-30-95)

09. Net Emissions. (6-30-95)

a. As provided in Section 007 (definition of net emissions increase) and Sections 460 and 461, the owner or operator may net emissions to demonstrate preconstruction compliance. (4-5-00)

b. Compare the modification's approved net emissions increase (expressed as an emission rate) for the toxic air pollutant to the applicable screening emission level listed in Sections 585 or 586. (6-30-95)

c. If the modification's approved net emissions increase is less than or equal to the applicable screening emission level, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

d. The Department shall include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. (6-30-95)

10. Net Ambient Concentration. (6-30-95)

a. As provided in Section 007 (definition of net emission increase) and Sections 460 and 461, the owner or operator may net ambient concentrations to demonstrate preconstruction compliance. (4-5-00)

b. Compare the modification's approved net ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. (6-30-95)

c. If the modification's approved net ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

d. The Department shall include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. (6-30-95)

11. Toxic Air Pollutant Offset Ambient Concentration. (6-30-95)

a. As provided in Sections 206 and 460, the owner or operator may use offsets to demonstrate preconstruction compliance. (6-30-95)

b. Compare the source's or modification's approved offset ambient concentration at the point of compliance for the toxic air pollutant to the applicable acceptable ambient concentration listed in Sections 585 or 586. (6-30-95)

c. If the source's or modification's approved offset ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

d. The Department shall include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. (6-30-95)

12. T-RACT Ambient Concentration for Carcinogens. (6-30-95)

a. As provided in Subsections 210.12 and 210.13, the owner or operator may use T-RACT to demonstrate preconstruction compliance for toxic air pollutants listed in Section 586. (6-30-95)

i. This method may be used in conjunction with netting (Subsection 210.09), and offsets (Subsection 210.11). (6-30-95)

ii. This method is not to be used to demonstrate preconstruction compliance for toxic air pollutants listed in Section 585. (6-30-95)

b. Compare the source's or modification's approved T-RACT ambient concentration at the point of compliance for the toxic air pollutant to the amount of the toxic air pollutant that would contribute an ambient air cancer risk probability of less than one to one hundred thousand (1:100,000) (which amount is equivalent to ten (10) times the applicable acceptable ambient concentration listed in Section 586). (6-30-95)

c. If the source's or modification's approved T-RACT ambient concentration at the point of compliance is less than or equal to the amount of the toxic air pollutant that would contribute an ambient air cancer risk probability of less than one to one hundred thousand (1:100,000), no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

d. The Department shall include emission limits and other permit terms for the toxic air pollutant in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. (6-30-95)

13. T-RACT Determination Processing. (6-30-95)

a. The applicant may submit all information necessary to the demonstration at the time the applicant submits the complete initial application or the applicant may request the Department to review a complete initial application to determine if Subsection 210.12 may be applicable to the source or modification. (6-30-95)

b. Notwithstanding Subsections 209.01.a. and 209.01.b., if the applicant requests the Department to review a complete initial application and Subsection 210.12 is determined to be applicable, the completeness determination for the initial application will be revoked until a supplemental application is submitted and determined complete. When the supplemental application is determined complete, the timeline for agency action shall be reinitiated. (6-30-95)

14. T-RACT Determination. T-RACT shall be determined on a case-by-case basis by the Department as follows: (6-30-95)

a. The applicant shall submit information to the Department identifying and documenting which control technologies or other requirements the applicant believes to be T-RACT. (5-1-94)

b. The Department shall review the information submitted by the applicant and determine whether the applicant has proposed T-RACT. (5-1-94)

c. The technological feasibility of a control technology or other requirements for a particular source shall be determined considering several factors including, but not limited to: (5-1-94)

i. Process and operating procedures, raw materials and physical plant layout. (5-1-94)

ii. The environmental impacts caused by the control technology that cannot be mitigated, including, but not limited to, water pollution and the production of solid wastes. (5-1-94)

iii. The energy requirements of the control technology. (5-1-94)

d. The economic feasibility of a control technology or other requirement, including the costs of necessary mitigation measures, for a particular source shall be determined considering several factors including, but not limited to: (5-1-94)

i. Capital costs. (5-1-94)

ii. Cost effectiveness, which is the annualized cost of the control technology divided by the amount of emission reduction. (5-1-94)

iii. The difference in costs between the particular source and other similar sources, if any, that have implemented emissions reductions. (5-1-94)

e. If the Department determines that the applicant has proposed T-RACT, the Department shall determine which of the options, or combination of options, will result in the lowest emission of toxic air pollutants, develop the emission standards constituting T-RACT and incorporate the emission standards into the permit to construct. (5-1-94)

f. If the Department determines that the applicant has not proposed T-RACT, the Department shall disapprove the submittal. If the submittal is disapproved, the applicant may supplement its submittal or demonstrate preconstruction compliance through a different method provided in Section 210. If the applicant does not supplement its submittal or demonstrate preconstruction compliance through a different method provided in Section 210, the Department shall deny the permit. (6-30-95)

15. Short Term Source Factor. For short term sources, the applicant may utilize a short term adjustment factor of ten (10). For a carcinogen, multiply either the applicable acceptable ambient concentration (AACC) or the screening emission rate, but not both, by ten (10), to demonstrate preconstruction compliance. This method may be used for TAPs listed in Section 586 only and may be utilized in conjunction with standard methods for quantification of emission rates (Subsections 210.05 through 210.08). (4-5-00)

16. Environmental Remediation Source. (6-30-95)

a. For Remediation sources subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and the "Idaho Rules and Standards for Hazardous Waste," (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order, if the estimated ambient concentration at the point of impact is greater than the acceptable ambient impacts listed in Sections 585 and 586, Best Available Control Technology shall be applied and operated until the estimated uncontrolled emissions from the remediation source are below the acceptable ambient concentration. (6-30-95)

b. For Remediation sources not subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and the "Idaho Rules and Standards for Hazardous Waste," (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order, shall, for the purposes of these rules, be considered the same as any other new or modified source of toxic air pollution. (6-30-95)

c. For an environmental remediation source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product or petroleum substance, the Department may waive the requirements of Section 513 of these rules. (3-15-02)

17. Interpollutant Trading Ambient Concentration. (6-30-95)

a. As provided in Subsections 209.01.c., 210.17 through 210.19, the owner or operator may use interpollutant trading to demonstrate preconstruction compliance. This method may be used in conjunction with netting (Subsection 210.10), and offsets (Subsection 210.11) (6-30-95)

b. Compare the source's or modification's approved interpollutant ambient concentration at the point of compliance for the toxic air pollutant emitted by the source or modification to the applicable acceptable ambient concentration listed in Sections 585 or 586. (6-30-95)

c. If the source's or modification's approved interpollutant ambient concentration at the point of compliance is less than or equal to the applicable acceptable ambient concentration listed in Sections 585 or 586, no further procedures for demonstrating preconstruction compliance will be required for that toxic air pollutant as part of the application process. (6-30-95)

d. The Department shall include emission limits for all of the toxic air pollutants involved in the trade in the permit to construct. The Department shall also include other permit terms in the permit to construct that assure that the facility will be operated in the manner described in the preconstruction compliance demonstration. (6-30-95)

18. Interpollutant Trading Determination Processing. (6-30-95)

a. The applicant may submit all information necessary to the demonstration at the time the applicant submits the complete initial application or the applicant may request the Department to review a complete initial application to determine if Subsection 210.17 may be applicable to the source or modification. (6-30-95)

b. Notwithstanding Subsections 209.01.a. and 209.01.b., if the applicant requests the Department to review a complete initial application and Subsection 210.17 is determined to be applicable, the completeness determination for the initial application will be revoked until a supplemental application is submitted and determined complete. When the supplemental application is determined complete, the timeline for agency action shall be reinitiated. (6-30-95)

19. Interpollutant Determination. (6-30-95)

a. The applicant may request an interpollutant trade if the Department determines that: (6-30-95)

i. The facility complies with an emission standard at least as stringent as best available control technology (BACT); and (6-30-95)

ii. The owner or operator has instituted all known and available methods of pollution prevention at the facility to reduce, avoid or eliminate toxic air pollution prior to its generation including, but not limited to, recycling, chemical substitution, and process modification provided that such pollution prevention methods are compatible with each other and the product or service being produced; and (6-30-95)

iii. The owner or operator has taken all available offsets; and (6-30-95)

iv. The owner or operator has identified all geographical areas and populations that may be impacted by the proposed interpollutant trade. (6-30-95)

b. Interpollutant trades shall be approved or denied on a case-by-case basis by the Department. Denials shall be within the discretion of the Department. Approvals shall be granted only if: (6-30-95)

i. The Department of Health and Welfare's Division of Health approves the interpollutant trade; and (6-30-95)

ii. The Department of Environmental Quality determines that the interpollutant trade will result in a overall benefit to the environment; and (6-30-95)

iii. An EPA approved database or other EPA approved reference provides relative potency factors, or comparable factors, or other data that is sufficient to allow for adequate review and approval of the proposed trade by the Department and the Department of Health and Welfare's Division of Health is submitted for all of the toxic air pollutants being traded; and (6-30-95)

iv. The reductions occur at the same facility where the proposed source or modification will be constructed; and (6-30-95)

v. The interpollutant trade will not cause an increase in sum of the ambient concentrations of the carcinogenic toxic air pollutants involved in the particular interpollutant trade at any receptor site; and (6-30-95)

vi. The total cancer risk with the interpollutant trade will be less than the total cancer risk without the interpollutant trade; and (6-30-95)

vii. The total non-cancer health risk with the interpollutant trade will be less than the total non-cancer health risk without the interpollutant trade. (6-30-95)

20. NSPS and NESHAP Sources. No demonstration of compliance with the toxic air pollutant provisions is required to obtain a permit to construct or to demonstrate permit to construct exemption criteria for a new source or for modification of an existing source if the toxic air pollutant is also a listed hazardous air pollutant from: (4-11-19)

a. The equipment or activity covered by a NSPS or NESHAP; or (4-11-19)

b. The source category of equipment or activity addressed by a NSPS or NESHAP even if the equipment or activity is not subject to compliance requirements under the federal rule. (4-11-94)

21. Permit Compliance Demonstration. Additional procedures and requirements to demonstrate and ensure actual and continuing compliance may be required by the Department in the permit to construct. (5-1-94)

22. Interpretation and Implementation of Other Sections. Except as specifically provided in other sections of these rules, the provisions of Section 210 are not to be utilized in the interpretation or implementation of any other section of these rules. (6-30-95)

211. CONDITIONS FOR PERMITS TO CONSTRUCT.

01. Reasonable Conditions. The Department may impose any reasonable conditions upon an approval, including conditions requiring the stationary source or facility to be provided with: (5-1-94)

a. Sampling ports of a size, number, and location as the Department may require; (5-1-94)

b. Safe access to each port; (5-1-94)

c. Instrumentation to monitor and record emissions data; (5-1-94)

d. Instrumentation for ambient monitoring to determine the effect emissions from the stationary source or facility may have, or are having, on the air quality in any area affected by the stationary source or facility; and (5-1-94)

e. Any other sampling and testing facilities as may be deemed reasonably necessary. (5-1-94)

02. Cancellation. The Department may cancel a permit to construct if the construction is not begun within two (2) years from the date of issuance, or if during the construction, work is suspended for one (1) year. (5-1-94)

03. Notification to The Department. Any owner or operator of a stationary source or facility subject to a permit to construct shall furnish the Department written notifications as follows: (5-1-94)

a. A notification of the anticipated date of initial start-up of the stationary source or facility not more than sixty (60) days or less than thirty (30) days prior to such date; and (5-1-94)

b. A notification of the actual date of initial start-up of the stationary source or facility within fifteen (15) days after such date. (5-1-94)

04. Performance Test. Within sixty (60) days after achieving the maximum production rate at which the stationary source or facility will be operated but not later than one hundred eighty (180) days after initial start-up of such stationary source or facility, the owner or operator of such stationary source or facility may be required to conduct a performance test in accordance with methods and under operating conditions approved by the Department and furnish the Department a written report of the results of such performance test. (5-1-94)

a. Such test shall be at the expense of the owner or operator. (5-1-94)

b. The Department may monitor such test and may also conduct performance tests. (5-1-94)

c. The owner or operator of a stationary source or facility shall provide the Department fifteen (15) days prior notice of the performance test to afford the Department the opportunity to have an observer present. (5-1-94)

212. OBLIGATION TO COMPLY.

01. Responsibility to Comply with All Requirements. Receiving a permit to construct shall not

relieve any owner or operator of the responsibility to comply with all applicable local, state and federal statutes, rules and regulations. (5-1-94)

02. Relaxation of Standards or Restrictions. At such time that a particular facility or modification becomes a major facility or major modification solely by virtue of a relaxation in any enforceable emission standard or restriction on the operating rate, hours of operation or on the type or amount of material combusted, stored or processed, which was used to exempt the facility or modification from certain requirements for a permit to construct, the requirements for new major facilities or major modifications shall apply to the facility or modification as though construction had not yet commenced. (5-1-94)

213. PRE-PERMIT CONSTRUCTION.

This section describes how owners or operators may commence construction or modification of certain stationary sources before obtaining the required permit to construct. (3-23-98)

01. Pre-Permit Construction Eligibility. Pre-permit construction approval is available for non-major sources and non-major modifications and for new sources or modifications proposed in accordance with Subsection 213.01.d. Pre-permit construction is not available for any new source or modification that: uses emissions netting to stay below major source levels; uses optional offsets pursuant to Section 206; or would have an adverse impact on the air quality related values of any Class I area. Owners or operators may ask the Department for the ability to commence construction or modification of qualifying sources under Section 213 before receiving the required permit to construct. To obtain the Department's pre-permit construction approval, the owner or operator shall satisfy the following requirements: (4-5-00)

a. The owner or operator shall apply for a permit to construct in accordance with Subsections 202.01.a., 202.02, and 202.03 of this chapter. (3-23-98)

b. The owner or operator shall consult with Department representatives prior to submitting a pre-permit construction approval application. (3-23-98)

c. The owner or operator shall submit a pre-permit construction approval application which must contain, but not be limited to: a letter requesting the ability to construct before obtaining the required permit to construct, a copy of the notice referenced in Subsection 213.02; proof of eligibility; process description(s); equipment list(s); proposed emission limits and modeled ambient concentrations for all regulated air pollutants and toxic air pollutants, such that they demonstrate compliance with all applicable air quality rules and regulations. The models shall be conducted in accordance with Subsection 202.02 and with written Department approved protocol and submitted with sufficient detail so that modeling can be duplicated by the Department. (4-11-06)

d. Owners or operators seeking limitations on a source's potential to emit such that permitted emissions will be either below major source levels or below a significant increase must describe in detail in the pre-permit construction application the proposed restrictions and certify in accordance with Section 123 that they will comply with the restrictions, including any applicable monitoring and reporting requirements. (3-23-98)

02. Permit to Construct Procedures for Pre-Permit Construction. (3-23-98)

a. Within ten (10) days after the submittal of the pre-permit construction approval application, the owner or operator shall hold an informational meeting in at least one (1) location in the region in which the stationary source or facility is to be located. The informational meeting shall be made known by notice published at least ten (10) days before the meeting in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. A copy of such notice shall be included in the application. (3-23-98)

b. Within fifteen (15) days after the receipt of the pre-permit construction approval application, the Department shall notify the owner or operator in writing of pre-permit construction approval or denial. The Department may deny the pre-permit construction approval application for any reason it deems valid. (3-23-98)

c. Upon receipt of the pre-permit construction approval letter issued by the Department, the owner or operator may begin construction at their own risk as identified in Subsection 213.02.d. Upon issuance of the pre-permit construction approval letter, any and all potential to emit limitations addressed in the pre-permit construction

application pursuant to Subsection 213.01.d. shall become enforceable. The owner or operator shall not operate those emissions units subject to permit to construct requirements in accordance with Section 200 unless and until issued a permit pursuant to Section 209. (5-3-03)

d. If the pre-permit construction approval application is determined incomplete or the permit to construct is denied, the Department shall issue an incompleteness or denial letter pursuant to Section 209. If the Department denies the permit to construct, then the owner or operator shall have violated Section 201 on the date it commenced construction as defined in Section 006. The owner or operator shall not contest the final permit to construct decision based on the fact that they have already begun construction. (3-23-98)

214. DEMONSTRATION OF PRECONSTRUCTION COMPLIANCE FOR NEW AND RECONSTRUCTED MAJOR SOURCES OF HAZARDOUS AIR POLLUTANTS.

01. Permitting Authority. For purposes of this section, Sections 112(g) and (j) of the Clean Air Act, and 40 CFR Part 63, the permitting authority shall be the Department. (3-19-99)

02. Definitions. Unless specifically provided otherwise, the definitions for terms set forth in this section shall be the definitions set forth in Section 112 of the Clean Air Act and 40 CFR Part 63 as incorporated by reference into these rules at Section 107. For purposes of determining if a source is a major source of hazardous air pollutants, the definition of potential to emit at Section 006 of these rules shall apply. (3-19-99)

03. Compliance with Federal MACT. All owners or operators of major sources of hazardous air pollutants which are subject to an applicable Maximum Available Control Technology (MACT) standard promulgated by EPA pursuant to Section 112 of the Clean Air Act and 40 CFR Part 63 shall comply with the applicable MACT standard and such owners or operators are not subject to Subsections 214.04 and 214.05. (3-19-99)

04. Requirement to Obtain Preconstruction MACT Determination from the Director. No owner or operator may construct or reconstruct a major source of hazardous air pollutants unless such owner or operator has obtained a MACT standard determination from the Director. The Director shall make the MACT standard determination on a case by case basis and in accordance with Section 112(g)(2)(B) of the Clean Air Act and 40 CFR 63.40 through 63.44 as incorporated by reference into these rules at Section 107. (3-19-99)

05. Development of MACT by the Director After EPA Deadline. In the event that EPA fails to promulgate a MACT standard for a category or subcategory of major sources of hazardous air pollutants identified by the EPA under the Clean Air Act by the date established under Section 112(e) of the Clean Air Act, the owner or operator of any major source of hazardous air pollutants in such category or subcategory shall submit an application to the Director for a MACT standard determination. The Director shall make the MACT standard determination on a case by case basis and in accordance with Section 112(j) of the Clean Air Act and 40 CFR 63.50 through 63.56 as incorporated by reference into these rules at Section 107. (3-19-99)

215. MERCURY EMISSION STANDARD FOR NEW OR MODIFIED SOURCES.

No owner or operator may commence construction or modification of a stationary source or facility that results in an increase in annual potential emissions of mercury of twenty-five (25) pounds or more unless the owner or operator has obtained a permit to construct under Sections 200 through 228 of these rules. The permit to construct application shall include an MBACT analysis for the new or modified source or sources for review and approval by the Department. A determination of applicability under Section 215 shall be based upon the best available information. Fugitive emissions shall not be included in a determination of applicability under Section 215. (4-7-11)

01. Exemptions. New or modified stationary sources within a source category subject to 40 CFR Part 63 are exempt from the requirements of Section 215. (4-7-11)

02. Applicability. Except as provided in Subsection 215.01, Section 215 applies to all new or modified sources for which an application for a permit to construct was submitted to the Department on or after July 1, 2011. (4-7-11)

216. -- 219. (RESERVED)

220. GENERAL EXEMPTION CRITERIA FOR PERMIT TO CONSTRUCT EXEMPTIONS.

01. General Exemption Criteria. Sections 220 through 223 may be used by owners or operators to exempt certain sources from the requirement to obtain a permit to construct. Nothing in these sections shall preclude an owner or operator from choosing to obtain a permit to construct. For purposes of Sections 220 through 223, the term source means the equipment or activity being exempted. For purposes of Sections 220 through 223, fugitive emissions shall not be considered in determining whether a source meets the applicable exemption criteria unless required by federal law. No permit to construct is required for a source that satisfies all of the following criteria, in addition to the criteria set forth at Sections 221 and 223 or 222 and 223 (as required): (4-4-13)

a. The maximum capacity of a source to emit an air pollutant under its physical and operational design without consideration of limitations on emission such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed would not: (4-5-00)

i. Equal or exceed one hundred (100) tons per year of any regulated air pollutant. (4-5-00)

ii. Cause an increase in the emissions of a major facility that equals or exceeds the significant emissions rates set out in the definition of significant at Section 006. (4-5-00)

b. Combination. The source is not part of a proposed new major facility or part of a proposed major modification. (4-5-00)

02. Record Retention. Unless the source is subject to and the owner or operator complies with Section 385, the owner or operator of the source, except for those sources listed in Subsections 222.02.a. through 222.02.g., shall maintain documentation on site which shall identify the exemption determined to apply to the source and verify that the source qualifies for the identified exemption. The records and documentation shall be kept for a period of time not less than five (5) years from the date the exemption determination has been made or for the life of the source for which the exemption has been determined to apply, which ever is greater, or until such time as a permit to construct or an operating permit is issued which covers the operation of the source. The owner or operator shall submit the documentation to the Department upon request. (4-5-00)

221. CATEGORY I EXEMPTION.

No permit to construct is required for a source that satisfies the criteria set forth in Section 220 and the following: (4-5-00)

01. Below Regulatory Concern. The maximum capacity of a source to emit an air pollutant under its physical and operational design considering limitations on emissions such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed shall be less than ten percent (10%) of the significant emission rates set out in the definition of significant at Section 006. (4-5-00)

02. Radionuclides. The source is not required to obtain approval to construct in accordance with the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-11-19)

03. Toxic Air Pollutants. The source shall comply with Section 223. (4-5-00)

04. Mercury. The source shall have potential emissions that are less than twenty-five (25) pounds per year of mercury. Fugitive emissions shall not be included in the calculation of potential mercury emissions. (4-7-11)

222. CATEGORY II EXEMPTION.

No permit to construct is required for the following sources. (4-5-00)

01. Exempt Source. A source that satisfies the criteria set forth in Section 220 and that is specified below: (4-5-00)

a. Laboratory equipment used exclusively for chemical and physical analyses, research or education,

including, but not limited to, ventilating and exhaust systems for laboratory hoods. To qualify for this exemption, the source shall: (5-1-94)

- i. Comply with Section 223. (4-5-00)
- ii. Not be required to obtain approval to construct in accordance with the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-11-19)

b. Environmental characterization activities including emplacement and operation of field instruments, drilling of sampling and monitoring wells, sampling activities, and environmental characterization activities. (4-5-00)

c. Stationary internal combustion engines of less than or equal to six hundred (600) horsepower and which are fueled by natural gas, propane gas, liquefied petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. To qualify for this exemption, the source must be operated in accordance with the following: (5-1-94)

- i. One hundred (100) horsepower or less -- unlimited hours of operation. (5-1-94)
- ii. One hundred one (101) to two hundred (200) horsepower -- less than four hundred fifty (450) hours per month. (5-1-94)
- iii. Two hundred one (201) to four hundred (400) horsepower -- less than two hundred twenty-five (225) hours per month. (5-1-94)
- iv. Four hundred one (401) to six hundred (600) horsepower -- less than one hundred fifty (150) hours per month. (5-1-94)

d. Stationary internal combustion engines used exclusively for emergency purposes which are operated less than five hundred (500) hours per year and are fueled by natural gas, propane gas, liquefied petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. (4-11-06)

e. A pilot plant that uses a slip stream from an existing process stream not to exceed ten percent (10%) of that existing process stream and which satisfies the following: (4-4-13)

- i. The source shall comply with Section 223. For carcinogen emissions, the owner or operator may utilize a short term adjustment factor of ten (10) by multiplying either the acceptable ambient concentration or the screening emissions level, but not both, by ten (10). (4-5-00)
- ii. The source is not required to obtain approval to construct in accordance with the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-11-19)
- iii. The exemption for a pilot plant shall terminate one (1) year after the commencement of operations and shall not be renewed. (4-5-00)

02. Other Exempt Sources. A source that satisfies the criteria set forth in Section 220 and that is specified below: (4-5-00)

- a.** Air conditioning or ventilating equipment not designed to remove air pollutants generated by or released from equipment. (5-1-94)
- b.** Air pollutant detectors or recorders, combustion controllers, or combustion shutoffs. (5-1-94)
- c.** Fuel burning equipment for indirect heating and for heating and reheating furnaces using natural gas, propane gas, liquefied petroleum gas, or biogas (gas produced by the anaerobic decomposition of organic material through a controlled process) with hydrogen sulfide concentrations less than two hundred (200) ppmv

- exclusively with a capacity of less than fifty (50) million btu's per hour input. (4-11-06)
- d.** Other fuel burning equipment for indirect heating with a capacity of less than one million (1,000,000) btu's per hour input. (5-1-94)
 - e.** Mobile internal combustion engines, marine installations and locomotives. (5-1-94)
 - f.** Agricultural activities and services. (5-1-94)
 - g.** Retail gasoline, natural gas, propane gas, liquefied petroleum gas, distillate fuel oils and diesel fuel sales. (5-1-94)
 - h.** Used Oil Fired Space Heaters which comply with all the following requirements: (7-1-97)

 - i.** The used oil fired space heater burns only used oil that the owner or operator generates on site, that is derived from households, such as used oil generated by individuals maintaining their personal vehicles, or on-specification used oil that is derived from commercial generators provided that the generator, transporter and owner or operator burning the oil for energy recovery comply fully with IDAPA 58.01.05.015, "Rules and Standards for Hazardous Waste"; (7-1-97)

 - (1) For the purposes of Subsection 222.02.h., "used oil" refers to any oil that has been refined from crude oil or any synthetic oil that has been used and, as a result of such use, is contaminated by physical or chemical impurities. (4-5-00)
 - (2) For the purposes of Subsection 222.02.h., "used oil fired space heater" refers to any furnace or apparatus and all appurtenances thereto, designed, constructed and used for combusting used oil for energy recovery to directly heat an enclosed space. (4-5-00)
 - ii.** Any used oil burned is not contaminated by added toxic substances such as solvents, antifreeze or other household and industrial chemicals; (7-1-97)
 - iii.** The used oil fired space heater is designed to have a maximum capacity of not more than one half (0.5) million BTU per hour; (4-5-00)
 - iv.** The combustion gases from the used oil fired space heater are vented to the ambient air through a stack equivalent to the type and design specified by the manufacturer of the heater and installed to minimize down wash and maximize dispersion; and (7-1-97)
 - v.** The used oil fired space heater is of modern commercial design and manufacture, except that a homemade used oil fired space heater may be used if, prior to the operation of the homemade unit, the owner or operator submits documentation to the Department demonstrating, to the satisfaction of the Department, that emissions from the homemade unit are no greater than those from modern commercially available units. (7-1-97)
 - i.** Multiple chamber crematory retorts used to cremate human or animal remains using natural gas exclusively with a maximum average charge capacity of two hundred (200) pounds of remains per hour and a minimum secondary combustion chamber temperature of one thousand five hundred (1500) degrees Fahrenheit while operating. (4-11-06)
 - j.** Petroleum environmental remediation source by vapor extraction with an operation life not to exceed five (5) years (except for landfills). The short-term adjustment factor in Subsection 210.15 cannot be used if the remediation is within five hundred (500) feet of a sensitive receptor. Forms are available at the DEQ website at <http://www.deq.idaho.gov>, to help assist sources in this exemption determination. (4-11-06)
 - k.** Dry cleaning facilities that are not major under, but subject to, 40 CFR Part 63, Subpart M. (4-11-06)

223. EXEMPTION CRITERIA AND REPORTING REQUIREMENTS FOR TOXIC AIR POLLUTANT EMISSIONS.

No permit to construct for toxic air pollutants is required for a source that satisfies any of the exemption criteria below, the recordkeeping requirements at Subsection 220.02, and reporting requirements as follows: (4-5-00)

01. Below Regulatory Concern (BRC) Exemption. The source qualifies for a BRC exemption if the uncontrolled emission rate (refer to Section 210) for all toxic air pollutants emitted by the source is less than or equal to ten percent (10%) of all applicable screening emission levels listed in Sections 585 and 586. (4-5-00)

02. Level I Exemption. To obtain a Level I exemption, the source shall satisfy the following criteria: (4-5-00)

a. The uncontrolled emission rate (refer to Section 210) for all toxic air pollutants shall be less than or equal to all applicable screening emission levels listed in Sections 585 and 586; or (4-5-00)

b. The uncontrolled ambient concentration (refer to Section 210) for all toxic air pollutants at the point of compliance shall be less than or equal to all applicable acceptable ambient concentrations listed in Sections 585 and 586. (4-5-00)

03. Level II Exemption. To obtain a Level II exemption, the maximum capacity of a source to emit a toxic air pollutant under its physical and operational design considering limitations on emissions such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed at the point of compliance is less than or equal to ten percent (10%) of all applicable screening emission levels listed in Sections 585 and 586. (4-11-19)

04. Annual Report for Toxic Air Pollutant Exemption. The owner or operator of a source claiming a Level I or II exemption shall submit a certified report, on or before May 1 for the previous calendar year, to the Department for each Level I or II exemption determination. The owner or operator is not required to annually submit a certified report for a Level I or II exemption determination previously claimed and reported. The report shall be labeled "Toxic Air Pollutant Exemption Report" and shall state the date construction has or will commence and shall include copies of all exemption determinations completed by the owner or operator for each Level I and II exemption. (4-11-19)

224. PERMIT TO CONSTRUCT APPLICATION FEE.

All applicants for a permit to construct shall submit a permit to construct application fee of one thousand dollars (\$1,000) to the Department at the time of the original submission of the application. The permit to construct application fee is not required to be submitted for: (7-1-02)

01. Exemption Applicability Determinations. Exemption applicability determinations set forth in Sections 220 through 223; (7-1-02)

02. Typographical Errors. Changes to correct typographical errors; or (7-1-02)

03. Name or Ownership Change. A change in the name or ownership of the holder of a permit to construct when the Department determines no other review or analysis is required. (7-1-02)

225. PERMIT TO CONSTRUCT PROCESSING FEE.

A permit to construct processing fee, calculated by the Department pursuant to the categories provided in the following table, shall be paid to the Department by the person receiving the permit. The applicable processing fee category shall be determined by adding together the amount of increases of regulated pollutant emissions and subtracting any decreases of regulated pollutant emissions as identified in the permit to construct. The fee calculation shall not include fugitive emissions.

PERMIT TO CONSTRUCT CATEGORY	FEE
General permit, no facility-specific requirements (Defined as a source category specific permit for which the Department has developed standard emission limitations, operating requirements, monitoring and recordkeeping requirements, and that require minimal engineering analysis. General permit facilities may include portable concrete batch plants, portable hot-mix asphalt plants and portable rock crushing plants.)	\$500
New source or modification to existing source with increase of emissions of less than one (1) ton per year	\$1,000
New source or modification to existing source with increase of emissions of one (1) to less than ten (10) tons per year	\$2,500
New source or modification to existing source with increase of emissions of ten (10) to less than one hundred (100) tons per year	\$5,000
Nonmajor new source or modification to existing source with increase of emissions of one hundred (100) tons per year or more	\$7,500
New major facility or major modification	\$10,000
Permit modifications where no engineering analysis is required	\$250
Application submittals for exemption applicability determinations, typographical errors, and name and ownership changes as described in Subsections 224.01, 224.02, 224.03	\$0.00

(4-6-05)

226. PAYMENT OF FEES FOR PERMITS TO CONSTRUCT.

01. Fee Submittal. The permit to construct application fee shall be submitted with the application. The permit to construct processing fee shall be payable upon receipt of an assessment sent to the person receiving a permit by the Department. The permit to construct application and processing fees shall be sent to:

Air Quality Permit to Construct Fees
 Fiscal Office,
 Idaho Department of Environmental Quality
 1410 N. Hilton, Boise, ID 83706-1255

(7-1-02)

02. Delinquency. No application for a permit to construct shall be processed by the Department unless accompanied by a permit to construct application fee. No permit to construct shall be issued by the Department until the Department has received the permit to construct processing fee.

(7-1-02)

227. RECEIPT AND USAGE OF FEES.

Permit to construct application and processing fee receipts shall be deposited by the Department into a stationary source permit account. Monies from this account shall be used solely toward technical, legal and administrative support of the Department's permit to Construct and Tier II permit programs and shall not be used for those activities supported by the fund created for implementing the operating permit program required under Title V of the federal Clean Air Act amendments of 1990. The permit to construct application fee payable under Section 227 shall be retained by the Department regardless of whether a permit to construct is issued by the Department in response to an application. The Department will review the fee schedule at least every two (2) years.

(7-1-02)

228. APPEALS.

A person may be able to file an appeal within thirty-five (35) days of the date the person receives an assessment from the Department under Section 225, in accordance with IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality."

(5-3-03)

229. -- 299. (RESERVED)

300. PROCEDURES AND REQUIREMENTS FOR TIER I OPERATING PERMITS.

The purposes of Sections 300 through 399 are to establish requirements and procedures for the issuance of Tier I operating permits. (7-1-02)

301. REQUIREMENT TO OBTAIN TIER I OPERATING PERMIT.

01. Prohibition. No owner or operator shall operate, or allow or tolerate the operation of, any Tier I source without an effective Tier I operating permit. (5-1-94)

02. Exceptions. (3-23-98)

a. No Tier I operating permit is required if the owner or operator is in compliance with Sections 311 through 315 and the Department has not taken final action on the application. (5-1-94)

b. Tier I sources not located at major facilities do not require a Tier I operating permit until: (3-23-98)

i. December 31, 1997 for Phase II sulfur dioxide sources; (3-23-98)

ii. January 1, 1999 for Phase II nitrogen oxides sources; (3-23-98)

iii. January 1, 2000 for solid waste incineration units required to obtain a permit pursuant to 42 U.S.C. Section 7429(e); and (3-23-98)

iv. The source becomes a Tier I source under Section 006 of this chapter. (4-11-06)

c. No Tier I operating permit is required for the following Tier I sources: (5-1-94)

i. All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 60, Subpart AAA; and (5-1-94)

ii. All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 61.145. (5-1-94)

302. OPTIONAL TIER I OPERATING PERMIT.

Any facility listed in Section 301 not required to obtain a Tier I operating permit may opt to apply for a Tier I operating permit. (3-23-98)

303. -- 310. (RESERVED)

311. STANDARD PERMIT APPLICATIONS.

The purpose of Sections 311 through 315 is to establish standard Tier I operating permit application procedures. (5-1-94)

312. DUTY TO APPLY.

For each Tier I source, the owner or operator shall submit a timely and complete permit application in accordance with Sections 311 through 315. (5-1-94)

313. TIMELY APPLICATION.

01. Original Tier I Operating Permits. (5-1-94)

a. For Tier I sources existing on May 1, 1994, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit by no later than June 1, 1996, or within twelve (12) months of EPA approval of the Tier I operating program, whichever is earlier, unless: (3-20-97)

- i. The Department provides written notification of an earlier date to the owner or operator. (5-1-94)
 - ii. The Tier I source is identified in Subsections 301.02.b. or 301.02.c. (5-1-94)
 - b.** For sources that become Tier I sources after May 1, 1994, that are located at a facility not previously authorized by a Tier I operating permit, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit within twelve (12) months after becoming a Tier I source or commencing operation, unless: (3-23-98)
 - i. The Department provides written notification of an earlier date to the owner or operator. (5-1-94)
 - ii. The Tier I source is identified in Subsections 301.02.b. or 301.02.c. (5-1-94)
 - c.** For initial phase II acid rain sources identified in Subsections 301.02.b.i. or 301.02.b.ii., the owner or operator of the initial Phase II acid rain source shall submit to the Department a complete application for an original Tier I operating permit by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides. (3-23-98)
 - d.** For Tier I sources identified in Subsection 301.02.b.iii.: (3-23-98)
 - i. Existing on July 1, 1998, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit by no later than January 1, 1999, unless the Department provides written notification of an earlier date to the owner or operator. (3-23-98)
 - ii. That become Tier I sources after July 1, 1998, located at a facility not previously authorized by a Tier I operating permit, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit within twelve (12) months after becoming a Tier I source or commencing operation, unless the Department provides written notification of an earlier date to the owner or operator. (3-23-98)
- 02. Earlier Dates During Initial Period.** Except as otherwise provided in these rules, during the initial period which begins May 1, 1994 and ends three (3) years after EPA approval of the Tier I operating program, the Department may designate Tier I sources for processing as follows: (5-1-94)
- a.** The Department may develop a general estimate of the total work load and benefits associated with the Tier I operating permit applications that are predicted to be submitted during the initial period including, but not limited to, original permit applications and significant permit modification applications. (3-19-99)
 - b.** Considering the complexity of the applications, air quality benefits of permitting and requests for early actions from owners and operators, the Department may divide the applications into three (3) groups each representing approximately one-third (1/3) of the total work load and benefits. (5-1-94)
 - c.** The Department may prioritize the three (3) groups and the Tier I sources within each group for processing, establish early application deadlines and notify the owners or operators of the Tier I sources in the group in writing of a required submittal date earlier than the general deadlines provided in Subsection 313.01. (5-1-94)
- 03. Renewals of Tier I Operating Permits.** The owner or operator of the Tier I source shall submit a complete application to the Department for a renewal of the Tier I operating permit at least six (6) months before, but no earlier than eighteen (18) months before, the expiration date of the existing Tier I operating permit. To ensure that the term of the operating permit does not expire before the permit is renewed, the owner or operator is encouraged to submit the application nine (9) months prior to expiration. (4-5-00)
- 04. Changes to Tier I Operating Permits.** Sections 380 through 386 provide the requirements and procedures for changes at Tier I sources and to Tier I operating permits. (3-19-99)

314. REQUIRED STANDARD APPLICATION FORM AND REQUIRED INFORMATION.

- 01. General Requirements.** (5-1-94)
- a.** Applications shall be submitted on a form or forms provided by the Department or by other means prescribed by these rules or the Department. The application shall be certified by the responsible official in accordance with Section 123. (5-1-94)
- i.** If the Tier I source is regulated under 42 U.S.C. Sections 7651 through 7651o, the owner or operator shall also submit nationally-standardized acid rain forms provided by EPA. (5-1-94)
- b.** All information shall be in sufficient detail so that the Department may efficiently and effectively determine the applicability of requirements and make all other necessary evaluations and determinations. (5-1-94)
- 02. General Information for the Facility.** (5-1-94)
- a.** Provide identifying information, including the name, address and telephone number of: (5-1-94)
- i.** The owner; (5-1-94)
- ii.** The operator; (5-1-94)
- iii.** The facility where the Tier I source is located; (5-1-94)
- iv.** The registered agent of the owner, if any; (5-1-94)
- v.** The registered agent of the operator, if any; (5-1-94)
- vi.** The responsible official, if other than the owner or operator; and (5-1-94)
- vii.** The contact person. (5-1-94)
- b.** Provide a general description of the processes used and products produced by the facility where the Tier I source is located, including any associated with each requested alternative operating scenario and trading scenario. The description shall include narrative and applicable SIC codes. (5-1-94)
- c.** Provide a general description of each process line affecting a Tier I source. (5-1-94)
- 03. Specific Information for Each Emissions Unit.** The owner or operator shall provide, in an itemized format, all of the information identified in Subsections 314.04 through 314.11 for each emissions unit, unless the emissions unit is an insignificant activity. (4-5-00)
- 04. Emissions.** (5-1-94)
- a.** Identify and describe all emissions of pollutants for which the source is major and all emissions of regulated air pollutants from each emissions unit. Fugitive emissions shall be included in the application in the same manner as stack emissions, regardless of whether the source category is included in the list of sources contained in the definition of major facility (Section 008). (3-23-98)
- b.** Emissions rates shall be quantified in tons per year (tpy) or for radionuclides the effective dose equivalent (EDE) in millirem per year and in such additional terms as are necessary to determine compliance consistent with the applicable test method. (4-5-00)
- c.** Identify and describe all points of emissions in sufficient detail to establish the basis for fees and applicability of requirements of the Clean Air Act. (3-20-97)
- d.** To the extent it is needed to determine or regulate emissions, identify and quantify all fuels, fuel use, raw materials, production rates, and operating schedules. (5-1-94)

- e. Identify and describe all air pollution control equipment and compliance monitoring devices or activities. (5-1-94)
- f. Identify and describe all limitations on source operation or any work practice standards affecting emissions. (5-1-94)
- g. Provide the calculations on which the information provided under Subsections 314.04.a. through 314.04.e. is based. (4-5-00)
- 05. Applicable Requirements.** (5-1-94)
 - a. Cite and describe all applicable requirements affecting the emissions unit; and (5-1-94)
 - b. Describe or reference all methods required by each applicable requirement for determining the compliance status of the emissions unit with the applicable requirement, including any applicable monitoring, recordkeeping and reporting requirements or test methods. (5-1-94)
- 06. Other Requirements.** Other specific information that may be necessary to determine the applicability of, implement or enforce any requirement of the Act, these rules, 42 U.S.C. Sections 7401 through 7671q or federal regulations. (5-1-94)
- 07. Proposed Determinations of Nonapplicability.** Identify requirements for which the applicant seeks a determination of nonapplicability and provide an explanation of why the requirement is not applicable to the Tier I source. (3-23-98)
- 08. Alternative Operating Scenarios.** (5-1-94)
 - a. Identify all requested alternative operating scenarios. (5-1-94)
 - b. Provide a detailed description of all requested alternative operating scenarios. Include all the information required by Section 314 that is relevant to the alternative operating scenario. (5-1-94)
- 09. Compliance Certifications.** (5-1-94)
 - a. Provide a compliance certification regarding the compliance status of each emissions unit at the time the application is submitted to the Department that: (5-1-94)
 - i. Identifies all applicable requirements affecting each emissions unit. (5-1-94)
 - ii. Certifies the compliance status of each emissions unit with each of the applicable requirements. (5-1-94)
 - iii. Provides a detailed description of the method(s) used for determining the compliance status of each emissions unit with each applicable requirement, including a description of any monitoring, recordkeeping, reporting and test methods that were used. Also provide a detailed description of the method(s) required for determining compliance. (5-1-94)
 - iv. Certifies the compliance status of the emissions unit with any applicable enhanced monitoring requirements. (5-1-94)
 - v. Certifies the compliance status of the emissions unit with any applicable enhanced compliance certification requirements. (5-1-94)
 - vi. Provides all other information necessary to determining the compliance status of the emissions unit. (5-1-94)
 - b. Provide a schedule for submission of compliance certifications during the term of the Tier I

operating permit. The schedule shall require compliance certifications to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department. (5-1-94)

10. Compliance Plans. (5-1-94)

a. Provide a compliance description as follows: (5-1-94)

i. For each applicable requirement with which the emissions unit is in compliance, state that the emissions unit will continue to comply with the applicable requirement. (5-1-94)

ii. For each applicable requirement that will become effective during the term of the Tier I operating permit that does not contain a more detailed schedule, state that the emissions unit will meet the applicable requirement on a timely basis. (5-1-94)

iii. For each applicable requirement that will become effective during the term of the Tier I operating permit that contains a more detailed schedule, state that the emissions unit will comply with the applicable requirement on the schedule provided in the applicable requirement. (5-1-94)

iv. For each applicable requirement with which the emission unit is not in compliance, state that the emissions unit will be in compliance with the applicable requirement by the time the Tier I operating permit is issued or provide a compliance schedule in accordance with Subsection 314.10.b. (4-5-00)

b. All compliance schedules shall: (5-1-94)

i. Include a schedule of remedial measures leading to compliance, including an enforceable sequence of actions and specific dates for achieving milestones and achieving compliance. (4-5-00)

ii. Incorporate the terms and conditions of any applicable consent order, judicial order, judicial consent decree, administrative order, settlement agreement or judgment. (5-1-94)

iii. Be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based. (5-1-94)

c. Provide a schedule for submission to the Department of periodic progress reports no less frequently than every six (6) months or at a more frequent period if one (1) is specified in the underlying applicable requirement or by the Department. (4-5-00)

11. Trading Scenarios. (5-1-94)

a. Identify all requested trading scenarios, including alternative emissions limits (bubbles) authorized by Section 440. (5-1-94)

b. Provide a detailed description of all requested trading scenarios. Include all the information required by Section 314 that is relevant to the trading scenario and all the information required by Section 440, if applicable. Emissions trades must comply with all applicable requirements. (3-23-98)

c. Provide proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. Emissions trades involving emissions units for which the emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trade shall not be approved. (3-23-98)

12. Additional Information. Provide all additional information that the Department determines is necessary for the Department to efficiently and effectively perform its functions. Such functions include, but are not limited to, determining the applicability of requirements for all regulated air pollutants, determining compliance with applicable requirements, developing or defining Tier I operating permit terms and conditions, defining all approved alternative operating scenarios, evaluating excess emissions procedures or making all necessary evaluations and determinations. (4-5-00)

315. DUTY TO SUPPLEMENT OR CORRECT APPLICATION.

01. Failure to Submit. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. (5-1-94)

02. Necessary Additional Information. If, while processing an application that has been determined or deemed to be complete, the Department determines that additional information is necessary to evaluate or take final action on that application, the Department may request such information in writing and set a deadline for a response. The applicant shall submit the requested information on or before the deadline set by the Department. (5-1-94)

03. Additional Information After Completeness. The applicant shall promptly provide additional information as necessary to address any requirements that become applicable to the Tier I source after the date a complete application was filed but prior to release of a proposed action. (5-1-94)

316. EFFECT OF INACCURATE INFORMATION IN APPLICATIONS OR FAILURE TO SUBMIT RELEVANT INFORMATION.

Notwithstanding the shield provisions of Section 325, the owner or operator shall be subject to enforcement action for operation of the Tier I source without a Tier I operating permit if the owner or operator submitted an incomplete or inaccurate application or the Tier I source is later determined not to qualify for coverage under the conditions and terms of the Tier I operating permit. (4-5-00)

317. INSIGNIFICANT ACTIVITIES.

01. Applicability Criteria. This Section contains the criteria for identifying insignificant activities for the purposes of the Tier I operating permit program. Notwithstanding any other provision of this rule, no emission unit or activity subject to an applicable requirement shall qualify as an insignificant emission unit or activity. Applicants may not exclude from Tier I operating permit applications information that is needed to determine whether the facility is major or whether the facility is in compliance with applicable requirements. (3-23-98)

- a.** Presumptively insignificant emission units. (3-23-98)
 - i.** Except as provided above, the activities listed in this section may be omitted from the permit application. (3-23-98)
 - (1) Blacksmith forges. (3-23-98)
 - (2) Mobile transport tanks on vehicles except for those containing asphalt and not including loading and unloading operations. (3-23-98)
 - (3) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities. (3-23-98)
 - (4) Storage tanks, reservoirs and pumping and handling equipment of any size, limited to soaps, lubricants, lubricating oil, treater oil, hydraulic fluid, vegetable oil, grease, animal fat, aqueous salt solutions or other materials and processes using appropriate lids and covers where there is no generation of objectionable odor or airborne particulate matter. (3-23-98)
 - (5) Pressurized storage of oxygen, nitrogen, carbon dioxide, air, or inert gases. (3-3-95)L
 - (6) Storage of solid material, dust-free handling. (3-3-95)L
 - (7) Boiler water treatment operations, not including cooling towers. (3-23-98)
 - (8) Vents from continuous emission monitors and other analyzers. (3-3-95)L

- (9) Vents from rooms, buildings and enclosures that contain permitted emissions units or activities from which local ventilation, controls, and separate exhaust are provided. (3-3-95)L
- (10) Internal combustion engines for propelling or powering a vehicle. (3-3-95)L
- (11) Recreational fireplaces including the use of barbecues, campfires and ceremonial fires. (3-3-95)L
- (12) Brazing, soldering, and welding equipment and cutting torches for use in cutting metal wherein components of the metal do not generate hazardous air pollutants or hazardous air pollutant precursors. (3-23-98)
- (13) Atmospheric generators used in connection with metal heat treating processes using non-hazardous air pollutant metals as the primary raw material. (3-23-98)
- (14) Non-hazardous air pollutant metal finishing or cleaning using tumblers. (3-23-98)
- (15) Drop hammers or hydraulic presses for forging or metalworking. (3-3-95)L
- (16) Electrolytic deposition, used to deposit brass, bronze, copper, iron, tin, zinc, precious and other metals not listed as the parents of hazardous air pollutants. (3-23-98)
- (17) Equipment used for surface coating, painting, dipping or spraying operations, except those that will emit volatile organic compound or hazardous air pollutant. (3-23-98)
- (18) Process water filtration systems. (3-23-98)
- (19) Portable electrical generators that can be moved by hand from one (1) location to another. Moved by hand means that it can be moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device. (3-23-98)
- (20) Plastic and resin curing equipment, excluding FRP and provided these activities are not related to the source's primary business activity. (3-23-98)
- (21) Extrusion equipment, metals, minerals, plastics, grain or wood used without solvents containing hazardous air pollutant. (3-23-98)
- (22) Presses and vacuum forming, for curing rubber and plastic products or for laminating plastics without solvents containing hazardous air pollutants present. (3-23-98)
- (23) Roller mills and calendars for use with rubber and plastics without solvents containing hazardous air pollutants. (3-23-98)
- (24) Conveying and storage of plastic pellets. (3-3-95)L
- (25) Plastic compression, injection, and transfer molding and extrusion, rotocasting, pultrusion, blowmolding, excluding acrylics, PVC, polystyrene and related copolymers and the use of plasticizer. Only oxygen, carbon dioxide, nitrogen, air or inert gas allowed as blowing agent. (3-3-95)L
- (26) Plastic pipe welding. (3-3-95)L
- (27) Wax application in either a molten state or aqueous suspension. (3-23-98)
- (28) Plant maintenance and upkeep including routine housekeeping, janitorial activities, cleaning and preservation of equipment, preparation for and painting of structures or equipment, retarring roofs, applying insulation to buildings in accordance with applicable environmental and health and safety requirements and lawn, landscaping and groundskeeping activities. Provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and not otherwise triggering a permit modification. (3-23-98)

- (29) Agricultural activities on a facility's property that are not subject to registration or new source review by the permitting authority. (3-3-95)L
- (30) Maintenance of paved streets and parking lots including paving, stripping, salting, sanding, cleaning and sweeping of streets and paved surfaces. Provided these activities are not related to the source's primary business activity, do not otherwise trigger a permit modification, and fugitive emissions are reasonably controlled as required in Section 808. (3-23-98)
- (31) Ultraviolet curing processes. (3-3-95)L
- (32) Hot melt adhesive application with no volatile organic compounds or hazardous air pollutants in the adhesive formula. (3-23-98)
- (33) Laundering, dryers, extractors, tumblers for fabrics, using water solutions of bleach and/or detergents except for boilers. (3-23-98)
- (34) Steam cleaning operations. (3-3-95)L
- (35) Steam sterilizers. (3-3-95)L
- (36) Food service activities including cafeterias, kitchen facilities and barbecues located at a source for providing food service on premises. (3-23-98)
- (37) Portable drums and totes. (3-3-95)L
- (38) Fluorescent light tube and aerosol can crushing in units designed to reduce emissions from these activities. (3-23-98)
- (39) Flares used to indicate danger to the public. (3-3-95)L
- (40) General vehicle maintenance including vehicle exhaust from repair facilities provided these activities are not related to the source's primary business activity and do not have applicable requirements under title VI of the Clean Air Act. (3-23-98)
- (41) Comfort air conditioning or air cooling systems, not used to remove air contaminants from specific equipment. (3-3-95)L
- (42) Natural draft hoods, natural draft stacks, or natural draft ventilators for sanitary and storm drains, safety valves, and storage tanks subject to size and service limitations expressed elsewhere in this section. (3-3-95)L
- (43) Natural and forced air vents for bathroom/toilet facilities. (3-3-95)L
- (44) Office activities. (3-3-95)L
- (45) Equipment used for quality control/assurance or inspection purposes, including sampling equipment used exclusively to withdraw materials for laboratory analyses and testing. (3-23-98)
- (46) Fire suppression systems and similar safety equipment and equipment used to train firefighters including fire drill pits. (3-23-98)
- (47) Materials and equipment used by, and activity related to operation of infirmary; infirmary is not the source's business activity except equipment affected by the radionuclide NESHAP. (3-23-98)
- (48) Satellite Accumulation Areas (SAAs) and Temporary Accumulation Areas (TAAs) managed in compliance with RCRA. (3-23-98)

- (49) Equipment for carving, cutting, routing, turning, drilling, machining, sawing, surface grinding, sanding, planing, buffing, shot blasting, sintering, or polishing: Ceramics, glass, leather, metals, plastics, rubber, concrete, paper stock, or wood provided that these activities are not conducted as part of a manufacturing process. (3-23-98)
- (50) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment subject to other exemption limitation, e.g., internal and external combustion equipment. (3-3-95)L
- (51) Slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment. (3-23-98)
- (52) Ozonation equipment. (3-3-95)L
- (53) Temporary construction activities at a facility provided that the installation or modification of emissions units must comply with all applicable federal, state, and local rules and regulations. (3-23-98)
- (54) Batch loading and unloading of solid phase catalysts. (3-3-95)L
- (55) Pulse capacitors. (3-3-95)L
- (56) Gas cabinets using only gases that are not regulated air pollutants. (3-3-95)L
- (57) CO₂ lasers, used only on metals and other materials which do not emit hazardous air pollutants in the process. (3-23-98)
- (58) Structural changes not having air contaminant emissions. (3-3-95)L
- (59) Equipment used to mix, package, store and handle soaps, lubricants, vegetable oil, grease, animal fat, and non-volatile aqueous salt solutions, provided appropriate lids and covers are utilized. (3-23-98)
- (60) Photographic process equipment by which an image is reproduced upon material sensitized to radiant energy, e.g., blueprint activity, photocopiers, mimeograph, telefax, photographic developing, and microfiche provided these activities are not related to the source's primary business activity. (3-23-98)
- (61) Pharmaceutical and cosmetics packaging equipment. (3-3-95)L
- (62) Paper trimmers/binders provided these activities are not related to the source's primary business activity. (3-23-98)
- (63) Bench-scale laboratory equipment and laboratory equipment used exclusively for physical or chemical analysis, including associated vacuum producing devices but excluding research and development facilities. (3-23-98)
- (64) Repair and maintenance shop activities not related to the source's primary business activity. (3-23-98)
- (65) Handling equipment and associated activities for glass and aluminum which is destined for recycling, provided these activities are not related to the source's primary business activity. (3-23-98)
- (66) Hydraulic and hydrostatic testing equipment. (3-3-95)L
- (67) Batteries and battery charging stations, except at battery manufacturing plants. (3-23-98)
- (68) Porcelain and vitreous enameling equipment. (3-3-95)L
- (69) Solid waste containers. (3-3-95)L

(70)	Salt baths using nonvolatile salts that do not result in emissions of any regulated air pollutants.	(3-23-98)
(71)	Shock chambers.	(3-3-95)L
(72)	Wire strippers.	(3-3-95)L
(73)	Humidity chambers.	(3-3-95)L
(74)	Solar simulators.	(3-3-95)L
(75)	Environmental chambers not using hazardous air pollutant gases.	(3-23-98)
(76)	Totally enclosed conveyors not including transfer points.	(3-23-98)
(77)	Steam vents and safety relief valves.	(3-3-95)L
(78)	Air compressors, pneumatically operated equipment, systems, and hand tools.	(3-3-95)L
(79)	Steam leaks.	(3-3-95)L
(80)	Boiler blow-down tank.	(3-3-95)L
(81)	Salt cake mix tanks at pulp mills.	(3-23-98)
(82)	Digester chip feeders at pulp mills.	(3-23-98)
(83)	Weak liquor and filter tanks at pulp mills.	(3-23-98)
(84)	Process water and white water storage tanks at pulp mills.	(3-23-98)
(85)	Demineralizer water tanks, demineralization, demineralizer vents, and oxygen scavenging (deaeration) of water.	(3-23-98)
(86)	Clean condensate tanks.	(3-3-95)L
(87)	Alum tanks.	(3-3-95)L
(88)	Broke beaters, repulpers, pulp and repulping tanks, stock chests and pulp handling.	(3-3-95)L
(89)	Lime and mud filtrate tanks.	(3-3-95)L
(90)	Hydrogen peroxide tanks.	(3-3-95)L
(91)	Lime mud washer.	(3-3-95)L
(92)	Lime mud filter.	(3-3-95)L
(93)	Hydro and liquor clarifiers or filters and storage tanks and associated pumping, piping, and handling.	(3-23-98)
(94)	Lime grits washers, filters, and handing.	(3-3-95)L
(95)	Lime silos and feed bins.	(3-3-95)L
(96)	Paper forming.	(3-3-95)L

- (97) Starch cooking. (3-3-95)L
- (98) Pulp stock cleaning and screening. (3-23-98)
- (99) Paper winders or other paper converting equipment. (3-23-98)
- (100) Sludge dewatering and wet sludge handling. (3-23-98)
- (101) Screw press vents. (3-3-95)L
- (102) Pond dredging. (3-3-95)L
- (103) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation. (3-3-95)L
- (104) Non-PCB oil filled circuit breakers, oil filled transformers and other equipment that is analogous to, but not considered to be, a tank. (3-3-95)L
- (105) Lab-scale electric or steam-heated drying ovens and autoclaves. (3-23-98)
- (106) Sewer manholes, junction boxes, sumps and lift stations associated with waste water treatment systems. (3-3-95)L
- (107) Water cooling towers processing exclusively noncontact cooling water. (3-3-95)L
- (108) Paper coating and sizing. (3-3-95)L
- (109) Process waste water and ponds. (3-3-95)L
- (110) Outdoor firearms practice ranges. (3-3-95)L
- b.** Insignificant activities on the basis of size or production rate. (3-23-98)
- i. This section contains lists of units or activities that are insignificant on the basis of size or production rate. Units and activities listed in this section must be listed in the permit application. The following units and activities are determined to be insignificant based on their size or production rate: (3-23-98)
- (1) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than two hundred sixty (260) gallon capacity thirty five cubic feet (35cft), heated only to the minimum extend to avoid solidification if necessary. (3-3-95)L
- (2) Operation, loading and unloading of storage tanks, not greater than one thousand one hundred (1,100) gallon capacity, with lids or other appropriate closure, not for use with hazardous air pollutants, maximum (max.) vp five-hundred fifty (550) mm Hg. (3-23-98)
- (3) Operation, loading and unloading of volatile organic compound storage tanks, ten thousand (10,000) gallons capacity or less, with lids or other appropriate closure, vp not greater than eighty (80) mm Hg at twenty-one (21) degrees C. Operation, loading and unloading of gasoline storage tanks, ten thousand (10,000) gallons capacity or less, with lids or other appropriate closure. (3-23-98)
- (4) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas (LPG), storage tanks, vessel capacity under forty thousand (40,000) gallons. (3-3-95)L
- (5) Combustion source, less than five million (5,000,000) Btu/hr, exclusively using natural gas, butane, propane, and/or LPG. (3-3-95)L
- (6) Combustion source, less than five hundred thousand (500,000) Btu/hr, using any commercial fuel

containing less than four-tenths percent (.4%) by weight sulfur for coal or less than one percent (1%) by weight sulfur for other fuels. (3-3-95)L

(7) Combustion source, of less than one million (1,000,000) Btu/hr, if using kerosene, No. 1 or No. 2 fuel oil. (3-3-95)L

(8) Combustion source, not greater than five hundred thousand (500,000) Btu/hr, if burning waste wood, wood waste or waste paper. (3-3-95)L

(9) Welding using not more than one (1) ton per day of welding rod. (3-3-95)L

(10) Foundry sand molds, unheated and using binders with less than twenty-five hundredths percent (.25%) free phenol by sand weight. (3-3-95)L

(11) "Parylene" coaters using less than five hundred (500) gallons of coating per year. (3-3-95)L

(12) Printing and silkscreening, using less than two (2) gallon/day of any combination of the following: Inks, coatings, adhesives, fountain solutions, thinners, retarders, or nonaqueous cleaning solutions. (3-3-95)L

(13) Water cooling towers and ponds, not using chromium-based corrosion inhibitors, not used with barometric jets or condensers, not greater than ten thousand (10,000) gpm, not in direct contact with gaseous or liquid process streams containing regulated air pollutants. (3-3-95)L

(14) Combustion turbines, of less than five hundred (500) HP. (3-3-95)L

(15) Batch solvent distillation, not greater than fifty-five (55) gallons batch capacity. (3-3-95)L

(16) Municipal and industrial water chlorination facilities of not greater than twenty million (20,000,000) gallons per day capacity. The exemption does not apply to waste water treatment. (3-3-95)L

(17) Surface coating, using less than two (2) gallons per day. (3-3-95)L

(18) Space heaters and hot water heaters using natural gas, propane or kerosene and generating less than five million (5,000,000) Btu/hr. (3-3-95)L

(19) Tanks, vessels, and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids excluding:

(a) Ninety-nine percent (99%) or greater H₂SO₄ or H₃PO₄. (3-3-95)L

(b) Seventy percent (70%) or greater HNO₃. (3-3-95)L

(c) Thirty percent (30%) or greater HCl. (3-3-95)L

(d) More than one (1) liquid phase where the top phase is more than one percent (1%) volatile organic compounds. (3-23-98)

(20) Equipment used exclusively to pump, load, unload, or store high boiling point organic material, material with initial boiling point (IBP) not less than one hundred fifty (150) degrees C or vapor pressure (vp) not more than five (5) mm Hg at twenty-one (21) degrees C with lids or other appropriate closure. (3-3-95)L

(21) Smokehouses under twenty (20) square feet. (3-3-95)L

(22) Milling and grinding activities, using paste-form compounds with less than one percent (1%) volatile organic compounds. (3-23-98)

(23) Rolling, forging, drawing, stamping, shearing, or spinning hot or cold metals. (3-3-95)L

- (24) Dip-coating operations, using materials with less than one percent (1%) volatile organic compounds. (3-23-98)
- (25) Surface coating, aqueous solution or suspension containing less than one percent (1%) volatile organic compounds. (3-23-98)
- (26) Cleaning and stripping activities and equipment, using solutions having less than one percent (1%) volatile organic compounds by weight. On metallic substrates, acid solutions are not considered for listing as insignificant. (3-23-98)
- (27) Storage and handling of water based lubricants for metal working where the organic content of the lubricant is less than ten percent (10%). (3-3-95)L
- (28) Municipal and industrial waste water chlorination facilities of not greater than one million (1,000,000) gallons per day capacity. (3-3-95)L
- (29) Domestic sewage treatment ponds with average flowrates less than four hundred (400) gpm or treating waste from less than three thousand (3000) people from non-residential sources. (3-23-98)
- (30) An emission unit or activity with potential emissions less than or equal to the significant emission rate as defined in Section 006 and actual emissions less than or equal to ten percent (10%) of the levels contained in Section 006 of the definition of significant and no more than one (1) ton per year of any hazardous air pollutant. (5-3-03)

318. -- 320. (RESERVED)

321. TIER I OPERATING PERMIT CONTENT.

The purpose of Sections 321 through 336 is to mandate and authorize the contents of Tier I operating permits. (5-1-94)

322. STANDARD CONTENTS OF TIER I OPERATING PERMITS.

All Tier I operating permits shall contain and the Department shall have the authority to impose, implement and enforce, the following elements for all permitted operating scenarios and emissions trading scenarios. Fugitive emissions shall be included in the Tier I operating permit in the same manner as stack emissions. (3-23-98)

01. Emission Limitations and Standards. All Tier I operating permits shall contain emission limitations and standards, including, but not limited to, those operational requirements and limitations that assure compliance with the applicable requirements identified in the application, or determined by the Department to be applicable to the source. (3-19-99)

02. Authority for and Form of Terms and Conditions. All Tier I operating permits shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based. (5-1-94)

03. Terms or Conditions for Applicable Requirements. All Tier I operating permits shall contain at least one (1) permit term or condition for every applicable requirement specifically identified in the application or determined by the Department to be applicable to the source. (3-23-98)

04. Alternative Operating Scenarios. All Tier I operating permits shall contain terms and conditions to ensure compliance with all applicable requirements for each alternative operating scenario that was requested by the applicant and approved by the Department, including, but not limited to, a requirement that the owner or operator of the source, contemporaneously with making a change from one (1) operating scenario to another, record the change in an operating scenario log located and retained at the permitted facility. (5-1-94)

05. Trading Scenarios. (5-1-94)

a. All Tier I operating permits shall contain terms and conditions for each trading scenario that was requested by the applicant and approved by the Department including, but not limited to, terms and conditions which ensure that any emission trade is quantifiable, accountable, enforceable and based on replicable procedures.

(3-23-98)

b. The Tier I operating permit shall state that no permit revision shall be required under approved economic incentives, marketable permits, emissions trading, and other similar programs or processes for changes that are provided for in the permit.

(4-5-00)

c. The Tier I operating permit shall, at a minimum, include a requirement that the owner or operator of the source, contemporaneously with making a change from one (1) trading scenario to another, record the change in a trading scenario log located and retained at the permitted facility and provide notice to the Department in accordance with Section 383.

(3-23-98)

06. Monitoring. All Tier I operating permits shall contain the following with respect to monitoring:

(5-1-94)

a. Sufficient monitoring to ensure compliance with all of the terms and conditions of the Tier I operating permit;

(5-1-94)

b. All emissions monitoring and analysis procedures or test methods required under the applicable requirements;

(5-1-94)

c. If the applicable requirement does not require specific periodic testing or monitoring, terms and conditions requiring periodic monitoring, recordkeeping, or both, that is sufficient to yield reliable data for the relevant time periods that are representative of the emissions unit's compliance with the Tier I operating permit, as reported pursuant to Subsection 322.08, and ensuring the use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement; and

(5-1-94)

d. Requirements that the Department determines are necessary, concerning the use, maintenance and installation of monitoring equipment or methods.

(5-1-94)

07. Recordkeeping. All Tier I operating permits shall incorporate by reference all applicable requirements regarding recordkeeping and require all of the following:

(5-1-94)

a. Sufficient recordkeeping to assure compliance with all of the terms and conditions of the Tier I operating permit.

(5-1-94)

b. Recording of monitoring information including but not limited to the following:

(5-1-94)

i. The date, place (as defined in the Tier I operating permit) and time of sampling or measurements;

(5-1-94)

ii. The date(s) analyses were performed;

(5-1-94)

iii. The company or entity that performed the analyses;

(5-1-94)

iv. The analytical techniques or methods used;

(5-1-94)

v. The results of such analyses; and

(5-1-94)

vi. The operating conditions existing at the time of sampling or measurement.

(5-1-94)

c. Retention of all monitoring records and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report or application. Supporting information includes but is not limited to all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the Tier I operating permit.

(5-1-94)

08. Reporting. All Tier I operating permits shall incorporate by reference all applicable requirements regarding reporting and require all of the following: (5-1-94)

a. Sufficient reporting to assure compliance with all of the terms and conditions of the Tier I operating permit. (5-1-94)

b. Prompt reporting of deviations from permit requirements including, but not limited to, those attributable to excess emissions. If the deviation is an excess emission, the report shall be submitted in accordance with the requirements of Sections 130 through 136. For all other deviations, the report shall be submitted in accordance with Subsection 322.08.c. unless the permit specifies another time frame. The reports shall describe the probable cause of such deviations and any corrective actions or preventative measures taken. (3-23-98)

c. Submittal of reports for any required monitoring at least every six (6) months. All instances of deviations from Tier I operating permit requirements, which include monitoring, recordkeeping, and reporting, must be clearly identified in such reports. All required reports must be certified in accordance with Section 123. (4-5-00)

09. Testing. All Tier I operating permits shall contain terms and conditions requiring sufficient testing to assure compliance with all of the terms and conditions of the Tier I operating permit. (5-1-94)

10. Compliance Schedule and Progress Reports. All Tier I operating permits shall contain terms and conditions regarding the compliance plan submitted in the application in accordance with Subsection 314.10 including all of the following: (4-5-00)

a. For each applicable requirement for which the source is not in compliance at the time of the permit issuance, terms and conditions consistent with the compliance schedule submitted by the applicant including all of the following: (4-5-00)

i. A schedule of remedial measures leading to compliance including an enforceable sequence of actions and specific dates for achieving the milestones and achieving compliance. (4-5-00)

ii. A requirement that the permittee submit periodic progress reports to the Department no less frequently than every six (6) months or at a more frequent period if one is specified in the underlying applicable requirement or by the Department. (5-1-94)

iii. A requirement that any progress report shall include a statement of when the milestones and compliance were or will be achieved, an explanation of why any dates in the compliance schedule submitted by the applicant or in the terms or conditions of the Tier I operating permit were not or will not be met and a detailed description of any preventative or corrective measures undertaken by the permittee. (5-1-94)

iv. All terms and conditions of any applicable consent order, judicial order, judicial consent decree, administrative order, settlement agreement or judgment. (5-1-94)

v. A statement that the terms and conditions regarding the compliance schedule are supplemental to, and do not sanction noncompliance with, the underlying applicable requirement. (5-1-94)

b. For each applicable requirement that will become effective during the term of the Tier I operating permit and that requires a detailed compliance schedule, the permit shall include such compliance schedule. (4-5-00)

c. For each applicable requirement that will become effective during the term of the Tier I operating permit that does not require a detailed compliance schedule, the permit shall include a statement that the permittee shall meet, on a timely basis, all such applicable requirements. (4-5-00)

11. Periodic Compliance Certifications. Each Tier I operating permit shall require submittal of compliance certifications during the term of the permit for each emissions unit to the Department and the EPA as follows: (5-1-94)

a. Compliance certifications for all emissions units shall be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department. (5-1-94)

b. The compliance certification for each emissions unit shall address all of the terms and conditions contained in the Tier I operating permit that are applicable to such emissions unit including emissions limitations, standards and work practices. (5-1-94)

c. The compliance certification shall be in an itemized format providing the following information: (5-1-94)

i. The identification of each term or condition of the Tier I operating permit that is the basis of the certification; (4-5-00)

ii. The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. Such methods and other means shall include, at a minimum, the methods and means required under Subsections 322.06, 322.07, and 322.08; (4-6-05)

iii. The status of compliance with the terms and conditions of the Tier I operating permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the method or means designated in Subsection 322.11.c.ii. above. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under 40 CFR Part 64 occurred; and (4-6-05)

iv. Such information as the Department may require to determine the compliance status of the emissions unit. (4-5-00)

d. All original compliance certifications shall be submitted to the Department and a copy of all compliance certifications shall be submitted to the EPA; (5-1-94)

12. Permit Conditions Regarding Acid Rain Allowances. (5-1-94)

a. A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds. (5-1-94)

b. No limit shall be placed on the number of allowances held by the source and no permit revisions shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement. (3-23-98)

c. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement. (5-1-94)

d. Any such allowance shall be accounted for according to the procedures established in 40 CFR Part 72 and 40 CFR Part 73. (5-1-94)

13. Permit Duration. Each Tier I operating permit shall state that it is effective for a fixed term of five (5) years; except that during the first four (4) years after EPA approval of the Tier I operating permit program, the permit may be issued with an initial term of three (3) years to five (5) years unless the Tier I source is also a Phase II source. (5-1-94)

14. Other Specific Requirements. Any terms or conditions determined by the Department to be necessary for approval of the Tier I operating permit. (5-1-94)

15. General Requirements. Each Tier I operating permit shall contain provisions stating the following: (5-1-94)

- a.** The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action; for permit revocation, termination, revocation and reissuance, or revision; or for denial of a permit renewal application. (5-1-94)
- b.** It shall not be a defense in an enforcement action that it would have been necessary to halt or reduce any activity in order to maintain compliance with the terms and conditions of this permit. (5-1-94)
- c.** This permit may be revised, revoked, reopened and reissued, or terminated for cause. (5-1-94)
- d.** The filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition. (5-1-94)
- e.** This permit does not convey any property rights of any sort, or any exclusive privilege. (5-1-94)
- f.** The permittee shall furnish all information requested by the Department, within a reasonable time, that the Department may request in writing to determine whether cause exists for modifying, revoking and reissuing or terminating the permit or to determine compliance with the permit. (4-5-00)
- g.** Upon request, the permittee shall furnish to the Department copies of records required to be kept by this permit. (5-1-94)
- h.** The provisions of this permit are severable, and if any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby. (5-1-94)
- i.** The permittee shall comply with Sections 380 through 386 as applicable. (3-19-99)
- j.** Unless specifically identified as a “State Only” provision, all terms and conditions in the this permit, including any terms and conditions designed to limit a source's potential to emit, are enforceable: (5-1-94)
- i.** By the Department in accordance with State law; and (5-1-94)
- ii.** By the United States or any other person in accordance with Federal law. (5-1-94)
- k.** Provisions specifically identified as a “State Only” provision are enforceable only in accordance with State law. “State Only” provisions are those that are not required under the Federal Clean Air Act or under any of its applicable requirements or those provisions adopted by the State prior to federal approval. (3-23-98)
- l.** Upon presentation of credentials, the permittee shall allow the Department or an authorized representative of the Department to do the following: (5-1-94)
- i.** Enter upon the permittee's premises where a Tier I source is located or emissions-related activity is conducted, or where records are kept under the conditions of this permit; (5-1-94)
- ii.** Have access to and copy, at reasonable times, any records that are kept under the conditions of this permit; (5-1-94)
- iii.** Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under this permit; and (5-1-94)
- iv.** Sample or monitor at reasonable times substances or parameters for the purpose of determining or ensuring compliance with this permit or applicable requirements. (5-1-94)
- m.** Nothing in this permit shall alter or affect the following: (5-1-94)

- i. Any administrative authority or judicial remedy available to prevent or terminate emergencies or imminent and substantial dangers; (5-1-94)
- ii. The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance; (5-1-94)
- iii. The applicable requirements of the acid rain program, consistent with 42 U.S.C. Section 7651g(a); (5-1-94)
- iv. The owner or operator's duty to provide information. (5-1-94)
- n. The owner or operator of a Tier I source shall pay registration fees to the Department in accordance with Sections 387 through 399, which are hereby incorporated by reference. (7-1-02)
- o. All documents submitted to the Department shall be certified in accordance with Section 123 and comply with Section 124. (5-1-94)
- p. If a timely and complete application for a Tier I operating permit renewal is submitted, but the Department fails to issue or deny the renewal permit before the end of the term of the previous permit, then all the terms and conditions of the previous permit including any permit shield that may have been granted pursuant to Section 325 shall remain in effect until the renewal permit has been issued or denied. (5-1-94)
- q. The permittee shall promptly report deviations from permit requirements including, but not limited to, those attributable to excess emissions. If the deviation is an excess emission, the report shall be submitted in accordance with the requirements of Sections 130 through 136. For all other deviations, the report shall be submitted in accordance with Subsection 322.08.c. unless the permit specifies another time frame. The reports shall describe the probable cause of such deviations and any corrective actions or preventative measures taken. (3-23-98)

323. -- 324. (RESERVED)

325. ADDITIONAL CONTENTS OF TIER I OPERATING PERMITS -- PERMIT SHIELD.

Each Tier I operating permit shall include provisions stating: (5-1-94)

01. General Permit Shield. Compliance with the terms and conditions of the Tier I operating permit, including those applicable to all alternative operating scenarios and trading scenarios, shall be deemed compliance with all of the following: (5-1-94)

a. Applicable requirements as of the date of permit issuance that are specifically identified in the Tier I operating permit and have a corresponding term or condition in the Tier I operating permit. (5-1-94)

b. Non-applicable requirements. For a requirement to be a non-applicable requirement, all of the following criteria must be met: (5-1-94)

i. The permittee must have provided the information required by Subsection 314.08.b. in the application. (5-1-94)

ii. The requirement must be specifically identified in the Tier I operating permit as a non-applicable requirement. (5-1-94)

iii. The requirement must have been determined by the Department, in writing and in acting on the permit application or revision, to not be applicable to the Tier I source. (5-1-94)

iv. Tier I operating permit must include the Department's determination or a concise summary thereof. (5-1-94)

02. Limitation on Permit Shield. Permit revisions and other actions authorized by Sections 300 through 386 may eliminate, modify or suspend the permit shield. (3-19-99)

326. -- 331. (RESERVED)

332. EMERGENCY AS AN AFFIRMATIVE DEFENSE REGARDING EXCESS EMISSIONS.

01. General. An emergency, as defined in Section 008, constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitation if the conditions of Subsection 332.02 are met. (4-5-00)

02. Demonstration of Emergency. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that: (5-1-94)

a. An emergency occurred and that the permittee can identify the cause(s) of the emergency; (5-1-94)

b. The permitted facility was at the time being properly operated; (5-1-94)

c. During the period of the emergency, the permittee took all reasonable steps, as determined by the Department, to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and (5-1-94)

d. The permittee submitted written notice of the emergency to the Department within two (2) working days of the time when emission limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken. Compliance with this section satisfies the written reporting requirements under Section 135 and Subsection 322.15.q. (4-5-00)

03. Burden of Proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof. (5-1-94)

04. Applicability. Section 332 is in addition to any emergency or upset provision contained in any applicable requirement. (3-20-97)

333. -- 334. (RESERVED)

335. GENERAL TIER I OPERATING PERMITS AND AUTHORIZATIONS TO OPERATE.

01. Issuance of General Tier I Operating Permits. The Department may, after notice and opportunity for public participation provided in accordance with Section 364, issue a general Tier I operating permit covering numerous similar sources. (5-1-94)

02. Contents of General Tier I Operating Permits. Each general Tier I operating permit: (5-1-94)

a. Shall include all terms and conditions identified in Sections 322 and 325. (3-23-98)

b. Shall include specific criteria by which sources may qualify for coverage under the general Tier I operating permit; and (5-1-94)

c. May provide for applications which deviate from the requirements of Sections 311 through 315, provided that such applications meet all other requirements of 42 U.S.C. 7661 through 7661f and include all information necessary to determine qualification for, and to ensure compliance with, the general Tier I operating permit. (3-23-98)

03. Applications for Authorizations to Operate. The owner or operator of a Tier I source may apply for an authorization to operate under the terms and conditions of a general Tier I operating permit by: (5-1-94)

a. Stating in the application submitted pursuant to Sections 311 through 315 that the owner or operator has determined that the Tier I source qualifies for coverage under a specifically identified general Tier I operating permit and that the owner or operator requests that operations of the Tier I source be authorized under a

specifically identified general Tier I operating permit; or (5-1-94)

b. Complying with the specific application requirements, if any, provided in the general Tier I operating permit. (5-1-94)

04. Procedures for Issuing Authorizations to Operate. Without repeating the public participation procedures required under Section 364, the Department shall issue an authorization to operate a Tier I source under a specifically identified general Tier I operating permit if the Department determines that the Tier I source qualifies for coverage. (3-23-98)

05. Review of Authorizations to Operate. The issuance of an authorization to operate shall be a final agency action for purposes of administrative and judicial review of the authorization. The general Tier I operating permit shall not be subject to administrative or judicial review upon the issuance of an authorization to operate. (5-1-94)

06. Phase II Sources. General Tier I operating permits shall not be authorized for Phase II sources under the acid rain program unless otherwise provided in 40 CFR Part 72. (5-1-94)

336. TIER I OPERATING PERMITS FOR TIER I PORTABLE SOURCES.

01. Issuance of Tier I Operating Permits for Portable Tier I Sources. (5-1-94)

a. The Department may issue a single Tier I operating permit authorizing emissions from similar operations of a portable Tier I source by the owner or operator at multiple temporary locations. (5-1-94)

b. The operation must be temporary and involve at least one (1) change of location for the portable Tier I source during the term of the Tier I operating permit. (5-1-94)

02. Phase II Sources. No Phase II source shall be permitted as a portable Tier I source. (5-1-94)

03. Contents of Tier I Operating Permits for Portable Tier I Sources. Tier I operating permits for portable Tier I sources shall include the following: (5-1-94)

a. Terms and conditions that will ensure compliance with all applicable requirements at all authorized locations; (5-1-94)

b. Requirements that the owner or operator notify the Department at least ten (10) days in advance of each change in location in accordance with Section 500; and (5-1-94)

c. All terms and conditions identified in Sections 322 and 325 through 332. (5-1-94)

337. -- 359. (RESERVED)

360. STANDARD PROCESSING OF TIER I OPERATING PERMIT APPLICATIONS.

The purposes of Sections 360 through 369 is to establish standard procedures and requirements for processing Tier I operating permits. (5-1-94)

361. COMPLETENESS OF APPLICATIONS.

01. Criteria for Completeness. Except as otherwise provided by these rules, the application must comply with Section 314 including that the information must be in sufficient detail. (5-1-94)

02. Timelines for Determinations of Completeness. The Department shall send written notice to the applicant of whether the application is complete within sixty (60) days of receiving the application. If the Department fails to send the written notice to the applicant within sixty (60) days of receipt, the application shall be deemed complete. (3-23-98)

03. Effects of Completeness Determination. (5-1-94)

a. The submittal of a complete application activates the application shield provided by Subsection 361.02. (5-1-94)

b. The submittal of a complete Tier I operating permit application shall not affect the permit to construct requirements of Sections 200 through 225 or 42 U.S.C. Sections 7401 through 7515. (5-1-94)

c. The timelines for final agency action provided in Subsections 367.02 and 367.03 begin on the date of the completeness determination. (5-1-94)

362. TECHNICAL MEMORANDUMS FOR TIER I OPERATING PERMITS.

01. Memorandum for Draft Permit. As part of its review of the Tier I operating permit application, the Department shall prepare a technical memorandum that sets forth the legal and factual basis for the draft Tier I operating permit terms and conditions (including references to the applicable statutory or regulatory provisions) or the draft denial. (5-1-94)

02. Revised Memorandum for Proposed Permit. If the Department revises its analysis, its conclusions or the terms or conditions of the Tier I operating permit in response to public comment, the Department may revise the technical memorandum for the proposed permit or the proposed denial. (5-1-94)

03. Release of Memorandum. The technical memorandum(s) shall be made available to the public in accordance with Section 364 and sent to the EPA with the proposed Tier I operating permit or proposed denial. (5-1-94)

363. PREPARATION OF DRAFT PERMIT OR DRAFT DENIAL.

Except as otherwise provided in these rules, the Department shall prepare a draft permit or draft denial as promptly as practicable or one hundred twenty (120) days before the deadline for final action, whichever is earlier. (5-1-94)

364. PUBLIC NOTICES, COMMENTS AND HEARINGS.

01. Generally. Except as otherwise provided in these rules, all Tier I operating permit proceedings shall provide for public notice and public comment, including offering an opportunity for a hearing, on a draft permit or on a draft denial. (5-1-94)

02. Public Comment Package. A public comment package including the draft permit or draft denial, the technical memorandum and the application shall be prepared and distributed to appropriate public locations, the applicant and affected States. (5-1-94)

03. Giving Notice. Notice shall be given: by publication in a newspaper of general circulation in the area where the Tier I source is located or in a State publication designed to give general public notice; by mailing the notice to persons on a mailing list developed by the Department, including those who request in writing to be on the list; by mailing the notice to all affected States; and by other means if necessary to ensure adequate notice to the affected public. (5-1-94)

04. Content of the Notice. The notice shall identify the affected facility; provide the name and address of the permittee; provide the name and address of the Department processing the application; identify the draft permit action; identify the emissions change if the permit action is a permit revision or reopening; provide the locations where the public may locate a copy of the public comment package; provide the name, address, and telephone number of a person from whom interested persons may obtain additional information that is relevant to the permit decision by filing a written public documents request and paying any costs; provide a brief description of the comment procedures, including the deadline for comments and the name and address of the person to whom written comments must be delivered; and state the time and place of any hearing that has been scheduled or provide information regarding how a person may request a hearing. (5-1-94)

05. Public Comment Procedures. (5-1-94)

- a. The Department shall provide at least thirty (30) days for public comment. (5-1-94)
- b. The Department may designate the person to receive written comments. (5-1-94)
- c. The Department shall give notice of any public hearing at least thirty (30) days in advance of the hearing. (5-1-94)
- d. The public hearing, if any, shall be an informal meeting, conducted by a hearing officer designated by the Department and transcribed. Written comments or supporting documents may be submitted during the hearing. (5-1-94)
- e. The public comments and additional information received during the comment period shall be available to the public upon the filing of a written public documents request and the payment of any costs. (5-1-94)

365. PREPARATION OF PROPOSED PERMIT OR PROPOSED DENIAL.

- 01. Timeline.** Except as otherwise provided by these rules, the Department shall prepare a proposed permit or proposed denial within thirty (30) days after the close of the public comment period, unless the Department determines that additional time is required to evaluate comments and information received. (5-1-94)
- 02. Availability.** The proposed permit or proposed denial shall be available to the public upon the filing a written public documents request and the payment of any costs. (5-1-94)
- 03. Notice to Affected States.** If the Department refuses to accept all recommendations that an affected State submitted during the public comment period, the Department shall send a copy of the notice sent to EPA in accordance with Subsection 366.01.d. to the affected State that submitted the recommendation. (5-1-94)

366. EPA REVIEW PROCEDURES.

- 01. Submittal of Proposal to EPA.** Except as otherwise provided in these rules and unless EPA waives its opportunity to review a proposed permit, the Department will transmit the following to EPA: (5-1-94)
 - a. The proposed permit or proposed denial. (5-1-94)
 - b. The technical memorandum, as revised if appropriate. (5-1-94)
 - c. The application including all supplements and corrections submitted by the applicant, unless the applicant has submitted the information under a claim of confidentiality or unless the Department has entered an agreement with EPA to submit only a summary form and relevant portions of the permit application. (5-1-94)
 - d. Notice of any refusal by the Department to accept all recommendations for the proposal that any affected State submitted during the public comment period. The notice shall include the Department's reasons for not accepting any such recommendation. The Department is not required to accept recommendations that are not based on applicable requirements. (5-1-94)
- 02. Opportunity for EPA Objection.** (5-1-94)
 - a. EPA may submit to the Department a written objection to the proposal within forty-five (45) days of receipt of the transmittal identified in Subsection 366.01. (5-1-94)
 - b. The written objection shall state the EPA's reasons for the objection and provide the terms and conditions that the Tier I operating permit must include to respond to the objection or state that the permit must be denied. (5-1-94)
 - c. EPA shall provide a copy of the written objection to the applicant. (5-1-94)

03. Response to EPA Objections. Within ninety (90) days of receiving a written objection from EPA, the Department shall prepare a revised proposal and submit it to EPA in accordance with Subsection 366.01. If EPA determines that the revised proposal is objectionable, the Department will review the permit action taken by EPA and take a comparable final permit action in accordance with Section 367. (5-1-94)

04. Public Petitions to EPA. (5-1-94)

a. If the EPA does not object in writing under Subsection 366.02, any person may petition the EPA within sixty (60) days after the expiration of the EPA's forty-five (45) day review period to make such objection. (5-1-94)

b. Any such petition shall be based only on objections to the draft permit or draft denial that were raised with specificity during the public comment period provided for in Section 364 unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. (5-1-94)

c. If the EPA objects to the proposal in accordance with Subsection 366.02 as a result of a petition filed under Subsections 366.04.a. and 366.04.b., the Department shall: (5-1-94)

i. Not issue a permit action until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a Tier I operating permit or its requirements pending EPA's review of the petition and Department review of the objection if the Tier I operating permit was issued by the Department after the end of the forty-five (45) day review period and prior to an EPA objection initiated by a petition. (5-1-94)

ii. Process the objection in accordance with Subsection 366.03. (5-1-94)

367. ACTION ON APPLICATION.

01. Issuance Conditions. Except as otherwise provided by these rules, a Tier I operating permit, or any portion thereof, may be issued only if all of the following conditions have been met: (5-1-94)

a. The owner or operator has submitted a complete application in accordance with Section 361. (5-1-94)

b. The public has been provided notice and opportunities for comment and a hearing in accordance with Section 364. (5-1-94)

c. Affected States have been provided notice in accordance with Section 364 and Subsection 365.03. (5-1-94)

d. The terms and conditions of the Tier I operating permit comply with Sections 321 through 336 including providing for compliance with all applicable requirements. (5-1-94)

e. The EPA has been provided with the proposal and an opportunity to object and the Department has responded as required by Section 366. (5-1-94)

02. Deadlines for Final Actions During Initial Period. Except as otherwise provided in these rules, during the initial period beginning May 1, 1994 and ending three (3) years after EPA approval of the Tier I operating program, the Department will prioritize all of the applications predicted to be submitted during the initial period considering the groups established in accordance with Subsection 313.02, if any. The prioritization will result in the Department taking final action on one-third (1/3) of all such permit applications during each of the one (1) year periods following EPA approval of the program. (5-1-94)

03. Deadlines for Final Actions After Initial Period. Except as otherwise provided in these rules, during the period beginning three (3) years after EPA approval of the Tier I operating program, the Department shall take final action on complete applications within eighteen (18) months. (5-1-94)

04. Deadline for Tier I Operating Permits with Early Reductions. The Department shall take final action on any complete Tier I operating permit application containing an early reduction demonstration under 42 U.S.C. Section 7412 (i)(5) within nine (9) months of receipt of the complete application. (5-1-94)

05. Deadline for Tier I Operating Permits for Phase II Sources. The permitting of phase II sources shall occur in accordance with the deadlines in 42 U.S.C. Section 7651 through 7651o. (5-1-94)

06. Copy to EPA. The Department shall send a copy of the final Tier I operating permit to EPA. (5-1-94)

07. Original to Permittee. The Department shall send the original Tier I operating permit to the permittee. (5-1-94)

368. EXPIRATION OF PRECEDING PERMITS.

If a timely and complete Tier I permit application is received by the Department and is not acted upon in a timely manner as prescribed by these rules, the permit to construct, Tier I operating permit or Tier II operating permit, if any, that has been previously issued to the owner or operator of the Tier I source by the Department or EPA shall continue in full force until the Department has completed action of the permit application. No Tier I operating permit will be considered to have expired due solely to the Department's inaction on a timely Tier I operating permit application. (5-1-94)

369. TIER I OPERATING PERMIT RENEWAL.

01. Renewal Procedures. Tier I operating permits being renewed are subject to the same procedural requirements, including those for public participation, including affected State review, and EPA review, that apply to initial Tier I operating permit issuance. (5-1-94)

02. Expiration and Renewal Application Shield. Tier I operating permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted. (5-1-94)

370. -- 379. (RESERVED)

380. CHANGES TO TIER I OPERATING PERMITS.

01. Applicability. Sections 380 through 399 establish procedures and requirements for permit revisions and changes requiring notice. These provisions do not alter the requirements for permits to construct set forth at Sections 200 through 228. (7-1-02)

02. Changes Requiring Permit Revisions. Sections 381 through 383 establish procedures and requirements for Tier I operating permit revisions. A permit revision is required for changes that are not addressed or prohibited by the Tier I operating permit if such changes are subject to any requirements under Title IV of the Clean Air Act or are modifications under any provision of Title I of the Clean Air Act. (4-5-00)

03. Changes Requiring Notice. Sections 384 and 385 establish procedures and requirements for providing notice by the permittee to the Department and EPA of certain emission trades and changes that contravene a permit term (Section 384), or certain changes that are not addressed or prohibited by the permit (Section 385). (3-19-99)

04. Reopening. Section 386 establishes procedures for reopening the permit for cause by the Department, EPA, or the permittee. (3-19-99)

05. Acid Rain. Changes regulated under Title IV of the Clean Air Act, 42 U.S.C. Sections 7651 through 7651o, shall be governed by regulations promulgated under Title IV of the Act. (3-19-99)

381. ADMINISTRATIVE PERMIT AMENDMENTS.

01. Criteria. An administrative permit amendment is a permit revision that: (3-19-99)

- a. Corrects typographical errors; (3-19-99)
 - b. Identifies a change in the name, address, or phone number of any person identified in the Tier I operating permit, or provides a similar minor administrative change at the Tier I source; (3-19-99)
 - c. Requires more frequent monitoring or reporting by the permittee; (3-19-99)
 - d. Allows for a change in ownership or operational control of a Tier I source where the Department determines that no other change in the Tier I operating permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Department; (3-19-99)
 - e. Incorporates into the Tier I operating permit the requirements from a permit to construct that was issued by the Department in accordance with Subsection 209.05.c.; or (4-5-00)
 - f. Is any other type of change that EPA and the Department have determined as part of the Part 70 program to be similar to those in Subsections 381.01.a. through 381.01.d. (3-19-99)
- 02. Administrative Permit Amendment Application Procedures. (3-19-99)**
- a. If initiated by the permittee, the permittee shall submit a request to the Department. The request shall:
 - i. State at the beginning of the request that it is a “REQUEST FOR ADMINISTRATIVE PERMIT AMENDMENT.” (3-19-99)
 - ii. Describe the proposed administrative permit amendment including any permit to construct to be incorporated; (3-19-99)
 - iii. State the date on which the proposed administrative amendment will occur at the facility; (3-19-99)
 - iv. Identify any Tier I operating permit term or condition that is no longer applicable as a result of the change; and (3-19-99)
 - v. Identify any applicable requirement that would apply to the Tier I source as a result of the change. (3-19-99)
 - b. If initiated by the Department, the Department shall notify the permittee that the Department is initiating an administrative permit amendment and provide a brief summary of the proposed administrative permit amendment including all of the information required by Subsection 381.02.a.i. through 381.02.a.v. (3-19-99)
 - c. The Department shall, within sixty (60) days of the receipt of a request for an administrative permit amendment, take final action on the request and may incorporate such changes without providing notice to the public or affected States provided that the Department designates any such administrative permit amendment as having been made pursuant to Section 381. The Department shall submit a copy of the revised permit, or an addendum, to the EPA and send the original to the permittee. (4-5-00)
- 03. Implementation Procedures. (3-19-99)**
- a. The permittee may implement the changes addressed in the request for an administrative permit amendment under Subsections 381.01.a. through 381.01.f. immediately upon submittal of the request. (3-19-99)
 - b. If the permittee obtains a permit to construct under Subsection 209.05.c., then so long as the change does not violate any terms or conditions of the existing Tier I operating permit, the permittee may operate the source described in the permit to construct immediately upon submittal of the request for an administrative permit amendment. (4-5-00)

04. Permit Shield. Upon final action by the Department, the permit shield described in Section 325 shall extend only to administrative permit amendments identified in Subsection 381.01.e. (3-19-99)

382. SIGNIFICANT PERMIT MODIFICATION.

01. Criteria. Significant modification procedures shall be used for applications requesting permit revisions that do not qualify as minor permit modifications or as administrative amendments. Nothing herein shall be construed to preclude the permittee from making changes consistent with this chapter that would render existing permit compliance terms and conditions irrelevant. A significant permit modification is a permit revision for changes that: (3-19-99)

- a.** Violate an existing Tier I permit term or condition derived from an applicable requirement; (3-19-99)
- b.** Involve significant changes to existing monitoring, reporting or recordkeeping requirements in the permit. Every significant change in existing monitoring terms or conditions (except more frequent monitoring or reporting under Subsection 381.01.c.) and every relaxation of reporting or recordkeeping terms or conditions shall be considered significant; (3-19-99)
- c.** Require or change a case-by-case determination of an emission limitation or other standard; a source-specific determination for temporary sources of ambient impacts; or a visibility or increment analysis; (3-19-99)
- d.** Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include, but are not limited to, an enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I of the Clean Air Act or an alternative emissions limit for an early reduction of hazardous air pollutants that was approved pursuant to regulations promulgated under 42 U.S.C. Section 7412(i)(5) of the Clean Air Act; (3-19-99)
- e.** Constitute a modification under any provision of Title I of the Clean Air Act; or (3-19-99)
- f.** Could be processed as an administrative amendment or as a minor modification, except the permittee has requested the change be processed as a significant modification, including incorporating the requirements of a permit to construct that was issued by the Department in accordance with Subsection 209.05.a. (3-19-99)

02. Significant Permit Modification Application Procedures. A permittee may initiate a significant permit modification by submitting a complete significant permit modification application to the Department. The application shall: (3-19-99)

- a.** Request the use of significant permit modification procedures and state at the beginning of the request that it is a "REQUEST FOR SIGNIFICANT PERMIT MODIFICATION"; (3-19-99)
- b.** Meet the standard application requirements of Sections 314 and 315; (3-19-99)
- c.** Provide a summary sheet; (3-19-99)
 - i.** Describing the proposed significant permit modification; (3-19-99)
 - ii.** Describing and quantifying any change in emissions resulting from the significant permit modification including, but not limited to, an identification of any new regulated air pollutant(s) that will be emitted; (4-5-00)
 - iii.** Identifying any Tier I operating permit term or condition that will no longer be applicable as a result of the significant permit modification; and (3-19-99)

iv. Identifying new applicable requirement resulting from the change. (3-19-99)

d. Significant permit modifications shall be issued in accordance with all procedural requirements as they apply to Tier I operating permit issuance and renewal, including those for applications (Sections 314 and 315), public participation (Section 364), review by affected States (Sections 364 and 365), and review by EPA (Section 366). (3-19-99)

e. The Department will process the majority of significant permit modifications within nine (9) months of receiving a complete application. The Department shall determine which significant permit modification applications will be processed within nine (9) months. (3-19-99)

03. Implementation Procedures. The permittee shall comply with Sections 200 through 223 as applicable, including Subsection 209.05 governing permit to construct procedures for Tier I sources. (4-5-00)

04. Permit Shield. Upon final action by the Department, the permit shield described in Section 325 shall extend to significant permit modifications. (3-19-99)

383. MINOR PERMIT MODIFICATION.

01. Criteria. (3-19-99)

a. Minor permit modification procedures may be used for permit modifications involving economic incentives, marketable permits, emissions trading, and other similar approaches explicitly provided for in the SIP or applicable requirements promulgated by EPA. A permittee may not use minor modification procedures for changes described in Subsections 382.01.a. through 382.01.e. (3-19-99)

b. Any other permit modification that is not required to be processed as a significant permit modification under Section 382. (3-19-99)

c. Groups of a permittee's applications eligible for processing as minor permit modifications may be processed under minor permit modification procedures if collectively, the changes proposed in the minor modification applications do not exceed the lesser of: (3-19-99)

i. Ten percent (10%) of the emissions allowed by the existing Tier I operating permit for the emissions unit for which the change is requested; (3-19-99)

ii. Twenty percent (20%) of the major facility criteria in Section 008; or (4-5-00)

iii. Five (5) tons per year. (3-19-99)

02. Minor Permit Modification Application Procedures. A permittee may initiate a minor permit modification by submitting a complete standard application described in Section 314 to the Department. The application shall: (3-19-99)

a. Request the use of minor permit modification procedures and state at the beginning of the request that it is a "REQUEST FOR MINOR PERMIT MODIFICATION," designate either "INDIVIDUAL" or "GROUP" processing, and provide a summary sheet; (3-19-99)

i. Describing the proposed minor permit modification; (3-19-99)

ii. Stating the date on which the proposed minor permit modification will occur at the facility; (3-19-99)

iii. Describing and quantifying any change in emissions resulting from the minor permit modification including, but not limited to, an identification of any new regulated air pollutant(s) that will be emitted; (4-5-00)

iv. Identifying any Tier I operating permit term or condition that will no longer be applicable as a result of the minor permit modification; (3-19-99)

v. Identifying any new applicable requirement that is applicable to the Tier I source as a result of the minor permit modification; (3-19-99)

vi. Certifying by a responsible official under Section 123 that the proposed permit modification meets the criteria for a minor permit modification and, if applicable, the use of group processing procedures; and (3-19-99)

vii. Listing the permittee's other pending applications awaiting group processing and a determination of whether the requested modification, aggregated with the other applications, equals or exceeds the thresholds under Subsection 383.01.c. above. (3-19-99)

b. Include completed forms for the Department to use to notify the EPA and affected States as required under Sections 364 and 366. (3-19-99)

c. Include the applicant's suggested draft Tier I permit with the minor permit modification. (3-19-99)

03. EPA and Affected State Notification Procedures. (3-19-99)

a. Within five (5) working days of receipt of a complete minor permit modification application, the Department shall notify EPA and the affected States of the requested permit modification and forward the forms completed by the applicant and other required information, if any, to the EPA and affected States. Affected States and EPA review shall occur simultaneously. (3-19-99)

b. On a quarterly basis or within five (5) working days of receiving an application demonstrating that the aggregate of a permittee's pending applications equals or exceeds the threshold level established in Subsection 383.01.c. above, whichever is earlier, the Department shall notify EPA and the affected States of the requested permit modification and forward the forms completed by the applicant and other required information, if any, to the EPA and affected States. Affected States and EPA review shall occur simultaneously. (3-19-99)

c. The Department shall promptly notify EPA and any affected States in writing including its reasons for not accepting any such recommendation if the Department refuses to accept all the timely recommendations submitted by affected States. (3-19-99)

d. Timetable for Issuance. The Department may not issue a final permit modification until after EPA's forty-five (45) day review period or until EPA has notified the Department that EPA will not object to issuance of the permit modification, whichever is first; although the Department can approve the permit modification prior to that time. (3-19-99)

e. Within ninety (90) days of the Department's receipt of a complete minor permit modification application or within fifteen (15) days after the end of EPA's forty-five (45) day review period, whichever is later, the Department shall take one (1) of the following actions: (3-19-99)

i. Issue the minor permit modification as proposed; (3-19-99)

ii. Deny the minor permit modification application; (3-19-99)

iii. Determine that the requested minor permit modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or (3-19-99)

iv. Revise the proposed minor permit modification, transmit the revised proposal to the EPA in accordance with Section 366, and notify the permittee. (3-19-99)

f. Within one hundred and eighty (180) days of the Department's receipt of a complete application for modifications eligible for group processing or within fifteen (15) days after the end of EPA's forty-five (45) day review period, whichever is later, the Department shall take one (1) of the actions specified in Subsections 383.03.e.i.,

383.03.e.ii., 383.03.e.iii., or 383.03.e.iv. (3-19-99)

04. Implementation Procedures. (3-19-99)

a. The permittee may make the change proposed in its minor permit modification immediately upon submittal of a complete application to the Department before final action by the Department. (3-19-99)

b. After the source makes the allowed change and until the Department takes any of the actions specified in Subsections 383.03.e.i., 383.03.e.ii., or 383.03.e.iii., the permittee must comply with both the applicable requirements governing the change and the proposed terms and conditions. (3-19-99)

c. During this time period, the permittee need not comply with the existing permit terms and conditions it seeks to modify; provided that, if the source fails to comply with the applicable requirements governing the change and the proposed revisions, the existing permit terms and conditions it seeks to modify may be enforced against it. (3-19-99)

05. Permit Shield. The permit shield described in Section 325 shall not apply to any minor permit modification. (3-19-99)

384. SECTION 502(B)(10) CHANGES AND CERTAIN EMISSION TRADES.

01. Criteria. This section authorizes emission changes within a permitted facility without requiring a permit revision, if the changes are not modifications under any provision of the Title I of the Clean Air Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or total emissions). (3-19-99)

a. Changes authorized are changes that: (3-19-99)

i. Are Section 502(b)(10) changes; (3-19-99)

ii. Are changes involving trades of increases and decreases of emissions within the permitted facility where the State Implementation Plan provides for such emissions trades without requiring a permit revision. SIP trades are allowed in compliance with this Section even if the Tier I operating permit does not already provide for such emission trading; or (3-19-99)

iii. Are changes made under the terms and conditions of the Tier I permit that authorize the trading of emissions increases and decreases within the permitted facility for the purpose of complying with a federally-enforceable emissions cap that is established by the Department in the Tier I operating permit independent of otherwise applicable requirements. (3-19-99)

b. Changes constituting a modification under Title I of the Clean Air Act or subject to a requirement under Title IV of the Clean Air Act are not authorized by this Section. (3-19-99)

02. Notice Procedures. The permittee may make a change under this Section if the permittee provides written notification to the Department and EPA so that the notification is received at least seven (7) days in advance of the proposed change; or, in the event of an emergency, the permittee provides the notification so that it is received at least twenty-four (24) hours in advance of the proposed change. The permittee, the Department, and EPA shall attach the notification to their copy of the Tier I operating permit. (3-19-99)

a. For each such change, the written notification shall: (3-19-99)

i. State at the beginning of the notification “NOTIFICATION OF SECTION 502(b)(10) CHANGE” or “NOTIFICATION OF EMISSION TRADE”; (3-19-99)

ii. Describe the proposed change; (3-19-99)

iii. Provide the date on which the proposed change will occur; (3-19-99)

- iv. Describe and quantify any expected change in emissions including identification of any new regulated air pollutant(s) that will be emitted; (4-5-00)
 - v. Identify any permit term or condition that is no longer applicable as a result of the change; (3-19-99)
 - vi. Specifically identify and describe the emergency, if any; and (3-19-99)
 - vii. Identify any new applicable requirement that would apply to the Tier I source as a result of the change. (3-19-99)
 - b.** For changes described in Subsection 384.01.a.ii., the written notification shall also include: (3-19-99)
 - i. Identification of the provisions in the SIP that provide for the emissions trade; (3-19-99)
 - ii. All of the information required by the provision in the SIP authorizing the emissions trade; (3-19-99)
 - iii. Specific identification of the provisions in the SIP with which the permittee will comply; and (3-19-99)
 - iv. The pollutants subject to the trade. (3-19-99)
 - c.** For changes described in Subsection 384.01.a.iii., the written notification shall also describe how the change will comply with the terms and conditions of the permit. (3-19-99)
- 03. Permit Shield.** The permit shield described in Section 325 shall only extend to changes made in accordance with Subsection 384.01.a.iii. (3-19-99)

385. OFF-PERMIT CHANGES AND NOTICE.

- 01. Criteria.** This section authorizes changes that are neither addressed nor prohibited by the Tier I operating permit to be made without a permit revision if each such change meets all applicable requirements and does not violate any existing permit terms or conditions. Changes constituting a modification under Title I of the Clean Air Act, or subject to a requirement under Title IV of the Clean Air Act are not off-permit changes. (3-19-99)
- 02. Notice Procedure.** Sources must provide written notice to the Department and EPA of each such change except changes that qualify as insignificant under Section 317, within seven (7) days of making the off-permit change. (3-19-99)
- a.** The written notification provided to the Department and EPA shall: (3-19-99)
 - i. State at the beginning of the notification “NOTIFICATION OF OFF-PERMIT CHANGE”; (3-19-99)
 - ii. Describe the off-permit change; (3-19-99)
 - iii. State the date on which the off-permit change will occur or has occurred; (3-19-99)
 - iv. Describe and quantify any change in emissions resulting from the off-permit change including, but not limited to, an identification of any new regulated air pollutant(s) that will be emitted; and (4-5-00)
 - v. Identify any new applicable requirement that is applicable to the Tier I source as a result of the off-permit change. (3-19-99)

b. The permittee shall keep a record at the facility describing all off-permit changes made at the Tier I source that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and identifying the emissions resulting from those changes. (3-19-99)

03. Permit Shield Applicability. The permit shield described in Section 325 shall not apply to any off-permit change. (3-19-99)

386. REOPENING FOR CAUSE.
The Department shall reopen a Tier I permit if cause exists. (3-19-99)

01. Criteria. Cause for reopening exists under any of the following circumstances: (3-19-99)

a. Additional applicable requirements become applicable to a major Tier I source with a remaining permit term of three (3) or more years; provided that no such reopening is required if the original effective date of the applicable requirement is later than the date on which the Tier I operating permit is due to expire and the original Tier I operating permit or any of its terms and conditions has not been extended pursuant to Section 368; provided further that the permittee must comply with the additional applicable requirement no later than the effective date; (3-19-99)

b. Whenever additional applicable requirements become applicable to an affected source, as defined for the purposes of the acid rain program; (3-19-99)

c. The Department or EPA determines that the Tier I operating permit contains a material mistake or inaccurate statements were used or considered in establishing the emissions standards or other terms or conditions of the Tier I operating permit; or (3-19-99)

d. The Department or EPA determines that the Tier I operating permit does not ensure compliance with the applicable requirements. (3-19-99)

02. Procedures for Reopenings. (3-19-99)

a. The Department shall follow the same procedures for reopening as they apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Reopenings shall be made as expeditiously as practicable in accordance with Sections 360 through 379. (3-19-99)

b. The Department shall notify the permittee in writing of reopening and provide a brief summary of the reason for the reopening at least thirty (30) days prior to the reopening. (3-19-99)

c. The EPA may initiate reopenings for circumstances listed in Subsections 386.01.a. through 386.01.d. by providing written notification to the Department and the permittee. (3-19-99)

i. The Department shall within ninety (90) days after receipt of notification from EPA, forward to EPA a proposed determination of termination, revocation, revision, or revocation and reissuance, as appropriate. The Administrator may extend the ninety (90) day period for an additional ninety (90) days if EPA finds that a new or revised permit application is necessary or that the Department must require the permittee to submit additional information. (3-19-99)

ii. The EPA will review the proposed determination from the Department within ninety (90) days of receipt. (3-19-99)

iii. The Department shall have ninety (90) days from receipt of an EPA objection to resolve any EPA objection and to terminate, modify, or revoke and reissue the permit. (3-19-99)

iv. If the Department fails to submit a proposed determination or fails to resolve any EPA objection, the EPA may terminate, modify, revoke and reissue the permit after taking the following actions: (3-19-99)

(1) Providing at least thirty (30) days' notice to the permittee in writing of the reason for such action, and (3-19-99)

(2) Providing the permittee an opportunity for comment on the EPA's proposed action and an opportunity for a hearing. (3-19-99)

387. REGISTRATION AND REGISTRATION FEES.

The purpose of Sections 387 through 397 is to set forth the requirements for the annual registration of Tier I sources, and the annual assessment and payment of fees to support the Tier I permitting program. (4-2-03)

388. APPLICABILITY.

01. Applicability. Sections 387 through 397 shall apply to all major facilities, as defined in Section 008, including facilities that obtained air quality permits that limited potential emissions below major facility levels during the previous year. Facilities, sources and emissions exempt under Section 301 are not required to register or pay fees. (4-2-03)

02. Deferred Sources. Certain sources may qualify for and request deferral from the Tier 1 operating permit program under Subsection 301.02.b.iv. and thereby not pay Tier I fees. On or before such time as those deferred sources are required to submit a Tier 1 operating permit application, the Department shall reconsider Sections 387 through 397 to determine whether an alternative basis upon which those sources shall register and be assessed and pay fees should be developed. (4-2-03)

389. REGISTRATION INFORMATION.

Any person owning or operating a facility or source during the previous calendar year or any portion of the previous calendar year for which Sections 387 through 397 apply shall, by April 1 of each year, register with the Department and submit the following information (submittal forms are located at the DEQ website at <http://www.deq.idaho.gov>): (3-19-07)

01. Facility Information. The name, address, telephone number and location of the facility; (5-1-94)

02. Owner/Operator Information. The name, address and telephone numbers of the owners and operators; (5-1-94)

03. Facility Emission Units. The number and type of emission units present at the facility or the Tier I permit number for the facility; and (4-2-03)

04. Pollutant Registration. The actual emissions from the previous calendar year for oxides of sulfur (SO_x), oxides of nitrogen (NO_x), particulate matter (PM₁₀), and volatile organic compounds (VOC) calculated using methods to include, but not limited to, continuous emissions monitoring (CEMS), certified source tests, material balances (mass-balance), state/industry emission factors, or AP-42 emission factors applied to throughput, actual operating hours, production rates, in-place control equipment, or the types of materials processed, stored, or combusted. (3-19-07)

05. Radionuclide Registration. The amount of radionuclides from facilities regulated under 40 CFR Part 61, Subpart H, for which the registrant wishes to be registered to emit from each source in curies per year except that no amount in excess of or less than an existing permit, consent order, or judicial order will be allowed. (5-1-94)

390. REGISTRATION FEE.

This registration fee structure shall be reviewed at least every two (2) years to assure the funds meet the presumptive minimum as defined by EPA. The annual registration fee as determined in Section 390 shall be paid as provided in Section 393. (3-19-07)

01. Tier I Annual Fee. The Tier I annual fee schedule shall be as follows: (3-19-07)

a. A fixed annual fee for Tier I major sources emitting regulated air pollutants listed in Subsection 389.04 as follows: (4-2-03)

i. Seven thousand (7,000) tons per year and above shall pay seventy-one thousand five hundred

dollars (\$71,500); (3-19-07)

ii. Four thousand five hundred (4,500) tons per year and above shall pay forty-two thousand nine hundred dollars (\$42,900); (3-19-07)

iii. Three thousand (3,000) tons per year and above shall pay twenty-eight thousand six hundred dollars (\$28,600); (3-19-07)

iv. One thousand (1,000) tons per year and above shall pay twenty-two thousand seven hundred fifty dollars (\$22,750); (3-19-07)

v. Five hundred (500) tons per year and above shall pay eleven thousand fifty dollars (\$11,050); (3-19-07)

vi. Two hundred (200) tons per year and above shall pay seven thousand one hundred fifty dollars (\$7,150); and (3-19-07)

vii. Less than two hundred (200) tons per year shall pay three thousand five hundred seventy-five dollars (\$3,575); plus (3-19-07)

b. A per ton annual fee of thirty-nine dollars and forty-eight cents (\$39.48) per ton for all regulated air pollutant emissions listed in Subsection 389.04 as follows: (3-19-07)

i. Greater than or equal to four thousand five hundred (4,500) tons per year not to exceed one hundred forty-three thousand dollars (\$143,000); (3-19-07)

ii. Greater than or equal to three thousand (3,000) but less than four thousand five hundred (4,500) tons per year not to exceed seventy-one thousand five hundred dollars (\$71,500); (3-19-07)

iii. Greater than or equal to one thousand (1,000) but less than three thousand (3,000) tons per year not to exceed thirty-five thousand one hundred dollars (\$35,100); (3-19-07)

iv. Greater than or equal to five hundred (500) but less than one thousand (1,000) tons per year not to exceed twenty-five thousand twenty-five dollars (\$25,025); (3-19-07)

v. Greater than or equal to two hundred (200) but less than five hundred (500) tons per year not to exceed ten thousand seven hundred twenty-five dollars (\$10,725); and (3-19-07)

vi. Less than two hundred (200) tons per year not to exceed three thousand five hundred seventy-five dollars (\$3,575). (3-19-07)

02. Fee-for-Service. The fee-for-service shall be as follows: Sources requesting Section 300 permit modifications or renewals, or receiving program maintenance services, including but not limited to site visits, response to public inquiries, modeling, responses to site questions and opacity readings by the Department shall be assessed a fee for actual time expended and expenses incurred by the Department in the previous calendar year in an amount not to exceed twenty thousand dollars (\$20,000) per facility per year as a fee-for-service. Service shall be conducted by qualified Department staff or contractors. (3-19-07)

03. Radionuclide Registration Fee. (4-2-03)

a. A registration fee of five dollars per curie per year (\$5/curie/year) shall be paid by facilities regulated under 40 CFR Part 61, Subpart H. (4-2-03)

b. The registration fee may be paid as provided in Section 397. (4-2-03)

391. REQUEST FOR INFORMATION.

Any additional information, plans, specifications, evidence or documents that the Department may require to make

the determinations required under Sections 387 through 397 shall be furnished on request. (4-2-03)

392. REGISTRATION FEE ASSESSMENT.

All facilities to which Sections 387 through 397 apply shall pay to the Department an annual registration fee as required by Section 390. The Department shall determine the fee based on the information supplied by the registrant and the Department's analysis of information available. In the event of a failure of a facility to submit pertinent registration information, the Department may calculate the fee and shall assess the facility the fee and the costs of calculating the fee. No later than May 15 of each year, or within fifteen (15) days following the adjournment of the regular session of the Idaho State Legislature, whichever is later, the Department shall send to each registrant, to which Sections 387 through 397 apply, by certified mail, an assessment of the annual fee payable by the registrant. (3-19-07)

393. PAYMENT OF TIER I REGISTRATION FEE.

01. Fee Payment Date. The registration fee shall be paid to and received by the Department no later than July 1 of each year, or within forty-five (45) days following the receipt of the registration fee assessment in Section 392, whichever is later. Checks should be made payable to "Department of Environmental Quality." (3-19-07)

02. Fee Payments Mailing Address. All fee payments should be sent to:

Air Quality Tier I Registration Fees
Idaho Department of Environmental Quality
1410 N. Hilton, Boise, Idaho 83706-1255 (3-19-07)

394. EFFECT OF DELINQUENCY ON APPLICATIONS.

No permit to construct or operate, other than those issued at the discretion of the Director, shall be accepted for processing, processed, or issued by the Department for any facility or to any person having Tier I operating permit fees delinquent in full or in part. (4-2-03)

395. APPEALS.

Persons may file an appeal within thirty-five (35) days of the date the person received an assessment issued under Section 392. The appeal shall be filed in accordance with IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-19-07)

396. EXEMPTIONS.

01. Registration Fees. The following facilities or sources are exempt from paying registration fees under Sections 387 through 397: (4-2-03)

a. Facilities and sources specified by the Department, after public notice, as exempt from the payment of registration fees; and (5-1-94)

b. Country grain elevators. (5-1-94)

02. Registering and Paying Fees. The following facilities or sources are exempt from registering and paying registration fees under Sections 387 through 397: (4-2-03)

a. Facilities and sources specified by the Department, after public notice, as exempt from registration and the payment of registration fees; (3-19-99)

b. Confined animal feeding operations; and (3-19-99)

c. Insignificant activities identified in Subsection 317.01. (3-19-99)

03. Paying Fees. The following emissions are exempt from registering and paying registration fees under Sections 387 through 397: (4-2-03)

a. Fugitive emissions from wood products. (3-7-95)L

b. Fugitive dust emissions, except facilities listed in Subsections 008.10.c.i. and 008.10.c.ii. Facilities listed in that section shall not be required to pay fees for fugitive dust emission in excess of one hundred (100) tons. (4-5-00)

397. LUMP SUM PAYMENTS OF REGISTRATION FEES.

01. Agreement. The Department may, in its discretion, enter an agreement with any person for the lump sum payment of all, or any addition to, the registration fees required by Section 390. (3-19-07)

02. Minimum Amount. The minimum amount for any lump sum agreement shall be three hundred thousand dollars (\$300,000). (5-1-94)

03. Payment Waiver. Upon the execution and full performance of the agreement by the person, the Department shall waive the payment requirements of Section 390. All other provisions of Sections 387 through 397 shall remain applicable to the person. (3-19-07)

398. -- 399. (RESERVED)

400. PROCEDURES AND REQUIREMENTS FOR TIER II OPERATING PERMITS.

The purpose of Sections 400 through 410 is to establish uniform procedures for the issuance of "Tier II Operating Permits." (7-1-02)

401. TIER II OPERATING PERMIT.

01. Optional Tier II Operating Permits. The owner or operator of any stationary source or facility which is not subject to (or wishes to accept limitations on the facility's potential to emit so as to not be subject to) Sections 300 through 399 may apply to the Department for an operating permit to: (7-1-02)

a. Authorize the use of alternative emission limits (bubbles) pursuant to Section 440; (5-1-94)

b. Authorize the use of an emission offset pursuant to Sections 204.02.b. or 206; (4-6-05)

c. Authorize the use of a potential to emit limitation, an emission reduction or netting transaction to exempt a facility or modification from certain requirements for a permit to construct; (4-5-00)

d. Authorize the use of a potential to emit limitation to exempt the facility from Tier I permitting requirements. (4-5-00)

e. Bank an emission reduction credit pursuant to Section 461; (5-1-94)

02. Required Tier II Operating Permits. (4-7-11)

a. A Tier II operating permit is required for any stationary source or facility which: (4-7-11)

i. Is not subject to Sections 300 through 399 with a permit to construct which establishes any emission standard different from those in these rules. (4-7-11)

ii. Has annual actual mercury emissions in excess of sixty-two (62) pounds. Fugitive emissions shall not be included in a determination of the actual mercury emissions. The owner or operator of the stationary source or facility shall submit a Tier II permit application for review and approval by the Department, no later than twelve (12) months after becoming subject to Subsection 401.02.a.ii., that includes an MBACT analysis for all sources that emit mercury. A determination of applicability under Subsection 401.02 shall be based upon best available information. An MBACT analysis for review and approval by the Department shall be included in a Tier II renewal application for any mercury emitting source not otherwise subject to MBACT. (4-7-11)

b. Stationary sources within a source category subject to 40 CFR Part 63 are exempt from the requirements of Subsection 401.02.a.ii. (4-7-11)

03. Tier II Operating Permits Required by the Department. The Director may require or revise a Tier II operating permit for any stationary source or facility whenever the Department determines that: (5-1-94)

a. Emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment; or (4-5-00)

b. Specific emission standards, or requirements on operation or maintenance are necessary to ensure compliance with any applicable emission standard or rule. (5-1-94)

04. Multiple Tier II Operating Permits. Subject to approval by EPA, the Director may issue one (1) or more Tier II operating permits to a facility which allow any specific stationary source or emissions unit within that facility a future compliance date of up to three (3) years beyond the compliance date of any provision of these rules, provided the Director has reasonable cause to believe such a future compliance date is warranted. (4-5-00)

05. Tier II Operating Permits Establishing a Facility Emissions Cap. The owner or operator of any stationary source or facility may request a Tier II operating permit establishing a Facility Emissions Cap (FEC) pursuant to Sections 175 through 181. (4-11-06)

402. APPLICATION PROCEDURES.

Application for a Tier II operating permit must be made using forms furnished by the Department, or by other means prescribed by the Department. The application shall be certified by the responsible official and shall be accompanied by all information necessary to perform any analysis or make any determination required under Sections 400 through 410. (7-1-02)

01. Required Information. Site information, plans, description, specifications, and drawings showing the design of the stationary source, facility, or modification, the nature and amount of emissions (including secondary emissions), and the manner in which it will be operated and controlled. (5-1-94)

02. Additional Specific Information. (5-1-94)

a. For emission reduction credits, a description of the emission reduction credits proposed for use, including descriptions of the stationary sources or facilities providing the reductions, a description of the system of continuous emission control which provides the emission reduction credits, emission estimates, and other information necessary to determine that the emission reductions satisfy the requirements for emission reduction credits (Section 460); and (4-5-00)

b. For alternative emission limits (bubbles) or emission offsets, information on the air quality impacts of the traded emissions as necessary to determine the change in ambient air quality that would occur. (5-1-94)

c. For restrictions on potential to emit, a description of the proposed potential to emit limitations including the proposed monitoring and recordkeeping requirements that will be used to verify compliance with the limitations. (4-5-00)

03. Estimates of Ambient Concentrations. All estimates of ambient concentrations shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR 51 Appendix W (Guideline on Air Quality Models). (4-5-00)

a. Where an air quality model specified in the "Guideline on Air Quality Models" is inappropriate, the model may be modified or another model substituted, subject to written approval of the Administrator of the U.S. Environmental Protection Agency and public comment pursuant to Subsection 404.01.c. (4-5-00)

b. Methods like those outlined in the U.S. Environmental Protection Agency's "Interim Procedures for Evaluating Air Quality Models (revised)" (1984) should be used to determine the comparability of air quality models. (5-1-94)

04. Additional Information. Any additional information, plans, specifications, evidence or documents that the Department may require to make the determinations required under Sections 400 through 410 shall be furnished upon request. (5-1-92)

403. PERMIT REQUIREMENTS FOR TIER II SOURCES.

No Tier II operating permit shall be granted unless the applicant shows to the satisfaction of the Department that: (5-1-94)

01. Emission Standards. The stationary source would comply with all applicable local, state or federal emission standards. (5-1-94)

02. NAAQS. The stationary source would not cause or significantly contribute to a violation of any ambient air quality standard. (5-1-94)

404. PROCEDURE FOR ISSUING PERMITS.

01. General Procedures. General procedures for Tier II operating permits. (5-1-94)

a. Within thirty (30) days after receipt of the application for a Tier II operating permit, the Department shall determine whether the application is complete or whether more information must be submitted and shall notify the applicant of its findings in writing. (5-1-94)

b. Within sixty (60) days after the application is determined to be complete the Department shall: (5-1-94)

i. Notify the applicant in writing of the approval, conditional approval, or denial of the application if an opportunity for public comment is not required pursuant to Subsection 404.01.c. The Department shall set forth reasons for any denial; or (5-1-94)

ii. Issue a proposed approval, proposed conditional approval, or proposed denial. (5-1-94)

c. An opportunity for public comment shall be provided on an application for any Tier II operating permit pursuant to Subsection 401.01, any application which uses fluid modeling or a field study to establish a good engineering practice stack height pursuant to Sections 510 through 516 and any other application which the Director determines an opportunity for public comment should be provided. (5-1-94)

i. The Department's proposed action, together with the information submitted by the applicant and the Department's analysis of the information, shall be made available to the public in at least one (1) location in the region in which the stationary source or facility is to be located. (5-1-94)

ii. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. (5-1-94)

iii. A copy of such notice shall be sent to the applicant and to appropriate federal, state and local agencies. (5-1-94)

iv. There shall be a thirty (30) day period after initial publication for comment on the Department's proposed action, such comment to be made in writing to the Department. (5-1-94)

v. After consideration of comments and any additional information submitted during the comment period, and within forty-five (45) days after initial publication of the notice, unless the Director deems that additional time is required to evaluate comments and information received, the Department shall notify the applicant in writing of approval, conditional approval, or denial of the permit. The Department shall set forth the reasons for any denial. (5-1-94)

vi. All comments and additional information received during the comment period, together with the

Department's final determination, shall be made available to the public at the same location as the preliminary determination. (5-1-94)

d. A copy of each proposed and final permit will be sent to the U.S. Environmental Protection Agency. (4-5-00)

02. Specific Procedures. Procedures for Tier II operating permits required by the Department under Subsection 401.03. (5-1-94)

a. The Director shall send a notification to the proposed permittee by registered mail of his intention to issue a Tier II operating permit for the facility concerned. The notification shall contain a copy of the proposed permit in draft form stating the proposed emission standards and any required action, with corresponding dates, which must be taken by the proposed permittee in order to achieve or maintain compliance with the proposed Tier II operating permit. (5-1-94)

b. The Department's proposed Tier II operating permit shall be made available to the public in at least one (1) location in the region in which the facility is located. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the facility is located. A copy of such notice shall be sent to the applicant. There shall be a thirty (30) day period after publication for comment on the Department's proposed Tier II operating permit. Such comment shall be made in writing to the Department. (5-1-94)

c. A public hearing will be scheduled to consider the standards and limitations contained in the proposed Tier II operating permit if the proposed permittee files a request therefor with the Department within ten (10) days of receipt of the notification, or if the Director determines that there is good cause to hold a hearing. (5-1-94)

d. After consideration of comments and any additional information submitted during the comment period or at any public hearing, the Director shall render a final decision upon the proposed Tier II operating permit within thirty (30) days of the close of the comment period or hearing. At this time the Director may adopt the entire Tier II operating permit as originally proposed or any part or modification thereof. (5-1-94)

e. All comments and additional information received during the comment period, together with the Department's final permit, shall be made available to the public at the same location as the proposed Tier II operating permit. (5-1-94)

03. Availability of Fluid Models and Field Studies. The Department will notify the public of the availability of any fluid model or field study used to establish a good engineering practice stack height and provide an opportunity for a public hearing before issuing a permit or setting an emission standard based thereon. (5-1-94)

04. Permit Revision or Renewal. The Director may approve a revision of any Tier II operating permit or renewal of any Tier II operating permit provided the stationary source or facility continues to meet all applicable requirements of Sections 400 through 410. Revised permits will be issued pursuant to procedures for issuing permits (Section 404), except that the requirements of Subsection 404.01.c. shall only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Director. Renewed Tier II operating permits will be issued pursuant to procedures for issuing permits (Section 404), except that the requirements of Subsections 404.01.c., and 404.02.b. through 404.02.e. shall only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Director. The expiration of a permit will not affect the operation of a stationary source or a facility during the administrative procedure period associated with the permit renewal process. The permittee shall submit a complete application to the Department for a renewal of the terms and conditions establishing the Tier II operating permit at least six (6) months before, but no earlier than eighteen (18) months before, the expiration date of the existing permit. To ensure that the term of the permit does not expire before the terms and conditions are renewed, the permittee is encouraged to submit the application nine (9) months prior to expiration. (4-11-19)

05. Transfer of Tier II Permit. (4-11-06)

a. Transfers by Revision. A Tier II permit may be transferred to a new owner or operator in

accordance with Subsection 404.04. (4-11-06)

b. Automatic Transfers. Any Tier II permit, with or without transfer prohibition language, may be automatically transferred if: (4-11-06)

i. The current permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date; (4-11-06)

ii. The notice provides written documentation signed by the current and proposed permittees containing a date for transfer of permit responsibility, designation of the proposed permittee's responsible official, and certification that the proposed permittee has reviewed and intends to operate in accordance with the permit terms and conditions; and (4-11-06)

iii. The Department does not notify the current permittee and the proposed permittee within thirty (30) days of receipt of the notice of the Department's determination that the permit must be revised pursuant to Subsection 404.04. If the Department does not issue such notice, the transfer is effective on the date provided in the notice described in Subsection 404.05.b.ii. (4-11-06)

405. CONDITIONS FOR TIER II OPERATING PERMITS.

01. Reasonable Conditions. The Department may impose any reasonable conditions upon an approval, including conditions requiring the stationary source or facility to be provided with: (5-1-94)

a. Sampling ports of a size, number, and location as the Department may require; (5-1-94)

b. Safe access to each port; (5-1-94)

c. Instrumentation to monitor and record emissions data; (5-1-94)

d. Instrumentation for ambient monitoring to determine the effect emissions from the stationary source or facility may have, or are having, on the air quality in any area affected by the stationary source or facility; and (5-1-94)

e. Any other sampling and testing facilities as may be deemed reasonably necessary. (5-1-94)

02. Performance Tests. Any performance tests required by the permit shall be performed in accordance with methods and under operating conditions approved by the Department. The owner or operator shall furnish to the Department a written report of the results of such performance test. (5-1-94)

a. Such test shall be at the expense of the owner or operator. (5-1-94)

b. The Department may monitor such test and may also conduct performance tests. (5-1-94)

c. The owner or operator of a stationary source or facility shall provide the Department fifteen (15) days prior notice of the performance test to afford the Department the opportunity to have an observer present. (5-1-94)

03. Permit Term. Tier II operating permits shall be issued for a period not to exceed five (5) years. This five (5) year operating permit restriction does not apply to the provisions contained in Section 461.02 (banked emission reduction credits). (5-1-94)

04. Single Tier II Operating Permit. When a facility includes more than one (1) stationary source or emissions unit, a single Tier II operating permit may be issued including all stationary sources and emissions units located at that facility. Such Tier II operating permit shall separately identify each stationary source and emissions unit to which the Tier II operating permit applies. When a single stationary source or facility is subject to permit modification, suspension or revocation, such action by the Director shall only affect that individual stationary source or emissions unit without thereby affecting any other stationary source or emissions unit subject to that Tier II

operating permit. (5-1-94)

406. OBLIGATION TO COMPLY.

Receiving a Tier II operating permit shall not relieve any owner or operator of the responsibility to comply with all applicable local, state and federal rules and regulations. (5-1-94)

407. TIER II OPERATING PERMIT PROCESSING FEE.

01. Tier II Operating Permit Processing Fee. A Tier II operating permit processing fee, calculated by the Department pursuant to the categories provided in the following table, shall be paid to the Department by the person receiving a Tier II permit or permit renewal. The fee calculation shall not include fugitive emissions.

TIER II OPERATING PERMIT CATEGORY	FEE
General permit, no facility specific requirements (Defined as a source category specific permit for which the Department has developed standard emission limitations, operating requirements, monitoring and recordkeeping requirements, and that require minimal engineering analysis.)	\$500
Stationary sources or facilities with permitted emissions of less than one (1) ton per year	\$1,250
Stationary sources or facilities with permitted emissions of one (1) to less than ten (10) tons per year	\$2,500
Stationary sources or facilities with permitted emissions of ten (10) to less than one hundred (100) tons per year	\$5,000
Stationary sources or facilities with permitted emissions of one hundred (100) tons or more per year	\$10,000
Synthetic minor stationary sources with permitted emissions below a major threshold level	\$10,000

(7-1-02)

02. Tier II Operating Permit Processing Fee Not Required. So long as the Department determines no other review or analysis is required, the Tier II operating permit processing fee is not required to be submitted when: (7-1-02)

a. A permit to construct issued within the last five (5) years is rolled into a Tier II permit; (7-1-02)

b. A change to correct typographical errors is requested; (7-1-02)

c. A change in the name or ownership of the holder of a Tier II operating permit is requested; or (7-1-02)

d. A synthetic minor permit is issued and the Department's processing costs can be charged against fees collected from the person receiving the permit under Title V of the federal Clean Air Act amendments of 1990. (7-1-02)

408. PAYMENT OF TIER II OPERATING PERMIT PROCESSING FEE.

01. Fee Submittal. The Tier II operating permit processing fee shall be payable upon receipt of an assessment sent, along with the final permit or permit renewal, to the person receiving a permit or permit renewal by the Department. The Tier II operating permit fee should be sent to:

Air Quality Tier II Fees
Fiscal Office
Idaho Department of Environmental Quality

1410 N. Hilton, Boise, ID 83706-1255

(7-1-02)

02. Delinquency. Failure to submit a Tier II operating permit processing fee within forty-five (45) days of receipt of an assessment by the Department will result in a monthly accrual of interest in the amount of twelve percent (12%) per annum on the outstanding balance until the fee is paid in full. (7-1-02)

409. RECEIPT AND USAGE OF FEES.

Tier II operating permit processing fee and delinquency interest receipts shall be deposited by the Department into a stationary source permit account. Monies from this account shall be used solely toward technical, legal and administrative support of the Department's Permit to Construct and Tier II permit programs and shall not be used for those activities supported by the fund created for implementing the operating permit program required under Title V of the federal Clean Air Act amendments of 1990. The Department will review the Tier II fee schedule at least every two (2) years. (7-1-02)

410. APPEALS.

A person may be able to file an appeal within thirty-five (35) days of the date the person receives an assessment under Section 407, in accordance with IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (5-3-03)

411. -- 439. (RESERVED)

440. REQUIREMENTS FOR ALTERNATIVE EMISSION LIMITS (BUBBLES).

The owner or operator of any facility may apply to the Department for a Tier I or Tier II operating permit (or a revision thereto) to authorize an alternative emission limit for any stationary source or emissions unit within the facility. The Department may issue or revise a Tier II operating permit or issue a significant modification to a Tier I operating permit which authorizes an alternative emission limit provided that all of the following are met: (4-5-00)

01. Actual Emissions. There is no increase in actual emissions of the applicable air pollutant at the facility. (4-11-06)

02. Emission Reductions. All emission reductions satisfy the requirements for emission reduction credits (Section 460). (5-1-94)

03. Trade Requirements. All trades involve the same air pollutant and demonstrate ambient equivalence as specified in Subsection 441.02. (4-11-06)

04. Applicable Requirement Prohibition. No applicable Section of 40 CFR Part 60, 40 CFR Part 61, or 40 CFR Part 63, best available control technology requirement, lowest achievable emission rate requirement, or visual emission standard is exceeded. (5-1-94)

05. Actual HAP/TAP Emissions. The actual emissions of any hazardous air pollutant or any toxic air pollutant are not increased. (5-1-94)

06. Fugitive Dust Trades. Where the trade involves fugitive dust, the owner or operator shall undertake an adequate post-approval monitoring program to evaluate the ambient results of the controls. If the monitoring data indicate that the air quality effects are not equivalent, then: (5-1-94)

a. Further reductions must be proposed by the owner or operator; and/or (5-1-94)

b. The applicable emission standards in the operating permit will be adjusted by the Department; (5-1-94)

07. Compliance Schedule Extension. Any compliance schedule extension for a facility in a nonattainment area is consistent with reasonable further progress. (5-1-94)

08. EPA Approval. Approval of the U.S. Environmental Protection Agency, and where necessary the appropriate court, has been obtained for any individual stationary source or facility which is the subject of a federal

enforcement action or outstanding enforcement order. (5-1-94)

441. DEMONSTRATION OF AMBIENT EQUIVALENCE.

The demonstration of ambient equivalence shall: (5-1-94)

01. VOC Trades. For trades involving volatile organic compounds, show that total emissions are not increased for the air basin in which the stationary source or facility is located. (5-1-94)

02. Other Trades. For trades involving any other air pollutant, show through appropriate dispersion modeling that the trade will not cause a significant contribution at any modeled receptor. (4-11-06)

442. -- 459. (RESERVED)

460. REQUIREMENTS FOR EMISSION REDUCTION CREDIT.

In order to be credited in a permit to construct, Tier I operating permit or Tier II operating permit any emission reduction must satisfy the following: (5-1-94)

01. Allowable Emissions. The proposed level of allowable emissions must be less than the actual emissions of the stationary source(s) or emission unit(s) providing the emission reduction credit. No emission reduction(s) can be credited for actual emissions which exceed the allowable emissions of the stationary source(s) or emission unit(s). (5-1-94)

02. Timing of Emission Reduction. In an attainment or unclassifiable area any emission reduction which occurs prior to the minor source baseline date must have been banked with the Department prior to the minor source baseline date in order to be credited; in a nonattainment area the emission reduction must occur after the base year of any control strategy for the particular air pollutant. (4-11-06)

03. Emission Rate Calculation. The emission rate before and after the reduction must be calculated using the same method and averaging time and the characteristics necessary to evaluate any future use of the emission reduction credit must be described. (5-1-94)

04. Permit Issuance. A permit to construct, Tier I operating permit or Tier II operating permit shall be issued which establishes a new emission standard for the facility, or restricts the operating rate, hours of operation, or the type or amount of material combusted, stored or processed for the stationary source(s) or emission unit(s) providing the emission reductions. (4-5-00)

05. Imposed Reductions. Emission reductions imposed by local, state or federal regulations or permits shall not be allowed for emission reduction credits. (5-1-94)

06. Mobile Sources. The proposed level of allowable emissions must be less than the actual emissions of the mobile sources or stationary sources providing the emission reduction credit. Mobile source emission reduction credits shall be made state or federally enforceable by SIP revision. The form of the SIP revision may be a state or local regulation, operating permit condition, consent or enforcement order, or any mechanism available to the state that is enforceable. (4-5-00)

461. REQUIREMENTS FOR BANKING EMISSION REDUCTION CREDITS (ERC'S).

01. Application to Bank an ERC. The owner or operator of any facility may apply to the Department for a Tier I or Tier II operating permit (or a revision thereto) to bank an emission reduction credit. An application to bank an emission reduction credit must be received by the Department no later than one (1) year after the reduction occurs. The Department may issue or revise such a Tier I or Tier II operating permit and a "Certificate of Ownership" for an emission reduction credit, provided that all emission reductions satisfy the requirements for emission reduction credits (Section 460). (5-1-94)

02. Banking Period. Emission reduction credits may be banked with the Department. The banked emission reduction credits may be used for offsets, netting in accordance with the definition of net emissions increase at Section 007, or alternative emission limits (bubbles), or sold to other facilities. The use of banked emission

reduction credits must satisfy the applicable requirements of the program in which they are proposed for use, including approval of a permit to construct or a Tier I or Tier II operating permit. (4-5-00)

03. Certificate of Ownership. Upon issuing or revising a Tier I or Tier II operating permit for an emission reduction credit, the Department will issue a "Certificate of Ownership" which will identify the owner of the credits, quantify the credited emission reduction and describe the characteristics of the emissions which were reduced and emissions unit(s) which previously emitted them. (5-1-94)

04. Adjustment by Department. If at any time the Department, or the owner or operator of a facility which has produced an emission reduction credit, finds that the actual reduction in emissions differs from that in the certificate of ownership, the Department will adjust the amount of banked emission reduction credits to reflect the actual emission reduction and issue a revised certificate of ownership. (5-1-94)

05. Proportional Discounts. If at any time the Department finds that additional emission reductions are necessary to attain and maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment, banked emission reduction credits at facilities in the affected area may be proportionally discounted by an amount which will not exceed the percentage of emission reduction required for that area. (4-5-00)

06. Transfer of Ownership. Whenever the holder of a certificate of ownership for banked emission reduction credits, sells or otherwise transfers ownership of all or part of the banked credits, the holder shall submit the certificate of ownership to the Department. The Department will issue a revised certificate(s) of ownership which reflects the old and new holder(s) and amount(s) of banked emission reduction credits. (5-1-94)

07. Public Registry. The Department will maintain a public registry of all banked emissions reduction credits, indicating the current holder of each certificate of ownership and the amount and type of credited emissions. (5-1-94)

462. -- 499. (RESERVED)

500. REGISTRATION PROCEDURES AND REQUIREMENTS FOR PORTABLE EQUIPMENT.

01. Registration Requirements. All existing portable equipment shall be registered within ninety (90) days after the original effective date of this Section 500 and at least ten (10) days prior to relocating, using forms provided by the Department, except that no registration is required for mobile internal combustion engines, marine installations and locomotives. (5-1-94)

02. Compliance with Rules and Regulations. Possessing a "Certificate of Registration" does not relieve any owner or operator of the responsibility to comply with all applicable local, state and federal rules and regulations. (5-1-94)

501. -- 509. (RESERVED)

510. STACK HEIGHTS AND DISPERSION TECHNIQUES.

The purpose of Sections 510 through 516 is to establish criteria for good engineering practice for stack heights and dispersion techniques. (5-1-94)

511. APPLICABILITY.

The provisions of Sections 510 through 516 shall apply to existing, new, and modified stationary sources and facilities. The provisions of Sections 510 through 516 do not apply to stack heights in existence, or dispersion techniques implemented, on or before December 31, 1970, except where regulated or toxic air pollutant(s) are being emitted from such stacks or using such dispersion techniques by sources which were constructed, or reconstructed, or for which major modifications were carried out, after December 31, 1970. (4-11-06)

512. DEFINITIONS.

For the purpose of Sections 500 through 516: (5-1-94)

01. Dispersion Technique. Any technique which attempts to affect the concentration of a regulated or toxic air pollutant in the ambient air by: (4-11-06)

a. Using that portion of a stack which exceeds good engineering practice stack height; (5-1-94)

b. Varying the rate of emission of a regulated or toxic air pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or (4-11-06)

c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one (1) stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. This does not include the reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream; smoke management in agricultural or silvicultural prescribed burning programs; episodic restrictions on residential woodburning and open burning; techniques which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed five thousand (5,000) tons per year; or the merging of exhaust gas streams where: (5-1-94)

i. The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams; (5-1-94)

ii. After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a regulated or toxic air pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the regulated or toxic air pollutant affected by such change in operation; or (4-11-06)

iii. Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, the reviewing agency shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the reviewing agency shall deny credit for the effects of such merging in calculating the allowable emissions for the source. (5-1-94)

02. Excessive Concentration. For the purpose of determining good engineering practice stack height in a fluid modeling evaluation or field study as provided for in Subsection 512.03.c. "Excessive Concentration" means: (5-1-94)

a. For sources seeking credit for stack height exceeding that established under Subsection 512.03.b., a maximum ground level concentration due to emissions from a stack due in whole or in part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of such effects, and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the prevention of significant deterioration program, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under Subsection 512.02.a., shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Department, an alternative emission rate shall be established in consultation with the source owner or operator. (5-1-94)

b. For sources seeking credit after October 1, 1983, for increases in existing stack heights up to the heights established under Subsection 512.03.b., either: (5-1-94)

i. A maximum ground-level concentration due in whole or in part to downwash, wakes or eddy effects as provided in Subsection 512.02.a., except that the emission rate specified by any applicable SIP or, in the absence of such a limit, the actual emission rate shall be used; or (5-1-94)

ii. The actual presence of a local nuisance caused by the existing stack as determined by the authority administering the Department. (5-1-94)

c. For sources seeking credit after January 12, 1979, for a stack height determined under Subsection 512.03.b., where the Department requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in Subsection 512.03.b., a maximum ground-level concentration due in whole or in part to downwash, wakes or eddy effects that is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects. (5-1-94)

03. Good Engineering Practice (GEP) Stack Height. The greater of: (5-1-94)

a. Sixty-five (65) meters, measured from the ground-level elevation at the base of the stack; (5-1-94)

b. For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable preconstruction permits or approvals required,

$$H = 2.5S$$

provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation. For all other stacks provided that the Department may require the use of a field study or fluid model to verify GEP stack height for the source,

$$H = S + 1.5L$$

where:

(5-1-94)

i. H = good engineering practice stack height measured from the ground-level elevation at the base of the stack. (5-1-94)

ii. S = height of nearby structure(s) measured from the ground-level elevation at the base of the stack. (5-1-94)

iii. L = lesser dimension, height or projected width, of nearby structure(s). (5-1-94)

c. The height demonstrated by a fluid model or a field study approved by the Department which ensures that the emissions from a stack do not result in excessive concentrations of any regulated or toxic air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, structures, or terrain features. (4-11-06)

04. Nearby Structures or Terrain Features. “Nearby” as applied to a specific structure or terrain feature under the definition of “good engineering practice stack height”; and (5-1-94)

a. For purposes of applying the formulae provided under Subsection 512.03.b., means that distance up to five (5) times the lesser of the height or the width dimension of a structure, but not greater than one-half (1/2) mile (0.8 km); and (5-1-94)

b. For conducting demonstrations under Subsection 512.03.c., means not greater than one-half (0.5) mile (0.8 km), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to ten (10) times the maximum height of the feature, not to exceed two (2) miles if such feature achieves a height one-half (0.5) mile (0.8 km) from the stack that is at least forty percent (40%) of the GEP stack height determined by the formulae provided in Subsection 512.03.b., or twenty-six (26) meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack. (4-5-00)

05. Stack in Existence. The owner or operator had: (5-1-94)

a. Begun, or caused to begin, a continuous program of physical on-site construction of the stack; or (5-1-94)

b. Entered into binding agreements or contractual obligations which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time. (5-1-94)

513. REQUIREMENTS.

The required degree of emission control of any regulated or toxic air pollutant shall not be affected by the amount of any stack height that exceeds good engineering practice (GEP) or by any other dispersion technique. (4-11-06)

514. OPPORTUNITY FOR PUBLIC HEARING.

Whenever a new or revised emission limitation is to be based on a good engineering practice stack height that exceeds the height allowed by the formulae in Subsections 512.03.a. and 512.03.b., the Department will notify the public of the availability of the demonstration study submitted under Subsection 512.03.c., and will provide an opportunity for public hearing on the demonstration study. (5-1-94)

515. APPROVAL OF FIELD STUDIES AND FLUID MODELS.

Any field study or fluid model used to demonstrate GEP stack height under Subsection 512.03.b. or 512.03.c., and any determination of “excessive concentration” under Subsection 512.02 must be approved by the EPA prior to an emission limit being established. The construction of any new stack, or any increase to the height of any existing stack to the height determined by the formulae in Subsection 512.03.b., without completing a fluid model and a field study must be approved by the EPA. (5-1-94)

516. NO RESTRICTION ON ACTUAL STACK HEIGHT.

The provisions of Sections 510 through 516 do not restrict, in any manner, the actual stack height of any stationary source or facility. (5-1-94)

517. MOTOR VEHICLE INSPECTION AND MAINTENANCE PROGRAM.

01. Purpose. The purpose of Sections 517 through 527 is to set forth the minimum standards for a motor vehicle inspection and maintenance program, established pursuant to Section 39-116B, Idaho Code, for registered motor vehicles as defined in Section 49-123, Idaho Code. This program is designed to follow the basic inspection and maintenance program defined in 40 CFR 51.352. (4-4-13)

02. Applicability. Sections 517 through 527 apply only to the counties of Ada and Canyon and the cities of Boise, Eagle, Garden City, Meridian, Kuna, Star, Caldwell, Greenleaf, Melba, Middleton, Nampa, Notus, Parma, and Wilder. (4-4-13)

03. Options. (3-29-10)

a. Section 39-116B, Idaho Code, provides the counties and cities listed in Subsection 517.02 with the following implementation options. The counties and cities may: (3-29-10)

i. Enter into a joint exercise of powers agreement with the Director to implement a motor vehicle inspection and maintenance program; or (3-29-10)

ii. Obtain Department approval to implement an alternative motor vehicle emissions control strategy that will result in emissions reductions equivalent to that of a motor vehicle inspection and maintenance program. (3-29-10)

b. If neither of the options listed in Subsection 517.03.a. are selected, the Department shall implement the motor vehicle inspection and maintenance program. (3-29-10)

04. Governing Authority. For the purpose of Sections 517 through 527, governing authority means the governing entity responsible for the development and implementation of the motor vehicle inspection and

maintenance program. The governing entity may be the counties and cities listed in Subsection 517.02 or the Department. The governing authority shall adopt Sections 517 through 527 of these rules. (4-4-13)

- 05. Exemptions.** Sections 517 through 527 do not apply to the following: (4-4-13)
- a.** Electric or hybrid motor vehicles; (3-29-10)
 - b.** Motor vehicles with a model year less than five (5) years old; (3-29-10)
 - c.** Motor vehicles with a model year older than 1981; (3-29-10)
 - d.** Classic automobiles as defined by Section 49-406A, Idaho Code; (3-29-10)
 - e.** Motor vehicles with a maximum vehicle gross weight of less than fifteen hundred (1500) pounds; (3-29-10)
 - f.** Motor vehicles registered as motor homes as defined by Section 49-114, Idaho Code; (3-29-10)
 - g.** Motorized farm equipment; and (3-29-10)
 - h.** Registered motor vehicles engaged solely in the business of agriculture. (3-29-10)

518. REQUIREMENTS FOR LICENSING AUTHORIZED INSPECTION STATIONS OR RETEST STATIONS.

01. General. (3-29-10)

a. No person or enterprise shall in any manner represent any place as an inspection station or retest station unless such station is operated under a valid license issued by the governing authority. (3-29-10)

b. No license for any inspection station or retest station may be assigned, transferred or used by other than the original applicant for that specific station. (3-29-10)

02. Applications for License. Applications for license as an inspection station or retest station shall be made on the forms provided by the governing authority. No license shall be issued unless the governing authority finds that the facilities, tools and equipment of the applicant comply with the requirements set forth in Subsections 518.03 or 518.04. (3-29-10)

03. Requirements for Licensed Inspection Stations. In order to qualify for issuance and continuance of an inspection station license, an establishment must meet the following requirements: (3-29-10)

a. Must have a permanent location; (3-29-10)

b. Must ensure that at least one employee, who has been issued an emissions technician license by the governing authority, is on duty at all times of station operation; (3-29-10)

c. Must demonstrate the ability to perform the emissions test and comply with reporting and recordkeeping requirements established by the governing authority; (3-29-10)

d. Must obtain and maintain in force appropriate business liability insurance; and (3-29-10)

e. Must have the tools, equipment and supplies, as required by the governing authority, available for performance of the emissions test. (3-29-10)

04. Requirements for Licensed Retest Stations. In order to qualify for issuance and continuance of a retest station license, an establishment must meet the requirements listed in Subsection 518.03. (4-4-13)

05. Approval Procedure. (3-29-10)

a. Applications received by the governing authority will be reviewed for completeness and an inspection of the facility will be performed. An inspection report will be prepared for the governing authority's review. (3-29-10)

b. Stations which meet the requirements of Subsections 518.01 through 518.04 will be granted an inspection station license or retest station license and issued a station sign. The station sign and license shall be posted in a conspicuous place, readily visible to the public. The station sign and license shall remain the property of the governing authority. (3-29-10)

06. Revocation of Inspection Station or Retest Station License. The governing authority has the authority to issue warnings and suspend or revoke a station license upon a showing that emission tests are not being performed in accordance with these rules and any other specifications or procedures enacted by the governing authority. (3-29-10)

519. REQUIREMENTS FOR LICENSING AUTHORIZED EMISSIONS TECHNICIANS.

01. Applications for License. Application for a license as an emissions technician shall be filed with the governing authority. Applications for the emissions technician license shall be completed on forms provided by the governing authority. (3-29-10)

02. Requirements for Issuance of an Emissions Technician License. An applicant must demonstrate the knowledge and skill necessary to perform an emissions test of motor vehicle engines. The governing authority shall require the minimum standards set forth in 40 CFR 51.367, incorporated by reference into these rules at Section 107. (3-29-10)

03. Revocation of Emissions Technician License. The governing authority has the authority to issue warnings and suspend or revoke an emissions technician license upon a showing that emission tests are not being performed in accordance with these rules or any other specifications or procedures enacted by the governing authority. (3-29-10)

520. INSPECTION FREQUENCY.

The inspections shall occur no more than once every two (2) years. If the owner of the motor vehicle obtains a waiver pursuant to Section 526, the motor vehicle must be inspected the following year. (3-29-10)

521. TEST PROCEDURE REQUIREMENTS.

The governing authority shall require the minimum standards set forth in 40 CFR 51.357(a), incorporated by reference into these rules at Section 107. (3-29-10)

522. TEST STANDARDS.

The governing authority shall require the minimum standards set forth in 40 CFR 51.357(b), incorporated by reference into these rules at Section 107. (3-29-10)

523. TEST EQUIPMENT.

The governing authority shall require the minimum standards set forth in 40 CFR 51.358, incorporated by reference in to these rules at Section 107. (3-29-10)

524. INSPECTION FEE.

The fee for a motor vehicle inspection, as established in Section 39-116B(2)(g), Idaho Code, shall not exceed twenty dollars (\$20) per vehicle. This fee is necessary to carry out the provisions of Sections 517 through 527 and to fund an air quality public awareness and outreach program. (4-4-13)

525. PUBLIC OUTREACH.

The governing authority shall issue a pamphlet for distribution to owners of motor vehicles. The pamphlet shall include, but not be limited to, the reasons for and the methods of the inspection. The governing authority may also establish and operate an informational hotline, website, or any other means of outreach that is deemed to be efficient

and effective by the governing authority. (3-29-10)

526. WAIVERS.

The governing authority shall require the minimum standards set forth in 40 CFR 51.360(a), incorporated by reference into these rules at Section 107. If the owner of the motor vehicle obtains a waiver, the motor vehicle must be inspected the following year. (3-29-10)

01. Financial Hardship. If repairs required under Section 526 pose a financial hardship on the owner of the motor vehicle, the governing authority shall have the authority to issue a waiver without requiring expenditure of the amounts listed in 40 CFR 51.360(a). Such determination of hardship shall be made on a case-by-case basis by the governing authority. (3-29-10)

02. Public Service Vehicles Operating Less than 1,000 Miles Per Year. For public service vehicles owned by a governmental entity and operated less than one thousand (1,000) miles per year, the governing authority shall have the authority to issue a waiver without requiring expenditure of the amounts listed in 40 CFR 51.360(a). (3-29-10)

527. EXTENSIONS.

The governing authority shall have the authority to grant extensions for vehicles or vehicle owners temporarily located outside of a testing area that cannot easily be returned to an area for testing. The extension shall not exceed one (1) year. For active duty military personnel and their families stationed outside the applicable testing area specified in Subsection 517.02, a time extension not to exceed the testing period is available. Military extensions shall be renewed with current military orders. (4-4-13)

528. -- 549. (RESERVED)

550. AIR POLLUTION EMERGENCY RULE.

The purpose of Sections 550 through 562 is to define criteria for an air pollution emergency, to formulate a plan for preventing or alleviating such an emergency, and to specify rules for carrying out the plan. The procedures for implementing Sections 550 through 562 are delineated in Chapter VI of the SIP. (5-1-94)

551. EPISODE CRITERIA.

The purpose of Sections 551 through 556 is to establish criteria for stages of atmospheric stagnation and/or degraded air quality. (5-1-94)

552. STAGES.

The Department has defined four (4) stages of atmospheric stagnation and/or degraded air quality. (5-1-94)

01. Stage 1 -- Air Pollution Forecast and Caution. An internal watch by the Department shall be actuated by a National Weather Service report that an Atmospheric Stagnation Advisory has been issued, or the equivalent local forecast of stagnant atmospheric conditions. (3-15-02)

02. Stage 2 -- Alert. This is the first stage at which air pollution control actions by industrial sources are to begin. (5-1-94)

03. Stage 3 -- Warning. The warning stage indicates that air quality is further degraded and that control actions are necessary to maintain or improve air quality. (5-1-94)

04. Stage 4 -- Emergency. The emergency stage indicates that air quality has degraded to a level that will substantially endanger the public health and that the most stringent control actions are necessary. (5-1-94)

553. EFFECT OF STAGES.

Once an episode stage is reached or the Department determines that reaching a particular stage is imminent, emergency action corresponding to that stage will remain in effect until air quality measurements indicate that another stage (either lower or higher) has been attained or the Department determines that reaching another stage (either lower or higher) is imminent. At such time, actions corresponding to the next stage will go into effect. This procedure will continue until the episode is terminated. The air quality criteria used to define each of the episode

stages for carbon monoxide, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide are specified in Section 556. The levels will be determined by the Department through its analysis of meteorological and ambient air quality monitoring data. (3-15-02)

554. -- 555. (RESERVED)

556. CRITERIA FOR DEFINING LEVELS WITHIN STAGES.

The air quality criteria defining each of these levels for carbon monoxide (CO), nitrogen dioxide (NO₂), ozone (O₃), particles with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers (PM-10), particles with an aerodynamic diameter less than or equal to a nominal two point five (2.5) micrometers (PM-2.5), and sulfur dioxide (SO₂) are: (3-15-02)

01. Stage 1 -- Forecast and Caution. A Stage 1 Forecast and Caution shall be declared by the Department when particulate concentrations reach, or are forecasted to reach, and persist, at or above the levels listed below. The Department may call a Stage 1 Forecast and Caution, if it determines, after evaluating the pertinent meteorology, weather conditions and air quality conditions such as visibility, and source parameters such as source type, strength, location and projected duration, that a Stage 1 Forecast and Caution is required to protect the public health.

CO	NA
NO ₂	NA
O ₃	NA
SO ₂	NA
PM-2.5	80 ug/m ³ 1 hour average
PM-2.5	50 ug/m ³ 24 hour average
PM-10	385 ug/m ³ 1 hour average
PM-10	150 mg/m ³ 24 hour average

(3-15-02)

02. Stage 2 -- Alert.

CO - 17 mg/m ³ (15 ppm)	8-hour average
NO ₂ - 1130 ug/m ³ (0.6 ppm)	1-hour average
- 282 ug/m ³ (0.15 ppm)	24-hour average
O ₃ - 400 ug/m ³ (0.2 ppm)	1-hour average
PM-10 - 350 ug/m ³	24-hour average
SO ₂ - 800 ug/m ³ (0.3 ppm)	24-hour average

(4-5-00)

03. Stage 3 -- Warning.

CO - 34 mg/m ³ (30 ppm)	8-hour average
NO ₂ - 2260 ug/m ³ (1.2 ppm),	1-hour average
- 565 ug/m ³ (0.3 ppm)	24-hour average
O ₃ - 800 ug/m ³ (0.4 ppm)	1-hour average

PM-10 - 420 ug/m3	24-hour average
SO ₂ - 1600 ug/m3 (0.6 ppm)	24-hour average

(4-5-00)

04. Stage 4 -- Emergency.

CO - 46 mg/m3 (40 ppm)	8-hour average
NO ₂ - 3000 ug/m3 (1.6 ppm)	1-hour average
- 750 ug/m3 (0.4 ppm)	24-hour average
O ₃ - 1000 ug/m3 (0.5 ppm)	1-hour average
PM-10 - 500 ug/m3	24-hour average
SO ₂ - 2100 ug/m3 (0.8 ppm)	24-hour average

(4-5-00)

557. PUBLIC NOTIFICATION.

The purpose of Sections 557 through 560 is to establish requirements for public notification regarding atmospheric stagnation and/or degraded air quality. (5-1-94)

558. INFORMATION TO BE GIVEN.

01. Information to Be Given. On the basis of degrading air quality as determined by the Director, and the criteria for emergency episode stages as shown in Section 556, the Director will utilize appropriate media and techniques including, but not limited to, print, electronic and internet, to insure that the following information is announced to the public, affected government, and commercial, industrial institutional and agricultural entities as practicable: (3-15-02)

- a. Definition of the extent of the problem; (5-1-94)
- b. Indication of the action taken by the Director; (5-1-94)
- c. Air pollution forecast for next few days; (5-1-94)
- d. Notice of when the next statement from the Department will be issued; (5-1-94)
- e. Listing of all general procedures which the public, commercial, institutional and industrial sectors are required to follow; (5-1-94)
- f. Specific warnings and advice to those persons who because of acute or chronic health problems, may be most susceptible to the effects of the episode. (3-15-02)
- g. Location and description of the affected area. (3-15-02)

559. MANNER AND FREQUENCY OF NOTIFICATION.

Such announcements will be made by the news media during regularly scheduled television and radio news broadcasts and in all editions of specified newspapers. In addition, when the stage 4 emergency level is reached, television and radio stations designated by the Department will repeat these announcements at one (1) hour intervals during normal broadcasting hours. (5-1-94)

560. NOTIFICATION TO SOURCES.

The Department will assure that all significant sources of the applicable air pollutant(s) are notified of the emergency stage by telephone or other appropriate means. (4-11-06)

561. GENERAL RULES.

All persons in the designated stricken area shall be governed by the following rules for each emergency episode stage. The Director may waive one (1) or more of the required measures at each episode stage if, on the basis of information available to him, he judges that a measure is an inappropriate response to the specific episode conditions which then exist. (5-1-94)

01. Stage 1 -- Air Pollution Forecast and Caution. There shall be no new ignition of open burning of any kind. The Director may require, if practicable, or in an emergency situation, the cessation of any open burning. (3-15-02)

02. Stage 2 -- Alert. (5-1-94)

a. There shall be no open burning of any kind. (5-1-94)

b. The use of burners and incinerators for the disposal of any form of solid waste shall be prohibited. (3-15-02)

c. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 pm (noon) and 4:00 p.m. (5-1-94)

d. Commercial, industrial and institutional facilities utilizing coal or residual fuel oil are required to switch to natural gas or distillate oil if available. (5-1-94)

03. Stage 3 -- Warning. (5-1-94)

a. There shall be no open burning of any kind. (5-1-94)

b. The use of burners and incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited. (3-15-02)

c. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 pm (noon) and 4:00 p.m. (5-1-94)

d. Commercial, industrial and institutional facilities utilizing coal or residual fuel are required to either: (5-1-94)

i. Switch completely to natural gas or distillate oil; or (5-1-94)

ii. If these low sulfur fuels are not available, curtail the use of existing fuels to the extent possible without causing injury to persons or damage to equipment. (5-1-94)

04. Stage 4 -- Emergency. This will be called only with specific concurrence of Governor. (5-1-94)

a. There shall be no open burning of any kind. (5-1-94)

b. The use of burners and incinerators for the disposal of any form of solid or liquid waste shall be prohibited. (3-15-02)

c. All places of employment described below shall immediately cease operations: (5-1-94)

i. All mining and quarrying operations; (5-1-94)

ii. All construction work except that which must proceed to avoid injury to persons; (5-1-94)

iii. All manufacturing establishments except those required to have in force an air pollution emergency plan; (5-1-94)

iv. All wholesale trade establishments, i.e. places of business primarily engaged in selling merchandise to retailers or industrial, commercial, institutional or professional users, or to other wholesalers, or acting as agents in buying merchandise for or selling merchandise to such persons or companies except those engaged in the distribution of drugs, surgical supplies and food; (5-1-94)

v. All offices of local, county and State government including authorities, joint meetings, and other public bodies excepting such agencies which are determined by the chief administrative officer of local, county, or State government authorities, joint meetings and other public bodies to be vital for public safety and welfare and the enforcement of the provisions of this order; (5-1-94)

vi. All retail trade establishments except pharmacies, surgical supply distributors, and stores primarily engaged in the sale of food; (5-1-94)

vii. Banks, credit agencies other than banks, securities and commodities brokers, dealers, exchanges and services; offices of insurance carriers, agents and brokers, real estate offices; (5-1-94)

viii. Wholesale and retail laundries, laundry services and cleaning and dyeing establishments; photographic studios; beauty shops, barber shops, shoe repair shops; (5-1-94)

ix. Advertising offices, consumer credit reporting, adjustment and collection agencies; duplicating, addressing, blueprinting; photocopying, mailing, mailing list and stenographic services; equipment rental services, commercial testing laboratories; (5-1-94)

x. Automobile repair, automobile services, garages except those located adjacent to state or interstate highways; (5-1-94)

xi. Establishments rendering amusement and recreational services including motion picture theaters; (5-1-94)

xii. Elementary and secondary schools, colleges, universities, professional schools, junior colleges, vocational schools, and public and private libraries. (5-1-94)

d. All commercial and manufacturing establishments not included in this order will institute such actions as will result in maximum reduction of the applicable air pollutant(s) from their operation by ceasing, curtailing, or postponing operations which emit the applicable air pollutants to the extent possible without causing injury to persons or damage to equipment. These actions include limiting boiler lancing or soot blowing operations for fuel burning equipment to between the hours of 12:00 pm (noon) and 4:00 p.m. (4-11-06)

e. When the emergency episode is declared for carbon monoxide, the use of motor vehicles is prohibited except in emergencies or with the approval of local or state police or the Department. (5-1-94)

562. SPECIFIC EMERGENCY EPISODE ABATEMENT PLANS FOR POINT SOURCES.

In addition to the general rules presented in Section 561, the Department shall require that specific point sources adopt and implement their own Emergency Episode Abatement Plans in accordance with the criteria set forth in Sections 551 through 556. An individual plan can be revised periodically by the Department after consultation between the Department and the owners and/or operators of the source. (5-1-94)

563. TRANSPORTATION CONFORMITY.

The purpose of Sections 563 through 574 is to adopt and implement Section 176(c) of the Clean Air Act (CAA), as amended [42 U.S.C. 7401 et seq.], and the related requirements of 23 U.S.C. 109(j), with respect to the conformity of transportation plans, programs, and projects developed, funded, or approved by the United States Department of Transportation (USDOT), and by metropolitan planning organizations (MPOs) or other recipients of funds under Title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. Chapter 53). These sections set forth policy, criteria, and procedures for demonstrating and assuring conformity of such activities to an applicable implementation plan developed pursuant to Section 110 and Part D of the CAA. The publications referred to in Sections 563 through 574 are available from the IDEQ. (3-25-16)

564. (RESERVED)

565. ABBREVIATIONS.

- | | | |
|------------|---|-----------|
| 01. | CAA. Clean Air Act, as amended. | (3-30-01) |
| 02. | CFR. Code of Federal Regulations. | (3-30-01) |
| 03. | CO. Carbon Monoxide. | (3-30-01) |
| 04. | EPA. Environmental Protection Agency. | (3-30-01) |
| 05. | FHWA. Federal Highway Administration of USDOT. | (3-30-01) |
| 06. | FTA. Federal Transit Administration of USDOT. | (3-30-01) |
| 07. | HPMS. Highway Performance Monitoring System. | (3-30-01) |
| 08. | ICC. Interagency Consultation Committee. | (3-30-01) |
| 09. | IDEQ. Idaho Department of Environmental Quality. | (3-30-01) |
| 10. | ITD. Idaho Transportation Department. | (3-30-01) |
| 11. | LHTAC Local Highway Technical Assistance Council. | (3-30-01) |
| 12. | LRTP. Long Range Transportation Plan. | (3-30-01) |
| 13. | MPO. Metropolitan Planning Organization. | (3-30-01) |
| 14. | NAAQS. National Ambient Air Quality Standards. | (3-30-01) |
| 15. | NEPA. National Environmental Policy Act, as amended. | (3-30-01) |
| 16. | O3. Ozone. | (3-30-01) |
| 17. | PM. Particulate matter. | (3-30-01) |
| 18. | PM_x. Particles with an aerodynamic diameter less than or equal to a nominal X micrometers, where X denotes any size fraction number regulated by the NAAQs (e.g.: 10, 2.5). | (3-30-01) |
| 19. | STIP. Statewide Transportation Improvement Program. | (3-30-01) |
| 20. | TCM. Transportation Control Measure. | (3-30-01) |
| 21. | TIP. Transportation Improvement Program. | (3-30-01) |
| 22. | USDOT. United States Department of Transportation. | (3-30-01) |
| 23. | VMT. Vehicle Miles Traveled. | (3-30-01) |

566. DEFINITIONS FOR THE PURPOSE OF SECTIONS 563 THROUGH 574 AND 582.

Terms used but not defined in Sections 563 through 574 and 582 shall have the meaning given them by the CAA, Titles 23 and 49 U.S.C., other Environmental Protection Agency (EPA) regulations, or other USDOT regulations, in that order of priority. For the purpose of Sections 563 through 574 and 582: (3-30-01)

- 01. Applicable Implementation Plan.** Applicable Implementation Plan is defined in Section 302(q) of

the CAA and means the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under Section 110 of the CAA, or promulgated under Section 110(c) of the CAA, or promulgated or approved pursuant to regulations promulgated under Section 301(d) of the CAA and which implements the relevant requirements of the CAA. (3-30-01)

02. Consult or Consultation. The lead agency confers with other ICC members and persons on the distribution list and considers their views prior to taking actions relating to transportation conformity. The lead agency shall distribute all appropriate information necessary to make a conformity determination and, prior to making a conformity determination, shall consider the views of such parties and shall provide a timely, written response to those views. Such views and written responses shall be included in the record of decision or action. Consultation shall not occur with respect to a transportation plan or transportation improvement program (TIP) revision that merely adds or exempts projects listed in 40 CFR 93.126. (3-30-01)

03. Distribute. Make available relevant documents and information by electronic and manual means, whichever is more appropriate, to all ICC members and persons on the distribution list. Electronic distribution may include existing and future technological applications, such as electronic mail, internet web-site posting including downloadable files, or the use of an electronic mail reply system based on the distribution list. Manual distribution may include the United States Postal Service, the state internal mail system, a facsimile machine, or any commercially available mail service provider. (3-30-01)

04. Distribution List. A list containing the names and addresses of ICC members and any person(s) expressing an interest in receiving information and material pertaining to ICC meetings. To express interest, a person may contact the lead agency by postal mail, electronic mail, telephone or in person, and inform the ICC member of their interest in being on the distribution list for information and material pertaining to ICC meetings. (3-30-01)

05. Exempt Projects. Projects exempt from conformity requirements based on the general criteria of safety, mass transit, and other factors, as described in 40 CFR 93.126. (3-30-01)

06. Lead Agency. The transportation or air quality agency responsible for conducting the consultation process, as identified in Subsections 568.01 through 568.03. (3-30-01)

07. Lead Air Quality Agency. An agency designated pursuant to Section 174 of the CAA as responsible for developing an applicable implementation plan, or alternatively the agency designated by the Governor as the lead air quality agency for a county, region, or any jurisdiction. (3-30-01)

08. Local Highway Jurisdiction. A county with jurisdiction over a highway system, a city with jurisdiction over a highway system, or a highway district, as defined by Section 40-113(3), Idaho Code. (3-30-01)

09. Local Highway Technical Assistance Council (LHTAC). The public agency created in Chapter 24, Title 40, Idaho Code. (3-30-01)

10. Maximum Priority. (3-30-01)

a. All possible actions must be taken to shorten the time periods necessary to complete essential steps in TCM implementation - for example, by increasing the funding rate - even though timing of other projects may be affected. It is not permissible to have prospective discrepancies with the applicable implementation plan's TCM implementation schedule due to: (3-30-01)

i. Lack of funding in the TIP; (3-30-01)

ii. Lack of commitment to the project by the sponsoring agency; (3-30-01)

iii. Unreasonably long periods to complete future work due to lack of staff or other agency resources; (3-30-01)

iv. Lack of approval or consent by local governmental bodies; or (3-30-01)

v. Failure to have applied for a permit where necessary work preliminary to such application has been completed. (3-30-01)

b. Where statewide and metropolitan funding resources, planning, and management capabilities are fully consumed within the flexibility of the Transportation Equity Act of 1998 (TEA-21), Pub. L. No. 105-178, 112 Stat 107, as amended by Pub. L. No. 105-206, 112 Stat 685, or future federal omnibus transportation funding bills, with responding to damage from natural disasters, civil unrest, or terrorist acts, TCM implementation can be determined to be timely without regard to the above, provided reasonable efforts are being made. (3-30-01)

11. Metropolitan Planning Organization (MPO). The organization designated as being responsible, together with the State, for conducting the continuing cooperative and comprehensive transportation planning process under 23 U.S.C. 134 and 49 U.S.C. 5303 and 23 CFR 450. It is the forum for cooperative transportation decision-making. (3-30-01)

12. Public Notice. Distribution of the meeting times, location, duration and agenda, to all the ICC members and persons on the distribution list. (3-30-01)

13. Recipient of Funds Designated Under Title 23 U.S.C. or the Federal Transit Laws. Any agency at any level of state, county, city, or regional government that routinely receives Title 23 U.S.C. or Federal Transit Laws funds to construct FHWA/FTA projects, operate FHWA/FTA projects or equipment, purchase equipment, or undertake other services or operations via contracts or agreements. This definition does not include private landowners, developers, contractors, or entities that are only paid for services or products created by their own employees. (3-30-01)

14. Regionally Significant Project. A transportation project, other than an exempt project, that is on a facility which serves regional transportation needs (such as access to and from the area outside the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area's transportation network, including, at a minimum: (3-30-01)

a. All principal arterial highways; (3-30-01)

b. All fixed guideway transit facilities that offer an alternative to regional highway travel; and (3-30-01)

c. Any other facilities determined to be regionally significant through Section 570, interagency consultation. (3-30-01)

15. Transportation Agency. The public agency responsible for one (1) or more of the following transportation modes: (3-30-01)

a. Air; (3-30-01)

b. Rail; (3-30-01)

c. Water; (3-30-01)

d. Highway; (3-30-01)

e. Bicycle and pedestrian paths; and (3-30-01)

f. Transit. (3-30-01)

16. Transit Agency. Any agency involved in providing mass transportation services by bus, rail, or other conveyance providing general or special service to the public on a regular and continuing basis. The term "Transit Agency" does not include school buses or charter or sightseeing services. (3-30-01)

567. AGENCIES AFFECTED BY CONSULTATION.

This Section identifies those agencies and other entities (federal, tribal, state and local) involved in the consultation process and those general actions requiring consultation. (3-30-01)

01. Interagency Consultation Committee. A committee of representatives shall be formed in each nonattainment or maintenance area of the state, to convene on conformity determinations, as necessary, and shall be called the Interagency Consultation Committee (ICC) for that nonattainment or maintenance area. The ICC shall undertake consultation procedures, as applicable, in preparing for and before making conformity determinations in developing long-range transportation plans (LRTP), transportation improvement programs (TIP), and applicable implementation plans. (3-30-01)

02. ICC Members. The ICC shall consist of the following agencies or entities, as applicable: (3-30-01)

- a.** A Metropolitan Planning Organization (MPO) where one exists; (3-30-01)
- b.** The Idaho Transportation Department (ITD); (3-30-01)
- c.** The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) divisional office; (3-30-01)
- d.** The Idaho Department of Environmental Quality (IDEQ); (3-30-01)
- e.** Affected Local Highway Jurisdictions involved in transportation, (3-30-01)
- f.** Affected Transit agency(ies); (3-30-01)
- g.** The Local Highway Technical Assistance Council (LHTAC); (3-30-01)
- h.** Indian Tribal governments with transportation planning responsibilities; and (3-30-01)
- i.** The United States Environmental Protection Agency (EPA). (3-30-01)

03. Agencies Entitled to Participate. Agencies which may be affected by the consultation process and which are entitled to participate in the consultation process include: (3-30-01)

- a.** Any local transit agency or provider, local highway jurisdiction, and any city or county transportation or air quality board or agency where the nonattainment or maintenance area is located; and (3-30-01)
- b.** Any other state or federal or tribal organization in the state responsible under state or federal law for developing, submitting or implementing transportation related provisions of an implementation plan. (3-30-01)

04. More Than One Pollutant. Areas that are nonattainment for more than one (1) pollutant may conduct consultation, as specified in this section, through a single committee for all pollutants. (3-30-01)

05. Open to the Public. All meetings of the ICC shall be open to the public. (3-30-01)

06. Delegation. An ICC member may delegate its role or responsibility in the consultation process to another entity pursuant to applicable state law. An ICC member making such delegation shall notify all other ICC members in writing when the delegation occurs. The written notice shall provide the name, address, and telephone number of one (1) or more contact persons representing the entity accepting the delegated role or responsibility. (3-30-01)

07. General Actions Requiring Consultation. The ICC shall undertake the consultation process prior to the development of the following: (3-30-01)

- a.** The implementation plan(s), including the emission budget and list of TCMs in the applicable

implementation plan(s), prepared by the lead air quality agency in a nonattainment or maintenance area; (3-30-01)

b. All other conformity determinations for transportation plans, projects, and programs; and (3-30-01)

c. Revisions to the preceding documents which may directly or indirectly affect conformity determinations. (3-30-01)

568. ICC MEMBER ROLES IN CONSULTATION.

The lead agency as identified in this section is the ICC member responsible for initiating the consultation process, preparing the initial and final drafts of the document or decision, and assuring the adequacy of the consultation process for all conformity processes and procedures. (3-30-01)

01. Designated Lead Air Quality Agency. IDEQ or the MPO, as the designated lead air quality agency, shall be the lead agency for the development of the implementation plan, the associated emission budgets, and the list of Transportation Control Measures (TCMs) in the plan. The concurrence of IDEQ on each applicable implementation plan is required before IDEQ adopts the plan and submits it to EPA for inclusion in the applicable implementation plan. (3-30-01)

02. Areas with an MPO. For areas in which an MPO has been established, the designated MPO shall be the lead agency responsible for conformity determinations, development of the LRTP, development of the TIP, and project level documentation under 23 CFR 450. (3-30-01)

03. Areas Without an MPO. For areas in which an MPO has not been established, ITD shall be the lead agency for preparing the final document on conformity determinations, the development of the statewide transportation plan, the development of the STIP, and project level documentation under 23 CFR 450. (3-30-01)

569. ICC MEMBER RESPONSIBILITIES IN CONSULTATION.

This Section identifies the specific responsibilities of ICC members. (3-30-01)

01. Designated Lead Air Quality Agency Responsibilities. The designated lead air quality agency shall be responsible for developing or providing and distributing draft and final documentation, data and analyses for: (3-30-01)

a. Air emission inventories; (3-30-01)

b. Emission budgets; (3-30-01)

c. Attainment and maintenance demonstrations; (3-30-01)

d. Control strategy implementation plan revisions; (3-30-01)

e. Updated motor vehicle emission factors; (3-30-01)

f. Proposal and evaluation of TCMs; and (3-30-01)

g. Public outreach on draft air quality plans pursuant to 40 CFR Part 51. (3-30-01)

02. Designated MPO Responsibilities. The designated MPO shall be responsible for: (3-30-01)

a. Conformity determinations corresponding to LRTPs and TIPs; (3-30-01)

b. Making conformity determinations for the entire nonattainment or maintenance area, including areas beyond the boundaries of the MPO, where no agreement is in effect as required by 23 CFR 450.310(f); (3-30-01)

c. Identify regionally significant projects through the consultation process; (3-30-01)

- d.** Implementing TCMs in air quality nonattainment and/or maintenance areas, as applicable; (3-30-01)
- e.** Providing technical and policy input on emissions budgets; (3-30-01)
- f.** Performing transportation modeling, regional emissions analyses, and project level analysis, as necessary; (3-30-01)
- g.** Documenting timely implementation of TCMs, as required, for determining conformity; and (3-30-01)
- h.** Distributing relevant draft and final project environmental documents to ICC members and persons on the distribution list per the schedule in Subsection 570.01.c. (3-30-01)
- 03. Non-MPO Area Responsibilities.** In areas without an established MPO, ITD shall be responsible for: (3-30-01)

 - a.** Conformity determinations corresponding to STIPs and project-level analyses; (3-30-01)
 - b.** Providing technical and policy input on proposed revisions to motor vehicle emissions factors and to emission budgets; (3-30-01)
 - c.** Distributing relevant draft and final project environmental documentation prepared by, or for ITD, to ICC members and persons on the distribution list per the schedule in Subsection 570.01.c.; (3-30-01)
 - d.** Convening air quality technical review meetings on specific projects when requested by other ICC members, or as needed; (3-30-01)
 - e.** Convening interagency consultation meetings required for purposes of making conformity determinations in nonattainment or maintenance areas, outside of MPO boundaries, as necessary; (3-30-01)
 - f.** Making conformity determinations in nonattainment or maintenance areas, outside of MPO boundaries, as necessary; and (3-30-01)
 - g.** Implementing TCMs in air quality nonattainment and/or maintenance areas, as applicable. (3-30-01)
- 04. FHWA and FTA Responsibilities.** FHWA and FTA shall be responsible for: (3-30-01)

 - a.** Assuring timely action on final findings of conformity for transportation plans, TIPs, and federally funded projects, including the basis for those findings after consultation with other agencies as provided in Section 569 and 40 CFR 93.105; and (3-30-01)
 - b.** Providing guidance on conformity and the transportation planning process to ICC members. FHWA and FTA may rely solely on the consultation process initiated by ITD or the MPO, where one exists, and shall not be required to duplicate that process. (3-30-01)
- 05. EPA Responsibilities.** EPA shall be responsible for providing policy and technical guidance on conformity criteria to ICC members. (3-30-01)
- 06. Responsibility to Disclose Potentially Regionally Significant Projects.** ITD, the local highway jurisdiction, transit agency, or transportation project sponsor shall be responsible for disclosing potentially regionally significant projects within air quality nonattainment and maintenance areas to the ICC in a timely manner. (3-30-01)

 - a.** Local Highway Jurisdictions shall disclose of potentially regionally significant projects upon written request of ITD within fourteen (14) days of such request, or when annual local and MPO project lists are due to ITD District Offices as part of the annual STIP development process; (3-30-01)

b. In an MPO area, to help assure timely disclosure, the sponsor of any potentially regionally significant project shall disclose such projects to the MPO annually on or before March 1 of that calendar year; and (3-30-01)

c. In MPO nonattainment and maintenance areas, the TIP and associated conformity demonstration shall be deemed to be incomplete if any regionally significant project has not been disclosed to the ICC in a timely manner. Therefore, such a TIP shall be considered to be non-conforming to applicable implementation plan(s). (3-30-01)

570. GENERAL CONSULTATION PROCESS.

Section 570 provides the general procedures for interagency consultation (federal, tribal, state, and local) and public participation for transportation conformity determinations in air quality nonattainment and maintenance areas in the state of Idaho. (3-30-01)

01. Lead Agency in Consultation. The following are the responsibilities of the lead agency at each stage of the consultation process: (3-30-01)

a. Initiating the consultation process by notifying other ICC members of the document or decision that must undergo the consultation process and by scheduling and convening consultation meetings and agendas; (3-30-01)

b. Developing and maintaining a distribution list of all ICC members and any other persons expressing an interest in receiving information and materials pertaining to ICC meetings; (3-30-01)

c. Distributing an agenda and all supporting material, including minutes of ICC meetings, to ICC members and persons on the distribution list as follows: (3-30-01)

i. Fourteen (14) days in advance of an ICC meeting if there are non-technical issues to be resolved by the ICC; (3-30-01)

ii. Thirty (30) days in advance of an ICC meeting if there are technical issues to be resolved by the ICC; or (3-30-01)

iii. If distribution of technical material pursuant to Subsection 570.01.c.ii. is not feasible thirty (30) days prior to an ICC meeting, then the lead agency shall notify the ICC members and persons on the distribution list in writing at least thirty (30) days prior to the ICC meeting. Together with the notification, the lead agency shall distribute and disclose all available material and documentation to the ICC members and persons on the distribution list, informing them of the nature, purpose, and details of possible program changes that are expected to occur from earlier analyses of the actions. All technical material and documentation shall be distributed at a minimum of fourteen (14) days prior to the ICC meeting. (3-30-01)

d. Conferring with other agencies and persons not on the distribution list that have expressed an interest in the document or decision to be developed; (3-30-01)

e. Providing ICC members and persons on the distribution list access to all information needed for meaningful input; (3-30-01)

f. Soliciting early and continuing input from other ICC members and persons on the distribution list; (3-30-01)

g. Following the public consultation procedures outlined in Section 574; (3-30-01)

h. Providing an opportunity for informal question and answer on the draft document or proposed decision; (3-30-01)

i. Considering the views of ICC members and persons on the distribution list and responding in writing to significant comments in a timely and substantive manner prior to finalizing or taking any final action on those documents or determinations enumerated in Section 567.07.a. through 567.07.c.; and (3-30-01)

j. Assuring all comments and written responses of ICC members and persons on the distribution list are made part of the record of any action. (3-30-01)

02. Public Comment Period to Satisfy Thirty Day Document Distribution Requirement. A lead agency may use all or any part of another public comment period established for public outreach procedures pursuant to 23 CFR 450 for a transportation plan, program, or project to satisfy the thirty (30) day advance distribution requirement for technical issues, and shall notify all ICC members and other persons on the distribution list when so doing fourteen (14) days prior to commencement of the public comment period. (3-30-01)

03. Separate Times or in Combination. The above actions may be conducted at separate times or in combination, as required, to enhance the efficiency of the process. (3-30-01)

04. Final Document Distribution. A lead agency, upon completion of a final document subject to the consultation process under Sections 563 through 574 of these rules (including any federal agency), shall distribute each final document to all other ICC members and persons on the distribution list within thirty (30) days of adopting or approving such document or making such determination. (3-30-01)

05. Use of Checklist for Distribution of Material. The lead agency may supply a checklist of available supporting information to ICC members and persons on the distribution list to be used to request all or part of the supporting information, in lieu of generally distributing all supporting information. (3-30-01)

06. Use of Other Meetings for Consultation. A meeting that is scheduled or required for another purpose may be used for the purposes of consultation only if the public notice for the meeting identifies consultation as an agenda item. (3-30-01)

571. CONSULTATION PROCEDURES.

The consultation process among ICC members and persons on the distribution list shall be undertaken for the following specific major activities (federal, tribal, state, and local), specific routine activities and specific air quality related activities, in accordance with the procedures in Section 570. Participating agencies shall be all ICC members unless otherwise specified in Subsections 571.01 through 571.04. (3-30-01)

01. Specific Major Activities. The consultation process shall be undertaken for the following specific major activities. The lead agency for each activity shall be the designated MPO or ITD in the absence of an MPO. (3-30-01)

a. Evaluating and choosing each air quality model and associated methods and assumptions to be used in hot-spot analyses and regional emissions analyses including vehicle miles traveled forecasting. The hot-spot analyses shall be performed consistent with procedures described in 40 CFR 93.116 and 40 CFR 93.123 and regional emissions analysis shall be performed using procedures outlined on 40 CFR 93.122. (3-30-01)

b. Determining which minor arterials and other transportation projects should be considered “regionally significant” for the purposes of regional emissions analysis, in addition to those functionally classified as principal arterial or higher or fixed guideway transit systems or extensions that offer an alternative to regional highway travel. (3-30-01)

c. Evaluating whether projects otherwise exempted from meeting the requirements of Sections 563 through 574 of these rules should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason per 40 CFR 93.126 and 127. (3-30-01)

d. Making a determination as to whether past obstacles to implementation of TCMs which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs. This consultation procedure shall also consider whether delays in TCM

implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs with other emission reduction measures. (3-30-01)

e. Identifying projects located at sites in PM nonattainment or maintenance areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM hot-spot analysis. In case a method for quantitative hot-spot analysis has not been formally adopted by EPA, a sound qualitative analysis developed in conjunction with FHWA may be used for the same. (3-30-01)

f. Making a determination whether the project is included in the regional emissions analysis supporting the currently conforming TIP's conformity determination, and whether the project's design concept and scope have changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility. (3-30-01)

g. For areas in the state with no MPOs, making a determination whether a project has undergone project-level analysis and whether the project's design concept and scope have changed significantly from those which were included in the project-level analysis, or in a manner which would significantly impact use of the facility. (3-30-01)

h. Establishing appropriate public participation opportunities for project-level conformity determinations, as applicable, in the manner specified by Section 574, to be initiated by the recipient of the funds designated under 23 U.S.C. or the Federal Transit Act. (3-30-01)

i. Choosing conformity tests and methodologies for isolated and rural nonattainment and maintenance areas as required by 40 CFR 93.109(g)(2)(iii). (3-30-01)

02. Specific Routine Activities. The consultation process shall be undertaken for the following specific routine activities. The lead agency shall be the MPO or ITD in the absence of an MPO. (3-30-01)

a. Evaluating events that will trigger new conformity determinations in addition to those triggering events established in 40 CFR 93.104. Participating agencies shall be the MPO and state, tribal, regional, and local air quality planning agencies. (3-30-01)

b. Consulting on emissions analysis for transportation activities that cross the borders of MPOs or nonattainment or maintenance areas. Participating agencies shall be the MPO and state, tribal, regional, and local air quality planning agencies. (3-30-01)

c. Determining whether the project sponsor or MPO has demonstrated that the requirements are satisfied without a particular mitigation, such as emissions offsets or other control measures, or determining that a conforming project approved with mitigation no longer requires mitigation. (3-30-01)

d. Assuring that plans for construction of regionally significant projects that are not FHWA/FTA projects, including projects for which alternative locations, design concept and scope, or the no-build option are still being considered, are disclosed to the MPO or ITD in the absence of an MPO on a regular basis, and assuring that any changes to those plans are immediately disclosed. (3-30-01)

e. Determining whether a project, which was previously found to conform, has or will have a significant change in design concept and scope since the project plan and TIP conformity determination. (3-30-01)

f. Designing, scheduling, and funding of research and data collection effort pertaining to transportation or air quality planning with implications for transportation conformity. (3-30-01)

g. Reviewing and recommending regional transportation model development by the MPO (e.g., household/travel transportation surveys). (3-30-01)

h. Development of transportation improvement programs. (3-30-01)

i. Development of regional transportation plans. (3-30-01)

j. Consulting when the metropolitan planning area does not include the entire nonattainment area or maintenance area, for planning requirements which may fall under the jurisdiction of more than one (1) MPO or the MPO and ITD. (3-30-01)

03. Specific Air Quality Related Activities. The consultation process shall be undertaken when preparing an applicable implementation plan that includes the revision or addition of a motor vehicle emissions inventory and budget activities in accordance with the procedures in Section 570. Consultation is not required for administrative amendments that do not affect conformity. The lead agency for each activity shall be IDEQ or the MPO. In addition to the Section 570 consultation process, the lead agency shall undertake the following: (3-30-01)

a. Scheduling consultation meetings early in the process of decision on the applicable implementation plan, and prior to making a final recommendation to their management, committees, boards or commissions, for a final decision on such documents; (3-30-01)

b. Arranging for technical committees or teams to assist ICC members in reviewing documents provided by the lead agency. The lead agency may convene technical meetings as necessary; and (3-30-01)

c. Scheduling and conducting meetings of the ICC at regularly scheduled intervals, no less frequently than quarterly. (3-30-01)

d. The ICC may appoint subcommittees to address specific issues pertaining to applicable implementation plan development. Any recommendations of a subcommittee shall be considered by the ICC. (3-30-01)

04. Notification Process. The designated MPO, or ITD in the absence of an MPO, shall notify ICC members and persons on the distribution list of a transportation plan or TIP revisions that merely add or delete exempt projects listed in 40 CFR 93.126 early in the process of decision, and by supplying all relevant documents and information to the same. (3-30-01)

572. FINAL CONFORMITY DETERMINATIONS BY USDOT.

Section 572 establishes the process USDOT shall follow when making final determinations on proposed or anticipated transportation actions subject to transportation conformity. (3-30-01)

01. Final Conformity Determination Process. USDOT will make making final determinations on proposed or anticipated STIP or transportation plan or project conformity by: (3-30-01)

a. Distributing a draft conformity determination to EPA for review and comment. USDOT shall allow a maximum of thirty (30) days for EPA to respond; and (3-30-01)

b. USDOT shall respond in writing to any significant comments raised by EPA within fourteen (14) days of receipt in writing before making a final decision. (3-30-01)

02. New or Revised Information. If USDOT requests any new or revised information to support a STIP, TIP or transportation plan or project conformity determination, then USDOT shall either return the conformity determination for additional consultation pursuant to Section 570, or USDOT shall distribute the new information to the ICC members and persons on the distribution list for review and comment; (3-30-01)

a. When USDOT distributes such new or additional information to ICC members and persons on the distribution list, USDOT shall allow for a maximum of thirty (30) days for the lead agency to respond to any new or revised supporting information; and (3-30-01)

b. USDOT shall distribute a written response within fourteen (14) days of receipt to any significant comments raised by the ICC members and persons on the distribution list on the new or revised supporting information before making a final decision. (3-30-01)

573. RESOLVING CONFLICTS.

Conflicts between state agencies or between state agencies and the MPO regarding a determination of conformity, applicable implementation plan submittal, or other policy decision under Sections 563 through 574, shall be resolved in the following manner. (3-30-01)

01. Conflict Resolution at the Level of IDEQ Regions and ITD Districts. Every effort shall be made to resolve any conflicts among state agencies or between state agencies and an MPO at the regional level. The regional administrator of IDEQ, the District Engineer of ITD and the other agency managers at the regional level of the affected jurisdictions, or their designated representatives shall be involved in conflict resolution at the regional level. (3-30-01)

02. Conflict Resolution at the Level of IDEQ and ITD Headquarters. If conflict(s) are not resolved at the regional level, the issue shall be raised to the level of agency directors for resolution. (3-30-01)

03. Conflict Resolution at the Governor's Level. If conflict(s) are not resolved through Subsection 569.02, then IDEQ shall raise the conflict to the Governor, as follows: (3-30-01)

a. The IDEQ administrator shall request in writing that ITD or the MPO provide IDEQ with written notification of resolution of IDEQ's comments. ITD or the MPO shall provide IDEQ with the requested written notification within fourteen (14) days of receipt of IDEQ's written request. (3-30-01)

b. Within fourteen (14) days of its receipt of the requested written notification, IDEQ may appeal the conformity determination in writing to the Governor. If IDEQ appeals to the Governor, then the final conformity determination must have the concurrence of the Governor. If IDEQ does not appeal in writing to the Governor within fourteen (14) days of its receipt of written notification of resolution of its comments, then the lead transportation agency may proceed with the final conformity determination. (3-30-01)

c. The fourteen (14) days shall start on the date when the IDEQ administrator receives notification of the written resolution of his comments regarding a determination of conformity, applicable implementation plan submittal, or other decision under Sections 563 through 574. (3-30-01)

04. Process for Conflict Resolution at the Governor's Level. The Governor may delegate to another independent official or agency within the state his or her role in this process. The Governor may not delegate his or her role to the head or staff of the state air quality agency or any local air quality agency, ITD, a state transportation commission or board, any agency that has responsibility for any one (1) of these functions, or an MPO. (3-30-01)

574. PUBLIC CONSULTATION PROCEDURES.

Affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process which provides opportunity for public review and comment by, at a minimum, providing at the beginning of the public comment period and prior to taking formal action on a conformity determination for all transportation plans and TIPs, reasonable public access to technical and policy information considered by the agency, and consistent with these requirements and those of 23 CFR 450. Any charges imposed for public inspection and copying should be consistent with the fee schedule contained in 49 CFR 7.95. In addition, these agencies must specifically address, in writing, all public comments relating to known plans for a regionally significant project, which is not receiving FHWA or FTA funding, or approval. This is especially important if the project's emissions have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. These agencies shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law. (3-30-01)

575. AIR QUALITY STANDARDS AND AREA CLASSIFICATION.

Ambient Air Quality Standards. The purpose of Sections 575 through 587 is to establish air quality standards for the state of Idaho which define acceptable ambient concentrations consistent with established air quality criteria. (4-11-06)

576. GENERAL PROVISIONS FOR AMBIENT AIR QUALITY STANDARDS.

01. Applicability. The ambient air quality standards established herein shall apply to all of the state.

(5-1-94)

02. Standard Conditions. Where applicable, air quality measurements shall be corrected to a reference temperature of twenty-five degrees Celsius (25C) and to a reference pressure of seven hundred and sixty (760) millimeters of mercury absolute. (5-1-94)

03. Revisions. As pertinent air quality criteria information becomes available, such information shall be considered and new or revised air quality standards promulgated as appropriate. (5-1-94)

04. Control of Unregulated Contaminants. The absence of an air quality standard for a specific contaminant shall not preclude action by the Department to control such contaminants to assure the health, welfare and comfort of the people of the State. (5-1-94)

05. Methods. All measurement techniques for determining compliance with 40 CFR Part 50 shall be consistent with those specified in 40 CFR Parts 50 and 53. (5-1-94)

577. AMBIENT AIR QUALITY STANDARDS FOR FLUORIDES.

Primary and secondary air quality standards are those concentrations in the ambient air which result in a total fluoride content in vegetation used for feed and forage of no more than: (5-1-94)

01. Annual Standard. Forty (40) ppm, dry basis -- annual arithmetic mean. (5-1-94)

02. Bimonthly Standard. Sixty (60) ppm, dry basis -- monthly concentration for two (2) consecutive months. (5-1-94)

03. Monthly Standard. Eighty (80) ppm, dry basis -- monthly concentration never to be exceeded. (5-1-94)

578. DESIGNATION OF ATTAINMENT, UNCLASSIFIABLE, AND NONATTAINMENT AREAS.

01. Annual Review. The Department shall annually review the available ambient air quality data and when appropriate, redesignate areas as attainment, unclassifiable or nonattainment with the standards in 40 CFR Part 50. (5-1-94)

02. Boundaries. Boundaries for such areas will be based, as much as possible, on actual ambient concentrations and shall take into account such things as the location of air pollutant sources, modeled air quality concentrations, terrain, geographical boundaries and political jurisdictions. (5-1-94)

03. Area Designation. Designation of attainment and unclassifiable areas shall generally be made on a county basis. Redesignation of attainment or unclassifiable areas cannot intersect or be smaller than the area of impact of any major facility or major modification which establishes the baseline date or is subject to a PSD permit. (5-1-94)

04. Redesignations. Redesignations shall be adopted by the Department after public notice and opportunity for a public hearing and will be submitted by the Governor (or if delegated, the Director) to the U.S. Environmental Protection Agency. (5-1-94)

579. BASELINES FOR PREVENTION OF SIGNIFICANT DETERIORATION.

01. Baseline Date(s). (5-1-94)

a. Major Source Baseline Date. (4-11-15)

i. In the case of PM₁₀ and sulfur dioxide, January 6, 1975; (4-11-15)

ii. In the case of nitrogen dioxide, February 8, 1988; and (4-11-15)

- iii. In the case of PM_{2.5}, October 20, 2010. (4-11-15)
- b.** Minor Source Baseline Date. The earliest date after the trigger date on which a major stationary source or a major modification subject to prevention of significant deterioration (PSD) submits a complete application. The trigger date is: (4-5-00)
 - i. In the case of PM₁₀ and sulfur dioxide, August 7, 1977; and (4-11-15)
 - ii. In the case of nitrogen dioxide, February 8, 1988. (4-5-00)
 - iii. In the case of PM_{2.5}, October 20, 2011. (4-11-15)
- c.** The baseline date is established for each pollutant for which increments or other equivalent measures have been established if: (4-5-00)
 - i. The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under Section 107(d) of the Clean Air Act for the pollutant on the date of its complete prevention of significant deterioration (PSD) application; and (4-5-00)
 - ii. In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant. (4-5-00)
- d.** Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM₁₀ increments, except that the Department may rescind any such minor source baseline date where it can be shown, to the satisfaction of the Department, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM₁₀ emissions. (4-5-00)

02. Baseline Area. Any intrastate area designated as attainment or unclassifiable under 42 U.S.C. Section 7407(d), in which the major facility or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the baseline date is established, as follows: Equal to or greater than 1 µg/m³ (annual average) for SO₂, NO₂, or PM₁₀; or equal or greater than 0.3 µg/m³ (annual average) for PM_{2.5}. (4-11-15)

03. Baseline Concentration. The ambient concentration for a particular regulated air pollutant which exists in the applicable baseline area on the applicable minor source baseline date. (4-5-00)

- a.** The baseline concentration shall represent: (5-1-94)
 - i. The actual emissions from sources in existence on the applicable minor source baseline date; and (5-1-94)
 - ii. The allowable emissions of major facilities and major modifications which commenced construction before the applicable major source baseline date, but were not in operation by the applicable minor source baseline date. (5-1-94)
- b.** The baseline concentration shall not include the actual emissions of new major facilities and major modifications which commenced construction on or after the applicable major source baseline date. (5-1-94)

580. CLASSIFICATION OF PREVENTION OF SIGNIFICANT DETERIORATION AREAS.

- 01. Restrictions On Area Classification.** (5-1-94)
 - a.** All of the following areas which were in existence on August 7, 1977, are Class I and may not be redesignated: (5-1-94)
 - i. International parks; (5-1-94)

- ii. National wilderness areas which exceed five thousand (5,000) acres; (5-1-94)
 - iii. National memorial parks which exceed five thousand (5,000) acres; (5-1-94)
 - iv. National parks which exceed six thousand (6,000) acres. (5-1-94)
 - b.** The following areas are Class II and may be redesignated only as Class I or II: (5-1-94)
 - i. National monuments, national primitive areas, national preserves, national recreational areas, national wild and scenic rivers, national wildlife refuges, and national lakeshores or seashores which exceed ten thousand (10,000) acres; or (5-1-94)
 - ii. National parks or national wilderness areas established after August 7, 1977, which exceed ten thousand (10,000) acres. (5-1-94)
 - c.** All other areas in the State are Class II and may be redesignated Class I, II or III. (5-1-94)
- 02. Procedures for Redesignation of Prevention of Significant Deterioration (PSD) Areas.** The Governor may submit to the U.S. Environmental Protection Agency a proposal to redesignate areas as a revision to the SIP. In preparing any such proposal the Department shall: (4-5-00)
- a.** Consult with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation; (5-1-94)
 - b.** Prepare a discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social and energy effects of the proposal. This document will be made available for public inspection at least thirty (30) days prior to the public hearing on the proposed redesignation and the notice announcing the hearing will include notification of the availability of the document; (5-1-94)
 - c.** Provide written notice to the appropriate Federal Land Manager of any federal lands proposed for redesignation and provide at least thirty (30) days for the Federal Land Manager to confer with the Department and to submit written comments and recommendations. If written comments and recommendations are submitted, the Department shall publish a list of any inconsistency between the proposed redesignation and the comments and recommendations, including the reasons for making a redesignation against the recommendation of the Federal Land Manager; (5-1-94)
 - d.** Notify other states, Indian governing bodies, and federal land managers whose land may be affected by the proposed redesignation at least thirty (30) days prior to the public hearing; (5-1-94)
 - e.** For a redesignation to Class III: After consulting with the appropriate committees of the legislature, if it is in session, or the leadership of the legislature, if it is not in session, obtain specific approval by the Governor and by all general purpose units of local government representing a majority of the residents of the area to be redesignated; demonstrate that the redesignation would not cause, or contribute to, violations of any ambient air quality standard, or violations of PSD increments in any other area; and make available, for public inspection prior to the public hearing, any permit application and accompanying material for any major facility or major modification which could only be permitted if the area were designated as Class III; and (5-1-94)
 - f.** Hold at least one (1) public hearing on the proposed redesignation. (5-1-94)

581. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) INCREMENTS.

The purpose of Section 581 is to establish the allowable degree of deterioration for the areas within the State which have air quality better than the ambient standards. (5-1-94)

01. Incorporated Federal Program Requirements - Class I, II and III Areas. Class I, II, and III area PSD increment requirements contained in 40 CFR 52.21(c) are incorporated by reference into these rules at

Section 107. These CFR sections have been codified in the electronic CFR at www.ecfr.gov. (4-7-11)

02. Exceedances. For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one (1) such period per year at any one (1) location. (5-1-94)

03. Exclusions. The following concentrations shall be excluded in determining compliance with the maximum allowable increases: (5-1-94)

a. Concentrations attributable to the increase in emissions from facilities which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, over the emissions from such facilities before the effective date of such order or plan; this shall not apply more than five (5) years after the effective date of such order or plan; (5-1-94)

b. Concentrations of PM-10 attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified facilities; (7-1-97)

c. The increase in concentrations attributable to new facilities outside the United States over the concentrations attributable to existing facilities which are included in the baseline concentration; and (5-1-94)

d. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, nitrogen dioxide, or particulate matter from facilities which are affected by a revision to the SIP approved by the U.S. Environmental Protection Agency; this exclusion shall not exceed two (2) years unless a longer time is approved by the U.S. Environmental Protection Agency, is not renewable, and applies only to revisions which: (5-1-94)

i. Would not affect the applicable pollutant concentrations in a Class I area or an area where an applicable increment is known to be violated and would not cause or contribute to a violation of an ambient air quality standard; and (4-11-06)

ii. Require limitations to be in effect at the end of the approved time period which would ensure that the emissions from facilities affected by the revision would not exceed those concentrations occurring before the revision was approved. (5-1-94)

582. -- 584. (RESERVED)

585. TOXIC AIR POLLUTANTS NON-CARCINOGENIC INCREMENTS.

The screening emissions levels (EL) and acceptable ambient concentrations (AAC) for non-carcinogens are as provided in the following table. The AAC in this section are twenty-four (24) hour averages. (6-30-95)

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
60-35-5	Acetamide (NY)	--	0.002	0.0003
64-19-7	Acetic acid	25	1.67	1.25
108-24-7	Acetic anhydride	20	1.33	1
67-64-1	Acetone	1780	119	89
75-05-8	Acetonitrile	67	4.47	3.35
540-59-0	Acetylene dichloride, See 1,2-Dichloroethylene			
79-27-6	Acetylene tetrabromide	15	1	.75
107-02-8	Acrolein	0.25	0.017	0.0125

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
79-10-7	Acrylic acid	30	2	1.5
107-18-6	Allyl alcohol	5	0.333	.25
106-92-3	Allyl glycidyl ether	22	1.47	1.1
2179-59-1	Allyl propyl disulfide	12	0.8	0.6
7429-90-5	Aluminum Including:			
NA	Metal & Oxide	10	0.667	0.5
NA	Pyro powders	5	0.333	0.25
NA	Soluble salts	2	0.133	0.10
NA	Alkyls not otherwise classified	2	0.133	0.10
141-43-5	2-Aminoethanol, See Ethanolamine			
504-29-0	2-Aminopyridine	2	0.133	0.10
7664-41-7	Ammonia	18	1.2	0.9
12125-02-9	Ammonium chloride fume	10	0.667	0.5
3825-26-1	Ammonium perfluorooctanoate	0.1	0.007	0.05
7773-06-0	Ammonium sulfamate	10	0.667	0.5
628-63-7	n-Amyl acetate	530	35.3	26.5
626-38-0	Sec-Amyl acetate	665	44.3	33.25
7440-36-0	Antimony & compounds, as Sb (handling & use)	0.5	0.033	0.025
86-88-4	ANTU	0.3	0.02	0.015
7784-42-1	Arsine	0.2	0.013	0.01
86-50-0	Azinphos-methyl	0.2	0.013	0.01
7440-39-3	Barium, soluble compounds, as Ba	0.5	0.033	0.025
17804-35-2	Benomyl	10	0.67	0.5
7106-51-4	p-Benzoquinone, See Quinone			
94-36-0	Benzoyl peroxide	5	0.333	0.25
92-52-4	Biphenyl	1.5	0.1	0.075
1304-82-1	Bismuth telluride undoped	10	0.667	0.05
NA	Bismuth telluride if selenium doped	5	0.333	0.25
1303-96-4	Borates, tetra odium salts - Including:			
NA	Anhydrous	1	0.067	0.05
NA	Decahydrate	5	0.333	0.25
NA	Pentahydrate	1	0.067	0.05
1303-86-2	Boron oxide	10	0.667	0.5
10294-33-4	Boron tribromide	10	0.667	0.5

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
7637-07-2	Boron trifluoride	3	0.2	0.25
314-40-9	Bromacil	10	0.667	0.5
7726-95-6	Bromine	0.7	0.047	0.035
7789-30-2	Bromine penta-fluoride	0.7	0.047	0.035
75-25-2	Bromoform	5	0.333	0.25
109-79-5	Butanethiol, see Butyl mercaptan			
78-93-3	2-Butanone, see Methyl ethyl ketone			
112-07-2	2-butoxyethyl acetate	---	8.33	1.25
111-76-2	2-Butoxyethanol (EGBG)	120	8	6
123-86-4	n-Butyl acetate	710	47.3	35.5
105-46-4	sec-Butyl acetate	950	63.3	47.5
540-88-5	tert-Butyl acetate	950	63.3	47.5
141-32-2	Butyl acrylate	55	3.67	2.75
71-36-3	n-Butyl alcohol	150	10	7.5
78-92-2	Sec-Butyl alcohol	305	20.3	15.25
75-65-0	tert-Butyl alcohol	300	20	15
109-73-9	Butylamine	15	1	.75
124-17-4	Butyl carbitol acetate (ID)	---	0.846	.625
1189-85-1	tert-Butyl chromate, as CrO3	0.1	0.007	.005
2426-08-6	n-Butyl glycidyl ether	135	9	6.75
138-22-7	n-Butyl lactate	25	1.67	1.25
109-79-5	Butyl mercaptan	1.8	0.12	0.09
89-72-5	o-sec-Butylphenol	30	2	1.5
98-51-1	p-tert-Butyltoluene	60	4	3
1317-65-3	Calcium carbonate	10	0.667	0.5
156-62-7	Calcium cyanamide	0.5	0.033	0.025
1305-62-0	Calcium hydroxide	5	0.333	0.25
1305-78-8	Calcium oxide	2	0.133	0.1
1344-95-2	Calcium silicate (synthetic)	10	0.667	0.5
13397-24-5	Calcium sulfate	10	0.667	0.5
76-22-2	Camphor, synthetic	12	0.8	0.6
105-60-2	Caprolactam - Including:			
	Dust	1	0.067	0.05
	Vapor	20	1.33	1.0

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
1333-86-4	Carbon black	3.5	0.23	0.175
2425-06-1	Captafol	0.1	0.007	0.005
133-06-2	Captan	5	0.333	0.25
463-58-1	Carbonyl sulfide	0.4	0.027	0.02
63-25-2	Carbaryl	5	0.333	0.25
1563-66-2	Carbofuran	0.1	0.007	0.005
75-15-0	Carbon disulfide	30	2	1.5
558-13-4	Carbon tetrabromide	1.4	0.093	0.07
75-44-5	Carbonyl chloride, See Phosgene			
353-50-4	Carbonyl fluoride	5	0.333	0.25
120-80-9	Catechol	20	1.33	1.0
21351-79-1	Cesium hydroxide	2	0.133	0.10
133-90-4	Chloramben (PL)	---	887	133
8001-35-2	Chlorinated camphene	0.5	0.0333	0.025
31242-93-0	Chlorinated diphenyl oxide	0.5	0.033	0.025
7782-50-5	Chlorine	3	0.2	0.15
10049-04-4	Chlorine dioxide	0.3	0.02	0.015
7790-91-2	Chlorine trifluoride (CL)	0.38	0.025	0.002
107-20-0	Chloroacetaldehyde	0.32	0.021	0.015
78-95-5	Chloroacetone	0.38	0.0253	0.019
532-27-4	a-Chloroacetophenone	0.32	0.021	0.016
79-04-9	Chloroacetyl chloride	0.2	0.013	0.01
108-90-7	Chlorobenzene	350	23.3	17.5
510-15-6	Chlorobenzilate (PL1)	---	0.047	0.035
2698-41-1	O-Chlorobenzylidene malononitrile (CL)	0.4	0.0027	0.03
126-99-8	2-Chloro-1,3-butadiene, see B-Chloroprene			
107-07-3	2-Chloroethanol, see Ethylene chlorohydrin			
600-25-9	1-Chloro-1-nitro propane	10	0.667	0.5
95-57-8	2-Chlorophenol (and all isomers) (ID)	---	0.033	0.025
76-06-2	Chloropicrin	0.7	0.047	0.037
126-99-8	B-chloroprene	36	2.4	1.8
2039-87-4	o-Chlorostyrene	285	19	14.25
95-49-8	o-Chlorotoluene	250	16.7	12.5
1929-82-4	2-Chloro-6-(tri-chloromethyl) pyridine, see Nitrapyrin			

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
2921-88-2	Chlorpyrifos	0.2	0.013	0.01
7440-47-3	Chromium metal - Including:	0.5	0.033	0.025
7440-47-3	Chromium (II) compounds, as Cr	0.5	0.033	0.025
16065-83-1	Chromium (III) compounds, as Cr	0.5	0.033	0.025
2971-90-6	Clopidol	10	0.667	0.5
NA	Coal dust (<5% silica)	2	0.133	0.1
10210-68-1	Cobalt carbonyl as Co	0.1	0.007	0.005
16842-03-8	Cobalt hydrocarbonyl as Co	0.1	0.007	0.005
7440-48-4	Cobalt metal, dust, and fume	0.05	0.0033	0.0025
7440-50-8	Copper:			
7440-50-8	Fume	0.2	0.013	0.01
7440-50-8	Dusts & mists, as Cu	1	0.067	0.05
95-48-7	o-Cresol	22	1.47	1.1
108-39-4	m-Cresol	22	1.47	1.1
106-44-5	p-Cresol	22	1.47	1.1
1319-77-3	Cresols/Cresylic Acid (isomers and mixtures)	22	1.47	1.1
123-73-9	Crotonaldehyde	5.7	0.38	0.285
299-86-5	Cruformate	5	0.333	0.25
98-82-8	Cumene	245	16.3	12.25
420-04-2	Cyanamide	2	0.133	0.1
592-01-8	Cyanide and compounds as CN	5	0.333	0.25
110-82-7	Cyclohexane	1050	70	52.5
108-93-0	Cyclohexanol	200	13.3	10
108-94-1	Cyclohexanone	100	6.67	5
110-83-8	Cyclohexene	1015	67.7	50.75
108-91-8	Cyclohexylamine	41	2.73	2.05
121-82-4	Cyclonite	1.5	0.1	0.075
542-92-7	Cyclopentadiene	200	13.3	10
287-92-3	Cyclopentane	1720	114.667	86
94-75-7	2,4-D	10	0.667	0.5
17702-41-9	Decaborane	0.3	0.02	0.015
8065-48-3	Demeton	0.1	0.007	0.005
123-42-2	Diacetone alcohol	240	16	12
39393-37-8	Dialkyl phthalate (ID)	---	16.4	2.46

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
107-15-3	1,2-Diaminoethane, See Ethylenediamine			
333-41-5	Diazinon	0.1	0.007	0.005
334-88-3	Diazomethane	0.34	0.023	0.017
19287-45-7	Diborane	0.1	0.007	0.005
102-81-8	2-N-Dibutylamino ethanol	14	0.933	0.7
2528-36-1	Dibutyl phenyl phosphate	3.5	0.233	0.175
107-66-4	Dibutyl phosphate	8.6	0.573	0.43
84-74-2	Dibutyl phthalate	5	0.333	0.25
7572-29-4	Dichloroacetylene	0.39	0.0026	0.0195
95-50-1	o-Dichlorobenzene	300	20	15
106-46-7	1,4-Dichlorobenzene	450	30	22.5
118-52-5	1,3-Dichloro-5, 5-dimethyl hydantoin	0.2	0.013	0.025
75-34-3	Dichloroethane	405	27	20.25
540-59-0	1,2-Dichloroethylene	790	52.7	39.5
111-44-4	Dichloroethyl ether	30	2	1.5
75-43-4	Dichlorofluoromethane	40	2.67	2
594-72-9	1, I-Dichloro-I-nitroethane	10	0.667	0.5
78-87-5	1,2-Dichloropropane, see Propylene dichloride			
75-99-0	2,2-Dichloropropionic acid	6	0.4	0.3
62-73-7	Dichlorvos	1	0.067	0.05
141-66-2	Dicrotophos	0.25	0.017	0.125
77-73-6	Dicyclopentadiene	30	2	1.5
102-54-5	Dicyclopentadienyl iron	10	0.667	0.5
111-42-2	Diethanolamine	15	1	0.75
109-89-7	Diethylamine	30	2	1.5
100-37-8	2-Diethylamino-ethanol	50	3.33	2.5
111-40-0	Diethylene triamine	4	0.267	0.2
60-29-7	Diethyl ether	1200	80	60
96-22-0	Diethyl Ketone	705	47	35.25
84-66-2	Diethyl phthalate	5	0.333	0.25
2238-07-5	Diglycidyl ether (DGE)	0.53	0.035	0.0265
123-31-9	Dihydroxybenzene, see Hydroquinone			
108-83-8	Diisobutyl ketone	145	9.67	7.25
108-18-9	Diisopropylamine	20	1.33	1

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
127-19-5	Dimethyl acetamide	35	2.33	1.75
124-40-3	Dimethylamine	9.2	0.613	0.46
60-11-7	Dimethyl aminoazo-benzene (NY)	---	0.002	0.0003
1300-73-8	Dimethylamino-benzene, see Xylidine			
121-69-7	Dimethylaniline (N,N-Dimethylaniline)	25	1.67	1.25
1330-20-7	Dimethylbenzene, see Xylene			
300-76-5	Dimethyl-1,2-dibromo-2-dichloroethyl phosphate, see Naled			
68-12-2	Dimethylformamide	30	2	1.5
108-83-8	2,6-Dimethyl-4-heptanone, see Diisobutyl ketone			
131-11-3	Dimethylphthalate	5	0.333	0.25
148-01-6	Dinitolmide	5	0.333	0.25
528-29-0	Dinitrobenzene	1	0.067	0.05
99-65-0	m (or) 1,3-Dinitrobenzene	1	0.067	0.05
100-25-4	p (or) 1,4-Dinitrobenzene	1	0.067	0.05
534-52-1	Dinitro-o-cresol	0.2	0.013	0.01
148-01-6	3,5-Dinitro-o-toluamide, see Dinitolmide			
117-84-0	N-Dioctyl Phthalate	5	0.333	0.25
78-34-2	Dioxathion	0.2	0.013	0.01
92-52-4	Diphenyl, see Biphenyl			
122-39-4	Diphenylamine	10	0.667	0.5
	Diphenyl methane diisocyanate, see Methylenediphenyl diisocyanate			
34590-94-8	Dipropylene glycol methyl ether	600	40	30
123-19-3	Dipropyl ketone	235	15.7	11.75
85-00-7	Diquat	0.5	0.033	0.01
97-77-8	Disulfiram	2	0.133	0.1
298-04-4	Disulfoton	0.1	0.007	0.005
128-37-0	2,6-Ditert. butyl-p-cresol	10	0.667	0.5
330-54-1	Diuron	10	0.667	0.5
108-57-6	Divinyl benzene	50	3.33	2.5
1302-74-5	Emery (corundum) total dust (> 1% silica)	10	0.667	0.5
115-29-7	Endosulfan	0.1	0.007	0.005
72-20-8	Endrin	0.1	0.007	0.005

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
13838-16-9	Enflurane	566	37.7	28.3
1395-21-7	Enzymes, see Subtilisins			
2104-64-5	EPN (Ethoxy-4-Nitro-phenoxy phenylphosphine)	0.5	0.033	0.025
106-88-7	1,2-Epoxybutane (MI)	---	0.8	0.6
75-56-9	1,2-Epoxypropane, see Propylene oxide			
556-52-5	2,3-Epoxy-1-propanol, see Glycidol			
75-08-1	Ethanethiol, see Ethyl mercaptan			
141-43-5	Ethanolamine	8	0.533	0.4
563-12-2	Ethion	0.4	0.027	0.02
110-80-5	2-Ethoxyethanol	19	1.27	0.95
111-15-9	2-Ethoxyethyl acetate (EGEEA)	27	1.8	1.35
141-78-6	Ethyl acetate	1400	93.3	70
64-17-5	Ethyl alcohol	1880	125	94
75-04-7	Ethylamine	18	1.2	0.9
541-85-5	Ethyl amyl ketone	130	8.67	6.5
100-41-4	Ethyl benzene	435	29	21.75
74-96-4	Ethyl bromide	22	1.47	1.1
106-35-4	Ethyl butyl ketone	230	15.3	11.5
51-79-6	Ethyl carbamate (Urethane) (WA)	---	0.002	0.0015
75-00-3	Ethyl chloride	2640	176	132
107-07-3	Ethylene chlorohydrin	3	0.2	0.15
107-15-3	Ethylenediamine	25	1.67	1.25
107-06-2	Ethylene dichloride	40	2.667	2
107-21-1	Ethylene glycol vapor (CL)	127	0.846	6.35
628-96-6	Ethylene glycol denigrate	0.31	0.021	0.016
110-49-6	Ethylene glycol methyl ether acetate, see 2-Methoxyethyl acetate			
96-45-7	Ethylene thiourea (PL2)	---	0.047	0.035
109-94-4	Ethyl formate	300	20	15
16219-75-3	Ethylidene norbornene (CL)	25	0.167	1.25
75-08-1	Ethyl mercaptan	1	0.067	0.05
100-74-3	N-Ethylmorpholine	23	1.53	1.15
78-10-4	Ethyl silicate	85	5.67	4.25
22224-92-6	Fenamiphos	0.1	0.007	0.005

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
115-90-2	Fensulfothion	0.1	0.007	0.005
55-38-9	Fenthion	0.2	0.013	0.01
14484-64-1	Ferbam	10	0.667	0.5
12604-58-9	Ferrovandium dust	1	0.067	0.05
NA	Fibrous glass dust	10	0.667	0.5
NA	Fine Mineral Fibers - Including: mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less. (ID)	--	0.661	0.5
NA	Fluorides, as F	2.5	0.167	0.125
7782-41-4	Fluorine	2	0.133	0.1
944-22-9	Fonofos	0.1	0.007	0.005
75-12-7	Formamide	30	2	1.5
64-18-6	Formic acid	9.4	0.627	0.47
98-01-1	Furfural	8	0.533	0.4
98-00-0	Furfuryl alcohol	40	2.67	2
7782-65-2	Germanium tetrahydride	0.6	0.04	0.03
NA	Glass, Fibrous or dust, see Fibrous glass dust			
111-30-8	Glutaraldehyde (CL)	0.82	0.0047	0.041
556-52-5	Glycidol	75	5	3.75
110-80-5	Glycol monoethyl ether, see 2-Ethoxyethanol			
7440-58-6	Hafnium	0.5	0.033	0.025
110-43-0	2-Heptanone, see Methyl n-amyl ketone			
106-35-4	3-Heptanone, see Ethyl butyl ketone			
151-67-7	Halothane	404	26.9	20.2
142-82-5	Heptane (n-Heptane)	1640	109	82
77-47-4	Hexachlorocyclopentadiene	0.1	0.007	0.005
1335-87-1	Hexachloronaphthalene	0.2	0.013	0.010
684-16-2	Hexafluoroacetone	0.7	0.047	0.035
822-06-0	Hexamethylene diisocyanate	0.03	0.002	0.0015
680-31-9	Hexamethylphosphoramide (WA)	---	0.002	0.0015
110-54-3	Hexane (n-Hexane)	180	12	9
591-78-6	2-Hexanone, see Methyl n-butyl ketone			
108-10-1	Hexone, see Methyl isobutyl ketone			
108-84-9	sec-Hexyl acetate	300	20	15

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
107-41-5	Hexylene glycol (CL)	121	0.806	6.05
37275-59-5	Hydrogenated terphenyls	5	0.333	0.25
10035-10-6	Hydrogen bromide (CL)	10	0.0667	0.5
7647-01-0	Hydrogen chloride (CL)	7.5	0.05	0.375
7722-84-1	Hydrogen peroxide	1.5	0.1	0.075
7783-06-4	Hydrogen sulfide	14	0.933	0.7
123-31-9	Hydroquinone	2	0.133	0.1
123-42-2	4-Hydroxy-4-Methyl-2-pentanone, see Diacetone alcohol			
999-61-1	2 -Hydroxypropyl acrylate	3	0.2	0.15
95-13-6	Indene	45	3	2.25
7440-74-6	Indium & compounds as In	0.1	0.007	0.005
7553-56-2	Iodine (CL)	0.1	0.0067	0.005
75-47-8	Iodoform	10	0.667	0.5
1309-37-1	Iron oxide fume (Fe ₂ O ₃) as Fe	5	0.333	0.25
13463-40-6	Iron pentacarbonyl as Fe	0.8	0.053	0.04
7439-89-6	Iron salts, soluble, as Fe	1	0.067	0.05
123-92-2	Isoamyl acetate	525	35	26.25
123-51-3	Isoamyl alcohol	360	24	18
110-19-0	Isobutyl acetate	700	46.7	35
78-83-1	Isobutyl alcohol	150	10	6
26952-21-6	Isooctyl alcohol	270	18	13.5
78-59-1	Isophorone	28	1.867	1.4
4098-71-9	Isophorone diisocyanate	0.09	0.006	0.0045
109-59-1	Isopropoxyethanol	105	7	5.25
108-21-4	Isopropyl Acetate	1040	69.3	52
67-63-0	Isopropyl alcohol	980	65.3	49
75-31-0	Isopropylamine	12	0.8	0.6
643-28-7	N-Isopropylaniline	10	0.667	0.5
108-20-3	Isopropyl ether	1040	69.3	52
4016-14-2	Isopropyl glycidyl ether (IGE)	240	16	12
1332-58-7	Kaolin (respirable dust)	2	0.133	0.1
463-51-4	Ketene	0.9	0.06	0.045
7580-67-8	Lithium hydride	0.025	0.002	0.00125
546-93-0	Magnesite	10	0.667	0.5

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
1309-48-4	Magnesium oxide fume	10	0.667	0.5
121-75-5	Malathion	10	0.667	0.5
108-31-6	Maleic anhydride	1	0.067	0.05
7439-96-5	Manganese as Mn Including:			
7439-96-5	Dust & compounds	5	0.333	0.25
7439-96-5	Fume	1	0.067	0.05
101-68-8	MDI, see Methylene diphenyl isocyanate			
NA	Mercaptans not otherwise listed (ID)	---	0.033	0.025
141-79-7	Mesityl oxide	60	4	3
79-41-4	Methacrylic acid	70	4.67	3.5
74-93-1	Methanethiol, see Methyl mercaptan			
67-56-1	Methanol	260	17.3	13
16752-77-5	Methomyl	2.5	0.17	0.125
72-43-5	Methoxychlor	10	0.667	0.5
109-86-4	2-Methoxyethanol	16	1.07	0.8
110-49-6	2-Methoxyethyl acetate	24	1.6	1.2
150-76-5	4-Methoxyphenol	5	0.333	0.25
108-65-6	1-methoxy-2-proanol acetate (ID)	n/a	24	3.6
79-20-9	Methyl acetate	610	40.7	30.5
74-99-7	Methyl acetylene	1640	109	82
NA	Methyl acetylene-propadiene mix (MAPP)	1640	109	82
96-33-3	Methyl acrylate	35	2.33	1.75
126-98-7	Methylacrylonitrile	3	0.2	0.15
74-89-5	Methylamine	12	0.8	0.6
108-11-2	Methyl emyl alcohol, see Methyl isobutyl carbinol			
110-43-0	Methyl n-amyl ketone	235	15.7	11.75
100-61-8	N-Methyl aniline	2	0.133	0.1
74-83-9	Methyl bromide	19	1.27	0.95
591-78-6	Methyl n-butyl ketone	20	1.33	1
74-87-3	Methyl chloride	103	6.867	5.15
71-55-6	Methyl chloroform	1910	127	95.5
137-05-3	Methyl 2-cyano-acrylate	8	0.533	0.4
25639-42-3	Methylcyclohexanol	235	15.7	11.75
583-60-8	o-Methylcyclohexanone	230	15.3	11.5

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
8022-00-2	Methyl demeton	0.5	0.033	0.01
101-68-8	Methylenediphenyl diisocyanate (MDI)	0.05	0.003	0.0025
5124-30-1	Methylene bis (4-cyclohexyl isocyanate)	0.11	0.007	0.0055
78-93-3	Methyl ethyl ketone (MEK)	590	39.3	29.5
1338-23-4	Methyl ethyl ketone peroxide (CL)	1.5	0.01	0.0075
107-31-3	Methyl formate	246	16.4	12.3
541-85-5	5-Methyl-3-heptanone, see Ethyl amyl ketone			
110-12-3	Methyl isoamyl ketone	240	16	12
108-11-2	Methyl isobutyl carbinol	104	6.93	5.2
108-10-1	Methyl isobutyl ketone	205	13.7	10.25
624-83-9	Methyl isocyanate	0.05	0.003	0.0025
563-80-4	Methyl isopropyl ketone	705	47	35.25
74-93-1	Methyl mercaptan	0.5	0.033	0.025
80-62-6	Methyl methacrylate	410	27.3	20.5
298-00-0	Methyl parathion	0.2	0.013	0.01
107-87-9	Methyl propyl ketone	700	46.7	35
681-84-5	Methyl silicate	6	0.4	0.3
98-83-9	a-Methyl styrene	240	16	10.20
109-87-5	Methylal (dimethoxymethane)	3110	207	155.5
108-87-2	Methylcyclohexane	1610	107	80.5
21087-64-9	Metribuzin	5	0.333	0.25
7786-34-7	Mevinphos	0.1	0.007	0.005
12001-26-2	Mica (Respirable dust)	3	0.2	0.15
NA	Mineral Wool Fiber (no asbestos)	10	0.667	0.5
7439-98-7	Molybdenum as Mo - Including:			
NA	Soluble compounds	5	0.333	0.25
NA	Insoluble compounds	10	0.667	0.5
108-90-7	Monochlorobenzene, see Chlorobenzene			
6923-22-4	Monocrotophos	0.25	0.017	0.0125
110-91-8	Morpholine	70	4.67	0.35
300-76-5	Naled	3	0.2	0.15
91-20-3	Naphthalene	50	3.33	2.5
54-11-5	Nicotine	0.5	0.033	0.025
1929-82-4	Nitrapyrin	10	0.667	0.5

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
7697-37-2	Nitric acid	5	0.333	0.25
100-01-6	p-Nitroaniline	3	0.2	0.15
98-95-3	Nitrobenzene	5	0.333	0.25
100-00-5	p-Nitrochlorobenzene	3	0.2	0.15
79-24-3	Nitroethane	310	20.7	15.5
7783-54-2	Nitrogen trifluoride	29	1.93	1.45
55-63-0	Nitroglycerin	0.46	0.031	0.023
75-52-5	Nitromethane	50	3.333	2.5
108-03-2	1-Nitropropane	90	6	4.5
99-08-1	m (or) 3-Nitrotoluene	11	0.733	0.55
88-72-2	o (or) 2-Nitrotoluene	11	0.733	0.55
99-99-0	p (or) 4-Nitrotoluene	11	0.733	0.55
76-06-2	Nitrotrichloromethane, see Chloropicrin			
10024-97-2	Nitrous oxide	90	6	4.5
111-84-2	Nonane	1050	70	52.5
2234-13-1	Octachloronaphthalene	0.1	0.007	0.005
111-65-9	Octane	1400	93.3	70
NA	Oil mist, mineral	5	0.333	0.25
20816-12-0	Osmium tetroxide as Os	0.002	0.0001	0.0001
144-62-7	Oxalic acid	1	0.067	0.05
7783-41-7	Oxygen difluoride (CL)	0.11	0.0007	0.0005
8002-74-2	Paraffin wax fume	2	0.133	0.1
4685-14-7	Paraquat	0.1	0.007	0.007
NA	Paraquat, all Compounds	0.1	0.007	0.005
56-38-2	Parathion	0.1	0.007	0.005
19624-22-7	Pentaborane	0.01	0.001	0.0005
1321-64-8	Pentachloronaphthalene	0.5	0.033	0.025
82-68-8	Pentachloronitrobenzene	0.5	0.0333	0.025
87-86-5	Pentachlorophenol	0.5	0.033	0.025
109-66-0	Pentane	1770	118	88.5
107-87-9	2-Pentanone, see Methyl propyl ketone			
594-42-3	Perchloromethyl mercaptan	0.8	0.053	0.04
7616-94-6	Perchloryl Fluoride	13	0.867	0.65
93763-70-3	Perlite	10	0.667	0.5

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
532-27-4	Phenacyl chloride, see a-Chloroacetophenone			
108-95-2	Phenol	19	1.27	0.95
92-84-2	Phenothiazine	5	0.333	0.25
108-45-2	m-Phenylenediamine	0.1	0.0067	0.005
106-50-3	p-Phenylenediamine	0.1	0.007	0.005
101-84-8	Phenyl ether, vapor	7	0.467	0.035
122-60-1	Phenyl glycidyl ether (PGE)	6	0.4	0.3
108-98-5	Phenyl mercaptan	2	0.133	0.1
638-21-1	Phenylphosphine (CL)	0.25	0.0017	0.00125
298-02-2	Phorate	0.05	0.003	0.001
7786-34-7	Phosdrin, see Mevinphos			
75-44-5	Phosgene	0.4	0.027	0.02
7803-51-2	Phosphine	0.4	0.027	0.02
7664-38-2	Phosphoric acid	1	0.067	0.05
7723-14-0	Phosphorus	0.1	0.007	0.005
10025-87-3	Phosphorus oxychloride	0.6	0.04	0.030
10026-13-8	Phosphorus penta-chloride	1	0.067	0.05
1313-80-3	Phosphorus penta-sulfide	1	0.067	0.05
1314-56-3	Phosphorus pentoxide (ID)	--	0.067	0.05
7719-12-2	Phosphorus trichloride	1.5	0.1	0.075
85-44-9	Phthalic anhydride	6	0.4	0.3
626-17-5	m-Phthalodinitrile	5	0.333	0.25
1918-02-1	Picloram	10	0.667	0.5
88-89-1	Picric acid	0.1	0.006	0.005
83-26-1	Pindone	0.1	0.007	0.005
142-64-3	Piperazine dihydro-chloride	5	0.333	0.25
83-26-1	2-Pivaloyl-1,3-indandione, see Pindone			
7440-06-4	Platinum - Including:			
7440-06-4	Metal	1	0.067	0.05
NA	Soluble salts, as Pt	0.002	0.0001	0.0001
65997-15-1	Portland cement	10	0.667	0.5
1310-58-3	Potassium hydroxide	2	0.133	0.1
107-19-7	Propargyl alcohol	2.3	0.153	0.115
123-38-6	Propionaldehyde (LA)	0.43	0.0287	0.0215

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
79-09-4	Propionic acid	30	2	1.5
114-26-1	Propoxur (Baygon)	0.5	0.033	0.025
109-60-4	n-Propyl acetate	840	56	42
71-23-8	Propyl alcohol	500	33.3	25
78-87-5	Propylene dichloride	347	23.133	17.35
6423-43-4	Propylene glycol dinitrate	0.34	0.023	0.017
107-98-2	Propylene glycol monomethyl ether	360	24	18
75-56-9	Propylene oxide	48	3.2	2.4
627-13-4	n-Propyl nitrate	105	7	5.25
8003-34-7	Pyrethrum	5	0.333	0.25
110-86-1	Pyridine	15	1	0.75
120-80-9	Pyrocatechol, see Catechol			
106-51-4	Quinone	0.4	0.027	0.02
121-84-4	RDX, see Cyclonite			
NA	Refractory Ceramic Fibers (see entry for specific content of emissions, ex: silica)			
108-46-3	Resorcinol	45	3	2.25
7440-16-6	Rhodium - Including:			
7440-16-6	Metal	1	0.067	0.05
NA	Insoluble compounds, as Rh	1	0.067	0.05
NA	Soluble compounds, as Rh	0.01	0.001	0.0005
299-84-3	Ronnel	10	0.667	0.5
83-79-4	Rotenone (commercial)	5	0.333	0.25
8030-30-6	Rubber solvent (Naphtha)	1590	106	79.5
14167-18-1	Salcoine as CO	0.1	0.007	0.005
7782-49-2	Selenium	0.2	0.013	0.010
NA	Selenium and compounds as Se	0.2	0.013	0.01
136-78-7	Sesone	10	0.667	0.5
7803-62-5	Silane, see silicon tetrachloride			
NA	Silica - amorphous - Including:			
61790-53-2	Diatomaceous earth (uncalcined)	10	0.667	0.5
112926-00-8	Precipitated silica	10	0.667	0.5
112926-00-8	Silica gel	10	0.667	0.5

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
NA	Silica, crystalline - Including:			
14464-46-1	Cristobalite	0.05	0.0033	0.0025
14808-60-7	quartz	0.1	0.0067	0.005
60676-86-0	silica, fused	0.1	0.0067	0.005
15468-32-3	tridymite	0.05	0.0033	0.0025
1317-95-9	Tripoli	0.1	0.0067	0.005
7440-21-3	Silicon	10	0.667	0.5
409-21-2	Silicon carbide	10	0.667	0.5
7803-62-5	Silicon tetrahydride	7	0.467	0.35
7440-22-4	Silver - Including			
7440-22-4	Metal	0.1	0.007	0.005
7440-22-4	Soluble compounds, as Ag	0.01	0.001	0.005
26628-22-8	Sodium azide (CL)	0.3	0.002	0.0015
7631-90-5	Sodium bisulfite	5	0.333	0.25
136-78-7	Sodium 2,4-dichloro-phenoxyethyl sulfate, see Sesone			
62-74-8	Sodium fluoroacetate	0.05	0.003	0.0025
1310-73-2	Sodium hydroxide	2	0.133	0.1
7681-57-4	Sodium metabisulfite	5	0.333	0.25
NA	Stearates (not including toxic metals)	10	0.667	0.5
7803-52-3	Stibine	0.5	0.033	0.025
8052-41-3	Stoddard solvent	525	35	26.25
57-24-9	Strychnine	0.15	0.01	0.0075
60-41-3	Strychnine sulfate as strichnine	0.15	0.01	0.01
100-42-5	Styrene monomer (ID)	--	6.67	1
1395-21-7	Subtilisins (Proteolytic enzymes as 100% pure crystalline enzyme)	0.00006	4.0E-07	3.0E-7
3689-24-5	Sulfotep	0.2	0.013	0.01
7664-93-9	Sulfuric acid	1	0.067	0.05
10025-67-9	Sulfur monochloride (CL)	6	0.04	0.03
5714-22-7	Sulfur pentafluoride (CL)	0.1	0.0007	0.0005
7783-60-0	Sulfur tetrafluoride (CL)	0.4	0.0027	0.002
2699-79-8	Sulfuryl fluoride	20	1.33	1
35400-43-2	Sulprofos	1	0.067	0.05
8065-48-3	Systox, see Demeton			

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
93-76-5	2,4,5-Trichlorophen-oxyacetic acid (2,4,5,-T)	10	0.667	0.05
7440-25-7	Tantalum	5	0.333	0.25
3689-24-5	TEDP, see Sulfotep			
13494-80-9	Tellurium & Compounds as Te	0.1	0.007	0.005
7783-80-4	Tellurium hexafluoride as Te	0.2	0.013	0.01
3383-96-8	Temephos	10	0.667	0.5
107-49-3	TEPP (Tetraethyl-pyrophosphate)	0.05	0.003	0.0025
26140-60-3	Terphenyls	4.7	0.313	0.235
1335-88-2	Tetrachloronaphthalene	2	0.133	0.10
78-00-2	Tetraethyl Lead	0.1	0.007	0.005
597-64-8	Tetraethyltin as organic tin	0.1	0.007	0.005
109-99-9	Tetrahydrofuran	590	39.3	29.5
75-74-1	Tetramethyl lead, as Pb	0.15	0.01	0.0075
3333-52-6	Tetramethyl succinonitrile	3	0.2	0.15
509-14-8	Tetranitromethane	8	0.533	0.4
7722-88-5	Tetrasodium pyrophosphate	5	0.333	0.25
479-45-8	Tetryl	1.5	0.1	0.075
7440-28-0	Thallium, soluble Compounds, as Tl	0.1	0.007	0.005
96-69-5	4,4-Thiobis (6 tert, butyl-m-cresol)	10	0.667	0.5
68-11-1	Thioglycolic acid	4	0.267	0.2
7719-09-7	Thionyl chloride (CL)	4.9	0.0327	0.245
137-26-8	Thiram	5	0.333	0.25
7440-31-5	Tin - Including:			
7440-31-5	Metal	2	0.133	0.1
NA	Oxide & inorganic compounds, except SnH4, as Sn	2	0.133	0.1
NA	Organic compounds as Sn	0.1	0.007	0.005
108-88-3	Toluene (toluol)	375	25	18.75
584-84-9	Toluene-2,4-di-isocyanate (TDI)	0.04	0.003	0.002
10-41-54	p-Toluenesulfonic acid (ID)	n/a	0.067	0.05
126-73-8	Tributyl phosphate	2.2	0.147	0.11
76-03-9	Trichloroacetic acid	7	0.467	0.35
120-82-1	1,2,4-Trichlorobenzene (CL)	37	2.47	1.85
79-01-6	Trichloroethylene	269	17.93	13.45
1321-65-9	Trichloronaphthalene	5	0.333	0.25

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
76-06-2	Trichloronitromethane, See Chloropicrin			
95-95-4	2,4,5-Trichlorophenol (MA)	---	---	0.0016
96-18-4	1,2,3-Trichloropropane	60	4	3
121-44-8	Triethylamine	4.1	0.27	0.2
1582-09-8	Trifluralin (PL3)	---	7.7	1.15
552-30-7	Trimellitic anhydride	0.04	0.003	0.002
75-50-3	Trimethylamine	12	0.8	0.6
25551-13-7	Trimethyl benzene (mixed and individual isomers)	123	8.2	6.15
540-84-1	2,2,4-Trimethyl-pentane	350	23.3	17.5
121-45-9	Trimethyl phosphite	10	0.667	0.5
479-45-8	2,4,6-Trinitrophenyl-methylnitramine, see Tetryl			
78-30-8	Triorthocresyl phosphate	0.1	0.007	0.005
603-34-9	Triphenyl amine	5	0.333	0.25
115-86-6	Triphenyl phosphate	3	0.2	0.15
7440-33-7	Tungsten - Including:			
NA	Insoluble compounds	5	0.333	0.25
NA	Soluble compounds	1	0.067	0.05
8006-64-2	Turpentine	560	37.3	28
7440-61-1	Uranium (natural) Soluble & insoluble compounds as U	0.2	0.013	0.01
110-62-3	n-Valeraldehyde	175	11.7	8.75
1314-62-1	Vanadium, as V2O5 Respirable Dust & fume	0.05	0.003	0.0025
108-05-4	Vinyl acetate	35	2.3	1.75
25013-15-4	Vinyl toluene	240	16	12
8032-32-4	VM & P Naphtha	1370	91.3	68.5
81-81-2	Warfarin	0.1	0.007	0.005
1330-20-7	Xylene (o-, m-, p-isomers)	435	29	21.75
1477-55-0	m-Xylene a, a-diamine (CL)	0.1	0.0007	0.0005
1300-73-8	Xylidine	2.5	1.67	0.125
7440-65-5	Yttrium (Metal and compounds as Y)	1	0.067	0.05
7440-66-6	Zinc metal (ID)	--	0.667	0.5
7646-85-7	Zinc chloride fume	1	0.067	0.05
1314-13-2	Zinc oxide fume	5	0.333	0.05
1314-13-2	Zinc oxide dust	10	0.667	0.5

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
7440-67-7	Zirconium compounds as Zr	5	0.333	0.25

(4-4-13)

586. TOXIC AIR POLLUTANTS CARCINOGENIC INCREMENTS.

The screening emissions levels (EL) and acceptable ambient concentrations (AACC) for carcinogens are as provided in the following table. The AACC in this section are annual averages.

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m ³
75-07-0	Acetaldehyde	2.2E-06	3.0E-03	4.5E-01
79-06-1	Acrylamide	1.3E-03	5.1E-06	7.7E-04
107-13-1	Acrylonitrile	6.8E-05	9.8E-05	1.5E-02
309-00-2	Aldrin	4.9E-03	1.3E-06	2.0E-04
62-53-3	Aniline	7.4E-06	9.0E-04	1.4E-01
140-57-8	Aramite	7.1E-06	9.3E-04	1.4E-01
NA	Aroclor, all (PCB) (ID)	---	6.6E-05	1.0E-02
7440-38-2	Arsenic compounds	4.3E-03	1.5E-06	2.3E-04
1332-21-4	Asbestos (Fibers /M.L.)	2.3E-01	N/A	4.0E-06
71-43-2	Benzene	8.3E-06	8.0E-04	1.2E-01
92-87-5	Benzidine	6.7E-02	9.9E-08	1.5E-05
50-32-8	Benzo(a)pyrene	3.3E-03	2.0E-06	3.0E-04
7440-41-7	Beryllium & compounds	2.4E-04	2.8E-05	4.2E-03
106-99-0	1,3-Butadiene	2.8E-04	2.4E-05	3.6E-03
111-44-4	Bis (2-chloroethyl) ether	3.3E-04	2.0E-05	3.0E-03
542-88-1	Bis (chloromethyl) ether	6.2E-02	1.0E-07	1.6E-05
108-60-1	Bis (2-chloro-1-methyl- ethyl) ether	2.0E-05	3.3E-04	5.0E-02
117-81-7	Bis (2-ethylhexyl) phthalate	2.4E-07	2.8E-02	4.2E+00
7440-43-9	Cadmium and compounds	1.8E-03	3.7E-06	5.6E-04
56-23-5	Carbon tetrachloride	1.5E-05	4.4E-04	6.7E-02
57-74-9	Chlordane	3.7E-04	1.8E-04	2.7E-03
67-66-3	Chloroform	2.3E-05	2.8E-04	4.3E-02
18540-29-9	Chromium (VI) & compounds as Cr+6	1.2E-02	5.6E-07	8.3E-05
NA	Coal Tar Volatiles as benzene			
NA	Coke oven emissions	6.2E-04	1.1E-05	1.6E-03
8001-58-9	Creosote (ID) See coal tar volatiles as benzene extractables			

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
50-29-3	DDT (Dichlorodi phenyltrichloroethane)	9.7E-05	6.8E-05	1.0E-02
96-12-8	1,2-Dibromo-3-chloropropane	6.3E-03	1.0E-06	1.6E-04
75-34-3	1,1 dichloroethane	2.6E-05	2.5E-04	3.8E-02
107-06-2	1,2 dichloroethane	2.6E-05	2.5E-04	3.8E-02
75-35-4	1,1 dichloroethylene	5.0E-05	1.3E-04	2.0E-02
75-09-2	Dichloromethane (Methylenechloride)	4.1E-06	1.6E-03	2.4E-01
542-75-6	1,3 dichloropropene	4.0E-06	1.7E-03	2.5E-01
764-41-0	1,4-Dichloro-2-butene	2.6E-03	2.5E-06	3.8E-04
60-57-1	Dieldrin	4.6E-03	1.4E-06	2.1E-04
56-53-1	Diethylstilbestrol	1.4E-01	4.7E-08	7.1E-06
123-91-1	1,4 dioxane	1.4E-06	4.8E-03	7.1E-01
	Dioxin and Furans (2,3,7,8,TCDD & mixtures) Dioxin and Furan emissions shall be considered as one TAP and expressed as an equivalent emission of 2,3,7,8, TCDD based on the relative potency of the isomers in accordance with US EPA guidelines. U.S. EPA (Environmental Protection Agency), (2010) Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2,3,7,8-Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds. Risk Assessment Forum, Washington, DC. EPA/600/R-10/005.			
122-66-7	1,2-Diphenylhydrazine	2.2E-04	3.0E-05	4.5E-03
106-89-8	Epichlorohydrin	1.2E-06	5.6E-03	8.3E-01
106-93-4	Ethylene dibromide	2.2E-04	3.0E-05	4.5E-03
75-21-8	Ethylene oxide	1.0E-04	6.7E-05	1.0E-02
50-00-0	Formaldehyde	1.3E-05	5.1E-04	7.7E-02
76-44-8	Heptachlor	1.3E-03	5.1E-06	7.7E-04
1024-57-3	Heptachlor Epoxide	2.6E-03	2.5E-06	3.5E-04
118-74-1	Hexachlorobenzene	4.9E-04	1.3E-05	2.0E-03
87-68-3	Hexachlorobutadiene	2.0E-05	3.3E-04	5.0E-02
	Hexachlorocyclo-hexane, Technical	5.1E-04	1.3E-05	1.9E-03
319-84-6	Hexachlorocyclohexane (Lindane) Alpha (BHC)	1.8E-03	3.7E-06	5.6E-04
319-85-7	Hexachlorocyclohexane (Lindane) Beta (BHC)	5.3E-04	1.3E-05	1.8E-03
58-89-9	Hexachlorocyclohexane (Lindane) Gamma (BHC)	3.8E-04	1.7E-05	2.6E-03
67-72-1	Hexachloroethane	4.0E-06	1.7E-03	2.5E-01
302-01-2	Hydrazine	2.9E-03	2.3E-06	3.4E-04
10034-93-2	Hydrazine Sulfate	2.9E-03	2.2E-06	3.5E-04
56-49-5	3-methylcholanthrene	2.7E-03	2.5E-06	3.7E-04
75-09-2	Methylene Chloride	4.1E-06	1.6E-03	2.4E-01

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
74-87-3	Methyl chloride	3.6E-06	1.9E-03	2.8E-01
101-14-4	4,4-Methylene bis(2-Chloroaniline)	4.7E-05	1.4E-04	2.1E-02
60-34-4	Methyl hydrazine	3.1E-04	2.2E-05	3.2E-03
7440-02-0	Nickel	2.4E-04	2.7E-05	4.2E-03
12035-72-2	Nickel Subsulfide	4.8E-04	1.4E-05	2.1E-02
7440-02-0	Nickel Refinery Dust	2.4E-04	2.8E-05	4.2E-02
79-46-9	2-Nitropropane	2.7E-02	2.5E-07	3.7E-05
55-18-5	N-Nitrosodiethylamine (diethylnitrosoamine) (DEN)	4.3E-02	1.5E-07	2.3E-05
62-75-9	N-Nitrosodimethylamine	1.4E-02	4.8E-07	7.1E-05
924-16-3	N-Nitrosodi-n-butylamine	1.6E-03	4.1E-06	6.3E-04
930-55-2	N-Nitrosopyrrolidine	6.1E-04	1.1E-05	1.6E-03
684-93-5	N-Nitroso-N-methylurea (NMU)	3.5E-01	1.9E-08	2.9E-06
82-68-8	Pentachloronitrobenzene	7.3E-05	9.1E-05	1.4E-02
127-18-4	Perchloroethylene (see tetrachloroethylene)			
NA	Polyaromatic Hydrocarbons (except 7-PAH group)	7.3E-05	9.1E-05	1.4E-02
	(Polycyclic Organic Matter or 7-PAH group) For emissions of the 7-PAH group, the following PAHs shall be considered together as one TAP, equivalent in potency to benzo(a)pyrene: benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenzo(a,h)anthracene, chrysene, indeno(1,2,3-cd)pyrene, benzo(a)pyrene. (WA)			
23950-58-5	Promanide	4.6E-06	1.5E-03	2.2E-01
50-55-5	Reserpine	3.0E-03	2.2E-06	3.3E-04
1746-01-6	2,3,7,8,-Tetrachlorodibenzo-p-dioxin (2,3,7,8, -TCDD)	4.5.E+01	1.5E-10	2.2E-08
NA	Soots and Tars (ID) See coal tar volatiles as benzene extractables.			
79-34-5	1,1,2,2,Tetrachloro-ethane	5.8E-05	1.1E-05	1.7E-02
127-18-4	Tetrachloroethylene	4.8E-07	1.3E-02	2.1E+00
79-00-5	1,1,2 - trichloroethane	1.6E-05	4.2E-04	6.2E-02
62-56-6	Thiourea	5.5E-04	1.2E-05	1.8E-03
8001-35-2	Toxaphene	3.2E-04	2.0E-05	3.0E-03
79-01-6	Trichloroethylene	1.3E-06	5.1E-04	7.7E-01
88-06-2	2,4,6 - Trichlorophenol	5.7E-06	1.2E-03	1.8E-01
75-01-4	Vinyl chloride	7.1E-06	9.4E-04	1.4E-01

(4-11-19)

587. LISTING OR DELISTING TOXIC AIR POLLUTANT INCREMENTS.

Persons may request the listing of any toxic substance or delisting of any toxic air pollutant in Sections 585 or 586 by filing a petition for adoption of rules in accordance with IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

588. -- 589. (RESERVED)

590. NEW SOURCE PERFORMANCE STANDARDS.

The owner or operator of any stationary source shall comply with 40 CFR Part 60 as applicable to the stationary source. The applicable definitions for this Section shall be the definitions set forth in 40 CFR Part 60. (4-5-00)

591. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS.

The owner or operator of any stationary source shall comply with 40 CFR Part 61 and 40 CFR Part 63 as applicable to the stationary source. (5-1-94)

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. (3-29-10)

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. (3-29-10)

02. New Sources. A source is a new source if construction commenced on the source after April 1, 2009. (3-29-10)

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. (3-29-10)

04. Existing Sources. A source is an existing source if it is not new or reconstructed. (3-29-10)

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. (3-29-10)

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. (3-29-10)

595. SUBMERGED FILL REQUIREMENTS.

The owner or operator must only load gasoline into underground storage tanks at the facility by utilizing submerged filling. (3-29-10)

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. (3-29-10)

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. (3-29-10)

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: (3-29-10)

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. (3-29-10)

02. Maintenance. Maintain all equipment associated with the vapor balance system to be vapor tight and in good working order. (3-29-10)

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 <http://www.deq.idaho.gov>. (3-29-10)

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. (3-29-10)

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. (3-29-10)

01. Testing. (3-29-10)

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. (3-29-10)

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). (3-29-10)

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. (3-29-10)

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. (3-29-10)

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). (3-29-10)

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. (3-29-10)

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. (3-29-10)

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). (3-29-10)

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. (3-29-10)

598. REGISTRATION, RECORDKEEPING, AND REPORTING REQUIREMENTS.

01. Registration. (3-29-10)

a. Any GDF subject to these rules shall: (3-29-10)

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 (3-29-10)

ii. The registration certification shall be displayed at the GDF. (3-29-10)

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. (3-29-10)

c. A new registration must be submitted to the Department within thirty (30) days after any change in ownership of the GDF. (3-29-10)

02. Recordkeeping Requirements. (3-29-10)

a. Each owner or operator must keep the following records: (3-29-10)

i. Records of all tests performed under Section 597; (3-29-10)

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 (3-29-10)

iii. Records of permanent changes made at the GDF and vapor balance equipment which may affect emissions. (3-29-10)

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. (3-29-10)

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.

(3-29-10)

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: (3-29-10)

- a.** All hoses in the vapor balance system are properly connected; (3-29-10)
- b.** The adapters or couplers that attach to the vapor line on the storage tank have closures that seal upon disconnect; (3-29-10)
- c.** All vapor return hoses, couplers, and adapters used in the gasoline delivery are vapor-tight; (3-29-10)
- 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 (3-29-10)
- e.** All hatches on the tank truck are closed and securely fastened. (3-29-10)
- 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. (3-29-10)

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., 599.01.b., 599.01.d., and 599.01.e. and by successfully completing the testing requirements set out in Subsections 599.01.c. and 599.01.f. (3-29-10)

03. Recordkeeping and Reporting. (3-29-10)

- 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. (3-29-10)
- b.** Copies of all tests required under Subsection 599.01 shall be submitted to the Department within thirty (30) days of certification testing. (3-29-10)

600. RULES FOR CONTROL OF OPEN BURNING.

The purpose of Sections 600 through 624 is to reduce the amount of emissions and minimize the impact of open burning to protect human health and the environment from air pollutants resulting from open burning as well as to reduce the visibility impairment in mandatory Class I Federal Areas in accordance with the regional haze long-term strategy referenced at Section 667. (5-8-09)

601. FIRE PERMITS, HAZARDOUS MATERIALS, AND LIABILITY.

Compliance with the provisions of Sections 600 through 623 does not exempt or excuse any person from complying with applicable laws and ordinances of other jurisdictions responsible for fire control or hazardous material disposal or from liability for damages or injuries which may result from open burning. (5-8-09)

602. NONPREEMPTION OF OTHER JURISDICTIONS.

The provisions of Sections 600 through 623 are not intended to interfere with the rights of any city, county or other governmental entities or agencies to provide equal or more stringent control of open burning within their respective jurisdictions. (5-8-09)

603. GENERAL RESTRICTIONS.

01. Categories and Materials. No person shall allow, suffer, cause or permit any open burning operation unless it is a category of open burning set forth in Sections 600 through 623 and the materials burned do not include any of the following: (5-8-09)

- a. Garbage, as defined in Section 006. (3-21-03)
- b. Dead animals, animal parts, or animal wastes (feces, feathers, litter, etc.) except as provided in Section 616. (3-21-03)
- c. Motor vehicles, parts, or any materials resulting from a salvage operation. (3-21-03)
- d. Tires or other rubber materials or products. (3-21-03)
- e. Plastics. (3-21-03)
- f. Asphalt or composition roofing or any other asphaltic material or product. (3-21-03)
- g. Tar, tar paper, waste or heavy petroleum products, or paints. (3-21-03)
- h. Lumber or timbers treated with preservatives. (3-21-03)
- i. Trade waste, as defined in Section 006, except as specifically allowed under Sections 600 through 623. (5-8-09)
- j. Insulated wire. (3-21-03)
- k. Pathogenic wastes. (3-21-03)
- l. Hazardous wastes. (5-1-94)

02. Air Pollution Episodes. No person shall allow, suffer, cause or permit any open burning to be initiated during any stage of an air pollution episode declared by the Department in accordance with Sections 550, through 562. (3-21-03)

03. Emergency Authority. In accordance with Title 39, Chapter 1, Idaho Code, the Department has the authority to require immediate abatement of any open burning in cases of emergency requiring immediate action to protect human health or safety. (3-21-03)

604. -- 605. (RESERVED)

606. CATEGORIES OF ALLOWABLE BURNING.

The purpose of Sections 606 through 623 is to establish categories of open burning that are allowed when done according to prescribed conditions. Unless specifically exempted each category in Sections 606 through 623 is subject to all of the provisions of Sections 600 through 605. (5-8-09)

607. RECREATIONAL AND WARMING FIRES.

Fires used for the preparation of food or for recreational purposes (e.g. campfires, ceremonial fires, and barbecues), or small fires set for handwarming purposes, are allowable forms of open burning. (3-21-03)

608. WEED CONTROL FIRES.

Open outdoor fires used for the purpose of weed abatement such as along fence lines, canal banks, and ditch banks is an allowable forms of open burning. (5-1-94)

609. TRAINING FIRES.

Fires used by qualified personnel to train firefighters in the methods of fire suppression and fire fighting techniques, or to display certain fire ecology or fire behavior effects are allowable forms of open burning. Training facilities shall notify the Department prior to igniting any training fires. Training fires shall not be allowed to smolder after the training session has terminated. Training fires are exempt from Subsections 603.01.c. and 603.01.e. through 603.01.j. (3-21-03)

610. INDUSTRIAL FLARES.

Industrial flares, used for the combustion of flammable gases are allowable forms of open burning. Industrial flares are subject to permitting requirements in Sections 200 through 223. (3-21-03)

611. RESIDENTIAL SOLID WASTE DISPOSAL FIRES.

01. Fires Allowed. Open outdoor fires used to dispose of solid waste (e.g. rubbish, tree leaves, yard trimmings, gardening waste, etc.) excluding garbage produced by the operation of a domestic household is an allowable form of open burning when the following provisions are met: (5-1-94)

- a. No scheduled house to house solid waste collection service is available; and (5-1-94)
- b. The burning is conducted on the property where the solid waste was generated. (5-1-94)

02. Fires Exempt. Open outdoor fires used to dispose of tree leaves, gardening waste or yard trimmings are exempt from Subsection 611.01.a. when conducted in accordance with local governmental ordinances or rules which allow for the open burning of tree leaves, gardening waste or yard trimming during certain periods of the year. (5-1-94)

612. LANDFILL DISPOSAL SITE FIRES.

The use of fires for the disposal of solid waste at any solid waste landfill disposal site or facility is an allowable form of open burning only if conducted in accordance with IDAPA 58.01.06, "Solid Waste Management Rules and Standards" or the Solid Waste Facilities Act, Chapter 74, Title 39, Idaho Code. (3-21-03)

613. ORCHARD FIRES.

The use of heating devices to protect orchard crops from frost damage and the use of fires to dispose of orchard clippings are allowable forms of open burning when the following provisions are met: (3-21-03)

01. Open-Pot Heaters. The use of stackless open-pot heaters is prohibited. (5-1-94)

02. Heating Device Opacity. Orchard heating device with visible emissions exceeding forty percent (40%) opacity at normal operating conditions shall not be used. Opacity shall be determined by the procedures contained in Section 625. (3-21-03)

03. Heating Device Emissions. All heaters purchased after September 21, 1970, shall emit no more than one (1.0) gram per minute of solid carbonaceous matter at normal operating conditions as certified by the manufacturer. At the time of purchase, the seller shall certify in writing to the purchaser that all new equipment is in compliance with Section 613. (3-21-03)

04. Orchard Clippings. The open burning of orchard clippings shall be conducted on the property where the clippings were generated. (5-1-94)

614. PRESCRIBED BURNING.

The use of open outdoor fires to obtain the objectives of prescribed fire management burning is an allowable form of open burning when the provisions of Section 614 are met. (5-1-94)

01. Burning Permits or Prescribed Fire Plans. (5-1-94)

a. Whenever a burning permit or prescribed fire plan is required by the Department of Lands, U.S.D.A. Forest Service, or any other state or federal agency responsible for land management, any person who conducts or allows prescribed burning shall meet all permit and/or plan conditions and terms which control smoke.

(5-1-94)

b. The Department will seek interagency agreements to assure permits or plans issued by agencies referred to in Subsection 614.01.a. provide adequate consideration for controlling smoke from prescribed burning. (5-1-94)

02. Smoke Management Plans for Prescribed Burning. (5-1-94)

a. Whenever a permit or plan is not required by the Department of Lands, U.S.D.A. Forest Service, or any other state or federal agency responsible for land management, any person who conducts or allows prescribed burning shall meet all conditions set forth in a Smoke Management Plan for Prescribed Burning. (5-1-94)

b. The Department will develop and put into effect a Smoke Management Plan for Prescribed Burning consistent with the purpose of Sections 600 through 616. (5-1-94)

03. Rights-of-Way Fires. The open burning of woody debris generated during the clearing of rights of way shall be open burned according to Sections 38-101 and 38-401, Idaho Code, IDAPA 20 Title 16 and Sections 606 through 616 of these rules. (5-1-94)

615. DANGEROUS MATERIAL FIRES.

Fires used or permitted by a public or military fire chief to dispose of materials (including military ordnance) which present a danger to life, valuable property or the public welfare, or for the purpose of prevention of a fire hazard when no practical alternative method of disposal or removal is available are allowable forms of open burning. (3-21-03)

616. INFECTIOUS WASTE BURNING.

Upon the order of a public health officer, fires used to dispose of diseased animals or infested material are an allowable form of open burning and exempt from Subsection 603.01.k. (3-21-03)

617. CROP RESIDUE DISPOSAL.

The open burning of crop residue on fields where the crops were grown is an allowable form of open burning if conducted in accordance with Section 39-114, Idaho Code, and Sections 618 through 624 of these rules. (3-29-12)

618. PERMIT BY RULE.

01. General Requirements. All persons shall be deemed to have a permit by rule if they comply with all the provisions of Sections 618 through 624. No person shall conduct an open burn of crop residue without obtaining the applicable permit by rule. Those persons applying for a spot burn, baled agricultural residue burn, or propane flaming permit shall comply with the provisions in Section 624. The permit by rule does not relieve the applicant from obtaining all other required permits and approvals required by other state and local fire agencies or permitting authorities. (3-29-12)

02. Forms. The Department shall provide the appropriate forms to complete the permit by rule. Forms may be available at the Department offices or on the Department website <http://www.deq.idaho.gov>. (5-8-09)

619. REGISTRATION FOR PERMIT BY RULE.

Any person applying to burn crop residue shall annually provide the following registration information to the Department at least thirty (30) days prior to the date the applicant proposes to burn: (5-8-09)

01. Location of Property. Street address of the property upon which the proposed burning of crop residue will occur or, if there is no street address of the property, the legal description of the property using longitude and latitude coordinates or township, range and section for the Idaho meridian; (5-8-09)

02. Applicant Information. Name, mailing address, and telephone number of the applicant, and the person who will be responsible for conducting the proposed burning of crop residue and the portable form of communication referenced in Subsection 622.01.c. of this rule; (5-8-09)

03. Plot Plan. A plot plan showing the location of each proposed crop residue burning area in relation

to the property lines and indicating the distances and directions of the nearest residential, public, and commercial properties, and roads; (5-8-09)

04. Type, Acreage and Fuel Characteristics of Crop Residue Proposed to be Burned. The crop type, area over which burning will be conducted (acres), and other fuel characteristics; (5-8-09)

05. Preventive Measures. A description of the measures that will be taken to prevent escaped burns or withhold additional material such that the fire burns down, including but not limited to, the availability of water and plowed firebreaks; and (5-8-09)

06. Date of Burning. The requested date(s) when the proposed crop residue burning would be conducted or the proposed date the field will be available to be burned. (5-8-09)

620. BURN FEE.

01. Burn Fee. The burn fee in Section 39-114, Idaho Code, shall be paid in its entirety within thirty (30) days following the receipt of the annual burn fee invoice. See also Subsection 624.02.a. for registration and fee requirements for burning under a spot and baled agricultural residue burn permit. The burn fee should be sent to:

Crop Residue Burn Fee
Fiscal Office
Idaho Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706-1255 (4-11-19)

02. Effect of Delinquent Fee Payment. The Department shall not accept or process a registration for a permit by rule to burn for any person having burn fees delinquent, in full or in part. (4-11-19)

621. BURN DETERMINATION.

01. Burn Approval Criteria. The Department shall develop a Crop Residue Operating Guide to use in assisting in the determination of burn approvals. The permittee shall obtain initial approval from the Department for the proposed burn at least twelve (12) hours in advance of the burn. The permittee shall confirm, with the Department, the approval the morning of the proposed burn. The Department may shorten this time frame if meteorological or other applicable conditions change that will impact the air quality during the proposed burn period. To approve a permittee's request to burn, the Department must determine that ambient air quality levels do not exceed ninety percent (90%) of the ozone national ambient air quality standard (NAAQS) and seventy-five percent (75%) of the level of any other NAAQS on any day and are not projected to exceed such level over the next twenty-four (24) hours, and ambient air quality levels have not reached, and are not forecasted to reach and persist at, eighty percent (80%) of the one (1) hour action criteria for particulate matter under Section 556 of these rules. In making this determination, the Department shall consider the following: (3-28-18)

- a. Expected Emissions.** Expected emissions from all burns proposed for the same dates; (5-8-09)
- b. Proximity of Other Burns.** The proximity of other burns and other potential emission sources within the area to be affected by the proposed burn; (5-8-09)
- c. Moisture Content.** Moisture content of the material to be burned; (5-8-09)
- d. Acreage, Crop Type, and Fuel Characteristics.** Acreage, crop type, and fuel characteristics to be burned; (5-8-09)
- e. Meteorological Conditions.** Meteorological conditions; (5-8-09)
- f. Proximity to Institutions with Sensitive Populations.** The proximity of the burn to institutions with sensitive populations, including public schools while in session; hospitals; residential health care facilities for children, the elderly or infirm; and other institutions with sensitive populations as approved by the Department. The Department shall not authorize a burn if conditions are such that institutions with sensitive populations will be

- adversely impacted or when the plume is predicted to impact such institutions; (5-8-09)
- g.** Proximity to Public Roadways. Proximity to public roadways; (5-8-09)
 - h.** Proximity to Airports. Proximity to airports; and (5-8-09)
 - i.** Other Relevant Factors. Any other factors relevant to preventing exceedances of the air quality concentrations of Section 621. (5-8-09)

02. Notification of Approval. If the Department approves the burn, then it will post on its website written notification of the approval and any specific conditions under which the burn is approved. Special conditions may include, but are not limited to: (5-8-09)

- a.** Conditions for burns near institutions with sensitive populations; (5-8-09)
- b.** The requirement to withhold additional material such that the fire burns down if the Department determines pollutant concentrations reach the levels in Subsection 621.01 of this rule; (5-8-09)
- c.** Conditions to ensure the burn does not create a hazard for travel on a public roadway; and (5-8-09)
- d.** The requirement to consult with the Department to determine actions to be taken if conditions at the burn site fail to satisfy the conditions specified in the notice of approval to burn. (5-8-09)

622. GENERAL PROVISIONS.

01. Burn Provisions. All persons in Idaho intending to dispose of crop residue through burning shall abide by the following provisions: (5-8-09)

- a.** Burning Prohibitions. Burning of crop residue shall not be conducted on weekends, federal or state holidays, or after sunset or before sunrise; (5-8-09)
- b.** Designated Burn Day. Burning of crop residue shall not be conducted unless the Department has designated that day a burn day and the permittee has received individual approval specifying the conditions under which the burn may be conducted; (5-8-09)
- c.** Portable Form of Communication. The person conducting the burning must have on their possession a portable form of communication such as a cellular phone or radio of compatible frequency with the Department in order to receive burn approval information or information that might require measures to withhold additional material such that the fire burns down; (5-8-09)
- d.** Location of Field Burning. Open burning of crop residue shall be conducted in the field where it was generated; (5-8-09)
- e.** Limitations on Burning. When required by the conditions of the notice of approval to burn, the permittee burning in proximity to institutions with sensitive populations shall immediately extinguish the fire or withhold additional material such that the fire burns down, unless the Department determines that the burn will not have an adverse impact on such institutions; (5-8-09)
- f.** Training Session. All persons intending to burn crop residue shall attend a crop residue burning training session provided by the Idaho Department of Environmental Quality or the Idaho State Department of Agriculture and shall attend a crop residue disposal refresher training session every five (5) years; (5-8-09)
- g.** Air Stagnation or Degraded Air Quality. All field burning shall be prohibited when the Department issues an air quality forecast and caution, alert, warning or emergency as identified in Section 552 of these rules; (5-8-09)
- h.** Allowable Forms of Open Burning. The use of reburn machines, propane flamers, or other portable

devices to ignite or reignite a field for the purposes of crop residue burning shall be considered an allowable form of open burning. Tires and other restricted material described in Subsection 603.01, of this rule, are not allowed for ignition of fields; (5-8-09)

i. Additional Burn Permits. All persons intending to burn crop residue shall obtain any additional applicable permits from federal, state or local fire control authorities prior to receiving approval from the Department to burn crop residue; and (5-8-09)

j. Reporting to the Department. All persons burning crop residue shall report to the Department the date burning was conducted, the actual number and location of acres burned, and other information as required by the Department. The Department may restrict further burning by a permittee until completed burns are reported. (5-8-09)

k. Specific Conditions. The open burning of crop residue shall be conducted in accordance with the specific conditions in the permittee's permit by rule. (3-29-12)

02. Annual Report. The Department shall develop an annual report that shall include, at a minimum, an analysis of the causes of each exceedance of a limitation in Section 621 of this rule, if any, and an assessment of the circumstances associated with any reported endangerment to human health associated with a burn. The report shall include any proposed revisions to these rules or the Crop Residue Operating Guide deemed necessary to prevent future exceedances. (5-8-09)

03. Advisory Committee. The Department will assemble an advisory committee consisting of representatives from environmental organizations, farming organizations, health organizations, tribal organizations, the Idaho State Department of Agriculture, the Idaho Department of Environmental Quality, and others to discuss open burning of crop residue issues. (5-8-09)

623. PUBLIC NOTIFICATION.

01. Designation of Burn Days. The Director or his designee shall designate for a given county or airshed within a county burn or no-burn days. (5-8-09)

02. Posting on Website. The Department shall post daily on its website (www.deq.idaho.gov): (3-29-12)

a. Whether a given day is a burn or no-burn day; (5-8-09)

b. The location and number of acres permitted to be burned; (5-8-09)

c. Meteorological conditions and any real time ambient air quality monitoring data; and (5-8-09)

d. A toll-free number to receive requests for information (1-800-345-1007). (3-29-12)

03. E-Mail Update Service. The Department shall provide an opportunity for interested persons to sign up to receive automatic e-mail updates for information regarding the open burning of crop residue. (5-8-09)

624. SPOT BURN, BALED AGRICULTURAL RESIDUE BURN, AND PROPANE FLAMING PERMITS.

01. Applicability. (3-29-12)

a. Spot Burn. A spot burn includes no more than one (1) acre of evenly distributed crop residue or two (2) tons of piled crop residue. The open burning of weed patches, spots of heavy residue, equipment plugs and dumps, pivot corners of fields, and pastures may constitute a spot burn. Spot burn does not include the open burning of wind rows. (3-29-12)

b. Baled Agricultural Residue Burn. An open burn used to dispose of broken, mildewed, diseased, or

otherwise pest-ridden bales still in the field where they were generated. (3-29-12)

c. Propane Flaming. The use of flame-generating equipment to briefly apply flame and/or heat to the topsoil of a cultivated field of pre-emerged or plowed-under crop residue with less than five hundred fifty (550) pounds of burnable, non-green residue per acre in order to control diseases, insects, pests, and weed emergence. (3-29-12)

02. Spot and Baled Agricultural Residue Burn Permit. (3-29-12)

a. Registration and Fee Requirements. Any person applying for a spot and baled agricultural residue burn permit under Section 624 shall provide the registration information listed in Subsections 619.01 and 619.02 and pay a nonrefundable fee of twenty dollars (\$20) to the Department (see Section 620) at least fourteen (14) days prior to the date the applicant proposes to conduct the first burn of the calendar year. (3-29-12)

b. Term and Acreage. A spot and baled agricultural residue burn permit is valid for the calendar year in which it is issued and is good for a cumulative total of no more than ten (10) acres of spots and/or equivalent piled or baled agricultural residue during the year and no more than one (1) acre of spots and/or equivalent piled or baled agricultural residue per day. Two (2) tons of piled or baled agricultural residue is assumed to be equivalent to one (1) acre. (3-29-12)

03. Propane Flaming Permit. Persons conducting propane flaming as defined under Subsection 624.01.c. shall be deemed to have a permit by rule if they comply with the applicable provisions in Subsections 624.04 and 624.05. (3-29-12)

04. General Provisions. All persons intending to burn under Section 624 shall comply with the provisions of Subsections 622.01.c., 622.01.d., 622.01.f., through 622.01.i., and 622.01.k. in addition to the following: (3-29-12)

a. The permittee is responsible to ensure that adequate measures are taken so the burn does not create a hazard for travel on a public roadway. (3-29-12)

b. Burning is not allowed if the proposed burn location is within three (3) miles of an institution with a sensitive population and the surface wind speed is greater than twelve (12) miles per hour or if the smoke is adversely impacting or is expected to adversely impact an institution with a sensitive population. (3-29-12)

c. Designated Burn Day. Burning shall not be conducted unless the Department has designated that day a burn day, which for purposes of Section 624 may include weekends and holidays, and the permittee burns within the burn window provided on the Department's website at www.deq.idaho.gov. Spot and baled agriculture residue burns shall not smolder and create smoke outside of the designated time period burning is allowed. (3-29-12)

05. Recordkeeping. Permittees shall record the date, time frame, type of burn, type of crop, and amount burned on the date of the burn. Records of such burns shall be retained for two (2) years and made available to the Department upon request. (3-29-12)

625. VISIBLE EMISSIONS.

A person shall not discharge any air pollutant into the atmosphere from any point of emission for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period which is greater than twenty percent (20%) opacity as determined by this section. (4-5-00)

01. Exemptions. The provisions of this section shall not apply to: (4-5-00)

a. Kraft Process Lime Kilns, if operating prior to January 24, 1969; or (5-1-94)

b. Carbon Monoxide Flare Pits on Elemental Phosphorous Furnaces, if operating prior to January 24, 1969; or (5-1-94)

c. Liquid Phosphorous Loading Operations, if operating prior to January 24, 1969; or (5-1-94)

- d. Wigwam Burners; or (5-1-94)
- e. Kraft Process Recovery Furnaces. (5-1-94)
- f. Calcining Operations Utilizing an Electrostatic Precipitator to Control Emissions, if operating prior to January 24, 1969. (5-1-94)

02. Standards for Exempted Sources. Except as provided in Section 626, for sources exempted from the provisions of this section, a person shall not discharge into the atmosphere from any point of emission, for any air pollutant for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period which is greater than forty percent (40%) opacity as determined by this section. (4-5-00)

03. Exception. The provisions of this section shall not apply when the presence of uncombined water, nitrogen oxides and/or chlorine gas are the only reason(s) for the failure of the emission to comply with the requirements of this rule. (4-5-00)

04. Test Methods and Procedures. The appropriate test method under this section shall be EPA Method 9 (contained in 40 CFR Part 60) with the method of calculating opacity exceedances altered as follows: (4-5-00)

a. Opacity evaluations shall be conducted using forms available from the Department or similar forms approved by the Department. (4-5-00)

b. Opacity shall be determined by counting the number of readings in excess of the percent opacity limitation, dividing this number by four (4) (each reading is deemed to represent fifteen (15) seconds) to find the number of minutes in excess of the percent opacity limitation. This method is described in the Procedures Manual for Air Pollution Control, Section II (Evaluation of Visible Emissions Manual), September 1986. (4-5-00)

c. Sources subject to New Source Performance Standards must calculate opacity as detailed above and as specified in 40 CFR Part 60. (4-5-00)

05. Applicability. Section 625 shall not apply to the open burning of crop residue. (5-8-09)

626. GENERAL RESTRICTIONS ON VISIBLE EMISSIONS FROM WIGWAM BURNERS.
Except for a period of one (1) hour following start up a person shall not discharge into the atmosphere from any wigwam burner any air pollutant for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period which is greater than twenty percent (20%) opacity as determined by the procedures contained in Section 625. (4-5-00)

627. -- 649. (RESERVED)

650. RULES FOR CONTROL OF FUGITIVE DUST.
The purpose of Sections 650 through 652 is to require that all reasonable precautions be taken to prevent the generation of fugitive dust. (4-11-15)

651. GENERAL RULES.
All reasonable precautions shall be taken to prevent particulate matter from becoming airborne. In determining what is reasonable, consideration will be given to factors such as the proximity of dust emitting operations to human habitations and/or activities, the proximity to mandatory Class I Federal Areas and atmospheric conditions which might affect the movement of particulate matter. Some of the reasonable precautions may include, but are not limited to, the following: (3-30-07)

01. Use of Water or Chemicals. Use, where practical, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land. (5-1-94)

02. Application of Dust Suppressants. Application, where practical, of asphalt, oil, water or suitable chemicals to, or covering of dirt roads, material stockpiles, and other surfaces which can create dust. (5-1-94)

03. Use of Control Equipment. Installation and use, where practical, of hoods, fans and fabric filters or equivalent systems to enclose and vent the handling of dusty materials. Adequate containment methods should be employed during sandblasting or other operations. (5-1-94)

04. Covering of Trucks. Covering, when practical, open bodied trucks transporting materials likely to give rise to airborne dusts. (5-1-94)

05. Paving. Paving of roadways and their maintenance in a clean condition, where practical. (5-1-94)

06. Removal of Materials. Prompt removal of earth or other stored material from streets, where practical. (5-1-94)

652. AGRICULTURAL ACTIVITIES.

For agricultural activity purposes, operating in conformance with generally recognized agricultural practices constitutes reasonable control of fugitive dust. For the purpose of Section 652: (4-11-15)

01. Agricultural Activity. An “agricultural activity” means any activity that is exempt from the requirement to obtain a permit to construct under Subsection 222.02.f., wherein “agricultural activities and services” is defined in Section 007, that occurs in connection with the production of agricultural products for food, fiber, fuel, feed and other lawful purposes, and including, but not limited to: (4-11-15)

a. Preparing land for agricultural production; (4-11-15)

b. Applying or handling pesticides herbicides, or other chemicals, compounds or substances labeled for insects, pests, crops, weeds, water or soil; (4-11-15)

c. Planting, irrigating, growing, fertilizing, harvesting or producing agricultural, horticultural, floricultural and viticulture crops, fruits and vegetable products, field grains, seeds, hay, sod and nursery stock, and other plant products, plant by-products, plant waste and animal compost; (4-11-15)

d. Breeding, hatching, raising, producing, feeding and keeping livestock, dairy animals, swine, fur-bearing animals, poultry, eggs, fish and other aquatic species, and other animals, animal products and animal by-products, animal waste, animal compost, and bees, bee products and bee by-products; (4-11-15)

e. Transporting agricultural products to or from an agricultural facility; (4-11-15)

f. Grinding, chopping, cubing, or any other means of preparing or converting a commodity for animal feed; and (4-11-15)

g. Piling, stacking or other means of storing commodities outdoors. (4-11-15)

02. Generally Recognized Agricultural Practices. “Generally recognized agricultural practices” means economically feasible practices that are customary among or appropriate to farms and ranches of a similar nature in the local area. In determining whether an agricultural activity is consistent with generally recognized agricultural practices, the Idaho Department of Environmental Quality shall consult with the Idaho Department of Agriculture. (4-11-15)

653. -- 664. (RESERVED)

665. REGIONAL HAZE RULES.

The purpose of Sections 665 through 668 is to address regional haze visibility impairment in mandatory Class I Federal Areas. The intent of Sections 665 through 668 is to set forth the requirements to implement the federal programs for visibility protection and regional haze. (3-30-07)

666. REASONABLE PROGRESS GOALS.

The Department will establish reasonable progress goals, expressed in deciviews for each mandatory Class I Federal Area located within Idaho. These goals will provide for reasonable progress toward achieving natural visibility conditions. The reasonable progress goals must provide for an improvement in visibility for the most impaired days over the period of the implementation plan and ensure no degradation in visibility for the least impaired days over the same period. The reasonable progress goals are not directly enforceable, but will be implemented through enforceable strategies in the long-term strategy. (3-30-07)

01. Process for Setting Reasonable Progress Goals. In establishing a reasonable progress goal for any mandatory Class I Federal Area within Idaho, the Department shall: (3-30-07)

a. Consider the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any potentially affected sources, and include a demonstration showing how these factors were taken into consideration in selecting the goal. (3-30-07)

b. Analyze and determine the rate of progress needed to attain natural visibility conditions by the year 2064. To calculate this rate of progress, the Department will compare baseline visibility conditions to natural visibility conditions in the mandatory Class I Federal Area and determine the uniform rate of visibility improvement (measured in deciviews) that would need to be maintained during each implementation period in order to attain natural visibility conditions by 2064. In establishing the reasonable progress, the Department will consider the uniform rate of improvement in visibility and the emission reduction measures needed to achieve it for the period covered by the implementation plan. (3-30-07)

c. Consult with those states which may reasonably be anticipated to cause or contribute to visibility impairment in the mandatory Class I Federal Area. (3-30-07)

02. Justification for Reasonable Progress Goals. If the Department establishes a reasonable progress goal that provides for a slower rate of improvement in visibility than the rate that would be needed to attain natural conditions by 2064, the Department will demonstrate, based on the factors in Subsection 666.01.a., that the rate of progress for the implementation plan to attain natural conditions by 2064 is not reasonable; and that the progress goal adopted by the Department is reasonable. The Department will provide to the public for review, as part of its implementation plan, an assessment of the number of years it would take to attain natural conditions if visibility improvement continues at the rate of progress selected by the Department as reasonable. (3-30-07)

667. LONG-TERM STRATEGY FOR REGIONAL HAZE.

The purpose of Section 667 is to develop a long-term strategy for making reasonable progress toward the national goal of preventing any future and remedying any existing impairment of visibility in mandatory Class I Federal Areas in which impairment results from man-made air pollution. (3-30-07)

01. Submittal of Long-Term Strategy. The Department will submit to EPA a long-term strategy that addresses regional haze visibility impairment for each mandatory Class I Federal Area within the state and for each mandatory Class I Federal Area located outside the state which may be affected by emissions from the state. (3-30-07)

02. Enforceable Emission Limitations. The long-term strategy must include enforceable emissions limitations, compliance schedules, and other measures as necessary to achieve the reasonable progress goals established by the Department. (3-30-07)

03. Requirements for Long-Term Strategy. In establishing long-term strategy for regional haze, the Department will meet the following requirements: (3-30-07)

a. The Department will document the technical basis, including modeling, monitoring and emissions information, on which the state is relying to determine its apportionment of emission reduction obligations necessary for achieving reasonable progress in each mandatory Class I Federal Area it affects. The Department may meet this requirement by relying on technical analyses developed by the regional planning organization and approved by all state participants. The Department will identify the baseline emission inventory on which its strategies are based. The baseline emissions inventory year is presumed to be the most recent year of the consolidated periodic emissions

inventory. (3-30-07)

b. The Department will identify all anthropogenic sources of visibility impairment considered by the Department in developing its long-term strategy. The Department should consider major and minor stationary sources, mobile sources, and area sources. (3-30-07)

c. The Department will consider, at a minimum, the following factors in developing its long-term strategy: (3-30-07)

i. Emission reductions due to ongoing air pollution control programs, including measures to address reasonably attributable visibility impairment; (3-30-07)

ii. Measures to mitigate the impacts of construction activities; (3-30-07)

iii. Emissions limitations and schedules for compliance to achieve the reasonable progress goal; (3-30-07)

iv. Source retirement replacement schedules; (3-30-07)

v. Smoke management techniques for agricultural and forestry management purposes including plans as currently exist with the state for these purposes; (3-30-07)

vi. Enforceability of emissions limitations and control measures; and (3-30-07)

vii. The anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the long-term strategy. (3-30-07)

04. Interstate Consultation. The Department will undertake the following process in developing the long-term strategy where interstate consultation is required. (3-30-07)

a. Where Idaho has emissions that are reasonably anticipated to contribute to visibility impairment in any mandatory Class I Federal Area located in another state or states, the Department will consult with the other state(s) in order to develop coordinated emission management strategies. (3-30-07)

b. The Department will consult with any other state having emissions that are reasonably anticipated to contribute to visibility impairment in any mandatory Class I Federal Area within Idaho. (3-30-07)

c. Where other states cause or contribute to impairment in a mandatory Class I Federal Area, the Department must demonstrate that the state has included in its implementation plan all measures necessary to obtain its share of the emission reductions needed to meet the progress goal for the area. If the state of Idaho has participated in a regional planning process, the Department must ensure the state has included all measures needed to achieve its apportionment of emission reduction obligations agreed upon through that process. (3-30-07)

668. BART REQUIREMENT FOR REGIONAL HAZE.

The purpose of Section 668 is to implement the BART requirements in 40 CFR 51.308(e). The following analysis and documentation is required for each BART-eligible source: (3-30-07)

01. BART-Eligible Sources. The Department shall identify a list of all BART-eligible sources within the state. (3-30-07)

02. BART Determination. The Department shall complete a determination of BART for each BART-eligible source in the state that emits any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in any mandatory Class 1 Federal Area. All such sources are subject to BART. (3-30-07)

a. A single source that is responsible for a one (1.0) deciview change or more in any mandatory Class I Federal Area is considered to “cause” visibility impairment. (3-30-07)

b. A single source that is responsible for a one-half (0.5) deciview change or more in any mandatory Class I Federal Area is considered to “contribute” to visibility impairment. (3-30-07)

c. The determination of BART must be based on an analysis of the best system of continuous emission control technology available and associated emission reductions achievable for each BART-eligible source that is subject to BART within the state. In this analysis, the following must be taken into consideration: (3-30-07)

i. Costs of compliance; (3-30-07)

ii. Energy and non-air quality environmental impacts of compliance; (3-30-07)

iii. Any pollution control equipment in use at the source; (3-30-07)

iv. The remaining useful life of the source; and (3-30-07)

v. The degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. (3-30-07)

d. The Department may determine that a BART determination is not required: (3-30-07)

i. For sulfur dioxide (SO₂) or for nitrogen oxides (NO_x) if a BART-eligible source has the potential to emit less than forty (40) tons per year of such pollutant(s); or (3-30-07)

ii. For PM₁₀ if a BART-eligible source emits less than fifteen (15) tons per year of such pollutant. (3-30-07)

03. Alternative to Infeasible Emission Standards. If the Department determines in establishing BART that technological or economic limitations on the applicability of measurement methodology to a particular source would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice, or other operational standard, or combination thereof, to require the application of BART. Such standard, to the degree possible, is to set forth the emission reduction to be achieved by implementation of such design, equipment, work practice, or operation and must provide for compliance by means which achieve equivalent results. (3-30-07)

04. BART Installation and Operation Due Date. Each source subject to BART is required to install and operate BART as expeditiously as practicable, but in no event later than five (5) years after approval of the implementation plan. (3-30-07)

05. Maintenance of BART Equipment. Each source subject to BART is required to maintain the control equipment required by the Department and establish procedures to ensure such equipment is properly operated and maintained. (3-30-07)

06. BART Alternative. As an alternative to the installation of BART for a source or sources, the Department may approve a BART alternative. If the Department approves source grouping as a BART alternative, only sources (including BART-eligible and non-BART eligible sources) causing or contributing to visibility impairment to the same mandatory Class I Federal Area may be grouped together. (3-30-07)

a. If a source(s) proposes a BART alternative, the resultant emissions reduction and visibility impacts must be compared with those that would result from the BART options evaluated for the source(s). (3-30-07)

b. Source(s) proposing a BART alternative must demonstrate that this BART alternative will achieve greater reasonable progress than would be achieved through the installation and operation of BART. (3-30-07)

c. Source(s) proposing a BART alternative shall include in the BART analysis an analysis and justification of the averaging period and method of evaluating compliance with the proposed emission limitation. (3-30-07)

07. Reasonable Progress Goal Requirements for BART-Eligible Sources. Once the Department has met the requirements for BART or BART alternative, as identified in Subsection 668.06, BART-eligible sources will be subject to the requirements of reasonable progress goals, as defined in 40 CFR 51.308(d), in the same manner as other sources. (3-30-07)

669. -- 674. (RESERVED).

675. FUEL BURNING EQUIPMENT -- PARTICULATE MATTER.
The purpose of Sections 675 through 681 is to establish particulate matter emission standards for fuel burning equipment. (4-5-00)

676. STANDARDS FOR NEW SOURCES.
A person shall not discharge into the atmosphere from any fuel burning equipment with a maximum rated input of ten (10) million BTU's per hour or more, and commencing operation on or after October 1, 1979, particulate matter in excess of the concentrations shown in the following table:

FUEL TYPE	ALLOWABLE PARTICULATE gr/dscf	EMISSIONS Oxygen
Gas	.015	3%
Liquid	.050	3%
Coal	.050	8%
Wood Product	.080	8%

The effluent gas volume shall be corrected to the oxygen concentration shown. (5-1-94)

677. STANDARDS FOR MINOR AND EXISTING SOURCES.
A person shall not discharge into the atmosphere from any fuel burning equipment in operation prior to October 1, 1979, or with a maximum rated input of less than ten (10) million BTU per hour, particulate matter in excess of the concentrations shown in the following table:

FUEL TYPE	ALLOWABLE PARTICULATE gr/dscf	EMISSIONS Oxygen
Gas	.015	3%
Liquid	.050	3%
Coal	.100	8%
Wood Product	.200	8%

The effluent gas volume shall be corrected to the oxygen concentration shown. (5-1-94)

678. COMBINATIONS OF FUELS.
When two (2) or more types of fuel are burned concurrently, the allowable emission shall be determined by proportioning the gross heat input and emission standards for each fuel. (5-1-94)

679. AVERAGING PERIOD.
For purposes of Sections 675 through 680, emissions shall be averaged according to the following, whichever is the lesser period of time: (5-1-94)

01. One Cycle. One (1) complete cycle of operation; or (5-1-94)

02. One Hour. One (1) hour of operation representing worst-case conditions for the emission of particulate matter. (4-11-06)

680. ALTITUDE CORRECTION.

For purposes of Sections 675 through 680, standard conditions shall be adjusted for the altitude of the source by subtracting one-tenth (0.10) of an inch of mercury for each one hundred (100) feet above sea level from the standard atmospheric pressure at sea level of twenty-nine and ninety-two one hundredths (29.92) inches of mercury. (5-1-94)

681. TEST METHODS AND PROCEDURES.

The appropriate test method under Sections 675 through 680 shall be EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent method approved in accordance with Subsection 157.02.d. Test methods and procedures shall also comply with Section 157. (4-5-00)

682. -- 699. (RESERVED)

700. PARTICULATE MATTER -- PROCESS WEIGHT LIMITATIONS.

01. Particulate Matter Emission Limitations. The purpose of Sections 700 through 703 is to establish particulate matter emission limitations for process equipment. (5-3-03)

02. Minimum Allowable Emission. Notwithstanding the provisions of Sections 701 and 702, no source shall be required to meet an emission limit of less than one (1) pound per hour. (4-5-00)

03. Averaging Period. For the purposes of Sections 701 through 703, emissions shall be averaged according to the following, whichever is the lesser period of time: (4-5-00)

- a. One (1) complete cycle of operation; or (4-5-00)
- b. One (1) hour of operation representing worst-case conditions for the emissions of particulate matter. (4-5-00)

04. Test Methods and Procedures. The appropriate test method under Sections 700 through 703 shall be EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent methods approved in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157. (4-5-00)

701. PARTICULATE MATTER -- NEW EQUIPMENT PROCESS WEIGHT LIMITATIONS.

01. General Restrictions. No person shall emit into the atmosphere from any process or process equipment commencing operation on or after October 1, 1979, particulate matter in excess of the amount shown by the following equations, where E is the allowable emission from the entire source in pounds per hour, and PW is the process weight in pounds per hour. (4-5-00)

- a. If PW is less than 9,250 pounds per hour,
 $E = 0.045(PW)^{0.60}$ (4-5-00)
- b. If PW is equal to or greater than 9,250 pounds per hour,
 $E = 1.10(PW)^{0.25}$ (4-5-00)

02. Exemption. The provisions of Section 701 shall not apply to fuel burning equipment. (4-5-00)

03. Emission Standards -- Table. The following table illustrates the emission standards set forth in Section 701.

PROCESS WEIGHT	ALLOWABLE EMISSIONS FROM ENTIRE SOURCE	PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE
lb/hr	lb/hr	lb/hr	lb/hr
175 or less	1	20,000	13.08

PROCESS WEIGHT	ALLOWABLE EMISSIONS FROM ENTIRE SOURCE	PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE
lb/hr	lb/hr	lb/hr	lb/hr
200	1.08	40,000	15.56
400	1.64	60,000	17.22
600	2.09	80,000	18.50
800	2.40	100,000	19.56
1,000	2.84	200,000	23.26
2,000	4.30	400,000	27.66
4,000	6.52	600,000	30.61
6,000	8.32	800,000	32.90
8,000	9.89	1,000,000	34.79
10,000	11.00	2,000,000	41.37

(4-5-00)

702. PARTICULATE MATTER -- EXISTING EQUIPMENT PROCESS WEIGHT LIMITATIONS.

The provisions of Section 702 shall become effective on January 1, 1981. (4-5-00)

01. General Restrictions. No person shall emit into the atmosphere from any process or process equipment operating prior to October 1, 1979, particulate matter in excess of the amount shown by the following equations, where E is the allowable emission from the entire source in pounds per hour, and PW is the process weight in pounds per hour: (4-5-00)

a. If PW is less than 17,000 pounds per hour,
 $E = 0.045 (PW)^{0.60}$ (4-5-00)

b. If PW is equal to or greater than 17,000 pounds per hour,
 $E = 1.12 (PW)^{0.27}$. (4-5-00)

02. Exemptions. The provisions of Section 702 shall not apply to: (4-5-00)

a. Fuel burning equipment; or (5-1-94)

b. Equipment used exclusively to dehydrate sugar beet pulp or alfalfa. (5-1-94)

03. Emission Standards -- Table. The following table illustrates the emission standards set forth in Section 702.

PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE	PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE
lb/hr	lb/hr	lb/hr	lb/hr
175 or less	1	20,000	16.24
200	1.08	40,000	19.58

PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE	PROCESS WEIGHT	EMISSIONS FROM ENTIRE SOURCE
lb/hr	lb/hr	lb/hr	lb/hr
400	1.64	60,000	21.84
600	2.09	80,000	23.61
800	2.48	100,000	25.07
1,000	2.84	200,000	30.23
2,000	4.30	400,000	36.46
4,000	6.52	600,000	40.67
6,000	8.32	800,000	43.96
8,000	9.89	1,000,000	46.69
10,000	11.30	2,000,000	56.30

(4-5-00)

703. PARTICULATE MATTER -- OTHER PROCESSES.

01. Other Processes. No person with processes exempt under Subsection 702.02.b. shall emit particulate matter to the atmosphere from any process or process equipment in excess of the amount shown in the following equations, where E is the total rate of emission from all emission points from the source in pounds per hour and P is the process weight rate in pounds per hour. (4-5-00)

- a. If P is less than sixty thousand (60,000) pounds per hour,
 $E = 0.02518(P)^{0.67}$ (4-5-00)
- b. If P is greater than or equal to sixty thousand (60,000) pounds per hour,
 $E = 23.84(P)^{0.11} - 40$ (4-5-00)

02. Emission Standards -- Table. The following table illustrates the emission standards set forth in Section 703.

ALLOWABLE RATE OF EMISSION BASED ON PROCESS WEIGHT RATE			
Process Weight Rate	Rate of Emission	Process Weight Rate	Rate of Emission
Lb/Hr	Lb/Hr	Lb/Hr	Lb/Hr
100	0.551	16,000	16.5
200	0.877	18,000	17.9
400	1.40	20,000	19.2
600	1.83	30,000	25.2
800	2.22	40,000	30.5
1,000	2.58	50,000	35.4
1,500	3.38	60,000	40.0

ALLOWABLE RATE OF EMISSION BASED ON PROCESS WEIGHT RATE			
Process Weight Rate	Rate of Emission	Process Weight Rate	Rate of Emission
Lb/Hr	Lb/Hr	Lb/Hr	Lb/Hr
2,000	4.10	70,000	41.3
2,500	4.76	80,000	42.5
3,000	5.38	90,000	43.6
3,500	5.96	100,000	44.6
4,000	6.52	120,000	46.3
5,000	7.58	140,000	47.8
6,000	8.56	160,000	49.0
7,000	9.49	200,000	51.2
8,000	10.4	1,000,000	69.0
9,000	11.2	2,000,000	77.6
10,000	12.0	6,000,000	92.7
12,000	13.6		

(4-5-00)

704. -- 724. (RESERVED)

725. RULES FOR SULFUR CONTENT OF FUELS.

This section applies to fuel burning sources in Idaho. Its purpose is to prevent excessive ground level concentrations of sulfur dioxide. The reference test method for measuring fuel sulfur content shall be ASTM method, D129-95 Standard Test for Sulfur in Petroleum Products (General Bomb Method) or such comparable and equivalent method approved in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157.

(5-8-09)

01. Definitions.

(5-8-09)

a. ASTM. American Society for Testing and Materials.

(5-1-94)

b. Distillate Fuel Oil. Any oil meeting the specifications of ASTM Grade 1 or Grade 2 fuel oils.

(5-1-94)

c. Residual Fuel Oil. Any oil meeting the specifications of ASTM Grade 4, Grade 5 and Grade 6 fuel oils.

(5-1-94)

02. Residual Fuel Oils. No person shall sell, distribute, use or make available for use, any residual fuel oil containing more than one and three-fourths percent (1.75%) sulfur by weight.

(5-8-09)

03. Distillate Fuel Oil. No person shall sell, distribute, use or make available for use, any distillate fuel oil containing more than the following percentages of sulfur:

(5-8-09)

a. ASTM Grade 1. ASTM Grade 1 fuel oil - zero point three percent (0.3%) by weight.

(5-8-09)

b. ASTM Grade 2. ASTM Grade 2 fuel oil - zero point five percent (0.5%) by weight.

(5-8-09)

04. Coal. No person shall sell, distribute, use or make available for use, any coal containing greater than one percent (1.0%) sulfur by weight. (5-8-09)

05. Alternative. The Department may approve in a permit issued in accordance with these rules an alternative fuel sulfur content if the applicant demonstrates that, through control measures or other means, sulfur dioxide emissions (based on a one (1) hour averaging period) are equal to or less than those resulting from the combustion of fuels complying with the limitations of Subsections 725.01 through 725.04. (4-11-15)

726. -- 749. (RESERVED)

750. RULES FOR CONTROL OF FLUORIDE EMISSIONS.

The purpose of Sections 750 through 751 is to prevent the emission of fluorides such that the accumulation of fluorine in feed and forage for livestock does not exceed the safe limits specified below. (5-1-94)

751. GENERAL RULES.

Any owner or operator of a facility subject to Sections 750 and 751 shall demonstrate compliance with Section 751 by January 1, 1982, in accordance with a compliance schedule, listing increments of progress, which shall be submitted to the Department on or before August 1, 1980. (5-1-94)

01. Emission Limitations -- Phosphate Fertilizer Plants. No person shall allow, suffer, cause or permit the discharge into the atmosphere of total fluoride emissions in gaseous and in particulate form, expressed as fluoride (F-), from the phosphate fertilizer plant sources listed in Subsection 751.03 in excess of thirty hundredths (0.30) pounds of fluoride per ton of P₂O₅ input to the calciner operation, calculated at maximum rated capacity. (5-1-94)

02. Monitoring, Testing, and Reporting Requirements. Compliance with Subsection 751.01 will be adjudged upon the results of the continuing program of fluoride sampling of potential grazing areas and alfalfa growing areas conducted by the Department. Sampling conducted by any person subject to Section 751 may be accepted for determining compliance with Subsection 751.01 if such sampling is conducted at sites approved by the Department in advance of sampling, using analytical procedures appearing in the Procedures Manual for Air Pollution Control, Section I (Source Test Methods) or equivalent methods approved by the Department in advance of sampling. Compliance with Subsection 751.01 shall be demonstrated by testing methods approved in advance by the Department. When approved by the Director in advance of sampling, engineering calculations may be submitted in lieu of emission data. Monitoring and reporting requirements shall be included in operating permits granted to each facility. (5-1-94)

03. Source Specific Permits. To assure compliance with Subsection 751.01, the Director shall specify methods for calculating total allowable emissions and shall issue source specific permits containing emission limitations for the following sources within phosphate fertilizer plants: (5-1-94)

- a. Calciner operation; and (5-1-94)
- b. Wet phosphoric acid plants; and (5-1-94)
- c. Super phosphoric acid production; and (5-1-94)
- d. Diammonium phosphate plants; and (5-1-94)
- e. Monoammonium phosphate production; and (5-1-94)
- f. Triple super phosphate (mono calcium phosphate) production. (5-1-94)

04. Exemptions. The provisions of Subsections 751.01, 751.02, and 751.03 shall not apply to any phosphate fertilizer facility which produces mono ammonium phosphate exclusively if no animal feed is grown or if no animal grazing occurs or if the animal feed and forage meets the ambient air quality standards for fluorides specified in Section 577 within a three (3) mile radius of such facility. This exemption shall only apply if the owner or

operator of the facility, on an annual basis: (4-7-11)

a. Conducts a fluoride sampling program of potential grazing areas at locations approved in advance of sampling by the Department, using analytical techniques appearing in the Procedures Manual for Air Pollution Control, Section I (Source Test Methods); and (5-1-94)

b. Submits the results of such sampling program to the Department as soon as they become available. (5-1-94)

752. -- 759. (RESERVED)

760. RULES FOR THE CONTROL OF AMMONIA FROM DAIRY FARMS.

The purpose of Sections 760 through 764 is to set forth the requirements for the control of ammonia through best management practices (BMPs) for certain size dairy farms licensed by the Idaho State Department of Agriculture to sell raw milk for human consumption. Compliance with these sections does not relieve the owner or operator of a dairy farm from the responsibility of complying with all other federal, state and local applicable laws, regulations, and requirements, including, but not limited to, Sections 161, 650 and 651 of these rules. Registration forms and guidance documents relating to these rules are located at www.deq.idaho.gov. (3-30-07)

761. GENERAL APPLICABILITY.

The requirements of Sections 760 through 764 apply to the following size dairy farms:

SUMMARY: Animal Unit (AU) or mature cow threshold to produce 100 ton NH₃/year

Animal Unit (AU) Basis	Drylot	Free Stall/Scrape	Free Stall/Flush
AU (100 t NH ₃) Threshold			
No land app	7089	3893	2293
27% volatilization 1	6842	3827	
80% volatilization 2	6397	3700	
Cow Basis (1400 lbs)	Drylot	Free Stall/Scrape	Free Stall/Flush
Total Cows (100 t NH ₃) Threshold			
No land app	5063	2781	1638
27% volatilization 1	4887	2733	
80% volatilization 2	4569	2643	
1 Assumes: Expected level of N->NH ₃ volatilization for: drop-hose or ground level liquid manure application			
2 Assumes: Expected level of N->NH ₃ volatilization for: center pivot or other conventional sprinkler irrigation liquid manure application			

(3-30-07)

762. PERMIT BY RULE.

01. General Requirement. Owners and operators of dairy farms shall be deemed to have a permit by rule if they comply with all of the applicable provisions of Sections 760 through 764. Owners and operators of dairy farms subject to Sections 760 through 764 shall not operate without obtaining the applicable permit by rule within the time frame specified. (3-30-07)

02. Optional Permit by Rule. Nothing in Sections 760 through 764 shall preclude any owner or operator of a dairy farm from requesting and obtaining an air quality permit pursuant to Section 200, nor shall Sections 760 through 764 preclude an owner or operator of a dairy farm below the threshold size in Section 761 from complying with Sections 760 through 764 and thereby obtaining a permit by rule. (3-30-07)

03. Exemption. If a dairy farm not subject to Sections 760 through 764 otherwise would become subject to those sections as a result of an emergency, the dairy farm shall notify the Director in writing within fourteen (14) days of the emergency. The notification shall include an explanation of the emergency circumstances. The dairy farm shall be exempt from the requirements of Sections 760 through 764 as long as the consequences of the emergency continue (but in no case for more than one (1) year) unless for good cause the Director determines it is appropriate to limit, condition or revoke the exemption. For the purpose of this rule “emergency” shall be defined as a serious situation or occurrence that happens unexpectedly and demands immediate action. (3-30-07)

763. REGISTRATION FOR PERMIT BY RULE.

01. Registration Process. Any owner or operator of a new dairy farm subject to sections 760 through 764, or an existing dairy farm that becomes subject to these sections due to change in size or type of operation, shall register prior to fifteen (15) days of triggering the threshold for which a permit is required. (3-30-07)

02. Registration Due Date. Any owner or operator of an existing dairy farm subject to Sections 760 through 764 shall register within fifteen (15) days of the effective date of Sections 760 through 764. (3-30-07)

03. Registration Information. The following information shall be provided by the registrant to the Department of Environmental Quality and the Department of Agriculture: (3-30-07)

- a.** Name, address, location of dairy farm, and telephone number. (3-30-07)
- b.** Information sufficient to establish that the dairy farm is of the size and type described in Section 761. (3-30-07)
- c.** Information describing what BMPs, as described in Section 764, are employed to total twenty-seven (27) points. (3-30-07)

04. Exemption from Registration Fee. Dairy farms subject to Sections 760 through 764 are exempt from paying the permit by rule registration fee set forth in Section 800. (3-30-07)

05. Inspection. Within thirty (30) days of receipt of the registration information, the state of Idaho shall conduct a qualifying inspection to ensure the requisite point total of BMPs are employed. (3-30-07)

764. DAIRY FARM BEST MANAGEMENT PRACTICES.

01. BMPs. Each dairy farm subject to Sections 760 through 764, or that otherwise obtains a permit by rule under these sections, shall employ BMPs for the control of ammonia to total twenty-seven (27) points. Points may be obtained through third party export with sufficient documentation. The table located at Subsection 764.02. lists available BMPs and the associated point value. As new information becomes available or upon request, the Director may determine a practice not listed in the table constitutes a BMP and assign a point value. (3-30-07)

02. Table - Ammonia Control Practices for Idaho Dairies.

System	Component	Ammonia Control Effectiveness ¹			Compliance Method ³
		Open Lot	Freestall Scrape	Freestall Flush	

		Ammonia Control Effectiveness ¹			
System	Component	Open Lot	Freestall Scrape	Freestall Flush	Compliance Method ³
Waste Storage and Treatment Systems	Synthetic Lagoon Cover	15	20	20	1
	GeoteXtile Covers	10	13	13	1
	Solids Separation	3	3	3	3, 4
	Composting	4	4	4	1
	Separate Slurry and Liquid Manure Basins	6	10	-	1
	In-House Separation	0	12	0	1
	Direct Utilization of Collected Slurry	6	10	-	1, 3, 4
	Direct Utilization of Parlor Wastewater	10	10	10	1
	Direct Utilization of Flush Water	8	0	13	3, 4
	Anaerobic Digester	-	-	-	-
	Anaerobic Lagoon	-	-	-	-
	Aerated Lagoon	10	12	15	2
	Sequencing-Batch Reactor	15	20	20	2
	Lagoon Nitrification/Denitrification Systems	15	20	20	2
	Fixed-Media Aeration Systems	15	20	20	2
Zeolite Treatment of Liquid Manure 1lb/cow/day	4	5	5	2	
Zeolite Treatment of Liquid Manure 2lb/cow/day	8	10	10	2	
General Practices	Vegetative or Wooded Buffers (established)	7	7	7	1
	Vegetative or Wooded Buffers (establishing)	2	2	2	1
	Alternatives to Copper Sulfate	-	-	-	-
Freestall Barns	Scrape Built Up Manure	-	3	3	1
	Frequent Manure Removal	UD	UD	UD	-
	Tunnel Ventilation	-	-	-	-
	Tunnel Ventilation w/Biofilters	-	10	10	1

		Ammonia Control Effectiveness ¹			
System	Component	Open Lot	Freestall Scrape	Freestall Flush	Compliance Method ³
	Tunnel Ventilation w/Washing Wall	-	10	10	3, 4
Open Lots and Corrals	Rapid Manure Removal	4	2	2	1, 2
	Corral Harrowing	4	2	2	1
	Surface Amendments	10	5	5	2
	In-Corral Composting / Stockpiling	4	2	2	1
	Summertime Deep Bedding	10	5	5	1
Animal Nutrition	Manage Dietary Protein	2	2	2	2
Composting Practices	Alum Incorporation	12	8	6	2
	Carbon:Nitrogen Ratio (C:N) Ratio Manipulation	10	7.5	5	2
	Composting with Windrows	-	-	-	-
	Composting Static Pile	6	4.5	3	1
	Forced Aeration Composting	10	7.5	5	1
	Forced Aeration Composting with Biofilter	12	8	6	1
	Zeolite Incorporation	12	8	6	2
Land Application ²	Soil Injection - Slurry	10	15	7.5	2
	Incorporation of Manure within 24 hrs	10	10	10	2
	Incorporation of Manure within 48 hrs	5	5	5	2
	Nitrification of Lagoon Effluent	10	10	15	3, 4
	Low Energy/Pressure Application Systems	7	7	10	1
	Freshwater Dilution	5	8	8	1, 2
	Pivot Drag Hoses	8	8	10	1
	Subsurface Drip Irrigation	10	10	12	1

		Ammonia Control Effectiveness ¹			
System	Component	Open Lot	Freestall Scrape	Freestall Flush	Compliance Method ³
<p>Notes:</p> <p>1. The ammonia emission reduction effectiveness of each practice is rated numerically based on practical year-round implementation. Variations due to seasonal practices and expected weather conditions have been factored into these ratings. Not implementing a BMP when it is not practicable to do so, does not reduce the point value assigned to the BMP, nor does it constitute failure to perform the BMP. UD indicates that the practice is still under development.</p> <p>2. Land application practices assume practice is conducted on all manure; points will be pro-rated to reflect actual waste treatment; points can be obtained on exported material with sufficient documentation.</p> <p>3. Method used by inspector to determine compliance 1=Observation by Inspector 2=On-Site Recordkeeping Required 3, 4=Deviation Reporting Required. Equipment upsets and/or breakdowns shall be recorded in a deviation log and if repaired in a reasonable timeframe does not constitute non-compliance with this rule.</p>					

(5-8-09)

765. -- 774. (RESERVED)

775. RULES FOR CONTROL OF ODORS.

The purpose of Sections 775 through 776 is to control odorous emissions from all sources for which no gaseous emission control rules apply. (5-1-94)

776. GENERAL RULES.

01. General Restrictions. No person shall allow, suffer, cause or permit the emission of odorous gases, liquids or solids into the atmosphere in such quantities as to cause air pollution. (5-1-94)

02. Restrictions on Rendering Plants. No person shall allow, suffer, cause or permit any plant engaged in the processing of animal, mineral, or vegetable matter or chemical processes utilizing animal, mineral or vegetable matter to be operated without employing reasonable measures for the control of odorous emissions including wet scrubbers, incinerators, chemicals or such other measures as may be approved by the Department. (5-1-94)

777. -- 784. (RESERVED)

785. RULES FOR CONTROL OF INCINERATORS.

The purpose of Sections 785 through 788 is to prevent excessive emissions of particulate matter from incinerators. (5-1-94)

786. EMISSION LIMITS.

01. General Restrictions. No person shall allow, suffer, cause or permit any incinerator to discharge more than two-tenths (0.2) pounds of particulates per one hundred (100) pounds of refuse burned. (4-5-00)

02. Averaging Period. For the purposes of Section 786, emissions shall be averaged according to the following, whichever is the lesser period of time: (4-5-00)

- a. One (1) complete cycle of operation; or (4-5-00)

b. One (1) hour of operation representing worst-case conditions for the emissions of particulate matter. (4-5-00)

03. Test Methods and Procedures. The appropriate test method under Sections 785 through 788 shall be EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent methods approved in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157. (4-5-00)

787. EXCEPTIONS.
Sections 785 and 786 do not apply to wigwam burners. (3-23-98)

788. -- 789. (RESERVED)

790. RULES FOR THE CONTROL OF NONMETALLIC MINERAL PROCESSING PLANTS.
The purpose of Sections 790 through 799 is to set forth the requirements for nonmetallic mineral processing plants, frequently referred to as rock crushers. Definitions specific to nonmetallic mineral processing permits are located in Section 011 while other general terms may be defined in Sections 006 through 008. Compliance with Section 790 does not relieve the owner or operator of a nonmetallic mineral processing plant from the responsibility of complying with other federal, state, and local applicable laws, regulations, and requirements. (3-15-02)

791. GENERAL CONTROL REQUIREMENTS.

01. Prohibition. No owner or operator of a nonmetallic mineral processing plant shall allow, suffer, or cause the emissions of any air pollutant to the atmosphere 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. (3-15-02)

02. Control of Fugitive Dust. In accordance with Sections 650 and 651, owners and operators of nonmetallic mineral processing plants shall take all reasonable precautions to prevent the generation of fugitive dust. In determining what is reasonable, consideration will be given to factors such as the proximity to human habitations and/or activities and atmospheric conditions which might affect the movement of particulate matter. (3-15-02)

792. EMISSIONS STANDARDS FOR NONMETALLIC MINERAL PROCESSING PLANTS SUBJECT TO 40 CFR 60, SUBPART OOO.

01. Applicability and Designation of Affected Facilities. The provisions of 40 CFR 60.670(a)(1) are applicable to the following affected facilities in fixed or portable nonmetallic mineral processing plants that commence construction, modification, or reconstruction after August 31, 1983: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, and enclosed truck or railcar loading station. Also, crushers and grinding mills at hot mix asphalt facilities that reduce the size of nonmetallic minerals embedded in recycled asphalt pavement and subsequent affected facilities up to, but not including the first storage silo or bin, are subject to the provisions of 40 CFR 60.670(a)(1). (4-4-13)

02. Facilities Not Applicable to 40 CFR 60.670(a)(2), (b), and (c). The provisions of 40 CFR 60.670(a)(2), (b), and (c) do not apply to the following operations: all facilities located in underground mines, plants without crushers or grinding mills above ground, and wet processing operations (as defined in 40 CFR 60.671). (4-4-13)

a. An affected facility that is subject to the provisions of 40 CFR 60, Subpart F (Standards of Performance for Portland Cement Plants) or Subpart I (Standards of Performance for Hot Mix Asphalt Plants) or that follows the in plant process any facility subject to the provisions of 40 CFR 60, Subparts F or I, is not subject to the provisions of 40 CFR 60, Subpart OOO. (4-4-13)

b. Facilities at the following plants are not subject to the provisions of 40 CFR 60, Subpart OOO: (4-4-13)

i. Fixed sand and gravel plants and crushed stone plants with capacities, as defined in 40 CFR 60.671,

of twenty-three (23) megagrams per hour (twenty-five (25) tons per hour) or less; (4-4-13)

ii. Portable sand and gravel plants and crushed stone plants with capacities, as defined in 40 CFR 60.671, of one hundred thirty-six (136) megagrams per hour (one hundred fifty (150) tons per hour) or less; and (4-4-13)

iii. Common clay plants and pumice plants with capacities, as defined in 40 CFR 60.671, of nine (9) megagrams per hour (ten (10) tons per hour) or less. (4-4-13)

03. Standards of Performance for Nonmetallic Mineral Processing Plants. Affected facilities subject to 40 CFR 60, Subpart OOO, shall comply with all applicable emissions standards, monitoring requirements, test methods and procedures, and reporting and recordkeeping requirements. (4-4-13)

793. EMISSIONS STANDARDS FOR NONMETALLIC MINERAL PROCESSING PLANTS NOT SUBJECT TO 40 CFR 60, SUBPART OOO.

Owners and operators of nonmetallic mineral processing plants that are not subject to a NSPS requirement shall comply with the emissions standards set forth in Section 793. (3-15-02)

01. Processing Plants Not Regulated by NSPS. Fixed or portable plants that commenced construction, reconstruction, or modification before August 31, 1983 are not subject to 40 CFR 60, Subpart OOO. (3-15-02)

02. Emissions Standards for Fugitive Emissions. No owner or operator shall cause to be discharged into the atmosphere emissions which exhibit greater than twenty percent (20%) opacity from any crusher, grinding mill, screening operation, bucket elevator, belt conveyor, conveying system, transfer point, vent, capture system, storage bin, stockpile, truck dumping operation, vehicle traffic on an affected paved public roadway, vehicle traffic on or wind erosion of an unpaved haul road, or other source of fugitive emissions. Opacity shall be determined using the test methods and procedures in Section 625. The plant is not required to have a certified opacity reader. (3-15-02)

794. PERMIT REQUIREMENTS.

No owner or operator may commence construction, reconstruction, modification or operation of any nonmetallic mineral processing plant regardless of whether or not the source is an affected facility pursuant to 40 CFR 60.670(e) without first obtaining a permit or complying with Sections 795 through 799. The owner or operator shall comply with the permitting requirements of Subsection 794.02 or Subsection 794.03 and the applicable portions of Subsection 794.04 and/or Subsection 794.05. (4-11-15)

01. Permit by Rule Eligibility. New major facilities or major modifications subject to Sections 204 and 205 are not eligible for a Permit by Rule. (4-11-15)

02. Permit by Rule. Owners and operators of nonmetallic mineral processing plants that meet all of the applicable requirements set forth in Sections 795 through 799 shall be deemed to have a permit by rule (PBR) and shall not be required to obtain a permit to construct under Sections 200 through 228. (3-15-02)

03. Permit to Construct. Owners and operators of nonmetallic mineral processing plants that do not meet all of the requirements set forth in Sections 795 through 799, or that operate or intend to operate a nonmetallic mineral processing plant at a single site of operations for more than twelve (12) consecutive months, or that choose to construct and operate under specific permit requirements rather than the provisions of the permit by rule shall obtain a permit to construct pursuant to Sections 200 through 228. An existing permit to construct shall be considered valid until the permit is modified, incorporated into a Tier II operating permit, or terminated by the Department. Existing permits to construct may be terminated by the Department by registering the source under the permit by rule provisions in accordance with Section 797 after June 15, 2001. (3-15-02)

04. Tier I Operating Permits. Owners and operators of nonmetallic mineral processing plants that are affected facilities subject to a requirement of the New Source Performance Standards (NSPS) in 40 CFR 60 are Tier I sources as defined in Section 006. Tier I sources must comply with the applicable permitting requirements of Sections 300 through 399. (4-11-06)

05. Tier II Operating Permits. Owners and operators of nonmetallic mineral processing plants that are required by the Department or choose to obtain a Tier II operating permit pursuant to Sections 400 through 410 shall operate in accordance with the specific provisions of the Tier II operating permit until such time as the operating permit is terminated in writing by the Department. The Department may require owners and operators of nonmetallic mineral processing plants to obtain a Tier II operating permit whenever the Department determines that: (3-15-02)

a. Emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment; or (3-15-02)

b. Specific emissions standards, or requirements on operation or maintenance are necessary to ensure compliance with any applicable emission standard or rule. (3-15-02)

795. PERMIT BY RULE REQUIREMENTS.

The purpose of Sections 795 through 799 is to establish the requirements for a permit by rule for nonmetallic mineral processing plants. (3-15-02)

796. APPLICABILITY.

01. Permit by Rule. Owners and operators of nonmetallic mineral processing plants shall be deemed to have a permit by rule if they comply with all of the applicable provisions of Sections 795 through 799. Nothing in Sections 795 through 799 shall preclude any owner or operator from obtaining a permit. Portable sources that operate or may be operated at a single location or site of operations for more than twelve (12) consecutive months must obtain a permit to construct or a Tier II operating permit. (3-15-02)

02. Permit Option. Owners and operators of nonmetallic mineral processing plants that hold a valid permit to construct or a Tier II operating permit must comply with the terms and conditions of the permit and are not subject to the requirements of the permit by rule in Sections 795 through 799. (3-15-02)

797. REGISTRATION FOR PERMIT BY RULE.

01. Registration Process. Any owner or operator of a nonmetallic mineral processing plant that opts to operate under the permit by rule shall register in the following manner: (3-15-02)

a. Any new or modified processing plant shall register fifteen (15) days prior to commencing operation or modification. The Department shall acknowledge registration in writing within fifteen (15) days. (3-15-02)

b. Any permitted processing plant shall register with the Department and request termination of the current permit to construct or Tier II operating permit. The Department shall normally act on the request within fifteen (15) days and notify the registrant in writing. (3-15-02)

Registration for permit by rule does not relieve the owner or operator of portable equipment from the registration and relocation requirements of Section 500. (3-15-02)

02. Registration Information. The following information shall be provided by the registrant to the Department: (3-15-02)

a. For all crushers and grinding mills, the registrant shall supply information on the manufacturer, crusher type (such as jaw, cone), serial number, date of manufacture, and maximum throughput capacity; (3-15-02)

b. For all screen decks, the registrant shall supply manufacturer name, physical size of screen, number of decks, serial number, and date of manufacture; and (3-15-02)

c. For all electrical generators, the registrant shall supply manufacturer name, rated output, and fuel. (3-15-02)

798. ELECTRICAL GENERATORS.

The following requirements apply to all electrical generators used to provide electrical power to any nonmetallic mineral processing plant. The requirements apply to each site of operations. (3-15-02)

01. Fuel Type. Only ASTM (American Society of Testing and Materials) Grade 1 or 2 fuel oil shall be used. The sulfur content of the fuel used shall not exceed the percentages of sulfur given in Section 725. (5-8-09)

02. Generator Operating Requirements. For the purposes of Sections 790 through 799, the following apply to all electrical generators.

Rated Output Capacities (kW)	Allowable Operating Hours (hr/day)		Allowable Operating Hours (hr/yr)	
	Attainment Unclassifiable Areas	PM-10 Nonattainment Areas	Attainment Unclassifiable Areas	PM-10 Nonattainment Areas
0 - 454	24	8	8760	2880
455 - 1000	24	24	8760	8760
1001 - 2000	24	24	5200	5200

kW = kilowatts
 hr/day = hours per day
 hr/yr = hours per year (3-15-02)

03. Generator Opacity Limit. Visible emissions from any generator stack, vent, or other functionally equivalent opening shall not exceed twenty percent (20%) opacity for a period or periods aggregating more than three (3) minutes in any sixty (60) minute period. Opacity shall be determined using the test methods and procedures contained in Section 625. (3-15-02)

04. Monitoring and Recordkeeping Requirements. (3-15-02)

a. The owner or operator shall monitor and record the following information. (3-15-02)

i. The rated output capacity, in kilowatts (kW), of the electrical generator(s) used; (3-15-02)

ii. Operating hours on a monthly and annual basis so compliance can be continuously determined for the previous twelve (12) month period; and (3-15-02)

iii. Vendor receipts of the fuel oil purchased clearly identifying the ASTM Grade. (3-15-02)

b. Records of monitoring and recordkeeping requirements for current operations shall be maintained at the site of operations for the duration of operations at that location and shall be available to Department representatives upon request. Records for previous sites of operation shall be kept for the most recent two (2) year period at a location where they can be reasonably accessed and shall be made available to the Department upon request. (3-15-02)

799. NONMETALLIC MINERAL PROCESSING PLANT FUGITIVE DUST BEST MANAGEMENT PRACTICE.

The owner or operator of a nonmetallic mineral processing plant shall use the Best Management Practices (BMP) contained in Section 799 to control the emissions of fugitive dust. Fugitive dust emissions shall be reasonably controlled as required by Sections 650 and 651. It shall be the responsibility of the owner or operator to reasonably control fugitive emissions at each site of operations but only for the duration of operations at each site under the control of the owner or operator. (3-15-02)

01. Generally Applicable Requirements. All reasonable precautions shall be taken to prevent

particulate matter from becoming airborne. The following requirements apply generally to this Fugitive Dust BMP. (3-15-02)

a. Control strategy triggers. The owner or operator of a nonmetallic mineral processing plant shall at all times be observant of all sources of fugitive dust emissions and monitor control strategies at least once per day when operating. When fugitive dust emissions are observed at any time to be exceeding any control strategy trigger specified in Subsections 799.02 through 799.06, that event shall trigger initiation of the prescribed control strategy or control strategies to control the fugitive dust emissions. (3-15-02)

b. Control strategies. A progressive control strategy shall be used to reasonably control the emissions of fugitive dust. Progressive control strategy means that if the initial control strategy or strategies chosen do not adequately control fugitive dust emissions, the owner or operator shall employ successive control strategies as listed until fugitive dust control is achieved. Fugitive dust control shall be applied on a frequency such that visible emissions do not exceed any emission standard specified in Sections 790 through 799. (3-15-02)

c. Monitoring and recordkeeping. The owner or operator shall maintain a record of each event where a control strategy is triggered. The trigger shall be recorded with a summary of the control strategy employed. If the trigger is a citizen complaint, the owner or operator shall record the complaint, an evaluation of whether the complaint has merit, and a summary of the corrective action taken. The record shall be maintained on forms provided by the Department or other forms that contain similar information. Records for current operations shall be maintained at the site of operations for the duration of operations at that location and shall be available to Department representatives upon request. Records for previous sites of operation shall be kept for the most recent two (2) year period at a location where they can be reasonably accessed and shall be made available to the Department upon request. (3-15-02)

02. Requirements for Paved Public Roadways. (3-15-02)

a. Definitions. (3-15-02)

i. Paved public roadway. A paved public roadway means a roadway accessible to the general public having a surface of asphalt or concrete. (3-15-02)

ii. Track-out. Track-out means the deposition of mud, dirt, or similar debris onto the surface of a paved public roadway from the tires and/or undercarriage of any vehicle associated with the operation of a nonmetallic mineral processing plant. (3-15-02)

b. Control strategy triggers. Triggers that require initiation of a strategy or strategies to control fugitive dust emissions from track-out include, but are not limited to: (3-15-02)

i. Visible deposition of mud, dirt, or similar debris on the surface of a paved public roadway. (3-15-02)

ii. Visible fugitive emissions from vehicle traffic on an affected paved public roadway that approach twenty percent (20%) opacity for a period or periods aggregating more than one (1) minute in any sixty (60) minute period. (3-15-02)

iii. Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. (3-15-02)

c. Control strategies. The following are control strategies for track-out. (3-15-02)

i. Prompt removal of mud, dirt, or similar debris from the affected surface of a paved public roadway. (3-15-02)

ii. Water flush, and/or water flush and vacuum sweep, the affected surface of the paved public roadway. Runoff shall be controlled so it does not saturate the surface of the adjacent unpaved haul road such that track-out is enhanced. If runoff is not, or cannot be controlled, gravel shall be applied to the surface of the adjacent unpaved haul road over an area sufficient to control track-out. (3-15-02)

iii. Apply gravel to the surface of the adjacent unpaved haul road. The area of application shall be sufficient to control track-out. (3-15-02)

iv. Apply an environmentally safe chemical soil stabilizer or chemical dust suppressant to the surface of the adjacent unpaved haul road. The area of application shall be sufficient to control track-out. (3-15-02)

v. Other control strategy or strategies as approved by the Department. (3-15-02)

03. Requirements for Unpaved Haul Roads. (3-15-02)

a. Definition of “unpaved haul roads.” Any unsurfaced roadway within the physical boundary of a nonmetallic mineral processing facility that is used as a haul road, access road, or similar. (3-15-02)

b. Control strategy triggers. Triggers that require initiation of a strategy or strategies to control fugitive dust emissions from unpaved haul roads include, but are not limited to: (3-15-02)

i. Visible fugitive emissions from vehicle traffic on an affected paved public roadway that approach twenty percent (20%) opacity for a period or periods aggregating more than one (1) minute in any sixty (60) minute period. (3-15-02)

ii. Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. (3-15-02)

c. Control strategies. The following are control strategies for fugitive dust emissions from unpaved haul roads. (3-15-02)

i. Limit vehicle traffic on unpaved haul roads. (3-15-02)

ii. Limit vehicle speeds on unpaved haul roads. If a speed limit is imposed, signs shall be posted along the haul road route and clearly indicate the speed limit. Signs shall be placed so they are visible to vehicles entering and leaving the site of operations. (3-15-02)

iii. Apply water to the surface of the unpaved haul road. Runoff shall be controlled so it does not saturate the surface of the unpaved haul road such that it causes track-out. If runoff is not, or cannot be controlled, gravel shall be applied to the surface of the unpaved haul road over an area sufficient to control track-out. (3-15-02)

iv. Apply gravel to the surface of the unpaved haul road. (3-15-02)

v. Apply an environmentally safe chemical soil stabilizer or chemical dust suppressant to the surface of the unpaved haul road. (3-15-02)

vi. Other control strategy or strategies as approved by the Department. (3-15-02)

04. Requirements for Transfer Points, Screening Operations, and Stacks and Vents. (3-15-02)

a. Definitions. (3-15-02)

i. Transfer point. Transfer point means a point in a conveying operation where the nonmetallic mineral is transferred to or from a belt conveyor except where the nonmetallic mineral is being transferred to a

- stockpile. (3-15-02)
- ii. Belt conveyor. Belt conveyor means a conveying device that transports material from one (1) location to another by means of an endless belt that is carried on a series of idlers and routed around a pulley at each end. (3-15-02)
- iii. Conveying system. Conveying system means a device for transporting materials from one (1) piece of equipment or location to another location within a plant. Conveying systems include but are not limited to the following: feeders, belt conveyors, bucket elevators and pneumatic systems. (3-15-02)
- iv. Bucket elevator. Bucket elevator means a conveying device of nonmetallic minerals consisting of a head and foot assembly which supports and drives an endless single or double strand chain or belt to which buckets are attached. (3-15-02)
- v. Screening operation. Screening operation means a device for separating material according to size by passing undersize material through one (1) or more mesh surfaces (screens) in series, and retaining oversize material on the mesh surfaces (screens). (3-15-02)
- vi. Capture system. Capture system means the equipment (including enclosures, hoods, ducts, fans, dampers, etc.) used to capture and transport particulate matter generated by one (1) or more process operations to a control device. (3-15-02)
- vii. Control device. Control device means the air pollution control equipment used to reduce particulate matter emissions released to the atmosphere from one (1) or more process operations at a nonmetallic mineral processing plant. (3-15-02)
- viii. Vent. Vent means an opening through which there is mechanically induced air flow for the purpose of exhausting from a building air carrying particulate matter emissions from one (1) or more affected facilities. (3-15-02)
- b.** Control strategy triggers. Triggers that require initiation of a strategy or strategies to control fugitive dust emissions from transfer points, belt conveyors, bucket elevators, screening operations, conveying systems, capture systems, and building vents include, but are not limited to, the following: (3-15-02)
- i. NSPS regulated processing plants. (3-15-02)
- (1) Opacity greater than ten percent (10%) from any transfer point on a belt conveyor, conveying system, bucket elevator, or screening operation. (3-15-02)
- (2) For any transfer point on a belt conveyor, conveying system, bucket elevator, or screening operation located within a building, opacity greater than seven percent (7%) from any building vent. (3-15-02)
- (3) Opacity greater than seven percent (7%) from any capture system stack. (3-15-02)
- (4) Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. (3-15-02)
- ii. Processing plants not regulated by NSPS. (3-15-02)
- (1) Opacity greater than twenty percent (20%) from any transfer point on a belt conveyor, conveying system, bucket elevator, or screening operation. (3-15-02)
- (2) For any transfer point on a belt conveyor, conveying system, bucket elevator, or screening operation located within a building, opacity greater than twenty percent (20%) from any building vent. (3-15-02)

- (3) Opacity greater than twenty percent (20%) from any capture system stack. (3-15-02)
- (4) Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. (3-15-02)
- c. Control Strategies.** The following are control strategies for transfer points, belt conveyors, bucket elevators, screening operations, conveying systems, capture systems, and building vents. Controls shall be applied on a frequency such that visible fugitive emissions do not exceed any applicable opacity limit. (3-15-02)
- i. Limit drop heights of materials such that there is a homogeneous flow of material. (3-15-02)
- ii. Install, operate, and maintain water spray bars to control fugitive dust emissions at transfer points on belt conveyors, conveying systems, bucket elevators, and screening operations as necessary. (3-15-02)
- iii. Other control strategy or strategies as approved by the Department. (3-15-02)
- 05. Requirements for Crushers and Grinding Mills.** (3-15-02)
- a. Definitions.** (3-15-02)
- i. Crusher. Crusher means a machine used to crush any nonmetallic mineral, and includes, but is not limited to, the following types: jaw, gyratory, cone, roll, rod mill, hammermill, and impactor. (3-15-02)
- ii. Grinding mill. Grinding mill means a machine used for the wet or dry fine crushing of any nonmetallic mineral. Grinding mills include, but are not limited to, the following types: hammer, roller, rod, pebble and ball, and fluid energy. The grinding mill includes the air conveying system, air separator, or air classifier, where such systems are used. (3-15-02)
- iii. Initial crusher. Initial crusher means any crusher into which nonmetallic minerals can be fed without prior crushing in the plant. (3-15-02)
- b. Control strategy triggers.** Triggers that require initiation of a strategy or strategies to control fugitive dust emissions from any crusher, grinding mill, building vent, or capture system stack include, but are not limited to, the following. (3-15-02)
- i. NSPS regulated processing plants. (3-15-02)
- (1) Opacity greater than fifteen percent (15%) from any crusher or grinding mill at which capture system is not used. (3-15-02)
- (2) For any crusher or grinding mill located within a building, opacity greater than seven percent (7%) from any building vent. (3-15-02)
- (3) Opacity greater than seven percent (7%) from any capture system stack. (3-15-02)
- (4) Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. (3-15-02)
- ii. Processing plants not regulated by NSPS. (3-15-02)

(1) Opacity greater than twenty percent (20%) from any crusher or grinding mill at which capture system is not used. (3-15-02)

(2) For any crusher or grinding mill located within a building, opacity greater than twenty percent (20%) from any building vent. (3-15-02)

(3) Opacity greater than twenty percent (20%) from any capture system stack. (3-15-02)

(4) Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. (3-15-02)

c. Control strategies. The following are control strategies for any crusher, grinding mill, building vent, or capture system stack. Controls shall be applied on a frequency such that visible fugitive emissions do not exceed any applicable opacity limit. (3-15-02)

i. Limit drop heights of materials such that there is a homogeneous flow of material. (3-15-02)

ii. Install, operate, and maintain water spray bars to control fugitive dust emissions at crusher drop points as necessary. (3-15-02)

iii. Other control strategy or strategies as approved by the Department. (3-15-02)

06. Requirements for Stockpiles. (3-15-02)

a. Definitions. (3-15-02)

i. Stockpile. Stockpile means any nonmetallic mineral storage pile, reserve supply, or similar. Nonmetallic minerals shall have the meaning given in 40 CFR Part 60, Subpart OOO. Nonmetallic minerals may be stockpiled by belt conveyor, truck dumping, or similar. (3-15-02)

ii. Truck dumping. Truck dumping means the unloading of nonmetallic minerals from movable vehicles designed to transport nonmetallic minerals from one (1) location to another. Movable vehicles include but are not limited to: trucks, front-end loaders, skip hoists, and railcars. (3-15-02)

b. Control strategy triggers. Triggers that require immediate initiation of a strategy or strategies to control fugitive dust emissions from stockpiles include, but are not limited to: (3-15-02)

i. Visible fugitive emissions from wind erosion of any stockpile that approaches twenty percent (20%) opacity for a period or periods aggregating more than one (1) minute in any sixty (60) minute period. (3-15-02)

ii. Citizen complaints of failure to reasonably control fugitive dust shall be expeditiously evaluated by the owner or operator for merit. If the owner or operator determines the complaint has merit, the progressive strategy shall be expeditiously employed to reasonably control fugitive dust. The Department may review the complaint records and investigate citizen complaints as appropriate. If the Department finds that a complaint has merit, it may determine additional control measures are required. (3-15-02)

c. Control strategies. The following are control strategies for stockpiles. (3-15-02)

i. Limit the height of the stockpiles. (3-15-02)

ii. Limit the disturbance of the stockpiles. (3-15-02)

iii. Apply water onto the surface of the stockpile. (3-15-02)

- iv. Other control strategy or strategies as approved by the Department. (3-15-02)

800. REGISTRATION FEE FOR PERMIT BY RULE.

A registration fee of two hundred fifty dollars (\$250) shall be submitted to the Department with each permit by rule registration. (7-1-02)

801. PAYMENT OF FEES FOR PERMITS BY RULE REGISTRATION.

The permit by rule registration fee shall be paid in its entirety at the time the required registration form is submitted to the Department. The permit by rule registration form and fee should be sent to:

Permit by Rule Registration Fees
Fiscal Office
Idaho Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706-1255 (7-1-02)

802. RECEIPT AND USAGE OF FEES.

Permit by rule registration fee receipts shall be deposited by the Department into a stationary source permit account. Monies from this account shall be used solely toward technical, legal and administrative support of the Department's Permit to Construct and Tier II permit programs and shall not be used for those activities supported by the fund created for implementing the operating permit program required under Title V of the federal Clean Air Act amendments of 1990. Fees payable under Section 800 shall be retained by the Department regardless of whether a permit by rule registration is accepted by the Department in response to a registration request. (7-1-02)

803. -- 804. (RESERVED)

805. RULES FOR CONTROL OF HOT-MIX ASPHALT PLANTS.

The purpose of Sections 805 through 808 is to establish for hot-mix asphalt plants restrictions on the emission of particulate matter. (5-1-94)

806. EMISSION LIMITS.

No person shall cause, allow or permit a hot-mix asphalt plant to have particulate emissions which exceed the limits specified in Sections 700 through 703. (5-1-94)

807. MULTIPLE STACKS.

In the case of more than one (1) stack to a hot-mix asphalt plant, the emission limitation will be based on the total emission from all stacks. (5-1-94)

808. FUGITIVE DUST CONTROL.

01. Fugitive Emission Controls. No person shall cause, allow or permit a plant to operate that is not equipped with an efficient fugitive dust control system. The system shall be operated and maintained in such a manner as to satisfactorily control the emission of particulate material from any point other than the stack outlet. (5-1-94)

02. Plant Property Dust Controls. The owner or operator of the plant shall maintain fugitive dust control of the plant premises and plant owned, leased or controlled access roads by paving, oil treatment or other suitable measures. Good operating practices, including water spraying or other suitable measures, shall be employed to prevent dust generation and atmospheric entrainment during operations such as stockpiling, screen changing and general maintenance. (5-1-94)

809. -- 814. (RESERVED)

815. RULES FOR CONTROL OF KRAFT PULP MILLS.

The purpose of Sections 815 through 818 is to establish emission standards for recovery furnaces and notification and reporting requirements for low volume high concentration (LVHC) and high volume low concentration (HVLC) gas venting at kraft pulp mills. (3-29-12)

816. RECOVERY FURNACE TRS STANDARD.

The average daily emissions of total reduced sulfur (TRS) from each recovery furnace shall not exceed fifteen (15) ppm expressed as hydrogen sulfide on a dry basis. Recovery furnaces at kraft pulp mills subject to 40 CFR Part 60 TRS standards are exempt from the requirements of Section 816. (3-29-12)

817. RECOVERY FURNACE TRS MONITORING AND RECORDKEEPING.

Owners and operators of each recovery furnace subject to the TRS emission standard in Section 816 shall maintain and operate equipment to continuously monitor and record the daily average TRS concentrations. (3-29-12)

818. KRAFT PULP MILL LVHC AND HVLC GAS VENTING NOTIFICATION AND REPORTING.

Section 818 is applicable to kraft pulp mill LVHC and HVLC gas venting from sources required to be controlled pursuant to 40 CFR 63, Subpart S. For purposes of Sections 130 through 136, an excess emission is defined as a continuous uncontrolled gas venting in excess of five (5) minutes. Excess emissions notification and reporting shall be conducted pursuant to the requirements contained in Sections 130 through 136 and the permit issued to the kraft pulp mill. (3-29-12)

819. -- 834. (RESERVED).

835. RULES FOR CONTROL OF RENDERING PLANTS.

The purpose of Sections 835 through 839 is to establish for rendering plants limitations on the emission of odors. (5-1-94)

836. CONTROL OF COOKERS.

No person shall allow, suffer, cause, or permit the operation or use of any device, machine, equipment, or other contrivance to cook inedible animal or marine matter unless all gases, vapors, and gas entrained effluents from these processes are passed through condensers to remove all steam and other condensable materials. All noncondensibles passing through the condensers must then be incinerated at one thousand two hundred degrees Fahrenheit (1,200) for a minimum of three-tenths (0.3) seconds, or treated in an equally effective manner. (5-1-94)

837. CONTROL OF EXPELLERS.

No person shall allow, suffer, cause, or permit the installation or operation of an expeller unless it is properly hooded and all exhaust gases are ducted to odor control equipment. (5-1-94)

838. CONTROL OF PLANT AIR.

No person shall allow, suffer, cause, or permit the installation or operation of a rendering plant unless plant ventilation air is collected and ducted to odor control equipment. (5-1-94)

839. EXCEPTIONS.

Section 838 shall not apply when it can be demonstrated that without ducting plant ventilation air to the odor control equipment no noticeable odors from the plant can be detected at the property line. (5-1-94)

840. -- 844. (RESERVED)

845. RULES FOR CONTROL OF SULFUR OXIDE EMISSIONS FROM SULFURIC ACID PLANTS.

The purpose of Sections 845 through 848 is to establish sulfur oxide emission limits for sulfuric acid plants using elemental sulfur for the production of sulfuric acid. (5-1-94)

846. EMISSION LIMITS.

01. General Restrictions. No person shall allow, suffer, cause or permit the operation of any sulfuric acid plant which emits sulfur oxides into the atmosphere in excess of twenty-eight (28) lbs/ton of one hundred percent (100%) sulfuric acid produced. (4-5-00)

02. Averaging Period. For the purposes of Section 846, emissions shall be averaged according to the following, whichever is the lesser period of time: (4-5-00)

- a. One (1) complete cycle of operation; or (4-5-00)
- b. Three (3) hours of operation representing worst-case conditions for the emissions of sulfur oxide. (4-5-00)

847. MONITORING AND TESTING.

The appropriate test method under Sections 845 through 848 shall be EPA Method 8 contained in 40 CFR Part 60 or such comparable and equivalent methods approved in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157. (4-5-00)

848. COMPLIANCE SCHEDULE.

Any owner or operator of a source subject to Sections 845 through 848 shall no later than December 31, 1972, submit to the Department a proposed Compliance Schedule that demonstrates compliance as expeditiously as feasible but no later than July 31, 1975. (5-1-94)

849. -- 854. (RESERVED)

855. COMBINED ZINC AND LEAD SMELTERS.

The purpose of Sections 855 through 858 is to establish requirements for combined zinc and lead smelters. (5-1-94)

856. COMBINED ZINC AND LEAD SMELTERS -- CONTROL OF FUGITIVE SULFUR DIOXIDE EMISSIONS.

The owner or operator of any combined zinc and lead smelter shall utilize best engineering techniques to capture and vent fugitive sulphur dioxide emissions through one (1) or more stacks. Such techniques shall include, but not be limited to: (5-1-94)

01. Condition of Ducts, Flues, and Stacks. Maintaining and operating all ducts, flues, and stacks in a leak free condition. (5-1-94)

02. Prevention of Leakage in Equipment and Systems. Maintaining and operating all process equipment and gas collection systems in such a fashion that leakage of sulfur dioxide gases will be prevented to the maximum extent possible. (5-1-94)

03. Other Techniques. Wherever possible, using gas collection systems and/or ducting emissions through the tallest stack or stacks serving the facility. (5-1-94)

857. COMBINED ZINC AND LEAD SMELTERS -- OXIDES OF SULFUR.

01. Final Emission Limitation. Oxides of sulfur, expressed as sulfur dioxide (SO₂), in excess of one thousand nine hundred (1900) pounds per hour from all sources within any combined zinc and lead smelter shall not be discharged into the atmosphere. To assure compliance with this requirement, the Director shall issue permits specifying emission limits for equipment within the smelter. (5-1-94)

02. Effective Date. Compliance with the emission limitation established in Subsection 857.01 may be delayed until December 31, 1984, provided that there is compliance with the provisions of Subsections 857.04, 857.05 and 857.06. (5-1-94)

03. Exception. The provisions of Section 857 shall not apply to emissions generated solely from the combustion of fuel for the exclusive purpose of space heating or steam generation. (5-1-94)

04. Interim Emission Limitations. The owner or operator of the combined zinc and lead smelter shall obtain a non-ferrous smelter order for sulfur dioxide emissions issued pursuant to 42 U.S.C. Section 7419, which may be in the form of an interim compliance agreement, permit to operate, or regulation, covering the period from September 1, 1979, until December 31, 1982. Failure to adhere to the terms and conditions of such order shall result in the provisions contained in Subsection 857.01 becoming effective in accordance with a compliance schedule to be established by the Director which shall require compliance within the minimum time the Director determines is technically feasible. (5-1-94)

a. Review of Non-Ferrous Smelter Order Provisions. The owner or operator of a combined zinc and lead smelter shall obtain the Director's approval of any interim control measure to be employed pursuant to Subsection 857.04. (5-1-94)

i. Use of any such interim control measure shall be disapproved by the Director if he has reasonable cause to believe it is not designed or implemented adequately to achieve and maintain the state and federal ambient air quality standards for sulfur dioxide. (5-1-94)

ii. Prior to the Director's disapproval of use of any such interim control measure, he shall notify the owner or operator of the smelter of his intention and reasons for his decision. (5-1-94)

iii. Prior to the Director's decision becoming final, the owner or operator of the smelter shall have thirty (30) days in which to either: amend the interim control measure to the Director's satisfaction; or request a public hearing on the matter. (5-1-94)

iv. The Director shall not require enactment of any new interim control measures earlier than the timetable for implementation established by the nonferrous smelter order described in Subsection 857.04. (5-1-94)

b. Violations. Once approved by the Director, a violation of any term or condition of an interim control measure shall constitute a violation of Section 857. (5-1-94)

c. Records Required. The owner or operator of a combined zinc and lead smelter shall submit, on a monthly basis and within two (2) weeks after the end of each calendar month, copies of all records required pursuant to an applicable non-ferrous smelter order, as described in Subsection 857.04. (5-1-94)

05. Compliance Schedule. If the owner or operator of a combined zinc and lead smelter qualifies for a second nonferrous smelter order pursuant to 42 U.S.C. Section 7419, which may be in the form of an interim compliance agreement, permit to operate, or rule, and if the provisions of Subsection 857.01 are not being complied with on or before December 31, 1982, he shall comply with the following schedule of increments of progress. During the period of this compliance schedule, the owner or operator of the combined zinc and lead smelter shall comply with interim emission limitations established in the first non-ferrous smelter order which has been approved by the Director and issued pursuant to 42 U.S.C. Section 7419. (5-1-94)

a. By January 1, 1983, submit final plans and specifications of equipment or modifications to achieve compliance with Subsection 857.01. (5-1-94)

b. By May 1, 1983, issue contracts or purchase orders for the required emission controls or process modifications. (5-1-94)

c. By September 1, 1983, initiate on-site construction of the required emission controls or process modifications. (5-1-94)

d. By September 1, 1984, complete on-site construction of the required emission controls or process modifications. (5-1-94)

e. By December 31, 1984, assure final compliance with the provisions of Subsection 857.01. (5-1-94)

06. Extension of Compliance Date. The following dates shall be extended for a period as prescribed by a second non-ferrous smelter order, issued pursuant to 42 U.S.C. Section 7419, provided that such order has been approved by the Director and provided that such order shall not exceed three (3) years: (5-1-94)

a. The compliance date extension allowed pursuant to Subsection 857.02; and (5-1-94)

b. The compliance schedule specified in Subsection 857.05. (5-1-94)

07. Appeal. On or before January 1, 1982, the owner or operator of the combined zinc and lead smelter

may request a hearing on the emission limit set forth in Subsection 857.01. (5-1-94)

a. After public hearing and consideration of all testimony, if the Board determines that use of increased stack height or other dispersion techniques are valid pursuant to law, the Board shall amend Section 857 in accordance with the Idaho Administrative Procedure Act, Sections 67-5201 through 67-5299, Idaho Code, setting a new emission limit at a level to assure compliance with state and federal ambient air quality standards for sulfur dioxide. (5-1-94)

b. The emission limit in Subsection 857.01 shall become final after Board action in accordance with the Idaho Administrative Procedure Act either: (5-1-94)

i. As specified in Subsection 857.07.a.; or (5-1-94)

ii. On January 1, 1982, if no appeal and public hearing is requested pursuant to Subsection 857.07. (5-1-94)

858. STACK MONITORING REQUIREMENTS.

The provisions of Section 858 shall apply during any time when a nonferrous smelter order, which may be in the form of an interim compliance agreement, permit to operate, or rule, is not in effect. (5-1-94)

01. Measurement Systems. The owner or operator of the combined zinc and lead smelter shall install, calibrate, maintain and operate measurement systems for continuously monitoring and recording emission rates of sulfur dioxide from each stack with an emission potential of fifty (50) tons or more sulfur dioxide per year. Measurement systems required pursuant to Subsection 858.01 shall be: (5-1-94)

a. Demonstrated in accordance with procedures prescribed by the Director; and (5-1-94)

b. Maintained, operated and calibrated in accordance with the methods prescribed by the Director. (5-1-94)

02. Record-Keeping and Reporting Requirements. The owner or operator of the combined zinc and lead smelter shall maintain a record of all measurements required by Section 858. (5-1-94)

a. One (1) hour average sulfur dioxide emission rates shall be calculated each calendar month and submitted to the Director within fifteen (15) days following the end of each calendar month to enable him to determine the impact of the smelter on ambient air quality. The records of such measurements shall be retained by the owner or operator for a minimum of two (2) years following the date of such measurements. (5-1-94)

b. Records of maintenance and/or calibration of any measurement system required pursuant to Section 858 shall be kept on site for a minimum of two (2) years and shall be submitted to the Director upon request. These records shall clearly show instrument readings before and after such calibration and/or maintenance. (5-1-94)

c. When any ambient air quality monitor from which data are telemetered to the smelter indicates that a state or federal ambient air quality standard for sulfur dioxide is equalled or exceeded, the owner or operator of the combined zinc and lead smelter shall notify the Director within twelve (12) hours of the occurrence. (5-1-94)

859. STANDARDS OF PERFORMANCE FOR MUNICIPAL SOLID WASTE LANDFILLS THAT COMMENCED CONSTRUCTION, RECONSTRUCTION OR MODIFICATION ON OR AFTER MAY 30, 1991.

01. Applicability. All owners or operators of each small or large municipal solid waste landfills in any one (1) of the following categories are subject to Section 859: (4-5-00)

a. Landfills constructed after May 30, 1991; (4-5-00)

b. Existing landfills with modifications after May 30, 1991; or (4-5-00)

- c. Landfills that closed after November 8, 1987 with modifications after May 30, 1991. (4-5-00)

02. Definitions. Unless specifically provided otherwise immediately below, the definitions for all terms set forth in Section 859 shall be the definitions set forth in 40 CFR Part 60. The following definitions apply to this Section: (4-5-00)

a. "Closed municipal solid waste landfill" (closed landfill) means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under 40 CFR 60.7(a)(4). Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed. A landfill is considered closed after meeting the criteria of 40 CFR 258.60. (4-5-00)

- b. "Effective date" means July 2, 1999. (4-5-00)

c. "Existing municipal solid waste landfill" (existing landfill) means a municipal solid waste landfill that began construction, reconstruction or modification before May 30, 1991 and has accepted waste at any time since November 8, 1987 or has additional design capacity available for future waste deposition. (4-5-00)

d. "Large municipal solid waste landfill" (large landfill) means a municipal solid waste landfill with a design capacity greater than or equal to two point five (2.5) million megagrams or two point five (2.5) million cubic meters. (4-5-00)

e. "Modification" means an action that results in an increase in the permitted volume design capacity of the landfill by either horizontal or vertical expansion based on its permitted design capacity as of May 30, 1991. Modification does not occur until the owner or operator commences construction on the horizontal or vertical expansion. (4-5-00)

f. "Municipal solid waste landfill" (landfill) means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. A municipal solid waste landfill may also receive other types of RCRA Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a municipal solid waste landfill may be separated by access roads and may be publicly or privately owned. A municipal solid waste landfill may be a new municipal solid waste landfill, an existing municipal solid waste landfill, or a lateral expansion (modification). (4-5-00)

g. "New municipal solid waste landfill" (new landfill) means a municipal solid waste landfill that began construction, reconstruction or modification or began accepting waste on or after May 30, 1991. (4-5-00)

h. "Small municipal solid waste landfill" (small landfill) means a municipal solid waste landfill with a design capacity less than two point five (2.5) million megagrams or two point five (2.5) million cubic meters. (4-5-00)

03. General Requirements. All owners or operators of landfills subject to Section 859 must comply with 40 CFR Part 60, Subpart WWW, as amended by 63 Fed. Reg. 32,743-53 (June 16, 1998) and 64 Fed. Reg. 9,257- 62 (February 24, 1999) and incorporated by reference into these rules at Section 107. Where "Administrator" or "EPA" appears in 40 CFR Part 60, "Department" shall be substituted, except in any section of 40 CFR Part 60 for which a federal rule or delegation specifically indicates that authority will not be delegated to the state. (4-5-00)

04. Permitting Requirements. All owners or operators of landfills subject to Section 859 must comply with Federal Operating Permit Requirements (Title V) as specified in Sections 300 through 399 of these rules: (4-5-00)

a. All owners or operators of existing large landfills with modifications after May 30, 1991 must submit a complete Federal Operating Permit application by June 1, 2000. (4-5-00)

b. All owners or operators of existing large landfills with modifications after March 12, 1996 must submit a complete Federal Operating Permit application the earliest of one (1) year from the date EPA approves the

Clean Air Act Section 111(d) State Plan for Section 859, or within one (1) year of the modification. (4-5-00)

c. All owners or operators of new large landfills, which includes newly constructed large landfills after March 12, 1996 and existing small landfills that become large landfills after March 12, 1996 must submit a complete Federal Operating Permit application within one (1) year of becoming subject to this requirement. (4-5-00)

d. All owners or operators of new and modified existing small landfills that are major sources as defined in 40 CFR Part 60, Subpart WWW, as amended by 63 Fed. Reg. 32,743-53 (June 16, 1998) and 64 Fed. Reg. 9,257-62 (February 24, 1999), must submit a complete Federal Operating Permit application within one (1) year of becoming a major source. (4-5-00)

05. Reporting Requirements. All owners or operators of landfills subject to Section 859 must comply with the following: (4-5-00)

a. All owners or operators of large landfills must: (4-5-00)

i. Submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within thirty (30) days of the effective date of Section 859; and (4-5-00)

ii. Submit an annual Nonmethane Organic Compound Report until nonmethane emissions are less than fifty (50) Mg/yr. (4-5-00)

b. All owners or operators of small landfills of Section 859 must submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within thirty (30) days of the effective date of Section 859. (4-5-00)

c. All owners or operators of landfills subject to Section 859 after the effective date of Section 859 must submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within thirty (30) days of becoming subject to Section 859. (4-5-00)

860. EMISSION GUIDELINES FOR MUNICIPAL SOLID WASTE LANDFILLS THAT COMMENCED CONSTRUCTION, RECONSTRUCTION OR MODIFICATION BEFORE MAY 30, 1991.

01. Applicability. All owners or operators of any small or large municipal solid waste landfills in the following categories are subject to Section 860: (4-5-00)

a. Landfills that have accepted waste since November 8, 1987; (4-5-00)

b. Landfills with no modifications after May 30, 1991; or (4-5-00)

c. Landfills that closed after November 8, 1987 with no modifications after May 30, 1991. (4-5-00)

02. Definitions. Unless specifically provided otherwise immediately below, the definitions for all terms set forth in Section 860 shall be the definitions set forth in 40 CFR Part 60. The following definitions apply to Section 860: (4-5-00)

a. “Closed municipal solid waste landfill” (closed landfill) means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under 40 CFR 60.7(a)(4). Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed. A landfill is considered closed after meeting the criteria of 40 CFR 258.60. (4-5-00)

b. “Effective date” means July 2, 1999. (4-5-00)

c. “Existing municipal solid waste landfill” (existing landfill) means a municipal solid waste landfill that began construction, reconstruction or modification before May 30, 1991 and has accepted waste at any time since November 8, 1987 or has additional design capacity available for future waste deposition. (4-5-00)

d. “Large municipal solid waste landfill” (large landfill) means a municipal solid waste landfill with a design capacity greater than or equal to two point five (2.5) million megagrams or two point five (2.5) million cubic meters. (4-5-00)

e. “Modification” means an action that results in an increase in the permitted volume design capacity of the landfill by either horizontal or vertical expansion based on its permitted design capacity as of May 30, 1991. Modification does not occur until the owner or operator commences construction on the horizontal or vertical expansion. (4-5-00)

f. “Municipal solid waste landfill” (landfill) means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. A municipal solid waste landfill may also receive other types of RCRA Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a municipal solid waste landfill may be separated by access roads and may be publicly or privately owned. A municipal solid waste landfill may be a new municipal solid waste landfill, an existing municipal solid waste landfill, or a lateral expansion (modification). (4-5-00)

g. “New municipal solid waste landfill” (new landfill) means a municipal solid waste landfill that began construction, reconstruction or modification or began accepting waste on or after May 30, 1991. (4-5-00)

h. “Small municipal solid waste landfill” (small landfill) means a municipal solid waste landfill with a design capacity less than two point five (2.5) million megagrams or two point five (2.5) million cubic meters. (4-5-00)

03. General Requirements. All owners or operators of landfills subject to Section 860 must comply with, 40 CFR Section 60.30c through 60.36c and 40 CFR Section 60.751 through 60.759 as amended by 63 Fed. Reg. 32,743-53 (June 16, 1998) and 64 Fed. Reg. 9,257-62 (February 24, 1999) and incorporated by reference into these rules at Section 107. Where “Administrator” or “EPA” appears in 40 CFR Part 60, “Department” shall be substituted, except in any section of 40 CFR Part 60 for which a federal rule or delegation specifically indicates that authority will not be delegated to the state. (4-5-00)

04. Permitting Requirements. All owners or operators of landfills subject to Section 860 must comply with Federal Operating Permit Requirements (Title V) as specified in Sections 300 through 399 of these rules: (4-5-00)

a. All owners or operators of existing large landfills must submit a complete Federal Operating Permit application one (1) year after EPA approves the Clean Air Act Section 111(d) State Plan associated with Section 860. (4-5-00)

b. All owners or operators of existing small landfills that are major sources must submit a complete Federal Operating Permit application within one (1) year of becoming a major source. (4-5-00)

05. Reporting Requirements. All owners or operators of landfills subject to Section 860 shall comply with the following: (4-5-00)

a. All owners or operators of large landfills must: (4-5-00)

i. Submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within ninety (90) days of the effective date of Section 860 and; (4-5-00)

ii. Submit an annual Nonmethane Organic Compound Report until nonmethane emissions are less than fifty (50) Mg/yr. (4-5-00)

b. All owners or operators of small landfills must submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within ninety (90) days of the effective date of Section 860. (4-5-00)

06. Compliance Schedules and Increments of Progress. All owners or operators of landfills subject to Section 860 that have a nonmethane organic compound emission rate fifty (50) Mg/yr or greater as specified in 40 CFR Section 60.752(b)(2) shall comply with the following schedule: (4-5-00)

a. The owner or operator of an existing large landfill must submit their first Annual Emission Rate Report with the design capacity report no later than July 31, 2000. (4-5-00)

b. The owner or operator of an existing landfill shall submit a collection and control system design plan within one (1) year of the date of the first Annual Emission Rate Report showing that the nonmethane organic compound emission rate is fifty (50) Mg/yr or greater as specified in 40 CFR Section 60.752(b)(2). (4-5-00)

c. The owner or operator of an existing landfill shall award contracts for construction of collection and control systems or orders for purchase of components no later than January 31, 2002. (4-5-00)

d. The owner or operator of an existing landfill shall initiate on-site construction or installation of the collection and control systems no later than April 30, 2002. (4-5-00)

e. The owner or operator of an existing landfill shall complete, no later than September 30, 2002, on-site construction or installation of collection and control systems capable of meeting the requirements of Section 860. (4-5-00)

f. The owner or operator of an existing landfill shall comply with Section 860 no later than September 30, 2002. (4-5-00)

07. Compliance Schedules and Increments of Progress for Municipal Solid Waste Landfills That Have Nonmethane Organic Compound Emission Rates Less Than 50 Mg/yr. All owners or operators of landfills subject to Section 860 that have nonmethane organic compound emission rates less than fifty (50) Mg/yr on or after November 19, 1999 shall install collection and control systems within thirty (30) months after the date the first annual nonmethane organic compound emission rate equals or exceeds fifty (50) Mg/yr as specified in 40 CFR Section 60.36c(b). (4-5-00)

861. -- 999. (RESERVED)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.03 – INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES

DOCKET NO. 58-0103-1902

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE AND HISTORY NOTES: The effective date of the temporary rule is June 30, 2019. Traditionally effective dates are published for every subsection, paragraph and subparagraph of a rule. These individualized effective dates provide a rich history for legal scholars and interested members of the public to explore the broader context of each rule. This docket retains these important history notes while establishing the effective date for each chapter to ensure there is no gap with the expiring rules.

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

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

This rulemaking adopts and re-publishes the following existing and previously approved and codified rule chapter under IDAPA 58 rules of the Department of Environmental Quality:

IDAPA 58.01.03, Individual/Subsurface Sewage Disposal Rules

As soon as reasonably possible, DEQ will commence promulgation of a proposed rule in accordance with the rulemaking requirements of Chapter 52, Title 67, Idaho Code.

More information regarding this rule docket is available at www.deq.idaho.gov/58-0103-1902.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. The Department of Environmental Quality (DEQ) would not be able to fulfill its statutory obligations without these rules. These rules are central to DEQ's mission to protect human health and the quality of Idaho's air, land, and water.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

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

This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rules, contact the undersigned.

Dated this 3rd day of July, 2019.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton/Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 58-0103-1902

**IDAPA 58
TITLE 01
CHAPTER 03**

58.01.03 – INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES

000. (RESERVED)

001. LEGAL AUTHORITY.

Title 39, Chapter 1 and Title 39, Chapter 36, Idaho Code, grants authority to the Board of Environmental Quality to adopt rules and standards to protect the environment and the health of the State, for the installation of cottage site sewage treatment facilities and for the issuance of pollution source permits. Title 39, Chapter 1, Idaho Code, grants to the Director the authority to issue pollution source permits; charges the Director to enforce all laws, rules, regulations, and standards relating to environmental protection and health, and those relating to the storage, handling and transportation of solids, liquids and gases which may cause or contribute to water pollution, and authorizes the Department of Environmental Quality to review for approval the plans and specifications for all proposed waste treatment facilities prior to their construction. (5-7-93)

002. TITLE, SCOPE, CONFLICT AND RESPONSIBILITIES.

01. Title. These rules are titled IDAPA 58.01.03, “Individual/Subsurface Sewage Disposal Rules.” (5-7-93)

02. Scope. The provisions of these rules establish limitations on the construction and use of individual and subsurface sewage disposal systems and establish the requirements for obtaining an installation permit and an installer’s registration permit. These rules apply to every individual and every subsurface blackwaste and wastewater treatment system in Idaho. (5-7-93)

03. Conflict of Rules, Standards, and Ordinances. In any case where a provision of these rules is found to be in conflict with a provision of any state or local zoning, building, fire, safety, or health regulation, standard or ordinance, the provision that, in the judgment of the Director, establishes the higher standard for the promotion and protection of the health and safety of the people, shall prevail. (5-7-93)

04. Responsibilities. (7-1-93)

a. Every owner of real property is jointly and individually responsible for: (10-1-90)

i. Storing, treating, and disposing of blackwaste and wastewater generated on that property. (10-1-90)

ii. Connecting all plumbing fixtures on that property that discharge wastewaters to an approved wastewater system or facility. (10-1-90)

iii. Obtaining necessary permits and approvals for installation of individual or subsurface blackwaste and wastewater disposal systems. (10-1-90)

iv. Abandonment of an individual or subsurface sewage disposal system. (10-1-90)

b. Each engineer, building contractor, individual or subsurface system installer, excavator, plumber, supplier, and every other person, who for compensation shall design, construct, abandon, or provide any system or part thereof, is jointly and individually responsible for compliance with each of these rules that are relevant to that service or product. (5-7-93)

003. DEFINITIONS.

For the purposes of these rules, the following definitions apply. (5-7-93)

01. Abandoned System. A system which has ceased to receive blackwaste or wastewater due to diversion of those wastes to another treatment system or due to termination of waste flow. (10-1-90)

02. Alternative System. Any system for which the Department has issued design guidelines or which the Director judges to be a simple modification of a standard system. (10-1-90)

03. Authorized or Approved. The state of being sanctioned or acceptable to the Director as stated in a written document. (10-1-90)

04. Blackwaste. Human body waste, specifically excreta or urine. This includes toilet paper and other products used in the practice of personal hygiene. (10-1-90)

05. Blackwater. A wastewater whose principal pollutant is blackwaste; a combination of blackwaste and water. (10-1-90)

06. Board. Idaho State Board Of Environmental Quality. (10-1-90)

07. Building Sewer. The extension of the building drain beginning five (5) feet outside the inner face of the building wall. (10-1-90)

08. Central System. Any system which receives blackwaste or wastewater in volumes exceeding twenty-five hundred (2,500) gallons per day; any system which receives blackwaste or wastewater from more than two (2) dwelling units or more than two (2) buildings under separate ownership. (10-1-90)

09. Construct. To make, form, excavate, alter, expand, repair, or install a system, and, their derivations. (5-7-93)

10. Director. The Director of the Idaho Department of Environmental Quality or the Director's designee or authorized agent. (10-1-90)

11. **Existing System.** Any system which was installed prior to the effective date of these rules. (5-7-93)
12. **Expand.** To enlarge any nonfailing system. (10-1-90)
13. **Failing System.** Any system which exhibits one (1) or more of the following characteristics: (10-1-90)
 - a. The system does not meet the intent of these rules as stated in Subsection 004.01. (5-7-93)
 - b. The system fails to accept blackwaste and wastewater. (10-1-90)
 - c. The system discharges blackwaste or wastewater into the waters of the State or onto the ground surface. (10-1-90)
14. **Ground Water.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (5-7-93)
15. **High Groundwater Level -- Normal, Seasonal.** High ground water level may be established by the presence of low chroma mottles, actual ground water monitoring or historic records. (5-7-93)
 - a. The normal high groundwater level is the highest elevation of ground water that is maintained or exceeded for a continuous period of six (6) weeks a year. (5-7-93)
 - b. The seasonal high groundwater level is the highest elevation of ground water that is maintained or exceeded for a continuous period of one (1) week a year. (5-7-93)
16. **High Water Mark.** The line which the water impresses on the soil by covering it for sufficient periods of time to prevent the growth of terrestrial vegetation. (10-1-90)
17. **Individual System.** Any standard, alternative or subsurface system which is not a central system. (10-1-90)
18. **Install.** To excavate or to put in place a system or a component of a system. (10-1-90)
19. **Installer.** Any person, corporation, or firm engaged in the business of excavation for, or the construction of individual or subsurface sewage disposal systems in the State. (10-1-90)
20. **Large Soil Absorption System.** A large soil absorption system is a subsurface sewage disposal system designed to receive two thousand five hundred (2,500) gallons of wastewater or more per day, including where the total wastewater flow from the entire proposed project exceeds two thousand five hundred (2,500) gallons per day but the flow is separated into absorption modules which receive less than two thousand five hundred (2,500) gallons per day. (5-7-93)
21. **Limiting Layer.** A characteristic subsurface layer or material which will severely limit the capability of the soil to treat or absorb wastewater including, but not limited to, water tables, fractured bedrock, fissured bedrock, excessively permeable material and relatively impermeable material. (10-1-90)
22. **Mottling.** Irregular areas of different color in the soil that vary in contrast, density, number and size. Mottling generally indicates poor aeration and impeded drainage. (5-7-93)
23. **New System.** A system which is or might be authorized or approved on or after the effective date of these rules. (5-7-93)
24. **Nondischarging System.** Any system which is designed and constructed to prevent the discharge of blackwaste or wastewater. (10-1-90)

25. **Permit.** An individual or subsurface system installation permit or installer's registration permit. (10-1-90)
26. **Pollutants.** Any chemical, biological, or physical substance whether it be solid, liquid, gas, or a quality thereof, which if released into the environment can, by itself or in combination with other substances, create a public nuisance or render that environment harmful, detrimental, or injurious to public health, safety or welfare or to domestic, commercial, industrial, agricultural, recreational, aesthetic, or other beneficial uses. (10-1-90)
27. **Public System.** Any system owned by a county, city, special service district, or other governmental entity or Indian tribe having the authority to dispose of blackwaste or wastewater; a municipal wastewater treatment facility. (10-1-90)
28. **Repair.** To remake, reform, replace, or enlarge a failing system or any component thereof as is necessary to restore proper operation. (10-1-90)
29. **Scarp.** The side of a hill, canyon, ditch, river bank, roadcut or other geological feature characterized by a slope of forty-five (45) degrees or more from the horizontal. (10-1-90)
30. **Service Provider.** Any person, corporation, or firm engaged in the business of providing operation, maintenance, and monitoring of complex alternative systems in the state of Idaho. (7-1-17)
31. **Sewage.** Sewage has the same meaning as wastewater. (10-1-90)
32. **Soil Texture.** The relative proportion of sand, silt, and clay particles in a mass of soil. (10-1-90)
33. **Standard System.** Any system recognized by the Board through the adoption of design and construction regulations. (10-1-90)
34. **Subsurface System.** Any system with a point of discharge beneath the earth's surface. (10-1-90)
35. **Surface Water - Intermittent, Permanent, Temporary.** (7-1-93)
- a. Any waters of the State which flow or are contained in natural or man-made depressions in the earth's surface. This includes, but is not limited to, lakes, streams, canals, and ditches. (10-1-90)
- b. An intermittent surface water exists continuously for a period of more than two (2) months but not more than six (6) months a year. (10-1-90)
- c. A permanent surface water exists continuously for a period of more than six (6) months a year. (10-1-90)
- d. A temporary surface water exists continuously for a period of less than two (2) months a year. (10-1-90)
36. **System.** Beginning at the point of entry physically connected piping, treatment devices, receptacles, structures, or areas of land designed, used or dedicated to convey, store, stabilize, neutralize, treat, or dispose of blackwaste or wastewater. (10-1-90)
37. **Wastewater.** Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any groundwater, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, grey water or commercial or industrial pollutants; and sewage. (10-1-90)
38. **Waters of the State.** All the accumulations of water, surface and underground, natural and artificial, public and private or parts thereof which are wholly or partially within, which flow through or border upon

the state of Idaho. (10-1-90)

39. Water Table. The surface of an aquifer. (10-1-90)

004. GENERAL REQUIREMENTS.

01. Intent of Rules. The Board, in order to protect the health, safety, and environment of the people of the state of Idaho establishes these rules governing the design, construction, siting and abandonment of individual and subsurface sewage disposal systems. These rules are intended to insure that blackwastes and wastewater generated in the state of Idaho are safely contained and treated and that blackwaste and wastewater contained in or discharged from each system: (5-7-93)

a. Are not accessible to insects, rodents, or other wild or domestic animals; (10-1-90)

b. Are not accessible to individuals; (10-1-90)

c. Do not give rise to a public nuisance due to odor or unsightly appearance; (10-1-90)

d. Do not injure or interfere with existing or potential beneficial uses of the waters of the State. (10-1-90)

02. Compliance with Intent Required. The Director shall not authorize or approve any system if, in the opinion of the Director, the system will not be (is not) in compliance with the intent of these rules. (5-7-93)

03. System Limitations. Cooling water, backwash or backflush water, hot tub or spa water, air conditioning water, water softener brine, groundwater, oil, or roof drainage cannot be discharged into any system unless that discharge is approved by the Director. (10-1-90)

04. Increased Flows. Unless authorized by the Director, no person shall provide for or connect additional blackwaste or wastewater sources to any system if the resulting flow or volume would exceed the design flow of the system. (10-1-90)

05. Failing System. The owner of any failing system shall obtain a permit and cause the failing system's repair: (10-1-90)

a. As soon as practical after the owner becomes aware of its failure; or (10-1-90)

b. As directed in proper notice from the Director. (10-1-90)

06. Subsurface System Replacement Area. An area of land which is suitable in all respects for the complete replacement of a new subsurface system disposal field shall be reserved as a replacement area. This area will be kept vacant, free of vehicular traffic and free of any soil modification which would negatively affect its use as a replacement disposal field construction site. (10-1-90)

07. Technical Guidance Committee. The Director shall appoint a Technical Guidance Committee composed of three (3) representatives from the seven (7) Health Districts, one (1) representative from the Department of Environmental Quality, one (1) professional engineer licensed in the state of Idaho and one (1) licensed installer. Initially two (2) committee members shall be appointed to each of one (1), two (2) and three (3) year terms. Appointments to vacancies thereafter shall be to three (3) year terms. (12-31-91)

08. Duties of the Technical Guidance Committee. The Committee shall maintain a technical guidance manual which shall be used in the design, construction, alteration, operation, and maintenance of conventional systems, their components and alternatives. The Committee shall review variances at the request of the Director and provide recommendations on such variances. (10-1-90)

09. Technical Guidance Manual for Individual and Subsurface Alternative Sewage Disposal. The manual maintained by the Technical Guidance Committee shall provide state-of-the-art technical guidance on

alternative sewage disposal components and systems, soil type determination methodology and other information pertinent to the best management practices of individual and subsurface sewage disposal. (10-1-90)

10. Alternative System. If a standard system as described in these rules cannot be installed on a parcel of land, an alternative system may be permitted if that system is in accordance with the recommendations of the Technical Guidance Committee and is approved by the Director. (5-7-93)

005. PERMIT AND PERMIT APPLICATION.

01. Permit Required. Except as specified in Subsection 005.02 it shall be unlawful for any person to cause or to perform the modification, repair or construction of any individual or subsurface sewage disposal system within the state of Idaho unless there is a valid installation permit authorizing that activity. (12-31-91)

02. Exceptions to Permit Requirement. The activities listed in this subsection may be lawfully performed in the absence of a valid installation permit. They are, however, subject to all other relevant rules and regulations. (10-1-90)

a. Portable nondischarging systems may be installed where needed as temporary blackwaste or wastewater systems if they are properly maintained and if they are of a design which has been approved by the Director. (10-1-90)

b. Individual and subsurface systems may be repaired when needed as a result of clogged or broken solid piping or of malfunctions in an electrical or mechanical system. Such repair may not expand the system unless authorized by the Director. (10-1-90)

03. Permit Application. The owner of the system or the owner's authorized representative shall make application to the Director in writing and in a manner or form prescribed by the Director. (10-1-90)

04. Contents of Application. A permit application will be used to help determine if the proposed construction will be in conformance with applicable rules and regulations. Information required in the application may include, but is not limited to: (10-1-90)

- a.** The name and address of the owner of the system and of the applicant, if different; (10-1-90)
- b.** The legal description of the parcel of land; (10-1-90)
- c.** The type of establishment served; (10-1-90)
- d.** The maximum number of persons served, number of bedrooms, or other appropriate measure of wastewater flow; (10-1-90)
- e.** The type of system; (10-1-90)
- f.** The construction activity (new construction, enlargement, repair); (10-1-90)
- g.** A scaled or dimensioned plot plan including, if needed, adjacent properties illustrating: (10-1-90)
 - i.** The location and size of all existing and proposed wastewater systems including disposal field replacement areas; (10-1-90)
 - ii.** The location of all existing water supply system features; (10-1-90)
 - iii.** The location of all surface waters; (10-1-90)
 - iv.** The location of scarps, cuts, and rock outcrops; (10-1-90)
 - v.** Land elevations, surface contours, and ground slopes between features of interest; (10-1-90)

- vi. Property lines, easements, and rights-of-way; and (10-1-90)
 - vii. Location and size of buildings and structures. (7-1-93)
 - h.** The plans and specifications of the proposed system which include: (10-1-90)
 - i. Diagrams of all system facilities which are to be made or fabricated at the site; (10-1-90)
 - ii. The manufacturer's name and identification of any component approved pursuant to Sections 007 and 009; and (12-31-91)
 - iii. List of materials. (10-1-90)
 - i.** Soil description and profile, groundwater data, percolation or permeability test results and/or a site evaluation report; (10-1-90)
 - j.** The nature and quantity of blackwaste and wastewater which the system is to receive including the basis for that estimate; (10-1-90)
 - k.** Proposed operation, maintenance, and monitoring procedures to insure the system's performance and failure detection; (10-1-90)
 - l.** Copies of legal documents relating to access and to responsibilities for operation, maintenance, and monitoring; (10-1-90)
 - m.** A statement from the local zoning or building authority indicating that the proposed system would not be contrary to local ordinances; (10-1-90)
 - n.** The signature of the owner of the proposed system and, if different, of the applicant; and (10-1-90)
 - o.** Any other information, document, or condition that may be required by the Director to substantiate that the proposed system will comply with applicable rules and regulations. (10-1-90)
- 05. Basis for Permit Application Denial.** The Director may deny a permit application if in the Director's judgment: (10-1-90)
- a.** The application is incomplete, inaccurate, or misleading; (10-1-90)
 - b.** The system as proposed is not in compliance with applicable rules and regulations; (10-1-90)
 - c.** The system as proposed would, when put into use, be considered a failing system; (10-1-90)
 - d.** The design and description of a public system was not made by a professional engineer; (10-1-90)
 - e.** Public or central wastewater treatment facilities are reasonably accessible. (10-1-90)
- 06. Notice of Denial.** Upon denial of an application the Director shall notify the applicant of the reason for denial. (10-1-90)
- 07. Issuance of Permit.** When, in the opinion of the Director the system as proposed will be in conformance with applicable rules and regulations, the Director shall issue an "Individual and Subsurface System Installation Permit". (10-1-90)
- 08. Application and Permit Valid for One Year.** Unless otherwise stated on the application or permit, it shall become invalid if the authorized construction or activity is not completed and approved within one (1) year of the date of issuance. (10-1-90)

09. Permit Renewal. At the discretion of the Director, a permit may be renewed one (1) or more times upon request by the applicant or owner provided that the request is received by the Director prior to the permit's date of expiration. (10-1-90)

10. Immediate Effect of the Permit. A valid permit authorizes the construction of an individual or subsurface system and requires that the construction be conducted in compliance with plans, specifications, and conditions contained in the approved permit application. Any deviation from the plans, specifications, and conditions is prohibited unless it is approved in advance by the Director. (10-1-90)

11. Cottage Site Facility Certification. A valid permit shall constitute certification and approval for the purposes of Section 39-3637, Idaho Code. (10-1-90)

12. Existing Installation Permits. Individual and subsurface sewage disposal installation permits or other lot-specific approvals for systems issued prior to February 7, 1978, pursuant to Idaho Code Title 39, Chapter 1 and Title 39, Chapter 36, will become invalid one (1) year after written notice is given by the Director notifying the owner or holder of such a permit or approval that the permit or approval will no longer be valid unless construction or installation of the system provided for in the permit or approval is commenced within one (1) year after giving of the notice. This provision does not apply to certificates filed to satisfy a sanitary restriction pursuant to Section 50-1326, Idaho Code. (10-1-90)

13. Abandonment May Be Required. The Director may require as a condition for issuing a permit that the system be abandoned by a specified date or under specific predetermined circumstances. The date or circumstances will be established before the issuance of the permit and be contained in the permit application. These conditions may relate to a specific date, dwelling density, completion of a municipal system or other circumstances relative to the availability of central sewerage system services. (10-1-90)

14. Operation, Maintenance and Monitoring. The Director may require as a condition of issuing a permit, that specific operation, maintenance, and monitoring procedures be observed. Those procedures will be contained in the permit application. (10-1-90)

15. As-Built Plans and Specifications. The Director may require as a condition of issuing a permit, that complete and accurate record drawings and specifications depicting the actual construction be submitted to the Director within thirty (30) days after the completion of the construction. Alternately, if the construction proceeded in compliance with the approved plans and specifications, a statement to that effect may be submitted. (10-1-90)

16. Permit Fee. All applications shall be accompanied by payment of the fee specified in IDAPA 58.01.14, Section 110, "Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services". (5-7-93)

006. INSTALLER'S REGISTRATION PERMIT AND SERVICE PROVIDER CERTIFICATION.

01. Permit and Certification Required. Every installer and service provider shall secure from the Director an installer's registration permit. Service providers must also obtain a service provider's certification. Two (2) types of installer permits and one (1) type of service provider certification are available. (7-1-17)

a. A standard and basic alternative system installer's registration permit is required to install all individual systems not listed under Subsection 006.01.b. (5-7-93)

b. A complex alternative system installer's registration permit is required to install evapotranspiration systems, extended treatment package systems, lagoon systems, large soil absorption systems, pressure distribution systems, intermittent sand filters, sand mounds or other systems as may be specified by the Director. (7-1-17)

c. A service provider certification is required to perform operation, maintenance, or monitoring of complex alternative systems. (7-1-17)

02. Examination. The initial issuance of the installer's permit and service provider certification shall

be based on the completion of an examination, with a passing score of seventy percent (70%) or more, of the applicant's knowledge of the principles set forth in these rules and the applicable sections of the Technical Guidance Manual. The examinations will be prepared, administered and graded by the Director. The installer examination and service provider examination shall be separate exams. (7-1-17)

03. Permits and Certifications Required Annually. Registration permits and service provider certifications expire annually on the first (1st) day of January, and all permits and certifications issued thereafter will be issued for the balance of the calendar year. Additionally, installers and service providers shall attend at least one (1) refresher course approved by the state of Idaho, Department of Environmental Quality, every three (3) years. Individuals holding both a complex installer registration permit and service provider certification shall attend one refresher course for the complex installer registration permit and another course for the service provider certification. Installer and service provider refresher courses are not interchangeable. (7-1-17)

04. Contents of Application. (7-1-17)

- a.** Applications for installer permits and service provider certifications shall: (7-1-17)
 - i.** Be in writing: (7-1-17)
 - ii.** Be signed by the applicant or by an officer or authorized agent of a corporation: (7-1-17)
 - iii.** Contain the name and address of the applicant: (7-1-17)
 - iv.** Indicate whether the permit is to be for: (7-1-17)
 - (1) Installation of standard and basic alternative systems: (7-1-17)
 - (2) Installation of standard, basic and complex alternative systems; or (7-1-17)
 - (3) Installation of standard, basic and complex alternative systems and certification as a service provider; and (7-1-17)
 - v.** Contain the expiration date of the bond required by Subsection 006.05. (7-1-17)
- b.** Additionally, for applicants seeking certification as a service provider, the application shall also contain annual documentation of manufacturer specific training, as required by Subsection 006.06.a. (7-1-17)

05. Bond Required. At the time of application, all applicants, including those seeking a service provider certification, shall deliver to the Director a bond in a form approved by the Director in the sum of five thousand dollars (\$5,000) for a standard and basic alternative system installer's registration permit, or in the sum of fifteen thousand dollars (\$15,000) for standard, basic and complex alternative system installer's registration permit. The bond will be executed by a surety company duly authorized to do business in the state of Idaho and must run concurrent with the installer's registration permit. The bond shall be approved by the Director and must guarantee the installer or service provider's faithful performance of all work undertaken under the provisions of the installer's registration permit or service provider certification, or both. Any person who suffers damage as the result of negligent or wrongful acts of the installer or service provider or by the installer or service provider's failure to competently perform any of the work agreed to be done under the terms of the registration permit or certification shall, in addition to other legal remedies, have a right of action on the bond for all damages not exceeding five thousand dollars (\$5,000) for standard and basic alternative systems or fifteen thousand dollars (\$15,000) for complex alternative systems or required operation, maintenance, or monitoring by certified service providers. The maximum liability of the surety and/or sureties on the bond, regardless of the number of claims filed against the bond, shall not exceed the sum of five thousand dollars (\$5,000) for standard and basic alternative systems or fifteen thousand dollars (\$15,000) for complex alternative systems or required operation, maintenance, or monitoring by certified service providers. (7-1-17)

06. Service Provider Responsibilities. All certified service providers who provide operation, maintenance, or monitoring for any complex alternative system are responsible for compliance with each of these

rules that are relevant to those services. Additionally, each certified service provider shall: (7-1-17)

a. Obtain documentation of the completed manufacturer-specific training of each manufactured and packaged treatment system for which the service provider intends to provide operation, maintenance, or monitoring. Proper documentation includes a certificate or letter of training completion provided by the manufacturer. If a system manufacturer is no longer in business, that manufacturer-specific training is not required. (7-1-17)

b. Maintain a comprehensive list of real property owners who contracted with the certified service provider. The list shall include the current real property owner name, service property address, real property owner contact address, and subsurface sewage disposal permit number. This list shall be provided to the Director as part of the annual operation, maintenance, and monitoring reports for individual real property owners; and (7-1-17)

c. Submit all operation, maintenance, and monitoring records in the form of an annual report for each individual real property owner with whom the service provider contracts to fulfill the real property owner's operation, maintenance, or monitoring responsibilities required through the real property owner's subsurface sewage disposal installation permit as allowed in Subsection 005.14. The annual reports shall be provided to the Director by the timeframe specified in the Technical Guidance Manual for the specific complex alternative system for which operation, maintenance, or monitoring is required. (7-1-17)

07. Exemption. An installer's permit shall not be required for: (10-1-90)

a. Any person, corporation, or firm constructing a central or municipal subsurface sewage disposal system if that person, corporation, or firm is a licensed public works contractor as provided in Title 54, Chapter 19, Idaho Code, is experienced in the type of system to be installed and is under the direction of a professional engineer licensed in the state of Idaho; or (5-7-93)

b. Owners installing their own standard or basic alternative systems. (7-1-17)

08. Application Fee. All applications shall be accompanied by payment of the fee specified in IDAPA 58.01.14, Section 120, "Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services". (5-7-93)

09. Grounds for Revocation. Failure to comply with these rules shall be grounds for revocation of the permit or the certification, or both. (7-1-17)

10. Transfer from Non-Profit Operation and Maintenance Entity to Certified Service Provider. (7-1-17)

a. Real property owners who want to install extended treatment package systems must retain a permitted installer and certified service provider. An easement granting general access to a non-profit operation and maintenance entity is no longer required for extended treatment package system installation permits. (7-1-17)

b. Beginning July 1, 2017, real property owners who had extended treatment package systems installed are not required to be members of non-profit operation and maintenance entities. To meet the operation, maintenance, and monitoring requirements of their extended treatment package systems, real property owners shall retain a certified service provider for their existing extended treatment package systems. (7-1-17)

007. SEPTIC TANKS DESIGN AND CONSTRUCTION STANDARDS.

01. Materials. New septic tanks will be constructed of concrete, or other materials approved by the Director. Steel tanks are unacceptable. (10-1-90)

02. Construction Requirements. All septic tanks will be water tight, constructed of sound, durable materials and not subject to excessive corrosion, decay, frost damage or cracking. (10-1-90)

03. Concrete Septic Tanks. New concrete septic tanks will at a minimum meet the following requirements: (10-1-90)

- a. The walls and floor must be at least two and one-half (2 1/2) inches thick if adequately reinforced and at least six (6) inches thick if not reinforced. (10-1-90)
- b. Concrete lids or covers must be at least three (3) inches thick and adequately reinforced. (10-1-90)
- c. The floor and at least a six (6) inch vertical portion of the walls of a poured tank must be poured at the same time (monolithic pour). (10-1-90)
- d. Wall sections poured separately must have interlocking joints on joining edge. (10-1-90)
- e. All concrete outlet baffles must be finished with an asphalt or other protective coating. (10-1-90)
- 04. Horizontal Dimension Limit.** No interior horizontal dimension of a septic tank or compartment may be less than two (2) feet. (10-1-90)
- 05. Liquid Depth.** The liquid depth shall be at least two and one-half (2 1/2) feet but not greater than five (5) feet. (10-1-90)
- 06. Manufactured Tank Markings.** Septic tanks manufactured in accordance with a specified design approved by the Director, will be legibly and indelibly marked with the manufacturer's name or trademark, total liquid capacity and shall indicate the tank's inlet and outlet. (10-1-90)
- 07. Minimum Tank Capacities.** (7-1-93)
 - a. Tanks serving one (1) or two (2) single dwelling units:

MINIMUM CAPACITY PER DWELLING UNIT	
Number of Bedrooms	Minimum Liquid Capacity (Gallons)
1 or 2	900
3 or 4	1,000

For each bedroom over four (4) add two hundred fifty (250) gallons. (10-1-90)

- b. Tanks serving all other flows. Septic tank capacity shall be equal to two (2) times the average daily flow as determined from Subsection 007.08. The minimum tank capacity shall be seven hundred and fifty (750) gallons. (12-31-91)

08. Wastewater Flows from Various Establishments in Gallons per Day.

ESTABLISHMENTS	
Single Family Dwelling and Mobile Homes, 3 bedroom. Add/subtract 50 gallons/bedroom	250/Unit
MULTIPLE RESIDENTIAL	
Hotel: With Private Baths Without Private Baths	60/Bedspace 40/Bedspace
Motel: With Kitchenette	40/Bedspace 60/Bedspace

ESTABLISHMENTS	
Boarding House: Add for each nonresident	150/Bedspace 25
Rooming House/Bunk House Staff Resident Nonresident	40/Resident 40/Staff 15/Staff
Apartments	250/Unit
INSTITUTIONAL	
Assembly Hall/Meeting House	2/Seat
Church: With Kitchen	3/Seat 7/Seat
Hospital: Kitchen only Laundry only	250/Bedspace 25/Bedspace 40/Bedspace
Nursing Home/Rest Home	125/Bedspace
Day School: Without Showers With Showers With Cafeteria, add Staff-Resident Nonresident	20/Student 25/Student 3/Student 40/Staff 20/Staff
FOOD SERVICE	
Conventional Service: Toilet & Kitchen Wastes Kitchen Wastes	13/Meal 3.3/Meal
Take Out or Single Service	2/Meal
Dining Hall: Toilet & Kitchen Wastes Kitchen Wastes	8/Meal 3.3/Meal
Drinking Establishment	2/Person
Food Service Employee	15/Employee
COMMERCIAL AND INDUSTRIAL	
Bowling Alley	125/Lane
Laundry - Self Service	50/Wash
Public Transportation Terminal	5/Fare
Service Station	10/Vehicle
Car Wash: 1st Bay Additional Bays	50/Vehicle 1000 500 each
Shopping Center (No food/laundry)	1/Pkg.Sp.

ESTABLISHMENTS	
Theaters (including Concession Stand): Auditorium Drive-in	5/Seat 10/Space
Offices	20/Employee
Factories: No Showers With Showers Add for Cafeteria	25/Employee 35/Employee 5/Employee
Stores	2/Employee
SEASONAL AND RECREATIONAL	
Fairground (Peak Daily Attend)	1/Person
Stadium	2/Seat
Swimming Pool: Toilet & Shower Wastes	10/Person
Parks & Camps (Day Use): Toilet & Shower Wastes	15/Person
Roadside Rest Area: Toilet & Shower Wastes Toilet Waste	10/Person 5/Person
Overnight Accommodation: Central Toilet Central Toilet & Shower	25/Person 35/Person
Designated Camp Area: Toilet & Shower Wastes Toilet Wastes	90/Space 65/Space
Seasonal Camp	50/Space
Luxury Cabin	75/Person
Travel Trailer Park with Sewer & Water Hook-up	125/Space
Construction Camp	50/Person
Resort Camps	50/Person
Luxury Camps	100/Person
Country Clubs Resident Member Add for Nonresident Member	100/Member 25/Person
Public Restrooms: Toilet Wastes Toilet & Shower Wastes	5/Person 15/Person

(10-1-90)

09. Total Volume. The total volume of a septic tank will at a minimum be one hundred fifteen percent (115%) of its liquid capacity. (10-1-90)

- 10. Inlets.** (7-1-93)
- a.** The inlet into the tank will be at least four (4) inches in diameter and enter the tank three (3) inches above the liquid level. (10-1-90)
- b.** The inlet of the septic tank and each compartment will be submerged by means of a vented tee or baffle. (10-1-90)
- c.** Vented tees or baffles will extend above the liquid level seven (7) inches or more but not closer than one (1) inch to the top of the tank. (10-1-90)
- d.** Tees should not extend horizontally into the tank beyond two (2) times the diameter of the inlet. (10-1-90)
- 11. Outlets.** (7-1-93)
- a.** The outlet of the tank will be at least four (4) inches in diameter. (10-1-90)
- b.** The outlet of the septic tank and each compartment will be submerged by means of a vented tee or baffle. (10-1-90)
- c.** Vented tees and baffles will extend above the liquid level seven (7) inches or more above the liquid level but no closer than one (1) inch to the inside top of the tank. (10-1-90)
- d.** Tees and baffles will extend below the liquid level to a depth where forty percent (40%) of the tank's liquid volume is above the bottom of the tee or baffle. For vertical walled rectangular tanks, this point is at forty percent (40%) of the liquid depth. In horizontal cylindrical tanks this point is about thirty-five percent (35%) of the liquid depth. (10-1-90)
- e.** Tees and baffles should not extend horizontally into the tank beyond two (2) times the diameter of the outlet. (10-1-90)
- 12. Scum Storage.** A septic tank will provide an air space above the liquid level which will be equal to or greater than fifteen percent (15%) of the tank's liquid capacity. For horizontal cylindrical tanks, this condition is met when the bottom of the outlet port is located at nineteen percent (19%) of the tank's diameter when measured from the inside top of the tank. (10-1-90)
- 13. Manholes.** Access to each septic tank or compartment shall be provided by a manhole twenty (20) inches in minimum dimension or a removable cover of equivalent size. Each manhole cover will be provided with a corrosion resistant strap or handle to facilitate removal. (10-1-90)
- 14. Inspection Ports.** An inspection port measuring at least eight (8) inches in its minimum dimension will be placed above each inlet and outlet. Manholes may be substituted for inspection ports. (10-1-90)
- 15. Split Flows.** The wastewater from a single building sewer or sewer line may not be divided and discharged into more than one (1) septic tank or compartment. (10-1-90)
- 16. Multiple Tank or Compartment Capacity.** Multiple septic tanks or compartmented septic tanks connected in series may be used so long as the sum of their liquid capacities is at least equal to the minimum tank capacity computed in Subsection 007.07 and the initial tank or compartment has a liquid capacity of more than one-half (1/2) but no more than two-thirds (2/3) of the total liquid capacity of the septic tank facility. (12-31-91)
- 17. Minimum Separation Distances Between Septic Tanks and Features of Concern.**

Features of Concern	Minimum Distance to Septic Tank in Feet	
Well or Spring or Suction Line	Public Water	100
	Other	50
Water Distribution Line	Public Water	25
	Other	10
Permanent or Intermittent Surface Water		50
Temporary Surface Water		25
Downslope Cut or Scarp		25
Dwelling Foundation or Building		5
Property Line		5
Seasonal High Water Level (Vertically from Top of Tank)		2

(10-1-90)

18. Installation of Manufactured Tanks. If written installation instructions are provided by the manufacturer of a septic tank, those instructions relative to the stability and integrity of the tank are to be followed unless otherwise specified in the installation permit of these rules. (5-7-93)

19. Manhole Extension. If the top of the septic tank is to be located more than twenty-four (24) inches below the finished grade, manholes will be extended to within eighteen (18) inches of the finished grade. (10-1-90)

20. Sectional Tanks. Sectional tanks will be joined in a manner that will insure that the tank is watertight. (10-1-90)

21. Inlet and Outlet Piping. Unless otherwise specified in the installation permit, piping to and from a septic tank or dosing chamber, to points three (3) feet beyond the tank excavation shall be of a material approved by the Director. The following materials are required: (5-7-93)

a. ABS schedule forty (40) or material of equal or greater strength piping shall be used to span the excavations for the septic tank and dosing chamber. (5-7-93)

b. ASTM D-3034 plastic pipe may be used to span the septic tank and dosing chamber if the excavation is compacted with fill material. (5-7-93)

i. The fill material must be granular, clean and compacted to ninety percent (90%) standard proctor density. (5-7-93)

ii. Placement of ASTM D-3034 on undisturbed earth is suitable, but in no installation shall there be less than twelve (12) inches of cover over the pipe. (5-7-93)

22. Effluent Pipe Separation Distances. Effluent pipes shall not be installed closer than fifty (50) feet from a well. (5-7-93)

23. Septic Tank Abandonment. Responsibility of properly abandoning a septic tank shall remain with the property owner. Septic tanks shall be abandoned in accordance with the following: (5-7-93)

a. Disconnection of the inlet and outlet piping; (5-7-93)

b. Pumping of the scum and septage with approved disposal; (5-7-93)

- c. Filling the septic tank with earthen materials; or (5-7-93)
- d. Physically destroying the septic tank or removing the septic tank from the ground. (5-7-93)

008. STANDARD SUBSURFACE DISPOSAL FACILITY DESIGN AND CONSTRUCTION.

01. Standard Drainfield. A drainfield consisting of an effluent sewer, one (1) or more aggregate filled trenches and a gravity flow wastewater distribution system. These standards will be the basis of acceptable design and configuration. Overall dimensions of a specific facility will depend upon site characteristics and the volume of wastewater. (10-1-90)

02. Site Suitability. The area in which a standard drainfield is to be constructed must meet the conditions stated in this subsection: (10-1-90)

- a. Slope. The natural slope of the site will not exceed twenty percent (20%). (10-1-90)
- b. Soil types. Suitable soil types must be present at depths corresponding with the sidewalls of the proposed drainfield and at depths which will be between the bottom of the proposed drainfield and any limiting soil layer (effective soil depth).

Design Soil Group	Soil Textural Classification	USDA Field Test Textural Classification	
Unsuitable	Gravel	10 Mesh	
	Coarse Sand	10-35 Mesh	Sand
A	Medium Sand	35-60 Mesh	Sand
	Fine Sand	65-140 Mesh	Sand
	Loamy Sand		Sand
B	Very Fine Sand	140-270 Mesh	Sand
	Sandy Loam		Sandy Loam
	Very Fine Loamy Sand		Sandy Loam
	Loam		
C	Silt Loam		Silt Loam
	Silt		Silt Loam
	Clay Loam		Clay Loam
	Sandy Clay Loam		Clay Loam
	Silty Clay Loam		Clay Loam
Unsuitable	Sandy Clay		Clay
	Silty Clay		Clay
	Clay		Clay
	Clay soils with high shrink/swell potential		Clay
	Organic mucks		
	Claypan, Duripan,		

Design Soil Group	Soil Textural Classification	USDA Field Test Textural Classification
	Hardpan	

(10-1-90)

c. **Effective Soil Depths.** Effective soil depths, in feet, below the bottom of the drainfield must be equal to or greater than those values listed in the following table.

EFFECTIVE SOIL DEPTHS TABLE			
Site Conditions	Design	Soil	Group
Limiting Layer	A	B	C
Impermeable Layer	4	4	4
Fractured Bedrock, Fissured Bedrock or Extremely Permeable Material	6	4	3
Normal High Groundwater Level	6	4	3
Seasonal High Groundwater Level	1	1	1

(5-7-93)

d. **Separation Distances.** The drainfield must be located so that the separation distances given be maintained or exceeded according to the following Table:

Feature of Interest	Soil Types All	A	B	C
Public Water Supply	100			
All Other Domestic Water Supplies including Springs and Suction Lines	100			
Water Distribution Lines: Pressure Suction	25 100			
Permanent or Intermittent Surface Water other than Irrigation Canals & Ditches		300	200	100
Temporary Surface Water and Irrigation Canals and Ditches	50			
Downslope Cut or Scarp: Impermeable Layer Above Base Impermeable Layer Below Base		75 50	50 25	50 25
Building Foundations: Crawl Space or Slab Basement	10 20			
Property Line	5			

(5-7-93)

03. Subsurface Disposal Facility Sizing. The size of a subsurface disposal system will be determined by the following procedures: (10-1-90)

a. Daily flow estimates should be determined in the same manner as are flow estimates for septic tank sizing in Subsection 007.08. (5-7-93)

b. The total required absorption area is obtained by dividing the estimated daily flow by a value below.

Design Soil Group	A	B	C
Absorption Area - Gallons/Square Foot/Day	1.0	0.5	0.2

(10-1-90)

c. Required Area. The size of an acceptable site must be large enough to construct two (2) complete drainfields in which each are sized to receive one hundred percent (100%) of the design wastewater flow. (10-1-90)

04. Standard Subsurface Disposal Facility Specifications. The following table presents additional design specifications for new subsurface sewage disposal facilities.

SUBSURFACE DISPOSAL FACILITY TABLE	
Item	All Soil Groups
Length of Individual Distribution Laterals	100 Feet Maximum
Grade of Distribution Laterals and Trench Bottoms	Level
Width of Trenches	1 Foot Minimum 6 Feet Maximum
Depth of Trenches	2 Feet Minimum 4 Feet Maximum
Total Square Feet of Trench	1500 Sq.ft. Max.
Undisturbed Earth Between Trenches	6 Feet Minimum
Undisturbed Earth Between Septic Tank and Trenches	6 Feet Minimum
Depth of Aggregate:	
Total	12 In. Minimum
Over Distribution Laterals	2 In. Minimum
Under Distribution Laterals	6 In. Minimum
Depth of Soil Over Top of Aggregate	12 In. Minimum

(10-1-90)

05. Wastewater Distribution. Systems shall be installed to maintain equal or serial effluent distribution. (10-1-90)

06. Excavation. Trenches will not be excavated during the period of high soil moisture content when that moisture promotes smearing and compaction of the soil. (10-1-90)

07. Soil Barrier. The aggregate will be covered throughout with untreated building paper, a synthetic filter fabric (geotextile), a three (3) inch layer of straw or other acceptable permeable material. (10-1-90)

08. Aggregate. The trench aggregate shall be crushed rock, gravel, or other acceptable, durable and inert material which is, free of fines, and has an effective diameter from one-half (1/2) to two and one-half (2 1/2) inches. (10-1-90)

09. Impermeable Surface Barrier. No treatment area trench or replacement area shall be covered by an impermeable surface barrier, such as tar paper, asphalt or tarmac or be used for parking or driving on or in any way compacted and shall be adequately protected from such activities. (5-7-93)

10. Standard Absorption Bed. Absorption bed disposal facilities may be considered when a site is suitable for a standard subsurface disposal facility except that it is not large enough. (10-1-90)

a. General Requirements. Except as specified in this section, rules and regulations applicable to a standard subsurface disposal system are applicable to an absorption bed facility. (10-1-90)

b. Slope Limitation. Sites with slopes in excess of eight percent (8%) are not suitable for absorption bed facilities. (10-1-90)

c. Vehicular Traffic. Rubber tired vehicles must not be driven on the bottom surface of any bed excavation. (10-1-90)

d. Distribution Lateral Spacing. Distribution laterals within a bed must be spaced on not greater than six (6) feet centers nor may any sidewall be more than three (3) feet from a distribution lateral. (10-1-90)

11. Seepage Pit. Seepage pit disposal facilities may be used on a case by case basis within the boundaries of District Health Department Seven when an applicant can demonstrate to the district director's satisfaction that the soils and depth to ground water are sufficient to prevent ground water contamination. The district director shall document all such cases. (4-2-91)L

a. General Requirements. Except as specified in Subsection 008.11.b., rules and regulations applicable to a standard subsurface disposal system are applicable to a seepage pit. (12-31-91)

b. Other conditions for approval, sizing and construction will be as provided for in the seepage pit section of the Technical Guidance Manual for Individual and Subsurface Sewage Disposal, except that the site size restriction in condition two (2) of the Conditions for Approval will not apply. (10-1-90)

12. Failing Subsurface Sewage Disposal System. If the Director determines that the public's health is at risk from a failed septic system and that the replacement of a failing subsurface sewage disposal system cannot meet the current rules and regulations, then the replacement system must meet the intent of the rules and regulations by utilizing a standard subsurface sewage disposal design or alternative system design as specified by the Director. (5-7-93)

009. OTHER COMPONENTS.

01. Design Approval Required. Commercially manufactured blackwaste and wastewater treatment and storage components may not be used in the construction of a system unless their design is approved by the Director. (10-1-90)

02. Plan and Specification Submittal. Plans and specifications for all commercially manufactured individual and subsurface treatment and storage components will be submitted to the Director for approval. Plans and specifications will show or include as requested by the Director, detailed construction drawings, capacities, structural calculations, list of materials, evidence of stability and durability, manufacturers installation, operation and maintenance instructions, and other relevant information. (10-1-90)

03. Effect of Design Approval. The Director may condition a design approval by specifying circumstances under which the component must be installed, used, operated, maintained, or monitored. (7-1-17)

a. The Director shall specify the complex alternative systems that must undergo professionally managed operation, maintenance, service, or effluent testing. (7-1-17)

b. Manufacturers shall provide training to a reasonable number of service providers to perform required operation, maintenance, or monitoring as specified by the Director. (7-1-17)

c. Manufacturers may enter into agreements with certified service providers trained in their technology but shall not limit the service providers from being trained in the technology of other manufacturers. (7-1-17)

04. Notice of Design Disapproval. If the Director is satisfied that the component described in the submittal may not be in compliance with or may not consistently function in compliance with these rules, or that the manufacturer of the proposed system failed to comply with Subsection 009.03, the Director will disapprove the design as submitted. The manufacturer or distributor submitting the design for approval will be notified in writing of the disapproval and the reason for that action. (7-1-17)

010. VARIANCES.

01. Technical Allowance. The Director may make a minor technical allowance to the dimensional or construction requirements of these rules for a standard system if: (5-7-93)

a. The allowance will not affect adjacent property owners or the public at large; (10-1-90)

b. The allowance will not violate the conditions of Subsection 004.01; and (12-31-91)

c. The allowance will not be in conflict with any other rule, regulation, standard, or ordinance. (10-1-90)

d. The allowance to a dimensional requirement is not more than ten percent (10%) of the requirements of these rules unless otherwise provided for in the Technical Guidance Manual. (5-7-93)

02. Petition for Variance. If a petition of variance to these rules is desired, a request for a variance may be filed with the Director. The petition shall contain the following: (10-1-90)

a. A concise statement of the facts upon which the variance is requested including a description of the intended use of the property, the estimates of the quantity of blackwaste or wastewater to be discharged, and a description of the existing site conditions; (10-1-90)

b. A concise statement of why the petitioner believes that compliance with the provision from which variance is sought would impose an arbitrary or unreasonable hardship, and of the injury that the grant of the variance would impose on the public; and (10-1-90)

c. A clear statement of the precise extent of the relief sought. (10-1-90)

03. Public Notice. At the time of filing a petition evidence shall also be submitted that: (10-1-90)

a. A notice has appeared in the local newspaper advising the public of the request for variance; (10-1-90)

b. All property owners within three hundred (300) feet of the affected site have been notified; and (10-1-90)

c. Such notices to the public have been made fifteen (15) days prior to the filing of the petition. (10-1-90)

04. Objections to Petition. Any person may file with the Department, within twenty-one (21) days after the filing of the petition, a written objection to the grant of the variance. A copy of such objection shall be

provided by the Department to the petitioner. (10-1-90)

05. Investigation and Decision. After investigating the variance petition and considering the views of persons who might be adversely affected by the grant of the variance, the Director shall, within sixty (60) days after the filing of the petition, make a decision as to the disposition of the petition. The decision, a copy of which shall be served on the petitioner, shall include: (10-1-90)

a. A description of the efforts made by the Director to investigate the facts as alleged and to ascertain the views of persons who might be affected, and a summary of the views so ascertained; (10-1-90)

b. A statement of the degree to which, if at all, the Director disagrees with the facts as alleged in the petition; (10-1-90)

c. Allegations of any other facts believed relevant to the disposition of the petition; and (10-1-90)

d. The Director's decision. (10-1-90)

06. Limitations on Decision. No technical allowance or variance shall be granted unless: (10-1-90)

a. Adequate proof is shown by the petitioner that compliance would impose an arbitrary or unreasonable hardship; (10-1-90)

b. The technical allowance or variance rendered is consistent with the recommendations of the Technical Guidance Committee or the Technical Guidance Manual in use at the time of the petition; and (10-1-90)

c. The Director has determined that the approval of the technical allowance or variance will not have an adverse impact on the public health or the environment. (10-1-90)

011. INSPECTIONS.

01. One or More Inspections Required. Such inspection as are necessary to determine compliance with any requirement or provision of these rules shall be required by the Director. (5-7-93)

02. Duty to Uncover. The permittee shall, at the request of the Director, uncover or make available for inspection any portion or component of an individual or subsurface sewage disposal system which was covered or concealed in violation of these rules. (5-7-93)

03. Advance Notice by Permittee. If an inspection requires some type of preparation, such as test hole excavation or partial construction of the system, the applicant or permittee will notify the Director at least forty-eight (48) hours in advance, excluding weekends and holidays, before the time preparation will be completed. (10-1-90)

04. Substantiating Receipts and Delivery Slips. The permittee shall upon request by the Director provide copies of receipts, delivery slips or other similar documents to substantiate the origin, quality, or quantity of materials used in the construction of any individual or subsurface system. (10-1-90)

012. VIOLATIONS AND PENALTIES.

01. Failure to Comply. All individual and subsurface sewage disposal systems shall be constructed and installed according to these rules. Failure by any person to comply with the permitting, licensing, approval, installation, or variance provisions of these rules shall be deemed a violation of these rules. (5-7-93)

02. System Operation. No person shall discharge pollutants into the underground water of the state of Idaho through an individual or subsurface sewage disposal system unless in accordance with the provisions of these rules. (5-7-93)

03. Violation a Misdemeanor. Pursuant to Section 39-117, Idaho Code, any person who willfully or negligently violates any of the provisions of these rules shall be guilty of a misdemeanor. (5-7-93)

013. LARGE SOIL ABSORPTION SYSTEM DESIGN AND CONSTRUCTION.

01. Site Investigation. A site investigation for a large soil absorption system by a soil scientist and/or hydrogeologist may be required by the Director for review and approval and shall be coordinated with the Director. Soil and site investigations shall conclude that the effluent will not adversely impact or harm the waters of the State. (5-7-93)

02. Installation Permit Plans. Installation permit application plans, as outlined in Subsection 005.04, for a large soil absorption system submitted for approval shall include provisions for inspections of the work during construction by the design engineer or his designee and/or by the Director. (5-7-93)

03. Module Size. The maximum size of any subsurface sewage disposal module shall be ten thousand (10,000) gallons per day. Developments with greater than ten thousand (10,000) gallons per day flow shall divide the system into absorption modules designed for ten thousand (10,000) gallons per day or less. (5-7-93)

04. Standard Large Soil Absorption System Design Specifications. (5-7-93)

a. All design elements and applications rates shall be arrived at by sound engineering practice and shall be provided by a professional engineer licensed by the state of Idaho and specializing in environmental or sanitary engineering. (5-7-93)

b. Within thirty (30) days of system installation completion the design engineer shall provide either as-built plans or a certificate that the system has been installed in substantial compliance with the installation permit application plans. (5-7-93)

c. Effective Soil Depths. Effective soil depths, in feet, below the bottom of the absorption module to the site conditions must be equal to or greater than the following table:

TABLE -- EFFECTIVE SOIL DEPTHS			
Site Conditions	Design	Soil	Group
Limiting Layer	A	B	C
Impermeable Layer	8	8	8
Fractured Bedrock, Fissured Bedrock or Extremely Permeable Material	12	8	6
Normal High Groundwater Level	12	8	6
Seasonal High Groundwater Level	2	2	2

(5-7-93)

d. Separation Distances. The disposal area absorption module must be located so that the following separation distances given, in feet, are maintained or exceeded as outlined in the following table:

TABLE -- SEPARATION DISTANCES			
Feature of Interest	Design	Soil	Group
	A	B	C
All Domestic Water Supplies			

TABLE -- SEPARATION DISTANCES			
Feature of Interest	Design	Soil	Group
	A	B	C
Sewage Volume - 2,500-5,000 GPD	250	200	150
Sewage Volume - 5,000-10,000 GPD	300	250	200
Property Lines			
Sewage Volume - 2,500-5,000 GPD	50	50	50
Sewage Volume - 5,000-10,000 GPD	75	75	75
Building Foundations - Basements			
Sewage Volume - 2,500-5,000 GPD	50	50	50
Sewage Volume - 5,000-10,000 GPD	75	75	75
Downslope Cut or Scarp			
Impermeable Layer - Below Base	100	50	50
Separation Distance - Between Modules	12	12	12

(5-7-93)

e. No large soil absorption system shall be installed above a downslope scarp or cut unless it can be demonstrated that the installation will not result in effluent surfacing at the cut or scarp. (5-7-93)

f. A minimum of two (2) disposal systems will be installed, each sized to accept the daily design flow, and a replacement area equal to the size of one (1) disposal system will be reserved. (5-7-93)

g. The vertical and horizontal hydraulic limits of the receiving soils shall be established and flows shall not exceed such limits so as to avoid hydraulically overloading any absorption module and replacement area. (5-7-93)

h. The distribution system must be pressurized with a duplex dosing system. (5-7-93)

i. A geotextile filter fabric shall cover the aggregate. (5-7-93)

j. An in-line effluent filter between an extended treatment system or lagoon system and the large soil absorption area shall be installed. (5-7-93)

k. Observation pipes shall be installed to the bottom of the drainrock throughout the drainfield. (5-7-93)

l. Pneumatic tired machinery travel over the excavated infiltrative surface is prohibited. (5-7-93)

m. The drainfield disposal area shall be constructed to allow for surface drainage and to prevent ponding of surface water. Before the system is put into operation the absorption module disposal area shall be seeded with typical lawn grasses and/or other appropriate shallow rooted vegetation. (5-7-93)

05. Large Septic Tanks. Large Septic Tanks shall be constructed according to Section 007, except as outlined in this Subsection: (5-7-93)

a. Length to width ratios shall be maintained at least at a three to one (3:1) ratio. (5-7-93)

- b. Tank inlet shall allow for even distribution of the influent across the width of the tank. (5-7-93)
- c. The width to liquid depth ratio shall be between one to one (1:1) and two and one-quarter to one (2.25:1). (5-7-93)

06. Monitoring and Reporting. Before an installation permit is issued, a monitoring and reporting plan shall be approved by the Director and shall contain the following minimum criteria: (5-7-93)

- a. Monthly recording and inspection for ponding in all observation pipes. (5-7-93)
- b. Monthly recording of influent flows based on lapse time meter and/or event meter of the dosing system. (5-7-93)
- c. Monthly recording of groundwater elevation measurements at all monitoring wells if high seasonal groundwater is within fifteen (15) feet of the ground surface. (5-7-93)
- d. Semi-annual groundwater monitoring at all monitoring wells. (5-7-93)
- e. Monitoring shall conform to the requirements of all federal, state, and local rules and regulations. (5-7-93)
- f. An annual "Large Soil Absorption System Report" shall be filed with the Director no later than January 31 of each year for the last twelve (12) month period and shall include section on operation, maintenance and monthly and annual monitoring data. (5-7-93)

07. Operation and Maintenance. Before an installation permit is issued, an operation and maintenance plan shall be approved by the Director and shall contain the following minimum criteria: (5-7-93)

- a. Annual or more frequent rotation of the disposal systems, and whenever ponding is noted. (5-7-93)
- b. A detailed operation and maintenance manual, fully describing and locating all elements of the system and outlining maintenance procedures needed for operation of the system and who will be responsible for system maintenance, shall be submitted to the Director prior to system use. (5-7-93)
- c. A maintenance entity shall be specified to provide continued operation and maintenance. Approval of the entity shall be made by the Director prior to issuance of an installation permit. (5-7-93)

014. -- 995. (RESERVED)

996. ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". (3-15-02)

997. CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 74, Chapter 1, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality." (3-15-02)

998. -- 999.

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.09 – RULES REGULATING SWINE FACILITIES

DOCKET NO. 58-0109-1901

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY FEE RULE

EFFECTIVE DATE AND HISTORY NOTES: The effective date of the temporary rule is June 30, 2019. Traditionally effective dates are published for every subsection, paragraph and subparagraph of a rule. These individualized effective dates provide a rich history for legal scholars and interested members of the public to explore the broader context of each rule. This docket retains these important history notes while establishing the effective date for each chapter to ensure there is no gap with the expiring rules.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that the Idaho Board of Environmental Quality has adopted a temporary rule. The action is authorized pursuant to Idaho §§ 39-104A, 39-105, and 39-107.

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

This rulemaking adopts and re-publishes the following existing and previously approved and codified fee rule chapter under IDAPA 58 rules of the Department of Environmental Quality:

IDAPA 58.01.09, Rules Regulating Swine Facilities

As soon as reasonably possible, DEQ will commence promulgation of a proposed rule in accordance with the rulemaking requirements of Chapter 52, Title 67, Idaho Code.

More information regarding this rule docket is available at www.deq.idaho.gov/58-0109-1901.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. The Department of Environmental Quality (DEQ) would not be able to fulfill its statutory obligations without these rules. These rules are central to DEQ's mission to protect human health and the quality of Idaho's air, land, and water.

The fees or charges imposed by the rules are necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. Temporary adoption of these rules is necessary to ensure that DEQ is able to continue to offer services such as permit issuance. Listed below is the fee category and statutory authority for imposition of the fee.

Idaho Code § 39-119, permit application fee

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed by this rulemaking. This rulemaking does not impose a fee or charge beyond what was previously approved and codified in the prior rules. A description of each fee category is provided in the preceding section.

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

This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rules, contact the undersigned.

Dated this 3rd day of July, 2019.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton/Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 58-0109-1901

IDAPA 58
TITLE 01
CHAPTER 09

58.01.09 – RULES REGULATING SWINE FACILITIES

000. LEGAL AUTHORITY.

The Idaho Legislature has given the Idaho Board of Environmental Quality the authority to promulgate Rules Regulating Swine Facilities pursuant to Sections 39-104A, 39-105, and 39-107, Idaho Code. (3-29-12)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 58.01.09, “Rules Regulating Swine Facilities.” (3-29-12)

02. Scope. These rules establish the procedures and requirements for the issuance of a permit to construct, operate, close or expand swine facilities of a defined capacity. The intent of these rules is to ensure animal waste from swine facilities are properly controlled so as not to adversely affect public health or the environment. (3-29-12)

002. WRITTEN INTERPRETATIONS.

As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. (4-1-00)

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality.” (3-15-02)

004. -- 009. (RESERVED)

010. DEFINITIONS.

01. Animal Unit. An animal unit equals two and a half (2.5) swine, each weighing over twenty-five (25) kilograms (approximately fifty-five (55) pounds), or ten (10) weaned swine, each weighing under twenty-five (25) kilograms. Total animal units are calculated by adding the number of swine weighing over twenty-five (25) kilograms multiplied by four-tenths (.4) plus the number of weaned swine weighing under twenty-five (25) kilograms multiplied by one-tenth (.1). (3-29-12)

02. Animal Waste. Animal excrement, feed wastes, process wastewater or any other waste associated with the confinement of swine. (3-29-12)

03. Animal Waste Management System. Any structure or system that provides for the collection, treatment, disposal, distribution, or storage of animal waste. (4-1-00)

04. Certified Planner. A person who has completed the nutrient management certification in accordance with the Nutrient Management Standard. (4-1-00)

05. Department. The Idaho Department of Environmental Quality. (4-1-00)

06. Director. The Director of the Department of Environmental Quality or his designee. (4-1-00)

07. Existing Facility. A facility built and in operation one (1) year or more prior to the original effective date of these rules. (4-1-00)

08. Expanding Facility. A swine facility of less than two thousand (2,000) animal units that increases its one-time animal unit capacity to two thousand (2,000) or more animal units or an existing facility that increases its one-time animal unit capacity by ten percent (10%). (3-29-12)

09. Facility or Swine Facility. Any place, site or location or part thereof where swine are kept, handled, housed, or otherwise maintained and includes but is not limited to buildings, lots, pens, and animal waste management system, and which has the one-time animal unit capacity of two thousand (2000) or more animal units. (3-29-12)

10. Land Application. The spreading on or incorporation of animal waste into the soil mantle primarily for beneficial purposes. (4-1-00)

11. Nutrient Management Plan. A plan prepared in compliance with the Nutrient Management Standard or other equally protective standard approved by the Director for managing the amount, source, placement, form, and timing of the land application of nutrients and soil amendments for plant production and to minimize the potential for environmental degradation, particularly impairment of water quality. (4-1-00)

12. Nutrient Management Standard. The United States Department of Agriculture-Natural Resource Conservation Service Code 590 or the Idaho Agricultural Pollution Abatement Plan-Nutrient Management Standard Component Practice. (4-1-00)

13. One-Time Animal Unit Capacity. The maximum number of animal units that a facility is capable of housing at any given point in time. (4-1-00)

14. Operate. Confine, feed, propagate, house, or otherwise sustain swine. (3-29-12)

15. Permit. A written authorization by the Director to construct, operate, or expand a swine facility. (3-29-12)

16. Permittee. The person in whose name a permit is issued. (4-1-00)

17. Person. Any individual, association, partnership, firm, joint stock company, joint venture, trust, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any legal entity which is recognized by law as the subject of rights and duties. (4-1-00)

18. Process Wastewater. Any water used in the facility that comes into contact with any manure, litter, bedding, raw, intermediate, or final material or product used in or resulting from the production of swine and any products directly or indirectly used in the operation of a facility, such as spillage or overflow from animal watering systems; washing, cleaning, or flushing pens, barns, manure pits, or spray cooling of animals; and dust control and any precipitation which comes into contact with animals or animal waste. (3-29-12)

19. Unauthorized Discharge. A release of animal waste to the environment or waters of the state that is not authorized by the permit or the terms of an NPDES permit issued by the federal EPA. (4-1-00)

20. 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. (4-1-00)

011. -- 099. (RESERVED)

100. APPLICABILITY.

01. Permit Required. No person shall construct, operate, or expand a regulated swine facility without first obtaining a permit issued by the Director as provided in these rules. (3-29-12)

02. Regulated Facilities. New swine facilities having a one-time animal unit capacity of two thousand (2,000) or more animal units and expanding facilities are required to be permitted as provided in these rules. (3-29-12)

03. Common Control. Two (2) or more swine facilities under common control of the same person may be considered, for purposes of permitting, to be a single facility, even though separately their capacity is less than two thousand (2,000) animal units, if they use a common animal waste management system or land application site. (3-29-12)

04. Existing Swine Facilities. Those swine facilities built and in operation one (1) year or more prior to the original effective date of these rules are exempt from the requirements of these rules except as provided in Section 210. (3-29-12)

101. -- 199. (RESERVED)

200. PERMIT APPLICATION.

01. Permit Application. Every person requiring a permit under these rules shall submit a permit application to the Department. A permit application will be used to determine if the construction, operation, and closure of a swine facility will be in conformance with these and other applicable rules. (3-29-12)

02. Preapplication Conference. Prospective applicants are encouraged to meet with the Department to discuss application requirements and procedures. (4-1-00)

03. Contents of Application. Each application shall include, in the format set forth by the Director and when determined applicable by the Director, the following information in Subsections 200.04 through 200.08 in sufficient detail to allow the Director to make necessary application review decisions concerning design, environmental protection and public health. (4-1-00)

04. Relevant Information. (4-1-00)

a. Name, mailing address and phone number of the facility owner. (4-1-00)

b. Name, mailing address and phone number of the facility operator. (4-1-00)

c. Name and mailing address of the facility. (4-1-00)

d. Legal description of the facility location. (4-1-00)

e. The legal structure of the entity owning the facility, including the names and addresses of all directors, officers, registered agents and partners. (4-1-00)

f. The names and locations of all swine facilities owned and/or operated by the applicant within the last ten (10) years. (3-29-12)

g. The one-time animal unit capacity of the facility. (4-1-00)

h. The type of animals to be confined at the facility. (4-1-00)

i. Evidence that a valid water right exists to supply adequate water for the proposed facility or a copy of either an application for permit to appropriate water or an application to change the point of diversion, place, period and nature of use of an existing water right that has been filed with the Idaho Department of Water Resources which, if approved, will supply adequate water for the proposed operation. (4-1-00)

j. Proof of financial capability to perform remedial actions and to meet the conditions of an approved closure plan for a facility. The mechanism used to demonstrate financial capability must be legally valid, binding and

enforceable under applicable law and must insure that the funds necessary to meet the costs of remediation and closure will be available whenever they are needed in accordance with Section 205. The mechanisms include, but are not limited to, trust funds, surety bonds, letters of credit, insurance and corporate guarantees. (3-15-02)

k. The facility's biosecurity and sanitary standards. (4-1-00)

l. A statement of estimated annual income and operating expenses that demonstrate, to the satisfaction of the Department, financial capability to operate the facility. (3-15-02)

05. Construction Plan. Plans and specifications for the facility's animal waste management system that include the following information: (4-1-00)

a. Vicinity map(s) prepared on one (1) or more seven and one-half minute (7.5') USGS topographic quadrangle maps or a high quality reproduction(s) that includes the following: (4-1-00)

i. Layout of the facility, including buildings and animal waste management system; (4-1-00)

ii. The one hundred (100) year FEMA flood zones or other appropriate flood data for the facility site and land application sites owned or leased by the applicant; (4-1-00)

iii. The location of occupied dwellings, public and private gathering places, such as schools, churches and parks, and incorporated municipalities which are within a two (2) mile radius of the facility; and (4-1-00)

iv. Private and community domestic water wells, irrigation wells, irrigation conveyance and drainage structures, monitoring wells, wetlands, streams, springs, and reservoirs which are within a one (1) mile radius of the facility. (4-1-00)

b. Facility construction specifications including: (4-1-00)

i. A site plan showing: (4-1-00)

(1) Building locations; (4-1-00)

(2) Waste facilities; (4-1-00)

(3) All waste conveyance systems; and (4-1-00)

(4) All irrigation systems used for land application, including details of approved water supply protection devices. (4-1-00)

ii. Building plans showing: (4-1-00)

(1) All wastewater collection systems in housed units; (4-1-00)

(2) All freshwater supply systems, including details of approved water supply protection devices; (4-1-00)

and (3) Detailed drawings of wastewater collection and conveyance systems and containment construction; (4-1-00)

(4) Detailed construction and installation procedures. (4-1-00)

06. Site Characterization. A characterization of the facility and any land application site(s) owned or operated by the applicant, prepared by a registered professional geologist, a registered professional engineer or a qualified ground water hydrologist, that includes the following information: (4-1-00)

a. A description of monitoring methods, frequency, and reporting components related to either leak

- detection systems and/or ground water monitoring wells; (4-1-00)
- b.** The climatic, hydrogeologic, and soil characteristics; (4-1-00)
 - c.** The depth to water and a potentiometric map for the uppermost and regional aquifer; (4-1-00)
 - d.** The vertical and horizontal conductivity, gradient, and ground water flow direction and velocity; (4-1-00)
 - e.** Estimates of recharge to the uppermost aquifer; (4-1-00)
 - f.** Information which characterizes the relationship between the ground water and adjacent surface waters; and (4-1-00)
 - g.** A summary of local ground water quality data. (4-1-00)
- 07. Nutrient Management Plan.** A plan prepared by a Certified Planner demonstrating compliance with the Nutrient Management Standard for land application. (4-1-00)
- 08. Closure Plan.** A plan describing the procedures for final closure of a facility that ensures no adverse impacts to the environment and waters of the state and that includes: (4-1-00)
- a.** The estimated length of operation of the facility; and (4-1-00)
 - b.** A description of the procedures, methods, and schedule to be implemented at the facility for final disposal, handling, management and/or treatment of all animal waste. (4-1-00)
- 09. Other Information.** An applicant shall provide any other information relative to Subsections 200.04 through 200.08 deemed necessary by the Director to assess protection of human health and the environment (4-1-00)
- 10. Application Fee.** A fee shall be submitted with each permit application as follows: (4-1-00)
- a.** Three thousand dollars (\$3,000) for facilities that have a one-time animal unit capacity of less than five-thousand (5,000) animal units; (4-1-00)
 - b.** Five thousand dollars (\$5,000) for facilities that have a one-time animal unit capacity of five thousand to ten thousand (5,000-10,000) animal units; and (4-1-00)
 - c.** Ten thousand dollars (\$10,000) for facilities that have a one-time animal unit capacity over ten thousand (10,000) animal units. (4-1-00)
- 201. -- 204. (RESERVED)**
- 205. FINANCIAL ASSURANCE REQUIREMENTS.**
- 01. Written Estimate of Costs.** The owner of a swine facility shall submit, as part of the permit application, a detailed written estimate, in current dollars, of the cost of hiring a third party to: (3-29-12)
- a.** Remediate potential contamination caused by the operation of the facility or of any potential spill or breach, including, without limitation, remediation pursuant to the facility's Spill Contingency Plan; and (3-15-02)
 - b.** Close the facility in accordance with an approved closure plan. (3-15-02)
 - c.** The Department must approve the cost estimate as reasonable prior to the issuance of a permit. (3-15-02)

02. Financial Assurance Mechanisms. The owner shall submit as part of the permit application evidence of financial assurance to cover the approved remediation and closure cost estimates. However, if the Department has determined, prior to October 19, 2000, that a complete application has been submitted, the owner shall submit the remediation and closure cost estimates and financial assurance mechanism to the Department for approval prior to the issuance of a permit. The mechanism used to demonstrate financial assurance shall be submitted to the Department for approval and shall ensure that the funds necessary to meet the approved costs of remediation and closure will be available whenever they are needed. The financial assurance mechanisms allowed for swine facilities shall include any mechanism or a combination of mechanisms meeting the criteria set forth below or other mechanism approved by the Department. (3-29-12)

a. Trust Fund. (3-15-02)

i. An owner may satisfy the requirements of Subsection 205.02 by establishing a trust fund and submitting an originally signed duplicate of the trust agreement to the Department. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. (3-15-02)

ii. After the trust fund is established, whenever the current remediation and closure cost estimates change, the owner must compare the new estimates with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner, within sixty (60) days after the change in the cost estimate, must either deposit an amount equal into the fund so that its value after this deposit at least equals the amount of the current remediation or closure cost estimate, or obtain other financial assurance as specified in Subsection 205.02 to cover the difference. (3-15-02)

iii. If the value of the trust fund is greater than the total amount of the current remediation or closure cost estimate, the owner may submit a written request to the Department for release of the amount in excess of the current remediation or closure cost estimate. (3-15-02)

iv. If an owner substitutes other financial assurance as specified in Subsection 205.02 for all or part of the trust fund, he may submit a written request to the Department for release of the amount in excess of the current remediation or closure cost estimate covered by the trust fund. (3-15-02)

b. Surety Bond. (3-15-02)

i. An owner may satisfy the requirements of Subsection 205.02 by obtaining a payment or performance surety bond and submitting a certified copy of the bond to the Department. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury. (3-15-02)

ii. The penal sum of the bond must be in an amount at least equal to the current remediation and closure cost estimates. (3-15-02)

iii. Under the terms of the bond, the surety will become liable on the bond obligation when: (3-15-02)

(1) The owner fails to perform as guaranteed by the bond; or (3-15-02)

(2) The Department notifies the owner that he has failed to meet requirements of these rules. (3-15-02)

iv. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner and the Department one hundred twenty (120) days in advance of cancellation. Cancellation may not occur, however, during the one hundred twenty (120) days beginning with the date of receipt of the notice by the Department, as evidenced by the return receipt. The surety shall remain liable on the bond for costs of remediation and closure unless the owner obtains a replacement financial assurance mechanism, approved by the Department in accordance with Subsection 205.02.f., that covers both the existing and future costs of remediation and closure. (3-15-02)

c. Letter of Credit. (3-15-02)

i. An owner may satisfy the requirements of Subsection 205.02 by obtaining an irrevocable standby letter of credit and submitting a certified copy of the letter to the Department. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency. (3-15-02)

ii. The letter of credit must be accompanied by a letter from the owner referring to the letter of credit by number, issuing institution, and date, and providing the following information: the type of facility, name and address of the facility, and the amount of funds assured for remediation and closure of the facility by the letter of credit. (3-15-02)

iii. The letter of credit must be irrevocable and issued for a period of at least one (1) year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one (1) year unless, at least one hundred twenty (120) days before the current expiration date, the issuing institution notifies both the owner and the Department by certified mail of a decision not to extend the expiration date. Cancellation may not occur, however, during the one hundred twenty (120) days beginning with the date of receipt of the notice by the Department, as evidenced by the return receipt. The issuing institution shall remain liable on the letter of credit for costs of remediation and closure unless the owner obtains a replacement financial assurance mechanism, approved by the Department in accordance with Subsection 205.02.f., that covers both the existing and future costs of remediation and closure. (3-15-02)

iv. The letter of credit must be issued in an amount at least equal to the current remediation and closure cost estimates. (3-15-02)

d. Insurance. (3-15-02)

i. An owner may satisfy the requirements of Subsection 205.02 by obtaining remediation and closure insurance and submitting a certificate of such insurance to the Department. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one (1) or more states. (3-15-02)

ii. The insurance policy must be issued for a face amount at least equal to the current remediation and closure cost estimates. The term “face amount” means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer’s future liability will be lowered by the amount of the payments. (3-15-02)

iii. Each insurance policy must contain a provision allowing assignment of the policy to a successor. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused. (3-15-02)

iv. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. The insurer may cancel the policy by sending notice by certified mail to the owner and the Department one hundred twenty (120) days in advance. Cancellation may not occur, however, during the one hundred twenty (120) days beginning with the date of receipt of the notice by the Department, as evidenced by the return receipt. The insurer shall remain liable on the policy for costs of remediation and closure unless the owner obtains a replacement financial assurance mechanism, approved by the Department in accordance with Subsection 205.02.f., that covers both the existing and future costs of remediation and closure. (3-15-02)

e. Corporate Guarantee. (3-15-02)

i. An owner may satisfy the requirements of Subsection 205.02 by obtaining a written guarantee and submitting a certified copy of the guarantee and appropriate letter from the guarantor. The guarantor must be the direct or higher-tier parent corporation of the owner, a firm whose parent corporation is also the parent corporation of the owner, or a firm with a “substantial business relationship” with the owner. (3-15-02)

ii. If the guarantor’s parent company is also the parent corporation of the owner, a letter from the

guarantor's chief financial officer must describe the value received in consideration of the guarantee. (3-15-02)

iii. If the guarantor is a firm with a "substantial business relationship" with the owner, the letter must describe the "substantial business relationship" and the value received in consideration of the guarantee. (3-15-02)

iv. The terms of the guarantee shall provide that if the owner fails to perform remediation or closure of a facility covered by the guarantee, the guarantor will: (3-15-02)

(1) Perform, or pay a third party to perform, remediation and closure as required (performance guarantee); or (3-15-02)

(2) Establish a fully funded trust fund as specified in Subsection 205.02.a. in the name of the owner (payment guarantee). (3-15-02)

v. The guarantee shall remain in force for as long as the owner must comply with the applicable financial assurance requirements of Subsection 205.02 unless the guarantor sends notice of cancellation by certified mail to the owner and to the Department one hundred twenty (120) days in advance. Cancellation may not occur, however, during the one hundred twenty (120) days beginning on the date of receipt of the notice by the Department, as evidenced by the return receipt. The guarantor shall remain liable on the guarantee for costs of remediation and closure unless the owner obtains a replacement financial assurance mechanism, approved by the Department in accordance with Subsection 205.02.f., that covers both the existing and future costs of remediation and closure. (3-15-02)

f. If a financial assurance mechanism is cancelled by the issuing entity, the owner shall obtain alternate financial assurance, within sixty (60) days of receipt of notice of cancellation by the Department, which shall be submitted to the Department for approval. The alternate financial assurance must become effective not later than the effective date of cancellation or termination of the existing financial assurance. An owner may only cancel a financial assurance mechanism after first obtaining an alternative mechanism approved by the Department. (3-15-02)

03. Continuous Coverage. The owner shall provide continuous coverage for remediation and closure until released from financial assurance requirements by the Department. (3-15-02)

04. Adjustment of Financial Assurance Amounts. The following provisions apply to the adjustment of the amount of financial assurance: (3-15-02)

a. The owner shall increase the remediation and closure cost estimates and the amount of financial assurance if changes to the closure plan or facility conditions or operations increase the cost estimates at any time during the active life of the facility. The cost estimates and financial assurance shall also be adjusted to reflect inflation. Increased cost estimates and financial assurance shall be submitted to the Department for approval. (3-15-02)

b. The owner may reduce the remediation and closure cost estimates and the amount of financial assurance if the cost estimates exceed the maximum cost of remediation or closure at any time during the active life of the facility. The owner shall first notify the Department and obtain its approval of the justification for the reduction of the remediation and closure cost estimates. (3-15-02)

05. Release from Financial Assurance Requirements. When remediation and closure conditions required by a permit are complete, financial assurance shall be released by the Department as follows: (3-15-02)

a. When the Department determines that initial closure activities have been completed, financial assurance, less identified retainages, shall be released. (3-15-02)

b. A sufficient amount of financial assurance shall be retained by the Department, up to five (5) years after closure, to ensure proper remediation and closure of a facility. (3-15-02)

c. Release of any amount of financial assurance shall not release the owner from any responsibility for meeting remediation or closure requirements. (3-15-02)

06. Owner Liability. Nothing in these rules shall relieve the owner of liability for remediation and closure costs. The use of all financial assurance shall not relieve the owner from responsibility and liability for remediation and closure costs. (3-15-02)

206. -- 209. (RESERVED)

210. EXISTING FACILITIES.

01. Registration Requirement. Existing facility owners shall register with the Department within three (3) months after the original effective date of these rules. Registration shall include the information in Subsection 200.04 except for Subsection 200.04.j. Nothing in Section 210 shall be construed to deny an existing facility the opportunity to apply for, and receive, a permit under these rules. (4-1-00)

02. Plan Requirement. Existing facilities shall submit a nutrient management plan and closure plan to the Director for approval within two (2) years of the original effective date of these rules in accordance with Subsections 200.07 and 200.08. An application fee shall not be required unless the facility is expanding. (4-1-00)

03. Expanding Facility. The owner of an existing facility shall not increase the one-time animal unit capacity of the facility by ten percent (10%) or more without first obtaining a permit for the expansion as required by these rules. The ten percent (10%) increase is measured cumulatively from the original effective date of these rules. (4-1-00)

211. -- 249. (RESERVED)

250. REQUIREMENTS FOR WATER QUALITY PROTECTION.

The following minimum design and performance standards are intended as a baseline for protection of public health and the waters of the state. These standards shall apply to all facilities and be reflected in the permit unless the Director approves, based on an applicant's site specific information, that compliance with a specific standard is not required to protect water quality and the public health. Other conditions, as determined by the Director to be necessary to protect water quality, may be included in a permit. (4-1-00)

01. Animal Waste Management System Design Criteria. A facility's animal waste management system shall be designed and constructed in accordance with the NRCS and the American Society of Agricultural Engineers standards, whichever is most stringent and shall: (4-1-00)

a. Contain the maximum expected operating water balance and the twenty-five (25) year twenty-four (24) hour rainfall event and the one (1) in five (5) year winter runoff. (4-1-00)

b. Provide capacity to store the peak volume of process wastewater that will be generated during a six (6) month period. (4-1-00)

c. Provide a one (1) foot freeboard in addition to the storage requirements, specified in Subsections 250.01.a. and 250.01.b. (4-1-00)

d. Impoundments, other than for emergency runoff, containing or designed to contain process wastewater shall be designed for efficient leak detection and shall not be located in the one-hundred (100) year floodplain. (4-1-00)

e. Seepage rates for impoundments shall be no greater than 1×10^{-7} cm/sec. (4-1-00)

02. Water Quality Monitoring. Ground water and/or leak detection monitoring shall be conducted for every facility with a liquid storage impoundment and shall be designed to give the earliest possible detection of an unauthorized discharge to ground water. (4-1-00)

03. Discharges. Facilities shall be constructed, operated and maintained to not cause unauthorized discharges. (4-1-00)

04. Spill Contingency Plan. Facilities shall prepare a discharge response strategy that describes procedures and methods to be implemented for the abatement and cleanup of any pollutant. (4-1-00)

05. Stockpile Areas. Animal waste stockpile areas, including compost areas, shall be constructed to ensure that all water and precipitation, which comes into contact with the stockpiles, does not enter waters of the state. (4-1-00)

251. -- 299. (RESERVED)

300. APPLICATION PROCESSING PROCEDURE.

01. Application Completeness. Within thirty (30) days of receipt of an application, the Director shall provide written notice to the applicant as to whether the application meets all the requirements of Section 200. The Department shall provide public notice of the receipt of a complete application. An application which does not, on its face, meet all the requirements of Section 200 of these rules shall be returned to the applicant by the Director with a written list of the deficiencies. The Director will not process an application until it is determined to be complete in accordance with these rules. (4-1-00)

02. Notice of Environmental Suitability of Facility Location. Within thirty (30) days of the Director's notice that the application is complete, the Director shall determine whether the facility is environmentally suitable for the selected location. In making this decision, the Director shall review the location of the facility relative to flood zones, dwellings, wells, surface and ground water and those other items the applicant must identify on the vicinity map. Written notice of the Director's determination will be sent to the applicant, with a copy sent to the appropriate county and city officials for the selected location, along with a Department analysis that includes the following: (4-1-00)

a. A brief description of the proposed facility, its animal waste management system and its nutrient management plan; (4-1-00)

b. A brief summary of the basis for the determination on environmental suitability including references to applicable requirements and supporting materials; (4-1-00)

c. A description of the schedule for issuing a permit; and (4-1-00)

d. The name and phone number of the Department staff to contact for additional information. (4-1-00)

03. Draft Permit. Within sixty (60) days of the Director's determination that a facility is environmentally suitable for its proposed location, the Director shall either issue a draft permit or a notice of denial of a permit to the applicant. The draft permit shall be in the same form as a final permit and shall specify conditions of construction, operation and closure. (4-1-00)

04. Public Comments. The Department shall provide notice to the public of its issuance of a draft permit. The public may provide written comments for a time period and in a manner specified in the Department's notice. The Department may, in its discretion, provide an opportunity for the public to provide oral comments. (4-1-00)

05. Permit Denial. The Director may deny a permit if: (4-1-00)

a. The owner of a facility is not in substantial compliance with a final agency order or any final order or judgement of a court secured by any state or federal agency relating to the operation of a swine facility; (3-29-12)

b. The application is inaccurate; (4-1-00)

c. The facility as proposed cannot meet the requirements set forth in these rules or cannot be constructed, operated and closed in a manner that protects human health and the environment; or (4-1-00)

d. The appropriate county or city does not approve the location of the facility. (4-1-00)

06. Final Permit. Within sixty (60) days of the issuance of a draft permit, the Director shall issue a final permit to the applicant, however, a permit shall not be issued by the Director until the applicant has received final approval from the appropriate county or city for the location of the facility and has received approval for a water right from the Department of Water Resources. The permit shall be effective for a fixed term of not more than five (5) years, and may be reissued upon receipt of an updated application and demonstration of compliance with the rules and permit requirements existing at the time of reissuance. (4-1-00)

07. Additional Information. At any time during the application process an applicant shall provide the Director with additional information the Director deems necessary to process a permit, within thirty (30) days of the Director's request. The time period within which the Director must act with regard to the permit shall be stayed until the information requested is provided. If an applicant fails to provide the information within this time period, unless a longer time period is allowed by the Director, the Director may cease the application process and require the applicant to submit a new application. (4-1-00)

301. -- 399. (RESERVED)

400. PERMIT CONDITIONS.

The following conditions shall apply to all permittees. (4-1-00)

01. Compliance Required. The permittee shall comply with all conditions of the permit. The permit shall not relieve the permittee of the responsibility to comply with all other applicable local, state, and federal laws. (4-1-00)

02. Financial Capability. Permittees shall have the financial capability to perform remedial actions and to meet the conditions of an approved closure plan for a facility. (3-15-02)

03. Construction and Operation of Facility. The permittee shall ensure that construction, operation and maintenance of the facility proceed according to the construction plans and specifications and the approved monitoring, nutrient management and closure plans, and comply with the following: (4-1-00)

a. Within thirty (30) days of completion of construction, submit as built plans. (4-1-00)

b. Apply appropriate management practices as approved by the Director. (4-1-00)

c. The facility or operations associated with the facility shall not create a public health hazard or nuisance conditions including odors. (4-1-00)

d. The facility shall not dispose of any material not approved for disposal under the permit into the animal waste management system including, but not limited to, human waste. (4-1-00)

e. The removal of animal waste from an impoundment or storage structure shall be performed in a manner to not damage the integrity of the liner. (4-1-00)

f. Dead animals shall be removed from the facility for rendering, cremation, burial, composting or other disposal in accordance with IDAPA 02.04.17, "Rules Governing Dead Animal Movement and Disposal." (3-15-02)

g. Nutrient management plans shall be amended if modifications to the facility operation, as outlined in the Nutrient Management Standard or other conditions, warrant the amendment. (4-1-00)

h. Soil tests shall be conducted on all land application sites owned or leased by the permittee every year to determine compliance with the nutrient management plan and Nutrient Management Standard. The Director may require more frequent soil tests if deemed necessary. (4-1-00)

04. Provide Information. The permittee shall furnish to the Director within a reasonable time, any

information including copies of records required by the permit or other applicable rules, which the Director may reasonably require to determine whether cause exists for modifying or revoking the permit or to determine compliance with the permit or other applicable rules. (4-1-00)

05. Entry and Access. The permittee shall allow the Director, consistent with Title 39, Chapter 1, Idaho Code, and in compliance with the biosecurity and sanitary standards of a facility, so long as the standards and requirements do not inhibit reasonable access, to: (4-1-00)

- a. Enter at reasonable times upon the premises of a permitted facility or where records are kept; (4-1-00)
- b. Have access to and copy at reasonable times any records that must be kept under conditions of the permit; (4-1-00)
- c. Inspect any facility or land application site; and (4-1-00)
- d. Sample or monitor at reasonable times, substances or parameters directly related to compliance with the permit or these rules. (4-1-00)

06. Reporting. The permittee shall report to the Director under the circumstances and in the manner specified in Section 400: (4-1-00)

- a. Orally, no later than twenty-four (24) hours from the time the permittee knows or should reasonably know of any noncompliance which may endanger the public health or the environment; and (4-1-00)
- b. In writing, within five (5) working days from the time a permittee knows or should reasonably know of any event which has resulted or which may result in noncompliance with these rules. The report shall contain: (4-1-00)
 - i. A description of the event and its cause or if the cause is not known, steps taken to investigate and determine the cause; (4-1-00)
 - ii. The period of the event including, to the extent possible, times and dates; (4-1-00)
 - iii. Measures taken to mitigate the event or eliminate the event and protect the public health; and (4-1-00)
 - iv. Steps taken to prevent recurrence of the event. (4-1-00)
- c. In writing, when the permittee knows or should reasonably know of material relevant facts not submitted or incorrect information submitted in a permit application or any report or notice to the Director. (4-1-00)

07. Begin Construction. If a permittee fails to begin construction or expansion of a facility within two (2) years of the effective date of a permit, the Director may void the permit and require a new application. (4-1-00)

08. Permit Renewal. If a permittee intends to continue operation of the permitted facility after expiration of an existing permit, the permittee shall apply for a new permit at least one hundred eighty (180) days prior to the expiration of any permit issued pursuant to these rules. (4-1-00)

401. -- 449. (RESERVED)

450. SPECIFIC PERMIT CONDITIONS.

01. Basis for Specific Permit Conditions. Conditions necessary for the protection of the environment and the public health may differ from facility to facility because of varying environmental conditions and animal waste compositions. The Director may establish, on a case-by-case basis, specific permit conditions. Specific conditions shall be established in consideration of characteristics specific to a facility and inherent hazards of those

characteristics. Such characteristics include, but are not limited to, the following: (4-1-00)

- a. Chemical, biological, physical and volumetric characteristics of the process wastewater; (4-1-00)
- b. Geological and climatic nature of the facility site; (4-1-00)
- c. Size of the site and its proximity to population centers and to ground and surface water; (4-1-00)
- d. Legal considerations relative to land use and water rights; (4-1-00)
- e. Techniques used in process wastewater distribution and the disposition of that vegetation exposed to process wastewaters; and (4-1-00)
- f. The need for monitoring and record keeping to determine if the facility is being operated in conformance with its design and if its design is adequate to protect the environment and the public health. (4-1-00)

02. Limitations to Operation. Conditions of the permit may specify or limit: (4-1-00)

- a. Process wastewater composition; (4-1-00)
- b. Method, manner and frequency of process wastewater treatment; (4-1-00)
- c. Physical, chemical and biological characteristics of a facility; (4-1-00)
- d. An odor management plan; and (4-1-00)
- e. Any other condition the Director finds necessary to protect public health or the environment. (4-1-00)

03. Compliance Schedules. The Director may establish a compliance schedule for facilities as part of the permit conditions including: (4-1-00)

- a. Specific steps or actions to be taken by the permittee to achieve compliance with applicable requirements or permit conditions; and (4-1-00)
- b. Dates by which those steps or actions are to be taken. (4-1-00)

04. Monitoring Requirements. Any facility may be subject to monitoring requirements including, but not limited to, the following: (4-1-00)

- a. The type, installation, use and maintenance of monitoring equipment; (4-1-00)
- b. Monitoring or sampling methodology, frequency and locations; (4-1-00)
- c. Monitored substances or parameters; (4-1-00)
- d. Testing and analytical procedures; and (4-1-00)
- e. Reporting requirements including both frequency and form. (4-1-00)

451. -- 499. (RESERVED)

500. PERMIT MODIFICATION.

01. Minor Modifications. Minor modifications are those which do not have a potential affect to the environment or the public health. Such modifications shall be made by the Director. Minor modifications are generally limited to: (4-1-00)

- a. The correction of typographical errors; (4-1-00)
- b. Transfer of ownership or operational control in accordance with Section 550; or (4-1-00)
- c. Certain minor changes in monitoring or operational conditions. (4-1-00)

02. Major Modifications. All modifications not considered minor shall be considered major modifications. The procedure for making major modifications shall be the same as that used for a new permit under these rules. (4-1-00)

501. -- 549. (RESERVED)

550. TRANSFER OF PERMITS.

01. Transfer Application. A new owner or operator of a facility shall submit a transfer application to the Director that includes at least the following: (4-1-00)

- a. The relevant information required by Subsection 200.04; and (4-1-00)
- b. Any change of conditions at the facility resulting from the transfer of ownership or operation. (4-1-00)

c. The Director shall review the transfer application and within sixty (60) days of its receipt either approve or deny the transfer. (4-1-00)

02. Transfer Approval. An approved permit transfer shall be a minor modification in accordance with Subsection 500.01 as long as there are no major changes of conditions at the facility. Major changes of conditions at a facility will be subject to the provisions of Subsection 500.02. (4-1-00)

03. Transfer Denial. A notification of a permit denial shall set forth the reasons for the denial, steps necessary to meet the requirements for a permit transfer and the opportunity for the applicant to request a hearing. (4-1-00)

04. Permit Obligations. The new permittee assumes all rights and responsibilities of the transferred permit. (4-1-00)

551. -- 599. (RESERVED)

600. VIOLATIONS.

01. Failure to Comply. Failure by a permittee to comply with the provisions of these rules or with any permit condition shall be deemed a violation of these rules. (4-1-00)

02. Falsification of Statements and Records. It shall be a violation of these rules for any person to knowingly make a false statement, representation, or certification in any application report, document, or record developed, maintained, or submitted pursuant to these rules or the conditions of a permit. (4-1-00)

03. Discharges. Any unauthorized discharge from a facility shall be a violation of these rules. (4-1-00)

04. Penalties. Any person violating any provision of these rules or any permit or order issued thereunder shall be liable for a civil or criminal penalty in accordance with Title 39, Chapter 1, Idaho Code. (4-1-00)

05. Permit Revocation. The Director may revoke a permit for: (4-1-00)

- a. A material violation of any condition of a permit; or (4-1-00)

b. If the permit was obtained by misrepresentation or failure to disclose all relevant facts. (4-1-00)

06. Revocation Hearing. Prior to revoking a permit, the Director shall issue a notice of intent which shall become final unless the permittee timely requests an administrative hearing in writing. Such hearing shall be conducted in accordance with Section 003 of these rules. (4-1-00)

601. -- 998. (RESERVED)

999. CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 74-114, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality." (4-1-00)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.11 – GROUND WATER QUALITY RULE

DOCKET NO. 58-0111-1901

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY FEE RULE

EFFECTIVE DATE AND HISTORY NOTES: The effective date of the temporary rule is June 30, 2019. Traditionally effective dates are published for every subsection, paragraph and subparagraph of a rule. These individualized effective dates provide a rich history for legal scholars and interested members of the public to explore the broader context of each rule. This docket retains these important history notes while establishing the effective date for each chapter to ensure there is no gap with the expiring rules.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that the Idaho Board of Environmental Quality has adopted a temporary rule. The action is authorized pursuant to Idaho §§ 39-105, 39-107, 39-120, and 39-126.

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

This rulemaking adopts and re-publishes the following existing and previously approved and codified fee rule chapter under IDAPA 58 rules of the Department of Environmental Quality:

IDAPA 58.01.11, Ground Water Quality Rule

As soon as reasonably possible, DEQ will commence promulgation of a proposed rule in accordance with the rulemaking requirements of Chapter 52, Title 67, Idaho Code.

More information regarding this rule docket is available at www.deq.idaho.gov/58-0111-1901.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. The Department of Environmental Quality (DEQ) would not be able to fulfill its statutory obligations without these rules. These rules are central to DEQ's mission to protect human health and the quality of Idaho's air, land, and water.

The fees or charges imposed by the rules are necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. Temporary adoption of these rules is necessary to ensure that DEQ is able to continue to offer services such as establishing points of compliance. Listed below is the fee category and statutory authority for imposition of the fee.

Idaho Code § 39-119, point of compliance application fee

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed by this rulemaking. This rulemaking does not impose a fee or charge beyond what was previously approved and codified in the prior rules. A description of each fee category is provided in the preceding section.

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

This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rules, contact the undersigned.

Dated this 3rd day of July, 2019.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton/Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 58-0111-1901

IDAPA 58
TITLE 01
CHAPTER 11

58.01.11 – GROUND WATER QUALITY RULE

000. LEGAL AUTHORITY.

The Idaho Legislature has given the Board of Environmental Quality authority to promulgate the Ground Water Quality Rule pursuant to Sections 39-105, 39-107, 39-120, and 39-126, Idaho Code. The authority to formulate and adopt rules as are necessary and feasible to protect the environment and health of the citizens of the state is vested in the Director and Board pursuant to Sections 39-105 and 39-107, Idaho Code. Under Section 39-120, Idaho Code, the Board is authorized to adopt, by rule, ambient ground water quality standards. Under Section 39-126, Idaho Code, all state agencies shall incorporate the Ground Water Quality Plan, adopted by the legislature, in the administration of their programs and are granted authority to promulgate rules to protect ground water quality as necessary to administer such programs. (3-20-97)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 58.01.11, Rules of the Department of Environmental Quality, IDAPA 58.01.11, “Ground Water Quality Rule.” (3-20-97)

02. Scope. Under Section 39-120, Idaho Code, the Department of Environmental Quality is designated as the primary agency to coordinate and administer ground water quality protection programs for the state. This rule establishes minimum requirements for protection of ground water quality through standards and an aquifer categorization process. The requirements of this rule shall serve as a basis for the administration of programs which address ground water quality. This rule does not in and of itself create a permit program. (3-20-97)

002. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality.” (3-15-02)

003. WRITTEN INTERPRETATIONS.

The Department of Environmental Quality may have written statements which pertain to the interpretation of the rules of this chapter. If available, such written statements can be inspected and copied, at cost, at the Department of Environmental Quality, 1410 North Hilton, Boise, ID 83706-1255. (3-20-97)

004. -- 005. (RESERVED)

006. POLICIES.

It is the intent of the Department to implement, through this rule, the following policies from the Protection and Prevention Sections of the Idaho Ground Water Quality Plan, adopted by the legislature, 1992 Session Law, Chapter 310, Page 922. These policies are: (3-20-97)

01. Ground Water Quality Protection. It is the policy of the state of Idaho to maintain and protect the existing high quality of the state’s ground water. (3-20-97)

02. Existing and Projected Future Beneficial Uses. The policy of the state of Idaho is that existing and projected future beneficial uses of ground water shall be maintained and protected, and degradation that would impair existing and projected future beneficial uses of ground water and interconnected surface water shall not be allowed. (3-20-97)

03. Categorization of Ground Water. The policy of the state of Idaho is to provide differential protection for the state's ground water resources. A ground water categorization system should be established for aquifers or portions of aquifers. The categorization system should be based on vulnerability of the ground water, existing and projected future beneficial uses of the ground water, existing quality of the ground water, and social and economic considerations. (3-20-97)

04. Ground Water Quality Standards. The policy of the state of Idaho is to establish ground water quality standards for biological, radiological, and chemical constituents. (3-20-97)

05. Prevention of Ground Water Contamination. The policy of the state of Idaho is to prevent contamination of ground water from all regulated and nonregulated sources of contamination to the maximum extent practical. (7-1-98)

06. Mining. The policy of the state of Idaho is to protect ground water and allow for the extraction of minerals above and within ground water. (7-1-98)

007. DEFINITIONS.

01. Agricultural Chemical. Any pesticide, nutrient or fertilizer used for the benefit of agricultural production or pest management. (3-20-97)

02. Aquifer. A geological unit of permeable saturated material capable of yielding economically significant quantities of water to wells and springs. (3-20-97)

03. Beneficial Uses. Various uses of ground water in Idaho including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, aquacultural water supplies, and mining. A beneficial use is defined as actual current or projected future uses of ground water. (3-20-97)

04. Best Available Method. Any system, process, or method which is available to the public for commercial or private use to minimize the impact of point or nonpoint sources of contamination on ground water quality. (3-20-97)

05. Best Management Practice. A practice or combination of practices determined to be the most effective and practical means of preventing or reducing contamination to ground water and interconnected surface water from nonpoint and point sources to achieve water quality goals and protect the beneficial uses of the water. (3-20-97)

06. Best Practical Method. Any system, process, or method that is established and in routine use which could be used to minimize the impact of point or nonpoint sources of contamination on ground water quality. (3-20-97)

07. Board. The Idaho Board of Environmental Quality. (3-20-97)

08. Cleanup. The removal, treatment or isolation of a contaminant from ground water through the directed efforts of humans or the removal or treatment of a contaminant in ground water through management practice or the construction of barriers, trenches and other similar facilities for prevention of contamination, as well as the use of natural processes such as ground water recharge, natural decay and chemical or biological decomposition. (3-20-97)

09. Constituent. Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance occurring in ground water. (3-20-97)

10. Contaminant. Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance which does not occur naturally in ground water or which naturally occurs at a lower concentration. (3-20-97)

11. Contamination. The direct or indirect introduction into ground water of any contaminant caused in

- whole or in part by human activities. (3-20-97)
- 12. Crop Root Zone.** The zone that extends from the surface of the soil to the depth of the deepest crop root and is specific to a species of plant, group of plants, or crop. (3-20-97)
- 13. Degradation.** The lowering of ground water quality as measured in a statistically significant and reproducible manner. (3-20-97)
- 14. Department.** The Department of Environmental Quality. (3-20-97)
- 15. Extraction.** Physical removal of ore or waste rock from mineral-bearing deposits. Extraction does not include processing, which is the removal of target minerals from ores by physical or chemical methods. (7-1-09)
- 16. Ground Water.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (3-20-97)
- 17. Ground Water Quality Standard.** Values, either numeric or narrative, assigned to any constituent for the purpose of establishing minimum levels of protection. (3-20-97)
- 18. Highly Vulnerable Ground Water.** Ground water characterized by a relatively high potential for contaminants to enter and/or be transported within the flow system. Determinations of ground water vulnerability will include consideration of land use practices and aquifer characteristics. (3-20-97)
- 19. Irreplaceable Source.** A ground water source serving a beneficial use(s) where the reliable delivery of comparable quality and quantity of water from an alternative source in the region would be economically infeasible or precluded by institutional constraints. (3-20-97)
- 20. Mine Operator.** Any person authorized to engage in mining activities, including without limitation those authorized by law, lease, contract, permit, or plan of operation. It does not include a governmental agency that grants mineral leases or similar contracts or permits unless the agency is engaged in mining activities. (7-1-09)
- 21. Mining Activity.** Recovery of a mineral from mineral-bearing deposits, which includes reclamation, extraction, excavation, overburden placement, disposal of tailings resulting from processing, and disposal of mineral extraction wastes, including tailings that are the result of extraction, waste rock, and other extraction wastes uniquely associated with mining. (7-1-09)
- 22. Mining Area.** The area on or within which one (1) or more mining activities occur. The Department shall determine the boundaries of the mining area as provided in Section 401. Distinct mining activities may constitute separate mining areas. (7-1-09)
- 23. Natural Background Level.** The level of any constituent in the ground water within a specified area as determined by representative measurements of the ground water quality unaffected by human activities. (3-20-97)
- 24. Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any legal entity which is recognized by law as the subject of rights and duties. (3-20-97)
- 25. Point of Compliance.** The vertical surface where the Department determines compliance with ground water quality standards as provided in Subsection 400.05 and Section 401. (7-1-09)
- 26. Practical Quantitation Level.** The lowest concentration of a constituent that can be reliably quantified among laboratories within specified limits of precision and accuracy during routine laboratory operating conditions. Specified limits of precision and accuracy are the criteria listed in the calibration specifications or quality control specifications of an analytical method. (3-20-97)
- 27. Projected Future Beneficial Uses.** Various uses of ground water, such as drinking water,

aquaculture, industrial, mining or agriculture, that are practical and achievable in the future based on hydrogeologic conditions, water quality, future land use activities and social/economic considerations. (3-20-97)

28. Recharge Area. An area in which water infiltrates into the soil or geological formation from, including but not limited to precipitation, irrigation practices and seepage from creeks, streams, and lakes, and percolates to one (1) or more aquifers. (3-20-97)

29. Reclamation. The process of restoring an area affected by a mining activity to its original or another beneficial use, considering previous uses, possible future uses, and surrounding topography. The objective is to re-establish a diverse, self-perpetuating plant community, and to minimize erosion, remove hazards, and maintain water quality. (7-1-09)

30. Remediation. Any action taken (1) to control the source of contamination, (2) to reduce the level of contamination, (3) to mitigate the effects of contaminants, and/or (4) to minimize contaminant movement. Remediation includes providing alternate drinking water sources when needed. (3-20-97)

31. Site Background Level. The ground water quality at the hydraulically upgradient site boundary. (3-20-97)

008. -- 010. (RESERVED)

011. INCORPORATION BY REFERENCE.

Codes, standards and regulations may be incorporated by reference in this rule pursuant to Section 67-5229, Idaho Code. Such incorporation by reference shall constitute full adoption by reference, including any notes or appendices therein, unless expressly provided otherwise in this rule. Codes, standards or regulations adopted by reference throughout this rule are available in the following locations: (3-20-97)

01. Department of Environmental Quality. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255. (3-20-97)

02. Law Library. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051. (3-20-97)

03. U.S. Government Printing Office. U.S. Government Printing Office, Superintendent of Documents, Washington, D.C. 20402, or U.S. Government Bookstore, Room 194 Federal Bldg., 915 Second Ave., Seattle, WA 98174. (3-20-97)

012. -- 149. (RESERVED)

150. IMPLEMENTATION.

This rule establishes minimum requirements to maintain and protect ground water quality. This rule applies to all activities with the potential to degrade ground water quality. (3-20-97)

01. Ground Water Quality Standards. The numerical and narrative standards in Sections 200 and 301 identify minimum levels of protection for ground water quality and shall be used as a basis for: (3-20-97)

a. Evaluating or comparing ground water quality when developing or modifying best available methods, best management practices, or best practical methods; (3-20-97)

b. Identifying permit conditions; (3-20-97)

c. Establishing cleanup levels; and (3-20-97)

d. Determining appropriate actions when ground water quality standards are exceeded. (3-20-97)

02. Aquifer Categorization. Aquifers of the state shall be categorized based on vulnerability of the ground water, existing and projected future beneficial uses of the ground water, existing water quality, and social and

economic considerations. There shall be three aquifer categories, Sensitive Resource, General Resource, and Other Resource, to provide different levels of protection. The level of protection required for each category and application of standards to these categories are shown in Table I.

Table 1. Level of Protection and Application of Standards to Aquifer Categories		
Category	Level of Protection	Application of Standards
Sensitive Resource	Apply best management practices and best available methods. This category provides the highest level of ground water protection.	May apply stricter standards than in Section 200.
General Resource	Apply best management practices and best practical methods to the maximum extent practical.	Apply numerical and narrative standards in Section 200.
Other Resource	Apply best management practices and best practical methods to the maximum extent practical.	May apply less strict standards than in Section 200.

(3-25-16)

a. All aquifers where there are activities with the potential to degrade ground water quality are categorized in Section 300. Those aquifers where no activities with the potential to degrade ground water quality are occurring will remain uncategorized until such activities are commenced. If no action is taken to categorize an aquifer when an activity(ies) with the potential to degrade ground water quality is initiated, the aquifer will automatically be categorized as General Resource. (3-20-97)

b. Categorization should be considered when an activity with the potential to degrade ground water quality is proposed over an aquifer or portion of an aquifer which presently has no such activities and, based on the criteria in Section 350, the aquifer may be most appropriately categorized as Sensitive Resource or Other Resource. (3-20-97)

c. Recategorization should be considered when information on vulnerability of the ground water, existing and projected future beneficial uses of the ground water, existing quality of the ground water, and social and economic considerations, in conjunction with one or more of the criteria in Section 350, demonstrates that the aquifer or portion of an aquifer may be more appropriate in another category. (3-20-97)

03. Ground Water-Surface Water Interconnection. The beneficial uses of interconnected surface water shall be recognized when evaluating ground water quality protection. The implementation of water quality programs shall ensure that the quality of ground water that discharges to surface water does not impair the identified beneficial uses of the surface water and that surface water infiltration does not impair beneficial uses of ground water. (3-20-97)

04. Interagency Coordination. The Department will coordinate with other federal, state, and local agencies to pursue interagency agreements when necessary to ensure implementation of this rule for activities which have the potential to degrade ground water quality. (3-20-97)

151. -- 199. (RESERVED)

200. GROUND WATER QUALITY STANDARDS. The following numerical and narrative standards apply to all ground water of the state and shall not be exceeded unless otherwise allowed in this rule. (3-20-97)

01. Numerical Ground Water Quality Standards. (3-20-97)

a. The Primary Constituent Standards are based on protection of human health and are identified in

Table II.

Table II - Primary Constituent Standards		
Chemical Abstract Service Number	Constituent	Standard (mg/l unless otherwise specified)
7440-36-0	Antimony	0.006
7440-38-2	Arsenic	0.05
1332-21-4	Asbestos	7 million fibers/l longer than 10 um
7440-39-3	Barium	2
7440-41-7	Beryllium	0.004
7440-43-9	Cadmium	0.005
7440-47-3	Chromium	0.1
7440-50-8	Copper	1.3
57-12-5	Cyanide	0.2
16984-48-8	Fluoride	4
7439-92-1	Lead	0.015
7439-97-6	Mercury	0.002
*1	Nitrate (as N)	10
*1	Nitrite (as N)	1
*1	Nitrate and Nitrite (both as N)	10
7782-49-2	Selenium	0.05
7440-28-0	Thallium	0.002
15972-60-8	Alachlor	0.002
1912-24-9	Atrazine	0.003
71-43-2	Benzene	0.005
50-32-8	Benzo(a)pyrene (PAH)	0.0002
75-27-4	Bromodichloromethane (THM)	0.1
75-25-2	Bromoform (THM)	0.1
1563-66-2	Carbofuran	0.04
56-23-5	Carbon Tetrachloride	0.005
57-74-9	Chlordane	0.002
124-48-1	Chlorodibromomethane (THM)	0.1
67-66-3	Chloroform(THM)	0.002
94-75-7	2,4-D	0.07
75-99-0	Dalapon	0.2

Table II - Primary Constituent Standards		
Chemical Abstract Service Number	Constituent	Standard (mg/l unless otherwise specified)
103-23-1	Di(2-ethylhexyl) adipate	0.4
96-12-8	Dibromochloropropane	0.0002
541-73-1	Dichlorobenzene m-	0.6
95-50-1	Dichlorobenzene o-	0.6
106-46-7	1,4(para)-Dichlorobenzene or Dichlorobenzene p-	0.075
107-06-2	1,2-Dichloroethane	0.005
75-35-4	1,1-Dichloroethylene	0.007
156-59-2	cis-1, 2-Dichloroethylene	0.07
156-60-5	trans-1, 2-Dichloroethylene	0.1
75-09-2	Dichloromethane	0.005
78-87-5	1,2-Dichloropropane	0.005
117-81-7	Di(2-ethylhexyl)phthalate	0.006
88-85-7	Dinoseb	0.007
85-00-7	Diquat	0.02
145-73-3	Endothall	0.1
72-20-8	Endrin	0.002
100-41-4	Ethylbenzene	0.7
106-93-4	Ethylene dibromide	0.00005
1071-83-6	Glyphosate	0.7
76-44-8	Heptachlor	0.0004
1024-57-3	Heptachlor epoxide	0.0002
118-74-1	Hexachlorobenzene	0.001
77-47-4	Hexachlorocyclopentadiene	0.05
58-89-9	Lindane	0.0002
72-43-5	Methoxychlor	0.04
108-90-7	Monochlorobenzene	0.1
23135-22-0	Oxamyl (Vydate)	0.2
87-86-5	Pentachlorophenol	0.001
1918-02-1	Picloram	0.5
1336-36-3	Polychlorinated biphenyls (PCBs)	0.0005
122-34-9	Simazine	0.004

Table II - Primary Constituent Standards		
Chemical Abstract Service Number	Constituent	Standard (mg/l unless otherwise specified)
100-42-5	Styrene	0.1
1746-01-6	2,3,7,8-TCDD (Dioxin)	3.0 x 10 ⁻⁸
127-18-4	Tetrachloroethylene	0.005
108-88-3	Toluene	1
*1	Total Trihalomethanes [the sum of the concentrations of bromodichloromethane, dibromochloromethane, tribromomethane (bromoform), and trichloromethane (chloroform)]	0.1
8001-35-2	Toxaphene	0.003
93-72-1	2,4,5-TP (Silvex)	0.05
120-82-1	1,2,4-Trichlorobenzene	0.07
71-55-6	1,1,1-Trichloroethane	0.2
79-00-5	1,1,2-Trichloroethane	0.005
79-01-6	Trichloroethylene	0.005
75-01-4	Vinyl Chloride	0.002
1330-20-7	Xylenes (total)	10
*1	Gross alpha particle activity (including radium -226, but excluding radon and uranium)	15 pCi/l
*1	Combined beta/photon emitters	4 millirems/year effective dose equivalent
*1	Combined Radium - 226 and radium 228	5 pCi/l
*1	Strontium 90	8 pCi/l
*1	Tritium	20,000 pCi/l
*1	Total Coliform ²	1 colony forming unit/100 ml
	Escherichia coliform (E. coli)	Less than 1 viable colony or colony forming unit/100 ml using any EPA approved method
	Fecal coliform	Less than 1 viable colony or colony forming unit/100 ml using any EPA approved method
Table Footnotes		
*1 No Chemical Abstract Service Number exists for this constituent.		

Table II - Primary Constituent Standards		
Chemical Abstract Service Number	Constituent	Standard (mg/l unless otherwise specified)
² An exceedance of the primary ground water quality standard for total coliform is not a violation of these rules. If the primary ground water quality standard for total coliform is exceeded, additional analysis for fecal coliform or E. coli will be conducted. An exceedance of the primary ground water quality standards for either fecal coliform or E. coli is a violation of these rules.		

(3-30-07)

b. The Secondary Constituent Standards are generally based on aesthetic qualities and are identified in Table III.

TABLE III - SECONDARY CONSTITUENT STANDARDS	
Constituent	Standard (mg/l unless otherwise specified)
Aluminum	0.2
Chloride	250
Color	15 Color Units
Foaming Agents	0.5
Iron	0.3
Manganese	0.05
Odor	3.0 Threshold Odor Number
pH	6.5 to 8.5 (no units apply)
Silver	0.1
Sulfate	250
Total Dissolved Solids	500
Zinc	5

(3-20-97)

c. Sample preservation and analytical procedures to determine compliance with the standards identified in Subsection 200.01 shall be in accordance with the following, except that cyanide shall be analyzed as weak acid dissociable cyanide using a method approved by the Department: (5-3-03)

i. Environmental Protection Agency, Code of Federal Regulations, Title 40, Parts 141 and 143, revised as of July 2001; or (5-3-03)

ii. Another method approved by the Department. (3-20-97)

02. Narrative Ground Water Quality Standards. Contaminant concentrations, alone or in

combination with other contaminants or properties, shall not cause the ground water to be hazardous, deleterious, carcinogenic, mutagenic, teratogenic, or toxic. Determinations of specific numerical levels when applying this standard shall be based on: (3-20-97)

- a. Best scientific information currently available on adverse effects of the contaminant(s); (3-20-97)
- b. Protection of a beneficial use; or (3-20-97)
- c. Practical quantitation levels for the contaminant(s), if they exceed the levels identified in Subsection 200.02.a. or 200.02.b. (3-20-97)

03. Natural Background Level. If the natural background level of a constituent exceeds the standard in this section, the natural background level shall be used as the standard. (3-20-97)

201. -- 299. (RESERVED)

300. CATEGORIZED AQUIFERS OF THE STATE.

Aquifers or portions of aquifers in the state are categorized as follows: (3-20-97)

01. Sensitive Resource. (3-20-97)

- a. Spokane Valley -- Rathdrum Prairie Aquifer. (3-20-97)

- i. In addition to the ground water quality standards in Section 200, the following narrative standard applies: the aquifer shall not be degraded, as it relates to beneficial uses, as a result of point source or nonpoint source activity unless it is demonstrated by the person proposing the activity that such change is justifiable as a result of necessary economic or social development. (3-20-97)

02. General Resource. All aquifers or portions of aquifers where there are activities with the potential to degrade ground water quality of the aquifer, unless otherwise listed in Subsection 300.01 or 300.03. Once an activity with the potential to degrade the ground water quality of an uncategorized aquifer or portion of an aquifer is initiated, the uncategorized aquifer shall automatically become General Resource unless petitioned into the Sensitive Resource or Other Resource category. (3-20-97)

03. Other Resource. (3-20-97)

301. MANAGEMENT OF ACTIVITIES WITH THE POTENTIAL TO DEGRADE AQUIFERS.

01. Sensitive Resource Category Aquifers. (3-20-97)

- a. Activities with the potential to degrade Sensitive Resource aquifers shall be managed in a manner which maintains or improves existing ground water quality through the use of best management practices and best available methods except when a point of compliance is set pursuant to Section 401. (3-25-16)

- b. Numerical and narrative standards identified in Section 200 shall apply to aquifers or portions of aquifers categorized as Sensitive Resource. In addition, stricter numerical and narrative standards, for specified constituents, may be adopted pursuant to Section 350 on a case by case basis and listed in Section 300. (3-20-97)

02. General Resource Category Aquifers. (3-20-97)

- a. Activities with the potential to degrade General Resource aquifers shall be managed in a manner which maintains or improves existing ground water quality through the use of best management practices and best practical methods to the maximum extent practical except when a point of compliance is set pursuant to Section 401. (3-25-16)

- b. Numerical and narrative standards identified in Section 200 shall apply to aquifers or portions of aquifers categorized as General Resource. (3-20-97)

03. Other Resource Category Aquifers. (3-20-97)

a. Activities with the potential to degrade Other Resource aquifers shall be managed in a manner which maintains existing ground water quality, except for those identified constituents which may have a less stringent standard, through the use of best management practices and best practical methods to the maximum extent practical except when a point of compliance is set pursuant to Section 401. (3-25-16)

b. Numerical and narrative standards identified in Section 200 shall apply to aquifers or portions of aquifers categorized as Other Resource. In addition, less strict numerical and narrative standards, for specified constituents, may be adopted pursuant to Section 350 on a case by case basis and listed in Section 300. (3-20-97)

302. -- 349. (RESERVED)

350. PROCEDURES FOR CATEGORIZING OR RECATEGORIZING AN AQUIFER.

The following process shall be used for categorizing or recategorizing an aquifer. (3-20-97)

01. Criteria for Aquifer Categories. The following criteria shall be considered when a petition to categorize or recategorize aquifers or portions of aquifers is submitted to the Board: (3-20-97)

a. For Sensitive Resource aquifers: (3-20-97)

i. The ground water in an aquifer or portion of an aquifer is of a better quality than the ground water quality standards in Section 200 and maintenance of this quality is needed to protect an identified beneficial use(s); (3-20-97)

ii. The ground water in an aquifer or portion of an aquifer is considered highly vulnerable; (3-20-97)

iii. The ground water in an aquifer or portion of an aquifer represents an irreplaceable source for the identified beneficial use(s); (3-20-97)

iv. The ground water quality in an aquifer or portion of an aquifer has been degraded and there is a need for additional protection measures to maintain or improve the water quality or prevent impairment of a beneficial use; (3-20-97)

v. The ground water within an aquifer or portion of an aquifer is shown to be hydrologically interconnected with surface water and additional protection is needed to maintain the quality of either surface or ground water. Hydrologic interconnections can include either natural or induced ground water recharge or discharge areas; or (7-1-98)

vi. The ground water within an aquifer or portion of an aquifer demonstrates other criteria which justify the need for additional protection. (3-20-97)

b. For General Resource aquifers: (3-20-97)

i. An activity with the potential to degrade ground water quality is initiated over an aquifer or portion of an aquifer which presently has no such activities; (3-20-97)

ii. The ground water in an aquifer or portion of an aquifer is currently being used for drinking water or another beneficial use which requires similar protection; or (3-20-97)

iii. The ground water in an aquifer or portion of an aquifer has a projected future beneficial use of drinking water or another beneficial use which requires similar protection. (3-20-97)

c. For other resource aquifers: (3-20-97)

i. The ground water quality within an aquifer or portion of an aquifer does not meet one or more of

the ground water quality standards in Section 200; and allowing the ground water quality to remain at this level does not impair existing or projected future beneficial uses within the aquifer or portion of an aquifer; (3-20-97)

ii. The projected ground water quality within an aquifer or portion of an aquifer will not meet one or more of the ground water quality standards in Section 200 as a result of activities over or within the aquifer or portion of an aquifer; and allowing the proposed degradation will not impair existing or projected future beneficial uses; (3-20-97)

iii. Human caused conditions or sources of contamination have resulted in ground water quality standards in Section 200 being exceeded, and the contamination cannot be remedied for economical or technical reasons, or remediation would cause more environmental damage to correct than to leave in place; or (3-20-97)

iv. The ground water within an aquifer or portion of an aquifer demonstrates other criteria which justify the need for categorization as an Other Resource. (3-20-97)

02. Petition Process. The Department or any other person may petition the Board to initiate rulemaking to categorize or recategorize an aquifer or portion of an aquifer pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." In addition to the information required in a rulemaking Petition pursuant to IDAPA 58.01.23, the following information shall be submitted in writing by the Petitioner for the identified aquifer or portion of an aquifer: (3-15-02)

- a. Current category, if applicable; (3-20-97)
- b. Proposed category and an explanation of how one or more of the criteria in Subsection 350.01 are met; (3-20-97)
- c. An explanation of why the categorization or recategorization is being proposed; (3-20-97)
- d. Location, description and areal extent; (3-20-97)
- e. General location and description of existing and projected future ground water beneficial uses; (3-20-97)
- f. Documentation of the existing ground water quality; (3-20-97)
- g. Documentation of aquifer characteristics, where available, including, but not limited to: (3-20-97)
 - i. Depth to ground water; (3-20-97)
 - ii. Thickness of the water bearing section; (3-20-97)
 - iii. Direction and rate of ground water flow; (3-20-97)
 - iv. Known recharge and discharge areas; and (3-20-97)
 - v. Geology of the area; (3-20-97)
- h. Identification of any proposed standards, for specified constituents, which would be stricter or less strict than the ground water quality standards in Section 200, or any standards to be applied in addition to those in Section 200; and a rationale for the proposed standards. (3-20-97)

03. Preliminary Department Review. Prior to submission of a petition to the Board to categorize or recategorize an aquifer, any person may seek a preliminary review of the petition from the Department. The Department shall respond to the petitioner with comments within forty-five (45) days. (3-20-97)

351. -- 399. (RESERVED)

400. GROUND WATER CONTAMINATION.

01. Releases Degrading Ground Water Quality. No person shall cause or allow the release, spilling, leaking, emission, discharge, escape, leaching, or disposal of a contaminant into the environment in a manner that: (3-20-97)

- a. Causes a ground water quality standard to be exceeded; (3-20-97)
- b. Injures a beneficial use of ground water; or (3-20-97)
- c. Is not in accordance with a permit, consent order or applicable best management practice, best available method or best practical method. (3-20-97)

02. Measures Taken in Response to Degradation. (3-25-16)

a. Except when a point of compliance is set pursuant to Section 401, when a numerical standard is not exceeded, but degradation of ground water quality is detected and deemed significant by the Department, the Department shall take one (1) or more of the following actions: (3-25-16)

- i. Require a modification of regulated activities to prevent continued degradation; (3-20-97)
- ii. Coordinate with the appropriate agencies and responsible persons to develop and implement prevention measures for activities not regulated by the Department; (3-20-97)

iii. Allow limited degradation of ground water quality for the constituents identified in Subsection 200.01.a. if it can be demonstrated that: (3-30-07)

(1) Best management practices, best available methods or best practical methods, as appropriate for the aquifer category, are being applied; and (3-20-97)

(2) The degradation is justifiable based on necessary and widespread social and economic considerations; or (3-20-97)

iv. Allow degradation of ground water quality up to the standards in Subsection 200.01.b., if it can be demonstrated that: (3-20-97)

(1) Best management practices are being applied; and (3-20-97)

(2) The degradation will not adversely impact a beneficial use. (3-20-97)

b. The following criteria shall be considered when determining the significance of degradation: (3-20-97)

i. Site specific hydrogeologic conditions; (3-20-97)

ii. Water quality, including seasonal variations; (3-20-97)

iii. Existing and projected future beneficial uses; (3-20-97)

iv. Related public health issues; and (3-20-97)

v. Whether the degradation involves a primary or secondary constituent in Section 200. (3-20-97)

03. Contamination Exceeding a Ground Water Quality Standard. The discovery of any contamination exceeding a ground water standard that poses a threat to existing or projected future beneficial uses of ground water shall require appropriate actions, as determined by the Department, to prevent further contamination. These actions may consist of investigation and evaluation, or enforcement actions if necessary to stop further

contamination or clean up existing contamination, as required under the Environmental Protection and Health Act, Section 39-108, Idaho Code. (3-20-97)

04. Agricultural Chemicals. Agricultural chemicals found in intermittently saturated soils within the crop root zone will not be considered ground water contaminants as long as the chemicals remain within the crop root zone, and have been applied in a manner consistent with all appropriate regulatory requirements. (3-20-97)

05. Site-Specific Ground Water Quality Levels or Points of Compliance. The Department may allow site-specific ground water quality levels, for any aquifer category, that vary from a standard(s) in Section 200 or Section 300, or may allow site-specific points of compliance, based on consideration of effects to human health and the environment, for: (7-1-09)

- a. Remediation conducted under the Department's oversight; (3-20-97)
- b. Permits issued by the Department; (3-20-97)
- c. Situations where the site background level varies from the ground water quality standard; (7-1-09)
- d. Dissolved concentrations of secondary constituents listed in Section 200 of this rule. The Department may allow the use of dissolved concentrations for secondary constituents if the requesting person demonstrates that doing so will not adversely affect human health and the environment; or (7-1-09)
- e. Other situations authorized by the Department in writing. (3-20-97)

401. MINING.

01. Request for Setting Point(s) of Compliance and Standards Applicable to Mining Activities. At the request of a mine operator, pursuant to this section, the Department shall set a point of compliance, or points of compliance, at which the mine operator shall protect current and projected future beneficial uses of the ground water and meet the ground water quality standards as described in Section 200 or as allowed under Subsection 400.05. Degradation of ground water is allowed at a point of compliance if the mine operator implements the level of protection during mining activities appropriate for the aquifer category as specified in Table 1 of Subsection 150.02. If a request is not made, the mine operator must meet the ground water quality standards as described in Subsection 150.01 in ground water both within and beyond the mining area unless the Department establishes the point(s) of compliance consistent with Subsection 401.03. (3-25-16)

02. Application Process. (7-1-09)

a. If the mine operator requests a point of compliance, or points of compliance, the mine operator shall make written application to the Department. The application shall be accompanied by a fee of two thousand five hundred dollars (\$2,500). The application shall include the following information in sufficient detail to allow the Department to establish point(s) of compliance: (7-1-09)

- i. Name, location, and mailing address of the mining operation; (7-1-09)
- ii. Name, mailing address, and phone number of the mine operator; (7-1-09)
- iii. Land ownership status of the mining operation (federal, state, private or public); (7-1-09)
- iv. The legal structure (corporation, partnership, etc.) and residence of the mine operator; (7-1-09)
- v. The legal description, to the quarter-quarter section, of the location of the proposed mining operation; (7-1-09)
- vi. Evidence the mine operator is authorized by the Secretary of State to conduct business in the state of Idaho; (7-1-09)

vii. A general description of the operational plans for the mining operation from construction through final reclamation. This description shall include any proposed phases for construction, operations, and reclamation and a map that identifies the location of all mining activities; (7-1-09)

viii. A preconstruction topographic site map or aerial photos extending at least one (1) mile beyond the outer limits of the mining area, identifying and showing the location and extent of the following features: (7-1-09)

(1) All wells, perennial and intermittent springs, adit discharges, wetlands, surface waters and irrigation ditches; (7-1-09)

(2) All public and private drinking water supply source(s) within one (1) mile of the mining area; (7-1-09)

(3) All service roads and public roads; (7-1-09)

(4) All buildings and structures within one (1) mile of the mining area; (7-1-09)

(5) All special resource waters within one (1) mile of the mining area; and (7-1-09)

(6) All Clean Water Act Section 303(d) listed streams, and their listed impairments, within one (1) mile of the mining area; (7-1-09)

ix. To the extent such information is available, a description and location of underground mine workings and adits and a description of the structural geology that may influence ground water flow and direction; (7-1-09)

x. Information regarding the relevant factors set forth in Subsection 401.03; and (7-1-09)

xi. A proposed point of compliance, or points of compliance. (7-1-09)

b. Within thirty (30) days of receipt of an application, the Department shall issue a written notice to the mine operator indicating: (7-1-09)

i. That the application is complete; or (7-1-09)

ii. That the Department is rejecting the application as incomplete. In such a case, the Department shall provide a list of deficiencies. Upon a determination that the application is incomplete, the Department shall refund one-half (1/2) of the application fee. (7-1-09)

c. The Department shall establish the point(s) of compliance within one hundred eighty (180) days after receipt of a complete application unless the Department determines that additional time is necessary due to unusual circumstances. (7-1-09)

03. Setting the Point(s) of Compliance. The point(s) of compliance shall be set as close as possible to the boundary of the mining area, taking into consideration the relevant factors set forth in Subsections 401.03.a. through 401.03.h., but in no event shall the point(s) of compliance be within the boundary of the mining area. The mining area boundary means the outermost perimeter of the mining area (projected in the horizontal plane) as it would exist at the completion of the mining activity. The point(s) of compliance shall be set so that, outside the mining area boundary, there is no injury to current or projected future beneficial uses of ground water and there is no violation of water quality standards applicable to any interconnected surface waters. The Department's determination regarding the point(s) of compliance shall be based on an analysis and consideration of all relevant factors including, but not limited to: (7-1-09)

a. The hydrogeological characteristics of the mining area and surrounding land, including any dilution characteristics of the aquifer and any natural attenuation supported by site-specific data; (7-1-09)

b. The concentration, volume, and physical and chemical characteristics of contaminants resulting

- from the mining activity, including the toxicity and persistence of the contaminants; (7-1-09)
- c. The quantity, quality, and direction of flow of ground water underlying the mining area; (7-1-09)
 - d. The proximity and withdrawal rates of current ground water users; (7-1-09)
 - e. A prediction of projected future beneficial uses; (7-1-09)
 - f. The availability of alternative drinking water supplies; (7-1-09)
 - g. The existing quality of the ground water, including other sources of contamination and their cumulative impacts on the ground water; and (7-1-09)
 - h. Public health, safety, and welfare effects. (7-1-09)

04. Ground Water Monitoring and Reporting. The Department shall require ground water monitoring and reporting whenever the Department sets the point(s) of compliance. The Department shall not require ground water monitoring that duplicates ground water monitoring required by other state or federal agencies as long as the mine operator provides the data to the Department. (7-1-09)

- a. A ground water monitoring system required under Subsection 401.04 shall be designed to: (7-1-09)
 - i. Represent the quality of background ground water that has not been affected by the mining activity; and (7-1-09)
 - ii. Represent the quality of ground water passing the point(s) of compliance in order to determine compliance with ground water quality standards or effectiveness of best management practices. (7-1-09)
- b. When practicable, indicator monitoring wells or other devices may be required. Such indicator wells and other devices shall not be used to determine compliance with the ground water quality standards, but instead may be used to evaluate modeling results, to predict the quality of ground water at the point(s) of compliance, or to determine the effectiveness of best management practices. (7-1-09)
- c. All monitoring wells shall be constructed (well depth, well screen size, well screen interval, gravel pack, etc.) and developed so that ground water samples represent the quality of ground water that is relevant to current and future beneficial uses. (7-1-09)

05. Coordination with Other State or Federal Agencies/Public Notice. Before setting the point(s) of compliance or requiring ground water monitoring, the Department shall coordinate with and seek recommendations from other state or federal agencies that have regulatory authority over the mining activities. The Department may provide public notice and an opportunity for public comment prior to setting or changing the point(s) of compliance. The Department shall issue a public notice after it sets the point(s) of compliance. (7-1-09)

06. Limitations. Section 401 addresses only those contaminants that naturally occur in the mining area ground water or in the surrounding rock or soil and are present in concentrations above the natural background level as a result of mining activities. (7-1-09)

07. Application of Provisions. The provisions set out in Section 401 apply to new mining activities or to an expansion of existing mining activities commencing after July 1, 2009. All consent orders, compliance schedules, and other agreements adopted or issued by the Department prior to July 1, 2009 pertaining to ground water protection at mine sites shall remain in full force and effect. (7-1-09)

08. Change in Point(s) of Compliance/Ground Water Monitoring. (7-1-09)

- a. A change in the point(s) of compliance may be requested by the mine operator when there is a change in, or new information regarding, the mining activity or any of the factors set forth in Subsection 401.03. A change requested by the mine operator shall include an identification of the new proposed point(s) of compliance, a

description of the cause for the change and any data supporting the change. The mine operator's request shall be handled as an application submitted pursuant to Subsection 401.02.a. and shall be subject to all other provisions of Section 401. (7-1-09)

b. The Department may initiate a change in the point(s) of compliance if there is a change in, or new information regarding, the mining activity or any of the factors set forth in Subsection 401.03, and the Department determines that the change is necessary to ensure there is no injury to current or projected future beneficial uses of ground water and no violation of water quality standards applicable to any interconnected surface waters. The Department shall notify the mine operator in writing of the Department's intent to change the point(s) of compliance. The Department shall make its final decision to change the point(s) of compliance within sixty (60) days of the notice to the mine operator unless the Department and the mine operator agree more time is necessary to make the decision. (7-1-09)

c. The Department may require additional or new ground water monitoring or indicator wells when the Department changes the point(s) of compliance. The Department may also require additional or different ground water monitoring or indicator wells if the Department determines, based upon a change in or new information regarding the mining activity or any of the factors listed in Subsection 401.03, that the monitoring no longer meets the requirements set forth in Subsection 401.04. The mine operator may also request a change in the monitoring. (7-1-09)

402. -- 999. (RESERVED)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.15 – RULES GOVERNING THE CLEANING OF SEPTIC TANKS

DOCKET NO. 58-0115-1901

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE AND HISTORY NOTES: The effective date of the temporary rule is June 30, 2019. Traditionally effective dates are published for every subsection, paragraph and subparagraph of a rule. These individualized effective dates provide a rich history for legal scholars and interested members of the public to explore the broader context of each rule. This docket retains these important history notes while establishing the effective date for each chapter to ensure there is no gap with the expiring rules.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that the Idaho Board of Environmental Quality has adopted a temporary rule. The action is authorized pursuant Chapter 1, Title 39, Idaho Code.

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

This rulemaking adopts and re-publishes the following existing and previously approved and codified rule chapter under IDAPA 58 rules of the Department of Environmental Quality:

IDAPA 58.01.15, Rules Governing the Cleaning of Septic Tanks

As soon as reasonably possible, DEQ will commence promulgation of a proposed rule in accordance with the rulemaking requirements of Chapter 52, Title 67, Idaho Code.

More information regarding this rule docket is available at www.deq.idaho.gov/58-0115-1901.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. The Department of Environmental Quality (DEQ) would not be able to fulfill its statutory obligations without these rules. These rules are central to DEQ's mission to protect human health and the quality of Idaho's air, land, and water.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

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

This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rules, contact the undersigned.

Dated this 3rd day of July, 2019.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton/Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 58-0115-1901

IDAPA 58
TITLE 01
CHAPTER 15

58.01.15 – RULES GOVERNING THE CLEANING OF SEPTIC TANKS

000. (RESERVED)

001. LEGAL AUTHORITY.

Title 39, Chapter 1, Idaho Code, grants authority to the Board of Environmental Quality to adopt rules, regulations and standards to protect the environment and the health of the State and for the issuance of pollution source permits. Title 39, Chapter 1, Idaho Code, charges the Director to enforce all laws, rules, regulations and standards relating to environmental protection and health and those relating to the storage, handling and transportation of solids, liquids and gases which may cause or contribute to water pollution, and authorizes him to issue pollution source permits. (12-31-91)

002. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 58.01.15, “Rules Governing the Cleaning of Septic Tanks.” (12-31-91)

02. Scope. The provisions of these rules establish general requirements for the handling, transportation and disposal of septic tank wastes and for obtaining a septic tank pumping permit. (12-31-91)

003. GENERAL REQUIREMENTS.

All persons, firms or corporations operating any tank truck or any other device or equipment used or intended to be

used for the purpose of pumping or cleaning septic tanks and/or transporting or disposing of human excrement, shall conform with the following requirements. (3-1-60)

01. Equipment to Be Watertight. The tank or transporting equipment shall be watertight and so constructed as to prevent spilling or leaking while being loaded, transported and/or unloaded. (3-1-60)

02. Equipment to Be Cleanable. The tank or transporting equipment shall be constructed in such a manner that every portion of the interior and exterior can be easily cleaned and maintained in a clean condition at all times while not in actual use. (3-1-60)

03. Disposal Methods. Disposal of excrement from septic tanks shall be by the following methods only: (3-1-60)

a. Discharging to a public sewer; (3-1-60)

b. Discharging to a sewage treatment plant; (3-1-60)

c. Burying under earth in a location and by a method approved by the Department of Environmental Quality: (3-1-60)

d. Drying in a location and by a method approved by the Department of Environmental Quality. (3-1-60)

004. PERMIT REQUIREMENTS.

All persons operating septic tank pumping equipment shall obtain a permit from the Idaho Department of Environmental Quality for the operation of such equipment. Permits shall be renewed annually. Applications for renewal of permits shall be made on or before March 1 of each year. (3-1-60)

01. Permit Application Contents. Applications for permits shall submit the following information on forms prepared by the Department: (3-1-60)

a. Number of tank trucks operated by owner; (3-1-60)

b. Vehicle license number of each tank truck; (3-1-60)

c. Name and address of owner and/or operator of equipment; (3-1-60)

d. Name and address of business, if different from Subsection 004.01.c.; (3-1-60)

e. Methods of disposal to be used in all areas of operation; (3-1-60)

f. Location of all disposal sites used by applicant; (3-1-60)

g. A complete basis of charges made for payment of the work performed. (3-1-60)

02. Permit Fee. All applications shall be accompanied by payment of the fee specified in Idaho Department of Environmental Quality Rules, IDAPA 58.01.14, Section 115, "Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services." (12-31-91)

03. Vehicle Number to Be Displayed. For each permit issued, a number will be assigned to the owner and/or operator of the tank truck or trucks. The assigned number shall be displayed at all times on the door of the vehicle or vehicles in a manner easily legible. (3-1-60)

04. Permit Suspension or Revocation. Permits issued are the property of the Department of Environmental Quality and may be suspended or revoked at any time the operator is not in compliance with the requirements of these rules. (3-1-60)

005. -- 995. (RESERVED)

996. ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality.” (3-15-02)

997. CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 9, Chapter 3, Idaho Code, and IDAPA 58.01.21, “Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality.” (3-15-02)

998. -- 999.

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.17 – RECYCLED WATER RULES

DOCKET NO. 58-0117-1901

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE AND HISTORY NOTES: The effective date of the temporary rule is June 30, 2019. Traditionally effective dates are published for every subsection, paragraph and subparagraph of a rule. These individualized effective dates provide a rich history for legal scholars and interested members of the public to explore the broader context of each rule. This docket retains these important history notes while establishing the effective date for each chapter to ensure there is no gap with the expiring rules.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that the Idaho Board of Environmental Quality has adopted a temporary rule. The action is authorized pursuant Chapter 1, Title 39, Idaho Code.

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

This rulemaking adopts and re-publishes the following existing and previously approved and codified rule chapter under IDAPA 58 rules of the Department of Environmental Quality:

IDAPA 58.01.17, Recycled Water Rules

As soon as reasonably possible, DEQ will commence promulgation of a proposed rule in accordance with the rulemaking requirements of Chapter 52, Title 67, Idaho Code.

More information regarding this rule docket is available at www.deq.idaho.gov/58-0117-1901.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. The Department of Environmental Quality (DEQ) would not be able to fulfill its statutory obligations without these rules. These rules are central to DEQ's mission to protect human health and the quality of Idaho's air, land, and water.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

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

This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary rules attached hereto..

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rules, contact the undersigned.

Dated this 3rd day of July, 2019.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton/Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 58-0117-1901

**IDAPA 58
TITLE 01
CHAPTER 17**

58.01.17 – RECYCLED WATER RULES

000. LEGAL AUTHORITY.

Pursuant to Title 39, Chapter 1, Idaho Code, the Director of the Department of Environmental Quality is authorized to adopt or formulate and recommend to the Board of Environmental Quality, and the Board of Environmental Quality is authorized to adopt rules, regulations and standards necessary and feasible to protect the environment and the health of citizens of the State including provisions for the issuance of pollution source permits, authorized by Section 39-115, Idaho Code, and review of plans and specifications for wastewater treatment facilities, authorized by Section 39-118, Idaho Code. (4-7-11)

001. TITLE AND SCOPE.

01. Title. These rules are to be known and cited as Idaho Department of Environmental Quality Rules, IDAPA 58.01.17, “Recycled Water Rules.” (4-7-11)

02. Scope. These rules establish the procedures and requirements for the issuance and maintenance of pollution source permits for reuse facilities, also referred to in these rules as “reuse permits.” (4-7-11)

002. WRITTEN INTERPRETATIONS.

Any written statements pertaining to the interpretation of these rules shall be available for review at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255. (4-6-05)

003. INCORPORATION BY REFERENCE.

American Water Works Association (AWWA) Standards, effective December 2009, are incorporated by reference into these rules. This document is available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502, or can be purchased from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337. (4-7-11)

004. ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality.” (3-15-02)

005. CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code, and IDAPA 58.01.21, “Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality.” (3-15-02)

006. OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.

The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. (4-11-06)

007. (RESERVED)

008. REFERENCED MATERIALS.

01. Idaho Guidance for Recycled Water. This document, and subsequent revisions of this document, provides assistance in applying and interpreting these rules relating to the permitting and operations of reuse facilities. Copies of the document are available at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, and online at <http://www.deq.idaho.gov/guidance-documents>. (4-7-11)

02. Administrative Rules of the Department of Environmental Quality. The following Administrative Rules of the Department of Environmental Quality are referenced in these rules at <http://adminrules.idaho.gov/rules/current/58/index.html>. (4-7-11)

- a. IDAPA 58.01.02, “Water Quality Standards.” (4-7-11)
- b. IDAPA 58.01.03, “Individual/Subsurface Sewage Disposal Rules.” (4-7-11)
- c. IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems.” (4-7-11)
- d. IDAPA 58.01.11, “Ground Water Quality Rule.” (4-7-11)
- e. IDAPA 58.01.16, “Wastewater Rules.” (4-7-11)

03. Treatment Technology Report for Recycled Water. The Alternative Treatment Technology Report for Recycled Water, https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/documents/dwdocuments/Alternative%20Treatment%20Technology%20Report%20for%20RW%2009_2014.pdf. (4-7-11)

04. Recommended Standards for Wastewater Facilities. Recommended Standards for Wastewater Facilities - Great Lakes-Upper Mississippi River Board of State Sanitary Engineers at <http://10statesstandards.com/wastewaterstandards.html>. (4-7-11)

05. AWWA Manual M24. AWWA Manual M24, Chapter 4 for Dual Water Systems. This document is available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502, or can be purchased from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337. (4-7-11)

06. Idaho Standards for Public Works Construction. This document is available for a fee through the Local Highway Technical Assistance Council (LHTAC) at LHTAC, 3330 Grace Street, Boise, ID, 83703, (208)

344-0565. (4-7-11)

009. -- 099. (RESERVED)

100. APPLICABILITY.

01. Applicability to Reuse Facilities. All non-excluded reuse facilities are subject to the requirements of these rules. (4-7-11)

02. Excluded Facilities. (4-7-11)

a. Land application of wastewater from livestock truck washing facilities, feedlots, dairies and mining are excluded from permit requirements under these rules. (4-7-11)

b. The permit requirements set forth in these rules shall not apply to the incidental use of recycled water for landscape irrigation at a municipal wastewater treatment plant if: (4-7-11)

i. There is no other recycled water use that would subject the municipal wastewater treatment plant to these rules; (4-7-11)

ii. The municipal wastewater treatment plant has been issued an NPDES permit and the quality of the effluent meets that required by an NPDES permit; and (4-7-11)

iii. Public access to the area of landscape irrigation is restricted. (4-7-11)

c. The Director may exclude other facilities if covered adequately by other law. (4-7-11)

03. Reuse Policy. It is the policy of the Department to promote, where appropriate, the practice of reuse of both municipal and industrial recycled water through the continued creation and implementation of rules and guidance that give permittees various opportunities for new forms of reuse. (4-7-11)

101. -- 199. (RESERVED)

200. DEFINITIONS.

For the purpose of these rules, the following definitions apply unless another meaning is clearly indicated by context: (4-1-88)

01. Applicant. The person applying for a reuse permit. (4-7-11)

02. Applicable Requirements. Any state, local or federal statutes, regulations or ordinances to which the facility is subject. (4-1-88)

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. (4-7-11)

04. Biochemical Oxygen Demand (BOD). The measure of the amount of oxygen necessary to satisfy the biochemical oxidation requirements of the 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. (4-7-11)

05. Board. The Idaho Board of Environmental Quality. (4-7-11)

06. Buffer Distances. A specified distance between an actual point of use of recycled water and a land feature or resource use specified in these rules, such as wells, adjoining property, inhabited dwellings, or other

- features. (4-7-11)
- 07. Department.** The Idaho Department of Environmental Quality. (4-1-88)
- 08. Director.** The Director of the Department of Environmental Quality or the Director's designee. (4-1-88)
- 09. Ground Water Recharge.** The process of adding recycled water to the zone of saturation. (4-7-11)
- 10. Industrial Wastewater.** All wastewater, treated or untreated, that is not defined as municipal wastewater. (4-7-11)
- 11. Land Application.** A process or activity involving application of recycled water to the land surface. Land application includes, but is not limited to, spray irrigation, ridge and furrow, overland flow, subsurface absorption, and discharge to a rapid infiltration system. (4-7-11)
- 12. Landscape Impoundment.** Any lake, pond, or other water holding feature constructed or managed to store recycled water where swimming, wading, boating, fishing, and other water-based recreational activities are prohibited. A landscape impoundment is created for storage and may incidentally serve a landscaping or aesthetic purpose. (4-7-11)
- 13. Modal Contact Time.** The amount of time elapsed between the time that a tracer, such as salt or dye, is injected into the influent at the entrance to a chamber and the time that the highest concentration of the tracer is observed in the effluent from the chamber. (3-30-07)
- 14. Municipal Wastewater.** Wastewater that contains sewage and associated solids, whether treated or untreated. Municipal wastewater may contain industrial wastewater. Municipal wastewater is also known as domestic wastewater. (4-7-11)
- 15. 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, the land application of which does not have the potential to negatively impact ground water. (4-7-11)
- 16. Non-Potable Mains.** The pipelines that collect and/or 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 recycled water mains. (4-7-11)
- 17. 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, recycled water system, and other non-potable systems to individual consumers. (4-7-11)
- 18. Non-Potable Water.** Water not suitable for drinking by humans. (4-7-11)
- 19. NTU (Nephelometric Turbidity Unit).** A measure of turbidity based on a comparison of the intensity of the light scattered by the sample under defined conditions with the intensity of the light scattered by a standard reference suspension under the same conditions. (3-30-07)
- 20. Operation and Maintenance Manual.** A manual that describes in detail the operation, maintenance, and management of a reuse facility. Operation and maintenance manual is also known as plan of operation. (4-7-11)
- 21. Peak Day Flow.** The largest volume of flow to be received during a one (1) day period expressed as a volume per unit time. (4-7-11)
- 22. Peak Hour Flow.** The largest volume of flow to be received during a one (1) hour period expressed as a volume per unit time. (4-7-11)

23. **Permit.** Written authorization by the Director to modify, operate, construct, or discharge to a reuse facility. (4-7-11)
24. **Permittee.** The person to whom the reuse permit is issued. (4-7-11)
25. **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, or interstate body or any legal entity, which is recognized by law as the subject of rights and duties. (4-7-11)
26. **Plan of Operation.** A manual that describes in detail the operation, maintenance, and management of a reuse facility. Plan of operation is also known as operation and maintenance manual. (4-7-11)
27. **Point of Compliance.** That point in the reuse facility where the recycled water must meet the requirements of the permit. A permit may require more than one (1) point of compliance within the facility depending on the constituents to be monitored. (4-7-11)
28. **Potable Water.** Water suitable for drinking by humans. (4-7-11)
29. **Primary Effluent.** Wastewater that has been mechanically treated by screening, degritting, sedimentation and/or skimming processes to remove substantially all floatable and settleable solids. (4-7-11)
30. **Processed Food Crop.** Any crop intended for human consumption that has been changed from its original form and further disinfection occurs. (4-1-88)
31. **Rapid Infiltration System.** Rapid infiltration systems, also known as soil aquifer treatment systems, are highly permeable infiltration basins that are operated using periods of wetting and drying cycles at set frequencies to provide for both anaerobic and aerobic treatment of the wastewater through the vadose zone. (4-7-11)
32. **Raw Food Crop.** Any crop intended for human consumption which is to be used in its original form. (4-1-88)
33. **Recycled Water.** Water that has been treated by a wastewater treatment system and is used in accordance with these rules. (4-7-11)
34. **Restricted Public Access.** Preventing public entry within the area or point of reuse of a facility and the buffer distance around the area by site location or physical structures such as fencing. (4-7-11)
35. **Reuse.** The use of recycled water for, irrigation, ground water recharge, landscape impoundments, toilet flushing in commercial buildings, dust control, and other uses. (4-7-11)
36. **Reuse Facility or Facility.** Any structure or system designed or used for reuse of municipal or industrial wastewater including, but not limited to, industrial and municipal wastewater treatment facilities, pumping and storage facilities, pipeline and distribution facilities, and the property to which the recycled water is applied. This does not include industrial in-plant processes and reuse of process waters within the plant. (4-7-11)
37. **Sewage.** The water-carried human wastes from residences, buildings, industrial establishments and other places, together with such ground water infiltration and surface water as may be present. (4-7-11)
38. **Sludge.** The semi-liquid mass produced and removed by wastewater treatment process. This does not include grit, garbage, and large solids. (4-7-11)
39. **Subsurface Distribution System.** Any system with a point of discharge beneath the earth's surface. (4-7-11)
40. **Turbidity.** A measure of the interference of light passage through water, or visual depth restriction

due to the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light scattering and absorbing properties of a water sample. Turbidity is measured by the Nephelometric method. (3-30-07)

41. Wastewater. Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any ground water, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, gray water or commercial or industrial pollutants; and sewage. (4-7-11)

42. 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. (4-7-11)

43. 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. (4-1-88)

201. -- 299. (RESERVED)

300. PERMIT REQUIREMENTS AND APPLICATION.

01. Permit Required. No person shall construct, modify, operate, or continue to operate a reuse facility without a valid permit issued by the Director as provided in these rules. (4-7-11)

02. Pre-Application Conference. Prospective applicants are encouraged to meet with the Department prior to submission of an application to discuss the application procedure and anticipated application requirements. (4-7-11)

03. Application Contents. Except as provided in Subsection 300.04, an application for a reuse permit shall include the following information: (4-7-11)

- a.** Name, location, and mailing address of the facility; (4-1-88)
- b.** Name, mailing address, and phone number of the facility owner and signature of the owner or authorized agent; (4-1-88)
- c.** The nature of the entity owning the facility (federal, state, private, or public entity); (4-1-88)
- d.** A list of local, state, and federal permits, licenses and approvals related to the activity which have been applied for and which have been received and the dates of application or approval; (4-1-88)
- e.** A topographic map of the facility site identifying and showing the location and extent of: (4-1-88)
 - i.** Wastewater inlets, outlets, and storage structures and facilities, including the land application area; (4-7-11)
 - ii.** Wells, springs, wetlands, and surface waters; (4-1-88)
 - iii.** Twenty-five (25), fifty (50), and one hundred (100) year flood plains, as available through the Federal Insurance Administration of the Federal Emergency Management Agency; (4-1-88)
 - iv.** Service roads; (4-1-88)
 - v.** Natural or man-made features necessary for treatment; (4-1-88)

- vi. Buildings and structures; and (4-1-88)
- vii. Process chemicals and residue storage facilities. (4-1-88)
- f. A topographic map which may be separate from or combined with the facility site map, extending one quarter (1/4) mile beyond the outer limits of the facility site. The map shall identify and show the location and extent of the following: (4-1-88)
 - i. Wells, springs, wetlands, and surface waters; (4-6-05)
 - ii. Public and private drinking water supply sources and source water assessment areas (public water system protection area information); (4-6-05)
 - iii. Public roads; and (4-1-88)
 - iv. Dwellings and private and public gathering places. (4-1-88)
- g. If the facility site or any portion thereof is leased or rented, a copy of that lease or rental agreement; (4-1-88)
- h. The volume of wastewaters to be treated; (4-7-11)
- i. The physical, chemical, and biological characteristics of the recycled water to be used; (4-7-11)
- j. The climatic, hydrogeologic, and soil characteristics of the facility site; (4-7-11)
- k. Description of treatment process and alternatives for disposal of unanticipated excess recycled water that does not meet class specifications; (4-7-11)
- l. Site management plans, including a cropping plan where applicable; (4-7-11)
- m. A statement and supporting documentation demonstrating that the proposed activity shall comply with IDAPA 58.01.11, "Ground Water Quality Rule"; and (4-7-11)
- n. Any other information the Department may require. The Idaho Guidance for Recycled Water is intended to provide assistance to permit applicants in obtaining a reuse permit and may be considered in determining the need for other information. (4-7-11)

04. Permit Application Content Exceptions. Certain permit renewals may not require one (1) or more of the items listed in Subsection 300.03. Application content requirements for permit renewals will be clarified at the pre-application conference. (4-7-11)

05. Reuse Facility Operation and Maintenance Manual or Plan of Operations. A facility's operation and maintenance manual must contain all system components relating to the reuse facility in order to comply with IDAPA 58.01.16 "Wastewater Rules," Section 425. Manuals and manual amendments are subject to the review and approval provision therein. In addition to the content required by IDAPA 58.01.16.425, manuals for reuse facilities shall include, if applicable: operation and management responsibility, permits and standards, general plant description, operation and control of unit operations, land application site maps, wastewater characterization, cropping plan, hydraulic loading rate, constituent loading rates, compliance activities, seepage rate testing, site management plans, monitoring, site operations and maintenance, solids handling and processing, laboratory testing, general maintenance, records and reports, store room and inventory, personnel, an emergency operating plan, and any other information required by the Department. (4-7-11)

301. -- 399. (RESERVED)

400. APPLICATION PROCESSING PROCEDURE.

01. Submittal Date. In order to allow for adequate processing of permit applications in accordance with these rules, permit applications for new facilities should be submitted at least one hundred eighty (180) days prior to the applicant's expected commencement of reuse activities. Existing facilities applying for permit renewals shall submit a permit application at least one hundred eighty (180) days prior to expiration of the existing permit. (4-7-11)

02. Complete Application. If the application is determined to be complete the Director shall provide written notice to the applicant within thirty (30) days after receipt of the application which shall specify: (4-11-06)

- a.** The effective date of application, which shall be the date of the notice; and (4-7-11)
- b.** A projected schedule for processing the permit which lists the tentative dates for: (4-1-88)
 - i.** Publication of the preliminary permit decision or application denial; and (4-1-88)
 - ii.** The date of issuance of a final permit. (4-1-88)

03. Incomplete Application. If the application is determined to be incomplete the Director shall provide written notice to the applicant within thirty (30) days after receipt of the application which specifies deficiencies and specifies additional required information. The Director shall not process an application until it is determined to be complete in accordance with these rules. (4-11-06)

04. Preliminary Decision/Application Denial. Within thirty (30) days of the effective date of the application the Director shall issue a preliminary decision to prepare a draft permit, or issue a decision denying the application. The applicant shall be notified in writing of the Director's preliminary decision or application denial. Notification shall include a staff analysis of the application and a draft permit if appropriate. (4-1-88)

05. Contents of the Staff Analysis. The staff analysis shall briefly state the principal facts and the significant questions considered in preparing the draft permit conditions or the intent to deny, and a summary of the basis for the draft conditions or denial with references to applicable requirements and supporting materials. (4-1-88)

06. Information or Consultation Before Issuance of Draft Permit or Application Denial. After the application is determined to be complete, additional information or consultation between the applicant and the Department may be needed to clarify, modify, or supplement the application. This action may be initiated by the Director or the applicant. (4-11-06)

07. Issuance and Contents of the Draft Permit. (4-11-06)

a. Issuance and Contents of the Draft Permit. The Director shall issue a draft permit to the applicant within sixty (60) days of issuing a preliminary decision to prepare a draft permit. The draft permit shall be in the same form as a final permit and shall specify conditions of operation and management which will be required for the issuance of the permit. Permit conditions shall protect the environment and the public health from the hazard potential of an existing or proposed wastewater treatment system. (4-11-06)

b. Public Comments. The Department shall provide notice to the public of its issuance of a draft permit. The public may provide written comments for a period of time and in a manner specified in the Department's notice. The Department may, in its discretion, provide an opportunity for the public to provide oral comments.; (4-11-06)

08. Issuance of the Final Permit. The Director shall issue a final permit decision in writing to the applicant within sixty (60) days from the issuance of the draft permit, except the Director may issue the decision at a later date in response to a written request to extend the public comment period. (4-11-06)

09. Effective Date of Final Permit. The final permit shall become effective upon date of issue unless a later effective date is specified in the permit. (4-1-88)

10. Continuation of Expiring Permits. (4-7-11)

a. A timely and sufficient application for permit renewal shall administratively extend the terms and conditions of an expired permit pursuant to Section 67-5254, Idaho Code. An application shall be considered timely and sufficient under these rules so long as the Department has determined the application is complete under Subsection 400.02 and the application's effective date under Subsection 400.02.a. is prior to the expiration of the current permit. (4-7-11)

b. A permittee shall perform the closure requirements in a permit, the closure requirements of these rules, and complete all closure plan activities notwithstanding the expiration of the permit. (4-7-11)

401. -- 499. (RESERVED)

500. STANDARD PERMIT CONDITIONS.
The following conditions shall apply to and be included in all permits. (4-1-88)

01. Compliance Required. The permittee shall comply with all conditions of the permit. (4-1-88)

02. Renewal Responsibilities. If the permittee intends to continue operation of the permitted facility after the expiration of an existing permit, the permittee shall apply for a new permit in accordance with these rules. (4-1-88)

03. Operation of Facilities. The permittee shall at all times properly maintain and operate all structures, systems, and equipment for treatment, control and monitoring, which are installed or used by the permittee to achieve compliance with the permit or these rules. (4-1-88)

04. Provide Information. The permittee shall furnish to the Director within a reasonable time, any information including copies of records, which may be requested by the Director to determine whether cause exists for modifying, revoking, re-issuing, or terminating the permit, or to determine compliance with the permit or these rules. (4-1-88)

05. Entry and Access. The permittee shall allow the Director, consistent with Title 39, Chapter 1, Idaho Code, to: (4-1-88)

a. Enter the permitted facility. (4-1-88)

b. Inspect any records that must be kept under the conditions of the permit. (4-1-88)

c. Inspect any facility, equipment, practice, or operation permitted or required by the permit. (4-1-88)

d. Sample or monitor for the purpose of assuring permit compliance, any substance or any parameter at the facility. (4-1-88)

06. Reporting. The permittee shall report to the Director under the circumstances and in the manner specified in this section: (4-1-88)

a. In writing at least thirty (30) days before any planned physical alteration or addition to the permitted facility or activity if that alteration or addition would result in any significant change in information that was submitted during the permit application process. When the alteration or addition results in a need for a major modification, such alteration or addition shall not be made prior to Department approval issued in accordance with these rules. (4-7-11)

b. In writing thirty (30) days before any anticipated change which would result in noncompliance with any permit condition or these rules. (4-1-88)

c. Orally within twenty-four (24) hours from the time the permittee became aware of any noncompliance which may endanger the public health or the environment at telephone numbers provided in the

permit by the Director. (4-1-88)

d. In writing as soon as possible but within five (5) days of the date the permittee knows or should know of any noncompliance unless extended by the Department. This report shall contain: (4-1-88)

i. A description of the noncompliance and its cause; (4-1-88)

ii. The period of noncompliance including to the extent possible, times and dates and, if the noncompliance has not been corrected, the anticipated length of time it is expected to continue; and (4-7-11)

iii. Steps taken or planned, including timelines, to reduce or eliminate the continuance or reoccurrence of the noncompliance. (4-7-11)

e. In writing as soon as possible after the permittee becomes aware of relevant facts not submitted or incorrect information submitted, in a permit application or any report to the Director. Those facts or the correct information shall be included as a part of this report. (4-1-88)

07. Minimize Impacts. The permittee shall take all necessary actions to eliminate and correct any adverse impact on the public health or the environment resulting from permit noncompliance. (4-1-88)

08. Compliance with “Ground Water Quality Rule.” Permits issued pursuant to these rules shall require compliance with IDAPA 58.01.11, “Ground Water Quality Rule.” (4-7-11)

501. -- 599. (RESERVED)

600. SPECIFIC PERMIT CONDITIONS.

01. Basis for Specific Permit Conditions. Conditions necessary for the protection of the environment and the public health may differ from facility to facility because of varying environmental conditions and wastewater compositions. The Director may establish, on a case-by-case basis, specific permit conditions. Specific conditions shall be established in consideration of characteristics specific to a facility and inherent hazards of those characteristics. Such characteristics include, but are not limited to: (4-1-88)

a. Chemical, biological, physical, and volumetric characteristics of the wastewater; (4-1-88)

b. Geological and climatic nature of the facility site; (4-1-88)

c. Size of the site and its proximity to population centers and to ground and surface water; (4-1-88)

d. Legal considerations relative to land use and water rights; (4-1-88)

e. Techniques used in wastewater distribution and the disposition of that vegetation exposed to wastewaters; (4-1-88)

f. Abilities of the soils and vegetative covers to treat the wastewater without undue hazard to the environment or to the public health; and (4-1-88)

g. The need for monitoring and record keeping to determine if the facility is being operated in conformance with its design and if its design is adequate to protect the environment and the public health. (4-1-88)

02. Duration of Permit. The permit shall be effective for a fixed term of not more than ten (10) years. (4-7-11)

03. Limitations to Operation. Conditions of the permit may specify or limit: (4-1-88)

a. Wastewater composition; (4-1-88)

- b. Method, manner, and frequency of wastewater treatment; (4-1-88)
 - c. Wastewater pretreatment requirements; (4-1-88)
 - d. Physical, chemical, and biological characteristics of a land treatment facility; and (4-11-06)
 - e. Any other condition the Director finds necessary to protect public health or environment. (4-1-88)
- 04. Compliance Schedules.** The Director may establish a compliance schedule for existing facilities as part of the permit conditions including: (4-1-88)
- a. Specific steps or actions to be taken by the permittee to achieve compliance with applicable requirements or final permit conditions; (4-1-88)
 - b. Dates by which those steps or actions are to be taken; and (4-1-88)
 - c. In any case where the period of time for compliance exceeds one (1) year the schedule may also establish interim requirements and the dates for their achievements. (4-1-88)
- 05. Monitoring Requirements.** Any facility may be subject to monitoring requirements including, but not limited to: (4-1-88)
- a. The installation, use, and maintenance of monitoring equipment; (4-1-88)
 - b. Monitoring or sampling methodology, frequency, and locations; (4-1-88)
 - c. Monitored substances or parameters; (4-1-88)
 - d. Testing and analytical procedures; and (4-1-88)
 - e. Reporting requirements including both frequency and form. (4-1-88)

601. MUNICIPAL RECYCLED WATER: CLASSIFICATION, TREATMENT, USE.

01. Class A Recycled Water. In order to be classified as Class A recycled water, municipal wastewater shall be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected. Class A treatment systems shall be reviewed by the Department and approved on a case-by-case basis. The Department may require pilot testing or demonstration prior to approval, or may condition approval upon the successful outcome of such testing or demonstration. (4-7-11)

- a. Disinfection Requirements. (4-7-11)
 - i. Class A recycled water shall be disinfected by either: (4-7-11)
 - (1) A chlorine disinfection process that provides a concentration/contact time (CT) of four hundred and fifty (450) milligram-minutes per liter (mg-min/L) measured at the end of the contact time based on total chlorine residual and a modal contact time of not less than ninety (90) minutes based on peak day dry weather flow; or (4-7-11)
 - (2) A disinfection process that, when combined with filtration, has been demonstrated to achieve 5-log inactivation of virus. Acceptance by the State of California as published in their Treatment Technology Report for Recycled Water is one (1) method to constitute such a demonstration. (4-7-11)
 - ii. The median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. No sample shall exceed twenty-three (23) organisms per one hundred (100) milliliters in any confirmed sample. (4-7-11)

- iii. Sampling frequency and point of compliance. (4-7-11)

(1) Class A recycled water shall be sampled and analyzed daily for total coliform when allowed uses specifically require Class A recycled water. The sampling frequency for Class A may be decreased and the alternate frequency will be determined based upon, but not limited to, the following: uses that are allowed with lower class recycled water, the volume of recycled water used, the disinfection method used, the demonstrated disinfection efficiency and reliability, the point of compliance, or other factors demonstrating that the alternative frequency is protective of public health. (4-7-11)

(2) The point of compliance for Class A recycled water for total coliform shall be at any point in the system following final treatment and disinfection contact time. It is recommended that the recycled water also be disinfected following storage. (4-7-11)

- b. Turbidity Requirements.** (4-7-11)

- i. Class A recycled water shall meet the following turbidity limits: (4-7-11)

(1) For filtration systems utilizing sand or other granular media or cloth media, the daily arithmetic mean of all measurements of turbidity shall not exceed two (2) NTU, and turbidity shall not exceed five (5) NTU at any time. (4-7-11)

(2) For filtration systems utilizing membrane filtration, the daily arithmetic mean of all measurements of turbidity shall not exceed zero point two (0.2) NTU, and turbidity shall not exceed zero point five (0.5) NTU at any time. The turbidity standard shall be met prior to disinfection. (4-7-11)

ii. One (1) in-line, continuously monitoring, recording turbidimeter is required for each treatment train after filtration and prior to disinfection. (4-7-11)

- c. Nitrogen, pH and BOD5 Requirements.** (4-7-11)

i. Total nitrogen at the point of compliance shall not exceed ten (10) mg/L for ground water recharge systems and thirty (30) mg/L for residential irrigation and other non-recharge uses. These limits are based on a monthly arithmetic mean as determined from weekly composite sampling. These limits are a maximum value and may not be applicable if the results of an assessment of ground water quality impacts that may be required and is approved by the Department indicate that lower limits are necessary to protect existing ground water quality beneficial uses. (4-7-11)

ii. The pH as determined by daily grab samples or continuous monitoring shall be between six point zero (6.0) and nine point zero (9.0). (4-7-11)

iii. Five (5) Day Biochemical Oxygen Demand (BOD5) shall not exceed five (5) mg/L for ground water recharge systems, and ten (10) mg/L each for residential irrigation and other non-recharge systems, based on a monthly arithmetic mean as determined from weekly composite sampling. (4-7-11)

02. Class B Recycled Water. In order to be classified as Class B recycled water, municipal wastewater shall be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected. Class B treatment systems shall be reviewed by the Department and approved on a case-by-case basis. The Department may require pilot testing or demonstration prior to approval, or may condition approval upon the successful outcome of such testing or demonstration. (4-7-11)

- a. Disinfection Requirements.** (4-7-11)

- i. Class B recycled water shall be disinfected by either: (4-7-11)

(1) A chlorine disinfection process that provides a residual chlorine at the point of compliance of not less than one (1) mg/L total chlorine residual after a contact time of thirty (30) minutes at peak flow; or (4-7-11)

(2) When an alternative disinfection process is used, it must be demonstrated to the satisfaction of the Department that the alternative process is comparable to that achieved by chlorination with a total chlorine residual of one (1) mg/L after a minimum contact time of thirty (30) minutes. (4-7-11)

ii. The median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. No sample shall exceed twenty-three (23) organisms per one hundred (100) milliliters in any confirmed sample, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. (4-7-11)

iii. Sampling frequency and point of compliance. (4-7-11)

(1) Class B recycled water shall be sampled and analyzed daily for total coliform when allowed uses specifically require Class B recycled water. The sampling frequency for Class B may be decreased and the alternate frequency will be determined based upon, but not limited to, the following: uses that are allowed with lower class recycled water, the volume of recycled water used, the disinfection method used, the demonstrated disinfection efficiency and reliability, the point of compliance, or other factors demonstrating that the alternative frequency is protective of public health. (4-7-11)

(2) The point of compliance for Class B recycled water for total coliform shall be at any point in the system following final treatment and disinfection contact time. It is recommended that the recycled water also be disinfected following storage. (4-7-11)

b. Turbidity Requirements. Class B recycled water shall meet the following: (4-7-11)

i. Turbidity Limits. The daily arithmetic mean of all measurements of turbidity shall not exceed five (5) NTU, and turbidity shall not exceed ten (10) NTU at any time. The turbidity standard shall be met prior to disinfection. (4-7-11)

ii. Monitoring. One (1) in-line, continuously monitoring, recording turbidimeter is required for each treatment train after filtration and prior to disinfection. (4-7-11)

03. Class C Recycled Water. In order to be classified as Class C recycled water, municipal wastewater shall be oxidized and adequately disinfected. (4-7-11)

a. Disinfection Requirements. (4-7-11)

i. The median number of total coliform organisms does not exceed twenty-three (23) per one hundred (100) milliliters, as determined from the bacteriological results of the last five (5) days for which analyses have been completed. No sample shall exceed two hundred thirty (230) per one hundred (100) milliliters in any confirmed sample. (4-7-11)

ii. Sampling frequency and point of compliance. (4-7-11)

(1) Class C recycled water shall be sampled and analyzed weekly for total coliform when allowed uses specifically require Class C recycled water. The sampling frequency for Class C may be decreased and the alternate frequency will be determined based upon, but not limited to, the following: uses that are allowed with lower class recycled water, the volume of recycled water used, the disinfection method used, the demonstrated disinfection efficiency and reliability, the point of compliance, or other factors demonstrating that the alternative frequency is protective of public health. (4-7-11)

(2) The point of compliance for Class C recycled water for total coliform shall be at any point in the system following final treatment and disinfection contact time. (4-7-11)

04. Class D Recycled Water. In order to be classified as Class D recycled water, municipal wastewater shall be oxidized and adequately disinfected. (4-7-11)

a. Disinfection Requirements. (4-7-11)

i. The median number of total coliform organisms does not exceed two hundred thirty (230) per one hundred (100) milliliters, as determined from the bacteriological results of the last three (3) days for which analyses have been completed. No sample shall exceed two thousand three hundred (2300) organisms per one hundred (100) milliliters in any confirmed sample. (4-7-11)

ii. Sampling frequency and point of compliance. (4-7-11)

(1) Class D recycled water shall be sampled and analyzed monthly for total coliform when allowed uses specifically require Class D recycled water. The sampling frequency for Class D may be decreased and the alternate frequency will be determined based upon, but not limited to, the following: uses that are allowed with lower class recycled water, the volume of recycled water used, the disinfection method used, the demonstrated disinfection efficiency and reliability, the point of compliance, or other factors demonstrating that the alternative frequency is protective of public health. (4-7-11)

(2) The point of compliance for Class D recycled water for total coliform shall be at any point in the system following final treatment and disinfection contact time. (4-7-11)

05. Class E Recycled Water. In order to be classified as Class E recycled water, municipal wastewater shall meet at least primary effluent quality. (4-7-11)

a. Class E recycled water has no disinfection requirements or applicable coliform standard. (4-7-11)

b. Sampling frequency for total coliform. In general no sampling and analysis are required for Class E recycled water. In cases where sampling and analysis are required (e.g. buffer distance change reduction) the sampling frequency for total coliform will be established consistent with these rules in order to adequately protect human health and the environment. (4-7-11)

602. MUNICIPAL RECYCLED WATER: CLASSIFICATION AND USES TABLES.

01. Municipal Recycled Water -- Classification Tables. The following tables provide a summary of the treatment requirements of municipal recycled water outlined in Section 601. If there are discrepancies between Sections 601 and 602, the requirements of Section 601 prevail.

TABLE 1 - CLASSIFICATION TABLE					
Classification	Class A	Class B	Class C	Class D	Class E
Oxidized	Yes	Yes	Yes	Yes	No
Clarified	Yes	Yes	No	No	No
Filtered	Yes	Yes	No	No	No
Disinfected	Yes	Yes	Yes	Yes	No

TABLE 1 - CLASSIFICATION TABLE						
Classification		Class A	Class B	Class C	Class D	Class E
Total coliform (organisms/100 milliliters)	Median results for last x-days for which analysis have been completed	2.2 7-day median	2.2 7-day median	23 5-day median	230 3-day median	No limit
	Maximum in any sample	23	23	230	2300	No limit
	Monitoring frequency	Daily, or as determined.	Daily or as determined.	Once weekly or as determined.	Once monthly or as determined.	
Disinfection requirements contact time		Contact time of 450 mg-min L with 90 min of modal time Or disinfection to 5-log inactivation of virus	Total chlorine not less than 1mg/L after 30 min contact time at peak flow Or alternate process comparable to this			

(4-7-11)

TABLE 2 - CLASS A AND CLASS B ADDITIONAL REQUIREMENTS			
Classification		Class A	Class B
Turbidity (NTU)	24-hr - mean, Not to exceed	Granular or cloth media - 2 Membrane filter - 0.2	Granular or cloth media - 5
	Maximum, in any sample	Granular or cloth media - 5 Membrane filter - 0.5	Granular or cloth media - 10
	Monitoring frequency	Continuous	Continuous
Maximum Total nitrogen (mg/L)		Ground water recharge - 10 Residential irrigation and other non-recharge uses - 30 or As required based on an analysis of ground water impacts	May be required based on an analysis of ground water impacts
BOD5 (mg/L) Monthly arithmetic mean, from weekly composite samples not to exceed		Ground water recharge - 5 Residential irrigation and other non-recharge uses - 10	

TABLE 2 - CLASS A AND CLASS B ADDITIONAL REQUIREMENTS		
Classification	Class A	Class B
pH	Between 6.0 and 9.0	
Daily grab samples or continuous monitoring		

(4-7-11)

02. Municipal Recycled Water - Uses. The following table provides a summary of municipal recycled water uses for which a specific classification is required. Other uses not listed here may be considered on a case-by-case basis and approved by the Department.

TABLE 3 - RECYCLED WATER USES					
Recycled Water Uses	Class A	Class B	Class C	Class D	Class E
Uses relating to Irrigation and buffers					
Buffers required	No	Yes	Yes	Yes	Yes
Fodder, fiber crops	Yes	Yes	Yes	Yes	Yes
Commercial timber, firewood	Yes	Yes	Yes	Yes	Yes
Processed food crops or "food crops that must undergo commercial pathogen-destroying processing before being consumed by humans"	Yes	Yes	Yes	Yes	No
Ornamental nursery stock, or Christmas trees	Yes	Yes	Yes	Yes	No
Sod and seed crops not intended for human ingestion	Yes	Yes	Yes	Yes	No
Pasture for animals not producing milk for human consumption	Yes	Yes	Yes	Yes	No
Pasture for animals producing milk for human consumption	Yes	Yes	Yes	No	No
Orchards and vineyards irrigation during the fruiting season, if no fruit harvested for raw use comes in contact with the irrigation water or ground, or will only contact the unedible portion of raw food crops	Yes	Yes	Yes	No	No
Highway medians and roadside vegetation irrigation on sides	Yes	Yes	Yes	No	No
Cemetery irrigation	Yes	Yes	Yes	No	No
Parks, playgrounds, and school yards during periods of non-use	Yes	Yes	No	No	No
Parks, playgrounds, and school yards during periods of use	Yes	No	No	No	No
Golf courses	Yes	Yes	No	No	No
Food crops, including all edible food crops	Yes	Yes	No	No	No

TABLE 3 - RECYCLED WATER USES					
Recycled Water Uses	Class A	Class B	Class C	Class D	Class E
Residential landscape	Yes	No	No	No	No
Uses at Industrial, Commercial, or Construction Sites					
Dust suppression at construction sites and control on roads and streets	Yes	Yes	Yes	No	No
Toilet flushing at industrial and commercial sites, when only trained maintenance personnel have access to plumbing for repairs	Yes	Yes	Yes	No	No
Nonstructural fire fighting	Yes	Yes	Yes	No	No
Cleaning roads, sidewalks and outdoor work areas	Yes	Yes	Yes	No	No
Backfill consolidation around non-potable piping	Yes	Yes	Yes	No	No
Soil compaction	Yes	Yes	Yes	No	No
Commercial campus irrigation	Yes	Yes	No	No	No
Fire suppression	Yes	Yes	No	No	No
Snowmaking for winter parks, resorts	Yes	No	No	No	No
Commercial laundries	Yes	No	No	No	No
Ground Water Recharge					
Ground water recharge through surface spreading, seepage ponds or other unlined surface water features, such as landscape impoundments	Yes	No	No	No	No
Subsurface Distribution					
Subsurface distribution.	Yes	Yes	Yes	Yes	No

(4-7-11)

603. MUNICIPAL RECYCLED WATER: ACCESS, EXPOSURE AND SIGNAGE.

01. Class A Recycled Water. When using Class A recycled water the public and personnel at the area of use must be notified that the water is recycled water and is not safe for drinking or human contact. Signs shall be posted and must state “Caution: Recycled Water - Do Not Drink”, or equivalent signage both in English and Spanish. (4-7-11)

a. Class A distribution system identification and signage. (4-7-11)

i. General. All new buried pipe conveying Class A Recycled Water, including service lines, valves, and other appurtenances, shall be colored purple, and the precise color used, e.g., Pantone 512, 522 or equivalent, shall be consistently used throughout the system. The precise color proposed for use shall be identified in the plans and specifications and reviewed by the Department during plan and specification review to ensure the pipes may be adequately identifiable and distinguishable. If fading or discoloration of the purple pipe is experienced during construction, identification tape or locating wire along the pipe is required. Label piping every ten (10) feet “Caution: Recycled Water - Do Not Drink” or equivalent signage in both Spanish and English. (4-7-11)

ii. Identification Tape. If identification tape is installed along with the purple pipe, it shall be prepared with white or black printing on a purple color field as approved by the Department, having the words, “Caution:

Recycled Water - Do Not Drink” or equivalent signage in both Spanish and English. The overall width of the tape shall be at least three (3) inches. Identification tape shall be installed eighteen (18) inches above the transmission pipe longitudinally, shall be centered over the pipe, and shall run continuously along the length of the pipe. (4-7-11)

iii. Valve Boxes and Other Surface Identification. All valves shall have locking valve covers that are non-interchangeable with potable water valve covers, and shall have an inscription cast on the top surface stating “Recycled Water.” All above ground pipes and pumps shall be consistently color coded (purple) and marked to differentiate Class A recycled water facilities from potable water facilities. (4-7-11)

b. Class A recycled water pumping facilities identification and signage. (4-7-11)

i. Marking. All exposed and above ground piping, risers, fittings, pumps, valves, etc., shall be painted purple color (Pantone 512, 522 or other equivalent product acceptable to the Department). In addition, all piping shall be identified using an accepted means of labeling reading “Caution: Recycled Water - Do Not Drink” or equivalent signage in both Spanish and English lettering. In a fenced pump station area, signs shall be posted on the fence on all sides. (4-7-11)

ii. Warning Labels. Warning labels shall be installed on designated facilities such as, but not limited to, controller panels and washdown or blow-off hydrants on water trucks, hose bibs, and temporary construction services. The labels shall read, “Caution: Recycled Water - Do Not Drink” or equivalent signage, in both Spanish and English. (4-7-11)

c. Class A Lagoon Identification and Signage. Where Class A recycled water is stored or impounded, or used for irrigation in public areas, warning signs shall be installed and contain, at a minimum, one (1) inch purple letters (Pantone 512, 522 or other equivalent product acceptable to the Department) on a white or other high contrast background notifying the public that the water is unsafe to drink. Signs may also have a purple background with white or other high contrast lettering. Warning signs and labels shall read, “Caution: Recycled Water - Do Not Drink” or equivalent signage in both Spanish and English. (4-7-11)

d. Class A Additional Access Requirements. Drinking fountains, picnic tables, food establishments, and other public eating facilities shall be placed out of any spray irrigation area in which Class A recycled water is used, or shall be otherwise protected from contact with the Class A recycled water. Exterior drinking fountains, picnic tables, food establishments, and other public eating facilities shall be shown and called out on the construction plans. If no exterior drinking fountains, picnic tables, food establishments, or other public eating facilities are present in the design area, then it shall be specifically stated on the plans that none are to exist. (4-7-11)

02. Class B Recycled Water. When using Class B recycled water, the public and personnel at the use area must be notified that the water used is recycled water and is not safe for drinking or human contact. Signs must be posted and the signs must state that recycled water is used and is not safe for drinking or human contact. Signs shall be posted and must state “Caution: Recycled Water - Do Not Drink”, or equivalent signage both in English and Spanish. (4-7-11)

03. Class C Recycled Water. When using Class C recycled water for irrigation, the personnel at the use area must be notified that the water used is recycled water and is not safe for drinking. For the public, signs must be posted around the perimeter of the irrigation site stating that recycled water is used and is not safe for drinking or human contact. Signs shall be posted and must state “Warning: Recycled Water - Do Not Enter”, or equivalent signage both in English and Spanish. (4-7-11)

04. Class D Recycled Water. When using Class D recycled water for irrigation, the personnel at the use area must be notified that the water used is recycled water and is not safe for drinking. For the public, signs must be posted around the perimeter of the irrigation site stating that recycled water is used and is not safe for drinking or human contact. Signs shall be posted and must state “Warning: Recycled Water - Do Not Enter”, or equivalent signage both in English and Spanish. (4-7-11)

05. Class E Undisinfected Recycled Water. When using Class E undisinfected recycled water for irrigation, public access to the irrigation site shall be prevented using a physical barrier or other measure approved by the Department. Signs shall be posted around the perimeter of the irrigation site stating that recycled water is used

and is not safe for drinking or human contact. Signs shall be posted and must state “Warning: Recycled Water - Do Not Enter”, or equivalent signage both in English and Spanish. (4-7-11)

604. REUSE FACILITIES: BUFFER DISTANCES.

- 01. Buffer Distance Considerations.** Buffer distances shall be established for the following purposes: (4-7-11)
- a.** Protect public health by limiting exposure to recycled water and conditions associated with reuse facilities; (4-7-11)
 - b.** Protect waters of the state, including surface water, ground water and drinking water supplies; and (4-7-11)
 - c.** Help ensure that the use of recycled water is restricted to within the physical boundaries of the reuse facilities. (4-7-11)
- 02. Determining Buffer Distances.** In determining buffer distances for inclusion in a reuse permit the Department will consider the following: (4-7-11)
- a.** Characterization of the recycled water; (4-7-11)
 - b.** The method of irrigation; (4-7-11)
 - c.** The physical or vegetative barriers; (4-7-11)
 - d.** Microbial risk assessments; (4-7-11)
 - e.** Any applicable best management practices; (4-7-11)
 - f.** Environmental conditions, such as wind speed and direction; and (4-7-11)
 - g.** Any other information relevant to the purposes described in this section. (4-7-11)

605. MUNICIPAL RECYCLED WATER: PRELIMINARY ENGINEERING REPORTS.

Preliminary engineering reports shall comply with these rules and applicable provisions of IDAPA 58.01.16 “Wastewater Rules.” Preliminary engineering reports for new municipal recycled water systems or major upgrades to municipal recycled water systems shall be submitted to the Department for review and approval prior to submittal of plans and specifications. (4-7-11)

606. REUSE FACILITY: PLAN AND SPECIFICATION REVIEW.

All plans and specifications for the construction of new reuse facilities or modification or expansion to same shall be submitted to and approved by the Director in accordance with Chapter 1, Title 39, Idaho Code, and IDAPA 58.01.16, “Wastewater Rules.” (4-7-11)

607. MUNICIPAL RECYCLED WATER: DISTRIBUTION PIPELINES.

01. Compliance with Wastewater Rules Required. The design and construction of municipal recycled water distribution pipelines shall comply with applicable provisions of IDAPA 58.01.16, “Wastewater Rules,” Section 430. The design and construction of municipal recycled water distribution pipelines shall also comply with applicable provisions of IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems.” Any person or agency that is planning to construct all or part of the distribution system must obtain a plan and specification approval from the Department prior to beginning construction. (4-7-11)

- a.** Recycled water mains shall be treated as non-potable mains when considering their separation from potable water. Recycled water mains shall be treated as potable water mains when considering their separation from sewers. (4-7-11)

b. For a system that proposes to use an alternative to the distribution pipeline requirements in these rules, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," or IDAPA 58.01.16, "Wastewater Rules," the design engineer shall submit data to the Department for review and approval demonstrating that the installation of an alternative will protect public health and environment. (4-7-11)

02. Additional Distribution System Requirements for Class A Recycled Water. Class A distribution systems and the continued distribution systems of all of its customers shall have specific requirements including, but not limited to the following. (4-7-11)

a. Where Class A recycled water is to be provided by pressure pipeline, the following standards may be used as guidance: the current edition of "Recommended Standards for Wastewater Facilities - Great Lakes-Upper Mississippi River Board of State Sanitary Engineers," the "AWWA Manual M24" Chapter 4 for dual water systems, and the current edition of "Idaho Standards for Public Works Construction." (4-7-11)

b. Conversion of Existing Drinking Water or Irrigation Water Lines. Requirements for irrigation systems proposed for conversion from use of non-Class A recycled water to use with Class A recycled water will be considered on a case-by-case basis considering protection of public health and the environment. Existing water lines that are being converted to use with Class A recycled water or a combination of Class A recycled water and irrigation water shall be accurately located, pressure tested and leakage tested prior to conversion in coordination with the Department. AWWA Standard(s) for pressure and leakage testing of drinking water lines shall be utilized on the lines to be converted. The pipeline must be physically disconnected from any potable water lines and brought into compliance with applicable cross connection rules and requirements in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Section 543, and must meet minimum separation requirements set forth in these rules. If the existing lines meet approval of the water supplier and the Department based upon the requirements set forth in these rules, the lines shall be approved for Class A recycled water distribution. If regulatory compliance of the system (accurate location, pressure testing, and verification of no cross connections) cannot be verified with record drawings, testing, televising, or otherwise, the lines shall be uncovered, inspected, and identified or otherwise verified to the Department's satisfaction prior to use. All accessible portions of the system must be retrofitted to meet the requirements of these rules. After conversion of the water or irrigation line to a Class A recycled water line, the lines shall be marked as stated in Subsection 603.01.a.iii. of these rules. (4-7-11)

c. Blow-off Assemblies. If either an in-line type or end-of-line type blow-off or drain assembly is installed in the system, a plan for proposed discharge or runoff locations shall be submitted to the Department for review and approval. (4-7-11)

d. Requirements for mixing Class A recycled water with other irrigation waters. Mixing Class A recycled water with other irrigation waters may be conducted in a pipe to pipe manner if both the other irrigation water source and the Class A source are protected by Department approved backflow devices. Class A recycled water may be mixed with other irrigation water in an unlined pond if the Class A recycled water is permitted for ground water recharge. Class A recycled water that is permitted for irrigation only and not ground water recharge may be mixed with other irrigation water only in a lined pond. Water from these mixed ponds may then be used for permitted Class A uses. (4-7-11)

e. Requirements for Class A recycled water distribution system operators. All operators of Class A recycled water distribution systems, including operators of distribution systems that utilize a combination of Class A recycled water and other irrigation waters, operators of the distribution system from the wastewater treatment plant to the point of compliance or point of use or point of sale, as applicable, and those operators that are employed by buyers of the Class A recycled water for subsequent use, including home occupants, shall be required to sign a utility user agreement provided by the utility providing the Class A recycled water that states that the user understands the origin of the effluent and the concept of agronomic rate for applying the Class A recycled water. Contracts for sale of Class A recycled water for subsequent use shall also include these requirements. Individual homeowners are allowed to operate or maintain Class A recycled water distribution systems. Providers of the Class A recycled water shall undertake a public education program within its service area to teach potential customers the benefits and responsibilities of using Class A recycled water. (4-7-11)

608. MUNICIPAL RECYCLED WATER: PUMPING STATIONS.

01. Pumping Station Requirements. All municipal recycled wastewater pumping stations shall comply with applicable provisions of IDAPA 58.01.16 “Wastewater Rules”, Sections 440. (4-7-11)

02. Additional Pumping Station Requirements for Recycled Water. (4-7-11)

a. Backflow Protection-Seal Water. Any potable water used as seal water for recycled water pump seals shall be protected from backflow with a Department approved backflow prevention device or air gap. (4-7-11)

b. Backflow Protection-Potable and Recycled Water. In no case shall a direct connection be made between the potable and recycled water system. If it is necessary to put potable water into the recycled water distribution system, a Department approved reduced pressure principal device or air gap must be provided to protect the potable water system. (4-7-11)

c. Equipment and Facilities. Any equipment or facilities such as tanks, temporary piping or valves, and portable pumps that have been or may be used with recycled water shall not be used with potable water or sewage. Any equipment or facilities such as tanks, temporary piping or valves, and portable pumps that have been or may be used with sewage shall not be used with recycled water or potable water. (4-7-11)

609. MUNICIPAL RECYCLED WATER: LAGOONS.

01. Requirements for Municipal Recycled Water Lagoons. All new and existing lagoons for municipal recycled water shall comply with applicable provisions of IDAPA 58.01.16 “Wastewater Rules,” Section 493. (4-7-11)

02. Class A Recycled Water Lagoons. Surface water features, such as landscape impoundments used for Class A recycled water, that are not lined or sealed to prevent seepage may be approved provided the ground water quality standards for ground water protection are met. (4-7-11)

610. MUNICIPAL RECYCLED WATER: CLASS A RECYCLED WATER FILTRATION.

01. Class A Filtration Technology Approval. The Department shall approve the following filter technologies for use in compliance with these rules: (4-7-11)

a. Those approved and listed in the State of California Treatment Technology Report for Recycled Water, www.cdph.ca.gov/healthinfo/environhealth/water/pages/waterrecycling.aspx. (4-7-11)

b. The Department may consider for approval filtration technologies other than those listed in the report referenced in Subsection 610.01.a. upon submission of a written request accompanied by all necessary product information. Approval of these filtration technologies shall be in accordance with procedures provided in the State of California Treatment Technology Report for Recycled Water. (4-7-11)

02. Filter to Waste Requirement. The Department may require certain types of Class A recycled water filtration facilities to install and operate a filter to waste system that operates each time a filter starts up. Filter to waste systems shall automatically filter to waste until the effluent meets the required turbidity standard. (4-7-11)

611. MUNICIPAL RECYCLED WATER: RELIABILITY AND REDUNDANCY.

01. Reliability and Redundancy Requirements. The reliability and redundancy for all wastewater systems shall comply with the requirements in IDAPA 58.01.16 “Wastewater Rules.” (4-7-11)

02. Additional Reliability and Redundancy Requirements. Following are additional reliability and redundancy requirements for Class A recycled water: (4-7-11)

a. Class A treatment systems shall have treatment capabilities able to treat peak day flow for the season in which Class A recycled water is being produced. (4-7-11)

- b.** Class A treatment systems shall also provide for one (1) of the following alternative back-up systems: (4-7-11)

 - i.** Another permitted disposal option; or (4-7-11)
 - ii.** Diversion to adequate lined storage capable of storing Class A recycled water during a malfunction or emergency. (4-7-11)
- c.** An alternative back-up system must be automatically activated if turbidity exceeds or chlorine residual drops below the instantaneous required value for more than five (5) minutes, or if the alternative filtration/disinfection system is not achieving its required 5-log removal/inactivation of virus for more than five (5) minutes. The maximum number of times a facility could exceed on this basis is twice in one (1) week, both of which times are required to be immediately reported. Failure to report or exceeding more than twice in one (1) week are sufficient grounds for the Department to require the system to be shut down for inspection and repair. (4-7-11)
- d.** Class A redundant monitoring equipment and automatic by-pass equipment must be provided. (4-7-11)
- e.** Standby power sufficient to maintain all treatment and distribution works or to meet the requirements for an alternative back-up system shall be required for the Class A recycled water facilities. (4-7-11)

612. DEMONSTRATION OF TECHNICAL, FINANCIAL, AND MANAGERIAL CAPACITY OF MUNICIPAL REUSE FACILITY.

01. Compliance with Wastewater Rules Required. All reuse facilities shall comply with applicable provisions of IDAPA 58.01.16 “Wastewater Rules,” Section 409. (4-7-11)

02. Exclusion. New Class A recycled water systems which are public utilities as defined in Sections 61-104 (Corporation), 61-124 (Water System), 61-125 (Water Corporation), and 61-129 (Public Utility), Idaho Code, are governed by and must meet the regulatory requirements of Chapter 1, Title 61, Idaho Code, Public Utilities Law, and IDAPA 31.01.01, “Rules of Procedure of the Idaho Public Utilities Commission.” In any conflict arising out of the application of these rules and IDAPA 31.01.01, the provisions and requirements of the Idaho Public Utilities Commission shall prevail. (4-7-11)

613. REUSE FACILITY: RAPID INFILTRATION SYSTEM.

Rapid infiltration systems shall be designed such that the beneficial uses of the waters of the state will not be injured. Prior to construction of a new recycled water system that includes as treatment rapid infiltration systems all plans and specification shall be submitted to and approved by the Director before construction can begin. The Preliminary Engineering Report shall include the parameters for the design of the rapid infiltration systems. (4-7-11)

01. Design and Construction. Following are the design and construction criteria for rapid infiltration systems: (4-7-11)

a. The system shall be designed to allow a relatively high rate of recycled water infiltration into the soil followed by rapid percolation; (4-7-11)

b. The system shall consist of either two (2) or more cells which can be alternately loaded and rested, or one (1) cell preceded by an effluent storage or stabilization pond system. Where only one (1) cell is provided, the storage and stabilization pond(s) shall have sufficient capacity to allow intermittent loading of the rapid infiltration systems; (4-7-11)

c. The rapid infiltration system shall be designed to provide even distribution of the recycled water and prevent erosion; (4-7-11)

d. The system shall be designed to ensure that the subsurface soils have the capacity to transmit the applied recycled water down and away from the basins at an acceptable rate to avoid excessive water mounding beneath the basin that would interfere with infiltration at the basins surface; and (4-7-11)

e. The system shall be designed to ensure proper operation during the winter conditions in cold climate areas. (4-7-11)

02. Discharge Requirements. Following are the discharge requirements for recycled water discharged to a rapid infiltration system: (4-7-11)

a. The discharge to a rapid infiltration system may not exceed the hydraulic, organic, nitrogen, suspended solids or other limitations specified in the permit or plans developed pursuant to a permit requirement. In determining discharge limitations, the Department shall consider past operating performance, the ability of the soils to treat the pollutants in the recycled water, hydrogeologic characteristics of the site such as permeability and infiltration rates, and other relevant information; and (4-7-11)

b. Compliance with IDAPA 58.01.11, "Ground Water Quality Rule," and IDAPA 58.01.02, "Water Quality Standards" shall be ensured. (4-7-11)

614. GROUND WATER RECHARGE: CLASS A RECYCLED WATER.

All ground water recharge systems shall comply with IDAPA 58.01.11, "Ground Water Quality Rule." The minimum requirements for site location and aquifer storage time shall be based on site-specific modeling and any source water assessment zone studies for public drinking water wells in the area. The owners of these systems must control the ownership of this down gradient area to prohibit future wells from being drilled in the impact zone of the ground water recharge system. Authorization from the Idaho Department of Water Resources is required for ground water injection wells. (4-7-11)

615. SUBSURFACE DISTRIBUTION OF RECYCLED WATER.

01. Subsurface Use of Recycled Water. The subsurface distribution and use of recycled water must be designed and located so that compliance with IDAPA 58.01.11, "Ground Water Quality Rule," is maintained and pollutants cannot be reasonably expected to enter waters of the state in concentrations resulting in injury to beneficial uses. In addition, the subsurface distribution and use of recycled water shall comply with these rules, and with applicable IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." (4-7-11)

02. Design and Construction. (4-7-11)

a. The system shall be constructed to prevent surface runoff from entering the system. (4-7-11)

b. Precautions shall be taken during construction of the subsurface distribution system to minimize compaction and prevent a reduction in soil infiltration rate. (4-7-11)

c. Erosion control measures shall be taken during construction to prevent erosion of soil into surface water. (4-7-11)

03. Discharge Limitations. (4-7-11)

a. Prior to discharge to a subsurface system, the wastewater shall be treated such that the recycled water is Class A, B, C or D quality. (4-7-11)

b. The discharge to a subsurface distribution system may not exceed the hydraulic, organic, nitrogen, or other limitations specified in a permit or plans developed pursuant to a permit requirement. The Department shall consider past operating performance, the ability of the soils to treat the pollutants in the discharge, hydrogeologic characteristics of the site such as permeability and infiltration rates and other relevant information. (4-7-11)

616. PERMIT FOR USE OF INDUSTRIAL RECYCLED WATER.

Industrial recycled water shall only be used in accordance with a permit issued pursuant to these rules. Permit conditions and limitations shall be developed by the Department on a case-by-case basis taking into account the specific characteristics of the wastewater to be recycled, the treatment necessary to ensure the use of such recycled water is in compliance with IDAPA 58.01.11, "Ground Water Quality Rule," and IDAPA 58.01.02, "Water Quality

Standards.” Unless otherwise indicated in this section, the permit application, processing and issuance procedures provided in this rule shall apply to industrial reuse permits. (4-7-11)

01. Additional Application Contents. In addition to the requirements in Section 300 of these rules, a permit application for reuse of industrial recycled water shall include: (4-7-11)

- a. The source of the water and the projected rates and volumes; and (4-7-11)
- b. The chemical, biological, and physical characteristics of the industrial recycled water from each source. (4-7-11)

02. Permit Content. The Department shall include the requirements of Section 500, Standard Permit Conditions, in all permits issued for use of industrial recycled water. The Department shall develop additional permit conditions on a case-by-case basis considering the following factors: (4-7-11)

- a. The risk to public health and the environment; (4-7-11)
- b. The degree of public access to the site where the recycled water is used and the degree of human exposure anticipated; (4-7-11)
- c. Any additional measures necessary to prevent nuisance conditions; (4-7-11)
- d. Specific recycled water quality necessary for the intended type of reuse; and (4-7-11)
- e. The means of application of the recycled water. (4-7-11)

617. -- 699. (RESERVED)

700. PERMIT MODIFICATION.

01. Modification of Permits. A permit modification may be initiated by the receipt of a request for modification from the permittee, or may be initiated by the Department if one (1) or more of the following causes for modification exist: (4-7-11)

- a. Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit. (4-7-11)
- b. New standards or regulations. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. (4-7-11)
- c. Compliance schedules. The Department determines good cause exists for modification of a compliance schedule or terms and conditions of a permit. (4-7-11)
- d. Non-limited pollutants. When the level of discharge of any pollutant which is not limited in the permit exceeds the level which may cause an adverse impact to surface or ground waters. (4-7-11)
- e. To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions. (4-7-11)
- f. When a treatment technology proposed, installed, and properly operated and maintained by the permittee fails to achieve the requirements of the permit. (4-7-11)

02. Minor Modifications. Minor modifications are those which if granted would not result in any increased hazard to the environment or to the public health. If a permit modification satisfies the criteria for “minor modifications,” the permit may be modified without issuance of a draft permit or public review. Minor modifications

are normally limited to: (4-7-11)

- a. The correction of typographical errors or formatting changes; (4-7-11)
- b. Transfer of ownership or operational control, or responsible official; (4-7-11)
- c. A change in monitoring or reporting frequency requirements, or revision of a laboratory method; (4-7-11)
- d. Change compliance due date in a schedule of compliance, provided the new date does not exceed six (6) months; (4-7-11)
- e. Change or add a sampling location; (4-7-11)
- f. Change to a higher level of treatment without a change in end uses; (4-7-11)
- g. Change in terminology; (4-7-11)
- h. Removal of an allowed use; (4-7-11)
- i. Correct minor technical errors, such as citations of law, and citations of construction specifications; (4-7-11)
- j. Change in a contingency plan resulting in equal or more efficient responsiveness; or (4-7-11)
- k. Removal of acreage from irrigation without an increase in loadings. (4-7-11)

03. Major Modifications. All modifications not considered minor shall be considered major modifications. The procedure for making major modifications shall be the same as that used for a new permit under these rules. Some examples of the major modifications are: (4-7-11)

- a. Changes in the treatment system; (4-7-11)
- b. Adding an allowed use; (4-7-11)
- c. Changes to a lower (less treated) class of water; (4-7-11)
- d. Addition of acreage used for irrigation; or (4-7-11)
- e. Changes to less stringent discharge limitations. (4-7-11)

701. -- 799. (RESERVED)

800. PERMIT TRANSFERABLE.

01. General. A permit may be transferred only upon approval of the Department. No transfer is required for a corporate name change as long as the secretary of state can verify that a change in name alone has occurred. An attempted transfer is not effective for any purpose until approved in writing by the Department. (4-7-11)

02. Request for Transfer. Either the permit holder (permittee) or the person to whom the permit is proposed to be transferred (transferee) shall submit to the department a request for transfer at least thirty (30) days before the proposed transfer date. The request for transfer shall include: (4-7-11)

- a. Legal name and address of the permittee; (4-7-11)
- b. Legal name and address of the transferee; (4-7-11)

- c. Location and the common name of the facility; (4-7-11)
- d. Date of proposed transfer; (4-7-11)
- e. Sufficient documentation for the Department to determine that the transferee will meet the requirements listed in IDAPA 58.01.16 "Wastewater Rules," Section 409, relating to technical, financial and managerial capacity; (4-7-11)
- f. A signed declaration by the transferee that the transferee has reviewed the permit and understands the terms of the permit; (4-7-11)
- g. A sworn statement that the request is made with the full knowledge and consent of the permittee if the transferee is submitting the request; (4-7-11)
- h. Identification of any judicial decree, compliance agreement, enforcement order, or other outstanding obligating instrument, the terms of which have not been met, along with legal instruments sufficient to address liabilities under such decree, agreement, order, or other obligating instrument; and (4-7-11)
- i. Any other information the director may reasonably require. (4-7-11)

03. Effective Date of Transfer. Responsibility for compliance with the terms and conditions of the permit and liability for any violation associated therewith is assumed by the transferee, effective on the date indicated in the approved transfer. (4-7-11)

04. Compliance with Permit Conditions Pending Transfer Approval. Prior to a transfer approval, the permittee shall continue to be responsible for compliance with the terms and conditions of the permit and be liable for any violation associated therewith, regardless of whether ownership or operational control of the permitted facility has been transferred. (4-7-11)

05. Transferee Liability Prior to Transfer Approval. If a proposed transferee causes or allows operation of the facility under his ownership or control before approval of the permit transfer, such transferee shall be considered to be operating without a permit or authorization required by these rules and may be cited for additional violations as applicable. (4-7-11)

06. Compliance Record of Transferee. The director may consider the prior compliance record of the transferee, if any, in the decision to approve or disapprove a transfer. (4-7-11)

801. TEMPORARY CESSATION OF OPERATIONS AND CLOSURE.

01. Temporary Cessation. A permittee shall implement any applicable conditions specified in the permit for temporary cessation of operations. When the permit does not specify applicable temporary cessation conditions, the permittee shall notify the Director prior to a temporary cessation of operations at the facility greater than sixty (60) days in duration and any cessation not for regular maintenance or repair. Cessation of operations necessary for regular maintenance or repair of a duration of sixty (60) days or less are not required to notify the Department under this section. All notifications required under this section shall include a proposed temporary cessation plan that will ensure the cessation of operations will not pose a threat to human health or the environment. (4-7-11)

02. Closure. A closure plan shall be required when a facility is closed voluntarily and when a permit is revoked or expires. A permittee shall implement any applicable conditions specified in the permit for closure of the facility. Unless otherwise directed by the terms of the permit or by the Director, the permittee shall submit a closure plan to the Director for approval at least ninety (90) days prior to ceasing operations. The closure plan shall ensure that the closed facility will not pose a threat to human health and the environment. Closure plan approval may be conditioned upon a permittee's agreement to complete such site investigations, monitoring, and any necessary remediation activities that may be required. (4-7-11)

802. -- 919. (RESERVED)

920. PERMIT REVOCATION.

01. Conditions for Revocation. The Director may revoke a permit if the permittee violates any permit condition or these rules, or the Director becomes aware of any omission or misrepresentation of condition or information relied upon when issuing the permit. (4-7-11)

02. Notice of Revocation. Except in cases of emergency, the Director shall issue a written notice of intent to revoke to the permittee prior to final revocation. Revocation shall become final within thirty-five (35) days of receipt of the notice by the permittee, unless within that time the permittee requests an administrative hearing in writing. The hearing shall be conducted in accordance with IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality.” (5-3-03)

03. Emergency Action. If the Director finds the public health, safety or welfare requires emergency action, the Director shall incorporate findings in support of such action in a written notice of emergency revocation issued to the permittee. Emergency revocation shall be effective upon receipt by the permittee. Thereafter, if requested by the permittee in writing, the Director shall provide the permittee a revocation hearing and prior notice thereof. Such hearings shall be conducted in accordance with IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality.” (3-15-02)

04. Revocation and Closure. A permittee shall perform the closure requirements in a permit, the closure requirements of these rules, and complete all closure plan activities notwithstanding the revocation of the permit. (4-7-11)

921. -- 929. (RESERVED)

930. VIOLATIONS.

Any person violating any provision of these rules or any permit or order issued thereunder shall be liable for a civil penalty not to exceed ten thousand dollars (\$10,000) or one thousand dollars (\$1,000) for each day of a continuing violation, whichever is greater. In addition, pursuant to Title 39, Chapter 1, Idaho Code, any willful or negligent violation may constitute a misdemeanor. (4-1-88)

931. -- 939. (RESERVED)

940. WAIVERS.

Waivers from the requirements of these rules may be granted by the Director on a case-by-case basis upon full demonstration by the person requesting the waivers that such activities for which the waivers are granted will not have a detrimental effect upon existing water quality and beneficial uses are adequately protected. (4-7-11)

941. -- 999. (RESERVED)

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

61.01.08 – RULES GOVERNING THE ADMINISTRATION OF IDAHO’S INDIGENT DEFENSE DELIVERY SYSTEM – RULE DEFINITIONS

DOCKET NO. 61-0108-1901

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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 19-850(1)(a)(vii) Idaho Code.

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

PUBLIC MEETINGS	
Thursday, July 11, 2019 4:00 p.m. (MT) Boise	Friday, July 12, 2019 4:00 p.m. (MT) Twin Falls
Idaho Law and Justice Learning Center 514 W. Jefferson Street Boise, ID 83702	Twin Falls Public Library Program Room 201 4th Ave E Twin Falls, ID 83301
Monday, July 15, 2019 4:00 p.m. (MT) Caldwell	Thursday, July 18, 2019 4:00 p.m. (PT) Lewiston
County Administrative Building 1st Floor Public Hearing Room 111 North 11th Avenue Caldwell, ID 83605	Lewiston City Library Board Room 411 D Street Lewiston, ID 83501
Friday, July 19, 2019 4:00 p.m. (PT) Coeur d’Alene	Monday, July 22, 2019 4:00 p.m. (MT) Pocatello
Coeur d’Alene Public Library Gozzer Room 702 E. Front Avenue Coeur d’Alene, ID 83814	Idaho State University Pond Building - Heritage Room 921 South 8th St. Pocatello, ID 83209
Tuesday, July 23, 2019 5:00 p.m. (MT) Idaho Falls	
Idaho Falls Public Library Conference Room 208 457 West Broadway Idaho Falls, ID 83402	

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Present oral comments at a scheduled meeting listed above; or submit written comments to the undersigned by email to the email address or by mail to the address listed below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This rule will amend the Standards for Defending Attorneys, Edition 2018, and implement the principle that the delivery of indigent defense services shall be independent of political and judicial influence. This amendment will ensure that the safeguards of the 6th Amendment to the United States Constitution and Article I, Section 13 of the Idaho Constitution are met.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), contact Kathleen J. Elliott at the phone number listed below. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the agency web site at the following web address: <https://pdc.idaho.gov>.

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 July 24, 2019.

Dated this 7th day of June, 2019.

Kathleen J. Elliott, Executive Director
Idaho State Public Defense Agency
816 W. Bannock Street, Suite 201
Boise, Idaho 83702
Phone: 208-332-1735
kathleen.elliott@pdc.idaho.gov

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

61.01.08 – RULES GOVERNING THE ADMINISTRATION OF IDAHO’S INDIGENT DEFENSE DELIVERY SYSTEM – RULE DEFINITIONS

DOCKET NO. 61-0108-1902

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 intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 19-850(1)(a)(vii) Idaho Code.

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

PUBLIC MEETINGS	
Thursday, July 11, 2019 4:00 p.m. (MT) Boise	Friday, July 12, 2019 4:00 p.m. (MT) Twin Falls
Idaho Law and Justice Learning Center 514 W. Jefferson Street Boise, ID 83702	Twin Falls Public Library Program Room 201 4th Ave E Twin Falls, ID 83301
Monday, July 15, 2019 4:00 p.m. (MT) Caldwell	Thursday, July 18, 2019 4:00 p.m. (PT) Lewiston
County Administrative Building 1st Floor Public Hearing Room 111 North 11th Avenue Caldwell, ID 83605	Lewiston City Library Board Room 411 D Street Lewiston, ID 83501
Friday, July 19, 2019 4:00 p.m. (PT) Coeur d’Alene	Monday, July 22, 2019 4:00 p.m. (MT) Pocatello
Coeur d’Alene Public Library Gozzer Room 702 E. Front Avenue Coeur d’Alene, ID 83814	Idaho State University Pond Building - Heritage Room 921 South 8th St. Pocatello, ID 83209
Tuesday, July 23, 2019 5:00 p.m. (MT) Idaho Falls	
Idaho Falls Public Library Conference Room 208 457 West Broadway Idaho Falls, ID 83402	

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Present oral comments at a scheduled meeting listed above; or submit written comments to the undersigned by email to the email address or by mail to the address listed below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This rule will amend the Standards for Defending Attorneys, Edition 2018, and implement the principle of reasonable equity between defending attorneys and prosecuting attorneys with respect to resources, staff and facilities. This amendment will ensure that the safeguards of the 6th Amendment to the United States Constitution and Article I, Section 13 of the Idaho Constitution are met.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), contact Kathleen J. Elliott at the phone number listed below. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the agency web site at the following web address: <https://pdc.idaho.gov>.

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 July 24, 2019.

Dated this 7th day of June, 2019.

Kathleen J. Elliott, Executive Director
Idaho State Public Defense Agency
816 W. Bannock Street, Suite 201
Boise, Idaho 83702
Phone: 208-332-1735
kathleen.elliott@pdc.idaho.gov

Sections Affected Index

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.03.01 – Rules Governing Pesticide Management Plans for Ground Water Protection

Docket No. 02-0301-1901

000. Legal Authority	19
001. Title And Scope	19
002. Written Interpretations	19
003. Administrative Appeals	19
004. Incorporation By Reference	19
005. Address, Office Hours, Telephone, Fax Numbers, Web Address	20
006. Public Records Act Compliance	20
007. -- 009. (Reserved)	20
010. Definitions	20
011. Abbreviations	21
012. -- 049. (Reserved)	21
050. Chemical Specific PMPs	21
051. -- 099. (Reserved)	22
100. Contents Of A Chemical Specific PMP	22
101. Management Plans Adopted By Rulemaking And Review	23
102. -- 149. (Reserved)	23
150. Ground Water Quality Reference Points	23
151. -- 199. (Reserved)	23
200. Response To A Pesticide Detection	23
201. -- 299. (Reserved)	25
300. Ground Water Monitoring Programs	25
301. -- 399. (Reserved)	25
400. Determining Pesticide Area Boundaries	25
401. -- 409. (Reserved)	26
410. Repealing Specific Pesticide Areas	26
411. -- 419. (Reserved)	27
420. Advisory Committee	27
421. Pesticide Use And Record Keeping Requirements	28
422. -- 449. (Reserved)	28
450. Research	28
451. -- 459. (Reserved)	28
460. Educational Programs	28
461. -- 469. (Reserved)	28
470. Exemptions	28
471. -- 479. (Reserved)	28
480. Penalties	28
481. -- 999. (Reserved)	28

02.03.03 – Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application

Docket No. 02-0303-1901

000. Legal Authority	30
001. Title And Scope	30
002. Written Interpretations	30
003. Administrative Appeal	30
004. Definitions	30
005. Findings	32

006. Address, Office Hours, Telephone, Fax Numbers, Web Address.....	32
007. Incorporation By Reference.....	32
008. -- 049. (Reserved).....	32
050. Private Applicator Licensing.....	33
051. -- 099. (Reserved).....	34
100. Licensing Professional Applicators And Pesticide Dealers.....	34
101. Registration And Licensing Requirements For Use Of The LPC.....	39
102. Restrictions And Penalties.....	41
103. -- 149. (Reserved).....	42
150. Records Requirements.....	42
151. -- 199. (Reserved).....	43
200. Fees.....	43
201. -- 249. (Reserved).....	43
250. Financial Responsibility.....	43
251. -- 299. (Reserved).....	44
300. Deviations From Pesticide Labels And Labeling.....	45
301. -- 309. (Reserved).....	45
310. Low-Flying Prohibitions.....	45
311. -- 319. (Reserved).....	45
320. Wind Velocity Restrictions.....	45
321. Change Of License Status.....	45
322. (Reserved).....	45
323. Pesticide-Fertilizer Mix Restrictions.....	45
324. Experimental Permits.....	45
325. -- 399. (Reserved).....	46
400. Restrictions To Protect Pollinators.....	46
401. -- 449. (Reserved).....	47
450. Storage Of Pesticide Containers.....	47
451. -- 499. (Reserved).....	47
500. Non-Domestic Pesticides.....	48
501. -- 549. (Reserved).....	48
550. Phenoxy Herbicide Restrictions.....	48
551. -- 599. (Reserved).....	49
600. Application Near Hazard Areas.....	49
601. Microencapsulated Methyl Parathion Restriction.....	49
602. -- 799. (Reserved).....	49
800. Pesticide Use On Seed Crop Fields.....	49
801. -- 849. (Reserved).....	50
850. Unusable Pesticides Collection And Disposal.....	50
851. -- 960. (Reserved).....	52
961. General Chemigation Requirements.....	52
962. Irrigation Systems.....	52
963. Chemical Injection Line Shut Down (System Interlock).....	53
964. Injection Line Check Valve.....	55
965. Chemical Injection System.....	55
966. Irrigation Line Check Valve.....	56
967. Gooseneck Pipe Loop, Downhill And Over-A-Hill.....	57
968. Vacuum Relief Valve Or Combination Air And Vacuum Relief Valve.....	57
969. Inspection Port.....	57
970. Automatic Low Pressure Drain.....	57
971. Variances.....	58
972. -- 999. (Reserved).....	58

02.04.14 – Rules Governing Dairy Byproduct**Docket No. 02-0414-1901**

000. Legal Authority	60
001. Title And Scope	60
002. Written Interpretations	60
003. Administrative Appeal	60
004. Incorporation By Reference	60
005. Address, Office Hours, Telephone, Fax Numbers, Web Address	61
006. Public Records Act Compliance	61
007. -- 009. (Reserved)	61
010. Definitions	61
011. Abbreviations	63
012. -- 029. (Reserved)	63
030. Dairy Environmental Management Plan Approval	63
031. Phosphorus Management	65
032. -- 039. (Reserved)	66
040. Inspections	66
041. Inspection Report Forms	66
042. -- 049. (Reserved)	66
050. Compliance Schedules	66
051. -- 059. (Reserved)	66
060. Unauthorized Discharges And Unauthorized Releases -- Penalties	66
061. Compliance With Idaho Pollutant Discharge Elimination System Rules	66
062. -- 999. (Reserved)	67

02.04.15 – Rules Governing Beef Cattle Animal Feeding Operations**Docket No. 02-0415-1901**

000. Legal Authority	69
001. Title And Scope	69
002. Written Interpretations	69
003. Administrative Appeal	69
004. Incorporation By Reference	69
005. Idaho Public Records Act	69
006. Address, Office Hours, Telephone, Fax Numbers, Web Address	70
010. Definitions	70
011. Abbreviations	72
012. Prohibited Discharges	72
013. Notification Of Discharge	72
014. -- 019. (Reserved)	72
020. Wastewater Storage And Containment Facilities	72
021. New Or Modified Beef Cattle Animal Feeding Operations	73
022. -- 029. (Reserved)	73
030. Nutrient Management	73
031. Nutrient Management Plan Retention	73
032. Nutrient Management Records	73
033. -- 039. (Reserved)	74
040. Designation Of Beef Cattle Animal Feeding Operations	74
041. -- 049. (Reserved)	74
050. Authority To Inspect	74
051. Inspections	74
052. Administration Of IPDES Program	74
053. Compliance With Idaho Pollutant Discharge Elimination System Rules	74

054. -- 079. (Reserved).....	75
080. Compliance Orders.....	75
081. -- 089. (Reserved).....	75
090. Penalties.....	75
091. -- 999. (Reserved).....	75
02.04.16 – Rules Governing Agriculture Odor Management	
Docket No. 02-0416-1901	
000. Legal Authority.....	77
001. Title And Scope.....	77
002. Written Interpretations.....	77
003. Administrative Appeal.....	77
004. Incorporation By Reference.....	77
005. Idaho Public Records Act.....	77
006. Address, Office Hours, Telephone And Fax Numbers.....	77
007. -- 009. (Reserved).....	78
010. Definitions.....	78
011. Abbreviations.....	79
012. -- 099. (Reserved).....	80
100. Accepted Agricultural Practices.....	80
101. -- 199. (Reserved).....	80
200. Applicability.....	80
201. -- 299. (Reserved).....	80
300. Liquid Waste Systems.....	81
301. Standards And Specifications For Liquid Waste Systems.....	81
302. -- 399. (Reserved).....	82
400. Inspections.....	82
401. -- 499. (Reserved).....	82
500. Odor Management Plans.....	82
501. Contents Of An Odor Management Plan.....	83
502. -- 599. (Reserved).....	84
600. Complaints.....	84
601. Contents Of Complaints.....	84
602. Response To Complaints.....	84
603. -- 699. (Reserved).....	84
700. First Time Violations.....	84
701. Subsequent Violations.....	85
702. Odor Emissions Caused By An Act Of God.....	85
703. -- 899. (Reserved).....	85
900. Penalties.....	85
901. -- 999. (Reserved).....	85
02.04.17 – Rules Governing Dead Animal Movement and Disposal	
Docket No. 02-0417-1901	
000. Legal Authority.....	87
001. Title And Scope.....	87
002. Written Interpretations.....	87
003. Administrative Appeal.....	87
004. Incorporation By Reference.....	87
005. Address, Office Hours, Telephone, Fax Numbers, Web Address.....	87
006. Public Records Act Compliance.....	87
007. -- 009. (Reserved).....	87
010. Definitions.....	87

011. Exclusions.....	88
012. -- 019. (Reserved).....	89
020. Abandonment Of Dead Animals.....	89
021. -- 029. (Reserved).....	89
030. Disposal Of Dead Animals.....	89
031. -- 039. (Reserved).....	90
040. Movement Of Dead Animals.....	90
041. -- 049. (Reserved).....	90
050. Dead Animal Emergencies.....	91
051. -- 089. (Reserved).....	91
090. Penalties.....	91
091. -- 999. (Reserved).....	92
 <i>02.04.23 – Rules Governing Commercial Livestock Truck Washing Facilities</i>	
Docket No. 02-0423-1901	
000. Legal Authority.....	94
001. Title And Scope.....	94
002. Written Interpretations.....	94
003. Administrative Appeal.....	94
004. Incorporation By Reference.....	94
005. Address, Office Hours, Telephone, Fax Numbers, Web Address.....	94
006. Idaho Public Records Act.....	94
007. -- 009. (Reserved).....	94
010. Definitions.....	95
011. Abbreviations.....	96
012. Applicability.....	96
013. -- 049. (Reserved).....	96
050. Inspections.....	96
051. -- 099. (Reserved).....	96
100. Permit Required.....	96
101. Application For Permit.....	96
102. -- 109. (Reserved).....	97
110. Duration Of Permit.....	97
111. Renewal Of Permit.....	97
112. -- 119. (Reserved).....	97
120. Revocation Of Permit.....	97
121. -- 199. (Reserved).....	97
200. Unauthorized Discharges.....	97
201. -- 209. (Reserved).....	97
210. Notification Of Discharge.....	97
211. Written Notification.....	98
212. -- 299. (Reserved).....	98
300. Wastewater Storage And Containment Facilities.....	98
301. -- 309. (Reserved).....	98
310. Construction Requirements.....	98
311. -- 319. (Reserved).....	98
320. Substances Entering Wastewater Storage And Containment Facilities.....	98
321. -- 329. (Reserved).....	98
330. Nutrient Management.....	98
331. -- 349. (Reserved).....	99
350. Existing CLTWF.....	99
351. -- 359. (Reserved).....	99
360. New CLTWF.....	99

361. -- 999. (Reserved).....	99
02.04.30 – Rules Governing Nutrient Management	
Docket No. 02-0430-1902	
000. Legal Authority.....	101
001. Title And Scope.....	101
002. Written Interpretations.....	101
003. Administrative Appeal.....	101
004. Incorporation By Reference.....	101
005. Address, Office Hours, Telephone, Fax Numbers, Web Address.....	101
006. Public Records Act Compliance.....	102
007. -- 009. (Reserved).....	102
010. Definitions.....	102
011. Abbreviations.....	102
012. -- 019. (Reserved).....	103
020. Applicability.....	103
021. -- 099. (Reserved).....	103
100. Nutrient Management Plans.....	103
101. -- 149. (Reserved).....	103
150. Nutrient Management Planner Certification.....	103
151. -- 189. (Reserved).....	103
190. Revocation Of Nutrient Management Planner Certification.....	103
191. -- 199. (Reserved).....	103
200. Soil Samples.....	103
201. -- 219. (Reserved).....	104
220. Soil Sample Collection.....	104
221. -- 229. (Reserved).....	104
230. Soil Sample Submission.....	104
231. -- 299. (Reserved).....	104
300. Approved Laboratories.....	104
301. -- 399. (Reserved).....	104
400. Records Of Nutrient Analysis.....	104
401. -- 499. (Reserved).....	104
500. Soil Sampler Certification.....	104
501. -- 899. (Reserved).....	105
900. Revocation Of Soil Sampler Certification.....	105
901. -- 989. (Reserved).....	105
990. Penalties.....	105
991. -- 999. (Reserved).....	105
02.04.31 – Rules Governing the Stockpiling of Agricultural Waste	
Docket No. 02-0431-1901	
000. Legal Authority.....	107
001. Title And Scope.....	107
002. Written Interpretations.....	107
003. Administrative Appeals.....	107
004. Address, Office Hours, Telephone, Fax Numbers, Web Address.....	107
005. Public Records Act Compliance.....	107
006. -- 009. (Reserved).....	107
010. Definitions.....	107
011. -- 019. (Reserved).....	108
020. Setbacks For Stockpile Sites.....	108
021. -- 039. (Reserved).....	108

040. Response To Complaints.....	109
041. -- 059. (Reserved).....	109
060. Penalties.....	109
061. -- 999. (Reserved).....	109
<i>02.04.32 – Rules Governing Poultry Operations</i>	
Docket No. 02-0432-1901	
000. Legal Authority.....	111
001. Title And Scope.....	111
002. Written Interpretations.....	111
003. Administrative Appeal.....	111
004. Incorporation By Reference.....	111
005. Address, Office Hours, Telephone, Fax Numbers, Web Address.....	112
006. Idaho Public Records Act.....	112
007. -- 009. (Reserved).....	112
010. Definitions.....	112
011. Abbreviations.....	112
012. -- 099. (Reserved).....	112
100. Permit Required.....	113
101. -- 109. (Reserved).....	113
110. Permit Application.....	113
111. -- 119. (Reserved).....	114
120. Application Processing Procedure.....	114
121. -- 129. (Reserved).....	115
130. Permit Conditions.....	115
131. -- 139. (Reserved).....	116
140. Fees And Assessments.....	116
141. -- 149. (Reserved).....	116
150. Permit Modification.....	116
151. -- 159. (Reserved).....	116
160. Transfer Of Permits.....	116
161. -- 169. (Reserved).....	117
170. Registration Of Existing Poultry CAFOs.....	117
171. -- 199. (Reserved).....	118
200. Waste Storage And Containment Facilities.....	118
201. -- 249. (Reserved).....	118
250. Nutrient Management.....	118
251. Nutrient Management Plan Retention.....	119
252. Nutrient Management Records.....	119
253. NMP Violations.....	119
254. -- 259. (Reserved).....	119
260. Ground Water Quality Monitoring.....	119
261. -- 299. (Reserved).....	119
300. Prohibited Discharges.....	119
301. -- 309. (Reserved).....	120
310. Notification Of Discharge.....	120
311. -- 399. (Reserved).....	120
400. Designation Of Poultry Concentrated Animal Feeding Operations.....	120
401. -- 499. (Reserved).....	120
500. Inspections.....	120
501. -- 549. (Reserved).....	121
550. Violations.....	121
551. -- 999. (Reserved).....	121

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.02.02 – Rules Governing Plumbing Permits

Docket No. 07-0202-1901 (Fee Rule)

000. Legal Authority.....	123
001. Title And Scope.....	123
002. Written Interpretations.....	123
003. Administrative Appeals.....	123
004. Incorporation By Reference.....	124
005. Office – Mailing Address – Street Address – Office Hours – Web Address.....	124
006. Public Records Act Compliance.....	124
007. -- 009. (Reserved).....	124
010. Definitions.....	124
011. Permits.....	124
016. -- 999. (Reserved).....	128

07.02.05 – Rules Governing Plumbing Safety Licensing

Docket No. 07-0205-1901

016. Certificates Of Competency -- Issuance, Renewal, Expiration, Revival -- Fees.....	132
--	-----

07.07.01 – Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems, Division of Building Safety

Docket No. 07-0701-1901

003. Administrative Appeals.....	137
004. Adoption And Incorporation By Reference Of The International Mechanical Code, 2018 Edition; The International Fuel Gas Code, 2018 Edition; And Part V (Mechanical) And Part VI (Fuel Gas) Of The International Residential Code For One (1)- And Two (2)-Family Dwellings, 2018 Edition.....	137
005. Office – Office Hours – Mailing Address And Street Address.....	140
006. Filing Of Documents.....	141
007. Public Records Act Compliance.....	141
008. Changes In Name And Address -- Address For Notification Purposes.....	141
009. Meetings.....	141
010. Definitions.....	141
011. Certificates Of Competency -- Issuance, Renewal, Expiration -- Revival.....	141
012. -- 019. (Reserved).....	142
021. HVAC Contractor Certificate Of Competency - Requirements.....	142
023. HVAC Journeyman Certificates Of Competency: Requirements.....	143
050. HVAC Permits.....	144
060. Required Inspections.....	144
070. Civil Penalties.....	145

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.02.08 – Vital Statistics Rules

Docket No. 16-0208-1901

201. Completion And Correction Of Certificates.....	165
---	-----

16.03.09 – Medicaid Basic Plan Benefits

Docket No. 16-0309-1803

399. Covered Services Under Basic Plan Benefits.....	171
567. -- 569. (Reserved).....	173
570. Children's Habilitation Intervention Services.....	173
571. Children's Habilitation Intervention Services: Definitions.....	173
572. Children's Habilitation Intervention Services: Eligibility Requirements.....	175
573. Children's Habilitation Intervention Services: Coverage And Limitations.....	175

574. Children's Habilitation Intervention Services: Procedural Requirements.....	178
576. Children's Habilitation Intervention Services: Provider Reimbursement.....	184
577. Children's Habilitation Intervention Services: Quality Assurance.....	184
578. -- 579. (Reserved).....	185
850. School-Based Service: Definitions.....	185
852. School-Based Service: Service-Specific Participant Eligibility.....	186
853. School-Based Service: Coverage And Limitations.....	187
855. School-Based Service: Provider Qualifications And Duties.....	191

16.03.10 – Medicaid Enhanced Plan Benefits

Docket No. 16-0310-1806

009. Criminal History And Background Check Requirements.....	201
038. General Reimbursement: Types Of Participant Services.....	202
520. Children's DD HCBS State Plan Option.....	203
521. Children's DD HCBS State Plan Option: Definitions.....	203
522. Children's DD HCBS State Plan Option: Eligibility Determination.....	205
523. Children's DD HCBS State Plan Option: Coverage And Limitations.....	207
524. Children's DD HCBS State Plan Option: Plan Of Service Process.....	209
525. Children's DD HCBS State Plan Option: Procedural Requirements.....	210
526. Children's DD HCBS State Plan Option: Provider Qualifications And Duties.....	211
527. Children's DD HCBS State Plan Option: Provider Reimbursement.....	215
528. Children's DD HCBS State Plan Option: Department's Quality Assurance And Improvement Processes.....	216
658. -- 699. (Reserved).....	235

IDAPA 35 – STATE TAX COMMISSION

35.01.01 – Income Tax Administrative Rules

Docket No. 35-0101-1903

075. Tax On Individuals, Estates, And Trusts (Rule 075).....	247
263. Idaho Source Income Of Nonresident And Part-Year Resident Individuals -- Distributive Share Of S Corporation And Partnership Income (Rule 263).....	249

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

**39.03.06 – Rules Governing Special Permits for Extra-Length/Excess Weight,
Up to 129,000 Pound Vehicle Combinations**

Docket No. 39-0306-1901

051. -- 199. (Reserved).....	270
200. Designated Routes For Extra Length Vehicle Combinations Up To One Hundred Twenty-Nine Thousand (129,000) Pounds.....	270

39.03.49 – Rules Governing Ignition Interlock Breath Alcohol Devices

Docket No. 39-0349-1901

010. Definitions.....	274
011. -- 099. (Reserved).....	274
100. Certification Process.....	274
101. Test Specifications For Certification.....	276
102. -- 199. (Reserved).....	276
200. Installation Standards.....	276
201. -- 299. (Reserved).....	276
300. Device Maintenance And Reports.....	277
301. Device Security.....	277
302. -- 399. (Reserved).....	278
400. Mandatory Operational Features.....	278
401. Other Provisions.....	278

402. Removal Procedures.....	279
403. -- 499. (Reserved).....	279
500. Primary Responsibilities Of Agencies/Offices Monitoring This Rule.....	279
501. -- 999. (Reserved).....	281

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY*58.01.01 – Rules for the Control of Air Pollution in Idaho***Docket No. 58-0101-1904**

000. Legal Authority.....	285
001. Title And Scope.....	286
002. Written Interpretations.....	286
003. Administrative Appeals.....	286
004. (Reserved).....	286
005. Definitions.....	286
006. General Definitions.....	286
007. Definitions For The Purposes Of Sections 200 Through 228 And 400 Through 461.....	301
008. Definitions For The Purposes Of Sections 300 Through 386.....	304
009. Definitions For The Purposes Of 40 CFR Part 60.....	306
010. Definitions For The Purposes Of 40 CFR Part 61 And 40 CFR Part 63.....	306
011. Definitions For The Purposes Of Sections 790 Through 799.....	306
012. -- 105. (Reserved).....	307
106. Abbreviations.....	307
107. Incorporations By Reference.....	308
108. -- 120. (Reserved).....	309
121. Compliance Requirements By Department.....	309
122. Information Orders By The Department.....	310
123. Certification Of Documents.....	311
124. Truth, Accuracy And Completeness Of Documents.....	311
125. False Statements.....	311
126. Tampering.....	311
127. Format Of Responses.....	311
128. Confidential Information.....	311
129. (Reserved).....	311
130. Startup, Shutdown, Scheduled Maintenance, Safety Measures, Upset And Breakdown.....	311
131. Excess Emissions.....	311
132. Correction Of Condition.....	312
133. Startup, Shutdown And Scheduled Maintenance Requirements.....	312
134. Upset, Breakdown And Safety Requirements.....	314
135. Excess Emissions Reports.....	316
136. Excess Emissions Records.....	316
137. -- 139. (Reserved).....	316
140. Variances.....	317
141. Petition.....	317
142. Notice.....	317
143. Investigation And Recommendation.....	317
144. Objections To Petition.....	317
145. Authorization Of Hearing.....	317
146. Notice Of Hearing.....	318
147. Decision.....	318
148. Proof Of Hardship.....	318
149. Variance From New Rule.....	318
150. -- 154. (Reserved).....	318

155. Circumvention.....	318
156. Total Compliance.....	318
157. Test Methods And Procedures.....	318
158. -- 159. (Reserved).....	320
160. Provisions Governing Specific Activities And Conditions.....	320
161. Toxic Substances.....	320
162. Modifying Physical Conditions.....	320
163. Source Density.....	320
164. Polychlorinated Biphenyls (PCBs).....	321
165. -- 174. (Reserved).....	321
175. Procedures And Requirements For Permits Establishing A Facility Emissions Cap.....	321
176. Facility Emissions Cap.....	321
177. Application Procedures.....	322
178. Standard Contents Of Permits Establishing A Facility Emissions Cap.....	322
179. Procedures For Issuing Permits Establishing A Facility Emissions Cap.....	323
180. Revisions To Permits Establishing A Facility Emissions Cap.....	324
181. Notice And Record-Keeping Of Estimates Of Ambient Concentrations.....	324
182. -- 199. (Reserved).....	325
200. Procedures And Requirements For Permits To Construct.....	325
201. Permit To Construct Required.....	325
202. Application Procedures.....	325
203. Permit Requirements For New And Modified Stationary Sources.....	327
204. Permit Requirements For New Major Facilities Or Major Modifications In Nonattainment Areas.....	328
205. Permit Requirements For New Major Facilities Or Major Modifications In Attainment Or Unclassifiable Areas.....	329
206. Optional Offsets For Permits To Construct.....	330
207. Requirements For Emission Reduction Credit.....	330
208. Demonstration Of Net Air Quality Benefit.....	330
209. Procedure For Issuing Permits.....	330
210. Demonstration Of Preconstruction Compliance With Toxic Standards.....	334
211. Conditions For Permits To Construct.....	341
212. Obligation To Comply.....	341
213. Pre-Permit Construction.....	342
214. Demonstration Of Preconstruction Compliance For New And Reconstructed Major Sources Of Hazardous Air Pollutants.....	343
215. Mercury Emission Standard For New Or Modified Sources.....	343
216. -- 219. (Reserved).....	343
220. General Exemption Criteria For Permit To Construct Exemptions.....	344
221. Category I Exemption.....	344
222. Category II Exemption.....	344
223. Exemption Criteria And Reporting Requirements For Toxic Air Pollutant Emissions.....	347
224. Permit To Construct Application Fee.....	347
225. Permit To Construct Processing Fee.....	347
226. Payment Of Fees For Permits To Construct.....	348
227. Receipt And Usage Of Fees.....	348
228. Appeals.....	348
229. -- 299. (Reserved).....	349
300. Procedures And Requirements For Tier I Operating Permits.....	349
301. Requirement To Obtain Tier I Operating Permit.....	349
302. Optional Tier I Operating Permit.....	349
303. -- 310. (Reserved).....	349
311. Standard Permit Applications.....	349

312. Duty To Apply.....	349
313. Timely Application.....	349
314. Required Standard Application Form And Required Information.....	350
315. Duty To Supplement Or Correct Application.....	354
316. Effect Of Inaccurate Information In Applications Or Failure To Submit Relevant Information...	354
317. Insignificant Activities.....	354
318. -- 320. (Reserved).....	361
321. Tier I Operating Permit Content.....	361
322. Standard Contents Of Tier I Operating Permits.....	361
323. -- 324. (Reserved).....	366
325. Additional Contents Of Tier I Operating Permits -- Permit Shield.....	366
326. -- 331. (Reserved).....	367
332. Emergency As An Affirmative Defense Regarding Excess Emissions.....	367
333. -- 334. (Reserved).....	367
335. General Tier I Operating Permits And Authorizations To Operate.....	367
336. Tier I Operating Permits For Tier I Portable Sources.....	368
337. -- 359. (Reserved).....	368
360. Standard Processing Of Tier I Operating Permit Applications.....	368
361. Completeness Of Applications.....	368
362. Technical Memorandums For Tier I Operating Permits.....	369
363. Preparation Of Draft Permit Or Draft Denial.....	369
364. Public Notices, Comments And Hearings.....	369
365. Preparation Of Proposed Permit Or Proposed Denial.....	370
366. EPA Review Procedures.....	370
367. Action On Application.....	371
368. Expiration Of Preceding Permits.....	372
369. Tier I Operating Permit Renewal.....	372
370. -- 379. (Reserved).....	372
380. Changes To Tier I Operating Permits.....	372
381. Administrative Permit Amendments.....	372
382. Significant Permit Modification.....	374
383. Minor Permit Modification.....	375
384. Section 502(b)(10) Changes And Certain Emission Trades.....	377
385. Off-Permit Changes And Notice.....	378
386. Reopening For Cause.....	379
387. Registration And Registration Fees.....	380
388. Applicability.....	380
389. Registration Information.....	380
390. Registration Fee.....	380
391. Request For Information.....	381
392. Registration Fee Assessment.....	382
393. Payment Of Tier I Registration Fee.....	382
394. Effect Of Delinquency On Applications.....	382
395. Appeals.....	382
396. Exemptions.....	382
397. Lump Sum Payments Of Registration Fees.....	383
398. -- 399. (Reserved).....	383
400. Procedures And Requirements For Tier II Operating Permits.....	383
401. Tier II Operating Permit.....	383
402. Application Procedures.....	384
403. Permit Requirements For Tier II Sources.....	385
404. Procedure For Issuing Permits.....	385

405.	Conditions For Tier II Operating Permits.....	387
406.	Obligation To Comply.....	388
407.	Tier II Operating Permit Processing Fee.....	388
408.	Payment Of Tier II Operating Permit Processing Fee.....	388
409.	Receipt And Usage Of Fees.....	389
410.	Appeals.....	389
411.	-- 439. (Reserved).....	389
440.	Requirements For Alternative Emission Limits (Bubbles).....	389
441.	Demonstration Of Ambient Equivalence.....	390
442.	-- 459. (Reserved).....	390
460.	Requirements For Emission Reduction Credit.....	390
461.	Requirements For Banking Emission Reduction Credits (ERC's).....	390
462.	-- 499. (Reserved).....	391
500.	Registration Procedures And Requirements For Portable Equipment.....	391
501.	-- 509. (Reserved).....	391
510.	Stack Heights And Dispersion Techniques.....	391
511.	Applicability.....	391
512.	Definitions.....	391
513.	Requirements.....	394
514.	Opportunity For Public Hearing.....	394
515.	Approval Of Field Studies And Fluid Models.....	394
516.	No Restriction On Actual Stack Height.....	394
517.	Motor Vehicle Inspection And Maintenance Program.....	394
518.	Requirements For Licensing Authorized Inspection Stations Or Retest Stations.....	395
519.	Requirements For Licensing Authorized Emissions Technicians.....	396
520.	Inspection Frequency.....	396
521.	Test Procedure Requirements.....	396
522.	Test Standards.....	396
523.	Test Equipment.....	396
524.	Inspection Fee.....	396
525.	Public Outreach.....	396
526.	Waivers.....	397
527.	Extensions.....	397
528.	-- 549. (Reserved).....	397
550.	Air Pollution Emergency Rule.....	397
551.	Episode Criteria.....	397
552.	Stages.....	397
553.	Effect Of Stages.....	397
554.	-- 555. (Reserved).....	398
556.	Criteria For Defining Levels Within Stages.....	398
557.	Public Notification.....	399
558.	Information To Be Given.....	399
559.	Manner And Frequency Of Notification.....	399
560.	Notification To Sources.....	399
561.	General Rules.....	400
562.	Specific Emergency Episode Abatement Plans For Point Sources.....	401
563.	Transportation Conformity.....	401
564.	(Reserved).....	402
565.	Abbreviations.....	402
566.	Definitions For The Purpose Of Sections 563 Through 574 And 582.....	402
567.	Agencies Affected By Consultation.....	405
568.	ICC Member Roles In Consultation.....	406

569.	ICC Member Responsibilities In Consultation.....	406
570.	General Consultation Process.....	408
571.	Consultation Procedures.....	409
572.	Final Conformity Determinations By USDOT.....	411
573.	Resolving Conflicts.....	412
574.	Public Consultation Procedures.....	412
575.	Air Quality Standards And Area Classification.....	412
576.	General Provisions For Ambient Air Quality Standards.....	412
577.	Ambient Air Quality Standards For Fluorides.....	413
578.	Designation Of Attainment, Unclassifiable, And Nonattainment Areas.....	413
579.	Baselines For Prevention Of Significant Deterioration.....	413
580.	Classification Of Prevention Of Significant Deterioration Areas.....	414
581.	Prevention Of Significant Deterioration (PSD) Increments.....	415
582.	-- 584. (Reserved).....	416
585.	Toxic Air Pollutants Non-carcinogenic Increments.....	416
586.	Toxic Air Pollutants Carcinogenic Increments.....	434
587.	Listing Or Delisting Toxic Air Pollutant Increments.....	436
588.	-- 589. (Reserved).....	437
590.	New Source Performance Standards.....	437
591.	National Emission Standards For Hazardous Air Pollutants.....	437
592.	Stage 1 Vapor Collection.....	437
593.	Affected Equipment Or Processes.....	437
594.	Compliance Dates.....	437
595.	Submerged Fill Requirements.....	437
596.	Vapor Balance Requirements.....	438
597.	Testing And Monitoring Requirements.....	438
598.	Registration, Recordkeeping, And Reporting Requirements.....	439
599.	Gasoline Cargo Tanks.....	440
600.	Rules For Control Of Open Burning.....	440
601.	Fire Permits, Hazardous Materials, And Liability.....	440
602.	Nonpreemption Of Other Jurisdictions.....	440
603.	General Restrictions.....	441
604.	-- 605. (Reserved).....	441
606.	Categories Of Allowable Burning.....	441
607.	Recreational And Warming Fires.....	441
608.	Weed Control Fires.....	441
609.	Training Fires.....	441
610.	Industrial Flares.....	442
611.	Residential Solid Waste Disposal Fires.....	442
612.	Landfill Disposal Site Fires.....	442
613.	Orchard Fires.....	442
614.	Prescribed Burning.....	442
615.	Dangerous Material Fires.....	443
616.	Infectious Waste Burning.....	443
617.	Crop Residue Disposal.....	443
618.	Permit By Rule.....	443
619.	Registration For Permit By Rule.....	443
620.	Burn Fee.....	444
621.	Burn Determination.....	444
622.	General Provisions.....	445
623.	Public Notification.....	446
624.	Spot Burn, Baled Agricultural Residue Burn, And Propane Flaming Permits.....	446

625. Visible Emissions.....	447
626. General Restrictions On Visible Emissions From Wigwam Burners.....	448
627. -- 649. (Reserved).....	448
650. Rules For Control Of Fugitive Dust.....	448
651. General Rules.....	448
652. Agricultural Activities.....	449
653. -- 664. (Reserved).....	449
665. Regional Haze Rules.....	449
666. Reasonable Progress Goals.....	450
667. Long-Term Strategy For Regional Haze.....	450
668. BART Requirement For Regional Haze.....	451
669. -- 674. (Reserved).....	453
675. Fuel Burning Equipment -- Particulate Matter.....	453
676. Standards For New Sources.....	453
677. Standards For Minor And Existing Sources.....	453
678. Combinations Of Fuels.....	453
679. Averaging Period.....	453
680. Altitude Correction.....	453
681. Test Methods And Procedures.....	454
682. -- 699. (Reserved).....	454
700. Particulate Matter -- Process Weight Limitations.....	454
701. Particulate Matter -- New Equipment Process Weight Limitations.....	454
702. Particulate Matter -- Existing Equipment Process Weight Limitations.....	455
703. Particulate Matter -- Other Processes.....	456
704. -- 724. (Reserved).....	457
725. Rules For Sulfur Content Of Fuels.....	457
726. -- 749. (Reserved).....	458
750. Rules For Control Of Fluoride Emissions.....	458
751. General Rules.....	458
752. -- 759. (Reserved).....	459
760. Rules For The Control Of Ammonia From Dairy Farms.....	459
761. General Applicability.....	459
762. Permit By Rule.....	459
763. Registration for Permit by Rule.....	460
764. Dairy Farm Best Management Practices.....	460
765. -- 774. (Reserved).....	463
775. Rules For Control Of Odors.....	463
776. General Rules.....	463
777. -- 784. (Reserved).....	463
785. Rules For Control Of Incinerators.....	463
786. Emission Limits.....	463
787. Exceptions.....	464
788. -- 789. (Reserved).....	464
790. Rules For The Control Of Nonmetallic Mineral Processing Plants.....	464
791. General Control Requirements.....	464
792. Emissions Standards For Nonmetallic Mineral Processing Plants Subject To 40 CFR 60, Subpart OOO.....	464
793. Emissions Standards For Nonmetallic Mineral Processing Plants Not Subject To 40 CFR 60, Subpart OOO.....	465
794. Permit Requirements.....	465
795. Permit By Rule Requirements.....	466
796. Applicability.....	466

797. Registration For Permit By Rule.....	466
798. Electrical Generators.....	466
799. Nonmetallic Mineral Processing Plant Fugitive Dust Best Management Practice.....	467
800. Registration Fee For Permit By Rule.	473
801. Payment Of Fees For Permits By Rule Registration.	473
802. Receipt And Usage Of Fees.	473
803. -- 804. (Reserved).....	473
805. Rules For Control Of Hot-Mix Asphalt Plants.	473
806. Emission Limits.	473
807. Multiple Stacks.	473
808. Fugitive Dust Control.....	473
809. -- 814. (Reserved).....	473
815. Rules For Control Of Kraft Pulp Mills.	473
816. Recovery Furnace TRS Standard.	474
817. Recovery Furnace TRS Monitoring And Recordkeeping.	474
818. Kraft Pulp Mill LVHC And HVLC Gas Venting Notification And Reporting.	474
819. -- 834. (Reserved).....	474
835. Rules For Control Of Rendering Plants.....	474
836. Control Of Cookers.	474
837. Control Of Expellers.	474
838. Control Of Plant Air.	474
839. Exceptions.....	474
840. -- 844. (Reserved).....	474
845. Rules For Control Of Sulfur Oxide Emissions From Sulfuric Acid Plants.....	474
846. Emission Limits.	474
847. Monitoring And Testing.	475
848. Compliance Schedule.	475
849. -- 854. (Reserved).....	475
855. Combined Zinc And Lead Smelters.	475
856. Combined Zinc And Lead Smelters -- Control Of Fugitive Sulfur Dioxide Emissions.	475
857. Combined Zinc And Lead Smelters -- Oxides Of Sulfur.....	475
858. Stack Monitoring Requirements.....	477
859. Standards Of Performance For Municipal Solid Waste Landfills That Commenced Construction, Reconstruction Or Modification On Or After May 30, 1991.	477
860. Emission Guidelines For Municipal Solid Waste Landfills That Commenced Construction, Reconstruction Or Modification Before May 30, 1991.	479
861. -- 999. (Reserved).....	481
58.01.03 – Individual/Subsurface Sewage Disposal Rules	
Docket No. 58-0103-1902	
000. (Reserved).....	483
001. Legal Authority.	483
002. Title, Scope, Conflict And Responsibilities.	483
003. Definitions.	484
004. General Requirements.	487
005. Permit And Permit Application.	488
006. Installer's Registration Permit And Service Provider Certification.....	490
007. Septic Tanks Design And Construction Standards.	492
008. Standard Subsurface Disposal Facility Design And Construction.....	498
009. Other Components.....	501
010. Variances.	502
011. Inspections.	503
012. Violations And Penalties.	503

013. Large Soil Absorption System Design And Construction.....	504
014. -- 995. (Reserved).....	506
996. Administrative Provisions.....	506
997. Confidentiality Of Records.....	506
998. -- 999.....	506
58.01.09 – Rules Regulating Swine Facilities	
Docket No. 58-0109-1901	
000. Legal Authority.....	509
001. Title And Scope.....	509
002. Written Interpretations.....	509
003. Administrative Appeals.....	509
004. -- 009. (Reserved).....	509
010. Definitions.....	509
011. -- 099. (Reserved).....	510
100. Applicability.....	510
101. -- 199. (Reserved).....	511
200. Permit Application.....	511
201. -- 204. (Reserved).....	513
205. Financial Assurance Requirements.....	513
206. -- 209. (Reserved).....	517
210. Existing Facilities.....	517
211. -- 249. (Reserved).....	517
250. Requirements For Water Quality Protection.....	517
251. -- 299. (Reserved).....	518
300. Application Processing Procedure.....	518
301. -- 399. (Reserved).....	519
400. Permit Conditions.....	519
401. -- 449. (Reserved).....	520
450. Specific Permit Conditions.....	520
451. -- 499. (Reserved).....	521
500. Permit Modification.....	521
501. -- 549. (Reserved).....	522
550. Transfer Of Permits.....	522
551. -- 599. (Reserved).....	522
600. Violations.....	522
601. -- 998. (Reserved).....	523
999. Confidentiality Of Records.....	523
58.01.11 – Ground Water Quality Rule	
Docket No. 58-0111-1901	
000. Legal Authority.....	526
001. Title And Scope.....	526
002. Administrative Appeals.....	526
003. Written Interpretations.....	526
004. -- 005. (Reserved).....	526
006. Policies.....	526
007. Definitions.....	527
008. -- 010. (Reserved).....	529
011. Incorporation By Reference.....	529
012. -- 149. (Reserved).....	529
150. Implementation.....	529
151. -- 199. (Reserved).....	530

200. Ground Water Quality Standards	530
201. -- 299. (Reserved)	535
300. Categorized Aquifers Of The State	535
301. Management Of Activities With The Potential To Degrade Aquifers.....	535
302. -- 349. (Reserved).....	536
350. Procedures For Categorizing Or Recategorizing An Aquifer.....	536
351. -- 399. (Reserved).....	537
400. Ground Water Contamination	538
401. Mining.....	539
402. -- 999. (Reserved).....	542
58.01.15 – Rules Governing the Cleaning of Septic Tanks	
Docket No. 58-0115-1901	
000. (Reserved)	544
001. Legal Authority	544
002. Title And Scope.....	544
003. General Requirements.....	544
004. Permit Requirements	545
005. -- 995. (Reserved).....	546
996. Administrative Provisions.....	546
997. Confidentiality Of Records	546
998. -- 999. 546	
58.01.17 – Recycled Water Rules	
Docket No. 58-0117-1901	
000. Legal Authority	548
001. Title And Scope.....	548
002. Written Interpretations.....	548
003. Incorporation By Reference	548
004. Administrative Provisions.....	549
005. Confidentiality Of Records	549
006. Office Hours – Mailing Address And Street Address	549
007. (Reserved)	549
008. Referenced Materials	549
009. -- 099. (Reserved).....	550
100. Applicability	550
101. -- 199. (Reserved).....	550
200. Definitions	550
201. -- 299. (Reserved).....	553
300. Permit Requirements And Application	553
301. -- 399. (Reserved).....	554
400. Application Processing Procedure	554
401. -- 499. (Reserved).....	556
500. Standard Permit Conditions	556
501. -- 599. (Reserved).....	557
600. Specific Permit Conditions	557
601. Municipal Recycled Water: Classification, Treatment, Use.....	558
602. Municipal Recycled Water: Classification And Uses Tables	561
603. Municipal Recycled Water: Access, Exposure And Signage	564
604. Reuse Facilities: Buffer Distances	566
605. Municipal Recycled Water: Preliminary Engineering Reports.....	566
606. Reuse Facility: Plan And Specification Review.....	566
607. Municipal Recycled Water: Distribution Pipelines	566

608. Municipal Recycled Water: Pumping Stations.....	567
609. Municipal Recycled Water: Lagoons.....	568
610. Municipal Recycled Water: Class A Recycled Water Filtration.....	568
611. Municipal Recycled Water: Reliability And Redundancy.....	568
612. Demonstration Of Technical, Financial, And Managerial Capacity Of Municipal Reuse Facility.....	569
613. Reuse Facility: Rapid Infiltration System.....	569
614. Ground Water Recharge: Class A Recycled Water.....	570
615. Subsurface Distribution Of Recycled Water.....	570
616. Permit For Use Of Industrial Recycled Water.....	570
617. -- 699. (Reserved).....	571
700. Permit Modification.....	571
701. -- 799. (Reserved).....	572
800. Permit Transferable.....	572
801. Temporary Cessation Of Operations And Closure.....	573
802. -- 919. (Reserved).....	574
920. Permit Revocation.....	574
921. -- 929. (Reserved).....	574
930. Violations.....	574
931. -- 939. (Reserved).....	574
940. Waivers.....	574
941. -- 999. (Reserved).....	574

LEGAL NOTICE

Summary of Proposed Rulemakings

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 latest publication of the state Administrative Bulletin.

*The proposed rule public hearing request deadline is July 17, 2019, unless otherwise posted.
The proposed rule written comment submission deadline is July 24, 2019, unless otherwise posted.
(Temp & Prop) indicates the rulemaking is both Temporary and Proposed.
(*PH) indicates that a public hearing has been scheduled.*

IDAPA 07 – DIVISION OF BUILDING SAFETY 1090 W. Watertower St, Ste. 150, Meridian, ID 83642

07-0202-1901, Rules Governing Plumbing Permits. Consolidates provisions from IDAPA 07.02.03, 07.02.04, and 07.02.07, which are being repealed in this Bulletin, into IDAPA 07.02.02; eliminates obsolete provisions and simplifies provisions of the consolidated rules.

07-0203-1902, Rules Governing Permit Fee Schedule. Chapter Repeal.

07-0204-1901, Rules Governing Plumbing Safety Inspections. Chapter Repeal.

07-0205-1901, Rules Governing Plumbing Safety Licensing. Aligns rule with the statute, allowing revival of a lapsed plumbing license without examination within two years of the lapse; eliminates obsolete rules and simplifies certain provisions.

07-0207-1901, Rules Governing Civil Penalties. Chapter Repeal.

07-0701-1901, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems. Updates incorporation by reference parts V and VI of the International Residential Code and the International Fuel Gas Code, with amendments; allows an out-of-state applicant to meet work experience requirement for license by providing satisfactory proof of 24 months of work experience as an HVAC journeyman in another jurisdiction or 48 months of work experience equivalent work experience of an Idaho HVAC journeyman; requires applicant to obtain an Idaho HVAC journeyman license, pay applicable fees, and pass the Idaho exam.

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE PO Box 83720, Boise, ID 83720-0036

***16-0208-1901, Vital Statistics Rules.** (Temp & Prop) An application for a change of sex designation on a minor's birth certificate requires an attestation from a medical or mental health professional confirming that the requested change of sex designation is the gender to which the minor identifies. (7-1-19)T

16-0309-1803, Medicaid Basic Plan Benefits. (Temp & Prop) Changes children's intervention services from waiver to state plan and moves services from 16.03.10 to this chapter. (7-1-19)T

16-0310-1806, Medicaid Enhanced Plan Benefits. (Temp & Prop) Changes children's intervention services from waiver to state plan and moves services from this chapter to 16.03.09. (7-1-19)T

**IDAPA 39 – IDAHO STATE TAX COMMISSION
PO Box 36, Boise, ID 83722-0410**

35-0101-1903, Income Tax Administrative Rules. Adds 2019 calendar year tax brackets; adds the amount of guaranteed payments that are sourced as compensation for services for calendar year 2019.

**IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT
Po Box 7129, Boise, ID 83707-1129**

39-0349-1901, Rules Governing Ignition Interlock Breath Alcohol Devices. Requires the addition of a camera to accompany all ignition interlock devices and provides for a diversion program coordinated and run by county prosecuting attorneys. The prosecuting attorney, diversion program administrator or its designee were added as contacts for receiving documentation and notifications.

NOTICES OF ADOPTION OF TEMPORARY RULE**IDAPA 02 – DEPARTMENT OF AGRICULTURE**

02-0301-1901, Rules Governing Pesticide Management Plans for Ground Water Protection (7-1-19)T

02-0303-1901, Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application (eff. 7-1-19)T

02-0414-1901, Rules Governing Dairy Byproduct (7-1-19)T

02-0415-1901, Rules Governing Beef Cattle Animal Feeding Operations (7-1-19)T

02-0416-1901, Rules Governing Agriculture Odor Management (7-1-19)T

02-0417-1901, Rules Governing Dead Animal Movement and Disposal (7-1-19)T

02-0423-1901, Rules Governing Commercial Livestock Truck Washing Facilities (7-1-19)T

02-0430-1902, Rules Governing Nutrient Management (7-1-19)T

02-0431-1901, Rules Governing the Stockpiling of Agricultural Waste (7-1-19)T

02-0432-1901, Rules Governing Poultry Operations (7-1-19)T

IDAPA 39– IDAHO TRANSPORTATION DEPARTMENT

39-0306-1901, Rules Governing Special Permits for Extra-Length/Excess Weight, Up to 129,000 Pound Vehicle Combinations (7-1-19)T

IDAPA 58– DEPARTMENT OF ENVIRONMENTAL QUALITY

58-0101-1904, Rules for the Control of Air Pollution in Idaho (6-30-19)T

58-0103-1902, Individual/Subsurface Sewage Disposal Rules (6-30-19)T

58-0109-1901, Individual/Subsurface Sewage Disposal Rules (6-30-19)T

58-0111-0901, Ground Water Quality Rule (6-30-19)T

58-0115-1901, Rules Governing the Cleaning of Septic Tanks (6-30-19)T

58-0117-1901, Recycled Water Rules (6-30-19)T

NOTICES OF INTENT TO PROMULGATE – NEGOTIATED RULEMAKING

(Please see the Administrative Bulletin for dates and times of scheduled meeting and other participant information)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02-0205-1901, Prune Standards

02-0214-1901, Rules for Weights and Measures (2nd Notice)

IDAPA 07 – DIVISION OF BUILDING SAFETY

07-0701-1902, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems, Division of Building Safety

IDAPA 09 – DEPARTMENT OF LABOR

09-0130-1902, Unemployment Insurance Benefits Administration Rules (2nd Notice)

09-0130-1903, Unemployment Insurance Benefits Administration Rules(2nd Notice)

IDAPA 11 – STATE POLICE / STATE BRAND BOARD

11-0201-1902, Rules of the Idaho State Brand Board

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16-0201-1901, Rules of the Idaho Time Sensitive Emergency System Council

16-0322-1901, Residential Care or Assisted Living Facilities in Idaho

16-0504-1901, Rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding

IDAPA 19 – IDAHO STATE BOARD OF DENTISTRY

19-0101-1901, Rule of the State Board of Dentistry

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

26-0120-1901, Rules Governing the Administration of Park and Recreation Areas and Facilities

26-0136-1901, Rules Governing the Winter Recreational Parking Permit Program

IDAPA 27 – IDAHO BOARD OF PHARMACY

27-0101-1901, Rules of the Idaho Board of Pharmacy

IDAPA 35 – IDAHO STATE TAX COMMISSION

35-0102-1907, Idaho Sales and Use Tax Administrative Rules

35-0103-1908, Property Tax Administrative Rules

35-0109-1901, Idaho County Option Kitchen and Table Wine Tax Administrative Rules

35-0112-1901, Idaho Beer Tax Administrative Rules

35-0115-1901, Idaho Beer and Wine Tax Administrative Rules

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39-0200-1901, Omnibus Negotiated - Vehicles Titles Rules: 39.02.05; 39.02.07; 39.02.11; 39.02.12; 39.02.24

39-0242-1901, Temporary Vehicle Registration When Proof of Ownership Is Insufficient

39-0275-1901, Rules Governing Names on Drivers' Licenses and Identification Cards

39-0276-1901, Rules Governing Driver's License Renewal-By-Mail and Electronic Renewal Process

39-0300-1901, Omnibus Negotiated - Vehicles Permits and Registration Rules: 39.02.22; 39.03.01; 39.03.05; 39.03.06

39-0300-1902, Omnibus Negotiated - Traffic Signs and Right-of-Way Rules: 39.03.41, 39.03.60, 39.03.61, 39.03.62, 39.03.63, 39.03.64

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

61-0108-1901 & 61-0108-1902, Rules Governing the Administration of Idaho's Indigent Defense Delivery System – Rule Definitions

Please refer to the Idaho Administrative Bulletin **July 3, 2019, Volume 19-7**, for the notices and text of all rulemakings, proclamations, negotiated rulemaking and public hearing information and schedules, executive orders of the Governor, and contact information.

Issues of the Idaho Administrative Bulletin can be viewed at www.adminrules.idaho.gov/

Office of the Administrative Rules Coordinator, Div. of Financial Mgmt., PO Box 83720, Boise, ID 83720-0066
Phone: 208-854-3095; Email: rulescoordinator@dfm.idaho.gov

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*Office of the Administrative Rules Coordinator
Division of Financial Management
Office of the Governor*

July 1, 1993 – Present

[CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES](#)

This online index provides a history of all agency rulemakings beginning with the first Administrative Bulletin in July 1993 to the most recent Bulletin publication. It tracks all rulemaking activities on each chapter of rules by the rulemaking docket numbers and includes negotiated, temporary, proposed, pending and final rules, public hearing notices, vacated rulemaking notices, notice of legislative actions taken on rules, and executive orders of the Governor.

ABRIDGED RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

(Index of Current and Active Rulemakings)

*Office of the Administrative Rules Coordinator
Division of Financial Management*

April 11, 2019 – July 3, 2019

*(PLR) – Final Effective Date Is Pending Legislative Review
(eff. date)L – Denotes Adoption by Legislative Action
(eff. date)T – Temporary Rule Effective Date*

*SCR # – denotes the number of a Senate Concurrent Resolution (Legislative Action)
HCR # – denotes the number of a House Concurrent Resolution (Legislative Action)*

(This Abridged Index includes all active rulemakings.)

IDAPA 01 – IDAHO BOARD OF ACCOUNTANCY

01-0101-1900F *Idaho Accountancy Rules* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

02-0000-1900 *Rules of the Idaho Department of Agriculture* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes **Title 02**, Chapters 04-06, 10; **Title 04**, Chapters 05-06, 22, 24; **Title 05**, Chapter 01 - Bulletin Vol. 19-6SE (eff. 6-30-19)T

02-0000-1900A *Rules of the Idaho Department of Agriculture* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking (for rules requiring 22-101A statement) - Reauthorizes **Title 01**, Chapter 03; **Title 02**, Chapters 02, 09; **Title 04**, Chapters 04, 08, 13, 18, 20-21, 25, 27-29; **Title 06**, Chapters 07-11, 13, 15, 17, 20, 22, 24, 26, 32, 38, 39 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

02-0000-1900F *Rules of the Idaho Department of Agriculture* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes **Title 01**, Chapters 02, 04, 05; **Title 06**, Chapter 33 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

02-0000-1900FA *Rules of the Idaho Department of Agriculture* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking (Rules requiring 22-101A statement)-Reauthorizes **Title 02**, Chapters 07, 11-15; **Title 04**, Chapters 03, 09, 19, 26; **Title 06**, Chapters 01-06, 12, 14, 18, 27, 30-31, 34, 40-41 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

02-0616-1900 *Rules Governing Honey Standards* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes **Title 06**, Chapter 16 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

02-0701-1900F *Rules of the Idaho Hop Growers Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes **Title 07**, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

02-0801-1900F *Rules of the Idaho Sheep and Goat Health Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes **Title 08**, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

02.01.04, Rules Governing the Idaho Preferred[®] Promotion Program

02-0104-1801* *Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 18-6 (*Rulemaking terminated by agency)*

02-0104-1901 *Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5*

02.02.05, Prune Standards

02-0205-1901 *Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7*

02.02.12, Bonded Warehouse Rules

02-0212-1901 *Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6*

02-0212-1902 *Adoption of Temporary Rule, Bulletin Vol. 19-6 (eff. 7-1-19)T*

02.02.14, Rules for Weights and Measures

02-0214-1901 *Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5*

02-0214-1901 *2nd Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7*

02.03.01, Rules Governing Pesticide Management Plans for Ground Water Protection

02-0301-1901 *Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T*

02.03.03, Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application

02-0303-1901 *Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T*

02.04.14, Rules Governing Dairy Byproduct

02-0414-1901 *Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T*

02.04.15, Rules Governing Beef Cattle Animal Feeding Operations

02-0415-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T

02.04.16, Rules Governing Agriculture Odor Management

02-0416-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T

02.04.17, Rules Governing Dead Animal Movement and Disposal

02-0417-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T

02.04.18, Rules Governing CAFO Site Advisory Team

02-0418-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6

02.04.20, Rules Governing Brucellosis

02-0420-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6

02.04.21, Rules Governing the Importation of Animals

02-0421-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6

02.04.23, Rules Governing Commercial Livestock Truck Washing Facilities

02-0423-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T

02.04.30, Rules Governing Nutrient Management

02-0430-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6

02-0430-1902 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T

02.04.31, Rules Governing the Stockpiling of Agricultural Waste

02-0431-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T

02.04.32, Rules Governing Poultry Operations

02-0432-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T

02.06.02, Rules Pertaining to the Idaho Commercial Feed Law

02-0602-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6

02.06.12, Rules Pertaining to the Idaho Fertilizer Law

02-0612-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6

02.06.31, Noxious Weed Free Forage and Straw Certification Rules

02-0631-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6

02.06.41, Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001

02-0641-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6

STATE ATHLETIC COMMISSION

(Moved and Re-designated) - Rules of the State Athletic Commissions (This chapter has been re-designated from *IDAPA 03.01.01* to *IDAPA 24.02.01* under the Bureau of Occupational Licenses - See *IDAPA 24* in this Index.)

IDAPA 04 -- OFFICE OF THE ATTORNEY GENERAL

04-0000-1900 *Rules of the Attorney General* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes Title 02, Chapter 01; Titles 11, 12, 20 - Bulletin Vol. 19-6SE (eff. 6-30-19)T

04-0000-1900F *Rules of the Attorney General* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 02, Chapter 02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 05 -- DEPARTMENT OF JUVENILE CORRECTIONS

05-0000-1900 *Rules of the Department of Juvenile Corrections* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes Title 01, Chapters 02-04; Title 02, Chapters 01-03 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 06 -- STATE BOARD OF CORRECTION

06-0000-1900 *Rules of the State Board of Correction* - Omnibus Notice of Proclamation of Rulemaking - Reauthorizes Title 01, Chapters 01-02; Title 02, Chapters 01-02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)

IDAPA 07 -- DIVISION OF BUILDING SAFETY

07-0000-1900* *Rules of the Division of Building Safety* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes Title 01, Chapters 01, 04-08, 10; Title 02, Chapters 04-06; Title 03, Chapters 09, 13; Title 04, Chapter 01; Title 06, Chapter 01; Title 08, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

(*Rulemaking combines Title 08, Chapters 02-17 into 07.08.01

07-0000-1900F *Rules of the Division of Building Safety* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapters 02-03, 11; Title 02, Chapters 02-03, 07; Title 03, Chapters 01, 03, 11-12; Title 04, Chapter 02; Title 05, Chapter 01; Title 07, Chapter 01; Title 10, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

07.01.03, Rules of Electrical Licensing and Registration – General

07-0103-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

07.02.02, Rules Governing Plumbing Permits

07-0202-1901* Proposed Fee Rulemaking, Bulletin Vol. 19-7

(*This rulemaking combines provisions from IDAPA 07.02.03, 07.02.04, and 07.02.07 into this chapter)

07.02.03, Rules Governing Permit Fee Schedule

07-0203-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

07-0203-1902 Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 19-7

07.02.04, Rules Governing Plumbing Safety Inspections

07-0204-1901* Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 19-7 (*See above entry)

07.02.05, Rules Governing Plumbing Safety Licensing

07-0205-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

07-0205-1901 Proposed Rulemaking, Bulletin Vol. 19-7

07.02.07, Rules Governing Civil Penalties

07-0207-1901* Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 19-7 (*See 07.02.02 entry above)

07.03.01, Rules of Building Safety

07-0301-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6

07.03.12, Rules Governing Manufactured or Mobile Home Installations

07-0312-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

07.05.01, Rules of the Public Works Contractors License Board

07-0501-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

07.07.01, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems

07-0701-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

07-0701-1901 Proposed Rulemaking, Bulletin Vol. 19-7

07-0701-1902 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

07-0000-1900* *Rules of the Division of Building Safety* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes **Title 01**, Chapters 01, 04-08, 10; **Title 02**, Chapters 04-06; **Title 03**, Chapters 09, 13; **Title 04**, Chapter 01; **Title 06**, Chapter 01; ***Title 08**, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

(**Rulemaking combines Title 08, Chapters 02-17 into Title 08, Chapter 01 (07.08.01)*)

07.08.01, Idaho Minimum Safety Standards and Practices for Logging -- General Provisions

07-0801-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6

***IDAPA 08 – IDAHO STATE BOARD OF EDUCATION
AND STATE DEPARTMENT OF EDUCATION***

08-0000-1900 *Rules of the State Board of Education and the Department of Education* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes Title 01, Chapters 02, 10, 11, 13; Title 02, Chapters 01-05; Title 03, Chapter 01; Title 04, Chapter 01; Title 05, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

08-0000-1900F *Rules of the State Board of Education and the Department of Education* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 01, Chapter 11, Sections 200 and 300 only; Title 02, Chapter 02, Sections 066 and 075 only; Title 02, Chapter 03, Section 128 only -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

08.01.13, Rules Governing the Idaho Opportunity Scholarship Program

08-0113-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

08.02.01, Rules Governing Administration

08-0201-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

08-0201-1902 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

08.02.02, Rules Governing Uniformity

08-0202-1903 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

08.02.03, Rules Governing Thoroughness

08-0203-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

08-0203-1902 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

08.02.04, Rules Governing Public Charter Schools

08-0204-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

IDAPA 09 – IDAHO DEPARTMENT OF LABOR

09-0000-1900 *Rules of the Idaho Department of Labor* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes Title 01, Chapters 01, 08, 30, 35, 60; Title 02, Chapter 01; Title 05, Chapter 03 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

09.01.30, Unemployment Insurance Benefits Administration Rules

09-0130-1901 Notice of Adoption of Temporary Rule, Bulletin Vol. 19-3 (eff. 3-6-19)T

09-0130-1902 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

- 09-0130-1903** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
09-0130-1902* 2nd Filing - Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7
09-0130-1903* 2nd Filing - Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

IDAPA 10 – IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

- 10-0000-1900F** *Rules of the Board of Professional Engineers and Professional Land Surveyors* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 01, Chapters 01-04 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

10.01.01, Rules of Procedure

- 10-0101-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

10.01.04, Rules of Continuing Professional Development

- 10-0104-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

10.01.05, Rules for Military or Veterans Licensure

- 10-0105-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking (New Chapter), Bulletin Vol. 19-6

IDAPA 11 – IDAHO STATE POLICE

- 11-0000-1900** *Rules of the Idaho State Police* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes **Title 03**, Chapter 01; **Title 06**, Chapter 01; **Title 07**, Chapters 01-03; **Title 10**, Chapter 03; **Title 13**, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

- 11-0000-1900F** *Rules of the Idaho State Police* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 05, Chapter 01; **Title 10**, Chapter 02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

- 11-0200-1900F** *Rules of the Idaho State Brand Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes **Title 02**, Chapters 01-02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

- 11-0400-1900** *Rules of the Idaho State Racing Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes **Title 04**, Chapters 04, 06, 08-10, 13-14 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

- 11-0400-1900F** *Rules of the Idaho State Racing Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes **Title 04**, Chapters 02, 03, 05, 07, 11, 15 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

- 11-1001-1900F** *Idaho Public Safety and Public Information Systems* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, - Reauthorizes **Title 10**, Chapter 01, Bulletin Vol. 19-6SE (eff. 6-30-19)T

- 11-1101-1900F*** *Rules of the Peace Officer Standards and Training Council* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, - Reauthorizes **Title 11**, Chapter 01, Bulletin Vol. 19-6SE (eff. 6-30-19)T

**(Reauthorization combines previous chapters 11.02, 11.03, 11.04, 11.05, and 11.06 into Title 11, Chapter 01)*

Idaho State Brand Board

- 11-0200-1900F** *Rules of the Idaho State Brand Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 02, Chapters 01-02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11.02.01, Rules of the Idaho State Brand Board

- 11-0201-1901** Adoption of Temporary Rule, Bulletin Vol. 19-6 (eff. 7-1-19)T
11-0201-1902 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

Idaho State Racing Commission

11-0400-1900 *Rules of the Idaho State Racing Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes Title 04, Chapters 04, 06, 08-10, 13-14 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-0400-1900F *Rules of the Idaho State Racing Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 04, Chapters 02, 03, 05, 07, 11, 15 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11.04.03, Rules Governing Licensing and Fees

11-0403-1801 Adoption of Temporary Rule, Bulletin Vol. 18-11 (eff. 9-17-18)T

11-0403-1801 OARC Omnibus Notice of Legislative Action-Extension of Temporary Rule by SCR 114, Bulletin Vol. 19-5 (eff. 9-17-18)T

11.04.11, Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses

11-0411-1801* *Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 18-3 (*Rulemaking terminated by agency)*

11-0411-1802 Adoption of Temporary Rule, Bulletin Vol. 18-11 (eff. 9-17-18)T

11-0411-1802 OARC Omnibus Notice of Legislative Action-Extension of Temporary Rule by SCR 114, Bulletin Vol. 19-5 (eff. 9-17-18)T

11.06.01, Rules Governing Civil Asset Forfeiture Reporting

11-0601-1901 Adoption of Temporary Rule, Bulletin Vol. 19-3 (eff. 2-7-19)T

Public Safety and Security Information Bureau

11-0000-1900 *Rules of the Idaho State Police* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes Title 03, Chapter 01; Title 06, Chapter 01; Title 07, Chapters 01-03; **Title 10, Chapter 03**; Title 13, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-1001-1900F *Idaho Public Safety and Public Information Systems* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, - Reauthorizes **Title 10, Chapter 01**, Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-0000-1900F *Rules of the Idaho State Police* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 05, Chapter 01; **Title 10, Chapter 02** -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11.10.02, Rules Governing State Criminal History Records and Crime Information

11-1002-1901 Adoption of Temporary Rule, Bulletin Vol. 19-3 (eff. 2-5-19)T

Peace Officer Standards and Training (POST) Council

11-1101-1900F *Rules of the Peace Officer Standards and Training Council* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, - Reauthorizes Title 11, Chapter 01, Bulletin Vol. 19-6SE (eff. 6-30-19)T

**(Reauthorization combines previous chapters 11.02, 11.03, 11.04, 11.05, and 11.06 into Chapter 11.01)*

11.11.01, Rules of the Idaho Peace Officer Standards and Training Council

11-1101-1901 Adoption of Temporary Rule, Bulletin Vol. 19-4 (eff. 3-14-19)T

IDAPA 12 – DEPARTMENT OF FINANCE

12-0000-1900 *Rules of the Department of Finance* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 04, 09, 10, 11 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

12-0000-1900F *Rules of the Department of Finance* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 06, 08 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

13-0000-1900 *Rules of the Idaho Fish and Game Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 01-04, 06-12, 14-19 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

13-0000-1900F *Rules of the Idaho Fish and Game Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 02, Sections 100 and 102 only; Title 01, Chapter 04, Section 600 only; Title 01, Chapter 08, Subsection 260.06 only; Title 01, Chapter 10, Subsection 400.09 only; Title 01, Chapter 19, Section 112 only; Title 01, Chapter 20, Subsection 102.04 only -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

13.01.08, Rules Governing the Taking of Big Game Animals in the State of Idaho

13-0108-1902AP Notice of Amended Proclamation of Rulemaking, Bulletin Vol. 19-6

13-0108-1903 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

13-0108-1904 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

13.01.09, Rules Governing the Taking of Game Birds in the State of Idaho

13-0109-1901P Notice of Proclamation of Rulemaking, Bulletin Vol. 19-6

13-0109-1902 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

13.01.10, Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife

13-0110-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

13.01.11, Rules Governing Fish

13-0111-1901P Notice of Proclamation, Bulletin Vol. 19-1

13-0111-1902P Notice of Proclamation of Rulemaking, Bulletin Vol. 19-4

13.01.14, Rules Governing Falconry

13-0114-1901P Notice of Proclamation of Rulemaking, Bulletin Vol. 19-4

13.01.17, Rules Governing the Use of Bait and Trapping for Taking Big Game Animals

13-0117-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

BOARD OF REGISTRATION OF PROFESSIONAL GEOLOGISTS

Moved and Re-designated) - *Rules of the Board of Registration of Professional Geologists* (This chapter has been re-designated from *IDAPA 14.01.01* to *IDAPA 24.04.01* under the Bureau of Occupational Licenses - See *IDAPA 24* in this Index.)

IDAPA 15 – OFFICE OF THE GOVERNOR

Executive Orders of the Governor

Executive Order No. **2019-01** Licensing Freedom Act of 2019, Bulletin Vol. 19-2

Executive Order No. **2019-02** Red Tape Reduction Act, Bulletin Vol. 19-2

Executive Order No. **2019-03** Regional Government Efficiency Working Group, Bulletin Vol. 19-6

Idaho Commission On Aging

15-0100-1900 *Rules of the Idaho Commission on Aging* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 01-03, 20, 30 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

Idaho Commission for the Blind and Visually Impaired

15-0200-1900 *Rules of the Idaho Commission for the Blind and Visually Impaired* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 02, Chapters 02-04, 30 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

Idaho Forest Products Commission

15-0300-1900F *Rules of the Idaho Forest Products Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 03, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

Division of Human Resources and Personnel Commission

15-0400-1900 *Rules of the Division of Human Resources and Personnel Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 04, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

Idaho Military Division

15-0600-1900 *Rules of the Idaho Military Division* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 06, Chapters 01-02, 04-06 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

15-0600-1900F *Rules of the Idaho Military Division* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 06, Chapter 03 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

Idaho State Liquor Division

15-1000-1900F *Rules of the Idaho State Liquor Division* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 10, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16-0000-1900 *Rules of the Department of Health and Welfare* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 01-06, 12; Title 02, Chapters 02, 06, 10-12, 15, 19, 23-24; Title 03, Chapters 01-02, 04-11, 13-14, 17, 20-21, 23-25; Title 04, Chapters 10, 13-14, 16-17; Title 05, Chapters 01, 03-04, 07; Title 06, Chapters 05, 12-13; Title 07, Chapters 17, 19, 25, 33, 37, 39 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

16-0000-1900F *Rules of the Department of Health and Welfare* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 07; Title 02, Chapters 01, 08, 13-14, 25-27; Title 03, Chapters 03, 18, 19, 22; Title 04, Chapters 07, 08; Title 05, Chapter 06; Title 06, Chapters 01-02; Title 07, Chapters 01, 15 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

16.01.03, Emergency Medical Services (EMS) – Agency Licensing Requirements

16-0103-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

16.01.07, Emergency Medical Services (EMS) – Personnel Licensing Requirements

16-0107-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

16.02.01, Rules of the Idaho Time Sensitive Emergency System Council

16-0201-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

16.02.04, Syringe and Needle Exchange Program

16-0204-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking (New Chapter), Bulletin Vol. 19-6

16.02.08, Vital Statistics Rules

16-0208-1901 Temporary and Proposed Rulemaking, Bulletin Vol. 19-7 (eff. 7-1-19)T

16.03.09, Medicaid Basic Plan Benefits

16-0309-1803 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 18-7

16-0309-1803 Temporary and Proposed Rulemaking, Bulletin Vol. 19-7 (eff. 7-1-19)T

16.03.10, Medicaid Enhanced Plan Benefits

- 16-0310-1704** 4th Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
16-0310-1806 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 18-7
16-0310-1806 Temporary and Proposed Rulemaking, Bulletin Vol. 19-7 (eff. 7-1-19)T

16.03.18, Medicaid Cost-Sharing

- 16-0318-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

16.03.19, Rules Governing Certified Family Homes

- 16-0319-1901** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

16.03.22, Residential Care or Assisted Living Facilities in Idaho

- 16-0322-1901** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

16.05.04, Rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding

- 16-0504-1901** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

16.05.06, Criminal History and Background Checks

- 16-0506-1901** OARC Omnibus Notice of Legislative Action-Extension of Temporary Rule by SCR 114, Bulletin Vol. 19-5 (eff. 1-1-19)T
16-0506-1902 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

IDAPA 17 – INDUSTRIAL COMMISSION

- 17-0000-1900** *Rules of the Idaho Industrial Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 10, Chapter 01; Title 11, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

- 17-0000-1900F** *Rules of the Idaho Industrial Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 18 – DEPARTMENT OF INSURANCE

- 18-0000-1900*** *Rules of the Idaho Department of Insurance* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes and Re-designates Title 01, Chapter 01; Title 02, Chapters 01-03; Title 03, Chapters 01-05; Title 04, Chapters 01-15; Title 05, Chapters 01-03; Title 06, Chapters 01-06; Title 07, Chapters 01-12; Title 08, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

- 18-0000-1900F*** *Rules of the Idaho Department of Insurance* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes and Re-designates Title 01, Chapter 02; Title 08, Chapter 02 --- Bulletin Vol. 19-6SE (eff. 6-30-19)T

*These chapters indexed under IDAPA 18 are re-designated with new Title and Chapter numbers as follows:

New Designation [Old Designation]: **18.01.01** [18.01.48]; **18.01.02** [18.01.44]; **18.02.01** [18.01.19]; **18.02.02** [18.01.20]; **18.02.03** [18.01.34]; **18.03.01** [18.01.09]; **18.03.02** [18.01.13]; **18.03.03** [18.01.16]; **18.03.04** [18.01.41]; **18.03.05** [18.01.61]; **18.04.01** [18.01.05]; **18.04.02** [18.01.06]; **18.04.03** [18.01.24]; **18.04.04** [18.01.26]; **18.04.05** [18.01.27]; **18.04.06** [18.01.28]; **18.04.07** [18.01.29]; **18.04.08** [18.01.30]; **18.04.09** [18.01.31]; **18.04.10** [18.01.54]; **18.04.11** [18.01.60]; **18.4.12** [18.01.69]; **18.04.13** [18.01.70]; **18.04.14** [18.01.72]; **18.04.15** [18.01.77]; **18.05.01** [18.01.01]; **18.05.02** [18.01.25]; **18.05.03** [18.01.56]; **18.06.01** [18.01.04]; **18.06.02** [18.01.10]; **18.06.03** [18.01.52]; **18.06.04** [18.01.53]; **18.06.05** [18.01.64]; **18.06.06** [18.01.65]; **18.07.01** [18.01.23]; **18.07.02** [18.01.46]; **18.07.03** [18.01.47]; **18.07.04** [18.01.62]; **18.07.05** [18.01.66]; **18.07.06** [18.01.67]; **18.07.07** [18.01.68]; **18.07.08** [18.01.75]; **18.07.09** [18.01.76]; **18.07.10** [18.01.77]; **18.07.11** [18.01.78]; **18.07.12** [18.01.81]; **18.08.01** [18.01.50]; **18.08.02** [18.01.49]

18.04.16 – Rules Governing Short-Term Health Insurance Coverage

- 18-0416-1901** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking (New Chapter), Bulletin Vol. 19-7

IDAPA 19 – BOARD OF DENTISTRY

19-0101-1900F *Rules of the Idaho State Board of Dentistry* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

19-0101-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

IDAPA 20 – DEPARTMENT OF LANDS

20-0000-1900 *Rules of the Idaho Department of Lands* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01; Title 02, Chapter 01; Title 04, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

20-0000-1900F *Rules of the Idaho Department of Lands* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 02, Chapter 14; Title 03, Chapters 01-05, 08, 09, 13-17; Title 04, Chapter 02; Title 06, Chapter 01; Title 07, Chapter 02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

20.03.02, Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities

20-0302-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

20.03.03, Rules Governing Administration of the Reclamation Fund

20-0303-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

20.03.04, Rules Governing the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho

20-0304-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

IDAPA 21 -- DIVISION OF VETERANS SERVICES

21-0000-1900 *Rules of the Division of Veterans Services* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 06 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

21-0000-1900F *Rules of the Division of Veterans Services* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapters 01, 04 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 22 – BOARD OF MEDICINE

22-0000-1900 *Rules of the Idaho Board of Medicine* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 05 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

22-0000-1900F *Rules of the Idaho Board of Medicine* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapters 01, 03, 10, 11, 13 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 23 – BOARD OF NURSING

23-0101-1900F *Rules of the Idaho Board of Nursing* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

23.01.01, Rules of the Idaho Board of Nursing

23-0101-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24-0101-1900F *Rules of the Board of Architectural Examiners* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

- 24-0201-1900F*** *Rules of the State Athletic Commissions* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes re-designated Title 02, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
**(Re-designated from IDAPA 03.01.01 to 24.02.01)*
- 24-0301-1900F** *Rules of the State Board of Chiropractic Physicians* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 03, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-0401-1900F*** *Rules of Procedure of the Board of Registration for Professional Geologists* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes re-designated Title 04, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
**(Re-designated from IDAPA 14.01.01 to 24.04.01)*
- 24-0501-1900F** *Rules of the Board of Drinking Water and Wastewater Professionals* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 05, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-0601-1900F** *Rules for the Licensure of Occupational Therapists & Occupational Therapy Assistants* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 06, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-0701-1900F** *Rules of the Idaho State Board of Landscape Architects* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 07, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-0801-1900F** *Rules of the State Board of Morticians* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 08, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-0901-1900F** *Rules of the Board of Examiners of Nursing Home Administrators* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 09, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1001-1900F** *Rules of the Board of Examiners of Nursing Home Administrators* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 10, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1101-1900F** *Rules of the State Board of Podiatry* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 11, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1201-1900F** *Rules of the Idaho State Board of Psychological Examiners* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 12, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1301-1900F** *Rules Governing the Physical Therapy Licensure Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 13, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1401-1900F** *Rules of the State Board of Social Work Examiners* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 14, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1501-1900F** *Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists*-Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 15, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1601-1900F** *Rules of the State Board of Dentistry* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 16, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1701-1900F** *Rules of the State Board of Acupuncture* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 17, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1801-1900F** *Rules of the Real Estate Appraiser Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 18, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-1901-1900F** *Rules of the Board of Examiners of Residential Care Facility Administrators* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 19, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

- 24-2001-1900F** *Rules of the Bureau of Occupational Licenses* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 20, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-2101-1900F** *Rules of the Idaho State Contractors Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 21, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-2201-1900F** *Rules of the Idaho State Liquefied Petroleum Gas Safety Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 22, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-2301-1900F** *Rules of the Speech, Hearing and Communication Services Licensure Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 23, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-2401-1900F** *Rules of the Genetic Counselors Licensing Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 24, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-2501-1900F** *Rules of the Idaho Driving Businesses Licensure Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 25, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-2601-1900F** *Rules of the Idaho Board of Midwifery* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 26, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-2701-1900F** *Rules of the Idaho State Board of Massage Therapy* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 27, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-2801-1900F** *Rules of the Barber and Cosmetology Services Licensing Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 28, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 24-2901-1900F*** *Rules of Procedure of the Idaho Certified Shorthand Reporters Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes re-designated Title 29, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
*(Re-designated from IDAPA 49.01.01 to 24.29.01)

IDAPA 25 – OUTFITTERS AND GUIDES LICENSING BOARD

- 25-0101-1900F** *Rules of the Outfitters and Guides Licensing Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

25.01.01, Rules of the Outfitters and Guides Licensing Board

- 25-0101-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 25-0101-1902** Adoption of Temporary Rule, Bulletin Vol. 19-6 (eff. 4-26-19)T, (5-22-19)T

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

- 26-0000-1900** *Rules of the Department of Parks and Recreation* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 03, 21-22, 24, 30-31, 34, 37 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

- 26-0000-1900F** *Rules of the Department of Parks and Recreation* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapters 10, 20, 33, 36 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

26.01.20, Rules Governing the Administration of Park and Recreation Areas and Facilities

- 26-0120-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7

26.01.36, Rules Governing the Winter Recreational Parking Permit Program

- 26-0136-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7

IDAPA 27 – BOARD OF PHARMACY

27-0101-1900F *Rules of the Idaho Board of Pharmacy* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 (This rulemaking consolidates contents from Chapters 27.01.02, 27.01.03, 27.01.04, and 27.01.05 into Title 01, Chapter 01) -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

27.01.01, General Provisions

27-0101-1901 1st Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

27-0101-1901 2nd Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7

IDAPA 28 – DEPARTMENT OF COMMERCE

28-0000-1900 *Rules of the Idaho Department of Commerce* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 02, Chapters 03-05, 07; Titles 03, Chapter 01; Title 04, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 29 – IDAHO POTATO COMMISSION

29-0000-1900 *Rules of the Idaho Potato Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 30 – IDAHO COMMISSION FOR LIBRARIES

30-0101-1900 *Rules of the Idaho Commission for Libraries Governing the Use of Commission Services* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 31 – PUBLIC UTILITIES COMMISSION

31-0000-1900 *Rules of the Idaho Public Utilities Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01; Title 11, Chapter 01; Title 12, Chapter 01; Title 21, Chapter 01; Title 26, Chapter 01; Title 31, Chapter 01; Title 36, Chapter 01; Title 41, Chapter 01; Title 46, Chapters 01-02; Title 51, Chapter 01; Title 61, Chapter 01; Title 71, Chapters 01, 03; Title 81, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 32 - ENDOWMENT FUND INVESTMENT BOARD

32-0101-1900F *Rules of the Credit Enhancement Program for School Districts* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 33 -- REAL ESTATE COMMISSION

33-0101-1900F *Rules of the Idaho Real Estate Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 34 – SECRETARY OF STATE

34-0000-1900 *Rules of the Idaho Secretary of State* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 02, Chapter 02; Title 03, Chapter 01; Title 04, Chapter 02; Title 05, Chapter 05; Title 06, Chapter 01-02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

34-0000-1900F *Rules of the Idaho Secretary of State* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 04, Chapter 01; Title 05, Chapter 01-03, 06 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 35 – STATE TAX COMMISSION

35-0000-1900 *Rules of the Idaho State Tax Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 01-03, 05-10, 12, 14; Title 02, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

35.01.01, Income Tax Administrative Rules

- 35-0101-1901** OARC Omnibus Notice of Legislative Action - Extension of Temporary Rule - SCR 113, Bulletin Vol. 19-5 (eff. 1-4-19)T
- 35-0101-1902** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0101-1903** Proposed Rulemaking, Bulletin Vol. 19-7

35.01.02, Idaho Sales and Use Tax Administrative Rules

- 35-0102-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0102-1902** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0102-1903** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0102-1904** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0102-1905** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0102-1906** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0102-1907** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7

35.01.03, Property Tax Administrative Rules

- 35-0103-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0103-1902** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0103-1903** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0103-1904** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0103-1905** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0103-1906** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 35-0103-1907** Adoption of Temporary Rule, Bulletin Vol. 19-6 (eff. 1-1-19)T
- 35-0103-1908** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7

35.01.05, Motor Fuels Tax Administrative Rules

- 35-0105-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

35.01.06, Hotel/Motel Room and Campground Sales Tax Administrative Rules

- 35-0106-1901** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

35.01.09, Idaho County Option Kitchen and Table Wine Tax Administrative Rules

- 35-0109-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking (Chapter Repeal), Bulletin Vol. 19-7

35.01.12, Idaho Beer Tax Administrative Rules

- 35-0112-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking (Chapter Repeal), Bulletin Vol. 19-7

35.01.15, Idaho Beer and Wine Tax Administrative Rules

- 35-0115-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking (New Chapter), Bulletin Vol. 19-7

IDAPA 36 -- IDAHO BOARD OF TAX APPEALS

36-0101-1900F *Idaho Board of Tax Appeals Rules* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 37 – DEPARTMENT OF WATER RESOURCES

- 37-0000-1900** *Rules of the Idaho Department of Water Resources* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 02, Chapters 01, 04; Title 03, Chapters 11, 12 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 37-0000-1900F** *Rules of the Idaho Department of Water Resources* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01; Title 02, Chapter 03; Title 03, Chapters 01-10 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 38 – IDAHO DEPARTMENT OF ADMINISTRATION

- 38-0000-1900** *Rules of the Idaho Department of Administration* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 04, Chapters 06-09; Title 05, Chapters 01-02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 38-0000-1900F** *Rules of the Idaho Department of Administration* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 04, Chapter 04 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

- 39-0000-1900** *Rules of the Idaho Transportation Department of Administration* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 02, Chapters 01-03, 05, 09, 11-12, 24, 27, 42-43, 45-46, 61, 70-73, 75-76, 80; Title 03, Chapters 01-02, 04-08, 40-44, 47-50, 60-65, 80-81; Title 04, Chapters 01-08 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
- 39-0000-1900F** *Rules of the Idaho Transportation Department* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 02, Chapter 04, 07, 22, 26, 41, 60; Title 03, Chapter 03 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

Omnibus Negotiated Rulemaking – Rules Regulating Vehicles Titles

Chapters 39.02.05, 39.02.07, 39.02.11, 39.02.12, 39.02.24

- 39-0200-1901** Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-7

Omnibus Negotiated Rulemaking – Rules Regulating Commercial Motor Vehicle Permits and Registration

Chapters 39.02.22, 39.03.01, 39.03.05, 39.03.06

- 39-0300-1901** Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-7

Omnibus Negotiated Rulemaking – Traffic Signs and Right-Of-Way Rules

Chapters 39.03.41, 39.03.60, 39.03.61, 39.03.62, 39-03.63, 39.03.64

- 39-0300-1902** Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-7

39.02.42, Temporary Vehicle Registration When Proof of Ownership Is Insufficient

- 39-0242-1901** Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-7

39.02.75, Rules Governing Names on Driver's Licenses and Identification Cards

- 39-0275-1901** Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-7

39.02.76, Rules Governing Driver's License Renewal-by-Mail and Electronic Renewal Process

- 39-0276-1901** Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-7

39.03.06, Rules Governing Special Permits for Extra-Length/Excess Weight, Up to 129,000 Pound Vehicle Combinations

- 39-0306-1901** Adoption of Temporary Rules, Bulletin Vol. 19-7 (eff. 7-1-19)T

39.03.49, Rules Governing Ignition Interlock Breath Alcohol Devices

- 39-0349-1901** Proposed Rulemaking, Bulletin Vol. 19-7

IDAPA 40 – IDAHO COMMISSION ON THE ARTS

40-0101-1900 *Rules of the Idaho Commission on the Arts* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 41 -- PUBLIC HEALTH DISTRICTS

41-0101-1900 *Rules of the Idaho Public Health Districts (Panhandle Health District #1)*- Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 42 -- IDAHO WHEAT COMMISSION

42-0101-1900F *Rules of the Idaho Wheat Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 43 -- IDAHO OILSEED COMMISSION

43-0101-1900F *Rules Governing the Idaho Oilseed Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 45 -- HUMAN RIGHTS COMMISSION

45-0101-1900 *Rules of the Idaho Human Rights Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 46 -- BOARD OF VETERINARY MEDICAL EXAMINERS

46-0101-1900F *Rules of the Idaho Board of Veterinary Medicine* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

46.01.01, Rules of the State of Idaho Board of Veterinary Medicine

46-0101-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

46-0101-1902 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

IDAPA 48 -- GRAPE GROWERS AND WINE PRODUCERS COMMISSION

48-0101-1900F *Rules of the Idaho Grape Growers and Wine Producers Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

CERTIFIED SHORTHAND REPORTERS BOARD

(Moved and Re-designated) - Rules of Procedure of the Idaho Board of Certified Shorthand Reporters (This chapter has been re-designated from *IDAPA 49.01.01* to *IDAPA 24.29.01* under the Bureau of Occupational Licenses - See IDAPA 24 in this Index.)

IDAPA 50 -- COMMISSION FOR PARDONS AND PAROLE

50-0101-1900 *Rules of the Commission of Pardons and Parole* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 51 -- IDAHO BEEF COUNCIL

51-0101-1900F *Rules of the Idaho Beef Council* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 52 – IDAHO STATE LOTTERY COMMISSION

52-0000-1900F *Rules of the Idaho State Lottery Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapters 02-03 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 53 -- IDAHO BARLEY COMMISSION

53-0101-1900F *Rules of the Idaho Barley Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 54 -- OFFICE OF THE STATE TREASURER

54-0000-1900 *Rules of the Idaho State Treasurer* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 02, Chapter 01; Title 03, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 55 – DIVISION OF CAREER TECHNICAL EDUCATION

55-0000-1900 *Rules of the Idaho Division of Career Technical Education* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 03-04 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

55.01.03, Rules of Career Technical Schools

55-0103-1901 Notice of Intent to Promulgate a Rule - Negotiated Rulemaking, Bulletin Vol. 19-7

IDAPA 56 -- IDAHO RANGELAND RESOURCES COMMISSION

56-0101-1900F *Rules of the Idaho Rangeland and Resources Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01-- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 57 -- SEXUAL OFFENDER MANAGEMENT BOARD

57-0101-1900F *Rules of the Sexual Offender Management Board* - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01-- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58-0000-1900 *Rules of the Department of Environmental Quality* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 02, 04, 10, 16, 21-24 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

58-0000-1900F *Rules of the Department of Environmental Quality* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 05-08, 12-14, 18, 20, 25 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

TMDLs:

- 58-0000-1901** Curlew Valley Subbasin Assessment and Total Maximum Daily Load (TMDL): 2018 (HUC 16020309), Bulletin Vol. 19-1
- 58-0000-1902** Curlew Valley Subbasin Assessment and Total Maximum Daily Load (TMDL): 2019 (HUC 16020309), Bulletin Vol. 19-6
- 58-0000-1903** Big Lost River Subbasin Temperature Total Maximum Daily Load (TMDL): 2019 Addendum and Five-Year Review (HUC 17040218), Bulletin Vol. 19-7

58.01.01, Rules for the Control of Air Pollution in Idaho

- 58-0101-1901** Notice of Intent to Promulgate a Rule - Negotiated Rulemaking, Bulletin Vol. 19-3
- 58-0101-1902** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
- 58-0101-1903** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
- 58-0101-1904** Adoption of Temporary Fee Rule, Bulletin Vol. 19-7 (eff. 6-30-19)T

58.01.03, Individual/Subsurface Sewage Disposal Rules

- 58-0103-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
- 58-0103-1902** Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 6-30-19)T

58.01.09, Rules Regulating Swine Facilities

- 58-0109-1901** Adoption of Temporary Fee Rule, Bulletin Vol. 19-7 (eff. 6-30-19)T

58.01.11, Ground Water Quality Rule

- 58-0111-1901** Adoption of Temporary Fee Rule, Bulletin Vol. 19-7 (eff. 6-30-19)T

58.01.13, Rules for Ore Processing by Cyanidation

- 58-0113-1901** Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

58.01.15, Rules Governing the Cleaning of Septic Tanks

- 58-0115-1901** Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 6-30-19)T

58.01.17, Recycled Water Rules

- 58-0117-1901** Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 6-30-19)T

IDAPA 59 – PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

- 59-0000-1900** *Rules of the Idaho Public Retirement System of Idaho* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 01-06, 08; Title 02, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

IDAPA 60 – IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION

- 60-0000-1900** *Rules of the Idaho State Soil and Water Conservation* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 05, Chapter 04 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

- 60-0000-1900F** *Rules of the Idaho State Soil and Water Conservation* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 05, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

60.05.01, Resource Conservation and Rangeland Development Program

- 60-0501-1901** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

61-0000-1900 *Rules of the Idaho State Public Defense Commission* - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 01-04, 06-08 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

61.01.08, Rules Governing the Administration of Idaho's Indigent Defense Delivery Systems - Rule Definitions

61-0108-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7

61-0108-1902 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7

Subject Index

Symbols

& Part V (Mechanical) & Part VI (Fuel Gas) Of The International Residential Code For One (1)- & Two (2)-Family Dwellings, 2018 Edition 137

A

Abandonment Of Dead Animals 89
Abbreviations 21, 79, 96, 102, 307
AAC 307
AACC, Acceptable Ambient Concentration for a Carcinogen 307
APAP, Agricultural Pollution Abatement Plan 21
ASAE, American Society of Agricultural Engineers 79
BAT, Best Available Technology 79
BMP, Best Management Practice 21, 79
CAS, Chemical Abstract Service 307
CL, Derived form ACGIH ceiling Limit UF = 10 307
CLTWF, Commercial Livestock Truck Washing Facility 96
CNMP, Certified Nutrient Management Planner 102
CSS, Certified Soil Sampler 102
DCPA, Dimethyl Tetrachloroterephthalate 21
DEQ, Department of Environmental Quality 21
DEQ, Idaho Department of Environmental Quality 79
EL, Emissions Screening Level 307
EPA, Environmental Protection Agency 21
FEMA, Federal Emergency Management Agency 96
GIH, American Conference of Government Industrial Hygienists 307
HAL, Health Advisory Level 21
ID, Idaho Division of Environmental Quality 307
ISDA, Idaho State Department of Agriculture 96
LA, From LA Dept. of Environmental Quality 307
MA, From MA Dept. of Environmental Protection, Div. of Air Quality Control 307
MCL, Maximum Contaminant Level 21
MI, From MI Dept. of Natural Resources, Air Quality Div. Based on toxicological data, annual av. time, no uf 307
NMP, Nutrient Management Plan 79, 96, 102
NMS, Nutrient Management Standard 102

NOV, Notice Of Violation 80
NPDES, National Pollutant Discharge Elimination System 96
NRCS, Natural Resources Conservation Service 21, 96, 102
NY, From New York Dept. of Conservation, Div. of Air Quality 307
OEL, Reference Occupational Exposure Level 307
OMP, Odor Management Plan 80
PL, From Phil. Dept. of Air Management Services 307
PL1, From Phil. Dept. of Air Management Services 308
PL3, From Phil. Dept. of Air Management Services 308
PMP, Pesticide Management Plan 21
QAPP, Quality Assurance Project Plan 21
QMP, Quality Management Plan 21
RfD, Reference Dose 21
SCC, Soil Conservation Commission 21
SSB, August 1997 University of Idaho Soil Sampling Bulletin 704 (revised) 102
TWA, Time Weighted Average 308
UF, Uncertainty Factor 308
URF, Unit Risk Factor 308
USDA, United States Department of Agriculture 21, 96, 103
WA, From Washington Dept. of Ecology, Air Programs 308
Abbreviations, IDAPA 02.04.14 63
ASABE 63
IPDES 63
NMS 63
NRCS 63
USDA 63
Abbreviations, IDAPA 02.04.15 72
AFO 72
CAFO 72
IPDES 72
NMP 72
NRCS 72
Abbreviations, IDAPA 02.04.32, Rules Governing Poultry Operations 112
AFO 112
ASABE 112
CAFO 112
DEQ 112
FEMA 112
IPDES 112
NMP 112
NMS 112
NRCS 112
USGS 112
Abbreviations, Used In IDAPA 58.01.01, Sections 563 through 574 402
CAA 402
CFR 402

CO 402
EPA 402
FHWA 402
FTA 402
HPMS 402
ICC 402
IDEQ 402
ITD 402
LHTAC 402
LRTP 402
MPO 402
NAAQS 402
NEPA 402
O3 402
PM 402
PMx 402
STIP 402
TCM 402
TIP 402
USDOT 402
VMT 402
Accepted Agricultural Practices 80
Applicable Best Management Practices 80
Applicable Rules 80
Excess Odors 80
Action On Application 371
Copy to EPA 372
Deadline for Tier I Operating Permits for Phase II Sources 372
Deadline for Tier I Operating Permits with Early Reductions 372
Deadlines for Final Actions After Initial Period 371
Deadlines for Final Actions During Initial Period 371
Issuance Conditions 371
Original to Permittee 372
Additional Contents Of Tier I Operating Permits - Permit Shield 366
General Permit Shield 366
Limitation on Permit Shield 366
Address, Office Hours, Telephone & Fax Numbers 77
Address, Office Hours, Telephone, Fax Numbers, Web Address 20, 32, 61, 70, 87, 94, 101, 107, 112
Administration Of IPDES Program 74
Administrative Appeal 30, 60, 69, 77, 87, 94, 101, 111
Administrative Appeals 19, 107, 123, 137, 286, 509, 526
Administrative Permit
Amendments 372
Administrative Permit Amendment Application Procedures 373
Criteria 372
Implementation Procedures 373
Permit Shield 374
Administrative Provisions 546, 549
Adoption & Incorporation By Reference Of The International Mechanical Code, 2018 Edition 137
Advisory Committee 27

Evaluate Effectiveness 28
Recommendations 28
Research 28
Review Existing Information 27
Affected Equipment Or Processes 437
 Applicability 437
 Existing Sources 437
 New Sources 437
 Reconstructed Sources 437
Agencies Affected By
 Consultation 405
 Agencies Entitled to Participate 405
 Delegation 405
 General Actions Requiring
 Consultation 405
 ICC Members 405
 Interagency Consultation
 Committee 405
 More Than One Pollutant 405
 Open to the Public 405
Agricultural Activities 449
 Agricultural Activity 449
 Generally Recognized Agricultural
 Practices 449
Air Pollution Emergency Rule 397
Air Quality Standards & Area
 Classification 412
Altitude Correction, Fuel Burning
 Equipment -- Particulate Matter 453
Ambient Air Quality Standards For
 Fluorides 413
 Annual Standard 413
 Bimonthly Standard 413
 Monthly Standard 413
Ambulatory Surgical Centers, Covered
 Services Under Basic Plan
 Benefits 171
Appeals 348
Applicability 80, 96, 103, 391, 510,
 550
 Applicability 380
 Applicability to Reuse Facilities 550
 Beef Cattle 80
 Beef Cattle Animal Feeding
 Operations 103
 Common Control 511
 Dairies 103
 Deferred Sources 380
 Excluded Facilities 550
 Existing Swine Facilities 511
 Permit Required 510
 Poultry Concentrated Animal
 Feeding Operations 103
 Regulated Facilities 511
 Reuse Policy 550
 Swine & Poultry 80
Applicability, Nonmetallic Mineral
 Processing Plants 466
 Permit by Rule 466
 Permit Option 466
Application For Permit 96
 Land Application System 97
 Name, Telephone Number, &
 Address 96

Nutrient Management Plan 97
 Physical Address 96
 Scaled Site Plan 97
 Scaled Vicinity Map With Site
 Location 97
Application Near Hazard Areas 49
Application Procedures 322, 325
 Additional Information 327
 Estimates of Ambient
 Concentrations 322, 327
 Estimates of Emissions 322
 Monitoring & Recordkeeping 322
 Required Information 325
Application Procedures, Tier II
 Operating Permit 384
 Additional Information 385
 Additional Specific Information 384
 Estimates of Ambient
 Concentrations 384
 Required Information 384
Application Processing Procedure 114,
 518, 554
 Additional Information 519
 Application Completeness 518
 Complete Application 555
 Contents of the Staff Analysis 555
 Continuation of Expiring
 Permits 556
 Draft Permit 518
 Effective Date of Final Permit 555
 Final Permit 519
 Incomplete Application 555
 Information or Consultation Before
 Issuance of Draft Permit or
 Application Denial 555
 Issuance & Contents of the Draft
 Permit 555
 Issuance of the Final Permit 555
 Notice of Environmental Suitability
 of Facility Location 518
 Permit Denial 518
 Preliminary Decision/Application
 Denial 555
 Public Comments 518
 Submittal Date 555
Approval Of Field Studies & Fluid
 Models 394
Approved Laboratories 104
ASTM Grade 1, Distillate Fuel Oil 457
Authority To Inspect 74
 Access to Records 74
 Entry 74
 Sample or Monitor 74
Authorization Of Hearing 317
 Early Hearing 318
 No Hearing 318
 No Objection 317
Automatic Low Pressure Drain 57
Averaging Period, Sections 675
 Through 680 453
 One Cycle 453
 One Hour 453

B

BART Requirement For Regional
 Haze 451
 Alternative to Infeasible Emission
 Standards 452
 BART Alternative 452
 BART Determination 451
 BART Installation & Operation Due
 Date 452
 BART-Eligible Sources 451
 Maintenance of BART
 Equipment 452
 Reasonable Progress Goal
 Requirements for BART-Eligible
 Sources 453
Baselines For Prevention Of Significant
 Deterioration 413
 Baseline Area 414
 Baseline Concentration 414
 Baseline Date(s) 413
Beneficial Use 550
Best Available Retrofit Technology
 (BART) 288
Biochemical Oxygen Demand
 (BOD) 550
Burn Determination 444
 Burn Approval Criteria 444
 Notification of Approval 445
Burn Fee 444
 Burn Fee 444
 Effect of Delinquent Fee
 Payment 444
Burning, Agriculture Fields 443

C

Categories Of Allowable Burning 441
Categorized Aquifers Of The State 535
 General Resource 535
 Other Resource 535
 Sensitive Resource 535
Category I Exemption 344
 Below Regulatory Concern 344
 Mercury 344
 Radionuclides 344
 Toxic Air Pollutants 344
Category II Exemption 344
 Exempt Source 344
 Other Exempt Sources 345
Certificates Of Competency -- Issuance,
 Renewal, Expiration -- Revival 141
 Expiration-Revival 142
 Issuance 141
 Renewal 142
Certificates Of Competency -- Issuance,
 Renewal, Expiration, Revival --
 Fees 132
 Expiration - Revival 132
 Issuance 132
 Renewal 132
Certification Of Documents 311
Certification Process 274
 Criteria for Certification and/or
 Revocation 275

- Equipment Standards 274
- Hold Harmless 275
- Manufacturer's Reporting Requirements 275
- Notice of Revocation 275
- Proof of Insurance 275
- Removal of Revoked Devices 276
- Repository for Letter of Certification 276
- Right to Appeal 276
- Certification, Department Examinations 36
- Change Of License Status 45
- Change Notification 45
- Transferable 45
- Changes In Name & Address -- Address For Notification Purposes 141
- Address for Notification Purposes 141
- Change of Address 141
- Change of Name 141
- Changes To Tier I Operating Permits 372
- Acid Rain 372
- Applicability 372
- Changes Requiring Notice 372
- Changes Requiring Permit Revisions 372
- Reopening 372
- Chemical Injection Line Shut Down (System Interlock) 53
- Electrical Interlock 54
- Human Interlock 55
- Hydraulic Interlock 55
- Mechanical Interlock 54
- Other Approved Option 55
- Chemical Injection System 55
- Metering Pump 55
- Venturi System 56
- Chemical Specific PMPs 21
- Creating PMPs 22
- PMP Compliance 22
- Children's DD HCBS State Plan Option 203
- Coverage & Limitations 207
- Community-Based Supports 208
- Family Education 208
- Family-Directed Community Supports (FDCS) 208
- HCBS Compliance 209
- Limitations 209
- Respite 207
- Coverage And Limitations 210
- Definitions
- Annual 203
- Community 203
- Family-Centered Planning Process 204
- Family-Centered Planning Team 204
- Home & Community-Based Services State (HCBS) Plan Option 204
- Integration 204
- Level of Support 204
- Medical, Social, & Developmental Assessment Summary 204
- Plan Developer 204
- Plan Monitor 204
- Plan of Service 204
- Practitioner of the Healing Arts, Licensed 205
- Prior Authorization (PA) 205
- Provider Status Review 205
- Right Care 205
- Right Outcomes 205
- Right Place 205
- Right Price 205
- Supervisor 205
- Support Services 205
- Department's Quality Assurance & Improvement Processes 216
- Corrective Action 217
- Quality Assurance 216
- Quality Improvement 216
- Eligibility Determination 205
- Annual Re-Evaluation 207
- Determination for Children's Home & Community-Based State Plan Option 206
- Developmental Disability Determination 205
- Individualized Budget Methodology 206
- Participant Notification of Budget Amount 207
- Plan Of Service Process 209
- Addendum to the Plan of Service 210
- Adjustments to the Annual Budget & Services 210
- Annual Eligibility Determination Results 210
- Annual Reauthorization of Services 210
- History & Physical 209
- Plan Monitoring 210
- Plan of Service Development 210
- Provider Status Reviews 210
- Reapplication After a Lapse in Service 210
- Requirements for Collaboration 210
- Procedural Requirements
- Community-Based Supports Documentation 211
- Family Education Documentation 211
- General Requirements for Program Documentation 211
- Requirements for Prior Authorization 210
- Requirements for Quality Assurance 211
- Requirements for Supervision 211
- Provider Qualifications And Duties 211
- Community-Based Support 212
- Respite 212
- Provider Reimbursement 215
- Claim Forms 216
- Cost Survey 216
- Rates 216
- Reimbursement 215
- Children's Developmental Disabilities DD HCBS State Plan Option 203
- Children's Developmental Disability Prior Authorization (PA) Definitions 203
- Plan Of Service Process Family Education 213
- Children's Habilitation Intervention Services 173
- Coverage And Limitations 175
- Excluded for Medicaid Payment 175
- Required Recommendation 175
- Required Screening 176
- Service Delivery 175
- Services 176
- Definitions 173
- Annual 174
- Assessment & Clinical Treatment Plan 174
- Aversive Intervention 174
- Baseline 174
- Community 174
- Developmental Disabilities Agency (DDA) 174
- Duplication of Services 174
- Evidence-Based Interventions 174
- Evidence-Informed Interventions 174
- Human Services Field 174
- Intervention Services 174
- Objective 174
- Practitioner of the Healing Arts, Licensed 174
- Restrictive Intervention 175
- Telehealth 175
- Treatment Fidelity 175
- Eligibility Requirements 175
- Age of Participants 175
- Eligibility Determination 175
- Medicaid Eligibility 175
- Procedural Requirements 178
- Implementation Plan(s) 179
- Prior Authorization Request 178
- Requirements for Program Documentation 179
- Supervision 180
- Provider Qualifications And Duties 180
- Continuing Training Requirements 183
- Crisis Intervention Technician 180
- Evidence-Based Model (EBM) Intervention Paraprofessional 182

- Evidence-Based Model (EBM) Intervention Professional 183
- Evidence-Based Model (EBM) Intervention Specialist 182
- Habilitative Skill Technician 180
- Independent Children's Habilitation Intervention Services Provider 183
- Intervention Professional 182
- Intervention Specialist 180
- Provider Reimbursement 184
 - Claim Forms 184
 - Cost Survey 184
 - Rates 184
 - Reimbursement 184
- Quality Assurance 184
 - Corrective Action 184
 - Quality Assurance 184
 - Quality Improvement 184
- Children'sDD HCBS State Plan Option Definitions
 - Family 203
- Circumvention 318
- Civil Penalties 127, 145
 - Certification or Registration 127, 145
 - Corrections 128, 146
 - Failure to Disclose 127
 - Fees & Permits 146
 - Fees, Permits & Inspections 128
 - Gross Violation 128, 146
 - Heating, Ventilation, & Air Conditioning Contractor or Specialty Contractor 145
 - Knowingly Employing 145
 - Performance Outside Scope of Certificate 128
 - Performance Outside Scope of Specialty License 145
 - Plumbing Contractor 127
 - Supervision 145
- Classification Of Prevention Of Significant Deterioration Areas 414
 - Procedures for Redesignation of Prevention of Significant Deterioration (PSD) Areas 415
 - Restrictions On Area Classification 414
- Coaxial System 300
- Combinations Of Fuels, Fuel Burning Equipment -- Particulate Matters 453
- Combined Zinc & Lead Smelters 475
- Combined Zinc & Lead Smelters -- Control Of Fugitive Sulfur Dioxide Emissions 475
 - Condition of Ducts, Flues, & Stacks 475
 - Other Techniques 475
 - Prevention of Leakage in Equipment & Systems 475
- Combined Zinc & Lead Smelters -- Oxides Of Sulfur 475
 - Appeal 476
 - Compliance Schedule 476
 - Effective Date 475
 - Exception 475
 - Extension of Compliance Date 476
 - Final Emission Limitation 475
 - Interim Emission Limitations 475
 - Complaints 84
 - Completeness Of Applications 368
 - Criteria for Completeness 368
 - Effects of Completeness Determination 369
 - Timelines for Determinations of Completeness 368
 - Completion & Correction Of Certificates 165
 - Acknowledgment of Paternity 166
 - Addition of Given Names on Birth Certificates 166
 - All Other Amendments 167
 - Amendment of Indicator of Gender 166
 - Amendment of Registrant's Given Name on Birth Certificate After the First Year 165
 - Amendment of Registrant's Given Names or Surname on Birth Certificates Within the First Year 165
 - Amendment of the Same Item More Than Once 168
 - Correction of Minor Errors on Certificates During the First Year 165
 - Methods of Amending Certificates 168
 - Compliance Dates 437
 - Existing Sources 437
 - New or Reconstructed Sources 437
 - Compliance Orders 75
 - Compliance Requirements By Department 309
 - Episode Plans 310
 - Monitoring 309
 - Records 309
 - Report 309
 - Schedule 309
 - Compliance Schedule, Sulfuric Acid Plants 475
 - Compliance Schedules 66
 - Non-Compliance or Unauthorized Release Violations Identified 66
 - Re-Inspection 66
 - Compliance With Idaho Pollutant Discharge Elimination System Rules 66, 74
 - Conditions For Permits To Construct 341
 - Cancellation 341
 - Notification to The Department 341
 - Performance Test 341
 - Reasonable Conditions 341
 - Conditions For Tier II Operating Permits 387
 - Performance Tests 387
 - Permit Term 387
 - Reasonable Conditions 387
 - Single Tier II Operating Permit 387
 - Confidential Information 311
 - Confidentiality Of Records 523, 546
 - Confidentiality of Records 549
 - Conflict Resolution at the Governor's Level, Resolving Conflicts 412
 - Construction Requirements, CLTWF 98
 - Consultation Procedures, Among ICC Members 409
 - Notification Process 411
 - Specific Air Quality Related Activities 411
 - Specific Major Activities 409
 - Specific Routine Activities 410
 - Contents Of A Chemical Specific PMP 22
 - Elements That May be Included in a PMP 22
 - Required Elements of a PMP 22
 - Contents Of An Odor Management Plan 83
 - Address 83
 - Climatic Data 84
 - Facility Odor Sources 84
 - Land Application System 83
 - Location 83
 - Manure Management System 83
 - Operation Description 83
 - Owner's Name 83
 - Public Involvement 84
 - Scaled Site Plan 83
 - Scaled Vicinity Map 83
 - Tiered Implementation 84
 - Timeframe for Review of OMP 84
 - Contents Of Complaints 84
 - Control Of Cookers, Rendering Plants 474
 - Control Of Expellers, Rendering Plant 474
 - Control Of Plant Air, Rendering Plant 474
 - Correction Of Condition 312
 - Covered Services Under Basic Plan Benefits 171
 - Ambulatory Surgical Centers 171
 - Audiology Services 172
 - Dental Services 173
 - Durable Medical Equipment and Supplies 172
 - EPSDT Services 173
 - Essential Providers 173
 - Family Planning 172
 - Home Health Services 172
 - Hospital Services 171
 - Inpatient Psychiatric Hospital Services 172
 - Laboratory & Radiology Services 172
 - Other Practitioner Services 171
 - Outpatient Behavioral Health Services 172

- Physician Services & Abortion Procedures 171
- Prescription Drugs 172
- Prevention Services 172
- Primary Care Case Management 172
- Specific Pregnancy-Related Services 173
- Therapy Services 172
- Transportation 173
- Vision Services 173
- Criminal History & Background Check Requirements 201
 - Additional Criminal Convictions 201
 - Compliance With Department Criminal History Check 201
 - Providers Subject to Criminal History & Background Check Requirements 201
- Criteria For Defining Levels Within Stages 398
 - Stage 1 - Forecast & Caution 398
 - Stage 2 -- Alert 398
 - Stage 3 -- Warning 398
 - Stage 4 -- Emergency 399
- Crop Residue Disposal 443
- D**
- Dairy Environmental Management Plan Approval 63
- Dairy Nutrient Management Plan (DNMP) 64
- Dairy Storage & Containment Facility Criteria 64
- Dairy Farm Best Management Practices 460
 - BMPs 460
 - Table - Ammonia Control Practices for Idaho Dairies 460
- Dangerous Material Fires 443
- Dead Animal Emergencies 91
 - Administrator to Determine Disposal Methods 91
 - Situations Requiring Extraordinary Disposal Measures 91
- Definitions 286
- Definitions For The Purpose Of Sections 563 Through 574 & 582 402
 - Applicable Implementation Plan 402
 - Consult or Consultation 403
 - Distribute 403
 - Distribution List 403
 - Exempt Projects 403
 - Lead Agency 403
 - Lead Air Quality Agency 403
 - Local Highway Jurisdiction 403
 - Local Highway Technical Assistance Council (LHTAC) 403
 - Maximum Priority 403
 - Metropolitan Planning Organization (MPO) 404
 - Public Notice 404
 - Recipient of Funds Designated Under Title 23 U.S.C. or the Federal Transit Laws 404
 - Regionally Significant Project 404
 - Transit Agency 404
 - Transportation Agency 404
 - Definitions For The Purposes Of 40
 - CFR Part 60 306
 - Definitions For The Purposes Of 40
 - CFR Part 61 & 40 CFR Part 63 306
 - Definitions For The Purposes Of Sections 300 Through 386 304
 - Affected States 304
 - Allowance 304
 - Applicable Requirement 304
 - Designated Representative 305
 - Draft Permit 305
 - Emergency 305
 - Final Permit 305
 - General Permit 305
 - Insignificant Activity 305
 - Major Facility 305
 - Definitions For The Purposes Of Sections 790 Through 799
 - Best Management Practice 306
 - Control Strategy Trigger 307
 - Nonmetallic Mineral Processing Plant 307
 - NSPS Regulated Facility or Plant 307
 - Permit by Rule 307
 - Progressive Control Strategy 307
 - Site of Operations 307
 - Definitions, 02.04.30, Rules Governing Nutrient Management 102
 - Certified Soil Sampler 102
 - Department 102
 - Director 102
 - Nutrient Management Plan 102
 - Nutrient Management Standard 102
 - Operation(s) 102
 - Person 102
 - Representative Soil Sample 102
 - Resource Concerns 102
- Definitions, IDAPA 02.03.01 20
 - Aquifer 20
 - Beneficial Uses 20
 - Best Management Practice 20
 - Constituent 20
 - Contaminant 20
 - Contamination 20
 - Ground Water 20
 - Health Advisory Level 20
 - Maximum Contaminant Level 20
 - Pesticide Management Standard 20
 - Pesticide Use 21
 - Projected Future Beneficial Uses 21
 - Reference Dose 21
 - Reference Point 21
 - Susceptibility 21
 - Vulnerability 21
- Definitions, IDAPA 02.03.03 30
 - Air Gap 30
 - Basin Irrigation 30
 - Border Irrigation 30
 - Certification 30
 - Check Valve 31
 - Chemigator 31
 - Cross-Connection 31
 - Demonstration & Research 31
 - Domestic Water Supply System 31
 - Drip Irrigation 31
 - Flood Irrigation 31
 - Flow Rate 31
 - Furrow Irrigation 31
 - Hazard Area 31
 - High Volatile Esters 31
 - Injection Pump 31
 - Inspection Port 31
 - Low Volatile Esters 31
 - Mixer-Loader 31
 - Pressure Switch 31
 - Recertification 31
 - Reduced Pressure Principle Backflow Prevention Assembly (RP) 31
 - Seminar 32
 - Sprinkler Irrigation 32
 - System Interlock 32
 - Vacuum Relief Valve 32
 - Venturi Injection System 32
 - Waters of the State 32
 - Working Pressure 32
- Definitions, IDAPA 02.04.14 61
 - Agricultural Stormwater Discharge 61
 - Best Management Practice 61
 - Certified Planner 61
 - Certified Soil Sampler 61
 - Dairy Animal 61
 - Dairy Byproduct 61
 - Dairy Environmental Management Plan 61
 - Dairy Environmental Management System 61
 - Dairy Farm 62
 - Dairy Nutrient Management Plan (DNMP) 62
 - Dairy Storage & Containment Facilities 62
 - Department 62
 - Director 62
 - Export 62
 - Fieldman 62
 - Idaho Pollutant Discharge Elimination System (IPDES) 62
 - Inspector 62
 - Land Application 62
 - Modification or Modified 62
 - Non-Compliance 62
 - Nutrient Management Standard (NMS) 62
 - Pasture, Pasturing, & Pastured 62
 - Permit 63
 - Person 63
 - Phosphorus Site Index 63
 - Process Wastewater 63
 - Producer 63

Unauthorized Discharge 63	Odor 79	Person 108
Unauthorized Release 63	Odor Management Plan 79	Public Highway 108
Upset Condition 63	Person 79	Responsible Party 108
Definitions, IDAPA 02.04.15 70	Waste Collection & Conveyance Systems 79	Setbacks for a Stockpile Site 108
Administrator 70	Wastewater 79	Stockpile Site 108
Animal 70	Wastewater Storage & Containment Facilities 79	Stockpile Staging Site 108
Animal Feeding Operation 70	Wastewater Treatment 79	Stockpiling 108
Beef Cattle Animal Feeding Operation 70	Definitions, IDAPA 02.04.17 87	Surface Waters of the State 108
Best Management Practices 70	Abandon 87	Definitions, IDAPA 02.04.32, Rules Governing Poultry Operations 112
Compost 70	Administrator 87	Discharge 112
Concentrated Animal Feeding Operation 70	Air Curtain Incineration 88	Idaho Pollutant Discharge Elimination System (IPDES) 112
Director 70	Burial 88	Runoff 112
Discharge 70	Burning 88	Definitions, IDAPA 07.02.02 124
Idaho Pollutant Discharge Elimination System (IPDES) 70	Composting 88	Administrator 124
Land Application 70	Dead Animal Emergencies 88	Board 124
Large Concentrated Animal Feeding Operation 70	Dead Animals 88	Division 124
Manure 71	Decomposition 88	Fixture 124
Medium Concentrated Animal Feeding Operation 71	Digestion 88	Definitions, IDAPA 07.07.01 141
Modified 71	Director 88	Additional Definitions 141
Non-Compliance 71	Disposal 88	Administrator 141
Nutrient Management Plan (NMP) 71	Domesticated Livestock 88	Board 141
Nutrient Management Standard 71	Harvested 88	Division 141
Operate 71	Incineration 88	Recognized Jurisdiction 141
Operator 71	Person 88	Definitions, IDAPA 39.03.49 274
Person 71	Pets 88	Alcohol 274
Process Wastewater 71	Rendering 88	Breath Alcohol Concentration (BAC) 274
Runoff 71	Sanitary Landfill 88	Certification 274
Slaughter & Feeder Cattle 71	Definitions, IDAPA 02.04.23 95	Court (Or Originating Court) 274
Small Concentrated Animal Feeding Operation 71	Commercial Livestock Truck Washing Facilities 95	Department 274
Unauthorized Discharge 72	Compost 95	Device 274
Wastewater Storage & Containment Facility 72	Director 95	Diversion Program Administer or Designee 274
Waters of the State 72	Discharge 95	Independent Testing Laboratory 274
Definitions, IDAPA 02.04.16 78	Land Application 95	Interlock 274
Accepted Agricultural Practices 78	Livestock 95	Lessee 274
Agricultural Animal 78	Livestock Truck Washing Facilities 95	Manufacturer or Manufacturer's Representative 274
Agricultural Operation 78	Manure 95	Definitions, IDAPA 58.01.03 484
Animal 78	Modified 95	Abandoned System 484
BAT, Best Available Technology 78	Non-Compliance 95	Alternative System 484
Beef Cattle 78	Non-Land Application Season 95	Authorized or Approved 484
Beef Cattle Animal Feeding Operation 78	Nutrient Management Plan 95	Blackwaste 484
Best Management Practices 78	Nutrient Management Standard 95	Blackwater 484
Compost 78	Operate 95	Board 484
Composting 78	Operator 95	Building Sewer 484
Department 78	Person 95	Central System 484
Director 78	Process Wastewater 95	Construct 484
Land Application 78	Runoff 96	Director 484
Large Swine & Poultry Operations 78	Unauthorized Discharge 96	Existing System 485
Liquid Waste System 79	Wastewater Storage & Containment Facility 96	Expand 485
Liquid-Solid Separation 79	Waters of the State 96	Failing System 485
Livestock 78	Definitions, IDAPA 02.04.31 107	Ground Water 485
Manure 79	Agricultural Operation 107	High Groundwater Level - Normal Seasonal 485
Modified 79	Agricultural Waste 107	High Water Mark 485
Nutrient Management Plan 79	Department 107	Individual System 485
Nutrient Management Standard 79	Director 107	Install 485
	Duration 107	Installer 485
	Dwelling 107	Large Soil Absorption System 485
	Livestock 107	Limiting Layer 485
	Livestock Waste 108	Mottling 485
	Non-Compliance 108	

- New System 485
 Nondischarging System 485
 Permit 486
 Pollutants 486
 Public System 486
 Repair 486
 Scarp 486
 Service Provider 486
 Sewage 486
 Soil Texture 486
 Standard System 486
 Subsurface System 486
 Surface Water - Intermittent,
 Permanent, Temporary 486
 System 486
 Wastewater 486
 Water Table 487
 Waters of the State 486
 Definitions, IDAPA 58.01.09 509
 Animal Unit 509
 Animal Waste 509
 Animal Waste Management
 System 509
 Certified Planner 509
 Department 509
 Director 509
 Existing Facility 510
 Expanding Facility 510
 Facility or Swine Facility 510
 Land Application 510
 Nutrient Management Plan 510
 Nutrient Management Standard 510
 One-Time Animal Unit
 Capacity 510
 Operate 510
 Permit 510
 Permittee 510
 Person 510
 Process Wastewater 510
 Unauthorized Discharge 510
 Waters of the State 510
 Definitions, IDAPA 58.01.11 527
 Agricultural Chemical 527
 Aquifer 527
 Beneficial Uses 527
 Best Available Method 527
 Best Management Practice 527
 Best Practical Method 527
 Board 527
 Cleanup 527
 Constituent 527
 Contaminant 527
 Contamination 527
 Crop Root Zone 528
 Degradation 528
 Department 528
 Extraction 528
 Ground Water 528
 Ground Water Quality Standard 528
 Highly Vulnerable Ground
 Water 528
 Irreplaceable Source 528
 Mine Operator 528
 Mining Activity 528
 Mining Area 528
 Natural Background Level 528
 Person 528
 Point of Compliance 528
 Practical Quantitation Level 528
 Projected Future Beneficial
 Uses 528
 Recharge Area 529
 Reclamation 529
 Remediation 529
 Site Background Level 529
 Definitions, IDAPA 58.01.17 550
 Applicable Requirements 550
 Applicant 550
 Board 550
 Buffer Distances 550
 Department 551
 Director 551
 Industrial Wastewater 551
 Land Application 551
 Modal Contact Time 551
 Municipal Wastewater 551
 Non-Contact Cooling Water 551
 NTU, Nephelometric Turbidity
 Unit 551
 Permit 552
 Permittee 552
 Person 552
 Point of Compliance 552
 Primary Effluent 552
 Processed Food Crop 552
 Rapid Infiltration System 552
 Raw Food Crop 552
 Restricted Public Access 552
 Reuse 552
 Sewage 552
 Sludge 552
 Turbidity 552
 Wastewater 553
 Waters & Waters of the State 553
 Definitions, Sections 200 Through 225
 & 400 Through 461
 Agricultural Activities &
 Services 301
 Baseline Actual Emissions 302
 Begin Actual Construction 303
 Emissions Increase 303
 Innovative Control Technology 303
 Net Emissions Increase 303
 Pilot Plant 303
 Reasonable Further Progress
 (RFP) 304
 Sensitive Receptor 304
 Short Term Source 304
 Toxic Air Pollutant Reasonably
 Available Control Technology (T-
 RACT) 304
 Definitions, Sections 500 Through
 516 391
 Dispersion Technique 392
 Excessive Concentration 392
 Nearby Structures or Terrain
 Features 393
 Stack in Existence 393
 Demonstration Of Ambient
 Equivalence 390
 Other Trades 390
 VOC Trades 390
 Demonstration Of Competence 34
 Demonstration Of Net Air Quality
 Benefit 330
 Mobile Sources 330
 Other Regulated Air Pollutants 330
 VOCs 330
 Demonstration Of Preconstruction
 Compliance For New &
 Reconstructed Major Sources Of
 Hazardous Air Pollutants 343
 Compliance with Federal
 MACT 343
 Definitions 343
 Development of MACT by the
 Director After EPA Deadline 343
 Permitting Authority 343
 Requirement to Obtain
 Preconstruction MACT
 Determination from the
 Director 343
 Demonstration Of Preconstruction
 Compliance With Toxic
 Standards 334
 Controlled Ambient
 Concentration 336
 Controlled Emissions 336
 Environmental Remediation
 Source 339
 Identification of Toxic Air
 Pollutants 334
 Interpollutant Determination 340
 Interpollutant Trading Ambient
 Concentration 339
 Interpollutant Trading Determination
 Processing 339
 Interpretation & Implementation of
 Other Sections 341
 Net Ambient Concentration 337
 Net Emissions 336
 NSPS & NESHAP Sources 340
 Permit Compliance
 Demonstration 341
 Preconstruction Compliance
 Demonstration 336
 Quantification of Ambient
 Concentrations 335
 Quantification of Emission
 Rates 334
 Short Term Source Factor 339
 Toxic Air Pollutant Offset Ambient
 Concentration 337
 T-RACT Ambient Concentration for
 Carcinogens 337
 T-RACT Determination 338
 T-RACT Determination
 Processing 338
 Uncontrolled Ambient
 Concentration 336
 Uncontrolled Emissions 336
 Demonstration Of Technical, Financial,

- & Managerial Capacity Of Municipal Reuse Facility 569
- Compliance with Wastewater Rules Required 569
- Exclusion 569
- Department Examination Procedures 37
- Designated Routes For Extra Length Vehicle Combinations Up To One Hundred Twenty-Nine Thousand (129,000) Pounds 270
- Brakes 270
- Designated Routes for Vehicle Lengths 270
- Designated Routes for Vehicle Weight 271
- Requests for Adding Idaho Transportation Department Maintained Non-Interstate Routes 271
- Designation Of Attainment, Unclassifiable, & Nonattainment Areas 413
 - Annual Review 413
 - Area Designation 413
 - Boundaries 413
 - Redesignations 413
- Designation Of Beef Cattle Animal Feeding Operations 74
 - Designation of Animal Feeding Operations 74
 - Redesignation of a Beef Cattle Animal Feeding Operation 74
- Designation Of Poultry Concentrated Animal Feeding Operations 120
 - Designation of Animal Feeding Operations 120
 - Effect of Designation 120
 - Redesignation of a Poultry CAFO 120
- Determining Pesticide Area Boundaries 25
 - Determining Boundaries 26
 - Pesticide Area Boundary Factors 25
- Deviations From Pesticide Labels & Labeling 45
- Device Maintenance & Reports 277
 - Additional Report 277
 - Corrective Action Report 277
 - Device Examination Schedule 277
 - Report of Examination 277
- Device Security 277
 - Device Identification 277
 - Personnel Requirements 278
 - Physical Anti-Tamper Security 277
 - Tampering Precaution 277
 - Warning Label 277
- Disposal Of Dead Animals 89
 - Allowance for Variances by the Administrator 90
 - Burial 89
 - Burning 90
 - Composting 89
 - Dead Animals on Federally Managed Land 89
 - Decomposition 90
 - Digestion 90
 - Disposal in an Approved Sanitary Landfill 89
 - Disposal Methods Determined by the Administrator 89
 - Incineration 90
 - Rendering 89
 - Dual Point System 300
 - Duration Of Permit 97
 - Duty To Supplement Or Correct Application 354
 - Additional Information After Completeness 354
 - Failure to Submit 354
 - Necessary Additional Information 354
- E**
- Educational Programs 28
- Effect Of Delinquency On Applications 382
- Effect Of Inaccurate Information In Applications Or Failure To Submit Relevant Information 354
- Effect Of Stages 397
- Electrical Generators 466
 - Fuel Type 467
 - Generator Opacity Limit 467
 - Generator Operating Requirements 467
 - Monitoring & Recordkeeping Requirements 467
- Emergency As An Affirmative Defense Regarding Excess Emissions 367
 - Applicability 367
 - Burden of Proof 367
 - Demonstration of Emergency 367
 - General 367
- Emission Guidelines For Municipal Solid Waste Landfills That Commenced Construction, Reconstruction Or Modification Before May 30, 1991 479
 - Applicability 479
 - Compliance Schedules & Increments of Progress For Municipal Solid Waste Landfills That Have Nonmethane Organic Compound Emission Rates Less Than 50 Mg/yr 481
 - Compliance Schedules and Increments of Progress 481
 - Definitions, Section 860 479
 - General Requirements 480
 - Permitting Requirements 480
 - Reporting Requirements 480
- Emission Limits, Hot-Mix Asphalt 473
- Emission Limits, Incinerators 463
 - Averaging Period 463
 - General Restrictions 463
 - Test Methods & Procedures 464
- Emission Limits, Sulfuric Acid Plant 474
 - Averaging Period 474
 - General Restrictions 474
- Emissions Standards For Nonmetallic Mineral Processing Plants Not Subject To 40 CFR 60, Subpart OOO 465
 - Emissions Standards for Fugitive Emissions 465
 - Processing Plants Not Regulated by NSPS 465
- Emissions Standards For Nonmetallic Mineral Processing Plants Subject To 40 CFR 60, Subpart OOO 464
 - Applicability & Designation of Affected Facilities 464
 - Facilities Not Applicable to 40 CFR 60.670(a)(2), (b), and (c) 464
 - Standards of Performance for Nonmetallic Mineral Processing Plants 465
- EPA Review Procedures 370
 - Opportunity for EPA Objection 370
 - Public Petitions to EPA 371
 - Response to EPA Objections 371
 - Submittal of Proposal to EPA 370
- Episode Criteria 397
- Exceptions, Emission Limits, Incinerators 464
 - Exceptions, Odor Control Equipment In Rendering Plants 474
- Excess Emissions 311
 - Applicability 311
 - Effect of Determination 312
 - Enforcement Action Criteria 311
- Excess Emissions Records 316
 - Availability of Excess Emissions Records 316
 - Contents of Excess Emissions Records 316
 - Maintenance of Excess Emissions Records 316
 - Protections Under Section 128 316
- Excess Emissions Reports 316
 - Contents of Excess Emissions Reports 316
 - Deadline for Excess Emissions Reports 316
- Exclusions 88
 - Free-Ranging Wildlife 88
 - House Pets 88
 - Pets Buried in a Licensed Pet Cemetery 88
 - Slaughter Establishments 88
- Exemption Criteria & Reporting Requirements For Toxic Air Pollutant Emissions 347
 - Annual Report for Toxic Air Pollutant Exemption 347
 - Below Regulatory Concern (BRC) Exemption 347
 - Level I Exemption 347
 - Level II Exemption 347
- Exemptions 28, 382

Paying Fees 382
 Registering & Paying Fees 382
 Registration Fees 382
 Existing CLTWF 99
 Existing Facilities 517
 Expanding Facility 517
 Plan Requirement 517
 Registration Requirement 517
 Experimental Permits 45
 Active Ingredient 46
 Acute Toxicity 46
 Applicant 46
 Experimental Use 46
 Name 46
 Proposed Labeling 46
 Quantity Limit 46
 Quantity Statement 46
 Shipment 46
 Statement of Scope 46
 Temporary Tolerance 46
 Expiration Of Preceding Permits 372
 Extensions 397

F

Facility Emissions Cap 321
 Applicability 321
 Definitions 321
 Optional Facility Emissions Cap 321
 Fees 43
 Examination Fee per Examination Category 43
 Pesticide Dealer's License 43
 Pesticide Registration 43
 Private Applicator's License 43
 Professional Applicator's License 43
 Fees & Assessments 116
 Adjustment in Fees or Assessments 116
 Annual Fees or Assessments 116
 Payment of Annual Fees or Assessments 116
 Field Burning 443
 Filing Of Documents 141
 Final Conformity Determinations By USDOT 411
 Final Conformity Determination Process 411
 New or Revised Information 411
 Financial Assurance
 Requirements 513
 Adjustment of Financial Assurance Amounts 516
 Continuous Coverage 516
 Financial Assurance Mechanisms 514
 Owner Liability 517
 Release from Financial Assurance Requirements 516
 Written Estimate of Costs 513
 Financial Responsibility 43
 Cancellation or Reduction 44
 Coverage Waived 44

Minimum Coverage Required 44
 Proof of Financial Ability 43
 Target Property not Required to be Covered 44
 Findings 32
 Fire Permits, Hazardous Materials & Liability 440
 First Time Violations 84
 Cooperation with the Department 85
 Notice of Violation 85
 Format Of Responses 311
 Fuel Burning Equipment -- Particulate Matter 453
 Fugitive Dust Control 473
 Fugitive Emission Controls 473
 Plant Property Dust Controls 473

G

Gasoline Cargo Tanks 440
 Compliance 440
 Prohibitions 440
 Recordkeeping & Reporting 440
 General Applicability, Control Of Ammonia From Dairy Farms 459
 General Chemigation Requirements 52
 Chemigating Over Waters of the State 52
 Chemigation Equipment Standards 52
 Pesticides Labeled for Chemigation 52
 Posting Requirements, Category I 52
 General Consultation Process 408
 Final Document Distribution 409
 Lead Agency in Consultation 408
 Public Comment Period to Satisfy Thirty Day Document Distribution Requirement 409
 Separate Times or in Combination 409
 Use of Checklist for Distribution of Material 409
 Use of Other Meetings for Consultation 409
 General Control Requirements, Nonmetallic Mineral Processing Plants 464
 Control of Fugitive Dust 464
 Prohibition 464
 General Definitions, IDAPA 58.01.01 286
 Accountable 286
 Act 286
 Actual Emissions 286
 Adverse Impact on Visibility 286
 Air Pollutant/Air Contaminant 287
 Air Pollution 287
 Air Quality 287
 Air Quality Criterion 287
 Allowable Emissions 287
 Ambient Air 287
 Ambient Air Quality Violation 287
 Atmospheric Stagnation

Advisory 287
 Attainment Area 287
 BART-Eligible Source 287
 Baseline, Area, Concentration, & Date 288
 Board 289
 Breakdown 289
 BTU 289
 Clean Air Act 289
 Collection Efficiency 289
 Commence Construction or Modification 289
 Complete 289
 Construction 289
 Control Equipment 289
 Controlled Emission 289
 Criteria Air Pollutant 289
 Deciview 289
 Department 289
 Designated Facility 289
 Director 290
 Effective Dose Equivalent 290
 Emission 290
 Emission Standard 291
 Emissions Unit 291
 Environmental Remediation Source 291
 EPA 291
 Excess Emissions 291
 Existing Stationary Source or Facility 291
 Federal Class I Area 291
 Federal Land Manager 291
 Federally Enforceable 291
 Fire Hazard 291
 Fuel-Burning Equipment 291
 Fugitive Dust 291
 Fugitive Emissions 291
 Garbage 292
 Gasoline 292
 Gasoline Cargo Tank 292
 Gasoline Dispensing Facility (GDF) 292
 Grain Elevator 292
 Grain Storage Elevator 292
 Grain Terminal Elevator 292
 Hazardous Air Pollutant (HAP) 292
 Hazardous Waste 292
 Hot-Mix Asphalt Plant 292
 Incinerator 292
 Indian Governing Body 292
 Integral Vista 293
 Kraft Pulping 293
 Least Impaired Days 293
 Lowest Achievable Emission Rate (LAER) 293
 Mandatory Federal Class I Area 293
 Member of the Public 293
 Mercury 293
 Mercury Best Available Control Technology (MBACT) 293
 Modification, Stationary Source or Facility 293

- Monitoring 294
 Most Impaired Days 294
 Multiple Chamber Incinerator 294
 Natural Conditions 294
 New Stationary Source or Facility 294
 Nonattainment Area 294
 Noncondensibles 294
 Odor 294
 Opacity 294
 Open Burning 294
 Operating Permit 295
 Particulate Matter 295
 Particulate Matter Emissions 295
 Permit to Construct 295
 Person 295
 PM10 295
 PM10 Emissions 295
 PM2.5 295
 PM2.5 Emissions 295
 Portable Equipment 295
 Potential to Emit/Potential Emissions 295
 PPM (Parts Per Million) 295
 Prescribed Fire Management Burning 295
 Primary Ambient Air Quality Standard 296
 Process or Process Equipment 296
 Process Weight 296
 Process Weight Rate 296
 Quantifiable 296
 Radionuclide 296
 Regional Haze 296
 Regulated Air Pollutant 296
 Replicable 297
 Responsible Official 297
 Safety Measure 297
 Salvage Operation 297
 Scheduled Maintenance 297
 Secondary Ambient Air Quality Standard 298
 Secondary Emissions 298
 Shutdown 298
 Significant 298
 Significant Contribution 299
 Small Fire 299
 Smoke 299
 Smoke Management Plan 299
 Smoke Management Program 299
 Source 300
 Source Operation 300
 Special Fuels 300
 Stack 300
 Stage 1 Vapor Collection 300
 Standard Conditions 300
 Startup 300
 Stationary Source 300
 Tier I Source 300
 Total Suspended Particulates 301
 Toxic Air Pollutant 301
 Toxic Air Pollutant Carcinogenic Increments 301
 Toxic Air Pollutant Non-Carcinogenic Increments 301
 Toxic Substance 301
 Trade Waste 301
 TRS (Total Reduced Sulfur) 301
 Unclassifiable Area 301
 Uncontrolled Emission 301
 Upset 301
 Visibility Impairment 301
 Visibility in Any Mandatory Class I Federal Area 301
 Wigwam Burner 301
 Wood Stove Curtailment Advisory 301
 General Exemption Criteria For Permit To Construct Exemptions 344
 General Exemption Criteria 344
 Record Retention 344
 General Provisions 445
 Advisory Committee 446
 Annual Report 446
 Burn Provisions 445
 Burning Prohibitions 445
 General Provisions For Ambient Air Quality Standards 412
 Applicability 412
 Control of Unregulated Contaminants 413
 Methods 413
 Revisions 413
 Standard Conditions 413
 General Reimbursement
 Types Of Participant Services 202
 Adults with Developmental Disabilities Waiver Services 203
 Aged & Disabled Waiver Services 202
 Children's Developmental Disabilities (DD) Home & Community-Based Services (HCBS) State Plan Option 202
 Personal Care Services 202
 Service Coordination 203
 Therapy Services 203
 General Requirements 487
 Alternative System 488
 Compliance With Intent Required 487
 Duties of the Technical Guidance Committee 487
 Failing System 487
 Increased Flows 487
 Intent of Rules 487
 Subsurface System Replacement Area 487
 System Limitations 487
 Technical Guidance Committee 487
 Technical Guidance Manual for Individual & Subsurface Alternative Sewage Disposal 487
 General Requirements IDAPA 58.01.15 544
 Disposal Methods 545
 Equipment to Be Cleanable 545
 Equipment to Be Watertight 545
 General Resource Category Aquifers, Management of Activities With the Potential to Degrade Aquifers 535
 General Restrictions On Visible Emissions From Wigwam Burners 448
 General Restrictions, Open Burning 441
 Air Pollution Episodes 441
 Categories & Materials 441
 Emergency Authority 441
 General Rules, Emergency Episode Stage 400
 Stage 1 - Air Pollution Forecast & Caution 400
 Stage 2 -- Alert 400
 Stage 3 -- Warning 400
 Stage 4 -- Emergency 400
 General Rules, Odorous Gases, Liquids & Solids 463
 General Restrictions 463
 Restrictions on Rendering Plants 463
 General Rules, Particulate Matter 448
 Application of Dust Suppressants 449
 Covering of Trucks 449
 Paving 449
 Removal of Materials 449
 Use of Control Equipment 449
 Use of Water or Chemicals 448
 General Rules, Sections 750 & 751 458
 Emission Limitations -- Phosphate Fertilizer Plants 458
 Exemptions 458
 Monitoring, Testing, & Reporting Requirements 458
 Source Specific Permits 458
 General Tier I Operating Permits & Authorizations To Operate 367
 Applications for Authorizations to Operate 367
 Contents of General Tier I Operating Permits 367
 Issuance of General Tier I Operating Permits 367
 Phase II Sources 368
 Procedures for Issuing Authorizations to Operate 368
 Review of Authorizations to Operate 368
 Good Engineering Practice (GEP) Stack Height 393
 Gooseneck Pipe Loop, Downhill & Over-A-Hill 57
 Location 57
 Location of Chemical Injection Port 57
 Pipe Loop 57
 Position 57
 Use Restriction 57
 Ground Water Contamination 538
 Agricultural Chemicals 539

- Contamination Exceeding a Ground Water Quality Standard 538
- Measures Taken in Response to Degradation 538
- Releases Degrading Ground Water Quality 538
- Site-Specific Ground Water Quality Levels or Points of Compliance 539
- Ground Water Monitoring Programs 25
 - Conduct Monitoring Programs 25
 - Evaluation 25
 - Monitoring Programs 25
- Ground Water Quality Monitoring 119
- Ground Water Quality Reference Points 23
 - HAL & RfD Guide 23
 - Reference Points 23
- Ground Water Quality Standards 530
 - Narrative Ground Water Quality Standards 534
 - Natural Background Level 535
 - Numerical Ground Water Quality Standards 530
 - Primary Constituent Standards 531
 - Secondary Constituent Standards 534
- Ground Water Recharge 551
 - Class A Recycled Water 570
- H**
- HVAC Contractor Certificate Of Competency - Requirements 142
 - Bond 142
 - Examination 142
 - Out-of-State Contractor Applications 142
 - Qualification 142
- HVAC Journeyman Certificates Of Competency
 - Requirements 143
 - Education 143
 - Examination 143
 - Experience 143
 - Out of State Journeyman Applications 143
- HVAC Permits 144
 - Home Owners 144
 - HVAC Contractors & HVAC Specialty Contractors 144
 - Refunds of Permits 144
 - Serial Number 144
 - Transferring a Permit 144
- I**
- ICC Member Responsibilities In
 - Consultation 406
 - Designated Lead Air Quality Agency Responsibilities 406
 - Designated MPO Responsibilities 406
 - EPA Responsibilities 407
 - FHWA & FTA Responsibilities 407
 - Non-MPO Area Responsibilities 407
 - Responsibility to Disclose Potentially Regionally Significant Projects 407
- ICC Member Roles In
 - Consultation 406
 - Areas with an MPO 406
 - Areas Without an MPO 406
 - Designated Lead Air Quality Agency 406
- Idaho Public Records Act 69, 77, 94, 112
- Idaho Source Income Of Nonresident And Part-Year Resident Individuals -
- Distributive Share Of S Corporation & Partnership Income 249
- Distributions 250
- Guaranteed Payments Treated As Compensation 250
- In General 250
- Nonbusiness Income 250
- Pass-Through Items 250
- Ignition Interlock Device 274
- Implementation 529
 - Aquifer Categorization 529
 - Level of Protection & Application of Standards to Aquifer Categories 530
 - Ground Water Quality Standards 529
 - Ground Water-Surface Water Interconnection 530
 - Interagency Coordination 530
- Incorporation By Reference 19, 32, 60, 69, 77, 87, 101, 111, 124, 529, 548
- Incorporation by Reference, IDAPA 02.04.23, Rules Governing Commercial Livestock Truck Washing Facilities 94
- Incorporations By Reference 308
 - Availability of Referenced Material 308
 - Documents Incorporated by Reference 308
 - General 308
- Industrial Flares 442
- Infectious Waste Burning 443
- Information Orders By The
 - Department 310
 - Persons 310
 - Purpose 310
 - Requirements 310
- Information To Be Given, Emergency Episode Stages 399
- Information to Be Given 399
- Injection Line Check Valve 55
 - A Substitute System 55
 - Injection Line Check Valve 55
- Insignificant Activities 354
 - Applicability Criteria 354
- Inspection Fee 396
- Inspection Frequency 396
- Inspection Port 57
 - Inspection Port 57
- Inspection Report Forms 66
- Inspections 66, 74, 82, 96, 120, 503
 - Advance Notice by Permittee 503
 - Duty to Uncover 503
 - Frequency 120
 - Inspect Facilities 96
 - Inspect Records 96
 - Inspection Methods 120
 - Inspection Report Forms 120
 - Notification of County Commissioners 82
 - One or More Inspections Required 503
 - Records Obtained by the Department 82
 - Substantiating Receipts & Delivery Slips 503
- Installation Standards 276
 - Device Removal Standards 276
 - Installation Instructions 276
 - Installation Standards 276
 - Installer 276
 - Mandatory Vehicle Maintenance 276
 - Security 276
 - Unauthorized Persons 276
 - Vehicle Condition Screen 276
- Installer's Registration Permit & Service Provider Certification 490
 - Application Fee 492
 - Bond Required 491
 - Contents of Application 491
 - Examination 490
 - Exemption 492
 - Grounds for Revocation 492
 - Permit & Certification Required 490
 - Permits & Certifications Required Annually 491
 - Service Provider Responsibilities 491
 - Transfer from Non-Profit Operation & Maintenance Entity to Certified Service Provider 492
- Interim Exemption from Pesticide Dealer Licensing & Recordkeeping 39
- Investigation & Recommendation 317
 - Costs 317
 - Disputed Facts 317
 - Efforts 317
 - Other Facts 317
 - Recommendations 317
- Irrigation Line Check Valve 56
 - Construction 56
 - Labeling of the Check Valve or Valve Assembly 56
 - Location 56
 - Model Certification 56
- Irrigation Systems 52
 - Domestic Water Supply System Cross-Connected for Chemigation 53

- Flood, Basin, Furrow, or Border Irrigation 53
 Sprinkler or Drip Irrigation 52
- K**
- Kraft Pulp Mill LVHC & HVLC Gas Venting Notification & Reporting 474
- L**
- Landfill Disposal Site Fires 442
 Landscape Impoundment 551
 Large Soil Absorption System Design & Construction 504
 Installation Permit Plans 504
 Large Septic Tanks 505
 Module Size 504
 Monitoring & Reporting 506
 Operation & Maintenance 506
 Site Investigation 504
 Standard Large Soil Absorption System Design Specifications 504
 Legal Authority 19, 30, 60, 69, 77, 87, 94, 101, 107, 111, 123, 285, 483, 509, 526, 544, 548
 Licensed Professional Applicator 39
 Licensing Periods & Recertification, Pesticide 38
 Licensing Professional Applicators & Pesticide Dealers 34
 Liquid Waste Systems 81
 Department Review 81
 Design Requirements 81
 Listing Or Delisting Toxic Air Pollutant Increments 436
 Long-Term Strategy For Regional Haze 450
 Enforceable Emission Limitations 450
 Interstate Consultation 451
 Requirements for Long-Term Strategy 450
 Submittal of Long-Term Strategy 450
 Low-Flying Prohibitions 45
 Low-Flying Prohibitions 45
 Restriction 45
 Lump Sum Payments Of Registration Fees 383
 Agreement 383
 Minimum Amount 383
 Payment Waiver 383
- M**
- Management Of Activities With The Potential To Degrade Aquifers 535
 Other Resource Category Aquifers 536
 Sensitive Resource Category Aquifers 535
 Management Plans Adopted By Rulemaking & Review 23
 Adoption Through Rulemaking 23
- PMP Review 23
 Mandatory Operational Features 278
 Device Setpoint 278
 Manner & Frequency Of Notification 399
 Meetings 141
 Mercury Emission Standard For New Or Modified Sources 343
 Applicability 343
 Exemptions 343
 Microencapsulated Methyl Parathion Restriction 49
 Mining 539
 Application of Provisions 541
 Application Process 539
 Change in Point(s) of Compliance/ Ground Water Monitoring 541
 Coordination with Other State or Federal Agencies/Public Notice 541
 Ground Water Monitoring & Reporting 541
 Limitations 541
 Request for Setting Point(s) of Compliance & Standards Applicable to Mining Activities 539
 Setting the Point(s) of Compliance 540
 Minor Permit Modification 375
 Criteria 375
 EPA & Affected State Notification Procedures 376
 Implementation Procedures 377
 Minor Permit Modification Application Procedures 375
 Permit Shield 377
 Modifying Physical Conditions 320
 Monitoring & Testing, Sulfuric Acid Plants 475
 Motor Vehicle Inspection & Maintenance Program 394
 Applicability 394
 Exemptions 395
 Governing Authority 394
 Options 394
 Purpose 394
 Movement Of Dead Animals 90
 Dead Animals Concealed from View 90
 Direct to Destination 90
 Disinfection 90
 Transport of Dead Animals 90
 Vehicles Used for Transporting Dead Animals 90
 Multiple Stacks, Hot-Mix Asphalt Plants 473
 Municipal Recycled Water Access, Exposure & Signage 564
 Class A Recycled Water 564
 Class B Recycled Water 565
 Class C Recycled Water 565
 Class D Recycled Water 565
 Class E Undisinfected Recycled Water 565
 Class A Recycled Water Filtration 568
 Class A Filtration Technology Approval 568
 Filter to Waste Requirement 568
 Classification & Uses Tables 561
 Municipal Recycled Water -- Classification Tables 561
 Municipal Recycled Water - Uses 563
 Classification, Treatment, Use 558
 Class A Recycled Water 558
 Class B Recycled Water 559
 Class C Recycled Water 560
 Class D Recycled Water 560
 Class E Recycled Water 561
 Distribution Pipelines 566
 Additional Distribution System Requirements for Class A Recycled Water 567
 Compliance with Wastewater Rules Required 566
 Lagoons 568
 Class A Recycled Water Lagoons 568
 Requirements for Municipal Recycled Water Lagoons 568
 Preliminary Engineering Reports 566
 Pumping Stations 567
 Additional Pumping Station Requirements for Recycled Water 568
 Pumping Station Requirements 568
 Reliability & Redundancy 568
 Additional Reliability & Redundancy Requirements 568
 Reliability & Redundancy Requirements 568
- N**
- National Emission Standards For Hazardous Air Pollutants 437
 Nationwide Service Locations 278
 New CLTWF 99
 New Or Modified Beef Cattle Animal Feeding Operations 73
 New Source Performance Standards, Stationary Source 437
 NMP Violations 119
 No Restriction On Actual Stack Height 394
 Non-Domestic Pesticides 48
 Ester Restriction 48
 Home & Garden Restrictions 48
 Nonmetallic Mineral Processing Plant Fugitive Dust Best Management Practice 467
 Generally Applicable Requirements 467
 Requirements for Crushers & Grinding Mills 471

- Requirements for Paved Public Roadways 468
- Requirements for Stockpiles 472
- Requirements for Transfer Points, Screening Operations, & Stacks & Vents 469
- Requirements for Unpaved Haul Roads 469
- Non-Potable Mains 551
- Non-Potable Services 551
- Non-Potable Water 551
- Nonpreemption Of Other Jurisdictions 440
- Notice 317
- Notice & Record-Keeping Of Estimates Of Ambient Concentrations 324
- Estimates of Ambient Concentrations 325
- Notice 324
- Recordkeeping 325
- Notice Of Hearing 318
- Notification Of Discharge 97, 120
- Notification Of Discharge, Beef Cattle Animal Feeding Operations 72
- Notification To Sources 399
- Notification Within Twenty-Four Hours of Discharge 72
- NRCS, The United States Department of Agriculture, Natural Resources Conservation Service 80
- Nutrient Management 73, 98, 118
- Designated Poultry CAFOs 118
- Duty of Operator 99
- Existing Beef Cattle Animal Feeding Operations 73
- Existing Poultry CAFOs 118
- Implementation of a Nutrient Management Plan 73
- Implementation of NMP 99
- Land Application 98
- New Beef Cattle Animal Feeding Operations 73
- New Poultry CAFOs 118
- NMP Approval 119
- NMP Updates or Amendments 119
- Odor 98
- Nutrient Management Plan Retention 73, 119
- Nutrient Management Planner Certification 103
- Certification 103
- Continuing Education 103
- Development 103
- Nutrient Management Plans 103
- Nutrient Management Records 73, 119
- Land Application 73
- Manure Transferred to Another Person 73
- Records Retention 73, 119
- Required Nutrient Management Records 119
- O**
- Obligation To Comply 341
- Relaxation of Standards or Restrictions 342
- Responsibility to Comply With All Requirements 341
- Obligation To Comply, Tier II Operating Permit 388
- Odor Emissions Caused By An Act Of God 85
- Odor Management Plans 82
- Department Approval 82
- Implementation 83
- Interim Measures 82
- OMP Development 82
- Review of OMP 83
- Office – Mailing Address – Street Address – Office Hours – Web Address 124
- Office – Office Hours – Mailing Address & Street Address 140
- Office Hours – Mailing Address & Street Address 549
- Off-Permit Changes & Notice 378
- Criteria 378
- Notice Procedure 378
- Permit Shield Applicability 379
- Operation & Maintenance Manual 551
- Opportunity For Public Hearing 394
- Optional Offsets For Permits To Construct 330
- Optional Tier I Operating Permit 349
- Orchard Fires 442
- Heating Device Emissions 442
- Heating Device Opacity 442
- Open-Pot Heaters 442
- Orchard Clippings 442
- Other Components 501
- Design Approval Required 501
- Effect of Design Approval 501
- Notice of Design Disapproval 502
- Plan & Specification Submittal 501
- Other Provisions 278
- Attempts to Disobey Court Order 279
- Notice of Charges 278
- Notice of Installation 278
- Removal of Device 279
- Repair Deadline 278
- Statement of Charges 278
- Statewide Service Locations 279
- Substitute Device 279
- P**
- Particulate Matter -- Existing Equipment Process Weight Limitations 455
- Emission Standards -- Table 455
- General Restrictions 455
- Particulate Matter -- New Equipment Process Weight Limitations 454
- Emission Standards -- Table 454
- Exemption 454
- General Restrictions 454
- Particulate Matter -- Other Processes 456
- Emission Standards -- Table 456
- Other Processes 456
- Particulate Matter -- Process Weight Limitations 454
- Averaging Period 454
- Minimum Allowable Emission 454
- Particulate Matter Emission Limitations 454
- Test Methods & Procedures 454
- Payment Of Fees For Permits By Rule Registration 473
- Payment Of Fees For Permits To Construct 348
- Delinquency 348
- Fee Submittal 348
- Payment Of Tier I Registration Fee 382
- Fee Payment Date 382
- Fee Payments Mailing Address 382
- Payment Of Tier II Operating Permit Processing Fee 388
- Delinquency 389
- Fee Submittal 388
- Peak Day Flow 551
- Peak Hour Flow 551
- Penalties 28, 75, 85, 91, 105, 109
- Appeal of Civil Penalty 85
- Assessment of Civil Penalty 85
- Civil Penalty 91
- Computation of Monetary Penalties 85
- Criminal Penalty 92
- Inability to Collect Civil Penalty 85
- Minor Violations 92, 105
- Monetary Penalties 105
- Moneys Collected from Violations 85
- Reports for Basis of Penalty 85
- Permit & Permit Application 488
- Abandonment May Be Required 490
- Application & Permit Valid for One Year 489
- As-Built Plans & Specifications 490
- Basis for Permit Application Denial 489
- Contents of Application 488
- Cottage Site Facility Certification 490
- Exceptions to Permit Requirement 488
- Existing Installation Permits 490
- Immediate Effect of the Permit 490
- Issuance of Permit 489
- Notice of Denial 489
- Operation, Maintenance & Monitoring 490
- Permit Application 488
- Permit Fee 490
- Permit Renewal 490
- Permit Required 488
- Permit Application 113, 511
- Application Fee 513
- Closure Plan 513

- Construction Plan 512
- Construction Plans 113
- Contents of Application 113, 511
- Nutrient Management Plan 114, 513
- Other Information 114, 513
- Permit Application 511
- Preapplication Conference 511
- Relevant Information 113, 511
- Site Characterization 512
- Permit By Rule 443
 - Forms 443
 - General Requirements 443
- Permit By Rule Requirements, Permit Requirements, Nonmetallic Mineral Processing Plant Not Subject to CFR 60, Subpart 000 466
- Permit By Rule, Dairy Farms 459
 - Exemption 460
 - General Requirement 459
 - Optional Permit by Rule 460
- Permit Conditions 115, 519
 - Begin Construction 520
 - Compliance Required 115, 519
 - Construction & Operation of Facility 519
 - Construction Commencement 116
 - Construction, Operation, & Maintenance of the Facility 115
 - Entry & Access 115, 520
 - Financial Capability 519
 - Information to be Provided 115
 - Permit Renewal 116, 520
 - Provide Information 519
 - Reporting 115, 520
 - Specific Permit Conditions 116
- Permit Fee Schedule 125
 - Additional Fees 126
 - Miscellaneous 125
 - New Residential 125
 - No Permit 127
 - Other Installations Including Industrial & Commercial 126
- Permit For Use Of Industrial Recycled Water 570
 - Additional Application Contents 571
 - Permit Content 571
- Permit Modification 116, 521, 571
 - Major Modifications 116, 522, 572
 - Minor Modifications 116, 521, 571
 - Modification of Permits 571
- Permit Required 96, 113
 - Common Control 113
 - Existing Poultry Facilities 113
- Permit Requirements 465, 545
 - Permit Application Contents 545
 - Permit by Rule 465
 - Permit By Rule Eligibility 465
 - Permit Fee 545
 - Permit Suspension or Revocation 545
 - Permit to Construct 465
 - Tier I Operating Permits 465
 - Tier II Operating Permits 466
- Vehicle Number to be Displayed 545
- Permit Requirements & Application 553
 - Application Contents 553
 - Permit Application Content Exceptions 554
 - Permit Required 553
 - Pre-Application Conference 553
 - Reuse Facility Operation & Maintenance Manual or Plan of Operations 554
- Permit Requirements For New & Modified Stationary Sources 327
 - Emission Standards 327
 - NAAQS 327
 - Toxic Air Pollutants 327
- Permit Requirements For New Major Facilities Or Major Modifications In Attainment Or Unclassifiable Areas 329
 - Effect on Visibility 329
 - Exception to Incorporation by Reference of 40 CFR 52.21 329
 - Incorporated Federal Program Requirements 329
 - Nonmajor Requirements 330
- Permit Requirements For New Major Facilities Or Major Modifications In Nonattainment Areas 328
 - Additional Requirements 328
 - Compliance Status 328
 - Effect On Visibility 328
 - LAER 328
 - Required offsets 328
 - Incorporated Federal Program Requirements 328
 - Nonmajor Requirements 329
- Permit Requirements For Tier II Sources 385
 - Emission Standards 385
 - NAAQS 385
- Permit Revocation 574
 - Conditions for Revocation 574
 - Emergency Action 574
 - Notice of Revocation 574
 - Revocation & Closure 574
- Permit To Construct Application Fee 347
 - Exemption Applicability Determinations 347
 - Name or Ownership Change 347
 - Typographical Errors 347
- Permit To Construct Processing Fee 347
- Permit To Construct Required 325
- Permit Transferable 572
 - Compliance Record of Transferee 573
 - Compliance with Permit Conditions Pending Transfer Approval 573
 - Effective Date of Transfer 573
 - General 572
 - Request for Transfer 572
- Transferee Liability Prior to Transfer Approval 573
- Permits 124
 - Commercial & Industrial 124
 - Expiration of Permit 124
 - Home Owners 124
 - Plumbing Contractors 124
 - Refunds of Permits 125
 - Serial Number 124
 - Transferring a Permit 125
- Pesticide Use & Record Keeping Requirements 28
- Pesticide Use On Seed Crop Fields 49
 - Exemption 50
 - Nonfood & Nonfeed Site Conditions 49
- Pesticide-Fertilizer Mix Restrictions 45
- Petition 317
 - Requested Relief 317
 - Statement of Facts 317
 - Statement of Reasons 317
- Phenoxy Herbicide Restrictions 48
 - Airflow & Temperature Inversion Indicators 49
 - Hazard Area 48
 - High Volatile Ester Restrictions 48
 - Low Volatile Ester Restrictions 48
 - Other Spraying Equipment 49
- Phosphorus Management 65
 - Phosphorus Indexing 65
 - Phosphorus Threshold 65
- Plan of Operation 552
- Policies 526
 - Categorization of Ground Water 527
 - Existing & Projected Future Beneficial Uses 526
 - Ground Water Quality Protection 526
 - Ground Water Quality Standards 527
 - Mining 527
 - Prevention of Ground Water Contamination 527
- Polychlorinated Biphenyls (PCBS) 321
 - Prohibition on Burning 321
 - Prohibition on Sales 321
- Potable Water 552
- Preparation Of Draft Permit Or Draft Denial 369
- Preparation Of Proposed Permit Or Proposed Denial 370
 - Availability 370
 - Notice to Affected States 370
 - Timeline 370
- Pre-Permit Construction 342
 - Permit to Construct Procedures for Pre-Permit Construction 342
 - Pre-Permit Construction Eligibility 342
- Prescribed Burning 442
 - Burning Permits or Prescribed Fire

- Plans 442
 - Rights-of-Way Fires 443
 - Smoke Management Programs for Prescribed Burning 443
 - Prevention Of Significant Deterioration (PSD) Increments 415
 - Exceedances 416
 - Exclusions 416
 - Incorporated Federal Program Requirements - Class I, II and III Areas 415
 - Prevention Services 173
 - Primary Responsibilities Of Agencies/ Offices Monitoring This Rule 279
 - Court 280
 - Idaho Transportation Department 280
 - Lessee 281
 - Manufacturer 279
 - Testing Lab 279
 - Private Applicator Licensing 33
 - Applying for a Private Applicator's License 33
 - License Categories 33
 - License Recertification 33
 - Procedure For Issuing Permits 330
 - Additional Procedures for Specified Sources 331
 - Establishing a Good Engineering Stack Height 332
 - General Procedures 330
 - Permit to Construct Procedures for Tier I Sources 332
 - Revisions of Permits to Construct 332
 - Transfer of Permits to Construct 334
 - Procedure For Issuing Permits, Tier II Operating Permit 385
 - Availability of Fluid Models & Field Studies 386
 - General Procedures 385
 - Permit Revision or Renewal 386
 - Specific Procedures 386
 - Transfer of Tier II Permit 386
 - Procedures & Requirements For Permits Establishing A Facility Emissions Cap 321
 - Procedures & Requirements For Permits To Construct 325
 - Procedures & Requirements For Tier I Operating Permits 349
 - Procedures & Requirements For Tier II Operating Permits 383
 - Procedures For Categorizing Or Recategorizing An Aquifer 536
 - Criteria for Aquifer Categories 536
 - Petition Process 537
 - Preliminary Department Review 537
 - Procedures For Issuing Permits Establishing A Facility Emissions Cap
 - FEC Termination 323
 - General Procedures 323
 - Renewal 323
 - Reopening the FEC 323
 - Prohibited Discharges 72, 119
 - Proof Of Hardship 318
 - Provisions Governing Specific Activities & Conditions 320
 - Public Consultation Procedures, Proactive Public Involvement In Transportation Plans & TIPs 412
 - Public Notices, Comments & Hearings 369
 - Content of the Notice 369
 - Generally 369
 - Giving Notice 369
 - Public Comment Package 369
 - Public Comment Procedures 369
 - Public Notification 446
 - Designation of Burn Days 446
 - E-Mail Update Service 446
 - Posting on Website 446
 - Public Notification, Air Quality 399
 - Public Outreach 396
 - Public Records Act Compliance 20, 61, 87, 102, 107, 124, 141
- R**
- Reasonable Progress Goals 450
 - Justification for Reasonable Progress Goals 450
 - Process for Setting Reasonable Progress Goals 450
 - Receipt & Usage Of Fees 348, 473
 - Receipt & Usage Of Fees, Tier II Operating Permit Processing Fee 389
 - Records of Nutrient Analysis 104
 - Available to the Director 104
 - Complete Records 104
 - Records Requirements 42
 - Applicator Records 42
 - Pesticide Dealer Records 43
 - Record Contents 42, 43
 - Recovery Furnace TRS Monitoring & Recordkeeping 474
 - Recovery Furnace TRS Standard 474
 - Recreational & Warming Fires 441
 - Recycled Water 552
 - Referenced Materials 549
 - Administrative Rules of the Department of Environmental Quality 549
 - AWWA Manual M24 549
 - Idaho Guidance for Recycled Water 549
 - Idaho Standards for Public Works Construction 549
 - Recommended Standards for Wastewater Facilities 549
 - Treatment Technology Report for Recycled Water 549
 - Regional Haze Rules 449
 - Registration & Licensing Requirements For Use Of The LPC 39
 - Registration 39
 - Use of the LPC (Compound 1080) 39
 - Registration & Registration Fees 380
 - Registration Fee 382
 - Fee-for-Service 381
 - Radionuclide Registration Fee 381
 - Tier I Annual Fee 380
 - Registration Fee For Permit By Rule 473
 - Registration For Permit By Rule 443
 - Applicant Information 443
 - Date of Burning 444
 - Location of Property 443
 - Plot Plan 443
 - Preventive Measures 444
 - Type, Acreage & Fuel Characteristics of Crop Residue Proposed to be Burned 444
 - Registration For Permit By Rule, Nonmetalloid Mineral Processing Plant 466
 - Registration Information 466
 - Registration Process 466
 - Registration for Permit by Rule, Sections 760 Through 764 460
 - Exemption from Registration Fee 460
 - Inspection 460
 - Registration Due Date 460
 - Registration Information 460
 - Registration Process 460
 - Registration Information 380
 - Facility Emission Units 380
 - Facility Information 380
 - Owner/Operator Information 380
 - Pollutant Registration 380
 - Radionuclide Registration 380
 - Registration Of Existing Poultry CAFOs 117
 - Information Required 117
 - Nutrient Management Plan 117
 - Ownership Transfer 117
 - Permit Allowed 117
 - Permit Required 117
 - Registration Procedures & Requirements For Portable Equipment 391
 - Compliance With Rules & Regulations 391
 - Registration Requirements 391
 - Registration, Recordkeeping, & Reporting Requirements 439
 - Recordkeeping Requirements 439
 - Registration 439
 - Reporting Requirements 439
 - Removal Procedures 279
 - Renewal Of Permit 97
 - Reopening For Cause 379
 - Criteria 379
 - Procedures for Reopenings 379
 - Repealing Specific Pesticide Areas 26
 - Repealing an Area of Pesticide Concern 26
 - Repealing an Area of Pesticide

- Restriction 27
 - Repealing an Area of Pesticide Use Prohibition 27
 - Required Inspections 127, 144
 - Final Inspection Tags 127
 - Ground Work Inspection Tags 127
 - Inspection Tags 145
 - Inspection Tags for Unacceptable Plumbing 127
 - Request for Division Inspection 144
 - Rough-In Inspection Tags 127
 - Required Standard Application Form & Required Information 350
 - Additional Information 353
 - Alternative Operating Scenarios 352
 - Applicable Requirements 352
 - Compliance Certifications 352
 - Compliance Plans 353
 - Emissions 351
 - General Information for the Facility 351
 - General Requirements 351
 - Other Requirements 352
 - Proposed Determinations of Nonapplicability 352
 - Specific Information for Each Emissions Unit 351
 - Trading Scenarios 353
 - Requirement To Obtain Tier I Operating Permit 349
 - Exceptions 349
 - Prohibition 349
 - Requirements 394
 - Requirements For Alternative Emission Limits (Bubbles) 389
 - Actual Emissions 389
 - Actual HAP/TAP Emissions 389
 - Applicable Requirement Prohibition 389
 - Compliance Schedule Extension 389
 - Emission Reductions 389
 - EPA Approval 389
 - Fugitive Dust Trades 389
 - Trade Requirements 389
 - Requirements For Banking Emission Reduction Credits (ERC's) 390
 - Requirements For Banking Emission Reduction Credits (ERC's) Adjustment by Department 391
 - Application to Bank an ERC 390
 - Banking Period 390
 - Certificate of Ownership 391
 - Proportional Discounts 391
 - Public Registry 391
 - Transfer of Ownership 391
 - Requirements For Emission Reduction Credit 330, 390
 - Allowable Emissions 390
 - Emission Rate Calculation 390
 - Imposed Reductions 390
 - Mobile Sources 390
 - Permit Issuance 390
 - Timing of Emission Reduction 390
 - Requirements For Licensing Authorized Emissions Technicians 396
 - Applications for License 396
 - Requirements for Issuance of an Emissions Technician License 396
 - Revocation of Emissions Technician License 396
 - Requirements For Licensing Authorized Inspection Stations Or Retest Stations 395
 - Applications for License 395
 - Approval Procedure 396
 - General 395
 - Requirements for Licensed Inspection Stations 395
 - Requirements for Licensed Retest Stations 395
 - Revocation of Inspection Station or Retest Station License 396
 - Requirements For Water Quality Protection 517
 - Animal Waste Management System Design Criteria 517
 - Discharges 517
 - Spill Contingency Plan 518
 - Stockpile Areas 518
 - Water Quality Monitoring 517
 - Requirements In Addition To The Plumbing Code 127
 - Jurisdiction/Septic Systems 127
 - Waste Disposal 127
 - Research 28
 - Residential Solid Waste Disposal Fires 442
 - Fires Allowed 442
 - Fires Exempt 442
 - Resolving Conflicts 412
 - Conflict Resolution at the Level of IDEQ & ITD Headquarters 412
 - Conflict Resolution at the Level of IDEQ Regions & ITD Districts 412
 - Process for Conflict Resolution at the Governors Level 412
 - Response To A Pesticide Detection 23
 - Level Four Response 25
 - Level One Response 23
 - Level Three Response 24
 - Level Two Response 24
 - Mixing & Loading Prohibited 25
 - Prohibition Areas 25
 - Response To Complaints 84, 109
 - Restrictions & Penalties 41
 - Amendment, Suspension, or Revocation of the LPC Registration 42
 - Imposition of Civil Penalty 42
 - Initiation or Pursuit of any Other Action 42
 - Revocation, Suspension or Denial to Issue or Renew 41
 - Restrictions To Protect Pollinators 46
 - Bee Restrictions 46
 - Green Pea Exception 46
 - Other Exceptions 47
 - Reuse Facilities
 - Buffer Distances
 - Buffer Distance Considerations 566
 - Determining Buffer Distances 566
 - Reuse Facilities - Buffer Distances 566
 - Reuse Facility
 - Plan & Specification Review 566
 - Rapid Infiltration System 569
 - Design & Construction 569
 - Discharge Requirements 570
 - Reuse Facility or Facility 552
 - Revisions To Permits Establishing A Facility Emissions Cap 324
 - Criteria 324
 - Permit Revision Application Procedures 324
 - Permit Revisions 324
 - Revocation Of Nutrient Management Planner Certification 103
 - Fails to Follow Provisions 103
 - Fails to Submit Plans 103
 - Submits Inaccurate Information 103
- S**
- School-Based Service
 - Coverage & Limitations 187
 - Evaluation & Diagnostic

- Services 188
- Excluded Services 188
- Reimbursable Services 188
- Definitions 185
- Activities of Daily Living (ADL) 185
- Children's Habilitation Intervention Services 185
- Educational Services 185
- Evidence-Based Interventions 185
- Evidence-Informed Interventions 185
- Human Services Field 185
- PRA Credential 186
- Practitioner of the Healing Arts 186
- School-Based Services 185
- Serious & Persistent Mental Illness (SPMI) 186
- Serious Mental Illness (SMI) 186
- Telehealth 186
- The Psychiatric Rehabilitation Association (PRA) 185
- Provider Qualifications & Duties 191
- Behavioral Consultation 193
- Behavioral Intervention 191
- Crisis Intervention 194
- Habilitative Skill 194
- Medical Equipment & Supplies 195
- Nursing Services 195
- Occupational Therapy & Evaluation 195
- Personal Care Services 195
- Physical Therapy & Evaluation 196
- Psychological Evaluation 196
- Psychotherapy 196
- Skills Building/Community Based Rehabilitation Services (CBRS) 196
- Social History & Evaluation 198
- Speech/Audiological Therapy & Evaluation 197
- Therapy Paraprofessionals 198
- Transportation 198
- Service-Specific Participant Eligibility 186
- Children's Habilitation Intervention 187
- Personal Care Services 187
- Skills Building/Community Based Rehabilitation Services (CBRS) 186
- Section 502(B)(10) Changes & Certain Emission Trades 377
- Criteria 377
- Notice Procedures 377
- Permit Shield 378
- Septic Tanks Design & Construction Standards 492
- Concrete Septic Tanks 492
- Construction Requirements 492
- Effluent Pipe Separation Distances 497
- Horizontal Dimension Limit 493
- Inlet & Outlet Piping 497
- Inlets 496
- Inspection Ports 496
- Installation of Manufactured Tanks 497
- Liquid Depth 493
- Manhole Extension 497
- Manholes 496
- Manufactured Tank Markings 493
- Materials 492
- Minimum Separation Distances Between Septic Tanks and Features of Concern 496
- Minimum Tank Capacities 493
- Multiple Tank or Compartment Capacity 496
- Outlets 496
- Scum Storage 496
- Sectional Tanks 497
- Septic Tank Abandonment 497
- Split Flows 496
- Total Volume 495
- Setbacks For Stockpile Sites 108
- Responsible Party's Dwellings 108
- Setback Distances 108
- Stockpile Staging Sites 108
- Significant Permit Modification 374
- Criteria 374
- Implementation Procedures 375
- Permit Shield 375
- Significant Permit Modification Application Procedures 374
- Significant Permit Modification Application Procedures 374
- Soil Sample Collection 104
- Alternative Sampling Depths 104
- CSS 104
- Representative Samples 104
- Sampling Depth 104
- Soil Sample Submission 104
- Soil Sampler Certification 104
- Certification 104
- Continuing Education 105
- Sampling 105
- Soil Samples 103
- Source Density 320
- Specific Emergency Episode Abatement Plans For Point Sources 401
- Specific Permit Conditions 520, 557
- Basis for Specific Permit Conditions 520, 557
- Compliance Schedules 521, 558
- Duration of Permit 557
- Limitations to Operation 521, 557
- Monitoring Requirements 521, 558
- Spot Burn, Baled Agricultural Residue Burn, & Propane Flaming Permits 446
- Applicability 446
- General Provisions 447
- Propane Flaming Permit 447
- Recordkeeping 447
- Spot & Baled Agricultural Residue Burn Permit 447
- Stack Heights & Dispersion Techniques 391
- Stack Monitoring Requirements 477
- Measurement Systems 477
- Record-Keeping and Reporting Requirements 477
- Stage 1 Vapor Collection 437
- Stages, Atmospheric Stagnation/ Degraded Air Quality 397
- Stage 1 - Air Pollution Forecast & Caution 397
- Stage 2 - Alert 397
- Stage 3 - Warning 397
- Stage 4 - Emergency 397
- Standard Contents Of Permits Establishing A Facility Emissions Cap 322
- Duration 323
- Emission Limitations & Standards 322
- Monitoring 322
- Recordkeeping 322
- Reporting 323
- Standard Contents Of Tier I Operating Permits 361
- Alternative Operating Scenarios 361
- Authority for & Form of Terms & Conditions 361
- Compliance Schedule & Progress Reports 363
- Emission Limitations & Standards 361
- General Requirements 364
- Monitoring 362
- Other Specific Requirements 364
- Periodic Compliance Certifications 363
- Permit Conditions Regarding Acid Rain Allowances 364
- Permit Duration 364
- Recordkeeping 362
- Reporting 363
- Terms or Conditions for Applicable Requirements 361
- Testing 363
- Trading Scenarios 361
- Standard Permit Applications 349
- Standard Permit Conditions 556
- Compliance Required 556
- Compliance with Ground Water Quality Rule 557
- Entry & Access 556
- Minimize Impacts 557
- Operation of Facilities 556
- Provide Information 556
- Renewal Responsibilities 556
- Reporting 556
- Standard Processing Of Tier I Operating Permit Applications 368
- Standard Subsurface Disposal Facility

- Design & Construction 498
 Aggregate 501
 Excavation 500
 Failing Subsurface Disposal System 501
 Impermeable Surface Barrier 501
 Seepage Pit 501
 Site Suitability 498
 Soil Barrier 500
 Standard Absorption Bed 501
 Standard Drainfield 498
 Standard Subsurface Disposal Facility Specifications 500
 Subsurface Disposal Facility Sizing 500
 Wastewater Distribution 500
 Standards & Specifications For Liquid Waste Systems 81
 Wastewater Collection & Conveyance Systems 81
 Wastewater Storage & Containment Facilities 81
 Standards For Minor & Existing Sources, Fuel Burning Equipment -- Particulate Matter 453
 Standards For New Sources, Fuel Burning Equipment -- Particulate Matter 453
 Standards Of Performance For Municipal Solid Waste Landfills That Commenced Construction, Reconstruction Or Modification On Or After May 30, 1991 477
 Applicability 477
 Definitions, Section 859 478
 General Requirements 478
 Permitting Requirements, Owners/ Operators of Landfills 478
 Reporting Requirements 479
 Startup, Shutdown & Scheduled Maintenance Requirements 312
 Amendments to Procedures 313
 Excess Emissions Procedures 313
 Filing of Excess Emissions Procedures 313
 General Provisions 312
 Startup, Shutdown, Scheduled Maintenance, Safety Measures, Upset & Breakdown 311
 Statement 317
 Storage Of Pesticide Containers 47
 Disposal 47
 Exceptions 47
 Protecting Humans & Environment 47
 Storage by Professional Applicators or Pesticide Dealers 47
 Submerged Fill Requirements 437
 Installed After November 9, 2006 438
 Installed On or Before November 9, 2006 437
 Subsequent Violations 85
 Substances Entering Wastewater
 Storage & Containment Facilities 98
 Subsurface Distribution Of Recycled Water 570
 Design & Construction 570
 Discharge Limitations 570
 Subsurface Use of Recycled Water 570
 Subsurface Distribution System 552
- T**
- Tampering 311
 Tax On Individuals, Estates, & Trusts 247
 In General 247
 Tables Identifying the Idaho Tax Rates and Income Tax Brackets 247
 Tax Computation 247
 Technical Memorandums For Tier I Operating Permits 369
 Memorandum for Draft Permit 369
 Release of Memorandum 369
 Revised Memorandum for Proposed Permit 369
 Temporary Cessation Of Operations & Closure 573
 Closure 573
 Temporary Cessation 573
 Test Methods & Procedures 318
 General Requirements 318
 Observation of Tests by Department Staff 320
 Reporting Requirements 320
 Test Requirements 319
 Test Results Review Criteria 320
 Test Methods & Procedures, Fuel Burning Equipment -- Particulate Matter 454
 Test Procedure Requirements 396
 Test Specifications For Certification 276
 Ground Elevation Accuracy 276
 High Altitude & Low Temperature Accuracy 276
 Test Standards 396
 Testing & Monitoring Requirements 438
 Alternative Testing 438
 Testing 438
 The International Fuel Gas Code, 2018 Edition 137
 Tier I Operating Permit Content 361
 Tier I Operating Permit Renewal 372
 Expiration & Renewal Application Shield 372
 Renewal Procedures 372
 Tier I Operating Permits For Tier I Portable Sources 368
 Contents of Tier I Operating Permits for Portable Tier I Sources 368
 Issuance of Tier I Operating Permits for Portable Tier I Sources 368
 Phase II Sources 368
 Tier II Operating Permit 383
 Multiple Tier II Operating Permits 384
 Optional Tier II Operating Permits 383
 Required Tier II Operating Permits 383
 Tier II Operating Permits Establishing a Facility Emissions Cap 384
 Tier II Operating Permits Required by the Department 384
 Tier II Operating Permit Processing Fee 388
 Tier II Operating Permit Processing Fee 388
 Tier II Operating Permit Processing Fee Not Required 388
 Timely Application 349
 Changes to Tier I Operating Permits 350
 Earlier Dates During Initial Period 350
 Original Tier I Operating Permits 349
 Renewals of Tier I Operating Permits 350
 Title & Scope 19, 30, 60, 69, 77, 87, 94, 101, 107, 111, 123, 286, 509, 526, 544, 548
 Title, Scope, Conflict & Responsibilities 483
 Conflict of Rules, Standards, & Ordinances 484
 Responsibilities 484
 Scope 483
 Title 483
 Total Compliance 318
 Toxic Air Pollutants Carcinogenic Increments 434
 Toxic Air Pollutants Non-Carcinogenic Increments 416
 Training Fires 441
 Transfer Of Permits 116, 522
 Permit Obligations 522
 Transfer Application 117, 522
 Transfer Application Review 117
 Transfer Approval 522
 Transfer Denial 522
 Transportation Conformity 401
 Truth, Accuracy & Completeness Of Documents 311
- U**
- Unauthorized Discharges 97
 Unauthorized Discharges & Unauthorized Releases -- Penalties 66
 Non-Compliance 66
 Penalties 66
 Suspend Planners or Soil Samplers Certification 66
 Unauthorized Discharge 66
 Unauthorized Release 66
 Unusable Pesticides Collection &

- Disposal 50
 - Authority 50
 - Contract Transport & Disposal 51
 - Department Possession for Disposal 50
 - Participant Transfer of Product Ownership 50
 - Upset, Breakdown & Safety Requirements 314
 - Amendments to Procedures 315
 - Discretionary Reduction or Cessation Provisions 314
 - Excess Emissions Minimization & Notification 314
 - Excess Emissions Procedures 315
 - Filing of Excess Emissions Procedures 315
 - Routine Maintenance & Repairs 314
- V**
- Vacuum Relief Valve Or Combination Air & Vacuum Relief Valve 57
 - Location 57
 - Orifice Size 57
 - Vapor Balance Requirements 438
 - Inspection 438
 - Loading 438
 - Maintenance 438
 - Repair 438
 - Variances 58, 502
 - Investigation & Decision 503
 - Limitations on Decision 503
 - Objections to Petition 502
 - Petition for Variance 502
 - Public Notice 502
 - Technical Allowance 502
 - Venturi 32
 - Violations 121, 522, 574
 - Discharge 121
 - Discharges 522
 - Failure to Comply 121, 522
 - Falsification of Statements & Records 121, 522
 - Penalties 522
 - Permit Revocation 522
 - Violations & Penalties 503
 - Failure to Comply 503
 - System Operation 503
 - Violation a Misdemeanor 503
 - Visible Emissions 447
 - Applicability 448
 - Exception 448
 - Exemptions 447
 - Standards for Exempted Sources 448
 - Test Methods & Procedures 448

W

- Waivers 397, 574
- Financial Hardship 397
- Public Service Vehicles Operating Less than 1,000 Miles Per Year 397
- Waste Storage & Containment

- Facilities 118
- Additional Ground Water Protection Requirements 118
- All Substances Entering Wastewater Storage & Containment Facilities 118
- Waste & Wastewater System Maintenance 118
- Waste Storage 118
- Wastewater Storage & Containment Facilities 118
- Wastewater Flows From Various Establishments in Gallons Per Day, Septic Tanks Design & Construction Standards 493
- Wastewater Storage & Containment Facilities 72, 98
- All Substances Entering Wastewater Storage & Containment Facilities 73
- Process Wastewater 98
- Rainfall 98
- Wastewater Storage & Containment Facilities 72
- Winter Precipitation 98
- Water Pollution 553
- Weed Control Fires 441
- Wind Velocity Restrictions 45
- Approval for Use of Other Application 45
- Chemigation Wind Speed Precautions 45
- Exceptions 45
- Restrictions 45
- Written Interpretations 19, 30, 60, 69, 77, 87, 94, 101, 107, 111, 123, 286, 509, 526, 548
- Written Notification 98
- Dates & Time 98
- Description of the Discharge 98
- Flow Rate 98
- Steps Taken 98
- Written Notification Within Five Days, Notification of Discharge 72