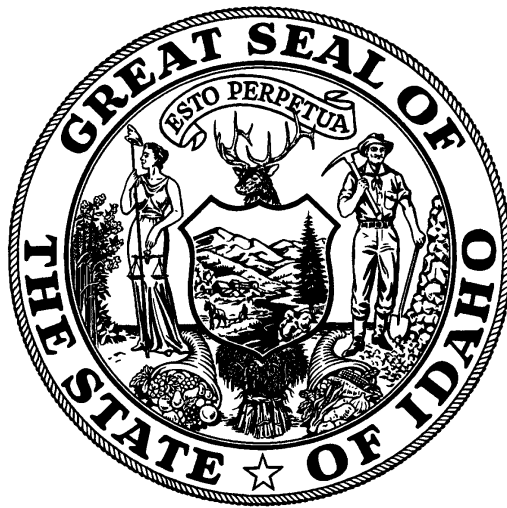


# **PENDING RULES COMMITTEE RULES REVIEW BOOK**

**Submitted for Review Before  
Senate Resources &  
Environment Committee  
65th Idaho Legislature  
Second Regular Session – 2020**



*Prepared by:*

*Office of the Administrative Rules Coordinator  
Division of Financial Management*

*January 2020*



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# IDAPA 13 – DEPARTMENT OF FISH AND GAME

DOCKET NO. 13-0000-1900

## NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** The agency has adopted rules that are now pending review by the 2020 Idaho State Legislature. These pending rules become final and effective upon the conclusion of the legislative session, unless a rule is approved, rejected, or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If a pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Sections 36-103, 36-104, 36-105, 36-111, 36-201, 36-301, 36-303, 36-307, 36-401, 36-402, 36-403, 36-404, 36-405, 36-406, 36-406A, 36-407, 36-408, 36-409, 36-409A, 36-410, 36-411, 36-412, 36-412A, 36-413, 36-501, 36-504, 36-506, 36-701, 36-703, 36-704, 36-706, 36-708, 36-804, 36-901, 36-902, 36-1001, 36-1101, 36-1102, 36-1508, 36-2201, 36-2202, 36-2203, 36-2204, 36-2205, Idaho Code.

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

The pending rules adopt and re-publish the following existing and previously approved and codified chapters of IDAPA 13, rules of the Department of Fish and Game. The text of the pending rules varies from the content of the proposed rules in a manner authorized by Section 67-5227, Idaho Code. The complete text of each IDAPA 13 chapter is published, except as noted below. The original text of the proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 1,619 – 1,750](#).

### IDAPA 13

- 13.01.01, *Rules of Practice and Procedure of the Fish and Game Commission*
- 13.01.02, *Rules Governing Mandatory Education and Mentored Hunting*  
(*Except 13.01.02.200 and 13.01.02.201*, which are being reauthorized as fee rules)
- 13.01.03, *Public Use of Lands Owned or Controlled by the Department of Fish and Game*
- 13.01.04, *Rules Governing Licensing*  
(*Except 13.01.04.601*, which is being reauthorized as a fee rule)
- 13.01.06, *Rules Governing Classification and Protection of Wildlife*
- 13.01.07, *Rules Governing the Taking of Upland Game Animals*
- 13.01.08, *Rules Governing the Taking of Big Game Animals*  
(*Except 13.01.08.263*, which is being reauthorized as a fee rule)
- 13.01.09, *Rules Governing Taking of Game Birds*
- 13.01.10, *Rules Governing the Importation, Possession, Release, Sale or Salvage of Wildlife*  
(*Except IDAPA 13.01.10.410*, which is being reauthorized as a fee rule)
- 13.01.11, *Rules Governing Taking of Fish*
- 13.01.12, *Rules Governing Commercial Fishing*
- 13.01.14, *Rules Governing Falconry*
- 13.01.15, *Rules Governing Use of Dogs*
- 13.01.16, *Trapping of Predatory and Unprotected Wildlife and Taking of Furbearers*
- 13.01.17, *Rules Governing the Use of Bait and Trapping for Taking Big Game Animals*
- 13.01.18, *Rules Governing Emergency Feeding of Pronghorn, Elk, and Deer*
- 13.01.19, *Rules for Operating, Discontinuing, and Suspending Vendors*  
(*Except IDAPA 13.01.19.102*, which is being reauthorized as a fee rule)

Prior to adopting pending rules, the agency provided opportunity for written and in-person public comment. The agency also considered the Red Tape Reduction Act and the Licensing Freedom Act, and continued efforts to clarify and streamline its rules. The variation in content between pending and proposed rules reflects changes the agency made to simplify, streamline, consolidate and reduce unnecessary restrictions. Changes for clarity included reorganization and renumbering of some sections within and among chapters. Variation in content also reflects technical corrections for consistency with statutes, and for consistency among IDAPA 13 chapters. The agency also

identified outdated or ineffective proposed rule language, or proposed rule language that duplicates statutory provisions. The agency did not adopt such language in pending rules, so it will expire with the expiration of the temporary rule.

Edits were made to all IDAPA 13 chapters of proposed rules for compliance with the Red Tape Reduction Act. Variation between pending and proposed rule content in all chapters includes deletion/revision of Sections 002-006 consistent with changes in standardized formatting as directed by the Office of Administrative Rules. Variation in language includes the following:

- 13.01.02.150 (new section) is a relocation of language from proposed rule 13.01.08.250.01 because of mentored hunting subject matter.
- 13.01.04.263 (rules for military personnel eligibility) reorganized based on nonresident eligibility and continued eligibility of Idaho residents stationed elsewhere.
- 13.01.04.306 (new section) is a relocation/consolidation of duplicative sections for tag requirements for disabled hunters and companions in proposed rule section 13.01.08.201 (big game) and 13.01.09.104 (game birds).
- 13.01.04.550 and 13.01.04.560 (new sections) is a relocation of language for nonresident tag quotas and sale of unsold nonresident tags, separated from proposed fee rule 13.01.04.600 because of distinct subject matter.
- 13.01.06 changes reflect updates in taxonomy, including bighorn sheep, cackling goose, pacific marten and integration of subspecies and other color phases of cutthroat trout and rainbow trout; edit to clarify “forest grouse” as used in proclamations.
- 13.01.06.150 does not include the proposed rules’ definitions or list of threatened or endangered species; the agency has determined that statutory and rule provisions make this classification duplicative in effect of other protected classifications for game and nongame species, and those provisions will expire with the expiration of the temporary rule.
- 13.01.08.404 – 407 (new Sections) is a relocation of language related to muzzleloader, archery, and short-range only seasons from proposed rule section 13.01.08.410 to improve clarity.
- 13.01.09.300.01 includes revised language related to take of forest grouse consistent with immediately preceding version of final rule.
- 13.01.10.100 includes revised language for allowance for captive possession of unprotected, predatory, and native reptiles or amphibians for consistency with 13.01.06.300 and with immediately preceding version of final rule 13.01.10.
- 13.01.11.200.01 includes revised language related to requirement for attendance of fishing lines consistent with immediately preceding version of final rule.
- 13.01.14.100 includes provision for clarity as to application of migratory bird treaty act in accordance with Section 36-1102, Idaho Code.
- 13.01.16.400 does not include provisions concerning raccoon because they are outdated with statutory change to classify raccoons as predatory wildlife in Section 36-201, Idaho Code; that language will expire with expiration of temporary rule.
- 13.01.19.104 does not include provisions that are outdated (e.g., reporting is now automated); that language will expire with expiration of temporary rule.
- 13.01.19.200 (new section) includes language moved from proposed rule Section 13.01.04.260 for telephonic/electronic licensing because subject matter is more relevant to license vendor rules.

**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.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this rulemaking, contact Paul Kline, Deputy Director at (208) 334-3771.

Dated this 21st day of October, 2019.

Paul Kline, Deputy Director  
Phone: (208) 334-3771 / Fax: (208) 334-4885  
[rules@idfg.idaho.gov](mailto:rules@idfg.idaho.gov)

Idaho Department of Fish and Game  
600 S. Walnut, P.O. Box 25  
Boise, ID 83707

**THE FOLLOWING NOTICE PUBLISHED WITH  
THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-103, 36-104, 36-105, 36-111, 36-201, 36-301, 36-305, 36-307, 36-401, 36-405, 36-406A, 36-407, 36-408, 36-409, 36-412, 36-413, 36-415, 36-501, 36-504, 36-506, 36-601, 36-701, 36-703, 36-704, 36-706, 36-708, 36-804, 36-901, 36-902, 36-1001, 36-1101, 36-1102, 36-1201, 36-1402, 36-1508, 36-2201, 36-2202, 36-2204, and 36-2205, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code. In conjunction, the Idaho Fish and Game Commission will accept oral comment concerning this rulemaking at its meeting at the Idaho Department of Fish and Game Regional Office at 99 Highway 93 North, Salmon, Idaho 83467 on July 24, 2019, beginning at approximately 8 pm.

**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 temporary and proposed rulemaking adopts and publishes the following existing and previously approved and codified chapters of IDAPA 13, rules of the Department of Fish and Game. This temporary and proposed rulemaking includes edits and re-numbering that do not significantly change the effect of existing rules to comply with Uniform Format Requirements of "Rules of the Office Of Administrative Rules Coordinator," IDAPA 44.01.01, and to comply with the Red Tape Reduction Act (Executive Order No. 2019-02) directing agencies to streamline state government through the repeal of outdated or ineffective rules or the significant simplification of rules.

**IDAPA 13**

- 13.01.01, *Rules of Practice and Procedure of the Fish and Game Commission*
- 13.01.02, *Rules Governing Mandatory Education and Mentored Hunting*  
(Except IDAPA 13.01.02.100 and 13.01.02.102, which are being reauthorized as fee rules)
- 13.01.03, *Public Use of Lands Owned or Controlled by the Department of Fish and Game*
- 13.01.04, *Rules Governing Licensing*  
(Aside from IDAPA 13.01.04.600, which is being reauthorized as a fee rule)
- 13.01.06, *Rules Governing Classification and Protection of Wildlife*
- 13.01.07, *Rules Governing the Taking of Upland Game Animals*
- 13.01.08, *Rules Governing the Taking of Big Game Animals*  
(Except IDAPA 13.01.08.263, which is being reauthorized as a fee rule)
- 13.01.09, *Rules Governing Taking of Game Birds*
  - Edits incorporate substantive requirements of 13.01.13, *Rules for Taking of American Crow*, which will expire as a separate chapter on June 30, 2019.
- 13.01.10, *Rules Governing the Importation, Possession, Release, Sale or Salvage of Wildlife*  
(Except IDAPA 13.01.10.410, which is being reauthorized as a fee rule)
- 13.01.11, *Rules Governing Fish*
  - Edits incorporate substantive requirements of 13.01.05, *Rules for Fishing Contests*, which will expire as a separate chapter on June 30, 2019
- 13.01.12, *Rules Governing Commercial Fishing*

- 13.01.14, *Rules Governing Falconry*
- 13.01.15, *Rules Governing Use of Dogs*
- 13.01.16, *Trapping of Predatory and Unprotected Wildlife and Taking of Furbearers*
- 13.01.17, *Rules Governing the Use of Bait and Trapping for Taking Big Game Animals*
- 13.01.18, *Rules Governing Emergency Feeding of Pronghorn, Elk, and Deer*
- 13.01.19, *Rules for Operating, Discontinuing, and Suspending Vendors*  
(Except IDAPA 13.01.19.102, which is being reauthorized as a fee rule)
  - Edits incorporate substantive requirements of 13.01.20, *Rules Governing Selection of Fish and Game License Vendors*, which will expire as a separate chapter on June 30, 2019

**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.

In addition, the Idaho Constitution, Art. 1, Sec. 23, states the “rights to hunt, fish and trap, including by the use of traditional methods, are a valued part of the heritage of the State of Idaho and shall forever be preserved for the people and managed through the laws, rules and proclamations that preserve the future of hunting, fishing and trapping.” Continuity of previously approved and codified Fish and Game rules governing the classification, protection, and taking of various types of fish and wildlife; the education and licensing of hunters, anglers, and trappers; emergency feeding of wildlife; and import, export, possession, release and sale of fish and wildlife implements this constitutional directive, as well as the directive of the State’s Wildlife Policy, as set forth in Section 36-103(a), Idaho Code, and other statutory directives. Continuity of existing rules for Commission procedure, use of state-owned or controlled lands, and authorization and accountability for licensing vendors implements good governance, public transparency, and responsible management of state monies and assets.

In addition, these rules incorporate simple modifications to existing IDAPA 13.01.04 as directed by 2019 legislation rather than re-authorizing outdated provisions; these changes were directed in Senate Bill 1088aa (changing the process for award of five special big game tags for disabled veterans with a Idaho Division of Veterans Services (IDVS) process to screen and prioritize applicants, with two of the tags allocated to hunts designated by IDVS) and House Bill 192 (as to a change in sale dates for outfitter allocated deer and elk tags and adding another option for allocating tags).

**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 Procedure 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 and proposed rules attached hereto.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Paul Kline, (208) 334-3771.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0000-1900**



## IDAPA 13 – DEPARTMENT OF FISH AND GAME

### 13.01.01 – RULES OF PRACTICE AND PROCEDURE OF THE IDAHO FISH AND GAME COMMISSION

#### 000. LEGAL AUTHORITY.

Sections 36-103 and 36-104, Idaho Code, authorize the Commission to adopt rules concerning administration of the state's wildlife policy. ( )

#### 001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.01, "Rules of Practice and Procedure of the Idaho Fish and Game Commission." These rules govern rulemaking, contested cases, meeting procedure, and appearances before the Commission and Department. ( )

#### 002. ADMINISTRATIVE PROCEDURE.

IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," govern rulemaking and contested cases for the Commission and Department unless otherwise provided by these rules. ( )

#### 003. – 010. (RESERVED)

#### 011. COMMISSION OFFICERS.

Commission officers are Chair, Vice-chair, and Secretary. The Commission annually elects the Chair and Vice-chair for the ensuing year. The newly elected chair and vice-chair assume their respective duties at the conclusion of the meeting at which they are elected. ( )

#### 012. DUTIES OF CHAIR AND VICE-CHAIR.

The Chair presides at meetings, sets meeting agendas, and performs other duties at Commission direction. The Vice-Chair performs the Chair's duties in the Chair's absence. If both Chair and Vice-Chair are absent, the Commission may appoint an Acting Chair to preside. ( )

#### 013. DIRECTOR – COMMISSION SECRETARY.

The Director is Commission Secretary, a non-voting member of the Commission. The Secretary or designee is custodian of Commission records. The Secretary or designee is responsible for taking written minutes for Commission meetings and issuing publications and notices. ( )

#### 014. DELEGATION OF POWERS.

The Commission may delegate powers to the Director as law allows. The Director may delegate powers to Department employees as law allows. ( )

#### 015. INVESTIGATIONS.

The Commission may authorize formal or informal investigations for fact-finding purposes (e.g., IDAPA 04.11.01.420.01), with report of investigation results to the Director, hearing officer or Commission. ( )

#### 016. OFFICIAL RECEIPT OF DOCUMENTS.

The Director, or a specified designee in a particular matter, is the officer with whom to file all documents in rulemakings or contested cases under IDAPA 04.11.01, at the principal office address as provided in the cover sheet to these rules, unless provided otherwise by statute, rule, order, or notice. A document is not officially received by the Commission until received at the Commission's office, as evidenced by date stamp placed on paper documents, or timestamp of email receipt as of a business day. Communications received by individual Commissioners are not considered officially received by the Commission unless they are received at the Commission office. ( )

#### 017. ORDERS.

**01. Signature on Commission Orders.** The Chair or the Director (as Secretary) signs all orders issued or authorized by the Commission. ( )

**02. Signature on Director's Orders.** The Director (as Director) signs all orders issued under the Director's authority in carrying out Idaho Code, Title 36. ( )

#### 018. – 049. (RESERVED)

#### 050. CONDUCT OF COMMISSION MEETINGS.

The Commission holds regular and special meetings under Section 36-104(a), Idaho Code. ( )

**01. Motions and Voting.** A motion needs a second for the Commission to consider it. All members will vote upon all motions placed before the Commission unless excused by the Chair for reasons stated for the record. ( )

**02. Parliamentary Rules.** Robert’s Revised Rules of Order, with Procedure in Small Boards, governs the conduct of Commission meetings when applicable, unless inconsistent with statute or these rules. ( )

**051. PROCEDURE FOR PUBLIC TESTIMONY AT COMMISSION MEETINGS.**

The Commission provides an opportunity for oral public testimony at its annual and quarterly meetings and at other times at the Commission’s discretion. ( )

**01. Sign Up Card.** For administrative record purposes, persons wishing to speak at a meeting will complete and turn in a sign-up card. ( )

**02. Limiting Testimony.** The Chair has sole discretion to set a uniform time limit for oral public testimony at a meeting, and to limit oral testimony that is: ( )

**a.** Not relevant to Commission business; ( )

**b.** Not directed to the Commission (e.g., where the person testifying is seeking to converse with the audience in general or individuals other than the Commission); or ( )

**c.** Is threatening, abusive, or profane. ( )

**03. Written Testimony.** The Commission will accept written testimony instead of or in addition to oral testimony. ( )

**04. Public Conduct at Commission Meetings.** No person may behave in a manner that disrupts the orderly conduct of a Commission meeting or hearing. Any person who refuses to conduct himself appropriately, and who fails to depart immediately from the meeting area when the Chair notifies him to do so, is subject to removal. ( )

**052. – 999. (RESERVED)**

## 13.01.02 – RULES GOVERNING MANDATORY EDUCATION AND MENTORED HUNTING

### 000. LEGAL AUTHORITY.

Sections 36-103, 36-104, 36-401, 36-412, and 36-1508 authorize the Commission to adopt rules concerning administration of hunting, archery, and trapping education programs and mentored hunting. ( )

### 001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.02, “Rules Governing Mandatory Education and Mentored Hunting.” These rules establish criteria for hunting, archery, and trapping education programs and mentored hunting. ( )

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

**01. Accompanied.** Close enough to be within normal conversation or hearing range without shouting or the aid of electronic devices. ( )

### 011. -- 100. (RESERVED)

### 101. MENTORED HUNTING PROGRAM.

Other than as specified herein, nothing in this section alters statutory or rule requirements for licensing or the take of wildlife. ( )

**01. Hunting Passport.** A Hunting Passport is a special authorization for a person to take wildlife as a mentee, provided the Passport holder is accompanied by a mentor and participating in the Mentored Hunting Program. Hunting Passports may be obtained from the Department or license vendor. ( )

**a.** A person may obtain a Hunting Passport without hunter education certification. ( )

**b.** A Hunting Passport expires December 31 of the year for which it is valid. ( )

**c.** A Hunting Passport is to be carried on one’s person and exhibited on request as provided in Section 36-1201, Idaho Code. ( )

**02. Eligibility of Mentee.** ( )

**a.** Only persons eight (8) years of age or older who have not previously possessed a Hunting Passport, a hunting license or equivalent license in any state or other country may possess a Hunting Passport to participate in the Mentored Hunting Program as a mentee. A youth may possess additional Hunting Passport(s) each year until reaching ten (10) years of age. ( )

**b.** Any mentee possessing a Hunting Passport is eligible to possess game tags for general hunts if the mentee is qualified to participate in the hunt. ( )

**c.** Any mentee possessing a Hunting Passport is not eligible to possess a controlled hunt game tag or permit, except as designated for a Landowner controlled hunt tag if the mentee is qualified to participate in the hunt. ( )

**d.** Any mentee with a Hunting Passport is not eligible to hunt big game unless the Passport holder is ten (10) years of age or older. ( )

**03. Eligibility of Mentor.** ( )

**a.** Any person who possesses a valid Idaho hunting license and who is eighteen (18) years or older may participate in the Mentored Hunting Program as a mentor. ( )

**b.** A mentor may accompany no more than two (2) mentees at one (1) time that are participating in the Mentored Hunting Program. ( )

**c.** A mentor may hunt while participating in the Mentored Hunting Program if the mentor is qualified

to participate in the hunt.

( )

**102. NONRESIDENT JUNIOR MENTORED LICENSE.**

A person hunting big game or turkey with a valid Nonresident Junior Mentored License and game tag, held in accordance with Sections 36-404 and 36-407, Idaho Code, must be accompanied by an adult with a valid license and game tag for the species hunted.

( )

**103. -- 999. (RESERVED)**

**13.01.03 – PUBLIC USE OF LANDS OWNED OR CONTROLLED BY  
THE DEPARTMENT OF FISH AND GAME**

**000. LEGAL AUTHORITY.**

Section 36-104(b), Idaho Code, authorizes the Commission to adopt rules concerning the use of lands owned or controlled by the Department. ( )

**001. TITLE AND SCOPE.**

The title of this chapter for citation is IDAPA 13.01.03 “Public Use of Lands Owned or Controlled by the Department of Fish and Game.” These rules govern use of lands owned or controlled by the Department. ( )

**002. – 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Aircraft.** Any vehicle capable of use for transportation on or in the air and any unmanned aircraft system. ( )

**02. Commercial Use.** Any use or activity related to a business venture or for which a fee is charged, or in which the primary purpose is the sale or barter of goods or services, regardless of whether the use or activity is intended to produce a profit. ( )

**03. Lands Owned or Controlled by the Department.** Real property, owned or controlled by the Commission or Department, managed for public recreation or for the protection, maintenance, and enhancement of fish and wildlife. ( )

**04. Designated Roads and Trails.** All roads and trails posted as open or designated as open on Department public use maps. ( )

**05. Safety Zone.** A posted area established for the safety and protection of persons, equipment, structures, or livestock and where shooting within, across, or into the area is not permitted. ( )

**06. Unattended.** As it pertains to decoys, the absence of any person within one hundred (100) yards from any decoy for a period of more than one-half (1/2) hour. ( )

**07. Watercraft.** Any vessel capable of use for transportation on or in the water. ( )

**011. – 099. (RESERVED)**

**100. PUBLIC USE RESTRICTIONS.**

**01. Activities Not Allowed Without Authorization.** Unless specifically authorized by the Commission, Director, Regional Supervisor, or designee, no person may: ( )

**a.** Enter, use, or occupy lands or water when said lands are posted against such entry, use, or occupancy. ( )

**b.** Camp or park a vehicle or trailer in any area posted against such use, or to leave unattended a camp, vehicle, or trailer for more than forty-eight (48) hours, or to camp or park a vehicle or trailer for more than ten (10) days during any thirty (30) day period on any one (1) Wildlife Management Area (WMA) or one (1) access site separate from a WMA. ( )

**c.** Operate any motorized vehicle, including over-snow use, except on designated roads and trails. ( )

**d.** Use watercraft on any waters posted against such use. ( )

**e.** Use any form of fireworks or explosives. ( )

**f.** Permit any dog or other domestic animal to run at large when not present to control or care for it, or to permit any dog to be off leash when posted against such use. ( )

- g.** Conduct a dog field trial of any type, except a dog field trial or dog training using artificially propagated game birds between August 1 and September 30 with Department authorization under IDAPA 13.01.15.300, “Rules Governing the Use of Dogs.” ( )
- h.** Construct any blind, pit, platform, or tree stand, where soil is disturbed or trees are cut or altered, and fasteners, such as wire, rope, or nails are used; or to leave any portable manufactured blind or tree stand overnight. ( )
- i.** Adjust, open, close, tamper with, or manipulate in any manner, any diversion structure, headgate, flume, recorded or flow dock or any device for water control. This provision does not limit the powers of agencies or irrigation districts as provided by statute or rule. ( )
- j.** Shoot within, across, or into posted safety zones. ( )
- k.** Leave any decoy unattended, or to place any decoy any earlier than two (2) hours before official shooting hours for waterfowl, or to leave any decoy at a hunting site later than two (2) hours after official shooting hours for waterfowl. ( )
- l.** Discharge any paintball guns. ( )
- m.** Disturb or remove any soils, gravel, or minerals. ( )
- n.** Turn domestic livestock into, or allow said animals to graze or trail on or across Department lands, except riding and pack animals may be used in association with recreational uses or as posted. ( )
- o.** Cut, dig, or remove any crops, trees, shrubs, grasses, forbs, logs, or fuel wood. ( )
- p.** Place, maintain, or store any beehives or bee boards. ( )
- q.** Use lands for any commercial purpose. ( )
- r.** Place a geocache. ( )
- s.** Use for group events of over fifteen (15) people. ( )
- t.** Land or launch aircraft except on public airstrips. ( )
- u.** Use or transport any hay, straw, or mulch that is not weed-free certified. ( )
- 101. – 999. (RESERVED)**

## 13.01.04 – RULES GOVERNING LICENSING

### 000. LEGAL AUTHORITY.

Sections 36-104(b), 36-301, 36-401 through 413, and 36-1101, Idaho Code, authorize the Commission to adopt rules concerning issuance and sales of licenses. ( )

### 001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.04, “Rules Governing Licensing.” These rules govern licensing. ( )

### 002. – 009. (RESERVED)

### 010. DEFINITIONS.

**01. Authorized Corporate Representative.** Any shareholder in a corporation, designated in writing by the corporation as the eligible applicant, who is in actual physical control of the eligible property. ( )

**02. Blind Person.** A blind person has a medically documented loss or impairment of vision and includes any person whose visual acuity with correcting lens does not exceed twenty/two hundred (20/200) in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than twenty (20) degrees. ( )

**03. Domicile.** The place where an individual has his true, fixed, permanent home and to which place he has the intention of returning whenever he is absent. An individual can have several dwelling places, but only one (1) domicile. Factors to consider establishing domicile include, but are not limited to: ( )

**a.** What address does the person use on tax returns and where does the person file a state resident income tax return? ( )

**b.** Where is the person registered to vote? ( )

**c.** Where do the person and his immediate family live? ( )

**d.** Where does the person have his mail sent or forwarded to? ( )

**e.** Where does he register his automobiles? ( )

**f.** Where has the person claimed a homeowner exemption on a personal residence? ( )

**g.** Where does he have a driver’s license? ( )

**04. Disabled.** A disabled person is defined as a person meeting criteria set forth in Sections 36-406(g), or 36-1101(b), Idaho Code. ( )

**05. Eligible Property.** At least three hundred twenty (320) acres of land, excluding any government lands, in one (1) controlled hunt area determined by the Department to be valuable for habitat or propagation purposes for deer, elk, pronghorn, and/or black bear, whether owned by one (1) or more persons, a partnership, or corporation. ( )

**06. Landowner.** Any person or corporation whose name appears on a deed as the owner of eligible property or whose name appears on a contract for sale of eligible property as the purchaser, and any affiliates, management companies, associated entities, wholly-owned subsidiaries, corporations, or limited liability corporations wherein fifty percent (50%) or more of the ownership or controlling interest is maintained by a single individual, partnership or corporation. ( )

**07. Permanent Disability.** A medically determinable physical impairment, which a physician has certified that the condition has no expectation for a fundamental or marked change at any time in the future. ( )

**08. Physician.** A person licensed to practice medicine pursuant to the Idaho Medical Practice Act (Sections 54-1801 through 54-1820, Idaho Code), or equivalent state licensing authority if the person is not licensed to practice in Idaho. ( )

**09. Resident.** “Resident” is defined in Section 36-202(s), Idaho Code. ( )

**011. – 049. (RESERVED)**

**050. RESIDENT LICENSES AND LIFETIME CERTIFICATES.**

A person, upon payment of the appropriate fee set forth in Sections 36-413 or 36-416, Idaho Code, and proof of Idaho residence or qualification for resident license privileges, may receive the corresponding resident license or lifetime license certificate under the conditions set forth in this section. ( )

**01. Proof of Residence.** Resident license and lifetime license certificate applications must be supported by an original or unaltered copy of the following: ( )

**a.** Idaho Driver’s License for all persons who drive. ( )

**b.** Nondrivers may use other suitable proof of residency, such as: ( )

**i.** Idaho Identification Card issued by the Idaho Transportation Department; or ( )

**ii.** Two (2) documents bearing the applicant’s name and address, not issued by the applicant, such as: ( )

(1) Rent receipts or mortgage statements for previous six (6) months; ( )

(2) Home utility bills for previous six (6) months; ( )

(3) A notarized statement from an employer on business letterhead; ( )

(4) Proof of voter registration dated six months prior; ( )

**c.** For persons under eighteen (18) years of age who do not have an Idaho Driver’s license or Idaho Identification Card: ( )

**i.** For lifetime license certificates: a certified copy of the minor’s birth certificate, and proof of Idaho residency of one (1) parent or legal guardian in accordance with this subsection. ( )

**ii.** For annual or shorter-term licenses: proof of Idaho residency of one (1) parent or legal guardian in accordance with this subsection and attestation by the parent or legal guardian of the minor’s identity. ( )

**02. Verification of Idaho Residency.** The Department may investigate and verify that the information submitted by the applicant as to Idaho residency is true and correct. ( )

**03. Application by Telephone or Electronic Methods.** Application for annual or shorter term licenses may be made by telephone or other electronic methods, provided the applicant supplies the number from a valid license or identification card issued by the Idaho Transportation Department. ( )

**04. Applications for Lifetime License Certificates.** Applications for lifetime license certificates will be made on a form prescribed by the Department and may only be submitted either in person at a Department office or by mail to the Department at P.O. Box 25, Boise, ID 83707. ( )

**051. PURCHASING LICENSES FOR OTHERS.**

**01. Resident Licenses.** A resident may purchase a license for the resident’s spouse or child under the age of eighteen (18) living in the same household, provided that the purchaser presents proof of residence for the person who will hold the license. ( )

**02. Nonresident Licenses.** A person may purchase a nonresident license for another person because no



residency certification is necessary. ( )

**03. Lifetime License Certificates.** If the lifetime license certificate is being purchased for a person other than the one submitting the application, the purchaser must provide proof of residence for the intended recipient of the lifetime license certificate in accordance with Section 050 of these rules. ( )

**052. – 199. (RESERVED)**

**200. LICENSES, PERMITS, AND TAGS FOR LIFETIME LICENSE CERTIFICATE HOLDERS.**

**01. Licenses.** Authorized lifetime license certificate holders will be issued the appropriate combination, hunting, or fishing license annually, provided they are eligible for said license. ( )

**02. Permits and Tags.** The certificate holder has the responsibility to obtain any appropriate permit or game tag. ( )

**201. CERTIFICATE NON-TRANSFERABLE.**  
Neither the lifetime license certificate nor the annual licenses are transferable. The fee paid is not refundable under any circumstances. ( )

**202. CERTIFICATE HOLDERS RESIDING OUT-OF-STATE.**

**01. Validity.** The lifetime license certificate does not become invalid if the certificate holder subsequently resides outside the state of Idaho. ( )

**02. Effect of Subsequent Change in Residency.** Should the certificate holder subsequently become a nonresident, the following applies: ( )

**a.** The holder may only purchase permits, and tags at the nonresident fee. ( )

**b.** The holder will be treated as a resident for purposes of controlled hunt applications and limits or quotas on the number of tags or permits based on resident/non-resident status. ( )

**c.** The holder will be entitled to resident bag and possession limits. ( )

**203. OBTAINING CERTIFICATES UNLAWFULLY.**  
It is unlawful for any person to obtain, use or possess, or attempt to obtain, use or possess a lifetime license certificate by fraud, deceit or misrepresentation. All licenses including lifetime license certificates unlawfully obtained shall be seized and shall become null and void. Any fees paid will not be refunded. ( )

**204. REVOCATION OF CERTIFICATE AND LICENSES.**  
A lifetime license and the rights of a lifetime license certificate holder to obtain a license may be revoked pursuant to Section 36-1402, and Chapter 15, Title 36, Idaho Code. ( )

**205. – 249. (RESERVED)**

**250. DEFACED OR ALTERED LICENSES INVALID.**  
Any license that is defaced, altered, or tampered with will be invalid from the date and time of issuance. It is unlawful to use or attempt to use any license that has been defaced, tampered with, or altered. Evidence of defacing, tampering, or altering includes but is not limited to tears or erasures or typeovers to the license stock. ( )

**251. – 254. (RESERVED)**

**255. AUTHORIZATION NUMBER PENDING RECEIPT OF LICENSE.**

**01. Authorization Number.** A person applying by telephone or other electronic method will receive an authorization number assigned as directed by the Department. ( )

**02. Authorization Number Used in Lieu of License.** The authorization number provided to telephone applicants may be used in lieu of the actual license only by the individual for whom the license was purchased. When used in lieu of a license, the person must carry government-issued identification and present such identification and provide the authorization number to comply with Section 36-1201, Idaho Code. The authorization number may be used for not more than fourteen (14) calendar days from the date of issue, except authorization numbers for short-term licenses are valid only for the stated term from the beginning effective date of the license. This allows the authorization-number holder to hunt or fish during the time period it takes to mail the license to the individual. Thereafter, the individual must have in possession the appropriate signed license to hunt or fish. ( )

**03. Violation.** It is a violation to hunt and fish with an invalid authorization number or an authorization number issued to another person. ( )

**04. Authorization Number Only Eligible for Certain Activities.** The authorization number may be used only for those hunting or fishing activities that do not require a license, tag, or permit to be notched or attached to a carcass. ( )

**256. – 261. (RESERVED)**

**262. RESIDENT LICENSES – JOB CORPS STUDENTS.**

A Job Corps student may obtain a resident fishing license pursuant to Section 36-202(s)4, Idaho Code, provided the student presents certification of current enrollment at a Job Corps Center in Idaho signed by the Center director. ( )

**263. RESIDENT LICENSES – MILITARY PERSONNEL – U.S. AND FOREIGN**

**01. Nonresident Eligibility. ( )**

**a.** A nonresident member of the Armed Forces of the United States or a foreign country may obtain a resident license pursuant to Section 36-202(s)3, provided the service member presents a copy of assignment orders (in official form appropriate for the branch of service, such as “Request and Authorization for Permanent Change of Station-Military”) that indicate the member is on active duty with a permanent duty station in Idaho at the time of license application. The nonresident active duty member’s spouse and dependent children less than eighteen (18) years of age may obtain a resident license, provided they present a copy of the assignment orders and documentation they are member of the active duty member’s household in Idaho. ( )

**b.** Members of the Armed forces who are not residents of the state, and who are stationed or domiciled in Idaho for fewer than thirty (30) days immediately preceding application are not eligible for resident licenses or a military furlough license and must purchase nonresident licenses and tags. ( )

**c.** Discharged servicemembers who were not residents of the state of Idaho at the time of their induction or enlistment, or who have not been stationed within the state of Idaho for a period of at least six (6) months prior to their discharge are not entitled to resident licenses until they have domiciled in this state for a period of six (6) months. The Department will rely on Discharge Form DD214 (or official successor form certifying release or discharge from active duty) for the home of record. ( )

**d.** Civilian employees of the military who are not Idaho residents are not eligible for resident licenses. ( )

**02. Resident.** Idaho residents who are in the military service of the United States and maintain Idaho as their official home of residence are eligible to purchase a resident license or obtain a military furlough license, pursuant to Section 36-202(s)2, provided they provide a current leave and earnings statement or other proof identifying Idaho as their official state of residence. The service member’s spouse and dependent children less than eighteen (18) years of age living in the service member’s household may purchase resident licenses. ( )

**264. RESIDENT LICENSES – STUDENT.**

**01. Absent Full-time Student.** Pursuant to Section 36-202(s)1, Idaho Code, an Idaho resident who is a full-time student of an out-of-state institution of learning, paying nonresident tuition or otherwise not claiming residency in another state, is entitled to receive a resident license, for a period not to exceed five (5) years, even though the student is not physically present in Idaho continuously for a period of six (6) months preceding his application for such license. ( )

**02. Temporarily Present.** Students who are temporarily present within the state of Idaho while exercising residency privileges in another state or country are not eligible to purchase resident licenses. ( )

**265. FOREIGN EXCHANGE HIGH SCHOOL STUDENTS.**

Pursuant to Section 36-202(s), Idaho Code, any foreign exchange student enrolled in an Idaho high school may obtain a resident fishing license, provided the student presents proof of Idaho high school enrollment and a copy of the U.S. Immigration document or other government document showing "J-1" student classification. All other foreign students are nonresidents. ( )

**266. FOREIGNERS/ALIENS IN IDAHO.**

Foreigners residing in the state on a temporary visa are not eligible for a resident license. Persons residing in the state who present a valid permanent visa or a currently pending application for U.S. citizenship are eligible for a resident license if they have been domiciled within Idaho for six (6) months with a bona fide intent to remain. ( )

**267. – 301. (RESERVED)**

**302. DISABILITY LICENSES.**

Disability licenses include: Disabled Combination, Disabled Hunting, Disabled Fishing, Disabled American Veterans Combination, Disabled American Veterans Hunting, Disabled American Veterans Fishing, and Nonresident Disabled American Veterans Hunting. ( )

**01. Attestation to Disability.** No person may misrepresent any information to obtain a disability license. ( )

**02. Documentation for Eligibility.** To obtain a disability license, an applicant must present, to a Department office or vendor, or by mail to the Department, one (1) of the following: ( )

**a.** A benefit verification letter from the Social Security Administration in the individual's name showing that the applicant is receiving SSI (Supplemental Security Income) or SSDI benefits for the current year; ( )

**b.** A letter from the Railroad Retirement board verifying disability status dated within three (3) years preceding the application for a disabled license; ( )

**c.** A letter, of any date prior to license application, from the Veterans Affairs office verifying a service-connected disability rating of forty percent (40%) or greater. Such documentation will be required only for the initial application and will not be required for subsequent disability license application. Applicants for nonresident Disabled American Veteran licenses must support their applications with this form of documentation. ( )

**d.** A current year's letter from the Veterans Affairs office showing an individual is receiving a nonservice-connected pension. ( )

**e.** Certification of permanent disability on a form prescribed by the Department, completed and signed by the applicant's physician, physician assistant, or nurse practitioner, also signed by the applicant, stating which of the criteria set forth in Subsection 010.04 of this rule, qualifies the applicant as permanently disabled and why. If the physician, physician assistant, or nurse practitioner is not licensed to practice in Idaho, a copy of the physician, physician assistant, or nurse practitioner's medical license must accompany the application. ( )

**f.** A valid Idaho driver's license if the individual meets the disability requirements of Section 49-117(7)(b), Idaho Code, and the driver's license is appropriately marked as disabled. ( )

**303. DISABLED PERSONS MOTOR VEHICLE HUNTING PERMITS.**

**01. Applications for Disabled Motor Vehicle Hunting Permits. ( )**

**a.** Applications for disabled motor vehicle hunting permits will be on a form prescribed by the Department, completed and signed by the applicant, or an individual may present their valid Idaho driver's license in lieu of the prescribed Department form if the individual meets the disability requirements of Section 49-117(7)(b), Idaho Code, except for blindness, and the driver's license is appropriately marked as disabled. ( )

**b.** Each application submitted on the Department form shall be accompanied by certification from the applicant's physician, physician assistant, or nurse practitioner stating which of the criteria set forth in Section 36-1101, Idaho Code, qualifies the applicant and why, along with the applicant's certification that the applicant is capable of holding and firing, without assistance from other persons, legal hunting equipment. If the physician, physician assistant, or nurse practitioner is not licensed to practice in Idaho, a copy of the physician, physician assistant, or nurse practitioner's medical license must accompany the application. Physicians, physician assistants, or nurse practitioners must check the appropriate box for short-term or long-term disability on the application. If the disability is short term and physical mobility is expected to improve, the physician, physician assistant, or nurse practitioner must include a date when the disability is expected to end. ( )

**02. Disabled Motor Vehicle Hunting Permits. ( )**

**a.** Disabled motor vehicle hunting permits will expire no later than December 31 of the fifth year following the date of issuance. ( )

**b.** The permit shall be prominently displayed on any vehicle from which the person is hunting, on the driver's side of the dashboard of the parked vehicle, suspended from the rearview mirror, or otherwise displayed so as to be in plain view of any person looking at the vehicle or through any windshield. ( )

**304. DISABLED ARCHERY PERMIT.**

**01. Applications for Disabled Archery Permits. ( )**

**a.** Applications for disabled archery permits will be completed on a form prescribed by the Department signed by the applicant. ( )

**b.** Each application shall be accompanied by certification from the applicant's physician, physician assistant, or nurse practitioner stating that the applicant has a permanent disability whereby he does not have use of one (1) or both of his arms or hands, along with the applicant's certification that the applicant is capable of holding and firing, without assistance from other persons, a bow or crossbow. If the physician, physician assistant, or nurse practitioner is not licensed to practice in Idaho, a copy of the physician, physician assistant, or nurse practitioner's medical license must accompany the application. ( )

**02. Disabled Archery Permits. ( )**

**a.** Disabled archery permits expire on December 31 of the fifth year following the date of issuance. ( )

**b.** The disabled archery permit shall be carried on the person of anyone participating in an archery only season with the use of a crossbow and produced upon officer request. ( )

**c.** The disabled archery permit authorizes the holder thereof to participate in an archery only hunt with the use of a crossbow or a device attached that holds a bow at partial or full draw or a low magnification scope (magnification no greater than four (4) power) containing battery-powered or tritium-lighted reticles. ( )

**305. REASONABLE MODIFICATION PERMIT FOR SPECIAL WEAPON HUNTING SEASONS.**

**01. Applications for Reasonable Modification Permits for Special Weapon Hunting Seasons.** ( )

**a.** Applications for reasonable modification permits will be on a form prescribed by the Department. ( )

**b.** Each application submitted on the Department form shall be accompanied by certification from the applicant's physician, physician assistant, or nurse practitioner stating the criteria limiting the applicant's ability to participate without special accommodation, along with the applicant's certification that the applicant is capable of holding and firing, without assistance from other persons, legal firearms or archery equipment. If the physician, physician assistant, or nurse practitioner is not licensed to practice in Idaho, a copy of the physician, physician assistant, or nurse practitioner's medical license must accompany the application. Physicians, physician assistants, or nurse practitioners must check the appropriate box for short-term or long-term disability on the application, and for short-term disability, include a date when the disability is expected to end. ( )

**c.** Each application must identify the equipment accommodation requested, and explain how the requested accommodation will allow the applicant to participate in the special weapon hunt without enhancing their abilities beyond the limitations and purpose of the special weapon hunt. ( )

**02. Reasonable Modification Permits for Special Weapon Hunting Seasons.** ( )

**a.** Reasonable modification permits will expire no later than December 31 of the fifth year following the date of issuance. ( )

**b.** The Department will make its determination based on the reasonableness of the accommodation and its consistency insofar as possible with all provisions guiding other participants in the special weapon hunting season. The Department has discretion to deny the application as unreasonable in light of restrictions for other participants in the hunt, or set a modification different from the modification requested. ( )

**c.** A copy of the permit shall be carried by the person while hunting in any special weapon hunt. ( )

**306. DISABLED HUNTER AND COMPANION: GAME TAGS, PERMITS, AND LIMITS.**

**01. Assistance of Disabled Hunter by Designated Companion.** Any disabled hunter possessing a valid disability license, disabled motor vehicle or disabled archery permit, as provided in Sections 302 through 304, or who is a disabled veteran participating in a hunt as provided in Section 36-408(7), Idaho Code, may be accompanied by a designated companion who may assist the disabled hunter with taking wildlife. ( )

**02. Excepted From Game Tag or Game Permit Possession Only.** The companion assisting a disabled hunter is excepted from game tag or permit possession to take game wounded by a disabled hunter. All other applicable rules governing the taking of wildlife apply to the companion, including possession of a valid hunting license and any applicable weapons permit (archery or muzzleloader) for the hunt. ( )

**03. Validation and Attachment of Tag.** The companion to a disabled hunter may validate and attach the disabled hunter's game tag or permit in accordance with applicable rules (IDAPA 13.01.08, Rules Governing the Taking of Big Game Animals, or IDAPA 13.01.09, Rules Governing the Taking of Game Birds). ( )

**04. Accompanying the Disabled Hunter.** The companion must accompany the disabled hunter while hunting. Once a disabled hunter has wounded game, the hunter's companion does not need to be accompanied by the disabled hunter while taking game wounded by the disabled hunter or while tagging or retrieving downed game on behalf of the disabled hunter. ( )

**05. Written Statement of Designation.** While taking wounded or killed game to assist a disabled hunter, the companion to a disabled hunter must possess a written statement from the disabled hunter designating that person as the disabled hunter's companion, signed by the disabled hunter including the disabled hunter's name, address, hunting license number, any applicable tag or permit number, and the dates of designation as a companion. If

a companion to a disabled hunter transports any wildlife on behalf of a disabled hunter, a proxy statement is required in accordance with Section 36-502, Idaho Code. ( )

**06. Companion's Possession Limit.** Any wounded game killed, or game tagged or retrieved, by a designated companion on behalf of a disabled hunter counts against the disabled hunter's possession limit and does not count against the companion's possession limit. ( )

**07. Disabled Hunter Considered for Violation.** The disabled hunter in possession of the valid game tag or permit is considered the hunter for violation of waste or destruction of wildlife under Section 36-1202, Idaho Code. ( )

**307. – 399. (RESERVED)**

**400. LANDOWNER APPRECIATION PROGRAM (LAP).**

**01. Property and Landowner Registration.** ( )

**a.** Only landowners who have registered their eligible property with the Department are eligible to apply for LAP controlled hunt tags for deer, elk, pronghorn, and/or black bear. Registered landowners must notify the Department of any changes in property ownership or eligibility. ( )

**b.** Registration of an eligible property and landowner applicant will be on a form prescribed by the Department. The landowner must submit the registration form; a copy of the deed(s) and the most recent tax assessment(s) describing the eligible property and showing the name(s) of the owner(s); and a map of the eligible property to the Department regional office. Department personnel will certify the registration and land description and return a copy to the landowner. ( )

**c.** If the person registering is an authorized corporate or partnership representative, the registration will include written verification from the board of directors, partnership, or an officer of the corporation, other than himself, verifying that he is authorized to register the property and eligible applicants. ( )

**02. Hunt Areas.** LAP controlled hunt tags will be issued only for those controlled hunt areas designated by the Commission as eligible for such tags. ( )

**03. Tag Eligibility.** Landowners may receive LAP controlled hunt tags only for the species and sex that use the eligible property and only for LAP hunt areas in which the registered property is located. ( )

**04. Controlled Hunt Applications.** Applications for LAP controlled hunt tag(s) will be on a form prescribed by the Department. ( )

**a.** Applications from landowners with six hundred forty (640) acres or more will be accepted on or after June 15 of each year. Applications submitted in person or mailed to the Department main office or any Regional Office, postmarked not later than July 15 of each year, will be entered in the random drawing for LAP controlled hunt tags. Each application will be entered in the random drawing one (1) time based upon each six hundred and forty (640) acres of eligible property registered by the landowner that are within the LAP controlled hunt area. For example, if a landowner has six thousand four hundred (6,400) eligible acres, the application will be entered into the random drawing ten (10) times. ( )

**b.** One (1) application may be submitted by a landowner with eligible property consisting of six hundred forty (640) acres to four thousand nine hundred ninety-nine (4,999) acres. A second application may be submitted for eligible property consisting of five thousand (5,000) acres or more. ( )

**05. Left Over Tags.** Landowners with eligible property consisting of three hundred twenty (320) acres or more may apply for left-over tags following the random draw. Written applications will be accepted beginning on the first business day on or after August 15 of each year on a first-come, first-served basis, provided they are accompanied by the appropriate application fee as specified in Section 36-416, Idaho Code. ( )

**06. Issuance of Controlled Hunt Tag(s).** ( )

**a.** Once the Commission has determined the number of controlled hunt tags to be issued in any controlled hunt area, an additional ten percent (10%) of the number of controlled hunt tags may be issued as LAP tags. In subsequent years up to twenty-five percent (25%) of the number of controlled hunt tags may be issued only if the hunt is over subscribed by eligible LAP applicants. ( )

**b.** Where the number of LAP applicants exceeds the number of LAP controlled hunt tags available in an area, successful applicants will be determined by drawing. All eligible landowners in the drawing will be considered for one (1) tag before any landowner is eligible for a second tag. ( )

**c.** No more than two (2) LAP controlled hunt tags may be issued to any eligible landowner. ( )

**d.** Only one (1) leftover LAP controlled hunt tag may be issued for eligible property consisting of between three hundred twenty (320) and six hundred thirty-nine (639) acres within a LAP controlled hunt area. Only one (1) LAP controlled hunt tag may be issued for eligible property consisting of between six hundred forty (640) and four thousand nine hundred ninety-nine (4,999) acres within a LAP controlled hunt area. One (1) additional controlled hunt tag may be issued to a landowner or designated agent(s) for eligible property in excess of five thousand (5,000) acres within a LAP controlled hunt area. No landowner or designated agent(s) is eligible to receive more than one (1) LAP controlled hunt tag for one (1) species in a calendar year. ( )

**e.** A successful landowner, corporate or partnership representative drawing a LAP controlled hunt tag may designate an eligible individual to whom the controlled hunt tag will be issued. ( )

**07. Sale or Marketing Unlawful.** It is unlawful to sell or market LAP controlled hunt tags. In addition to any statutory penalties, a violator of this provision will not be eligible to participate in the LAP program for three (3) years. ( )

**08. Application of Controlled Hunt Restrictions.** ( )

**a.** The restriction that applying for a moose, bighorn sheep, or mountain goat controlled hunt makes the applicant ineligible to apply for any other controlled hunt does not apply to persons who are otherwise eligible to apply for a LAP controlled hunt tag. ( )

**b.** LAP controlled hunts are exempt from limits or quotas on nonresident tags. ( )

**c.** LAP controlled hunt tags are exempt from the one (1) year waiting periods for deer, elk and pronghorn controlled hunt applications under IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals," Section 257. ( )

**09. Special Restrictions.** Any person hunting with a LAP controlled hunt tag may hunt only within the boundaries described in the LAP controlled hunt area. Bag and possession limits set forth in IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals," Section 200, apply to holders of LAP controlled hunt tags. ( )

**401. LANDOWNER APPRECIATION SEASONS.**

The Commission sets landowner appreciation seasons, including designation of controlled hunt areas and tag numbers, by proclamation, adopted and published in accordance with Section 36-105(3), Idaho Code. ( )

**402. – 499. (RESERVED)**

**500. NONRESIDENT DEER AND ELK TAG OUTFITTER SET-ASIDE.**

**01. Tags.** The following numbers of nonresident general hunt deer tags and nonresident general hunt elk tags will annually be set aside and reserved for sale to persons who have entered into an agreement to utilize the services of an outfitter licensed under Chapter 21, Title 36, Idaho Code. For each Hunting Season: ( )

a. One thousand nine hundred eighty-five (1,985) deer tags (the combined total of regular and White-tailed); ( )

b. Two thousand four hundred (2,400) elk tags (the combined total of A and B tags for all zones). ( )

**02. Restrictions.** Tags for use in general hunts will be sold on a first-come, first-serve basis through July 14 of each year. Application for purchase of these tags will be made by the outfitter for the nonresident on a form prescribed by the Department. The application shall be accompanied by the appropriate license fees and a certification by the outfitter that the nonresident has a contract to hunt with the outfitter making application. ( )

**03. Unsold Tags.** Any tags not sold by July 15 of each year will be sold by the Department to nonresidents on a first-come, first serve basis. ( )

**501. – 504. (RESERVED)**

**505. DEER AND ELK TAG ALLOCATION.**

**01. Allocation of Tags for Capped General Hunt Units or Zones.** Pursuant to Section 36-408, Idaho Code, the Commission may allocate a number of deer and/or elk tags for use by hunters with signed agreements with licensed outfitters in units or zones with limited numbers of tags. The Commission may use this subsection or the allocated tag provisions of Section 36-408, Idaho Code, to allocate outfitter tags in capped general hunt units or zones. ( )

a. When the number of hunters in a general hunt unit or zone becomes restricted, the Department will calculate the initial number of allocated tags for each zone using the Idaho Outfitters and Guides Licensing Board's records of average historic use during the previous five (5) year period. Where it is biologically feasible, any reductions in the number of tags available within a zone that exceed twenty percent (20%) will be spread over a three (3) year period with a maximum reduction of fifty percent (50%) taken in the first year and twenty-five percent (25%) in the second year. ( )

b. The allocation of tags will be calculated on a unit or zone basis. Any reduction or increase in hunting opportunities will be proportionate among non-outfitted hunters and outfitted hunters, and will be proportionate among resident and non-resident hunters; EXCEPT where such reduction would result in an allocation of greater than twenty-five percent (25%) for non-resident hunters, the Commission may reduce the allocation for non-resident hunters to a percentage of not less than twenty-five percent (25%). ( )

**02. Allocation of Tags for Controlled Hunt Areas.** The Commission may only allocate outfitter tags in controlled hunt areas with historic licensed deer and/or elk outfitted area(s). Hunt application and eligibility rules will apply to allocated tags in controlled hunts. ( )

a. The number of outfitter allocated tags will be in addition to the number of tags authorized by the Commission within each controlled hunt area with historic licensed deer and/or elk outfitter areas. ( )

b. A person is not eligible to apply for an outfitter allocated controlled hunt unless that person has a written agreement with an outfitter licensed in the hunt area. Successful applicants of an outfitter allocated controlled hunt must hunt with an outfitter licensed for the hunt area. The outfitter must purchase the successful applicant's controlled hunt tag by August 20. ( )

c. Successful applicants who do not want to participate in the outfitted hunt may decline the hunt upon written notification to the Department. Those declining the hunt will then be eligible to participate in a general season or leftover controlled hunt. Those drawing an outfitted controlled hunt and then declining the controlled hunt will be subject to any applicable waiting period under IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals," Section 257. ( )

d. Successful applicants that do not secure the services of an Idaho licensed outfitter and have not purchased the controlled hunt tag by August 20 will forfeit the opportunity to purchase a controlled hunt tag. The



forfeited controlled hunt tag will then be listed as a leftover controlled hunt tag. The Department will inform the Idaho Outfitters and Guides Board that a leftover controlled hunt tag is available. After securing a client, the outfitter(s) may then purchase the leftover controlled hunt tag at a Department office. ( )

e. The Commission may use this subsection or the allocated tag provisions of Section 36-408, Idaho Code, to allocate outfitter tags in controlled hunt areas: ( )

i. No less than one (1) tag and no more than three percent (3%) of the total tags; or ( )

ii. A number based on the average historic use during the previous five (5) year period to be rounded up when a decimal equals or exceeds zero point six (0.6) and rounded down when a decimal is less than zero point six (0.6); or ( )

iii. An unlimited number of allocated tags or a number of allocated tags based on historic use as alternatives only for controlled hunt areas with limited nonresident tags and unlimited resident tags; or ( )

iv. No tags will be allocated. ( )

**506. DEER AND ELK OUTFITTER ALLOCATED TAG.**

**01. Distribution of Outfitter Allocated Tags.** Allocated tags will be sold by the Department, as designated by Section 36-2107, Idaho Code, and IDAPA 25.01.01, "Rules of Idaho Outfitters and Guides Licensing Board," to hunters with signed agreements with licensed outfitters in those zones with a cap on the number of tags sold and in outfitter allocated controlled hunts. Application for the purchase of allocated tags will be made by the outfitter for the hunter on a form prescribed by the Department. The application shall be accompanied by the appropriate license fees and a certification by the outfitter that the hunter has a signed agreement to hunt with the outfitter making application. ( )

**02. Designated Buyers.** Purchasers of allocated tags who return their unused tag and a notarized affidavit stating that the tag buyer has not hunted may designate another person to purchase a replacement tag. If the original buyer does not make a designation, the outfitter may make the designation. The designated buyer must pay the regular fee for the replacement tag. ( )

**03. Unsold Tags.** Any allocation tags not sold by August 1 of each year will be sold by the Department on a first-come, first-served basis. ( )

**507. – 549. (RESERVED)**

**550. NONRESIDENT DEER AND ELK TAG QUOTAS.**

**01. General Hunt Tag Quotas.** The following number of general hunt deer tags and elk tags will be set aside annually and reserved for sale to nonresidents: ( )

a. Fourteen thousand (14,000) total deer tags (regular and white-tailed deer tags); ( )

b. Twelve thousand eight hundred fifteen (12,815) total elk tags (A and B tags); ( )

c. One thousand five hundred (1,500) white-tailed deer tags, available only upon sell out of deer tags referenced in Subsection 550.01.a. ( )

**02. Exceptions.** Sales of nonresident general hunt deer and elk tags to the following persons will not be counted in the quota: ( )

a. Unqualified Residents: Persons who have moved into Idaho and by notarized affidavit show proof of their intent to become bona fide Idaho residents but are not yet qualified to purchase a resident license. ( )

b. Designated Buyers of unused nonresident tags to which the quota has already applied: an unused

nonresident general hunt deer or elk tag, accompanied by a notarized affidavit stating that the tag buyer has not hunted, may be designated to another nonresident for purchase at the regular tag price, by the original buyer or an outfitter or guide retained by the original buyer, or absent such designation, may be sold by the Department on a first-come, first-serve basis. ( )

c. Holders of resident lifetime license certificates who are no longer Idaho residents. ( )

d. Holders of nonresident junior mentored and disabled American veteran tags. ( )

**551. – 559. (RESERVED)**

**560. SALE OF UNSOLD NONRESIDENT DEER AND ELK TAGS AS SECOND TAGS.**

Any nonresident deer or elk tags unsold on or after August 1 may be sold to residents and to nonresidents as a second tag, at the nonresident deer or elk tag price. All privileges and restrictions associated with the use of such nonresident tags will apply equally to tag buyers that are residents. ( )

**561. – 601. (RESERVED)**

**602. SPECIAL MILITARY DEPLOYMENT REFUND AND RAIN CHECK.**

**01. Special Refund and Rain Check.** This special refund and rain check rule applies to the appropriate calendar year hunting season. Because of military deployment, some persons will be unable to hunt big game animals for which they purchased tags. ( )

**02. Special Refund and Rain Check Eligibility.** Holders of tags who can show in good faith they could not participate in hunting activities due to military deployment will be eligible for a refund or rain check for license and tags for the next calendar year hunting season as outlined in this rule. ( )

**03. Tag Options.** Holders of a general season or controlled hunt tag for deer, elk, moose, bighorn sheep, or mountain goat may request: ( )

a. A refund of the hunting license and tag fee; ( )

b. A rain check for a hunting license and the same general or controlled hunt tag for the same species for the next calendar year hunting season; or ( )

c. For deer and elk only, an exchange in the calendar year for a general season tag for the same species in another zone or area so long as tags are available in that area or zone. ( )

**04. Nonresident Bear or Mountain Lion Tags.** Holders of nonresident bear or mountain lion tags may request: ( )

a. A refund of the hunting license and tag fee; or ( )

b. A rain check for a hunting license and tag for the next calendar year hunting season. ( )

**05. Ineligible to Request Tag Refund or Rain Check.** If the person hunts a species of wildlife before requesting a refund or rain check, then the tag fee for that species will not be refunded or eligible for a rain check for the next calendar year season. ( )

**06. Ineligible to Request License Fee Refund or Rain Check.** If the person hunts for any species during the applicable year before requesting a refund or rain check, then the hunting license fee will not be refunded or eligible for a rain check for the next calendar year season. ( )

**07. Refunds Will Be for the Amount Paid.** All refunds will be for the amount the person paid for the hunting license or tag. ( )

**08. Use of Department-Approved Form for Rain Check or Refund Request.** Requests for a refund or rain check under this section will be made on the Department-approved form (found on Idaho Fish and Game website at <http://fishandgame.idaho.gov/>) on or before December 31 of the calendar year in which the license and tags were valid, along with a copy of deployment papers, or a letter from their commanding officers stating the dates the individual was deployed for duty. Those requests received after this date will not be eligible for the special refund or rain check. ( )

**603. – 699. (RESERVED)**

**700. BIGHORN SHEEP AUCTION TAG.**

**01. Eligibility.** Only persons eligible to purchase an Idaho hunting license are eligible to bid on the bighorn sheep auction tag. ( )

**02. Validity of Tag.** The Bighorn Sheep Auction Tag will be valid in Controlled Hunt Area 11 only during odd-numbered years and during even-numbered years when the Bighorn Sheep Lottery Tag holder chooses not to hunt in Controlled Hunt Area 11. ( )

**03. License and Controlled Hunt Tag.** ( )

**a.** A hunting license and controlled hunt tag will be provided to the successful bidder from the net proceeds of the auction. ( )

**b.** The successful bidder for the Bighorn Sheep Auction Tag must file a notarized affidavit within fifteen (15) days of the successful bid if the hunting license and tag are to be designated to another individual. ( )

**04. Application of Big Game Rules.** All rules governing IDAPA 13.01.08, “Rules Governing the Taking of Big Game Animals,” apply to the eligible and successful bidders other than as specified herein. ( )

**a.** No successful bidder is eligible to apply for a bighorn sheep controlled hunt tag the same year the bidder is issued a Bighorn Sheep Auction Tag. ( )

**b.** Bighorn sheep auction tag recipients are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep. ( )

**701. GOVERNOR’S WILDLIFE PARTNERSHIP TAGS.**

**01. Application of Big Game Rules.** All rules in IDAPA 13.01.08, “Rules Governing the Taking of Big Game Animals,” apply to recipients of Governor’s Wildlife Partnership Tags other than as specified in this section. ( )

**02. Eligibility.** ( )

**a.** Only persons eligible to purchase an Idaho hunting license are eligible to bid on a Governor’s Wildlife Partnership Tag. ( )

**b.** A person is eligible to receive only one (1) Governor’s Wildlife Partnership Tag in a calendar year. ( )

**c.** There is no waiting period for eligibility for Governor’s Wildlife Partnership Tags for elk, deer, or pronghorn. ( )

**03. Validity of Tag.** Each Governor’s Wildlife Partnership Tag is valid for one (1) designated species annually and within the timeframe and area prescribed by the Commission. ( )

**04. License and Controlled Hunt Tag.** ( )

**a.** A hunting license and controlled hunt tag will be provided to the successful bidder from the net proceeds of the Governor's Wildlife Partnership Tag auction. ( )

**b.** The successful bidder for a Governor's Wildlife Partnership Tag must file a notarized affidavit within fifteen (15) days of the successful bid if the hunting license and tag are to be designated to another individual. ( )

**c.** If a recipient of a Governor's Wildlife Partnership Tag draws a controlled hunt tag for that species for the same year, the controlled hunt tag is voided and the tag fee will be refunded upon the return of the tag to the Department, unless the tag is a controlled depredation hunt tag or a controlled hunt extra tag. The recipient of a Governor's Wildlife Partnership Tag may purchase second, extra, or leftover tags if a holder of a controlled hunt tag for deer, elk, or pronghorn is allowed to do so under IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals." ( )

**d.** Any person who receives a Governor's Wildlife Partnership Tag for bighorn sheep, mountain goat or moose, and who is otherwise eligible to apply for a deer, elk or pronghorn controlled hunt tag, and who draws such a tag, will be allowed to hunt for those species during the same year the Governor's Wildlife Partnership Tag is valid. ( )

**702. – 799. (RESERVED)**

**800. BIGHORN SHEEP LOTTERY TAG.**

**01. Eligibility.** ( )

**a.** Only persons eligible to purchase an Idaho hunting license are eligible to purchase tickets for the Bighorn Sheep Lottery Tag. "Tickets" for the Lottery Tag are hunt applications and are not transferable. A person may submit an application for another eligible individual. ( )

**b.** If any person is drawn for the Bighorn Sheep Lottery Tag and has already been drawn for a bighorn sheep controlled hunt tag for the same year, the controlled hunt tag will be voided and the tag fees refunded after return of the earlier drawn tag to the Department. The Lottery Tag is valid to hunt bighorn sheep in the year drawn. ( )

**02. Validity of Tag.** The Bighorn Sheep Lottery Tag will be valid in Controlled Hunt Area 11 only during even-numbered years and during odd-numbered years when the Bighorn Sheep Auction Tag holder chooses not to hunt in Controlled Hunt Area 11. ( )

**03. Tag.** ( )

**a.** A hunting license (if needed) and a controlled hunt tag will be provided to the eligible person drawn for the Lottery Tag from the net proceeds. ( )

**b.** The Bighorn Sheep Lottery Tag will only be issued to the eligible person whose name appears on the application drawn for the tag, and will not be issued to another individual. ( )

**04. Application of Big Game Rules.** All rules in IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals," apply to Lottery Tag applicants and the Tag recipient, other than as specified herein. ( )

**a.** Bighorn Sheep Lottery Tag recipients are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep. ( )

**b.** Any person who wins a Bighorn Sheep Lottery Tag, and who is otherwise eligible to apply for a deer, elk, or pronghorn controlled hunt tag and who has drawn such a tag, will be allowed to hunt for those species during the same year the Bighorn Sheep Lottery Tag is valid. ( )

**801. – 899. (RESERVED)**

**900. CHILDREN WITH SPECIAL NEEDS BIG GAME TAG.**

**01. Availability.** The Department will make up to five (5) big game tags available for children with life threatening medical conditions each year. ( )

**a.** Any of the five (5) big game tags described in Section 901 that has not been issued by July 15 each year may also be available for children with life threatening conditions. ( )

**02. Eligibility.** A special needs big game tag will only be issued to a resident or nonresident minor (seventeen (17) years of age or younger) with a life threatening medical condition as certified by a qualified and licensed physician, and who is sponsored by a qualified organization defined in Section 36-408(6), Idaho Code. Minimum age, hunter education, and license requirements are waived for individuals applying for or receiving a special needs big game tag. ( )

**03. Validity of Tag.** Each special needs tag will be valid for only one (1) of the following species: deer, elk, pronghorn, moose, black bear, or mountain lion. ( )

**a.** The special needs tag is valid in any open hunt, controlled or general, as provided by Commission proclamation, EXCEPT the use of the special needs tag is restricted from use in any Controlled Hunt with less than five (5) controlled hunt tags. ( )

**b.** Applicants may only receive one (1) special needs tag in a lifetime. ( )

**c.** In exercising hunting privileges, the recipient of a special needs tag must be accompanied by an adult in possession of a valid Idaho big game hunting license. ( )

**04. Application.** Applications will be on a form as prescribed by the Department. ( )

**a.** Applications will only be considered from eligible nonprofit organizations. For drawing eligibility, the Department must receive an application between January 2 through January 31, inclusively, of the calendar year for the hunt. ( )

**b.** Applications received by the Department after January 31 may be considered on a first-come basis if there are not sufficient eligible applications. ( )

**c.** A copy of the nonprofit organization's IRS determination letter must accompany the application. ( )

**05. Fees.** All fees associated with applying for and receiving a special needs tag, including fees for any associated Disabled Persons Motor Vehicle Hunting Permit or Disabled Archery Permit, are waived. ( )

**06. Random Draw.** Eligible applications will be randomly drawn for tag issuance if the number of applications exceeds the number of tags available. ( )

**07. Nonresident Tag Limitation.** Not more than one (1) special needs tag will be issued to a nonresident, unless there are insufficient applications for resident applicants. ( )

**901. DISABLED VETERANS SPECIAL BIG GAME TAG.**

**01. Availability.** The Department will make five (5) big game tags available for disabled veterans, of which two (2) tags will be designated to the Idaho Division of Veterans Services. ( )

**a.** Any of the five (5) big game tags described in Section 900 that has not been issued by July 15 each year may also be available for disabled veterans. ( )

**02. Eligibility.** A disabled veterans special big game tag will only be issued to a disabled veteran, as certified by the Idaho Division of Veterans Services, who is sponsored by a qualified organization defined in Section 36-408(7), Idaho Code. ( )

**a.** A disabled veteran does not need a hunting license or hunter education to apply for or receive a disabled veterans special big game tag. ( )

**b.** An individual may only receive one (1) disabled veterans special big game tag in a lifetime. ( )

**03. Validity of Tag.** Each disabled veterans special big game tag will be valid for only one (1) of the following species: deer, elk, pronghorn, moose, black bear, or mountain lion. The disabled veterans special big game tag will be valid for use in any general or controlled hunt open for that species, EXCEPT for those Controlled Hunts with fewer than five (5) controlled hunt tags, as authorized by Commission proclamation. ( )

**a.** Applicants may only receive one (1) disabled veterans special big game tag in a lifetime. ( )

**04. Application.** Applications will be on a form as prescribed by the Director. ( )

**a.** Applications will only be considered from an eligible nonprofit organization or governmental agency. For drawing eligibility, the Department must receive the application between January 2 through January 31, inclusively, of the calendar year for the hunt. ( )

**b.** Applications received by the Department after January 31 may be considered on a first come basis if there are not sufficient eligible applications. ( )

**c.** A copy of the nonprofit organization's IRS determination letter must accompany the application. ( )

**05. Fees.** All fees associated with applying for and receiving a disabled veterans special big game tag, including any associated Disabled Persons Motor Vehicle Hunting Permit or Disabled Archer Permit, are waived. ( )

**902. – 999. (RESERVED)**

## 13.01.06 – RULES GOVERNING CLASSIFICATION AND PROTECTION OF WILDLIFE

### 000. LEGAL AUTHORITY.

Sections 36-104(b) and 36-201, Idaho Code, authorize the Commission to adopt rules concerning the classification and protection of wildlife in the state of Idaho. ( )

### 001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife.” These rules establish the classification and protection of wildlife. ( )

### 002. – 099. (RESERVED)

### 100. CLASSIFICATION OF WILDLIFE – BIG GAME ANIMALS.

01. Black bear – *Ursus americanus*. ( )

02. Bighorn sheep – *Ovis canadensis*, identified as “California bighorn sheep” when occurring south of Interstate 84 and as “Rocky Mountain bighorn sheep” when occurring north of Interstate 84. ( )

03. Elk – *Cervus canadensis*. ( )

04. Gray wolf – *Canis lupus*. ( )

05. Grizzly bear – *Ursus arctos*. ( )

06. Moose – *Alces americanus*. ( )

07. Mountain goat – *Oreamnos americanus*. ( )

08. Mountain lion – *Puma concolor*. ( )

09. Mule deer – *Odocoileus hemionus*. ( )

10. Pronghorn – *Antilocapra americana*. ( )

11. White-tailed deer – *Odocoileus virginianus*. ( )

### 101. CLASSIFICATION OF WILDLIFE – UPLAND GAME ANIMALS.

01. Mountain cottontail – *Sylvilagus nuttallii*. ( )

02. Pygmy rabbit – *Brachylagus idahoensis*. ( )

03. Snowshoe hare – *Lepus americanus*. ( )

04. Red squirrel – *Tamiasciurus hudsonicus*. ( )

### 102. CLASSIFICATION OF WILDLIFE – GAME BIRDS.

Game birds include upland game birds, migratory game birds, and American crow. ( )

01. Upland Game Birds. ( )

a. Pheasants: *Phasianus sp.*, including ring-necked pheasant (*P. cochicus*). ( )

b. Partridge: gray (Hungarian) partridge – *Perdix perdix*; chukar – *Alectoris sp.* ( )

c. Quail: northern bobwhite – *Colinus virginianus*; California quail – *Callipepla californica*; mountain quail – *Oreortyx pictus*; and Gambel’s quail – *Callipepla gambelii*. ( )

d. Grouse: Dusky (blue) grouse – *Dendragapus obscurus*; ruffed grouse – *Bonasa umbellus*; spruce grouse – *Falci pennis canadensis*; Greater sage grouse – *Centrocercus urophasianus*; and sharp-tailed grouse – *Tympanuchus phasianellus*. “Forest grouse” means dusky grouse, ruffed grouse, and spruce grouse. ( )

- e. Wild turkey – *Meleagris gallopavo*. ( )
  - 02. **Migratory Game Birds.** ( )
    - a. American coot – *Fulica americana*. ( )
    - b. Doves: mourning dove – *Zenaida macroura* and white-winged dove – *Zenaida asiatica*. ( )
    - c. Ducks: members of the *Anatidae* family other than geese and swans, including bufflehead – *Bucephala albeola*; canvasback – *Aythya valisineria*; gadwall – *Mareca strepera*; Barrow’s goldeneye – *Bucephala islandica*; common goldeneye – *Bucephala clangula*; harlequin duck – *Histrionicus histrionicus*; mallard – *Anas platyrhynchos*; common merganser – *Mergus merganser*; hooded merganser – *Lophodytes cucullatus*; red-breasted merganser – *Mergus serrator*; long-tailed duck – *Clangula hyemalis*; northern pintail – *Anas acuta*; redhead – *Aythya americana*; ring-necked duck – *Aythya collaris*; ruddy duck – *Oxyura jamaicensis*; greater scaup – *Aythya marila*; lesser scaup – *Aythya affinis*; northern shoveler – *Spatula clypeata*; blue-winged teal – *Spatula discors*; cinnamon teal – *Spatula cyanoptera*; green-winged teal – *Anas crecca*; American wigeon – *Mareca americana*; Eurasian wigeon – *Mareca penelope*; and wood duck – *Aix sponsa*. ( )
    - d. Geese: members of the *Anatidae* family other than ducks and swans, including Canada goose – *Branta canadensis* (“Canada goose” to include cackling goose – *Branta hutchinsii*); Ross’s goose – *Anser rossii*; snow goose – *Anser caerulescens*; and greater white-fronted goose – *Anser albifrons*. ( )
    - e. Swans: members of the *Anatidae* other than ducks and geese, including Trumpeter swan – *Cygnus buccinator*; and Tundra swan – *Cygnus columbianus*. ( )
    - f. Wilson's snipe – *Gallinago delicata*. ( )
    - g. Sandhill Crane – *Antigone canadensis*. ( )
  - 03. **American Crow – *Corvus brachyrhynchos*.** ( )
103. **CLASSIFICATION OF WILDLIFE – GAME FISH.** ( )  
Game fish includes the following fish and crayfish: ( )
- 01. **American shad – *Alosa sapidissima*.** ( )
  - 02. **Arctic grayling – *Thymallus arcticus*.** ( )
  - 03. **Atlantic salmon – *Salmo salar*.** ( )
  - 04. **Bear Lake whitefish – *Prosopium abyssicola*.** ( )
  - 05. **Black bullhead – *Ameirus melas*.** ( )
  - 06. **Black crappie – *Pomoxis nigromaculatus*.** ( )
  - 07. **Blue catfish – *Ictalurus furcatus*.** ( )
  - 08. **Blueback trout – *Salvelinus alpinus oquassa*.** ( )
  - 09. **Bluegill – *Lepomis macrochirus*, including hybrid with pumpkinseed.** ( )
  - 10. **Bonneville cisco – *Prosopium gemmifer*.** ( )
  - 11. **Bonneville whitefish – *Prosopium spilonotus*.** ( )



12. **Brook trout** – *Salvelinus fontinalis*. ( )
13. **Brown bullhead** – *Ameiurus nebulosus*. ( )
14. **Brown trout** – *Salmo trutta*. ( )
15. **Bull trout** – *Salvelinus confluentus*. ( )
16. **Burbot** – *Lota lota*. ( )
17. **Channel catfish** – *Ictalurus punctatus*. ( )
18. **Chinook salmon** – *Oncorhynchus tshawytscha*. ( )
19. **Coho salmon** – *Oncorhynchus kisutch*. ( )
20. **Crayfish** – *Pacifastacus sp.* ( )
21. **Cutthroat trout** – *Oncorhynchus clarkii*, including subspecies Bonneville cutthroat trout – *O. clarkii utah*, Lahontan cutthroat trout – *O. clarkii henshawi*, Westslope cutthroat trout – *O. clarkii lewisi*, and Yellowstone (including “finespotted”) cutthroat trout – *O. clarkii bouvieri*. ( )
22. **Flathead catfish** – *Pylodictis olivaris*. ( )
23. **Golden trout** – *Oncorhynchus aguabonita*. ( )
24. **Green sunfish** – *Lepomis cyanellus*. ( )
25. **Kokanee** – *Oncorhynchus nerka kennerlyi* (not anadromous). ( )
26. **Lake trout** – *Salvelinus namaycush*. ( )
27. **Lake whitefish** – *Coregonus clupeaformis*. ( )
28. **Largemouth bass** – *Micropterus salmoides*. ( )
29. **Mountain whitefish** – *Prosopium williamsoni*. ( )
30. **Northern pike** – *Esox lucius*. ( )
31. **Pumpkinseed** – *Lepomis gibbosus*. ( )
32. **Pygmy whitefish** – *Prosopium coulterii*. ( )
33. **Rainbow trout** – *Oncorhynchus mykiss*, including redband trout – *O. mykiss gairdneri*. ( )
34. **Rainbow/cutthroat trout (cutbow)** – *O. mykiss* x *O. clarkii* hybrid. ( )
35. **Sauger** – *Sander canadensis*. ( )
36. **Smallmouth bass** – *Micropterus dolomieu*. ( )
37. **Splake** – *S. namaycush* x *S. fontinalis*. ( )
38. **Sockeye salmon** – *Oncorhynchus nerka* (anadromous). ( )
39. **Steelhead trout** – *Oncorhynchus mykiss* (anadromous). ( )

- 40. **Tiger Trout** – *Salmo trutta* x *Salvelinus fontinalis*. ( )
- 41. **Tiger muskie** – *Esox lucius* x *E. masquinongy*. ( )
- 42. **Walleye** – *Sander viteus*. ( )
- 43. **Warmouth** – *Lepomis gulosus*. ( )
- 44. **White crappie** – *Pomoxis annularis*. ( )
- 45. **White sturgeon** – *Acipenser transmontanus*. ( )
- 46. **Yellow bullhead** – *Ameiurus natalis*. ( )
- 47. **Yellow perch** – *Perca flavescens*. ( )
- 104. CLASSIFICATION OF WILDLIFE – FURBEARING ANIMALS.**
- 01. **American badger** – *Taxidea taxus*. ( )
- 02. **American marten** – *Martes americana*. ( )
- 03. **American mink** – *Vison vison*. ( )
- 04. **Beaver** – *Castor canadensis*. ( )
- 05. **Bobcat** – *Lynx rufus*. ( )
- 06. **Canada lynx** – *Lynx canadensis*. ( )
- 07. **Common muskrat** – *Ondatra zibethicus*. ( )
- 08. **Fisher** – *Pekania pennanti*. ( )
- 09. **Northern river otter** – *Lontra canadensis*. ( )
- 10. **Pacific marten** – *Martes caurina*. ( )
- 11. **Red fox** – *Vulpes vulpes* (all color phases). ( )
- 105. – 149. (RESERVED)**
- 150. THREATENED OR ENDANGERED SPECIES.**
- 151. – 199. (RESERVED)**
- 200. PROTECTED NONGAME SPECIES.**
- 01. **Mammals.** ( )
  - a. **American pika** – *Ochotona princeps*. ( )
  - b. **Bats** – all species. ( )
  - c. **Chipmunks** – *Tamias spp.* ( )

- d. Columbia Plateau ground squirrel – *Urocitellus canus*. ( )
- e. Golden-mantled ground squirrel – *Callospermophilus lateralis*. ( )
- f. Great Basin ground squirrel – *Urocitellus mollis*. ( )
- g. Kit fox – *Vulpes macrotis*. ( )
- h. Wolverine – *Gulo gulo*. ( )
- i. Northern Idaho ground squirrel – *Urocitellus brunneus*. ( )
- j. Northern flying squirrel – *Glaucomys sabrinus*. ( )
- k. Rock squirrel – *Otospermophilus variegatus*. ( )
- l. Southern Idaho ground squirrel – *Urocitellus endemicus*. ( )
- m. Woodland caribou – *Rangifer tarandus caribou*. ( )
- n. Wyoming ground squirrel – *Urocitellus elegans nevadensis*. ( )
- 02. **Birds.** All native species, except game birds. ( )
- 03. **Amphibians.** All native species. ( )
- 04. **Reptiles.** All native species. ( )
- 05. **Fish.** ( )
  - a. Bear Lake sculpin – *Cottus extensus*. ( )
  - b. Northern leatherside chub – *Lepidomeda copei*. ( )
  - c. Pacific Lamprey – *Entosphenus tridentatus*. ( )
  - d. Sand roller – *Percopsis transmontana*. ( )
  - e. Shoshone sculpin – *Cottus greenei*. ( )
  - f. Wood River sculpin – *cottus leiopomus*. ( )
  - g. Bluehead sucker – *Catostomus discobolus*. ( )
- 201. **PREDATORY WILDLIFE.**  
Predatory wildlife are defined in Section 36-201, Idaho Code. ( )
- 202. – 249. **(RESERVED)**
- 250. **UNPROTECTED WILDLIFE.**  
Unprotected Wildlife includes all wildlife not classified in the preceding categories. ( )
- 251. – 299. **(RESERVED)**
- 300. **PROTECTION OF WILDLIFE.**
  - 01. **Game Species.** Those species of wildlife classified as Big Game Animals, Upland Game Animals,

Game Birds, Migratory Birds, Game Fish/Crustacea, or Furbearing Animals may be taken only in accordance with Idaho law and Commission rules. ( )

**02. Protected Nongame and Threatened or Endangered Species.** No person may take or possess those species of wildlife classified as Protected Nongame, or Threatened or Endangered at any time or in any manner, except as provided in Idaho Code (including Sections 36-106(e), and 36-1107), and Commission rules. Protected Nongame status is not intended to prevent unintentional take of these species, protection of personal health or safety, limit property and building management, or prevent management of animals to address public health concerns or agricultural damage. ( )

**03. Unprotected and Predatory Wildlife.** Those species of wildlife classified as Unprotected Wildlife and Predatory Wildlife may be taken in any amount, at any time, and in any manner, by holders of the appropriate valid Idaho hunting, trapping, fishing, or combination license, provided such taking is not otherwise in violation of federal, state, county, or city laws, rules, ordinances, or regulations. ( )

**301. – 999. (RESERVED)**

**13.01.07 – RULES GOVERNING THE TAKING OF UPLAND GAME ANIMALS**

**000. LEGAL AUTHORITY.**

Sections 36-103, 36-104, and 36-1101, Idaho Code, authorize the Commission to adopt rules concerning the taking of upland game animals. ( )

**001. TITLE AND SCOPE.**

The title of this chapter for citation is IDAPA 13.01.07, “Rules Governing the Taking of Upland Game Animals.” These rules govern the take of upland game animals. ( )

**002. – 009. (RESERVED)**

**010. DEFINITIONS.**

IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife,” defines upland game animals. ( )

**011. – 099. (RESERVED)**

**100. METHODS OF TAKE.**

No person may take upland game animals: ( )

**01. Time.** From one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise. ( )

**02. Type.** With a trap, snare, net, or shotgun using shotgun shells exceeding three and one-half (3 1/2) inches in length. ( )

**03. Electronic Call.** By the use or aid of any electronic call. ( )

**101. – 199. (RESERVED)**

**200. AREAS CLOSED TO HUNTING OF UPLAND GAME ANIMALS.**

No person may hunt, kill, or molest upland game animals in the following areas: ( )

**01. Craters of the Moon National Monument.** Craters of the Moon National Monument in Blaine and Butte Counties (the area of the Monument prior to the November 2000 expansion, which does not include the National Preserve). ( )

**02. Harriman State Park.** Harriman State Park Wildlife Refuge in Fremont County. ( )

**03. Nez Perce National Historical Park.** Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties. ( )

**04. Ada County.** That portion of Ada County within Veterans Memorial Park and the area between State Highway 21, Warm Springs Avenue, and the New York Canal from the New York Canal Diversion Dam downstream to the Boise City limits. ( )

**05. Yellowstone National Park.** Yellowstone National Park in Fremont County. ( )

**06. Mann’s Lake.** Mann’s Lake in Nez Perce County and extending three hundred (300) yards beyond the Bureau of Reclamation property that encompasses the lake. ( )

**07. Other.** On any of those portions of federal refuges, State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which upland game bird hunting closures have been declared by legislative or Commission action. ( )

**201. – 299. (RESERVED)**

**300. WOUNDING – RETRIEVING.**

No person may wound or kill any upland game animal without making a reasonable effort to retrieve it and reduce it to possession. Every upland game animal wounded by hunting and reduced to possession shall immediately be killed and become a part of the daily bag limit. ( )

**301. – 399. (RESERVED)**

**400. UPLAND GAME ANIMALS SEASONS, BAG, AND POSSESSION LIMITS.**

The Commission sets seasons, bag limits, and possession limits by proclamation, adopted and published as provided by Section 36-105, Idaho Code. ( )

**401. – 999. (RESERVED)**

**13.01.08 – RULES GOVERNING THE TAKING OF BIG GAME ANIMALS**

**000. LEGAL AUTHORITY.**

Sections 36-104(b), 36-405, 36-408, 36-409, and 36-1101(a), Idaho Code, authorize the Commission to adopt rules concerning the taking of big game animals. ( )

**001. TITLE AND SCOPE.**

The title of this chapter for citation is IDAPA 13.01.08, “Rules Governing the Taking of Big Game Animals.” These rules govern the taking of big game animals. ( )

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Established Roadway.** Any road that is established, built, maintained, approved or designated by any governmental entity or private landowner for the purpose of travel by full-sized automobiles. An established roadway shows evidence of repeated use by full-sized automobiles, and may include a traveled way of natural earth with depressed wheel tracks and little or no vegetation in the wheel tracks. ( )

**02. Front Quarters, Hind Quarter, Loins, and Tenderloins.** As applied in Section 36-1202, Idaho Code, for edible portions of big game animals, front quarters of big game animals include the meat surrounding the ball joint as far down as the knees, hindquarters include the meat surrounding the ball joint as far down as the hock, and the loins and tenderloins are the meat along the backbone. ( )

**03. Full-sized Automobile.** Any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds. ( )

**04. Hunter.** A person engaged in the activity of hunting, as defined in Section 36-202, Idaho Code. ( )

**05. Motorized Vehicle.** As defined in Section 36-202, Idaho Code. ( )

**011. -- 199. (RESERVED)**

**200. BAG AND POSSESSION LIMITS.**

No person may take more than one (1) deer, elk, pronghorn, moose, bighorn sheep, mountain goat, black bear, or gray wolf during a calendar year except: ( )

**01. Depredation Hunts.** One (1) additional deer, elk, pronghorn, black bear, or gray wolf may be taken by persons holding a depredation hunt tag for that hunt, except where the depredation hunt precedes or follows a controlled hunt in the area, persons who drew that controlled hunt may be selected to participate in the depredation hunt in accordance with Section 800. Such persons must follow the weapon restrictions that apply to the controlled hunt they drew, and participation in the depredation hunt does not allow them to take a second animal. ( )

**02. Extra Tag Hunts.** In extra tag hunts, one (1) additional deer, elk or pronghorn may be taken by persons holding tags for those hunts. ( )

**03. Limits on Take -- Deer, Elk, Pronghorn, Mountain Lion, Black Bear, Gray Wolf.** In no event may any person take more deer, elk, pronghorn, mountain lion, black bear, or gray wolf in a calendar year than the number of tags the person legally possesses for each species. ( )

**201. -- 249. (RESERVED)**

**250. TAGS AND PERMITS.**

No person may take big game animals without having in possession the appropriate license, tags, and permits. ( )

**01. Use of Controlled Hunt Tags.** ( )

**a.** Controlled hunt tags, including controlled depredation hunt tags and controlled hunt extra tags, issued for big game animals may be used only for take of the animal in the hunt area specified by Commission proclamation or Department order for the controlled hunt for which the tag is issued. ( )

**02. Use of General Season Tags.** General season tags, including extra general season tags, issued for big game animals may be used during any open general season, including any general special weapon season, ONLY as follows: ( )

**a.** Only for take of the animal specified on the tag, with a Regular Deer tag being valid for mule deer or white-tailed deer; and ( )

**b.** Only in the hunt area for which the tags are issued, as designated by Commission proclamation. ( )

**c.** And for elk, Elk A Tags may be used only during a general season, including any general special weapon season, designated by Commission proclamation as an Elk A season, and Elk B Tags may be used only during any general season, including any general special weapon season designated by Commission proclamation as an Elk B season. ( )

**03. Statewide Hunt Area.** If a general season tag, including any extra general season tag, for a big game animal does not specify a hunt area, the tag may be used statewide, unless Commission proclamation or Department order specifies an area where such tag use is prohibited or otherwise limited in its use. ( )

**04. Additional Use of Nonresident Deer and Elk Tags.** A nonresident tag, excluding a nonresident junior mentored tag, issued for elk or deer may be used to take a black bear, mountain lion or gray wolf, during any open general season corresponding to the elk or deer tag when the season for the animal taken is also open. ( )

**251. ARCHERY AND MUZZLELOADER PERMITS.**

No person may hunt in a season designated by Commission proclamation as Archery Only or Muzzleloader Only without the appropriate archery or muzzleloader permit for the relevant season validated on their license. ( )

**252. -- 254. (RESERVED)**

**255. NONRESIDENT TAG RESTRICTIONS.**

**01. Nonresident Tag Limitations.** ( )

**a.** In controlled hunts with ten (10) or fewer tags, not more than one (1) nonresident tag will be issued. In controlled hunts, except unlimited controlled hunts, with more than ten (10) tags, not more than ten percent (10%) of the tags will be issued to nonresidents. This rule will apply to each uniquely numbered controlled hunt and to the controlled hunts for each species. ( )

**b.** In unlimited controlled hunts, the Commission may limit the number of tags available for nonresidents to no less than ten percent (10%) of the average number of tags drawn annually during the previous five (5) year period. ( )

**c.** Outfitter allocated hunts are exempt from the limitation of this Subsection. ( )

**d.** For each species, the total number of outfitter allocated controlled hunt tags will be subtracted from the result of ten percent (10%) of the sum of all controlled hunt tags; including outfitter allocated controlled hunts, but excluding all unlimited controlled hunts. In addition to the limitations of this Subsection, the resulting net number will be the maximum number of controlled hunt tags that may be issued to nonresidents for all controlled hunts except outfitter allocated and unlimited controlled hunts. ( )

**e.** Governor's Wildlife Partnership Tags for deer, elk, pronghorn, bighorn sheep, mountain goat, and moose will be taken from the nonresident tag quota and availability is subject to Nonresident Tag Limitations. ( )

**256. (RESERVED)**

**257. ELIGIBILITY FOR CONTROLLED HUNT APPLICATION.**

A person must possess an Idaho hunting license valid for taking game animals to apply for any controlled hunt for big



game species. ( )

**01. Bighorn Sheep.** ( )

**a.** Any person whose name was drawn on a controlled hunt for any bighorn sheep is not eligible to apply for any bighorn tag for two (2) years. Except that a person may apply for a bighorn tag in the second application period or a leftover bighorn tag the following year. ( )

**b.** Any person who has killed a California bighorn ram is not eligible to apply for a California bighorn ram controlled hunt tag; and any person who has killed a Rocky Mountain bighorn ram is not eligible to apply for a Rocky Mountain bighorn ram controlled hunt tag, except any person who has killed a California bighorn ram south of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a Rocky Mountain bighorn ram tag for any hunt north of Interstate Highway 84; and any person who has killed a Rocky Mountain bighorn ram north of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a California bighorn ram tag for any hunt south of Interstate Highway 84. ( )

**c.** Any person who kills a bighorn ewe is not eligible to apply for another bighorn ewe controlled hunt tag for five (5) years. The harvest of a bighorn ewe does not make the person ineligible to apply for a tag to take a California bighorn ram or a Rocky Mountain bighorn ram. Any person who applies for a bighorn ewe is not eligible to apply for any bighorn ram the same year. ( )

**02. Mountain Goat.** ( )

**a.** Any person whose name was drawn on a controlled hunt for mountain goat is not eligible to apply for a mountain goat tag for two (2) years. Except that a person may apply for a mountain goat tag in the second application period or a leftover mountain goat tag the following year. ( )

**b.** Any person who has killed a mountain goat since 1977 is not eligible to apply for a mountain goat tag. ( )

**03. Moose.** ( )

**a.** Any person whose name was drawn on a controlled hunt for moose is not eligible to apply for a moose permit for two (2) years. Except that a person may apply for a moose tag in the second application period or a leftover moose tag the following year. ( )

**b.** Any person who has killed an antlered moose in Idaho is not eligible to apply for a moose tag for antlered moose, and any person who has killed an antlerless moose in Idaho is not eligible to apply for a tag for antlerless moose except that any person may apply for tags remaining unsold after the controlled hunt draw. ( )

**04. Antlered Deer.** Any person whose name was drawn on a controlled antlered-only deer hunt is not eligible to apply for any other controlled antlered-only deer hunt for one (1) year. Except that a person may apply for an antlered-only deer tag in the second application period or a leftover antlered-only deer tag the following year. ( )

**05. Antlered Elk.** Any person whose name was drawn on a controlled antlered-only elk hunt is not eligible to apply for any other controlled antlered-only elk hunt for one (1) year. Except that a person may apply for an antlered-only elk tag in the second application period or a leftover antlered-only elk tag the following year. The one (1) year waiting period does not apply to controlled hunts with an unlimited number of tags, Landowner Appreciation Program tags, or Governor’s Wildlife Partnership Tags. ( )

**06. Grizzly Bear.** No person who has killed a grizzly bear in Idaho may apply for a grizzly bear tag. ( )

**07. Black Bear.** Any nonresident applying for a controlled black bear hunt who wishes to use hounds must separately apply for a Hound Hunter Permit, subject to applicable limitations of IDAPA 13.01.15.200.04, “Rules Governing the Use of Dogs.” ( )

**08. Landowner Permission Hunts.** Any person applying for a landowner permission hunt must have a permission slip including the name, address, and signature of a landowner who owns more than one hundred fifty-nine (159) acres in the hunt area. ( )

**09. Youth Only Hunts.** Youth-only controlled hunt application eligibility is limited to persons nine (9) to seventeen (17) years of age, provided they will be ten (10) to seventeen (17) years of age during the hunt for which they apply. A nine (9) year old cannot participate in the hunt until turning age ten (10). A person who turns eighteen (18) years of age during the hunt may continue to participate through the end of the youth-only controlled hunt. A person sixty-five (65) years of age or older with a senior or disabled combination or hunting license may apply during a second application period for youth-only controlled hunts or purchase leftover youth-only controlled hunt tags on a first come, first served basis. ( )

**10. Outfitter Allocated Hunts.** Any person must have a written agreement with an outfitter to submit an application for an outfitter allocated controlled hunt. ( )

**11. Multiple Applications.** ( )

**a.** Any person applying for a bighorn sheep, mountain goat, grizzly bear, or moose controlled hunt is not eligible to apply for any other controlled hunt in the same year, except Unlimited Controlled Hunts, a controlled black bear hunt, a controlled gray wolf hunt, or a designated depredation or extra tag hunt for deer, elk or pronghorn. In addition, unsuccessful applicants for bighorn sheep, mountain goat or moose controlled hunts are eligible to participate in the second application period for deer, elk, and pronghorn and the first-come, first-served deer, elk, and pronghorn controlled hunt permit sales. ( )

**b.** Any person may apply for both a controlled hunt tag and a controlled hunt extra tag for the same big game species. ( )

**258. CONTROLLED HUNT APPLICATIONS**

**01. Applications.** Individual applications or group applications for controlled hunts may be submitted electronically through the automated licensing system at any vendor location, including Department offices, via the Internet or telephone, not later than the annual dates shown below. Any individual application or group application which is unreadable, has incomplete or incorrect hunt or license numbers, or lacks information or fees will be declared void and will not be entered in the drawing. All applications will be considered final; except, applicants who would like to change their submitted controlled hunt application may request the original application be canceled to resubmit a new controlled hunt application during the applicable application period. The new application is subject to the appropriate application fees. ( )

**a.** Spring black bear, spring grizzly bear -- Application period - January 15 - February 15. ( )

**b.** Moose, bighorn sheep, and mountain goat -- Application period for first drawing - April 1 - 30. ( )

**c.** Deer, elk, pronghorn, fall black bear, fall grizzly bear -- Application period for first drawing -- May 1-June 5. ( )

**d.** Moose, bighorn sheep, and mountain goat -- Application period for second drawing, if applicable - June 15-25. ( )

**e.** Deer, elk, pronghorn, fall black bear, fall grizzly bear -- Application period for second drawing -- August 5-15. ( )

**02. Applicant Requirements.** Applicants must comply with the following requirements: ( )

**a.** Only one (1) application, per person or group, will be accepted for the same species, except a person or group may submit one additional application for a controlled hunt extra tag for the same species. Additional

applications for the same person or group for the same species will result in all applicants being declared ineligible. ( )

**b.** Only one (1) controlled hunt extra tag will be issued for each person on any application submitted. ( )

**c.** Several applications may be submitted so long as each application is for a single species, a single applicant or group, and both hunts on an application must be controlled hunt tag hunts or controlled hunt extra tag hunts. ( )

**d.** Fees must be submitted with each application. A single payment may be submitted to cover fees for all applications. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. The application fee is set by Section 36-416, Idaho Code, per person per controlled hunt applied for. The tag fees are not to be submitted for deer, elk, pronghorn, black bear, or gray wolf. Persons applying for moose, bighorn sheep, grizzly bear, or mountain goat controlled hunts must submit the tag fee and application fee with their application. Applicants successful in drawing for a moose, bighorn sheep, or mountain goat will receive a tag in the mail. ( )

**03. Group Application.** ( )

**a.** A “group application” for deer, elk, and pronghorn is defined as two, three, or four (2, 3, or 4) persons applying for the same controlled hunt on the same application. All applicants must comply with all rules and complete applications properly. All applicants must abide by the same first and second hunt choices. ( )

**b.** A “group application” for moose, bighorn sheep, mountain goat, black bear, and gray wolf, is defined as two (2) persons applying for the same controlled hunt on the same application. Both applicants must comply with all rules and complete applications properly. Both applicants must abide by the same first and second hunt choices. ( )

**c.** If a group application exceeds the number of tags available in a hunt, that group application will not be selected for that hunt. ( )

**04. Unlimited Controlled Hunts.** Deer and elk unlimited controlled hunts identified by proclamation as “first-choice only” may be applied for only as a first choice controlled hunt during the controlled hunt application process. ( )

**05. Landowner Permission Controlled Hunts.** Landowner permission hunt tags will be sold first-come, first-served basis at the Headquarters or regional offices of the Idaho Department of Fish and Game beginning the first business day on or after July 15. ( )

**06. Sale of Remaining Tags.** Any controlled hunt tags, except unlimited controlled hunts that remain unsold after the controlled hunt drawings may be sold by any license vendor, through the Internet, or over the telephone on a first-come, first-served basis on the dates below unless such day is a Sunday or legal holiday, in which case the permits will go on sale the next legal business day. A controlled hunt application and tag will be issued to successful controlled hunt purchasers. The ten percent (10%) nonresident limitation will not apply. Controlled hunt applicants with a tag already in possession must return their tag to a Department office to be exchanged for the appropriate controlled hunt tag, except where the Commission has authorized by proclamation possession of the additional tag. ( )

**a.** Spring Bear - April 1. ( )

**b.** Moose, Bighorn Sheep, and Mountain Goat - July 10. ( )

**c.** Deer, Elk, Pronghorn, and Fall Bear - August 25. ( )

**07. Controlled Hunt Drawing.** Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing, provided the second choice hunt applied for has not

been filled. ( )

**08. Second Drawing Exclusion.** The Director may designate certain leftover controlled hunt tags to become immediately available on a first-come, first-served over-the-counter basis due to the dates of the hunt. ( )

**259. DEADLINE FOR CLAIMING TAGS AND UNCLAIMED TAGS.**

Successful applicants for the first deer, elk, black bear, gray wolf, or pronghorn controlled hunt drawing must purchase and pick up their controlled hunt tag no later than August 1. All controlled hunt tags not purchased and picked up will be entered into a second controlled hunt drawing. Any controlled hunt tags, except unlimited controlled hunt tags, left over or unclaimed after the second controlled hunt drawing will be sold on a first-come, first-served basis. ( )

**260. USE OF CONTROLLED HUNT TAGS.**

**01. Use of Controlled Hunt Tags.** No person may hunt in any controlled hunt without having a valid controlled hunt tag in possession. ( )

**a.** A controlled hunt area with an “X” suffix is an extra tag hunt. ( )

**b.** In the event a tag is issued based on erroneous information, the tag will be invalidated by the Department and may NOT be used. The Department will notify the person of the invalidation of the tag. The person will remain on the drawn list, and if there is a waiting period in a succeeding year, the person will be required to wait the specified time period. ( )

**02. Deer.** Any person who draws a controlled hunt tag for deer is not eligible to hunt in any other deer hunt--archery, muzzleloader, or general; except: ( )

**a.** The person may choose not to purchase the controlled hunt tag by the date set by Section 259 of these rules for the first deer drawing, allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. ( )

**b.** If the person draws an unlimited controlled hunt, the person may relinquish the controlled hunt prior to purchasing, allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. ( )

**c.** The holder of a deer controlled hunt tag may purchase a nonresident general season tag as a second tag. ( )

**d.** Any person who draws a controlled hunt extra tag for deer may hunt in any other deer hunt--archery, muzzleloader, general or controlled hunt. ( )

**03. Elk.** Any person who draws a controlled hunt tag for elk is not eligible to hunt in any other elk hunt--archery, muzzleloader, or general; except: ( )

**a.** The person may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first elk drawing, allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. ( )

**b.** If the person draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. ( )

**c.** The holder of an elk controlled hunt tag may purchase a nonresident general season tag as a second tag. ( )

**d.** Any person who draws a controlled hunt extra tag for elk may hunt in any other elk hunt--archery, muzzleloader, general or controlled hunt. ( )

**04. Pronghorn.** Any person who draws a pronghorn controlled hunt tag is not eligible to hunt in any other pronghorn hunt; except: ( )

**a.** The person may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first pronghorn drawing allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. ( )

**b.** If the person draws an unlimited controlled hunt, the person may relinquish the controlled hunt prior to purchasing, allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. ( )

**c.** The holder of a pronghorn controlled hunt tag may purchase a controlled hunt extra tag for pronghorn. ( )

**d.** Any person who draws a pronghorn controlled hunt extra tag may apply for a controlled hunt tag for pronghorn. ( )

**05. Black Bear.** ( )

**a.** Any person who draws a spring controlled hunt tag for black bear may choose to purchase the controlled hunt bear tag or return an unused general season bear tag in exchange for the controlled hunt bear tag. ( )

**b.** Any person who draws a fall controlled hunt tag for black bear may choose to purchase the controlled hunt bear tag or return an unused general season bear tag in exchange for the controlled hunt bear tag. ( )

**261. SPECIAL CONTROLLED HUNTS.**

**01. Special Controlled Hunt Program.** The Special Controlled Hunt Program is a program to partially fund a sportsman access program adopted by the Commission. This program will offer forty (40) tags valid for the current year hunting seasons; including, twelve (12) tags each for elk, deer, and pronghorn, and four (4) tags for moose. ( )

**a.** The rules for controlled hunts set forth in Section 260, of these rules, do not apply to the Special Controlled Hunt Program. ( )

**b.** The Special Controlled Hunt application will be marketed by the Department. The Department will issue these tags to eligible persons selected by an impartial random draw process. The successful applicants will receive the tag necessary to hunt the appropriate species. ( )

**02. Moneys.** The Department will deposit all moneys received from the sale of Special Controlled Hunt Applications in accordance with state law. The Department will specifically use funds for the sportsman access program. ( )

**03. General Rules.** ( )

**a.** Any individual, resident or nonresident, may purchase and submit applications without limit. ( )

**b.** Special controlled hunt applications may be entered in the name of individuals other than the purchaser. ( )

**c.** Each successful applicant must have or be eligible to obtain a valid Idaho hunting license. ( )

**d.** Each tag will be issued to the individual named on the drawn application that meets license

eligibility requirements and cannot be transferred. ( )

e. An individual may be drawn for only one (1) special controlled hunt tag for each species. ( )

f. Each special controlled hunt tag is valid for the designated species and allows the person to hunt in any open hunt, general or controlled, for the designated species in the applicable year's season. ( )

g. The special controlled hunt tag will be in addition to any other tag the person is eligible to obtain. ( )

h. Any applicant, including those who harvest an animal on a special controlled hunt tag, will be eligible to apply for any controlled hunt for the same species in the same year or subsequent years. ( )

i. In the event a license, tag, or permit is issued based on erroneous information, all documents issued based on the erroneous information will be invalidated by the Department and may not be used. The Department will notify the individual at his last known place of residence of the invalidation of the license, tag or permit. ( )

**04. Application Fees.** Applications may be sold for individual species (Super Hunt) or grouped for combined species (Super Hunt Combo). The application fees will be set by Commission Order under Section 36-415, Idaho Code, or will be the same as the controlled hunt fee set in Section 36-416, Idaho Code. ( )

**05. Drawing Dates.** There will be two (2) drawings. All drawings will be held at the Department's offices in Boise, Idaho. The first drawing winners will be notified by June 10, and the second drawing winners will be notified by August 15 each year. The Commission may order a different drawing day in case of business emergency, holiday, or non-business days. ( )

**06. Department Marketed Applications.** ( )

a. Individual applications for special controlled hunts shall be made on a form prescribed by the Department or submitted electronically at any Department Office or license vendor, via Internet or telephone. ( )

b. Applications received at the Licenses Section, Headquarters Office, Idaho Department of Fish and Game, PO Box 25, Boise, Idaho 83707-0025, or submitted electronically, by no later than 11:59 pm Mountain time May 31 of the current calendar year will be eligible for the first drawing held in June; and those received after May 31 and by no later than 11:59 pm Mountain time, August 10, of the current calendar year for the second drawing. Applications received after August 10 will be eligible for the drawing held in June of the following year. ( )

c. All applications entered into the first drawing are not eligible for and will not be entered into the second drawing. ( )

d. Any individual application that is unreadable, has multiple or no species box checked, is incomplete, or lacks the information or fee will be declared void and will not be entered in the drawing. All applications will be considered final; they may not be resubmitted after correction. ( )

e. Should the winner be ineligible, deceased, or incapacitated to hunt, the first alternate drawn will be declared the winner. Should the first alternate be ineligible, deceased or incapacitated to hunt, the second alternate drawn will be declared the winner. Should the second alternate be ineligible, deceased or incapacitated to hunt, that special controlled hunt tag will be null and void and will not be issued to any person. ( )

**262. DESIGNATION OF CONTROLLED HUNT TAGS TO CHILDREN.**

**01. Designation by Residents.** Any resident adult who possesses any controlled hunt tag except a moose, bighorn sheep, mountain goat, or grizzly bear tag, may designate the controlled hunt tag to his or her resident minor child or grandchild who is qualified to participate in the hunt. ( )

**02. Designation by Nonresidents.** Any nonresident adult who possesses any controlled hunt tag except a moose, bighorn sheep, mountain goat, or grizzly bear tag, may designate the controlled hunt tag to his or her

nonresident minor child or grandchild who is qualified to participate in the hunt. ( )

**03. Applicability of Controlled Hunt Rules.** Rules for eligibility, tag claim deadline, and use (Sections 257, 259, 260 and 261) apply to the adult who possesses and designates a controlled hunt tag and to the designated minor child or grandchild. Rules for application for controlled hunt tags apply to the adult who possesses and designates a controlled hunt tag to his or her minor child or grandchild. Mandatory school as provided in Section 270 will apply to the designated minor child or grandchild. ( )

**04. Form.** Designation of the controlled hunt tag shall be made on a form prescribed by the Department and may be submitted either in person to any Department Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. ( )

**05. Children.** Any resident child or grandchild cannot be designated more than one controlled hunt tag per species per calendar year. ( )

**06. Date for Designation.** Designation of a controlled hunt tag shall be completed before the opening date for the hunt for which the tag may be used. ( )

**263 -- 269. (RESERVED)**

**270. MANDATORY HUNTER ORIENTATION.**

Anyone drawing a controlled archery-only hunt tag with mandatory hunter orientation as denoted in the season proclamation will receive orientation information that includes hunt boundaries, legal restrictions, and hunter ethics. Tag holders must sign and return an affidavit that they have reviewed and understand the orientation to receive a Certificate of Completion, which must be carried by the hunter during the hunt. Holders of "Certificates of Completion" from previous hunts do not have to repeat this orientation and will be provided with updated Certificates of Completion to participate in the hunt. ( )

**271. -- 299. (RESERVED)**

**300. IDENTIFICATION OF ANIMALS THAT LEGALLY MAY BE TAKEN.**

**01. Big Game Animals of Either Sex.** Big game animals of either sex may be taken, except the following may not be taken: ( )

- a. Mountain Goat. Females accompanied by young. ( )
- b. Black Bear. Females accompanied by young. ( )
- c. Mountain Lion. Spotted young or females accompanied by young. ( )
- d. Grizzly Bear. Adult grizzly bears accompanied by young, or young accompanied by adult grizzly bear(s). ( )

**02. Seasons Restricted to Antlered or Male Animals Only.** ( )

a. Deer. Only deer with at least one (1) antler longer than three (3) inches may be taken in any season open for antlered deer only. ( )

b. Two-point deer. Only deer with not more than two (2) points on one (1) antler, not including brow point, and at least one (1) antler longer than three (3) inches may be taken in any season open for two-point deer only. ( )

c. Three-point deer. Only deer having at least one (1) antler with three (3) or more points not counting the brow point or tine may be taken in any season open for three-point or larger deer only. ( )

d. Four-point deer. Only deer having at least one (1) antler with four (4) or more points, not including

the brow point or tine, may be taken in any season open for four-point or larger deer only. ( )

e. Elk. Only elk with at least one (1) antler longer than six (6) inches may be taken in any season which is open for antlered elk only. ( )

f. Spike elk. Only elk with no branching on either antler and at least one (1) antler longer than six (6) inches may be taken in any season which is open for spike elk only. A branch is an antler projection that is at least one (1) inch long and longer than the width of the projection. ( )

g. Brow-tined elk. Any elk having an antler or antlers with a visible point on the lower half of either main beam that is greater than or equal to four (4) inches long. ( )

h. Moose. Only moose with at least one (1) antler longer than six (6) inches may be taken in any season open for antlered moose only. ( )

**03. Seasons Restricted to Antlerless or Female Animals Only. ( )**

a. Deer. Only deer without antlers or with antlers shorter than three (3) inches may be taken in any season open for antlerless deer only. ( )

b. Elk. Only elk without antlers or with antlers shorter than six (6) inches may be taken in any season open for antlerless elk only. ( )

c. Pronghorn. Only pronghorn without a black “cheek patch” or horns less than three (3) inches long may be taken during doe and fawn only pronghorn seasons. ( )

d. Bighorn sheep. Only bighorn sheep with horns between six (6) inches and twelve (12) inches in length may be taken in any season which is open for bighorn ewes only. ( )

e. Moose. Only moose without antlers or with antlers less than six (6) inches long may be taken in any season which is open for antlerless moose only. ( )

**301. -- 319. (RESERVED)**

**320. TAG VALIDATION AND ATTACHMENT.**

**01. Tag.** Immediately after any deer, elk, pronghorn, moose, bighorn sheep, mountain goat, mountain lion, black bear, grizzly bear, or gray wolf is killed, the appropriate big game animal tag must be validated and securely attached to the animal. ( )

a. Validation. Cut out and completely remove only the two (2) triangles indicating the date and month of kill. ( )

b. Attachment of Tag. ( )

i. Deer, elk, pronghorn, moose, mountain goat, black bear, and bighorn sheep: to the largest portion of the edible meat to be retained by the hunter or any person transporting for the hunter. The tag must remain attached during transit to a place of processing and remain attached until the meat is processed. The validated tag must accompany the processed meat to the place of final storage or final consumption. ( )

ii. Mountain lion, black bear, grizzly bear, and gray wolf: To the hide until the mandatory check is complied with. ( )

**321. -- 349. (RESERVED)**

**350. IDENTIFICATION OF SEX, SIZE, AND/OR SPECIES IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.**



**01. Evidence of Sex.** Evidence of sex must be left naturally attached to the carcass of any big game animal until the carcass reaches the final place of storage or consumption or a commercial meat processing facility as follows: ( )

**a.** In antlered or male only seasons, the evidence of sex requirement is met when the head, horns, or antlers are left naturally attached to the whole carcass or to a front quarter. If the head, horns, or antlers are removed, some other external evidence of sex (either scrotum, penis or testicles) must be left naturally attached to the carcass or to a hind quarter; and the horns or antlers must accompany the carcass while in transit. ( )

**b.** In spike elk or two-point (2) deer only seasons, the evidence of sex requirement is met when the head with both complete unaltered antlers are left naturally attached to the whole carcass or to a front quarter. If the head or antlers are removed, some other external evidence of sex (either scrotum, penis or testicles) must be left naturally attached to the carcass or to a hind quarter; and both complete unaltered antlers naturally attached to each other must accompany the carcass while in transit. ( )

**c.** In antlerless, doe/fawn or female only seasons, if the head is removed from female elk, moose, deer, pronghorn, or bighorn sheep, some other external evidence of sex (either udder or the vulva) must be left naturally attached to the carcass or to a hind quarter. ( )

**d.** The entire head of antlerless male elk, moose, deer, or pronghorn, or a male lamb bighorn sheep killed during an antlerless, female, doe/fawn or ewe only season, may be left naturally attached to the carcass or to a front quarter. If the head is removed, some other external evidence of sex (either scrotum, penis, or testicles for males or udder or vulva for females) must be left naturally attached to the carcass or to a hind quarter; and the lower jaw must accompany the carcass while in transit. ( )

**e.** For black bear, grizzly bear, mountain lion, and gray wolf, external evidence of sex (either scrotum, penis or testicles for males, or udder or vulva for females) must be left naturally attached to the hide until the mandatory check has been complied with. ( )

**02. Evidence of Species.** In seasons restricted to mule deer only or white-tailed deer only, if the head is removed, the fully-haired tail must be left naturally attached to the carcass. ( )

**03. Evidence of Size.** Any person taking a bighorn ram must leave that portion of the skull plate containing the upper one-half (1/2) of the eye socket naturally attached to both of the horns until after the horns have been pinned by the Department. ( )

**04. Other.** The Commission may by proclamation designate seasons and areas in which the head or lower jaw must accompany the carcass in transit. ( )

**351. -- 399. (RESERVED)**

**400. HUNTING HOURS.**

Big game animals may be taken only from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. ( )

**401. WOUNDING AND RETRIEVING.**

No person may wound or kill any big game animal without making a reasonable effort to retrieve it and reduce it to possession. ( )

**402. -- 403. (RESERVED)**

**404. SPECIAL WEAPON SEASONS.**

The Commission may designate by proclamation Special Weapon seasons, such as Archery Only, Muzzleloader Only, or Short-range Weapons Only, in which restrictions to method of take apply in addition to those set forth in Section 410. ( )

**405. SPECIAL WEAPON SEASONS – ARCHERY.**

**01. Archery Only Season.** During a season designated by Commission proclamation as an Archery Only season, it is unlawful to take a big game animal: ( )

**a.** With any firearm, crossbow (except by a holder of disabled archery permit), or implement other than a longbow, compound bow, or recurve bow. ( )

**b.** With any device attached to the bow that holds a bow at partial or full draw (except by a holder of a disabled archery permit). ( )

**c.** With any bow or crossbow equipped with magnifying sights. ( )

**02. Traditional Archery Only Season.** During a season identified by Commission proclamation as Traditional Archery Only, it is unlawful to take any big game animal: ( )

**a.** With any firearm, crossbow, or implement other than a longbow or recurve bow. ( )

**b.** With an arrow not constructed of wood or fletched with non-natural material. ( )

**c.** With any bow equipped with sights. ( )

**406. SPECIAL WEAPON SEASONS – MUZZLELOADER.**

**01. Muzzleloader Only Season.** During a season designated by Commission proclamation as a Muzzleloader Only season, it is unlawful to take a big game animal with any firearm, including muzzleloading pistols, or implement other than a muzzleloading rifle or musket that complies with each of the following: ( )

**a.** Is at least forty-five (.45) caliber for deer, pronghorn, mountain lion, or gray wolf, or at least fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat or black bear. ( )

**b.** Is capable of being loaded only from the muzzle. ( )

**c.** Is equipped only with open or peep sights. ( )

**d.** Is loaded only with loose black powder including synthetic black powder. ( )

**e.** Is equipped with no more than two (2) barrels. ( )

**f.** Is loaded only with a projectile with a diameter within one hundredth (.01) of an inch of the bore diameter. ( )

**g.** Is equipped only with flint, musket cap, or percussion cap. 209 primers are prohibited. ( )

**h.** Is equipped with an exposed ignition system. ( )

**i.** Is loaded only with a patched round ball or conical non-jacketed projectile comprised wholly of lead or lead alloy. ( )

**02. Pelletized Powder.** It is unlawful to use pelletized powder in a Muzzleloader Only season. ( )

**03. Sabot.** It is unlawful to use a sabot in a Muzzleloader Only season. ( )

**407. SPECIAL WEAPON SEASONS – SHORT-RANGE WEAPONS.**

**01. Short-range Weapon Only Season.** During a season designated by Commission proclamation as a Short-Range Weapon Only season, it is unlawful to use any weapon other than the following: ( )

- a. Any shotgun using any slug or double-aught (#00) or larger buckshot. ( )
- b. Any muzzleloader that is at least forty-five (0.45) caliber for deer, pronghorn, mountain lion, or gray wolf, or at least fifty (0.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. ( )
- c. Any bow having a peak draw weight of not less than forty (40) pounds up to or at a draw of twenty-eight (28) inches. ( )
- d. Any crossbow having a peak draw weight of not less than one hundred fifty (150) pounds. ( )
- e. Any handgun using straight wall centerfire cartridges not originally developed for rifles. ( )
- f. Any airgun using pre-charged pneumatic power to propel a projectile (excluding shot and arrows) with unignited compressed air or gas and projectiles at least thirty-five (0.35) caliber for deer and pronghorn antelope or at least forty-five (0.45) caliber for elk and moose. ( )

**408. -- 409. (RESERVED)**

**410. UNLAWFUL METHODS OF TAKE – GENERAL.**

No person may take big game animals as set forth in this section. ( )

**01. Firearms. ( )**

- a. With any firearm that, in combination with a scope, sling, and/or any other attachments, weighs more than sixteen (16) pounds. ( )
- b. With any shotgun using any shot smaller than double-aught (#00) buck. ( )
- c. With any rimfire rifle, rimfire handgun or any muzzleloading handgun, except for mountain lion and trapped gray wolf. ( )
- d. With a fully automatic firearm. ( )
- e. With any electronic device attached to, or incorporated in, the firearm (including handguns and shotguns) or scope; except scopes containing battery powered or tritium lighted reticles are allowed. ( )

**02. Bows, Crossbows, Arrows, Bolts, Airguns, Chemicals or Explosives. ( )**

- a. With arrows or bolts having broadheads measuring less than seven-eighths (7/8) inch in width and having a primary cutting edge less than fifteenth-thousandths (0.015) inch thick. ( )
- b. With any bow having a peak draw weight of less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of less than one hundred-fifty (150) pounds. ( )
- c. With any chemicals or explosives attached to the arrow or bolt. ( )
- d. With arrows or bolts having expanding broadheads. ( )
- e. With arrows or bolts having barbed broadheads. A barbed broadhead is a broadhead which has any portion of the rear edge of the broadhead forming an angle less than ninety (90) degrees with the shaft or ferrule. ( )
- f. With any electronic or tritium-powered device attached to, or incorporated into, an arrow, bolt, crossbow, or bow (except nonmagnifying scopes containing battery powered or tritium lighted reticles may be used by disabled archery permit holders). ( )

- g.** With any bow capable of shooting more than one (1) arrow at a time. ( )
- h.** With any compound bow with more than eighty-five percent (85%) let-off. ( )
- i.** With an arrow and broadhead, or bolt and broadhead, with a combined total weight of less than three hundred (300) grains. ( )
- j.** With an arrow less than twenty-four (24) inches or a crossbow bolt less than twelve (12) inches in length from the broadhead to the nock inclusive. ( )
- k.** With an arrow wherein the broadhead does not precede the shaft and nock. ( )
- l.** With any crossbow pistol. ( )
- m.** With any airgun using pre-charged pneumatic power to propel a projectile (excluding shot and arrows) with unignited compressed air or gas and projectiles less than thirty-five (0.35) caliber for deer, pronghorn antelope, mountain lion, or gray wolf, or less than forty-five (0.45) caliber for elk, moose, bighorn sheep, mountain goat, or black or grizzly bear. ( )
- 03. Muzzleloaders.** ( )
- a.** With a muzzleloading rifle or musket which is less than forty-five (.45) caliber for deer, pronghorn, mountain lion, or gray wolf, or which is less than fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. ( )
- b.** With any electronic device attached to, or incorporated in, the muzzleloader. ( )
- 04. Other.** ( )
- a.** With electronic calls except for the hunting of mountain lions, black bears, and wolves in seasons set by proclamation. ( )
- b.** With any bait including grain, salt in any form (liquid or solid), or any other substance (not to include synthetic liquid scent) to constitute an attraction or enticement, except for black bear baiting and gray wolf trapping, in accordance with IDAPA 13.01.17, “Rules Governing the Use of Bait and Trapping for Taking Big Game Animals.” ( )
- c.** With dogs, except for mountain lion or black bear in accordance with IDAPA 13.01.15, “Rules Governing the Use of Dogs.” ( )
- d.** With any net, snare, trap, chemical, deadfall or device other than legal firearm, archery or muzzleloader equipment or airgun; except wolves may be trapped or snared in seasons set by Commission proclamation and in accordance with IDAPA 13.01.17, “Rules Governing the Use of Bait and Trapping for Taking Big Game Animals.” ( )
- e.** Within an enclosure designed to prevent ingress or egress of big game animals, including fenced facilities defined as Domestic Cervidae Farms under Section 25-3501, Idaho Code, unless authorized by the director. This rule does not apply to domestic cervids. ( )
- f.** With radio telemetry or other electronic tracking devices used as an aid to locate big game animals. This rule does not affect the use of telemetry equipment on hounds or other sporting dogs. ( )

**411. MOTORIZED HUNTING RULE.**

The use of motorized vehicles by hunters as an aid to hunting big game is restricted in certain areas. This use restriction is in addition to all federal, state and local laws, rules, regulations, ordinances and orders; including, but not limited to, any motorized vehicle licensing, registration, and permitting requirements and traffic laws. Hunters

must comply with all motorized vehicle limits or prohibitions instituted by the landowner or land manager. Also, this use restriction rule is not an exception from, and is in addition to, the statutory prohibition against hunting from or by the use of any motorized vehicle set forth in Section 36-1101(b)(1), Idaho Code. ( )

**01. Use Restriction.** In designated units from August 30 through December 31, hunters may only use motorized vehicles on established roadways which are open to motorized traffic and capable of being traveled by full-sized automobiles. ( )

**02. Exceptions.** This use restriction rule does not apply to the following permissible motorized vehicle uses by hunters off of an established roadway: ( )

**a.** Holders of a valid Disabled Motor Vehicle Hunting Permit may use a motorized vehicle as allowed by the land owner or manager. ( )

**b.** Hunters may use a motorized vehicle to retrieve downed game if such travel is allowed by the land owner or manager. ( )

**c.** Hunters may use a motorized vehicle to pack camping equipment in or out if such travel is allowed by the land owner or manager; however, hunters may not hunt while packing camping equipment. ( )

**d.** Private landowners on their private land, their authorized agents, and persons with written landowner permission are excepted from the Motorized Hunting Rule use restriction. ( )

**412. DESIGNATED MOTORIZED HUNTING RULE UNITS.**

The motorized hunting use restriction applies to units 29, 30, 30A, 32, 32A, 36A, 37, 37A, 45, 47, 49, 50, 51, 52, 52A, 53, 56, 58, 59, 59A, 66, 66A, 69, 70, 72, 73, 75, 76, 77, and 78. ( )

**413. -- 418. (RESERVED)**

**419. RETURN OF TAGS BY UNSUCCESSFUL HUNTERS.**

Hunters who are not successful in killing a bighorn sheep, mountain goat, grizzly bear, or moose shall present or mail their unused tags to a Department office within ten (10) days after the close of the season for which the tag was valid. Canceled tags will be returned to the hunter upon request. ( )

**420. MANDATORY CHECK AND REPORT REQUIREMENTS.**

Any person killing black bear, moose, bighorn sheep, mountain goat, gray wolf, or mountain lion in a unit with no quota, must, within ten (10) days of the date of kill, or any person killing mountain lion in a unit with a quota, or a grizzly bear, must, within five (5) days of the date of kill comply with the mandatory check and report requirements by: ( )

**01. Harvest Report.** Completing the relevant harvest report (big game mortality report or other report form as required) for the species taken. ( )

**02. Presentation of Animal Parts.** Presenting the following animal parts so that Department personnel may collect biological data and mark the animal parts: ( )

**a.** Black Bear: Skull and hide to be presented to a conservation officer, regional office or official check point for removal and retention of premolar tooth and to have the hide marked. ( )

**b.** Grizzly Bear: Skull and hide to be presented to a conservation officer or regional office for removal and retention of a premolar tooth, and to have the hide marked. ( )

**c.** Mountain Lion: Skull and hide to be presented to a conservation officer or regional office to have the hide marked. ( )

**d.** Gray Wolf: Skull and hide to be presented to a conservation officer or regional office for removal and retention of a premolar tooth, and to have the hide marked. ( )

- e. Moose: Antlers from antlered animals to be presented to a conservation officer or regional office. ( )
- f. Bighorn Sheep: Ram horns to be presented to a regional office for marking, ewe horns to be presented to a regional office. ( )

g. Mountain Goat: Horns to be presented to a conservation officer or regional office. ( )

**03. Possession of Raw Pelts of Black Bear, Grizzly Bear, Mountain lion, and Gray Wolf. ( )**

a. No person may have in possession, except during the open season and for ten (10) days after the close of the season, any raw black bear or raw gray wolf pelt without an official state export tag attached, unless that person possesses a fur buyer or taxidermist license or appropriate import documentation. ( )

b. No person may have in possession, except during the open season and for five (5) days after the close of the season, any raw mountain lion or raw grizzly bear pelt without an official state export tag attached, unless that person possesses a fur buyer or taxidermist license or appropriate import documentation. ( )

**04. Authorized Representative.** A person may authorize another person to comply with the above requirements if that person complies with reporting requirements and possesses enough information to accurately complete the necessary form. ( )

**421. MANDATORY PRONGHORN, DEER, AND ELK REPORT REQUIREMENTS.**

**01. Mandatory Report.** Any hunter that obtains a pronghorn, deer, or elk tag must submit to the Department an accurately completed Mandatory Report for the respective species on a form prescribed by the Department, within ten (10) days of killing such animal, or if the hunter does not kill such animal, within ten (10) days of the closing date of the appropriate season. ( )

**02. Failure to Report.** Failure to submit the pronghorn, deer, or elk Mandatory Report as required in this section will render the person ineligible to obtain any license until a late Mandatory Report permit is submitted with the Department. ( )

**422. MANDATORY TELEPHONE REPORT.**

In addition to other check and reporting requirements, any hunter killing a grizzly bear must report the harvest within twenty-four (24) hours by calling the Grizzly Bear Reporting Number, a toll-free telephone number published in the grizzly bear season and rules brochure available at Department offices and on the Department website. ( )

**423. -- 499. (RESERVED)**

**500. AREAS CLOSED TO HUNTING OF BIG GAME ANIMALS.**

**01. Restricted Areas for Big Game.** No person may hunt, kill, or molest any big game animal in the following areas: ( )

a. That area of Craters of the Moon National Monument in Blaine and Butte Counties prior to the 2000 expansion of the Monument (which excludes Craters of the Moon Preserve). ( )

b. All state parks, except Farragut State Park, which has a November/December deer archery season, and Billingsley Creek at Malad Gorge State Park, Castle Rock State Park and state land within the City of Rocks National Reserve, which are all open to hunting; ( )

c. Harriman State Park Wildlife Refuge. ( )

d. Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties; ( )

**e.** That portion of Ada County within Veterans Memorial Park and the area between State Highway 21 to Warm Springs Avenue and the Boise City limits; ( )

**f.** Yellowstone National Park in Fremont County; ( )

**g.** On any of those portions of State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which hunting closures have been declared by legislative or Commission action. ( )

**h.** All or portions of national wildlife refuges, except as specified in federal regulations for individual refuges. ( )

**i.** All Snake River islands between the Glenns Ferry bridge and the Sailor Creek bridge in Elmore County. ( )

**j.** Hagerman Fossil Beds National Monument in Twin Falls County, except that portion within an area of fifty (50) feet in elevation above the high water level of the Snake River, as marked by yellow fiberglass markers, with hunting permitted downslope to the river. ( )

**02. Mountain Lions and Gray Wolves.** No person may hunt or pursue mountain lion or gray wolf within one-half (1/2) mile of any active Department of Fish and Game big game feeding site. ( )

**03. Black Bear, Grizzly Bear, and Gray Wolves.** No person may hunt or pursue black bear, grizzly bear, or gray wolf within two hundred (200) yards of the perimeter of any designated dump ground or sanitary landfill. ( )

**501. -- 599. (RESERVED)**

**600. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 1-5.**

**01. Unit 1.** All of BOUNDARY COUNTY and that portion of BONNER COUNTY north of the Pend Oreille River, Pend Oreille Lake and Clark Fork River. ( )

**02. Unit 2.** Those portions of BONNER and KOOTENAI COUNTIES within the following boundary: beginning at the intersection of the Idaho-Washington State line and the north bank of the Pend Oreille River, then east along the Pend Oreille River to Pend Oreille Lake at the railroad trestle in the southeast corner of the City of Sandpoint, then south across the railroad trestle, then east and south along the western shore line of Pend Oreille Lake to the south boundary of Farragut State Park, then west along the boundary to State Highway 54 at the west entrance to Farragut State Park, then west on State Highway 54 to U.S. 95, then south on U.S. 95 to Lake Coeur d'Alene at the source of the Spokane River, then west along the southern bank of the Spokane River to the Idaho-Washington State line, then north along the state line to the point of beginning. ( )

**03. Unit 3.** Those portions of KOOTENAI, SHOSHONE, and BENEWAH COUNTIES within the following boundary: beginning at Mission Point on the St. Joe River and State Highway 3, then northeast on State Highway 3 to Interstate 90, then east on Interstate 90 to Kingston, then north on Forest Highway 9 (North Fork of the Coeur d'Alene River Road) to Forest Service Road 209 (Little North Fork of the Coeur d'Alene River Road), then northwest along Forest Service Road 209 then north along Forest Road 385 to the watershed divide between the Coeur d'Alene River and Pend Oreille Lake, then northwest along the divide to Bernard Peak, then north to Steamboat Rock on Pend Oreille Lake, then west along the lake shore to the south boundary of Farragut State Park, then west along the boundary to State Highway 54 at the west entrance of Farragut State Park, then west on State Highway 54 to U.S. 95, then south on U.S. 95 to Coeur d'Alene Lake, then southeast along the eastern shore line of Coeur d'Alene and Round Lakes to Mission Point, the point of beginning. ( )

**04. Unit 4.** Those portions of BONNER, KOOTENAI, and SHOSHONE COUNTIES within the following boundary: beginning on the Idaho-Montana State line at the watershed divide between Pend Oreille Lake and the Coeur d'Alene River, then southeast along the state line to the watershed divide between the Coeur d'Alene and St. Joe Rivers, then west along the divide to State Highway 3, then northeast on State Highway 3 to Interstate 90,

then east on Interstate 90 to Kingston, then north on Forest Highway 9 (North Fork of the Coeur d'Alene River Road) to Forest Service Road 209 (Little North Fork of the Coeur d'Alene River Road), then northwest along Forest Service Road 209 then north along Forest Road 385 to the watershed divide between the Coeur d'Alene River and Pend Oreille Lake, then northeast along the divide to the point of beginning. ( )

**05. Unit 4A.** Those portions of BONNER and KOOTENAI COUNTIES within the following boundary: beginning on the Idaho-Montana State line at the watershed divide between Pend Oreille Lake and the Coeur d'Alene River, then southwest along the divide to Bernard Peak, then north to Steamboat Rock on Pend Oreille Lake, then northwest along the western shoreline of Pend Oreille Lake to the railroad trestle approximately one (1) mile south of Sandpoint, then north on the railroad trestle to Sandpoint, then east along the north banks of Pend Oreille Lake and the Clark Fork River to the Idaho-Montana State line, then south on the state line to the point of beginning. ( )

**06. Unit 5.** Those portions of BENEWAH and KOOTENAI COUNTIES within the following boundary: beginning at the intersection of the Idaho-Washington State line and the Spokane River, then east along the southern bank of the Spokane River to U.S. 95 at Coeur d'Alene Lake, then southeast along the eastern shore line of Coeur d'Alene and Round Lakes to Mission Point, then upstream along the northern bank of the St. Joe River to the mouth of St. Maries River, then upstream along the St. Maries River to the intersection of the St. Maries River and State Highway 3 near Washburn, then south on State Highway 3 to the intersection of State Highway 6, then west on State Highway 6 to the watershed divide between the St. Maries and Palouse Rivers, then northwest along the divide to West Dennis Peak, then west along the watershed divide between Hangman Creek and Palouse River to the Idaho-Washington State line, then north along the state line to the Spokane River, the point of beginning. ( )

**601. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 6-10A.**

**01. Unit 6.** Those portions of KOOTENAI, SHOSHONE, BENEWAH, CLEARWATER, and LATAH COUNTIES within the following boundary: beginning at St. Maries, then downstream along the northern bank of the St. Joe River to Mission Point on State Highway 3, then north on State Highway 3 to the watershed divide between the St. Joe and Coeur d'Alene Rivers, then east along the divide to the Moon Pass Road, then south on Moon Pass Road to Avery, then west on the St. Joe River Road to the Fishhook Creek Road (Forest Service Road 301), then south on Fishhook Creek Road to Breezy Saddle, then southwest on Forest Service Road 301 to White Rock Springs, then south along the watershed divide between the St. Maries River and Little North Fork of the Clearwater River over Stony Butte to Hemlock Butte, then northwest along the St. Maries River-Potlatch River watershed divide across Bald Mountain to State Highway 6, then northeast on State Highway 6 to the intersection of State Highway 3, then north on State Highway 3 to the St. Maries River, then downstream to St. Maries, the point of beginning. ( )

**02. Unit 7.** That portion of SHOSHONE COUNTY within the following boundary: beginning on the Idaho-Montana State line at the watershed divide between the St. Joe and Coeur d'Alene Rivers, then west along the divide to the Moon Pass Road, then south on Moon Pass Road to Avery, then west on the St. Joe River Road to the Fishhook Creek Road (Forest Service Road 301), then south on the Fishhook Creek Road to Forest Service Road 201, then east on Forest Service Road 201 to Bluff Creek Saddle (Dismal Saddle), then southeast past Dismal Lake and Bathub Springs to the watershed divide between the St. Joe and North Fork of the Clearwater Rivers, then east along the divide to the Idaho-Montana State line, then north along the state line to the point of beginning. ( )

**03. Unit 8.** Those portions of LATAH, NEZ PERCE, and CLEARWATER COUNTIES within the following boundary: Beginning on the Idaho-Washington state line at the watershed divide between Hangman Creek and Palouse River, south along the divide to U.S. 95, then south along U.S. 95 to State Highway 6, then east along State Highway 6 to State Highway 9, then southeast along State Highway 9 to Deary, then south on State Highway 3 to Kendrick, then southeast along County Road P-1 through Southwick and Cavendish to the North Fork of the Clearwater River at Ahsahka, then downstream along the North Fork of the Clearwater River to its junction with the main Clearwater River, then down the main Clearwater River to the Idaho-Washington state line, then north to the point of beginning. ( )

**04. Unit 8A.** Those portions of BENEWAH, LATAH, CLEARWATER, and NEZ PERCE COUNTIES within the following boundary: Beginning at Ahsahka on County Road P-1, then northwest along County Road P-1 through Southwick and Cavendish to State Highway 3, then northeast along State Highway 3 to Deary, then northwest along State Highway 9 to State Highway 6, then west along State Highway 6 to U.S. 95, then north along



U.S. 95 to the watershed divide between Hangman Creek and Palouse River, then southeast along the divide to West Dennis Mountain, then southeast along the St. Maries watershed divide to Hemlock Butte, then south on Elk Creek Road (Forest Service Road 382.4) to Elk River, then south on the Dent Bridge-Elk River Road to the south shoreline of Dworshak Reservoir, then along the southern shoreline to Dworshak Dam, then downstream to the main Clearwater River, then downstream along the North Fork of the Clearwater River (including islands) to Ahsahka, the point of beginning. ( )

**05. Unit 9.** Those portions of SHOSHONE and CLEARWATER COUNTIES within the following boundary: beginning at Getaway Point, then due south to the Little North Fork of the Clearwater River, then upstream to the watershed divide between Bear and Devils Club Creeks, then east along the divide to Larkins Peak, then northeast along the watershed divide between the Little North Fork of the Clearwater River and the North Fork of the Clearwater River to the Surveyors Ridge-Bathtub Springs Road (Forest Service Road 201), then northwest on Surveyors Ridge-Bathtub Springs Road past Bathtub Springs and Bluff Creek Saddle (Dismal Saddle), to the Fishhook Creek Road (Forest Service Road 301), then south on Fishhook Creek Road to Breezy Saddle, then southwest on Fishhook Creek Road to the Goat Mountain-Getaway Point Road, then southeast on the Goat Mountain-Getaway Point Road to Getaway Point, the point of beginning. ( )

**06. Unit 10.** Those portions of SHOSHONE, CLEARWATER, and IDAHO COUNTIES within the following boundary: beginning at the confluence of the Little North Fork and the North Fork of the Clearwater Rivers at the upstream end of Dworshak Reservoir, then up the east bank of the reservoir and the Little North Fork of the Clearwater River to the watershed divide between Bear and Devils Club Creeks, then east along the divide to the watershed divide between the Little North Fork and the North Fork of the Clearwater Rivers, then east along the divide to the watershed divide between the North Fork of the Clearwater and the St. Joe Rivers, then east along the divide to the Idaho-Montana State line, then south along the state line to the divide between the North Fork of the Clearwater and the Lochsa Rivers, then west along the divide over Williams Peak to its intersection with the Lolo Motor Way (Forest Service Road 500), then west on Lolo Motor Way to its intersection with the Hemlock Butte Road (Forest Service Road 104), then northwest on Hemlock Butte Road to Hemlock Butte and the watershed divide between Weitas and Orogrande Creeks, then north along the divide to Cabin Point then northwest along Forest Service Trail 17 to the North Fork Clearwater River then downstream along the North Fork of the Clearwater River and the north bank of Dworshak Reservoir to the mouth of the Little North Fork of the Clearwater River, the point of beginning. ( )

**07. Unit 10A.** Those portions of SHOSHONE, IDAHO and CLEARWATER COUNTIES within the following boundary: beginning at the mouth of the North Fork of the Clearwater River, upstream to Dworshak Dam, then up Dworshak Reservoir along the southern shoreline to Dent Bridge, then north on the Elk River Road to Elk River, then north on the Elk Creek Road (Forest Service Road 382) to Hemlock Butte, then north along the watershed divide between the St. Maries and Little North Fork of the Clearwater Rivers over Stony Butte to White Rock Springs, then east on the Gold Center-Roundtop Road (Forest Service Road 301) to the Goat Mountain-Getaway Point Road (Forest Service Roads 457 and 220), then south along Goat Mountain-Getaway Point Road to Getaway Point, then due south to the Little North Fork of the Clearwater River, then downstream to Dworshak Reservoir, then along the east bank of the reservoir to the North Fork of the Clearwater River, then east along the north bank of the reservoir and the North Fork of the Clearwater River, to Forest Service Trail 17, then south along Forest Service Trail 17 to Cabin Point and the watershed divide between Orogrande and Weitas Creeks, then south along the divide to Hemlock Butte and its intersection with Forest Service Road 104, then southeast on Forest Service Road 104 to Lolo Motor Way (Forest Service Road 500), then south along Lolo Motor Way to Smith Creek Road (Forest Service Road 101), then southwest along Smith Creek Road to the Middle Fork of the Clearwater River, then northwest along the Middle Fork of the Clearwater River to the mouth of the North Fork of the Clearwater River, the point of beginning. ( )

**602. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 11-15.**

**01. Unit 11.** Those portions of NEZ PERCE, LEWIS, and IDAHO COUNTIES within the following boundary: beginning at the mouth of the Clearwater River, upstream to U.S. 95 bridge near Spalding, then southeast on U.S. 95 to the Graves Creek Road at Cottonwood, then south on Graves Creek Road to the Salmon River, then downstream to the Snake River, then downstream to the mouth of the Clearwater River, the point of beginning. ( )

**02. Unit 11A.** Those portions of CLEARWATER, NEZ PERCE, LEWIS, and IDAHO COUNTIES within the following boundary: beginning on the Clearwater River at the U.S. 95 bridge near Spalding, upstream (excluding islands) to the South Fork of the Clearwater River, then up the South Fork to Harpster Bridge, then southwest on State Highway 13 to U.S. 95 at Grangeville, then northwest on U.S. 95 to Spalding, the point of beginning. ( )

**03. Unit 12.** Those portions of IDAHO and CLEARWATER COUNTIES within the following boundary: beginning at the junction of the Smith Creek Road (Forest Service Road 101) and the Middle Fork of the Clearwater River, then northeast on the Smith Creek Road to the Lolo Motor Way (Forest Service Road 500), then north along the Lolo Motor Way to the point where it leaves the watershed divide between the North Fork of the Clearwater and Lochsa Rivers at the heads of Papoose Creek and Cayuse Creek, then north along the divide over Williams Peak to the Idaho-Montana State line, then southeast along the state line to the watershed divide between the Lochsa and Selway Rivers, then west along the divide over Diablo Mountain, Elk Summit, McConnell Mountain and Fenn Mountain to the confluence of the Lochsa and Selway Rivers, then down the Middle Fork of the Clearwater River to the Smith Creek Road, the point of beginning. ( )

**04. Unit 13.** That portion of IDAHO COUNTY bounded by the Snake River on the west, the Salmon River on the east and north and the White Bird-Pittsburg Landing Road on the south. ( )

**05. Unit 14.** That portion of IDAHO COUNTY within the following boundary: beginning at Riggins on the Salmon River, then upstream to Wind River, then up Wind River to Anchor Creek, then up Anchor Creek to Anchor Meadows, then northeast along the old wagon road (Forest Service Trail 313) to the divide between the Salmon River and South Fork Clearwater River, then west on the divide to Square Mountain, then west on the Square Mountain-Gospel Hill Road (Forest Service Road 444) to the Grangeville-Salmon River Road (Forest Service Road 221), then north on Grangeville-Salmon River Road to State Highway 13 at Grangeville, then west on Highway 13 to U.S. 95, then northwest on U.S. 95 to Cottonwood, then south on the Graves Creek Road to the Salmon River, then upstream to Riggins, the point of beginning. ( )

**06. Unit 15.** That portion of IDAHO COUNTY within the following boundary: beginning at Grangeville on State Highway 13, then northeast on State Highway 13 to the South Fork of the Clearwater River, then downstream to the road that goes up Sally Ann Creek, then up the road to the town of Clearwater, then southeast along Forest Service Road 284 to Forest Service Road 464, then east along Forest Service Road 464 to the watershed divide between the South Fork Clearwater and Selway Rivers, then southeast along the divide over Forest Service Trail 835 to Anderson Butte, then south over Forest Service Trail 505 to Black Hawk Mountain and Soda Creek Point to the Montana Road (Forest Service Road 468), then west on Montana Road to the Red River Ranger Station-Mackay Bar Road (Forest Service Road 222.3), then southwest on Red River Ranger Station-Mackay Bar Road to Dixie Summit, then west along the watershed divide between the South Fork Clearwater and Salmon Rivers over the Crooked River-Big Creek Divide, Orogrande Summit and Square Mountain to the Moores Guard Station-Adams Ranger Station Road (Forest Service Road 444), then west on Moores Guard Station-Adams Ranger Station Road to the Grangeville-Salmon River Road (Forest Service Road 221), then north on Grangeville-Salmon River Road to Grangeville, the point of beginning. ( )

**603. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 16-20A.**

**01. Unit 16.** That portion of IDAHO COUNTY within the following boundary: beginning at the mouth of the Middle Fork of the Clearwater River, then upstream to the confluence of the Lochsa and Selway Rivers, then east along the watershed divide between the Lochsa and Selway Rivers to the watershed divide between Gedney and Three Links Creeks, then south along the divide to Big Fog Mountain, then along Forest Service Trail 343 to Big Fog Saddle, then south along the Fog Mountain Road (Forest Service Road 319) to the Selway River, then upstream to Meadow Creek, then up the Meadow Creek-Falls Point Road (Forest Service Road 443) to Forest Service Road 464, then west along Forest Service Road 464 to Forest Service Road 284, then along Forest Service Road 284 to the town of Clearwater, then west along the road down Sally Ann Creek to State Highway 13, then downstream on the South Fork of the Clearwater River to the Middle Fork of the Clearwater River, the point of beginning. ( )

**02. Unit 16A.** That portion of IDAHO COUNTY within the following boundary: beginning at the mouth of Meadow Creek on the Selway River, up the Selway River to Mink Creek, then up the divide between Mink Creek and the drainages of Coyote, Wolf, Jims, and Otter Creeks, over Wolf Point and Highline Ridge to the divide

between Meadow Creek and the Selway River, then southeast along the divide over Bilk Mountain and Elk Mountain to the Elk Mountain Road, then southwest on the Elk Mountain-Green Mountain-Montana Road to the watershed divide between the South Fork of the Clearwater River and the Selway River (near Mountain Meadows), then northeast along the divide over Soda Creek Point and around the head of Red River, then northwest along the divide over Black Hawk Mountain to Anderson Butte, then from Anderson Butte northwest on Forest Service Trail 835 to the Falls Point Road (Forest Service Road 443), then northeast on Falls Point Road to the mouth of Meadow Creek, the point of beginning. ( )

**03. Unit 17.** That portion of IDAHO COUNTY within the following boundary: beginning at the Fog Mountain Road (Forest Service Road 319) on the Selway River, then north along Fog Mountain Road to Big Fog Saddle, then north along Forest Service Trail 343 to Big Fog Mountain, then north along the watershed divide between Gedney and Three Links Creeks to the watershed divide between the Lochsa and Selway Rivers, then northeast along the divide over McConnell Mountain and Diablo Mountain to the Idaho-Montana State line, then south along the state line to the watershed divide between the Selway and Salmon Rivers, then west along the divide over Square Top, Waugh Mountain, Salmon Mountain, Burnt Knob and Three Prong Mountain to the Green Mountain-Elk Mountain Road, then north along Green Mountain-Elk Mountain Road to Elk Mountain, then along the watershed divide between the Selway River and Meadow Creek over Elk Mountain and Bilk Mountain to the head of Mink Creek, then down the divide between Mink Creek and the drainages of Otter, Jims, Wolf and Coyote Creeks over Highline Ridge and Wolf Point to the confluence of Three Links Creek with the Selway River, then down the Selway River to the Fog Mountain Road, the point of beginning. ( )

**04. Unit 18.** Those portions of IDAHO and ADAMS COUNTIES within the following boundary: beginning at Riggins, up the Little Salmon River to Rapid River, then up Rapid River to and including the Shingle Creek drainage to the Snake River divide, then south along the divide to Purgatory Saddle at the head of Granite Creek, then down Granite Creek to the Snake River, then downstream to Pittsburg Landing, then east on the Pittsburg Landing-White Bird Road to the Salmon River, then upstream to Riggins, the point of beginning. ( )

**05. Unit 19.** That portion of IDAHO COUNTY within the following boundary: beginning on the Salmon River at the mouth of Wind River, then up Wind River to Anchor Creek, then up Anchor Creek to Anchor Meadows, then northeast along the old wagon road (Forest Service Trail 313) to the divide between the Salmon River and South Fork Clearwater River, then east on the divide over Orogrande Summit and the Crooked River-Big Creek divide to Dixie Summit on the Red River Ranger Station-Dixie-Mackay Bar Road, then south on Red River Ranger Station-Dixie-Mackay Bar Road to Mackay Bar, then down the Salmon River to the mouth of Wind River, the point of beginning. ( )

**06. Unit 19A.** Those portions of IDAHO and VALLEY COUNTIES within the drainage of the south side of the Salmon River from the French Creek-Burgdorf-Summit Creek Road upstream to the South Fork of the Salmon River, the drainage of the west side of the South Fork of the Salmon River from its mouth upstream to and including the Bear Creek watershed, and the drainage of the Secesh River upstream from the mouth of Paradise Creek (including the Paradise Creek watershed), except those portions of the French Creek, Lake Creek and Summit Creek drainages west of the French Creek-Burgdorf-Summit Creek Road. ( )

**07. Unit 20.** That portion of IDAHO COUNTY within the following boundary: beginning at the mouth of the South Fork of the Salmon River, then north along the Mackay Bar-Red River Ranger Station Road (Forest Service Road 222.3) to the Montana Road, then east along Montana Road to the Green Mountain-Elk Mountain Road, then northeast along Green Mountain-Elk Mountain Road to the watershed divide between the Selway and Salmon Rivers around the head of Bargamin Creek, then southeast along the divide over Three Prong Mountain, Burnt Knob, Salmon Mountain and Waugh Mountain, then south down Waugh Ridge to the Salmon River, then downstream to the South Fork of the Salmon River, the point of beginning. ( )

**08. Unit 20A.** Those portions of IDAHO and VALLEY COUNTIES within the drainage of the south side of the Salmon River from the mouth of the South Fork of the Salmon River upstream to the mouth of the Middle Fork of the Salmon River; the drainage of the east side of the South Fork of the Salmon River from its mouth upstream to and including Hall Creek drainage, and the drainage of the west side of the Middle Fork of the Salmon River from its mouth upstream to but excluding the Big Creek drainage. ( )

**604. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 21-25.**

**01. Unit 21.** That portion of LEMHI COUNTY within the following boundary: beginning at the Idaho-Montana State line on U.S. 93, then west along the state line to the Idaho-Lemhi County line, then southwest along the Idaho-Lemhi County line to the Salmon River, then upstream to the town of North Fork, then north on U.S. 93 to the Idaho-Montana State line, the point of beginning. ( )

**02. Unit 21A.** That portion of LEMHI COUNTY within the drainage of the east side of the Salmon River downstream from and including the Carmen Creek drainage to the town of North Fork, and that portion of the North Fork of the Salmon River drainage east of U.S. 93 between the town of North Fork and the Idaho-Montana State line. ( )

**03. Unit 22.** Those portions of IDAHO, ADAMS, and WASHINGTON COUNTIES within the following boundary: beginning at the mouth of Granite Creek on the Snake River, then up Granite Creek to Purgatory Saddle located on the watershed divide between Rapid River and Snake River, then south along the divide to Lick Creek Lookout, then along the watershed divide between Boulder Creek and the Weiser River to the watershed divide between Mud Creek and the Weiser River, then south along the divide to U.S. 95, then southwest on U.S. 95 to Cambridge, then northwest on State Highway 71 to Brownlee Dam, then down the Snake River to Granite Creek, the point of beginning. ( )

**04. Unit 23.** Those portions of IDAHO, ADAMS, and VALLEY COUNTIES within the drainage of the south side of the Salmon River from its confluence with the Little Salmon River upstream to the French Creek-Burgdorf-Summit Creek Road; those portions of the French Creek, Lake Creek and Summit Creek drainages west of the French Creek-Burgdorf-Summit Creek Road; and within the Little Salmon River drainage, except that portion on the north side of Rapid River from the mouth upstream to and including Shingle Creek drainage. ( )

**05. Unit 24.** That portion of VALLEY COUNTY within the drainage of the North Fork of the Payette River, except that portion south of the Smiths Ferry Bridge-Packer John Road on the east side of the river and south of the Smith Ferry-High Valley Road on the west side of the river. ( )

**06. Unit 25.** That portion of VALLEY COUNTY within the drainage of the South Fork of the Salmon River south of the Hall Creek drainage on the east side of the river, and south of the Bear Creek drainage on the west side of the river, except that portion of the Secesh River drainage upstream from and including Paradise Creek drainage. ( )

**605. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 26-30A.**

**01. Unit 26.** Those portions of IDAHO and VALLEY COUNTIES within the drainage of Big Creek (tributary to the Middle Fork of the Salmon River). ( )

**02. Unit 27.** Those portions of LEMHI, VALLEY, and CUSTER COUNTIES within the drainage of the Middle Fork of the Salmon River as follows: the drainages on the east side of the Middle Fork Salmon River from its mouth upstream to Camas Creek; the drainages on the north side of Camas Creek from its mouth upstream to, but excluding, the Yellowjacket Creek drainage; the drainages on the south side of Camas Creek and south of the Camas Creek Trail (Forest Service Trail 134); the drainages on the east side of the Middle Fork Salmon River from Camas Creek upstream to, but excluding, the Marsh Creek drainage; and the drainages on the west side of the Middle Fork of the Salmon River upstream from, but excluding, the Big Creek drainage to, but excluding, the Sulphur Creek drainage. ( )

**03. Unit 28.** That portion of LEMHI COUNTY within the drainage of the Salmon River south and west of the river from the mouth of the Middle Fork of the Salmon River upstream to, but excluding, the Ellis Creek and Morgan Creek drainages to the Custer County line, and that portion of the north side of Camas Creek and north of the Camas Creek Trail (Forest Service Trail 134) upstream from and including the Yellowjacket Creek drainage. ( )

**04. Unit 29.** That portion of LEMHI COUNTY within the Lemhi River drainage south and west of State Highway 28 and that portion of the Salmon River drainage east of the Salmon River from the Salmon River bridge in the City of Salmon upstream to and including the Poison Creek drainage. ( )

**05. Unit 30.** That portion of LEMHI COUNTY within the Lemhi River drainage north and east of State Highway 28 and north and west of State Highway 29 and that portion of the Salmon River drainage east of the Salmon River from the U.S. 93 bridge in the City of Salmon downstream to, but excluding, the Carmen Creek drainage. ( )

**06. Unit 30A.** That portion of LEMHI COUNTY within the Lemhi River Drainage north and east of State Highway 28 and east of State Highway 29. ( )

**606. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 31-35.**

**01. Unit 31.** That portion of WASHINGTON COUNTY within the following boundary: beginning at Brownlee Dam on the Snake River, then southeast on State Highway 71 to U.S. 95, then southwest on U.S. 95 to the Snake River at Weiser, then down the Snake River to Brownlee Dam, the point of beginning. ( )

**02. Unit 32.** Those portions of ADA, ADAMS, BOISE, GEM, PAYETTE, VALLEY, and WASHINGTON COUNTIES within the following boundary: beginning at Banks, then down State Highway 55 to Floating Feather Road, then west on Floating Feather Road to State Highway 16, then north on State Highway 16 to State Highway 52, then north on State Highway 52 to the Payette River, then downstream (EXCLUDING PAYETTE RIVER ISLANDS) to the Snake River, then downstream to Weiser, then northeast on U.S. 95 to the Emmett-Council Road in Indian Valley, then south on Emmett-Council Road to the Sheep Creek Road, then east on the Sheep Creek Road to the Squaw Creek Road, then south on the Squaw Creek Road to Ola, then northeast on the Ola-Smiths Ferry Road to High Valley, then south on the High Valley-Dry Buck Road to Banks, the point of beginning. ( )

**03. Unit 32A.** Those portions of ADAMS, GEM, VALLEY, and WASHINGTON COUNTIES within the following boundary: beginning at U.S. 95 on the watershed divide between Weiser River and Mud Creek, then southeast along the watershed divide between Weiser River and Little Salmon River to No Business Lookout, then south along the watershed divide between Weiser River and North Fork Payette River to Lookout Peak, then south along the watershed divide between Squaw Creek and North Fork Payette River to the Smiths Ferry-Ola Road, then northeast on Smiths Ferry-Ola Road to Smiths Ferry, then down the North Fork to Banks, then northwest on the Banks-Dry Buck-High Valley Road to the Ola-High Valley Road, then west on Ola-High Valley Road to Ola, then north on the Squaw Creek Road to the Sheep Creek Road, then west on the Sheep Creek Road to the Emmett-Council Road, then north on Emmett-Council Road to U.S. 95 in Indian Valley, then north on U.S. 95 to the watershed divide between the Weiser River and Mud Creek, the point of beginning. ( )

**04. Unit 33.** Those portions of BOISE and VALLEY COUNTIES within the North Fork of the Payette River drainage east of the river and south of the Packer John Lookout Road, and the drainage of the Middle and South Forks of the Payette River, (except the drainage of the Deadwood River upstream from and including Nine Mile Creek on the west side, and No Man Creek on the east side), and that portion of the South Fork of the Payette River drainage downstream from and including the Lick Creek drainage on the north side of the South Fork of the Payette River and downstream from, but excluding, the Huckleberry Creek drainage on the south side of the South Fork of the Payette River. ( )

**05. Unit 34.** Those portions of BOISE and VALLEY COUNTIES within the Middle Fork of the Salmon River drainage on the west side of the river upstream from and including the Sulphur Creek drainage, the drainage of Bear Valley Creek and the drainage of Deadwood River upstream from and including the Nine Mile Creek drainage on the west side and the No Man Creek drainage on the east side. ( )

**06. Unit 35.** That portion of BOISE COUNTY within the South Fork of the Payette River drainage upstream from, but excluding, the Lick Creek drainage on the north side of the South Fork of the Payette River and upstream from, and including the Huckleberry Creek drainage on the south side of the South Fork of the Payette River. ( )

**607. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 36-40.**

**01. Unit 36.** Those portions of BLAINE and CUSTER COUNTIES within the Salmon River drainage upstream from and including the Yankee Fork on the north side of the river, and upstream from, and including the

Warm Springs, Treon, Cold, and Beaver Creek drainages on the south side of the Salmon River, and including the Marsh Creek drainage of the Middle Fork of the Salmon River. ( )

**02. Unit 36A.** That portion of CUSTER COUNTY within the Salmon River drainage south and west of U.S. 93 between Willow Creek Summit and the U.S. 93 bridge across the Salmon River south of the town of Challis, and all drainages on the southeast side of the Salmon River upstream from the U.S. 93 bridge to, but excluding, the Warm Springs, Treon, Cold, and Beaver Creek drainages. ( )

**03. Unit 36B.** That portion of CUSTER COUNTY within the Salmon River drainage on the north and west side of the Salmon River from and including the Ellis Creek drainage upstream to, but excluding, the Yankee Fork drainage. ( )

**04. Unit 37.** Those portions of CUSTER and LEMHI COUNTIES within the Salmon and Pahsimeroi River drainages east of the Salmon River, south and west of the Ellis-May-Howe Highway, and north and east of U.S. 93 between the U.S. 93 bridge across the Salmon River south of the town of Challis and Willow Creek Summit. ( )

**05. Unit 37A.** Those portions of CUSTER and LEMHI COUNTIES within the Salmon and Pahsimeroi River drainages east of the Salmon River upstream from, but excluding, the Poison Creek drainage and north and east of the Ellis-May-Howe Highway. ( )

**06. Unit 38.** Those portions of ADA, BOISE, CANYON, ELMORE, GEM, and PAYETTE COUNTIES within the following boundary: beginning at the confluence of the Payette and Snake Rivers, then up the Payette River (INCLUDING ISLANDS) to State Highway 52 near Emmett, then south on State Highway 52 to State Highway 16, then south on State Highway 16 to Floating Feather Road, then east on Floating Feather Road to State Highway 55, then south on State Highway 55 to State Highway 44, then east on State Highway 44 to Boise, then south on Interstate 84 to Mountain Home, then south on State Highway 51 to the Snake River, then downstream (INCLUDING ISLANDS) to the Idaho-Oregon State line, then north on the state line to the Payette River, the point of beginning. ( )

**07. Unit 39.** Those portions of ADA, BOISE, and ELMORE COUNTIES within the following boundary: beginning at the City of Boise, then southeast on Interstate 84 to Mountain Home, then northeast on the Mountain Home-Anderson Ranch Dam Road to Anderson Ranch Dam, then up the South Fork of the Boise River to Fall Creek (center of Anderson Ranch Reservoir), then up Fall Creek to the Anderson Ranch Reservoir-Fall Creek-Trinity Mountain-Rocky Bar-James Creek Road, then north on Anderson Ranch Reservoir-Fall Creek-Trinity Mountain-Rocky Bar-James Creek Road to James Creek Summit, then east along the watershed divide between the South and Middle Forks of the Boise River to the intersection of the Camas, Blaine and Elmore County lines, then north along the watershed divide between the Boise and Salmon Rivers to the watershed divide between the Boise and South Fork of the Payette Rivers, then west along the divide to Hawley Mountain, then northwest along the divide between the Payette River and the South Fork Payette River to Banks, then south on State Highway 55 to State Highway 44, then east on State Highway 44 to Boise, the point of beginning. ( )

**08. Unit 40.** That portion of OWYHEE COUNTY within the following boundary: beginning on the Snake River at the Idaho-Oregon State line, upstream to Grandview, then southeast on State Highway 78 to the Poison Creek Road, then southwest on the Poison Creek-Mud Flat-Deep Creek-Cliffs Road to the North Fork of the Owyhee River, then downstream to the Idaho-Oregon State line, then north to the Snake River, the point of beginning. ( )

**608. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 41-45.**

**01. Unit 41.** That portion of OWYHEE COUNTY within the following boundary: beginning at Grandview on the Snake River, then southeast on State Highway 78 to the Poison Creek Road, then southwest on the Poison Creek-Mud Flat Road to Poison Creek Summit, then southeast along the watershed divide between the drainages of Poison, Shoofly and Jacks Creeks, and the drainage of Battle Creek to the El Paso Natural Gas Pipeline, then south along the pipeline to the Idaho-Nevada State line, then east to the Rogerson-Three Creek-Jarbidge Road, then north on Rogerson-Three Creek-Jarbidge Road to the Jarbidge River, then downstream to the West Fork of the Bruneau River, then downstream to the Bruneau River, then downstream to State Highway 51, then north on State

Highway 51 to the Snake River, then downstream (EXCLUDING ISLANDS) to Grandview, the point of beginning. ( )

**02. Unit 42.** That portion of OWYHEE COUNTY within the following boundary: beginning on the North Fork of the Owyhee River at the Idaho-Oregon State line, south along the state line to the Idaho-Nevada State line, then east along the state line to the El Paso Natural Gas Pipeline, then north along the pipeline to the watershed divide between Battle and Jacks Creeks, then northwest along the divide and the divide between Battle, Shoofly, and Poison Creeks to the Poison Creek-Mud Flat Road, then west on Poison Creek-Mud Flat Road to the North Fork of the Owyhee River crossing, then downstream to the state line, the point of beginning. ( )

**03. Unit 43.** Those portions of CAMAS and ELMORE COUNTIES within the following boundary: beginning at the confluence of the South Fork of the Boise River and Fall Creek (center of Anderson Ranch Reservoir), then up Fall Creek to the Anderson Ranch Reservoir-Fall Creek-Trinity Mountain-Rocky Bar-James Creek Road, then north on Anderson Ranch Reservoir-Fall Creek-Trinity Mountain-Rocky Bar-James Creek Road to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection with the Elmore-Camas County line, then north along the Elmore-Camas County line to the junction with the Camas-Blaine County line, then southeast along the Camas-Blaine County line to the Dollarhide Summit-Carrie Creek-Little Smoky Creek Road (Forest Service Road 227), then southwest on Dollarhide Summit-Carrie Creek-Little Smoky Creek Road to the Five Points Creek-Couch Summit Road (Forest Service Road 094), then south on Five Points Creek-Couch Summit Road to Couch Summit, then west along the South Fork of the Boise River-Camas Creek watershed divide to Iron Mountain, then southwest on the Forest Service trail to and down the Middle Fork of Lime Creek to Lime Creek (Forest Service Trails 050 and 049), then downstream to the South Fork of the Boise River (middle of Anderson Ranch Reservoir) to the confluence of Fall Creek, the point of beginning. ( )

**04. Unit 44.** Those portions of BLAINE, CAMAS, and ELMORE COUNTIES within the following boundary: beginning at the junction of the Camp Creek-Croy Creek Road and U.S. 20, then west on U.S. 20 to the Anderson Ranch Dam Road, then north on the Anderson Ranch Dam Road to Anderson Ranch Dam, then up the South Fork of the Boise River (middle of Anderson Ranch Reservoir) to Lime Creek, then upstream along Lime Creek to the Middle Fork of Lime Creek, then northeast on the Middle Fork Lime Creek Forest Service trail to Iron Mountain (Forest Service Trails 049 and 050), then east along the South Fork Boise River-Camas Creek watershed divide to Couch Summit, then north on the Five Points Creek Road (Forest Service Road 094), to the Little Smoky Creek-Carrie Creek-Dollarhide Summit Road (Forest Service Road 227), then northeast on Little Smoky Creek-Carrie Creek-Dollarhide Summit Road to Dollarhide Summit, then southeast along the Little Smoky Creek-Big Wood River-Camas Creek watershed divide to Kelly Mountain, then south down Kelly Gulch Creek to the Camp Creek-Croy Creek Road, then southwest on Camp Creek-Croy Creek Road to U.S. 20, the point of beginning. ( )

**05. Unit 45.** Those portions of CAMAS, ELMORE, and GOODING COUNTIES within the following boundary: beginning at the junction of U.S. 20 and the Anderson Ranch Dam Road, then east on U.S. 20 to State Highway 46, then south on State Highway 46 to Gooding, then west on U.S. 26 to Bliss, then south on U.S. 30 to the Malad River, then downstream to the Snake River, then downstream (EXCLUDING ALL ISLANDS) to State Highway 51, then north on State Highway 51 to Mountain Home, then northeast on U.S. 20 to Anderson Ranch Dam Road, the point of beginning. ( )

**609. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 46-50.**

**01. Unit 46.** Those portions of ELMORE, OWYHEE, and TWIN FALLS COUNTIES within the following boundary: beginning at the State Highway 51 bridge on the Snake River, then upstream (INCLUDING ALL ISLANDS) to the Gridley Bridge across the Snake River near Hagerman, then southeast on U.S. 30 to U.S. 93, then south on U.S. 93 to Rogerson, then southwest on the Rogerson-Three Creek-Jarbidge Road to the Jarbidge River, then downstream to the West Fork of the Bruneau River, then downstream to the Bruneau River, then downstream to State Highway 51, then north on State Highway 51 to the Snake River, the point of beginning. ( )

**02. Unit 47.** Those portions of OWYHEE and TWIN FALLS COUNTIES within the following boundary: beginning at Rogerson on U.S. 93, then southwest on the Rogerson-Three Creek-Jarbidge Road to the Idaho-Nevada State line, then east along the state line to U.S. 93, then north on U.S. 93 to Rogerson, the point of beginning. ( )

**03. Unit 48.** That portion of BLAINE COUNTY within the following boundary: beginning at Ketchum, then south on State Highway 75 to U.S. 20, then west on U.S. 20 to the Camp Creek-Croy Creek Road, then northeast on Camp Creek-Croy Creek Road to Kelly Gulch Creek, then up Kelly Gulch Creek to the Big Wood River-Camas Creek-South Fork of the Boise River watershed divide, then north, east, and south around the headwaters of the Big Wood River to the Trail Creek Road, then southwest on Trail Creek Road to Ketchum, the point of beginning. ( )

**04. Unit 49.** That portion of BLAINE COUNTY with the following boundary: beginning at Ketchum, then south on State Highway 75 to U.S. 20, then east on U.S. 20 to Lava Lake, then up Copper Creek to the watershed divide between the Little Wood and Big Lost Rivers, then along the divide to the watershed divide between the Big Wood and Big Lost Rivers, then along the divide to the Trail Creek Road, then southwest on Trail Creek Road to Ketchum, the point of beginning. ( )

**05. Unit 50.** Those portions of BLAINE, BUTTE, and CUSTER COUNTIES within the Big Lost River drainage north of U.S. 20-26 and State Highway 33, and the area east of Lava Lake and Copper Creek and north of U.S. 20-26. ( )

**610. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 51-55.**

**01. Unit 51.** Those portions of BUTTE, CUSTER, and LEMHI COUNTIES within the Little Lost River drainage north and west of State Highway 33. ( )

**02. Unit 52.** Those portions of BLAINE, CAMAS, GOODING, AND LINCOLN COUNTIES within the following boundary: beginning at Gooding, then north on State Highway 46 to U.S. 20, then east on U.S. 20 to Carey, then southwest on U.S. 93 to Shoshone, then west on U.S. 26 to Gooding, the point of beginning. ( )

**03. Unit 52A.** Those portions of BLAINE, BUTTE, LINCOLN, and MINIDOKA COUNTIES within the following boundary: beginning at Shoshone, then north and east on U.S. 93 to the Arco-Minidoka Road (approximately two (2) miles SW of Arco), then south on the Arco-Minidoka Road to the East Minidoka Road (approximately two (2) miles east of Minidoka), then northwest on the East Minidoka Road to Minidoka, then northwest on State Highway 24 to Shoshone, the point of beginning. ( )

**04. Unit 53.** Those portions of BLAINE, CASSIA, GOODING, JEROME, LINCOLN, MINIDOKA, POWER, and TWIN FALLS COUNTIES within the following boundary: beginning at Twin Falls, then west and north on U.S. 30 to the Snake River, then down the Snake River to the Malad River, then up the Malad River to U.S. 30, then northwest on U.S. 30 to Bliss, then east on U.S. 26 to Shoshone, then southeast on State Highway 24 to Minidoka, then east on the East Minidoka Road approximately one (1) mile to the Minidoka-Blaine County line, then south along the Minidoka-Blaine County line to the Minidoka National Wildlife Refuge, then southeast along the refuge boundary to the Cassia-Power County line, then south along the Cassia-Power County line to Interstate 86 near Raft River, then west on Interstate 86 to Yale Road, then southwest on Yale Road over Interstate 84 to State Highway 81, then west on State Highway 81 to Burley, then west on U.S. 30 to Twin Falls, the point of beginning. ( )

**05. Unit 54.** Those portions of CASSIA and TWIN FALLS COUNTIES within the following boundary: beginning at Burley, then west on U.S. 30 to U.S. 93 west of Twin Falls, then south on U.S. 93 to the Idaho-Nevada State line, then east along the state line to the Oakley-Goose Creek Road, then north on Oakley-Goose Creek Road to Oakley, then north on State Highway 27 to Burley, the point of beginning. ( )

**06. Unit 55.** That portion of CASSIA COUNTY within the following boundary: beginning at Burley, then south on State Highway 27 to Oakley, then south on the Oakley-Goose Creek Road to the Idaho-Utah State line, then east on the state line to the Strevell-Malta Road, then north on Strevell-Malta Road to Malta and State Highway 81, then northwest on State Highway 81 to Burley, the point of beginning. ( )

**611. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 56-60A.**

**01. Unit 56.** Those portions of CASSIA, ONEIDA, and POWER COUNTIES within the following



boundary: beginning at the Yale Road-State Highway 81 junction, then northeast on Yale Road over Interstate 84 to Interstate 86, then east on Interstate 86 to State Highway 37, then south on State Highway 37 to Holbrook, then south on the Holbrook-Stone Road to the Idaho-Utah State line, then west on the state line to Interstate 84, then northwest on Interstate 84 to the Malta-Sublett Road, then west on Malta-Sublett Road to its junction with State Highway 81, then north on State Highway 81 to the point of beginning. ( )

**02. Unit 57.** Those portions of CASSIA and ONEIDA COUNTIES within the following boundary: beginning at Malta, then east on the Malta-Sublett Road to Interstate 84, then southeast on Interstate 84 to the Idaho-Utah State line, then west on the state line to the Malta-Strevell Road, then northwest on Malta-Strevell Road to Malta, the point of beginning. ( )

**03. Unit 58.** Those portions of BUTTE, CLARK, JEFFERSON, and LEMHI COUNTIES within the Birch Creek drainage northwest of State Highway 22. ( )

**04. Unit 59.** That portion of CLARK COUNTY within the following boundary: beginning at Dubois, then north on Interstate 15 to the Idaho-Montana State line, then west along the state line to Bannock Pass (Clark County), then south on Medicine Lodge Road to State Highway 22, then east on State Highway 22 to Dubois, the point of beginning. ( )

**05. Unit 59A.** Those portions of CLARK, JEFFERSON, and LEMHI COUNTIES within the following boundary: beginning at Bannock Pass (Clark County) on the Idaho-Montana State line, then west along the state line to the watershed divide between Birch and Crooked Creeks, then south along the divide through Reno Point to State Highway 22, then east on State Highway 22 to Medicine Lodge Road, then north on Medicine Lodge Road to Bannock Pass, the point of beginning. ( )

**06. Unit 60.** Those portions of CLARK and FREMONT COUNTIES within the following boundary: beginning at Ashton, then north on U.S. 191-20 to the old (south) Shotgun Valley Road, then west on Shotgun Valley Road to Idmon, then south on the Rexburg-Kilgore Road (Red Road) to the Camas Creek-Jackson Mill Springs Road, then east on Camas Creek-Jackson Mill Springs Road to the Hamilton Hill Road, then southeast on the Hamilton Hill Road to the Sand Creek Road, then southeast on the Sand Creek Road to the old Yellowstone Highway, then east on old Yellowstone Highway to U.S. 191-20, then north on U.S. 191-20 to Ashton, the point of beginning. ( )

**07. Unit 60A.** Those portions of CLARK, FREMONT, JEFFERSON, and MADISON COUNTIES within the following boundary: beginning at Spencer, east on the Spencer-Kilgore Road to Idmon, then south on the Rexburg-Kilgore Road (Red Road) to the Camas Creek-Jackson Mill Springs Road, then east on Camas Creek-Jackson Mill Springs Road to the Hamilton Hill Road, then southeast on the Hamilton Hill Road to the Sand Creek Road, then south on the Sand Creek Road to the old Yellowstone Highway, then south on old Yellowstone Highway to U.S. 191-20, then south on U.S. 191-20 to Rexburg, then west on State Highway 33 to Sage Junction, then north on Interstate 15 to Spencer, the point of beginning. ( )

**612. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 61-65.**

**01. Unit 61.** Those portions of CLARK and FREMONT COUNTIES within the following boundary: beginning at Spencer, east on the Spencer-Kilgore Road to Idman, then east on the old (south) Shotgun Valley Road to U.S. 191, then south on U.S. 191 to State Highway 47, then southeast on State Highway 47 to the North Hatchery Butte Road, then east on North Hatchery Butte Road to Pineview, then north on the Pineview-Island Park Road to the Baker Draw-Black Mountain Springs Road, then east on Baker Draw-Black Mountain Springs Road to Fish Creek Road, then south on Fish Creek Road to the North Fork of Partridge Creek, then upstream to the Yellowstone Park boundary, then north along the Yellowstone Park boundary to the Idaho-Montana State line, then west to Monida Pass, then south on Interstate 15 to Spencer, the point of beginning. ( )

**02. Unit 62.** Those portions of FREMONT, MADISON, and TETON COUNTIES within the following boundary: beginning at the Leigh Creek Road on the Idaho-Wyoming State line, north along the state line to the Yellowstone Park boundary, then northwest along the Yellowstone Park boundary to Robinson Creek, then downstream to State Highway 47, then southwest on State Highway 47 to Ashton, then south on U.S. 191 to State Highway 33, then east on State Highway 33 to Leigh Creek Road east of Tetonia, then east on Leigh Creek Road to the state line, the point of beginning. ( )

**03. Unit 62A.** That portion of FREMONT COUNTY within the following boundary: beginning at Ashton, then north on U.S. 191 to State Highway 47, then south on State Highway 47 to the North Hatchery Butte Road, then east on North Hatchery Butte Road to Pineview, then north on the Pineview-Island Park Road to the Baker Draw-Black Mountain Springs Road, then east on Baker Draw-Black Mountain Springs Road to Fish Creek Road, then south on Fish Creek Road to the North Fork of Partridge Creek, then upstream to the Yellowstone Park boundary, then south along the park boundary to Robinson Creek, then downstream to State Highway 47, then southwest on State Highway 47 to Ashton, the point of beginning. ( )

**04. Unit 63.** Those portions of BINGHAM, BONNEVILLE, BUTTE, CLARK, and JEFFERSON COUNTIES within the following boundary: beginning at Blackfoot then north on Interstate 15 to Dubois, then southwest on State Highway 22 to U.S. 20-26, then southeast on U.S. 26 to Interstate 15 at Blackfoot, the point of beginning. ( )

**05. Unit 63A.** Those portions of BONNEVILLE, JEFFERSON, and MADISON COUNTIES within the following boundary: beginning at Idaho Falls, then east on U.S. 26 to the spot directly above the Heise measuring cable (about 1.5 miles upstream from Heise Hot Springs), then north across the South Fork of the Snake River to the Heise-Archer-Lyman Road (Snake River Road), then northwest on Heise-Archer-Lyman Road to U.S. 191, then north on U.S. 191 to Rexburg, then west on State Highway 33 to Interstate 15 (Sage Junction), then south on Interstate 15 to Idaho Falls, then east on Broadway Street to U.S. 26, the point of beginning. ( )

**06. Unit 64.** Those portions of BONNEVILLE, JEFFERSON, MADISON, and TETON COUNTIES within the following boundary: beginning at the junction of State Highway 33 and U.S. 191 at Sugar City, then south on U.S. 191 to the Lyman-Archer-Heise Road (Snake River Road), then southeast on Lyman-Archer-Heise Road to the Kelly Canyon-Tablerock Road, then east on Kelly Canyon-Tablerock Road to the Hawley Gulch Road (Forest Service Road 218), then east on Hawley Gulch Road to the Moody Swamp Road (Forest Service Road 226), then northeast on Moody Swamp Road to the head of Hilton Creek, then east along the watershed divide between Big Burns and Canyon Creeks to Garns Mountain, then north along the watershed divide between Canyon Creek and Teton River to Grandview Point, then north down the Milk Creek Road to State Highway 33, then west on State Highway 33 to U.S. 191, the point of beginning. ( )

**07. Unit 65.** Those portions of BONNEVILLE, MADISON, and TETON COUNTIES within the following boundary: beginning on the Leigh Creek Road at the Idaho-Wyoming State line east of Tetonia, west to State Highway 33, then west on State Highway 33 to Milk Creek Road, then south on Milk Creek Road to Grandview Point, then south along the watershed divide between Canyon Creek and Teton River to Garns Mountain, then southeast along the watershed divide between Pine Creek and Teton River over Red Mountain to Pine Creek Pass, then east on State Highway 31 to Victor, then southeast on State Highway 33 to the state line, then north to the Leigh Creek Road, the point of beginning. ( )

**613. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 66-70.**

**01. Unit 66.** Those portions of BINGHAM and BONNEVILLE COUNTIES within the following boundary: beginning at the Idaho-Wyoming State line on the South Fork of the Snake River, then downstream to the Swan Valley bridge on U.S. 26, then northwest on U.S. 26 to the watershed divide between Granite and Garden Creeks, then southwest along the divide and the divides between Garden-Antelope Creeks, Antelope-Pritchard Creeks and Fall-Tex Creeks to the Fall Creek Road (Forest Service Road 077), then west on Fall Creek Road to Skyline Ridge Road (Forest Service Road 077), then south on Skyline Ridge Road to Brockman Guard Station, then down Brockman Creek to Grays Lake Outlet, then upstream along the outlet to the Bone-Grays Lake Road, then east on Bone-Grays Lake Road through Herman to the McCoy Creek Road (Forest Service Road 087), then east on the McCoy Creek Road to the Idaho-Wyoming State line, then north to the point of beginning. ( )

**02. Unit 66A.** Those portions of BONNEVILLE and CARIBOU COUNTIES within the following boundary: beginning on the McCoy Creek Road (Forest Service Road 087) at the Idaho-Wyoming State line, west on McCoy Creek Road through Herman to the Bone-Grays Lake Road, then west on the Bone-Grays Lake Road to the West Side Road west of Grays Lake, then south on the West Side Road to State Highway 34, then east on State Highway 34 to the state line, then north along the state line to the point of beginning. ( )

**03. Unit 67.** Those portions of BONNEVILLE, JEFFERSON, MADISON, and TETON COUNTIES within the following boundary: beginning on State Highway 33 at the Idaho-Wyoming State line, then northwest to Victor, then southwest on State Highway 31 to Pine Creek Pass, then northwest along the watershed divide between Pine Creek and Teton River over Red Mountain to Garns Mountain, then west along the watershed divide between Big Burns and Canyon Creeks to the Moody Swamp Road (Forest Service Road 226) at Hilton Creek, then west on Moody Swamp Road to the Hawley Gulch Road (Forest Service Road 218), then west on Hawley Gulch Road and the Kelly Canyon Road to the South Fork Snake River Road, then upstream to the Heise measuring cable (about 1.5 miles upstream from Heise Hot Springs), then due south across the river to the mean high water line on the south shore of the South Fork Snake River, then upstream along the mean high water line to the divide between Garden and Granite Creeks in Conant Valley, then south up the divide to U.S. 26, then southeast on U.S. 26 to the Swan Valley bridge, then up the South Fork Snake River to the Idaho-Wyoming State line, then north on the state line to State Highway 33, the point of beginning. ( )

**04. Unit 68.** Those portions of BINGHAM, BLAINE, BUTTE, CASSIA, MINIDOKA, and POWER COUNTIES within the following boundary: beginning at Arco, then southeast on U.S. 26 to Blackfoot, then southwest on State Highway 39 to American Falls, then southwest on Interstate 86 to the Cassia-Power County line east of Raft River, then north along the Cassia-Power county line to the north bank of the Snake River, then northwest along the northern boundary of the Minidoka National Wildlife Refuge to the Minidoka-Blaine County line, then north along the Minidoka-Blaine County line to the East Minidoka Road, then east on the East Minidoka Road approximately one (1) mile to the Arco-Minidoka Road, then north on the Minidoka-Arco Road to U.S. 93 approximately two (2) miles southwest of Arco, then northeast approximately two (2) miles on U.S. 93 to Arco, the point of beginning. ( )

**05. Unit 68A.** Those portions of BANNOCK, BINGHAM, BONNEVILLE, and POWER COUNTIES within the following boundary: beginning at American Falls, then northeast on State Highway 39 to U.S. 26 near Blackfoot, then east on U.S. 26 to Interstate 15, then north on Interstate 15 to Idaho Falls, then east on Broadway Street to U.S. 91 (Old Yellowstone Highway), then south on U.S. 91 to Interstate 15, then south on Interstate 15 to Interstate 86, then southwest on Interstate 86 to American Falls, the point of beginning. ( )

**06. Unit 69.** Those portions of BINGHAM, BONNEVILLE, and CARIBOU COUNTIES within the following boundary: beginning at Idaho Falls, then south on U.S. 91 to Blackfoot, then south on Interstate 15 to the Fort Hall interchange, then east on the Fort Hall-Government Dam Road to the Blackfoot River below the Government Dam, then along the north and east shore of the Blackfoot River and Reservoir to State Highway 34, then north on State Highway 34 to the West Side Road, then north on the West Side Road west of Grays Lake to the Bone-Grays Lake Road, then east on the Bone-Grays Lake Road to Grays Lake Outlet, then downstream along the outlet to Brockman Creek, then up Brockman Creek to the Brockman Guard Station, then northwest on the Skyline Ridge Road (Forest Service Road 077) to Fall Creek Road (Forest Service Road 077), then east on the Fall Creek Road to the watershed divide between Fall and Tex Creeks, then north along the Fall Creek-Tex Creek, Antelope Creek-Pritchard Creek, Antelope Creek-Garden Creek and Garden Creek-Granite Creek watershed divides to the South Fork of the Snake River, then downstream along the mean high water line on the south shore of the South Fork to the Heise measuring cable (about 1.5 miles upstream from Heise Hot Springs), then southwest to U.S. 26, then west on U.S. 26 to Idaho Falls, the point of beginning. ( )

**07. Unit 70.** Those portions of BANNOCK and POWER COUNTIES within the following boundary: beginning at the junction of Interstate 86 and Interstate 15 near Pocatello, then west on Interstate 86 to the Bannock Creek-Arbon Valley Highway, then south along Bannock Creek-Arbon Valley Highway to Mink Creek-Arbon Valley junction near Pauline, then northeast along Mink Creek Road to the Rattlesnake Creek Road, then east along the Rattlesnake Creek-Garden Gap-Arimo Road, then southeast on Rattlesnake Creek-Garden Gap-Arimo Road to Arimo, then north on Interstate 15 to the point of beginning. ( )

**614. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 71-75.**

**01. Unit 71.** Those portions of BANNOCK, BINGHAM, and CARIBOU COUNTIES within the following boundary: beginning at Bancroft, then north on the Bancroft-Chesterfield Road to Chesterfield Dam, then upstream on the Portneuf River to the Government Dam-Fort Hall Road, then west to Fort Hall interchange, then south on Interstate 15 to U.S. 30, then east to the Pebble-Bancroft county road (old U.S. 30N), then northeast to Bancroft, the point of beginning. ( )

**02. Unit 72.** Those portions of BINGHAM and CARIBOU COUNTIES within the following boundary: beginning at State Highway 34 on the Blackfoot River, then west along the east and north shore of the Blackfoot River and Reservoir to the Government Dam Road, then west on the Government Dam-Fort Hall Road to the Portneuf River, then downstream to Chesterfield Dam, then south on the Chesterfield-Bancroft Road to Bancroft, then east on the Pebble-Bancroft county road (old U.S. 30N) to U.S. 30N-State Highway 34, then northeast on State Highway 34 to the point of beginning. ( )

**03. Unit 73.** Those portions of BANNOCK, FRANKLIN, POWER, and ONEIDA COUNTIES within the following boundary: beginning on U.S. 91 at the Idaho-Utah State line, then north to Arimo, then northwest on the Arimo-Garden Gap-Rattlesnake Road to the Mink Creek Highway, then south along Mink Creek Highway to the Arbon Valley Highway near Pauline, then south on the Arbon Valley Highway to State Highway 37, then west to Holbrook, then south on the Holbrook-Stone Road to the Idaho-Utah State line, then east along the state line to U.S. 91, the point of beginning. ( )

**04. Unit 73A.** Those portions of BANNOCK, ONEIDA, and POWER COUNTIES within the following boundary: beginning at Holbrook, then north on State Highway 37 to Interstate 86, then northeast on Interstate 86 to the Bannock Creek-Arbon Valley Highway, then south on Bannock Creek-Arbon Valley Highway to State Highway 37, then west to Holbrook, the point of beginning. ( )

**05. Unit 74.** Those portions of BANNOCK, CARIBOU, and FRANKLIN COUNTIES within the following boundary: beginning at Preston, then north on U.S. 91 to Interstate 15, then north on Interstate 15 to U.S. 30N, then east on U.S. 30N to the Pebble-Bancroft county road (old U.S. 30N), then northeast to State Highway 34, then south on State Highway 34 to Preston, the point of beginning. ( )

**06. Unit 75.** Those portions of BEAR LAKE, CARIBOU, and FRANKLIN COUNTIES within the following boundary: beginning at Montpelier, then northwest on U.S. 30 to State Highway 34, then south to Cleveland Bridge, then south on the county road to Maple Grove Hot Springs, then east on the Hot Springs-Strawberry Canyon Road to the Strawberry Canyon-Emigration Canyon Road, then east on Strawberry Canyon-Emigration Canyon Road to Ovid, then east on U.S. 89 to Montpelier, the point of beginning. ( )

**615. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 76-78.**

**01. Unit 76.** Those portions of BEAR LAKE and CARIBOU COUNTIES within the following boundary: beginning at U.S. 89 on the Idaho-Utah State line, then north to Montpelier, then north on U.S. 30 to Soda Springs, then northeast on State Highway 34 to the Idaho-Wyoming State line, then south on the Idaho-Wyoming State line to the Idaho-Utah State line, then west on the Idaho-Utah State line to U.S. 89, the point of beginning. ( )

**02. Unit 77.** That portion of FRANKLIN COUNTY within the following boundary: beginning at U.S. 91 on the Idaho-Utah State line, then north to Preston, then north on State Highway 34 to Cleveland Bridge, then south on the county road to Maple Grove Hot Springs, then east on the Hot Springs-Strawberry Canyon Road to the Strawberry Canyon-Emigration Canyon Road, then south on the Highline Trail (Forest Service Trail 316) to Danish Pass (Forest Service Road 415), then west on (Forest Service Road 415), then south on the Franklin Basin Road to the Idaho-Utah State line, then west on the state line to U.S. 91, the point of beginning. ( )

**03. Unit 78.** Those portions of BEAR LAKE and FRANKLIN COUNTIES within the following boundary: beginning at U.S. 89 on the Idaho-Utah State line, then north to Ovid, then west on the Emigration Canyon-Strawberry Canyon Road, then south on the Highline Trail (Forest Service Trail 316) to Danish Pass (Forest Service Road 415), then west on (Forest Service Road 415), then south on Franklin Basin Road to the Idaho-Utah State line, then east on the state line to U.S. 89, the point of beginning. ( )

**616. -- 649. (RESERVED)**

**650. ELK ZONE DESCRIPTIONS.**

**01. Panhandle Zone.** All of Units 1, 2, 3, 4, 4A, 5, 6, 7, and 9. ( )

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|--------------|---|-----|
| 02.          | <b>Palouse Zone.</b> All of Units 8, 8A, and 11A.                 | ( ) |
| 03.          | <b>Dworshak Zone.</b> All of Unit 10A.                            | ( ) |
| 04.          | <b>Hells Canyon Zone.</b> All of Units 11, 13, and 18.            | ( ) |
| 05.          | <b>Lolo Zone.</b> All of Units 10 and 12.                         | ( ) |
| 06.          | <b>Elk City Zone.</b> All of Units 14, 15, and 16.                | ( ) |
| 07.          | <b>Selway Zone.</b> All of Units 16A, 17, 19, and 20.             | ( ) |
| 08.          | <b>Middle Fork Zone.</b> All of Units 20A, 26, and 27.            | ( ) |
| 09.          | <b>Salmon Zone.</b> All of Units 21, 21A, 28, and 36B.            | ( ) |
| 10.          | <b>Weiser River Zone.</b> All of Units 22, 32, and 32A.           | ( ) |
| 11.          | <b>McCall Zone.</b> All of Units 19A, 23, 24, and 25.             | ( ) |
| 12.          | <b>Lemhi Zone.</b> All of Units 29, 37, 37A, and 51.              | ( ) |
| 13.          | <b>Beaverhead Zone.</b> All of Units 30, 30A, 58, 59, and 59A.    | ( ) |
| 14.          | <b>Brownlee Zone.</b> All of Unit 31.                             | ( ) |
| 15.          | <b>Sawtooth Zone.</b> All of Units 33, 34, 35, and 36.            | ( ) |
| 16.          | <b>Pioneer Zone.</b> All of Units 36A, 49, and 50.                | ( ) |
| 17.          | <b>Owyhee Zone.</b> All of Units 38, 40, 41, and 42.              | ( ) |
| 18.          | <b>South Hills Zone.</b> All of Units 46, 47, 54, 55, 56, and 57. | ( ) |
| 19.          | <b>Boise River Zone.</b> All of Unit 39.                          | ( ) |
| 20.          | <b>Smoky - Bennett Zone.</b> All of Units 43, 44, 45, 48, and 52. | ( ) |
| 21.          | <b>Big Desert Zone.</b> All of Units 52A and 68.                  | ( ) |
| 22.          | <b>Island Park Zone.</b> All of Units 60, 60A, 61, 62, and 62A.   | ( ) |
| 23.          | <b>Palisades Zone.</b> All of Units 64, 65, and 67.               | ( ) |
| 24.          | <b>Tex Creek Zone.</b> All of Units 66 and 69.                    | ( ) |
| 25.          | <b>Bannock Zone.</b> All of Units 70, 71, 72, 73, 73A, and 74.    | ( ) |
| 26.          | <b>Bear River Zone.</b> All of Units 75, 77, and 78.              | ( ) |
| 27.          | <b>Diamond Creek Zone.</b> All of Units 66A and 76.               | ( ) |
| 28.          | <b>Snake River Zone.</b> All of Units 53, 63, 63A, and 68A.       | ( ) |
| 651. -- 699. | <b>(RESERVED)</b>   |     |

**700. SEASONS, LIMITS, CONTROLLED HUNTS, AND TAG NUMBERS.**

The Commission sets seasons (including general and youth only, special weapon, short-range, unit exceptions for methods of take), limits, controlled hunt areas and tag numbers, and general unit or zone tag numbers by proclamation adopted and published in accordance with Section 36-105(3), Idaho Code. ( )

**701. -- 799. (RESERVED)**

**800. EMERGENCY DEPREDATION HUNTS.**

**01. Eligibility. ( )**

**a.** Only Idaho residents with a valid Idaho hunting or combination license are eligible to apply to participate in emergency depredation hunts. ( )

**b.** Persons submitting applications for emergency depredation hunts are eligible to apply for controlled hunts or may hunt in the general season. ( )

**02. Applications. ( )**

**a.** A person may submit no more than (1) application per year for each species--deer, elk, pronghorn, black bear, or gray wolf. ( )

**b.** An individual or a group may apply. A group is defined as two (2) hunters applying for the same depredation hunt on the same application. If an individual submits application for more than one (1) species, he does not have to apply in the same group or area for each application ( )

**c.** Any form not properly completed will be ineligible for selection. ( )

**d.** Any holder of an antlerless or doe/fawn, or black bear controlled hunt tag will be considered an applicant for any depredation hunt for that species which is: ( )

**i.** Held prior to the antlerless or doe/fawn, or black bear controlled hunt; and ( )

**ii.** Is in the same area as the depredation. ( )

**e.** Any holder of an antlerless or doe/fawn, or black bear controlled hunt tag may also apply for a depredation hunt in any region. ( )

**f.** A list of depredation hunt applications received will be maintained for the time period July 1 to June 30. Applications are valid only for the time period for which they are submitted. ( )

**03. Selection of Participants.** The Department will place all applications (individual or group) for each depredation hunt received by June 30 in random order. All applications received after June 30 will be placed at the end of the list in the order received, except that military personnel returning from active duty will be given priority. The Department will select participants for a hunt in the order in which applicants appear on the list, except for those hunts that precede, or at the discretion of the Regional Supervisor, follow a controlled hunt for doe/fawn or antlerless animals or black bear. If a depredation hunt is scheduled before or, at the discretion of the Regional Supervisor, after a doe/fawn or antlerless hunt or black bear hunt in the same unit, the holders of the doe/fawn or antlerless tags or black bear tag will be given the option to hunt in the depredation hunt. If no doe/fawn or antlerless or black bear hunts are scheduled in that unit, or if some depredation hunt tags are not taken by controlled hunt hunters, participants will be selected from applicants for that depredation hunt. If a group application is selected, both hunters will be offered depredation hunt tags. ( )

**801. -- 999. (RESERVED)**

## 13.01.09 – RULES GOVERNING THE TAKING OF GAME BIRDS

### 000. LEGAL AUTHORITY.

Sections 36-103, 36-104, 36-1101, and 36-1102, Idaho Code, authorize the Commission to adopt rules concerning the taking of game birds. ( )

### 001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.09, “Rules Governing the Taking of Game Birds.” These rules govern the taking of game birds. ( )

### 002. – 009. (RESERVED)

### 010. DEFINITIONS.

**01. Accompanied.** Close enough to be within normal conversation or hearing range without shouting or the aid of electronic devices. ( )

**02. Migratory Game Birds.** Birds classified as migratory game birds in IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife.” ( )

**03. Upland Game Birds.** Birds classified as upland game birds in IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife.” ( )

**04. Waterfowl.** The combination of ducks, geese, and swans, under the migratory game bird classification in IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife.” ( )

### 011. – 099. (RESERVED)

### 100. SAGE AND SHARP-TAILED GROUSE TAGS, PERMITS, AND VALIDATIONS.

No person may hunt sage or sharp-tailed grouse anywhere within the state, except licensed shooting preserves, without having in possession the appropriate hunting license with validation for sage grouse and sharp-tailed grouse. ( )

### 101. MIGRATORY GAME BIRD TAGS, PERMITS, AND VALIDATIONS.

**01. License Validation.** No person may hunt migratory game birds anywhere within the state, without having in possession the appropriate hunting license with validation for the Migratory Game Bird Harvest Information Program and tag. ( )

**02. Sandhill Crane Tag.** ( )

**a.** Immediately after any sandhill crane is killed, the sandhill crane tag must be validated and securely attached to the sandhill crane. Tag validation means cutting out and completely removing two (2) triangles on the border of the tag, one (1) for the month and one (1) for the day of the kill. ( )

**b.** The tag must remain attached so long as the sandhill crane is in transit or storage. ( )

**03. Youth Waterfowl Season.** The youth waterfowl season is open only to licensed hunters with Migratory Bird validation who are eight (8) to seventeen (17) years of age, and who are accompanied in the field at all times by a licensed hunter eighteen (18) years of age or older. ( )

### 102. WILD TURKEY TAGS, STAMPS, PERMITS, AND VALIDATIONS.

No person may hunt wild turkey without having in possession the appropriate hunting license, tag, and controlled hunt permit. ( )

**01. Tags.** There are three (3) types of turkey tags available: the general tag, extra tag, and special unit tag. A hunter may purchase one (1) general tag, two (2) extra tags, and three (3) special unit tags. The general tag and one (1) extra tag may be used during the spring general season; however, if one (1) or both go unused, the unused tag(s) may be used during the general fall season. A second extra tag may also be used during the general fall season. A general tag or an extra tag may be used with a controlled hunt permit in the spring and fall seasons. Special unit tags may be used in designated units during any season set by the Commission or in a depredation hunt when authorized by the Director. ( )

**02. Youth General Hunts.** Youth-only general hunts are limited to participation by hunters who are ten (10) to seventeen (17) years of age with a valid license. ( )

**03. Controlled Hunts.** A controlled hunt permit for wild turkey is valid only for the hunt area for which the permit was drawn. ( )

**a.** Eligibility: The holders of hunting licenses valid for game birds are eligible to apply for spring and fall controlled hunts subject to the following restrictions: ( )

i. In the event a permit is issued based on erroneous information, the permit will be invalidated and the person will remain on the drawn list. ( )

ii. Landowner permission hunt application eligibility is limited to persons who have a signed permission slip, which includes the landowner's name and address, from a landowner who owns more than seventy-nine (79) acres in the hunt area. ( )

iii. Youth-only controlled hunt application eligibility is limited to persons nine (9) to seventeen (17) years of age, provided they will be ten (10) to seventeen (17) years of age during the hunt for which they apply. A nine (9) year old cannot participate in the hunt until turning age ten (10). A person who turns eighteen (18) years of age during the hunt may continue to participate through the end of the youth-only controlled hunt. A person sixty-five (65) years of age or older with a senior or disabled combination or hunting license may apply on a first-come, first-served basis for leftover youth-only controlled hunt permits. ( )

**b.** Applications: Applications for spring and fall controlled hunts may be submitted electronically through the automated licensing system at any vendor location, including Department offices, through the Internet, or via telephone, not later than March 1 for spring hunts and June 5 for fall hunts, annually. ( )

i. Duplicate license numbers will not be accepted. Applications from Holders of a Duplicate License (Type 501) will be processed only if they include original license numbers. ( )

ii. Only one (1) application per person or group will be accepted. Additional applications will result in all applicants being declared ineligible. ( )

iii. A single payment (either cashier's check, money order, certified check, or personal check) may be submitted to cover fees for all applications. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. ( )

iv. A "group application" is defined as two (2) hunters applying for the same controlled hunt on the same application. ( )

v. Hunting license and tag fees will NOT be refunded to unsuccessful applicants. ( )

**c.** Drawing information: Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing provided the second choice hunt applied for has not been filled. ( )

**04. Tag Validation.** ( )

**a.** Tag and permit validation and attachment: Immediately after any wild turkey is killed, the turkey tag and permit, if a controlled hunt, must be validated and securely attached to the wild turkey. Tag and permit validation means cutting out and completely removing two (2) triangles on the border of each tag and permit, one (1) for the month and one (1) for the day of the kill. ( )

**b.** The tag and permit must remain attached so long as the turkey is in transit or storage. ( )

**05. Tag Designation.** ( )



a. Any resident adult person who possesses a controlled hunt permit may designate the controlled hunt permit to his or her resident minor child or grandchild who is qualified to participate in the hunt. ( )

b. Any nonresident adult person who possesses a controlled hunt permit may designate the controlled hunt permit to his or her nonresident minor child or grandchild who is qualified to participate in the hunt. ( )

c. The designation of the controlled hunt permit is not effective unless it is: ( )

i. Made on a form prescribed by the Department and submitted either in person to any Department Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. ( )

ii. Completed before the first opening hunt date for the permit. ( )

d. Any child cannot be designated more than one (1) controlled hunt permit per calendar year. ( )

**06. Landowner Permission Tags.** Landowner permission hunt tags will be sold on a first-come, first-served basis at Department offices after March 20 for spring hunts and after July 10 for fall hunts. ( )

**103. PHEASANT TAGS, PERMITS, AND VALIDATIONS.**

No person may hunt pheasant anywhere within the state, except licensed shooting preserves, without having in possession the appropriate hunting license and permit. ( )

**01. WMA Upland Game Bird Permit.** ( )

a. Any person eighteen (18) years of age or older hunting for or having a pheasant in his or her possession on Fort Boise, C.J. Strike, Montour, Payette River, Sterling, Market Lake, Mud Lake, Cartier, or Niagara Springs Wildlife Management Areas must have a valid WMA Upland Game Bird Permit in possession. ( )

b. Permit Limit. Each WMA Upland Game Bird Permit has a limit of six (6) cocks. Multiple permits may be purchased. ( )

c. Permit Validation. Any person harvesting a pheasant where a WMA Upland Game Bird Permit is required must immediately validate their Permit upon reducing a pheasant to possession by entering the harvest date and location in Non-Erasable ink, and removing a notch from the permit for each pheasant taken. ( )

**02. Youth Pheasant Season.** The youth pheasant season is open only to licensed hunters ten (10) to seventeen (17) years of age and hunting passport holders eight (8) to seventeen (17) years of age, provided such youth hunters/passport holders are accompanied in the field at all times by a licensed hunter eighteen (18) years of age or older. ( )

**104. – 199. (RESERVED)**

**200. IDENTIFICATION OF SPECIES IN POSSESSION AND DURING TRANSPORTATION.**

No person may possess, transport, or ship any game bird or Eurasian-collared dove between the place where taken and the personal abode of the possessor OR between the place where taken and a commercial processing or storage facility unless: ( )

**01. Wild Turkey.** The beard or leg of wild turkey is left naturally attached to the carcass. ( )

**02. All Other Game Birds and Eurasian-Collared Doves.** One (1) fully-feathered wing or the head is left naturally attached to the carcass. ( )

**201. – 299. (RESERVED)**

**300. UPLAND GAME BIRD METHODS OF TAKE.**

- 01. Upland Game Birds.** No person may take upland game birds: ( )
- a.** With a trap, snare, net, crossbow, or firearm. ( )
  - i.** Except upland game birds may be taken with a shotgun using shells not exceeding three and one-half (3-1/2) inches maximum length, or muzzleloading shotgun; or ( )
  - ii.** Except, forest grouse only may be taken with a crossbow or firearm. ( )
  - b.** From any watercraft. ( )
  - c.** By the use or aid of any electronic call. ( )
  - d.** By the aid of baiting. Bait is defined as any substance placed to attract upland game birds. ( )
  - e.** When hunting on Wildlife Management Areas where pheasants are stocked, without wearing at least thirty-six (36) square inches of visible hunter orange above the waist. ( )
- 02. Wild Turkey.** In addition to the methods listed above, no person may take wild turkey: ( )
- a.** With lead shot exceeding BB size. ( )
  - b.** With steel shot exceeding T size. ( )
  - c.** By the use of dogs, except during fall hunts. ( )

**301. MIGRATORY GAME BIRD AND AMERICAN CROW METHODS OF TAKE.**

As provided by Section 36-1102, Idaho Code, taking of migratory birds is subject to the provisions of the federal migratory bird treaty act and federal regulations (found at 50 CFR Part 20). ( )

**01. Waterfowl.** No person may take waterfowl, or coot while in possession of shot other than nontoxic shot federally approved for waterfowl hunting. No person may take waterfowl with shot larger than two tenths (.20) inches in diameter (size T). ( )

**02. Mourning Doves, Common Snipe, and Sandhill Cranes.** No person may take mourning doves, common snipe, or Sandhill Cranes while in possession of shot larger than two tenths (.20) inches in diameter (size T). ( )

**03. American Crow.** No person may take American crow: with trap, snare, net, rifle, pistol or a shotgun using shells exceeding three and one-half (3-1/2) inches maximum length. ( )

**302. – 399. (RESERVED)**

**400. AREAS CLOSED TO HUNTING OF GAME BIRDS.**

- 01. General.** The following areas are closed to the hunting, killing, or molesting of any game bird: ( )
- a.** That area of Craters of the Moon National Monument in Blaine and Butte Counties prior to the 2000 expansion of the Monument (which excludes the Craters of the Moon National Preserve). ( )
  - b.** Hagerman Fossil Beds National Monument in Twin Falls County, except that portion within an area fifty (50) feet in elevation above the high water level of the Snake River (the upslope area is marked by yellow fiberglass markers, and hunting is permitted downslope to the river). ( )
  - c.** Harriman State Park Wildlife Refuge in Fremont County. ( )

- d. Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties. ( )
- e. That portion of Ada County within Veterans Memorial Park and the area between State Highway 21, Warm Springs Avenue and the Boise City limits. ( )
- f. Yellowstone National Park in Fremont County. ( )
- g. Fort Boise Wildlife Management Area (WMA) in Canyon County from September 15 through the end of the waterfowl hunting season in the area enclosed by the following boundary: Beginning at the bridge across Sand Hollow Creek on Old Fort Boise Road approximately one hundred (100) yards west of the WMA headquarters, then north along the east bank of Sand Hollow Creek to its confluence with the Snake River, then north and northeast downstream along the east bank of the Snake River to the WMA boundary fence, then south and southeast along the WMA boundary fence to Old Fort Boise Road, then west on Old Fort Boise Road to the point of beginning. ( )
- h. Roswell Marsh Wildlife Habitat Area in Canyon County on Sundays, Mondays, Tuesdays and Wednesdays from September 15 through the end of the waterfowl hunting season in the area south of Highway 18 and west of Pebble Lane (Roswell Marsh segment). ( )
- i. Mann's Lake in Nez Perce County and extending three hundred (300) yards beyond the Bureau of Reclamation property that encompasses the lake. ( )
- j. On any of those portions of federal refuges, State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which bird hunting closures have been declared by legislative or Commission action except as otherwise expressly stated below in Section 401 under Game Preserves Open to Hunting of Game Birds. ( )

**02. Migratory Game Birds.** In addition to the areas listed above as closed to hunting of game birds, the following areas are closed to hunting, killing, or molesting migratory game birds other than mourning dove: ( )

- a. Fort Hall Indian Reservation in Bingham, Bannock, and Power Counties within three hundred (300) yards each way of the Fort Hall Bluffs from Bigbend Boat Launch to the west boundary of the Fort Hall Indian Reservation, and within one hundred (100) yards of any improved roadway or inhabited dwelling any place within the reservation boundary. ( )
- b. Hagerman Wildlife Management Area (WMA) in Gooding County in the area enclosed by the following boundary: Beginning at a point two hundred (200) yards west of the point at which U.S. Highway 30 crosses the south bank of Gridley Island, then northwest along a line two hundred (200) yards southwest of and parallel to U.S. Highway 30 to a point two hundred (200) yards west of the junction of U.S. Highway 30 and the WMA entrance, then west and north and east along a line two hundred (200) yards outside of the WMA boundary which is marked by a fence, to the point at which the fence meets U.S. Highway 30, then east and south along a line five hundred (500) yards outside of the WMA boundary to the Snake River, then downstream along the north bank of the Snake River and then along the south bank of Gridley Island to the point where U.S. Highway 30 crosses the south bank of Gridley Island, then two hundred (200) yards west of U.S. Highway 30 to the point of beginning. Exception: Department sponsored waterfowl hunts. ( )
- c. Hubbard Reservoir in Ada County including the shoreline area within two hundred (200) yards of the existing water line. ( )
- d. Mormon Reservoir in Camas County including the shoreline area within two hundred (200) yards of the ordinary high water line. ( )
- e. Spokane River in Kootenai County from the Post Falls Dam to Lake Coeur d'Alene at the orange pilings, within two hundred (200) yards of the ordinary high water line two thousand one hundred twenty-eight (2,128) feet above sea level. ( )
- f. Thompson Lake in Kootenai County in the area enclosed by the following center-of-roadway

boundary: Beginning at the junction of State Highway 97 and Thompson Lake Road 317 north of the town of Harrison, then along Thompson Lake Road 317 to the junction of Blue Lake Road 318 east of Thompson Lake, then along Blue Lake Road 318 to the junction of Anderson Lake Road 319 at Springston, then along Anderson Lake Road 319 to the Trail of the Coeur d'Alenes bicycle path, then west along the bicycle path to the junction of State Highway 97 west of Harrison, then along State Highway 97 to the point of beginning. ( )

**03. Geese.** In addition to the areas listed above as closed to hunting of game birds and migratory game birds, the following areas are closed to the hunting, killing, or molesting of any species of geese: ( )

**a.** Canyon County in the area enclosed by the following roadway boundary and within one hundred fifty (150) feet of the exterior side of said boundary (except that the closure extends to one hundred (100) yards from the exterior side of said boundary along that section commencing at the junction of Lake Shore Drive and Rim Road, then south on Rim Road to west Lewis Lane, then east on west Lewis Lane to Lake Shore Drive, then along Lake Shore Drive to Emerald Road): Beginning approximately three fourths (3/4) of a mile south of the City of Nampa at the junction of State Highway 45 (12th Avenue Road) and Greenhurst Road, then west following Greenhurst Road to its junction with Middleton Road, then north following Middleton Road to its junction with Lake Lowell Avenue, then west following Lake Lowell Avenue to its junction with Lake Avenue, then north following Lake Avenue to its junction with West Roosevelt Avenue, then west following West Roosevelt Avenue to its junction with Indiana Avenue, then north following Indiana Avenue to its junction with State Highway 55 (Karcher Road), then west following State Highway 55 to its junction with Riverside Road, then south following Riverside Road to the Deer Flat National Wildlife Refuge boundary, then west along boundary fence below lower embankment as posted to Lake Shore Drive, then in a southeast direction following Lake Shore Drive to its junction with Marsing Road, then east and south on Lake Shore Drive to Rim Drive, then south on Rim Drive to West Lewis Lane, then east on West Lewis Lane to Lake Shore Drive, then southeast on Lake Shore Drive to State Highway 45, then north on State Highway 45 to its junction with Greenhurst Road, the point of beginning. ( )

**b.** Hagerman Valley in Gooding and Twin Falls Counties in the area enclosed by the following boundary: Beginning at the Gridley Island Bridge on the Snake River, then south and east along the south bank to a point perpendicular to mile marker 187.5, then on a direct line east to the southern tip of Ritter Island (in the Snake River), then continuing east to the intersection of 3200 South Road and 1300 East Road, then north on the 1300 East Road to the 1200 East Road, then northwest and north on the 1200 East Road to the 3000 South Road, then west on the 3000 South Road to a point (which is five hundred (500) yards east of the intersection of the 3000 South Road and the Hagerman National Fish Hatchery Road) five hundred (500) yards east of the Hagerman Wildlife Management Area (WMA) boundary, then north and west five hundred (500) yards outside the Hagerman WMA boundary to U.S. Highway 30, then west and south two hundred (200) yards outside the Hagerman WMA boundary to the 2900 South Road, then west on the 2900 South Road to the 900 East Road, then due south to a point two hundred (200) yards north of the Snake River, then west and north two hundred (200) yards outside the high water line on the east bank of the Snake River to Lower Salmon Dam, then west across the Snake River, then south, southwest and east two hundred (200) yards outside the high water line on the west bank of the Snake River (including the Idaho Power Upper Salmon Dam diversion canal) to the Gridley Bridge on U.S. Highway 30, the point of beginning. ( )

**c.** Minidoka and Cassia Counties in the area enclosed by the following boundary: Within two hundred (200) yards of the high water line of the Snake River from Milner Dam upstream to Meridian Road (north side of the Snake River) and 650 East Road (south side of the Snake River), approximately six and one-half (6 1/2) miles east of the City of Burley. ( )

**401. GAME PRESERVES OPEN TO THE HUNTING OF MIGRATORY GAME BIRDS.**  
The David Thompson Preserve in Bonner County is open to the hunting of migratory game birds. ( )

**402. – 449. (RESERVED)**

**450. WOUNDING – RETRIEVING.**  
No person may wound or kill any game bird without making a reasonable effort to retrieve it and reduce it to possession. Every game bird wounded by hunting and reduced to possession shall be killed immediately and become a part of the daily bag limit. ( )

**451. – 499. (RESERVED)**

**500. OFFICIAL SHOOTING HOURS.**

No person may take game birds outside of official shooting hours. ( )

**01. Migratory Game Birds and Wild Turkey.** Official shooting hours for migratory game birds and wild turkey are from one-half (1/2) hour before sunrise until sunset. ( )

**02. Upland Game Birds and American Crow.** Official shooting hours for upland game birds and American crow are from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. In locations requiring possession of a WMA Upland Game Bird permit, the Commission may designate alternate official shooting hours by proclamation. ( )

**501. – 599. (RESERVED)**

**600. SEASONS, BAG, AND POSSESSION LIMITS, AND MANAGEMENT UNITS.**

The Commission sets seasons, bag limits, and possession limits for game birds by proclamation, as published in a brochure available at Department offices and license vendors. Management Unit Descriptions for wild turkey are contained in IDAPA 13.01.08.600, “Rules Governing the Taking of Big Game Animals.” ( )

**601. – 999. (RESERVED)**

**13.01.10 – RULES GOVERNING THE IMPORTATION, POSSESSION, RELEASE, SALE, OR SALVAGE OF WILDLIFE**

**000. LEGAL AUTHORITY.**

Sections 36-103, 36-104, 36-501, 36-504, 36-506, 36-701, 36-703, 36-704, 36-706, 36-708, and 36-2201-2205, Idaho Code, authorize the Commission to adopt rules concerning the importation, possession, release, sale, or salvage of wildlife in the state of Idaho. ( )

**001. TITLE AND SCOPE.**

The title of this chapter for citation is IDAPA 13.01.10, “Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife.” These rules govern the commercial and non-commercial importation, possession, release, sale, or salvage of wildlife. These rules do not apply to bullfrog, fish or crustacean, the importation, possession, release, sale or salvage of which are governed by IDAPA 13.01.11, “Rules Governing Fish,” and IDAPA 13.01.12, “Rules Governing Commercial Fishing.” ( )

**002. – 009. (RESERVED)**

**010. DEFINITIONS.**

IDAPA 13.01.06, “Classification and Protection of Wildlife,” defines game animals, big game animals, game birds, furbearing animals and unprotected wildlife. Section 36-201, Idaho Code, defines predatory wildlife. As used in this chapter, “wildlife” does not include any bullfrog, fish, or crustacean, for which requirements for import, possession, transport, release, and sale are addressed in IDAPA 13.01.11, “Rules Governing Fish” and 13.01.12 “Rules Governing Commercial Fishing.” ( )

**01. Commercial Wildlife Farm.** Any facility where the operator obtains, possesses, or propagates big game animals, for any commercial purpose. ( )

**02. Private Park.** Any facility where the operator obtains, possesses, or propagates big game animals for personal pleasure and not for any commercial purpose. ( )

**03. Bona Fide Pet Store.** A legitimate retail store with a set location and regular business hours. ( )

**04. Big Game Animal.** As classified in IDAPA 13.01.06, “Classification and Protection of Wildlife,” excluding domestic cervids as defined and regulated by Title 25, Chapter 37, Idaho Code. ( )

**05. Agricultural or Domestic Animals.** Animals or their eggs normally considered to be of agricultural or domestic types currently common to Idaho, not including wildlife as defined by Section 36-202, Idaho Code (such as animals listed in IDAPA 13.01.06, “Rules Governing the Classification and Protection of Wildlife.” ( )

**06. Commercial Wildlife Facility.** Any facility where the operator obtains, possesses, or propagates wildlife for any commercial purpose, including exhibition, education, entertainment, or sale. A commercial wildlife farm is included in this definition. ( )

**07. Not Permanently Located Within the State of Idaho.** A traveling circus, menagerie, or trained act of wild animals that is not located within the state of Idaho more than two (2) months out of any calendar year. ( )

**08. Traveling Circus, Menagerie, or Trained Act of Wild Animals.** Any mobile display or exhibit of wildlife maintained for instructional, educational, entertainment, or other commercial purposes. ( )

**09. Publicly Owned Zoo or Wildlife Exhibit.** Any facility exhibiting wildlife owned by any municipal, county, state, or federal agency. ( )

**011. – 099. (RESERVED)**

**100. PERMITS FOR IMPORT, EXPORT, TRANSPORT, POSSESSION, RELEASE, AND SALE OF LIVE WILDLIFE.**

No person may import into, export from, sell, or transport, cause to be transported, possess (hold in captivity), propagate, or release within the state of Idaho any living wildlife, including eggs thereof, without having first

obtained a permit from the Department. ( )

**01. Exemptions for Import, Export, Transport, Possession or Sale.** No permit is needed from the Department to import, export, transport, possess or sell the following (although another state or federal agency may regulate such activity): ( )

**a.** Agricultural or domestic animals. ( )

**b.** Domestic furbearing animals, as defined and regulated under Chapter 30, Title 25, Idaho Code. ( )

**c.** Domestic cervids, as defined and regulated under Chapter 37, Title 25, Idaho Code. ( )

**d.** Animals commonly considered conventional household pets, including sugar glider (*Petaurus breviceps*) and African hedgehog (*Atelerix albiventris*). ( )

**e.** Domestic Game birds produced in captivity and lawfully obtained, as shown by proof maintained and presented in accordance with Section 36-709, Idaho Code. ( )

**f.** Birds of prey, provided actions comply with IDAPA 13.01.14, “Rules Governing Falconry.” ( )

**02. Exemptions for Unprotected and Predatory Wildlife.** ( )

**a.** Wildlife classified as Unprotected Wildlife and Predatory Wildlife that are lawfully taken by a person licensed or authorized to hunt or trap in accordance with Chapter 4, Title 36, Idaho Code, may be sold, exported, transported, or possessed, without additional permit from the Department, provided such action is not otherwise in violation of federal, state, county, or city laws, rules, ordinances, or regulations. The Idaho Department of Agriculture may restrict the possession, sale, or import of fox, skunk, raccoon or other animals, such as restrictions under Section 25-236, Idaho Code. ( )

**b.** Lawfully taken native unprotected or predatory wildlife may be released on private lands in the county of origin without a Department permit in accordance with Section 36-502, Idaho Code and with written landowner consent in possession while such wildlife is in transit to the release site. ( )

**03. Exemption for Native Reptiles and Amphibians.** A person licensed or authorized to hunt or trap in accordance with Chapter 4, Title 36, Idaho Code, may capture alive, or hold in captivity and possess, up to four (4) individuals per species of Idaho native reptiles or amphibians at the same time, provided such action is not otherwise in violation of federal, state, county, or city laws, rules, ordinances, or regulations. ( )

**04. Restriction on Permit Issuance.** The Department will not issue any permit for import, export, transport, release, possession, or sale of live wildlife or eggs thereof, if the wildlife or eggs thereof would pose a threat to the state of Idaho, including threat of disease, genetic contamination or displacement of or competition with existing species. ( )

**101. IMPORT OR TRANSPORT PERMIT ISSUANCE.**

**01. Application.** Application for a permit to import or transport wildlife will be on a form prescribed by the Department. The applicant must possess a valid commercial or private wildlife facility license or individual captive wildlife permit or make concurrent application for such facility license or individual animal possession permit. ( )

**02. Inspection and Examination.** Upon Department request, the applicant must provide a valid Certificate of Veterinary Inspection from the state of origin for each animal imported or transported. ( )

**03. Additional Requirements.** The Department may impose test and certification requirements related to genetic issues or diseases of concern for any animal to be imported or transported. ( )

**102. POSSESSION OF UNLAWFUL IMPORT.**

No person may possess any wildlife, progeny or eggs thereof, whose import into this state was unlawful. ( )

**103. – 149. (RESERVED)**

**150. WILDLIFE IN TRANSIT.**

All required licenses, permits, and certificates must accompany live captive wildlife while in transit. ( )

**151. – 199. (RESERVED)**

**200. CAPTIVE WILDLIFE.**

**01. General.** No person may possess, hold in captivity, or propagate any wildlife, except those animals exempted under Section 100 of these rules, without obtaining a captive wildlife permit for each individual animal from the Department. ( )

**02. Compliance with Other Agency Requirements.** No person may possess, hold in captivity, or propagate any wildlife without complying with relevant city or county ordinances, including any zoning and planning commission approval, and any Idaho or U.S. Department of Agriculture requirements. ( )

**03. Marking Big Game.** All big game animals shall be uniquely marked with a Department-approved marking system. ( )

**04. Applications.** Application for license will be on a form prescribed by the Department. ( )

**05. Inspections and Records.** As a condition to any facility license or individual captive animal permit, the Department will be able to access for inspection at any reasonable time all records, all wildlife, and the facilities where the wildlife are kept, with records maintained as specified in Section 36-709(c), Idaho Code. ( )

**201. DISEASE OF CAPTIVE WILDLIFE.**

The Department Wildlife Veterinarian and the Idaho Department of Agriculture Administrator of the Division of Animal Industries will mutually determine the diseases and parasites of concern and the mechanisms and procedures for control of diseases and parasites in captive wildlife within the state of Idaho. Such mechanisms and procedures include but are not limited to examination, testing, quarantine, and slaughter or destruction, at the owner's expense, of individual animals or herds that are infected with or affected by diseases or parasites that may have significant detrimental effect on native wildlife, other captive wildlife, livestock or the public health of the citizens of the state of Idaho. Such disease and parasite control measures will be included in and enforced by regulations of the Division of Animal Industries of the Department of Agriculture. ( )

**202. – 299. (RESERVED)**

**300. RECOVERY, POSSESSION, AND SALE OF WILDLIFE PARTS.**

**01. Wildlife Legally Killed.** ( )

**a.** The possession, sale, and purchase of wildlife or parts of wildlife legally killed is lawful, provided it is in compliance with these rules and Title 36, Idaho Code. ( )

**i.** No person may purchase, barter, or sell the edible flesh of wildlife classified as big game animals, upland game animals, game birds, migratory birds, or rattlesnakes taken from the wild. ( )

**ii.** The annual sale by holders of a valid Idaho hunting, trapping or combination hunting and fishing license of no more than six (6) skins of legally taken rattlesnakes is lawful. ( )

**b.** A written statement showing the taker's name, address, license and tag numbers, date and location of kill, signed by the taker, must be provided to the buyer of any black bear or mountain lion head, hide or parts



(except tanned hides finished into rugs or mounts). A copy of the sales statement must be forwarded by the buyer to the Department within ten (10) days after such sale. A Department Form CE-50, Statement of Sale/Purchase of Wildlife Parts, may be used in lieu of a sales statement. ( )

c. Persons possessing a taxidermist or fur buyer license shall keep a record of any wildlife received for mounting or preservation, and of any purchase of furbearers, black bear part or raw skin, and mountain lion part or raw skin, with said record to be kept for two (2) years from the respective date of receipt or purchase. Records may be written or retained on media other than paper, provided that the media comply with standards set forth in Section 9-328, Idaho Code; copies of sales statements complying with Subsection 300.01.b. are adequate records. ( )

**02. Animals Found Dead.** Protected species of wildlife that have died naturally or accidentally remain in public trust to be disposed of by the Department. However, a person may recover, possess, sell or purchase the wildlife parts as specified below, but only under the conditions specified and only if the wildlife has not been unlawfully killed. Natural causes do not include any man-caused mortality. Accidental death includes accidental vehicle-collision caused mortality. ( )

a. Horns of Bighorn Sheep. ( )

i. Bighorn sheep horns of animals that have died of natural causes may be recovered and possessed, provided such horns are presented to a Department office for marking by placement of a permanent metal pin in the horn within thirty (30) days of recovery. No person may sell, barter, purchase, or transfer to another person any horn recovered from a bighorn sheep that has died from natural causes without a permit issued by the Department. The insertion of a pin is not a certification that the animal was legally taken or possessed. ( )

ii. No person may alter, deface, or remove a pin placed in a bighorn sheep horn by the Department. No person may possess the horn(s) of a bighorn sheep that bears an altered, defaced, or counterfeit Idaho pin or from which the Idaho pin has been removed. ( )

b. Antlers, hides, bones, and horns of deer, elk, moose, pronghorn and mountain goat, parts of bear and mountain lion and elk teeth of animals that have died of natural causes may be recovered, possessed, purchased, bartered or sold, provided that reporting of bear and mountain lion parts is in accordance with reporting under Subsection 300.01 of this rule. ( )

c. Parts, including meat, of big game animals, upland game animals, upland game birds, and furbearing animals, which may be lawfully hunted or trapped, that have been accidentally killed as a result of vehicle-collision mortality may be recovered and possessed, provided that such taking is not in violation of state, federal, county, or city law, ordinance, rule, or regulation, and provided that: ( )

i. Notification to the Department is made within twenty-four (24) hours of salvage; and ( )

ii. Written authorization is obtained from the Department within seventy-two (72) hours of recovery; and ( )

iii. Mandatory check and report requirements are complied with for any bighorn sheep, black bear, mountain lion, mountain goat, moose, gray wolf, bobcat, and river otter, as described in IDAPA 13.01.08.420 and 13.01.16.500. ( )

d. Parts, excluding meat, of big game animals (except bighorn sheep), upland game animals, upland game birds, and furbearing animals, which may be lawfully hunted or trapped, that have been accidentally killed as a result of vehicle-collision mortality may be purchased, bartered, or sold, where sale is not specifically prohibited by federal statute or regulation or state statute, when accompanied by written authorization from the Department as described in IDAPA 13.01.10.300.02.c. No person may purchase, barter, or sell bighorn sheep accidentally killed as a result of vehicle-collision. ( )

**03. Wildlife Taken in Other States.** Wildlife or parts thereof that have been legally taken outside of Idaho, may be possessed or sold in Idaho if such possession or sale is lawful in Idaho, in the state, province, or country where taken, and under federal law. ( )

**301. POSSESSION, IMPORTATION, AND TRANSPORTATION OF CERVID CARCASSES OR PARTS FROM AREAS WITH CHRONIC WASTING DISEASE (CWD) UNLAWFUL.**

- 01. Prohibitions.** It is unlawful to: ( )
  - a.** Import into Idaho the carcass or any part of a deer, elk, or moose from another state, province of Canada, or country (other than Canada) with any documented case of CWD; ( )
  - b.** Transport the carcass or any part of a deer, elk, or moose out of any CWD Management Zone designated by the Commission to any portion of the state that is not a designated CWD Management Zone; or ( )
  - c.** Possess the carcass or any part of a deer, elk, or moose that: has been imported from another state, province or country (other than Canada) with a documented case of CWD; or transported out of any CWD Management Zone designated by the Commission to any part of the state that is not a designated CWD Management Zone. ( )
- 02. Exceptions.** This section does not apply to the following animal parts: ( )
  - a.** Meat that is cut and wrapped; ( )
  - b.** Quarters or deboned meat that does not include brain or spinal tissue; ( )
  - c.** Edible organs that do not include brains; ( )
  - d.** Hides without heads; ( )
  - e.** Upper canine teeth (ivories, buglers, or whistlers); ( )
  - f.** Finished taxidermy; ( )
  - g.** Dried antlers; or ( )
  - h.** Cleaned and dried skulls or skull caps. ( )

**302. – 399. (RESERVED)**

**400. PRIVATE PARKS AND COMMERCIAL WILDLIFE FACILITIES.**

- 01. General.** No person may operate or maintain a private park or commercial wildlife facility without obtaining the appropriate license for each facility and the individual captive animals from the Department. ( )
- 02. Compliance with Other Agency Requirements.** No person may operate a private park or commercial wildlife facility without complying with relevant city or county ordinances, including any zoning and planning commission approval, and any Idaho or U.S. Department of Agriculture requirements. ( )
- 03. License Display.** A commercial wildlife license is to be displayed at the licensed facility in plain view at all times. ( )
- 04. Applications.** Application for permits or licenses to possess wildlife will be on a form prescribed by the Department, with separate application to be made for each facility and for any animal(s) imported after a facility is licensed. The Department will only consider an application that includes: ( )
  - a.** The name and address of the applicant. ( )
  - b.** Proof of compliance with city/county zoning ordinance or zoning permit application. ( )

- c. The name and address of the owner(s) of the wildlife if not the applicant. ( )
  - d. The location of the proposed facility, including a legal description of the land and the approximate space devoted to the facility. ( )
  - e. The name and address of the owner of the property if not the applicant. ( )
  - f. The number and kinds of wildlife being or to be kept. ( )
  - g. The date upon which each animal is to be obtained. ( )
  - h. The source, including address and telephone number, from which each animal was, or is to be, obtained, and health certificate for all animals addressing diseases of concern. If already in possession, the type of permit or license under which each animal is possessed. ( )
  - i. Specifications of pens and shelters furnished for each kind of animal. ( )
  - j. Specifications of the guard fence or other security measures to prevent escape or protect the public from injury by the animals. ( )
- 05. Inspections.** As a condition to any facility license, the licensee will make available for inspection all records, all wildlife, and the facilities covered by the license at any reasonable time upon request of the Department. ( )
- 06. Evidence of Legal Possession.** Records shall include evidence of legal possession of all wildlife kept at the facility or under the licenses, including licenses, permits, receipts, invoices, bills of lading, or other satisfactory evidence of ownership. The records shall also identify all animals born at the facility, exported from the facility, or transported within the state. ( )
- 07. Dead Wildlife.** Record of inspection by a licensed veterinarian shall be kept for all wildlife which die on the premises, and a copy forwarded to the Department Wildlife Laboratory within ten (10) days of the death of the animal. ( )
- 08. Cages or Enclosures.** All wildlife held in captivity in a wildlife facility shall be confined at all times in cages or enclosures of such structure or type of construction that it will be impossible for such animals to escape, and that meet the following minimum specifications: ( )
- a. For big game animals, including bear and mountain lion, the enclosure will: ( )
    - i. Have a floor made of cement or concrete at least three (3) inches thick into which metal fence stakes are permanently placed or a floor that consists of chain link or other material that will preclude the animal digging through the floor to escape; ( )
    - ii. Have a chain link fence of at least eight (8) feet in height with barbed wire overhang; ( )
    - iii. Have a chain link cage top; ( )
    - iv. Have any other Department-approved configuration such as a pit that will preclude escape. ( )
  - b. For all animals, cages or enclosures will be of sufficient size to give the animal or bird confined ample space for exercise and to avoid being overcrowded. ( )
    - i. The length of the cage or enclosure will be a minimum of four (4) times the body length (tip of nose to base of tail) of the animal being kept, reptiles excepted. ( )
    - ii. The width will be at least three-fourths (3/4) of the cage length. ( )

iii. For the second animal housed in cage, floor space will be increased twenty-five percent (25%) and for each additional animal housed in the cage, floor space will be increased fifteen percent (15%). Cages with tops will be of reasonable height to accommodate the animals contained therein. No nails or other sharp protrusions that might injure or impair the animal will be allowed within the cages. ( )

c. For all animals, cages or enclosures will be constructed to prevent entrance by other animals and prevent harm to or by the general public. Cages, fencing, and guardrails will be kept in good repair at all times; and gates will be securely fastened and locked. ( )

d. Cages or enclosure for birds and smaller animals will be provided with a den, nest box or other suitable housing containing adequate bedding material for the comfort of the species held. A suitable shelter or shield will be provided for big game and other larger animals for protection from inclement weather and from the sun. At least one (1) wall of the enclosure will be constructed so as to provide a windbreak for the animal confined. ( )

e. For all venomous reptiles, enclosures will have safety glass and cages will have small enough mesh to prevent the animal's escape and double walls sufficient to prevent penetration of fangs to the outside; and all cages and enclosures will be kept locked. ( )

f. Cages or enclosures will be kept dry if containing terrestrial animals and with adequate water if containing aquatic animals. Where natural climate of the species being held differs from the climate of the area where the wildlife facility is located, provisions will be made to adjust holding conditions, as nearly as possible, to natural habitat. ( )

g. Cages or enclosures will be kept in a clean and sanitary condition consistent with good animal husbandry. ( )

**09. Sale of Animal Meat or Parts.** ( )

a. A commercial wildlife facility licensee may sell or otherwise dispose of the carcass, parts, or by-products of a properly identified big game animal taken from a commercial wildlife facility only upon preparing an invoice or bill of sale as specified by the Department and attaching a copy of it to the lot shipment, carcass, or container and keeping a copy for his records. Upon the attaching of the invoice or bill of sale to the carcass, parts, or by-products of the animal, the same may be transported to the transferee named on the invoice or bill of sale. ( )

b. The licensee may sell commercial wildlife facility animals for meat upon compliance with all applicable health laws, USDA, and Idaho Department of Agriculture regulations. ( )

**401. – 410. (RESERVED)**

**411. HUMANE TREATMENT OF CAPTIVE WILDLIFE**

**01. Humane Treatment.** All captive wildlife must be handled in a humane manner and in a manner to prevent parasites, sickness, or disease, including but not limited to the following actions: ( )

a. Any captive wildlife afflicted with parasites or disease is immediately given professional medical attention or destroyed in a humane manner. Any infected or injured animal infected is removed from public display. ( )

b. Any captive wildlife is fed on a regular schedule. Food is adequate and varied and so far as possible, consistent with food ordinarily eaten by such animals. Food is of good quality and stores of same are kept in suitable containers with tight fitting covers so as to render it inaccessible to rats, flies, or other vermin. ( )

i. The public is not allowed to feed any captive wildlife. Proper signs are conspicuously posted on cages or enclosures advising the public to refrain from feeding or annoying the birds or animals. ( )

c. Fresh or running water for drinking purposes is available in cages or enclosures at all times, and is

kept clean and in a sanitary condition. ( )

**d.** Any animals with a propensity to fight or which are otherwise incompatible are kept segregated. ( )

**e.** At no time is any wildlife held for public display or exhibition chained or otherwise tethered to any stake, post, tree, building, or other anchorage, except for raptors as provided by IDAPA 13.01.14, “Rules Governing Falconry.” ( )

**02. Documentation.** At least once a year and otherwise on demand, the owner or possessor of any captive wildlife held under Department permit must provide to the Department a certificate from a licensed veterinarian, on a form as prescribed by the Department, stating the physical condition or health of each animal in captivity. The permittee must maintain a complete record of illness, treatment and disposition for each permitted animal and make such record available to the Department upon request. ( )

**412. RESPONSIBILITY OF POSSESSOR OF CAPTIVE WILDLIFE.**

Any person possessing live wildlife in captivity shall be responsible for the care of the wildlife in possession and the protection of the public, and liable for the expense of capture or destruction of any escaped wildlife, including any costs incurred by the Department. The Department makes no representation concerning public safety of any licensed captive wildlife or facility. ( )

**413. – 499. (RESERVED)**

**500. SHOOTING PRESERVE RULES.**

**01. Shooting Preserves.** No person may operate a shooting preserve without a permit from the Department. ( )

**02. Applications.** Application for a shooting preserve license will be on a form prescribed by the Department. ( )

**03. License Vendorship.** No person may operate a shooting preserve unless the operator has a vendorship contract with the Department and maintains a supply of shooting preserve hunting licenses for issuance to clients of the preserve. ( )

**04. Species Permitted.** Only those species of upland game birds specified on the permit may be held or released on the shooting preserve. ( )

**05. Disease Free Birds.** No person may ship upland game birds into Idaho for release on a shooting preserve unless they are certified free from disease as evidenced by a written statement by a licensed veterinarian. ( )

**06. Holding Facilities.** The provisions of Subsection 400.08 of these rules pertaining to bird enclosures apply to all rearing pens, holding pens, and other rearing or holding facilities. ( )

**07. Habitat Requirements.** No shooting preserve permit will be issued except upon verification by the Department that the proposed area has suitable habitat to provide food and cover for birds released for hunting purposes. The Department will provide technical advice to the applicant in developing proper habitat needs for the various species permitted under the shooting preserve license. ( )

**08. Inspection.** As a condition to any shooting preserve permit, the Department will have reasonable access to the premises of any authorized shooting preserve for the purpose of inspecting rearing, holding, and storage facilities, licenses, hunters’ bag limits, and records pertaining to the operation of said shooting preserve. ( )

**501. – 599. (RESERVED)**

**600. CAPTIVE WOLVES.**

- 01. Definitions – Primary Wolf Characteristics.** ( )
- a.** Eyes shine greenish orange; ( )
  - b.** Ears rounded and smaller in proportion to those of the coyote; ( )
  - c.** Snout is broad with nose pad wider than one (1) inch; ( )
  - d.** Legs are long, an adult would stand at approximately twenty-six (26) to thirty-two (32) inches at the shoulder; ( )
  - e.** Length is four and one-half (4.5) to six (6) feet from the tip of the nose to the tip of the tail; ( )
  - f.** An adult weighs at least eighty (80) pounds; ( )
  - g.** Tail is carried high or straight out when running; ( )
  - h.** Fur is long and coarse, varies from white to black but is generally grayish in coloration resembling the coyote. The underparts are not as white and the legs and feet are not as red as those of the coyote. ( )

**02. License and Tattoos.** No person may possess a live wolf or other canine exhibiting primary wolf characteristics without proper identification (tattoo) and a license from the Department, to be obtained within three (3) days of commencing possession of a live wolf or other canine exhibiting primary wolf characteristics. Application for license will be on a form prescribed by the Department. ( )

**a.** Proper tattoo consists of placement of a three (3) digit number, as assigned by the Department, on the right flank or inside of the right ear by a qualified veterinarian. Animals do not require tattooing until the age of six (6) months. The applicant will provide written confirmation of tattooing from the veterinarian. ( )

**b.** Each wolf license is valid from January 1 through December 31, and renewal is needed each year to continue to possess the animal. ( )

**601. – 699. (RESERVED)**

**700. VIOLATION GROUNDS FOR LICENSING ACTION AND ANIMAL REMOVAL.**

The Department may give written notice of violation(s) to any person, with a permit or license under this chapter, who is violation of Chapter 7 of Title 36, Idaho Code or these rules, and that person will then have ten (10) days to correct such violation(s). If at the end of that time the violation is not corrected, the Department may revoke any existing permit or license and may refuse to issue any future permit. Such revocation or refusal to issue a future permit may be in addition to any criminal charges or civil action that may be filed. All animals held under said license or permit so revoked or held without appropriate license or permit will be removed at owner's expense, with disposition as determined by the Department. ( )

**701. – 999. (RESERVED)**

### 13.01.11 – RULES GOVERNING FISH

#### 000. LEGAL AUTHORITY.

Sections 36-103, 36-104, 36-406A, 36-407, 36-410, 36-701, 36-706, 36-901, 36-902, 36-1001, Idaho Code, authorize the Commission to adopt rules concerning fishing, methods of take, seasons, limits, and fishing contests. ( )

#### 001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.11, “Rules Governing Fish.” These rules establish the methods of take, seasons, and possession limits for all non-commercial fishing and govern fishing contests. ( )

#### 002. – 009. (RESERVED)

#### 010. DEFINITIONS – FISH.

**01. Chinook Salmon.** Anadromous (ocean run) salmon of the species *Oncorhynchus tshawytscha* in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and the Clearwater River drainage, (excluding lakes, reservoirs, and the North Fork of the Clearwater River above Dworshak Dam), and the Boise River drainage. ( )

**02. Coho Salmon.** Anadromous (ocean run) salmon of the species *Oncorhynchus kisutch* in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and Clearwater River drainage (excluding lakes, reservoirs, and the North Fork of the Clearwater River above Dworshak Dam). ( )

**03. Game Fish.** As classified in IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife.” ( )

**04. Hybrid Fish.** The offspring of two different species or subspecies of fish. ( )

**05. Jack Salmon.** Anadromous (ocean run) salmon of a size set by Commission proclamation. ( )

**06. Invasive Fish Species.** Bullfrog, fish and crustacea species designated invasive species by state authority (IDAPA 02.06.09 “Rules Governing Invasive Species of the Idaho Department of Agriculture”). ( )

**07. Sockeye Salmon.** Anadromous (ocean run) salmon of the species *Oncorhynchus nerka* in the Snake River drainage below Hells Canyon Dam and the Salmon River drainage. ( )

**08. Steelhead.** Any rainbow trout longer than twenty (20) inches in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and the Clearwater River drainage (excluding that portion above Dworshak Dam); and any rainbow trout longer than twenty (20) inches in length with the adipose fin clipped (as evidenced by a healed scar) in the Snake River drainage from Hells Canyon Dam upstream to Oxbow Dam, and in the Boise River drainage from its mouth upstream to Barber Dam. ( )

**09. Trout.** Trout, including brown, cutthroat, golden, grayling, lake (Mackinaw), rainbow (other than steelhead), splake, sunapee, tiger; trout hybrids; and landlocked (not ocean runs) forms of chinook, coho, atlantic and kokanee (blueback) salmon. ( )

**10. Unprotected Fish.** Bullfrog and all fish species not classified in a protected category (game fish, protected nongame, threatened or endangered species) in IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife.” ( )

#### 011. DEFINITIONS – CONDUCT OF FISHING.

**01. Artificial Fly.** Any fly made entirely of rubber, wood, metal, glass, feather, fiber, or plastic by the method known as fly tying. ( )

**02. Artificial Lure.** Any device made entirely of rubber, wood, metal, glass, feather, fiber, or plastic with hook or hooks attached. ( )

**03. Bag Limit.** The maximum number of fish that may be lawfully taken by any one (1) person in one (1) day, construed in accordance with Sections 36-202 and 36-410, Idaho Code. ( )

- 04. Bait.** Organic substances, other than rubber, wood, feather, fiber, or plastic, attached to a hook to attract fish. Bait includes insects, insect larvae, worms, dead fish, fish parts, any other animal or vegetable matter, or scented synthetic materials. ( )
- 05. Barbless Hook.** A fish hook without barbs or on which all barbs have been bent completely closed. ( )
- 06. Catch-and-Release.** Effort, by permitted methods, to catch fish, provided that any fish so caught is released immediately back to the water. ( )
- 07. Confluence of a Stream or River.** The point where two (2) rivers or streams come together. ( )
- 08. Diversion.** A man-made structure designed to change the direction of flowing water in a stream. ( )
- 09. Diversion Pond.** A man-made pond holding water taken from a stream or reservoir, which pond may be connected to the stream or reservoir by an open ditch or pipe. ( )
- 10. Drainage.** All water flowing into a common river or stream system, either above or below ground, due to area geography. ( )
- 11. Electric Motors Only.** For fishing waters listed in proclamation as “electric motors only,” no gas (internal combustion) motors may be used, although they may be attached to the boat. ( )
- 12. Fish Trap.** Any man-made structure designed to capture fish. ( )
- 13. Fish Weir.** Any man-made structure placed in a water body to delay or divert migrating fish. ( )
- 14. Flat Water.** Water where there is no observable direction of flow. ( )
- 15. Float Tube.** A floating device that suspends a single occupant, from the seat down, in the water, and is not propelled by oars, paddles, or motors. ( )
- 16. Fly Fishing.** Fishing with a fly rod, fly reel, fly line, and artificial fly. ( )
- 17. General Fishing Season.** The season and bag limits as determined by proclamation on a Regional basis. ( )
- 18. Harvest.** Reduce a fish to possession. ( )
- 19. Hook.** A bent wire device, for the catching of fish, to which one (1), two (2), or three (3) points may be attached to a single shank. Up to five (5) hooks per line may be used, except where specifically identified. ( )
- 20. Ice Fishing.** Fishing through an opening broken or cut through the ice. ( )
- 21. Length.** The length between the tip of the nose or jaw and the tip of the tail fin. ( )
- 22. Limit is 0 (Zero).** Fishing is allowed, provided the fish is released after landing and not reduced to possession. ( )
- 23. Motor.** Includes electric and internal combustion motors. ( )
- 24. Mouth of River or Stream.** The place where a river or stream enters a larger body of water. ( )



25. **No Motors.** For fishing waters listed in proclamation as “no motors,” no person may fish from a boat with a motor attached. ( )
26. **Possession Limit.** As defined in Section 36-202, Idaho Code. ( )
27. **Reservoir.** The flat water level existing at any time within a reservoir basin. Unless noted otherwise, a stream flowing through the drawdown portion of a reservoir is not considered part of the reservoir. ( )
28. **Season Limit.** The maximum number of fish that may be lawfully harvested in any declared season. ( )
29. **Section.** An area of a river, stream, or reservoir between specific boundary locations. ( )
30. **Single-Point Hook.** A bent wire device, for catching fish, with one (1) shank and one (1) point. ( )
31. **Sliding Sinker.** A method of attaching a sinker to a device that slides freely on the main line. ( )
32. **Snagging.** Taking or attempting to take a fish by use of a hook or lure in any manner or method other than enticing or attracting a fish to strike with, and become hooked in, its mouth or jaw. ( )
33. **Special Rule Waters.** Any water with a gear, season, or bag limit rule that is listed in proclamation and different from the general fishing season. ( )
34. **Tributary.** A stream flowing into a larger stream or lake. ( )
35. **Unattended Line.** A line not under the immediate surveillance by the angler. ( )
36. **Upstream.** Moving from a lower elevation towards a higher elevation point in the same stream. ( )
37. **Watercraft.** Those devices designed as a means of transportation on water. ( )

**012. DEFINITIONS – FISHING CONTESTS.**

01. **Fishing Contest.** Any organized fishing event that: ( )
- a. Has a live-fish weigh-in; or ( )
- b. Awards cash or prizes of one thousand dollars (\$1,000) or more based on number, size, or species of fish captured; or ( )
- c. Is expected to draw or have more than twenty (20) participants. ( )
02. **Catch-and-Release Contest.** Any fishing contest with specific procedures to keep target fish species alive and healthy and to release all fish caught back into the contest water on the same day. ( )
03. **Harvest Contest.** Any fishing contest that allows participants to harvest fish. ( )

**013. – 100. (RESERVED)**

**101. RELEASE OF FISH WHILE FISHING.**

Any fish caught in Idaho waters that is unlawful to possess must be immediately released back to the water. ( )

**102. STURGEON.**

No person may remove sturgeon from the water, and it is unlawful to possess sturgeon. ( )

**103. (RESERVED)**

**104. IDENTIFICATION OF SPECIES AND SIZE IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.**

**01. Restrictions.** No person may have in the field or in transit any trout, tiger muskie, or bass from which the head or tail has been removed unless: ( )

**a.** The angler is ashore and done fishing for the day; ( )

**b.** The fish is processed or packaged with the skin naturally attached to the flesh; and ( )

**c.** The fish is processed or packaged in a manner that the number of fish harvested can be readily determined and the processed fish is not transported by boat. ( )

**02. Transport or Gift.** No person may transport for another or accept as a gift any game fish, unless a statement signed by taker accompanies the fish, showing the number and kinds, the date taken, the taker's name, address, and fishing license number. However, no person may claim ownership of more fish than allowed by the possession limit. ( )

**105. PURCHASE, BARTER, OR SALE OF FISH.**

No person may purchase, barter, or sell the edible flesh of fish, crayfish, or bullfrog harvested from the wild, except as provided in Section 36-501, Idaho Code, and Title 36, Chapter 8, Idaho Code, and rules promulgated pursuant thereto. ( )

**106. LIVE FISH – POSSESSION, TRANSPORT, IMPORT, AND RELEASE.**

**01. Permit.** No person may possess, transport, cause to be transported, import, or release any live fish, crayfish, or bullfrog, or viable eggs thereof, without having first obtained a permit from the Director. ( )

**02. Marking Fish in Possession.** No person may mark fish by any means, including with a tag, by removing fins or injuring with intent to leave a scar, without first obtaining a Scientific Collecting Permit from the Department. ( )

**03. Import Inspection and Examination Requirements.** All live fish imported into or transported within Idaho must be certified free from disease, as evidenced by a Certificate of Veterinary Inspection by a licensed veterinarian, (b) CFR Title 50 certification, (c) American Fisheries Society certified fish health inspector's certification, or (d) other certification by an individual designated by the Director of the Department of Agriculture. ( )

**04. Unpermitted Fish Species Released.** Any fish species unpermitted for import, possession, transport or release that is released by or escapes from an owner or operator shall be captured or destroyed by the owner, or by the Department at the owner's expense. ( )

**107. LIVE FISH AND EGGS – EXCEPTIONS.**

No permit is required to: ( )

**01. Fish.** Keep fish that can legally be reduced to possession (except for anadromous salmon and steelhead), alive and in possession in a live well, net, or on a stringer while at the body of water from which they were taken. ( )

**02. Same Location.** Release fish at the same time and place where captured. ( )

**03. Aquarium Fish.** Possess ornamental or tropical aquarium fish of varieties commonly accepted for ( )

interstate shipment (not to include invasive species). ( )

**04. Private Ponds or Commercial Fish Facility.** Possess fish from a private pond or commercial fish facility when accompanied by sales receipt and written permission from the director, as provided in Chapter 7, Title 36, Idaho Code or from the Department of Agriculture as provided in Chapter 46, Title 22, Idaho Code. ( )

**05. Transport Between Commercial Fish Facilities.** Transport fish between commercial fish facilities licensed under Chapter 7, Title 36 and Chapter 46, Title 22, Idaho Code. ( )

**06. Fish Eggs.** Possess, sell, purchase or transport nonviable fish eggs used for bait or personal consumption. ( )

**108. – 199. (RESERVED)**

**200. FISHING METHODS AND GEAR.**

**01. General Restrictions.** Unless modified by rule (such as the exceptions in the following subsections), order, or proclamation, it is unlawful to: ( )

- a. Fish in any waters of Idaho with more than one (1) handline or pole with a line attached. ( )
- b. Leave a line unattended. ( )
- c. Have more than five (5) hooks attached per line. ( )
- d. Fish by archery, spearfishing, snagging, hands, trapping, seining, or netting. ( )
- e. Use live fish, leeches, frogs, salamanders, waterdogs, or shrimp as bait. ( )
- f. Land any fish with a gaff hook. ( )

**02. Molesting Fish.** It is unlawful to molest any fish by shooting at it with a firearm or pellet gun, striking at it with a club, hands, rocks, or other objects, building obstructions for catching fish, or chasing fish up or downstream in any manner. ( )

**03. Hook and Line Exceptions.** The holder of a valid two (2) pole permit may use two (2) poles during a general fishing season. A person may use no more than (5) lines while ice fishing. ( )

**04. Archery and Spear Fishing Exceptions.** Fishing with the use of bow and arrow, crossbow, spear or mechanical device, excluding firearms, is permitted for the taking of unprotected fish, provided there is an open season for game fish. ( )

**05. Gaff Hook Exceptions.** It is permitted to use a gaff hook through a hole cut or broken in the ice in waters which have no length restrictions or harvest closures for that species, or when landing unprotected fish species taken with archery equipment, provided the angler does not intend to release fish so caught. ( )

**06. Snagging Exceptions.** Snagging of unprotected fish species is permitted. ( )

**07. Trapping and Seining Exceptions.** It is lawful to take unprotected fish, crayfish, and yellow perch with a minnow net, seine, or up to five (5) traps, provided there is an open season for game fish, and provided the following conditions are met: ( )

- a. The seine or net does not exceed ten (10) feet in length or width, and the seine has three-eighths (3/8) inch square or smaller mesh; and the minnow or crayfish trap does not exceed two (2) feet in length, width or height. If the trap is of irregular dimension, but its volume does not exceed the volume of an eight (8) cubic foot trap, it is lawful to use. ( )

- b. Nets and seines are not left unattended. ( )
- c. Traps are checked at least every forty-eight (48) hours. ( )
- d. All game fish and protected nongame fish incidentally taken while trapping or seining are immediately released alive. ( )
- e. All traps have a tag attached bearing the owner's name and address or license number. ( )
- 08. Use of Bait Exceptions.** Live crayfish and bullfrog may be used for bait if caught on the body of water being fished. ( )
- 09. Use of Hands Exceptions.** It is permitted to take bullfrog and crayfish with the hands. ( )
- 10. Barbed Hook Restrictions.** It is unlawful to fish for sturgeon with barbed hooks. It is unlawful to fish for or take steelhead or salmon with barbed hooks in the Clearwater River drainage, Salmon River drainage, and Snake River drainage below Hells Canyon Dam. ( )
- 11. Sinker for Sturgeon.** When fishing for sturgeon, a person must use a sliding sinker and a lighter test line to attach the weight to the main line (the line attached to the reel). ( )
- 12. Fishing Shelters.** Any enclosure or shelter left unattended overnight on the ice of any waters of the state shall have the owner's name, telephone numbers, and current address legibly marked on two (2) opposing sides of the enclosure or shelter. ( )
- 201. – 299. (RESERVED)**
- 300. FISHING SEASONS, LIMITS, HOURS, AND REGIONAL EXCEPTIONS.**  
The Commission sets statewide and general seasons, special rule waters, bag and possession limits, and regional exceptions by proclamation, adopted and published as provided by Section 36-105, Idaho Code. ( )
- 301. – 344. (RESERVED)**
- 345. FISHING IN BOUNDARY WATERS.**
  - 01. Bear Lake.** The holder of a valid Idaho or Utah fishing license may fish all of Bear Lake, subject to the rules or regulations of the state in which they are fishing, including any closure. ( )
  - 02. Snake River Between Idaho and Oregon or Washington.** The holder of a valid Idaho fishing license may fish the Snake River where it forms the boundary between Idaho and the states of Oregon or Washington, subject to the fish and game laws of Idaho. An Idaho license does not authorize the holder to fish from the shoreline, sloughs, or tributaries on the Oregon or Washington side. An Oregon or Washington license holder has the same rights and restrictions with reference to the Idaho side. ( )
  - 03. Limit for One License Only.** Any angler who fishes on the Snake River or any other water forming an Idaho boundary is entitled to have in possession only the limit allowed by one (1) license regardless of the number of licenses he may possess. ( )
- 346. FISH SALVAGE.**  
No person may salvage fish from public waters without specific authorization of the Commission, Director, or Regional Supervisor. Authorization for salvage may allow holders of valid fishing licenses to harvest fish without regard to usual possession limits and may allow snagging, spearing, archery, dipnet, seines, or with the hands. ( )
- 347. – 399. (RESERVED)**
- 400. STEELHEAD AND ANADROMOUS SALMON LICENSES, TAGS, AND PERMITS.**

**01. Licenses.** Any person fishing for steelhead or anadromous salmon, except those expressly exempt, must have in possession a valid fishing license. ( )

**02. Permits.** No person may fish for, or reduce to possession, steelhead or anadromous salmon without a valid steelhead or salmon permit in possession for the targeted species. ( )

**401. – 402. (RESERVED)**

**403. PERMIT VALIDATION.**

For each steelhead or adult anadromous salmon hooked, landed, and reduced to possession, the angler hooking the fish must immediately validate her permit by notching the permit and entering in ink the appropriate month, day and river location (listed by Commission proclamation). ( )

**404. IDENTIFICATION OF SPECIES IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.**

**01. Provisions for Processing and Transporting Steelhead and Anadromous Salmon.** No person may have in the field or in transit a hatchery-produced steelhead or anadromous salmon processed by removing the head and tail unless the following conditions are met: ( )

**a.** The fish is processed and packaged with the skin naturally attached to the flesh including a portion with a healed, clipped, adipose fin scar or adipose fin; and ( )

**b.** The fish is packaged in a manner that the number of fish harvested can be readily determined. ( )

**02. Restrictions on Processing and Transporting Steelhead and Anadromous Salmon.** No person may process steelhead or anadromous salmon until he is ashore and done fishing for the day. No person may transport processed steelhead or anadromous salmon via boat. No jack salmon may be processed while in the field or in transit. Each processed steelhead or anadromous salmon counts towards an angler's possession limit while in the field or in transit. ( )

**405. STEELHEAD AND ANADROMOUS SALMON METHODS OF TAKE.**

**01. Hooks.** It is unlawful to use any hook larger than five-eighths (5/8) inch, measured from the point of the hook to the shank. Steelhead and anadromous salmon may be taken only with barbless hooks in the Salmon, Clearwater, and Snake River drainages. Bending the barb down to the shank of a single, double, or treble hook will meet this requirement. Steelhead and anadromous salmon may be taken with barbed hooks in the Boise River drainages, and the Snake River between Hells Canyon and Oxbow Dams. ( )

**02. Snagging.** No person may kill or retain in possession any steelhead or anadromous salmon hooked other than in the mouth or jaw. ( )

**03. Legal Catch.** Any steelhead or anadromous salmon caught must be released or, provided it is legal to possess, killed immediately after it is landed. ( )

**04. Cease Fishing.** Once an angler has attained his bag, possession or season limit on those waters with steelhead or anadromous salmon limits, he must cease fishing for steelhead or anadromous salmon, including catch-and-release fishing. ( )

**05. Keeping Marked Fish.** Only steelhead or anadromous salmon marked by clipping the adipose fin, as evidenced by a HEALED scar may be kept in the Salmon, Clearwater, and Snake River drainages. Anadromous salmon with an intact adipose fin may be retained as authorized by Commission proclamation. ( )

**06. Fish Counted in Limit.** Each fish that is hooked, landed, and reduced to possession counts towards the limit of the person hooking the fish. ( )

**07. Special Limits.** No person may fish in waters having special limits while possessing fish of that species in excess of the special limit. ( )

**406. – 407. (RESERVED)**

**408. STEELHEAD PURCHASE REPORT.**

**01. Filing Purchase Report.** Any person holding a wholesale or retail steelhead trout buyer's license must report all sales and purchases of steelhead on an Idaho Steelhead Purchase Report to the Administration Bureau of the Idaho Department of Fish and Game, Boise, Idaho, on or before December 31 of each year. ( )

**02. Inaccurate Reporting.** Failure to provide complete and accurate information on the report or failure to file the report on or before December 31 is grounds for revocation of the wholesale or retail license. ( )

**409. – 699. (RESERVED)**

**700. FISHING CONTESTS – PERMIT REQUIREMENT AND APPLICATION.**

**01. Permit Requirement.** No person or other entity may conduct or participate in a fishing contest without having first obtained a fishing contest permit from the Department. Events organized wholly for youth under the age of fourteen (14) do not require a fishing contest permit. ( )

**02. Permit Application.** Application for fishing contest permits must be made on a form prescribed by the Department. An application must be submitted at least thirty (30) days prior to a catch-and-release contest and ninety (90) days prior to a harvest contest. ( )

**701. FISHING CONTESTS PERMIT ISSUANCE.**

**01. General.** The issuance of a fishing permit is at the Department's discretion. Among the factors the Department will consider are: ( )

- a.** Impacts of the contest on fish populations. ( )
- b.** Compatibility of the contest with fish population management and fishery goals. ( )
- c.** Potential conflict with other recreational users. ( )
- d.** Potential conflict with other permitted contests. ( )

**02. Limit on Contest.** The Department will not issue a permit for a harvest contest for wild native trout or sturgeon in rivers or streams. The Director may issue a permit for a catch-and-release contest for these species if he determines there will be no harm to that fishery resource in the particular water where the contest is to take place: ( )

**03. Conditions.** The Department has discretion to specify conditions in the permit to minimize adverse impacts on fish populations, management programs and goals, other recreational users, or other permitted contests, including: ( )

- a.** The time of start and check-in; ( )
- b.** Limitations on the area where participants may fish; ( )
- c.** For catch-and-release contests, the method and location of release of fish; ( )
- d.** For harvest contests, more restrictive bag or size limits than would otherwise apply. ( )

**702. FISHING CONTESTS – REQUIREMENTS.**

**01. Rules.** Any fishing contest participant must comply with seasons, limits, and rules pertaining to the taking of fish and any additional conditions of the fishing contest permit. ( )

**02. Culling.** No fishing contest participant may release back to the water (cull) any fish that is not capable of swimming free. A participant in a catch-and release contest may have one (1) daily bag limit of the target species in possession while continuing to fish for the contest target species; if the participant catches another target fish, the participant must immediately release the last fish caught or immediately exchange it for another target fish in possession. ( )

**703. FISHING CONTEST REPORTS.**

Each fishing contest sponsor shall, within thirty (30) days after the last day of a fishing contest, submit a written report to the Fisheries Bureau at the Department's main office on the form prescribed by the Department. ( )

**704. – 999. (RESERVED)**

## 13.01.12 – RULES GOVERNING COMMERCIAL FISHING

### 000. LEGAL AUTHORITY.

Sections 36-104 and 36-804, Idaho Code, authorize the Commission to adopt rules concerning commercial fishing. ( )

### 001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.12, “Rules Governing Commercial Fishing.” These rules establish the criteria for commercial fishing in Idaho. ( )

### 002. – 009. (RESERVED)

### 010. DEFINITIONS.

**01. Commercial Fishing.** Fishing for, taking, or transporting fish or crustacea for the purpose of selling, bartering, exchanging, offering or exposing for sale. ( )

**02. Commercial Fish and Crustacea Species.** ( )

**a.** Lake trout – *Salvelinus namaycush*. ( )

**b.** Lake whitefish – *Coregonus clupeaformis*. ( )

**c.** Crayfish – species of the genus *Pacifastacus*. ( )

**d.** Bullfrog – *Rana catesbeiana/Lithobates catesbeianus*. ( )

**e.** Unprotected fish species from the families of *Cyprinidae* (Minnows) and *Catostomidae* (Suckers) (species not classified as game fish or protected nongame species under 13.01.06, IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife.”) ( )

### 011. – 099. (RESERVED)

### 100. LICENSES, TAGS, AND PERMITS.

**01. Licenses.** No person may set, operate, lift or fish with commercial gear unless he has a valid commercial fishing license or is assisting in the presence of such licensee. Any person assisting the holder of a commercial fishing license engaged in commercial fishing with the use of conventional rod and reel must have either a commercial or recreational fishing license. ( )

**02. Tags.** No person may set, operate, lift or fish commercial gear unless such gear has attached thereto a valid commercial gear tag from the Department, except that no tag needs to be attached to conventional rod and reel fishing tackle used for commercial fishing. ( )

**03. Permits.** The Director may issue permits authorizing the holder to: ( )

**a.** Commercially fish for crustacea not listed as commercial species. ( )

**b.** Commercially fish in waters other than those listed in Section 700. ( )

**c.** Such permits will be valid for a period not to exceed one (1) year. ( )

**04. Revocation of Licenses and Permits.** The Director is authorized to suspend, for a period not to exceed one (1) year, or revoke entirely, any commercial license or permit for violation of Title 36, Idaho Code by the licensee or persons acting under the licensee’s direction and control. ( )

### 101. – 199. (RESERVED)

### 200. RELEASE OF NON-TARGET FISH AND CRUSTACEA.

Any person capturing with commercial gear any species of fish or crustacea not a commercial species or listed on a special permit shall immediately release the fish or crustacea unharmed back to the water. ( )



**01. Female Crayfish.** Any person capturing any female crayfish carrying eggs or young shall release the crayfish unharmed back to the water at the time the crayfish are sorted. ( )

**02. Special Permit.** No person may have in possession any species of fish or crustacea other than a commercial species or a species listed on a special permit issued by the Director pursuant to Subsection 100.03 at the time they are engaging in commercial fishing activities. ( )

**201. – 299. (RESERVED)**

**300. POSSESSION AND TRANSPORTATION OF LIVE FISH OR CRUSTACEA.**

**01. Live Fish.** No person may transport live fish without a permit from the Department. ( )

**02. Live Crustacea.** Commercial fishers may possess and transport live commercial species of crustacea between the water areas where harvested and the point of sale or holding. Live crustacea may be held only in the waters where harvested, in ponds for which a private pond permit listing crayfish has been issued or in licensed commercial facilities. ( )

**301. – 399. (RESERVED)**

**400. SIZE LIMITS.**

**01. Fish.** Commercial fish species of any size may be taken commercially. ( )

**02. Crustacea.** ( )

**a.** Only crustacea three and five-eighths (3 5/8) inches (ninety-two (92) mm) or greater in length from the tip of the nose (acumen) to the tip of the tail (telson), measured in a straight line ventral side up, may be taken commercially. ( )

**b.** Crustacea shall be sorted and any undersize crustacea returned to the water at the place of capture immediately following the emptying of any single trap or a trap line. However, an allowable sorting error percentage of undersized crustacea, not to exceed five percent (5%), is allowed in any load or lot. The percentage of undersized crustacea will be the mean of combined counts of samples measured and counted from various portions of the load or lot. Samples will be taken in containers of not less than one (1) gallon size approximately full of crayfish, with at least three (3) such samples taken from any load or lot. ( )

**401. – 499. (RESERVED)**

**500. COMMERCIAL GEAR AND METHODS OF TAKE FOR FISH OR CRUSTACEA.**

No person may commercially harvest fish or crustacea except as follows: ( )

**01. Seine Nets.** With a seine net that is either: ( )

**a.** Under constant attendance by the licensee or someone working under the supervision of the licensee; or ( )

**b.** If being used to hold fish, clearly marked with buoys that are at least twelve (12) inches in diameter. ( )

**02. Traps.** For crayfish and minnow only, with a trap not exceeding three feet in any dimension, and provided all crayfish and minnow traps are lifted and emptied of catch at least once every ninety-six (96) hours, except during periods of weather that pose a threat to human life, health, or safety. ( )

**03. Experimental Gear.** Experimental commercial gear specifically approved by the Director under such conditions as the Director may deem appropriate. ( )

- 04. By Hand.** For crayfish only. ( )
- 05. Trawl Nets.** Only as specifically approved by the Director. ( )
- 06. Conventional Rod and Reel Fishing Tackle.** Only rod and reel methods approved for sportfishing, as described in IDAPA 13.01.11, "Rules Governing Fish," except that the holder of a commercial license may use more than two (2) lines while commercially fishing. ( )
- 07. Gill Nets.** Only as specially approved by the Director under such conditions as he may deem appropriate, with approval subject to modification or termination if catch of game fish species is excessive, and provided: ( )
- a.** All gill nets and lines within ten (10) feet of the surface are clearly marked with a minimum of six (6) inch diameter buoys every fifty (50) feet; and ( )
- b.** All gill nets are lifted and emptied of catch at least once every eighteen (18) hours except during periods of weather that pose a threat to human life, health, or safety. ( )
- 501. UNTAGGED GEAR.**  
Untagged gear, as well as any seine net or trap left unattended more than ninety-six (96) hours is considered unlawful or abandoned and may be confiscated by Department personnel. ( )
- 502. – 599. (RESERVED)**
- 600. SEASONS.**
- 01. Commercial Fish.** Year-round. ( )
- 02. Commercial Crustacea.** April 1 through October 31 of each year. ( )
- 601. – 699. (RESERVED)**
- 700. COMMERCIAL FISHING AREAS.**  
Commercial harvest is allowed only in the following areas: ( )
- 01. For Seine Nets.** Seine nets with a mesh greater than one and one half (1 1/2") square may be used ONLY in the following waters, except as specifically approved by the Director for other waters: ( )
- a.** Snake River and main stem impoundments from Hells Canyon Dam upstream to the confluence of the North and South Forks. ( )
- b.** Ashton Reservoir. ( )
- c.** Palisades Reservoir. ( )
- d.** Lake Lowell. ( )
- e.** Black Canyon Reservoir. ( )
- f.** Blackfoot Reservoir. ( )
- g.** Mud Lake. ( )
- h.** Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. ( )

**02. Minnow Traps.** Minnow traps for commercial fish may be used only in the following areas, except as specifically approved by the Director for other waters. ( )

**a.** Snake River excluding main stem impoundments from Weiser upstream to the confluence of the North and South Forks. ( )

**b.** Ashton Reservoir. ( )

**c.** Palisades Reservoir. ( )

**d.** Black Canyon Reservoir. ( )

**e.** Blackfoot Reservoir. ( )

**f.** Mud Lake. ( )

**g.** Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. ( )

**03. Crayfish Traps.** Crayfish traps for commercial crustacea may be used only in the following areas, except as specifically approved by the Director: ( )

**a.** Snake River and main stem impoundments from Hells Canyon Dam upstream to the confluence of the North and South Forks. ( )

**b.** Black Canyon Reservoir. ( )

**c.** Blackfoot Reservoir. ( )

**d.** Mud Lake. ( )

**e.** Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. ( )

**04. Rod and Reel for Lake Trout Only.** ( )

**a.** Lake Pend Oreille. ( )

**05. Gill Nets.** Gill nets for commercial fish may only be approved by the Director where commercial nongame species are likely to exceed eighty percent (80%) of the fish biomass. ( )

**701. COMMERCIAL FISHING RESTRICTIONS.**

**01. Operation Limitations.** No commercial gear may be set, operated, or lifted within one hundred (100) yards of any public boat ramp or dock. ( )

**02. Storage Limitation.** No commercial gear, boats, or other equipment or materials used in conjunction with a commercial fishing operation may be stored or left unattended at any public fishing access area in any manner that restricts angling or angler access. ( )

**702. – 799. (RESERVED)**

**800. INSPECTIONS AND REPORTING REQUIREMENTS.**

**01. Inspections.** Department personnel may inspect: ( )

**a.** Commercial gear at any time the gear is being used. ( )

b. Catches and catch records at any time. ( )

**02. Reporting Requirements.** All licensees shall submit a monthly report on a form prescribed by the Department, with all requested information including daily landings and effort, such that it is received by the Department not later than the fifteenth day of the month following the fishing activities. ( )

**801. – 999. (RESERVED)**

## 13.01.14 – RULES GOVERNING FALCONRY

### 000. LEGAL AUTHORITY.

Sections 36-104 (b), 36-409, and 36-1102, Idaho Code, authorize the Commission to adopt rules concerning falconry in the state of Idaho. ( )

### 001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.14, “Rules Governing Falconry.” These rules establish a falconry program in the state of Idaho. ( )

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

01. **Calendar Year.** January 1 through December 31, to apply to any reference to the use of the terms twelve-month (12) period, annual, or year within this rule and federal regulations. ( )

02. **Captive-Bred.** Any raptor raised in captivity from eggs laid by captive raptors. ( )

03. **Falconry.** Capturing, possessing, caring for, transporting, training, and using raptors to hunt wild or artificially propagated birds and animals as a recreational sport, not to include any propagation, breeding or commercial use. ( )

04. **Federal.** United States Code of Federal Regulations -- CFR Title 50 Parts 21 & 22 -- administered by the United States Department of Interior and U.S. Fish and Wildlife Service. ( )

05. **Form 3-186A.** A Migratory Bird Acquisition and Disposition Report required by the United States Fish and Wildlife Service and the Department to track and record possession and status of raptors. ( )

06. **New U.S. Resident.** Any person who has legally moved into the United States or a recognized U.S. Territory to reside and who may or may not have obtained U.S. citizenship. ( )

07. **Non-Resident.** Any person who has not met the criteria to become an Idaho resident as stated in 36-202(s), Idaho Code, and possesses resident status and privileges from another U.S. state, territory or tribe. ( )

08. **Raptor.** Any bird of prey classified under the Families Falconidae, Strigidae, Accipitridae, and hybrids thereof. ( )

09. **Resident.** Any person meeting the residency requirements set forth in 36-202 (s), Idaho Code. ( )

10. **Territory.** Recognized territories of the United States. ( )

11. **Tribe.** Any United States recognized Native American or territorial tribe, its members and federal lands designated as reservations administered under a sovereign tribal government. ( )

12. **Transfer.** To convey, deliver, loan, gift, give, barter, sell or move a raptor, raptor parts or any permit from one person, place or situation to another. ( )

13. **Visitor.** Any person not legally residing in the United States or a recognized territory, and who is temporarily in the U.S. as a visitor. ( )

14. **Wild-Caught.** Any raptor captured, removed or originating from the wild. Wild-caught raptors maintain wild-caught status throughout their life span in regard to capture, possession and transfer restrictions. ( )

### 011. -- 099. (RESERVED)

### 100. PERMITS, POSSESSION, IMPORTATION, AND SALE.

01. **Migratory Bird Treaty Act and Regulations.** As provided by Section 36-1102, Idaho Code, no person may hunt, take, or have in possession any migratory birds, including raptors, except as provided by federal regulations made pursuant to the federal migratory bird treaty act (including 50 CFR, Parts 21 & 22) and in

accordance with related rules and proclamations promulgated by the Commission. ( )

**02. Falconry Permit.** Except as otherwise provided by this rule, an Idaho Falconry Permit (at a fee set forth under 36-416, Idaho Code) is required before any person may possess, capture, transport, import, export or purchase any raptor for the purpose of falconry. ( )

**03. Raptor Captive Breeding Permit.** Except as otherwise provided by this rule, an Idaho Raptor Captive Breeding Permit (at a fee set forth under 36-416, Idaho Code) and a Federal Raptor Propagation Permit is required before any person may take, possess, transport, import, export, purchase, barter, sell or offer to sell, purchase, or barter any raptor, raptor egg, or raptor semen for propagation purposes. ( )

**04. Non-Residents, New U.S. Residents Permit Purchase.** Non-Residents and New U.S. Residents may be issued Idaho Apprentice, General, Master Falconer, or Raptor Captive Breeding Permits without a waiting period upon permanently moving into the state of Idaho. ( )

**a.** Non-Resident and New U.S. Resident applicants shall surrender to the Department any permit(s) issued by another state or country, and provide a written and signed statement verifying intent to become an Idaho resident. ( )

**b.** Non-Resident applicants will be issued an equivalent Idaho class permit(s) to the permit(s) surrendered from the applicant's past resident state, territory or tribe. ( )

**c.** New Residents to the U.S. will be required to pass the Department Apprentice Falconry Examination and provide documentation to support the class of permit applied for. The Department, based on applicant experience, will determine and assign the appropriate class of permit. ( )

**05. Non-Resident, New U.S. Resident Permit Purchase within Thirty Days.** Non-Resident and New U.S. Resident falconers taking permanent residency in Idaho, shall, within thirty (30) consecutive days, purchase an Idaho Falconry Permit and a Raptor Captive Breeding Permit as required by Subsections 100.01 and 100.02 of this rule. ( )

**06. Expiration of Permits.** Idaho Falconry Permits and Raptor Captive Breeding Permits are valid for three (3) years from date of issuance or renewal. ( )

**07. Permit Renewal.** Permit issuance or renewal will be initiated with the completion and submission of a Department Falconry Application Form to the appropriate Department Regional Office accompanied by the appropriate fee(s) as set forth under 36-416, Idaho Code. ( )

**08. Transfer of Permits.** Idaho Falconry and Raptor Captive Breeding Permits are not transferable to another person, but may be updated to a new in-state location. ( )

**09. Permit-Class Upgrades.** ( )

**a.** Falconry Permit-class upgrades (e.g., moving from Apprentice to General status) will be made at no cost to the applicant. Permit-class change requests shall be submitted to the appropriate Department Regional Office on a Department Falconry Permit Application Form with required documentation to verify that prerequisites for the permit-class upgrade have been satisfied. ( )

**b.** Permit Exemption for Temporary Possession. Except as otherwise provided, Non-Residents, Visitors and New U.S. Residents possessing a valid federal, territory, tribe, another state or country's equivalent Falconry or Raptor Captive Breeding/Propagation Permit, and not utilizing or possessing any Idaho resident privilege, may temporarily import, possess and transport raptors listed under their Falconry or Captive Breeding/Propagation Permits for up to thirty (30) consecutive days without purchasing an Idaho Falconry or Raptor Captive Breeding Permit. ( )

**i.** Visitors and New U.S. Residents shall comply with federal raptor importation and registration laws and shall obtain a Department Wildlife Importation Permit before importing any raptor. ( )

ii. Visitors and New U.S. Residents entering Idaho with a raptor(s) under an Idaho Wildlife Import Permit shall contact the nearest Department Regional Office to take the Idaho Falconry Examination. Only applicants correctly answering at least eighty percent (80%) of the test questions will be issued a Temporary Idaho Falconry Permit. Wildlife Import and Temporary Falconry Permits shall be carried at all times when possessing raptors. ( )

iii. Exceptions to extend the thirty (30) day exemption period shall be at the Department's discretion and any temporary possession in excess of one hundred twenty (120) days shall require raptor housing in a falconry facility that has been approved by the Department under an existing Falconry or Captive Breeding Permit. ( )

iv. Non-Residents, New U.S. Residents and Visitors in addition to possessing a valid Falconry or Captive Breeding/Propagation Permit from their home state, territory, tribe or country shall comply with all other Idaho and federal rules regulating hunting and the possession of wildlife to include possession of appropriate non-resident licenses, tags, permits, stamps and validations. ( )

**10. Unlawful Sale and Possession of Raptors.** Except as otherwise provided by this rule, no person may sell, purchase, or barter any raptor or parts thereof, or possess raptors or parts that have been unlawfully obtained, sold, purchased or bartered. ( )

a. Only live captive-bred raptors banded or micro-chipped in compliance with Subsection 400.01 of this rule may be sold, purchased or bartered between holders of valid state, federal, tribal, territory or another country's Falconry and Raptor Captive Breeding or Propagation Permit. ( )

b. Holders of valid Idaho Raptor Captive Breeding Permits and federal Raptor Propagation Permits may only sell, purchase and barter raptor eggs and semen produced and originating from raptor propagation or captive breeding programs under valid permit. ( )

**101. -- 199. (RESERVED)**

**200. INSPECTION OF RAPTORS, FACILITIES, POSSESSION AND RECORDS.**

**01. Facilities Covered by Permits.** All raptors, facilities, equipment and falconry records required in accordance with federal and Idaho rules are subject to reasonable business-hour inspection, any day of the week, in the presence of the applicant or permit holder. All raptors, equipment, and related records required by law shall be produced for inspection upon Department request. ( )

**02. Inspection Prior to Possession of Raptors.** ( )

a. Except as otherwise provided by Section 100 of this rule, no person may possess any raptor(s) under the issuance of an Idaho Falconry or Raptor Captive Breeding Permit, until holding facilities and equipment have been inspected and approved by the Department to verify that facilities and equipment meet federal and Idaho standards. ( )

b. Facility inspections are required any time a permit holder moves his holding facilities to any physical address location that is not recorded on his current Falconry or Raptor Captive Breeding Permits. Facility location changes shall be reported to the Department within five (5) days. ( )

**03. Facilities Accepted.** Either indoor, including a personal residence, or outdoor falconry facilities, or a combination of both meeting federal standards of care, are authorized. ( )

**201. -- 299. (RESERVED)**

**300. APPROVED SPECIES, WILD CAPTURE, LIMITS, PERMITS, HACKING, AND REHABILITATION.**

**01. Approved Raptor Species.** Except as otherwise provided by this rule, any species of raptor defined under Section 010 of this rule is authorized for use in falconry or captive breeding. ( )

**02. Capture Permits.** Raptors may only be captured from the wild by persons possessing a valid Idaho Falconry Permit, or a Non-resident federal, state, territory or tribal Falconry Permit. Non-residents must also possess an Idaho Bird of Prey Capture Permit. ( )

**03. Capture of Wild Raptors, Approved Species and Limitations.** ( )

**a.** Resident Falconers. Except as otherwise provided by this rule, residents possessing a valid Idaho Falconry Permit are authorized to capture no more than two (2) wild raptors, as their permit class authorizes, each calendar year. ( )

i. Not more than one (1) Golden Eagle may be captured in any calendar year. ( )

ii. Capture and possession of any raptor classified under federal or state law as threatened or endangered is unlawful without Department approval and a special permit. ( )

iii. The issuance of an Idaho Eagle Falconry Permit is required to capture or possess Golden Eagles. ( )

iv. Capture and possession of Bald Eagles is unlawful. ( )

v. Capture and possession of wild Peregrines, as listing status allows, shall be restricted to a limited number of resident Peregrine Capture Permits. ( )

vi. The Commission, pursuant to Section 36-105 (3), Idaho Code, may establish capture quotas, and a capture permit allocation system by proclamation. ( )

**b.** Non-Resident Falconers. Non-resident falconers intending to capture any wild Idaho raptor shall comply with the following: ( )

i. Apply to the Department Licensing Bureau in Boise for a Non-Resident Bird of Prey Capture Permit, issued on a calendar year basis, at a fee set forth under Section 36-416, Idaho Code. ( )

ii. The Commission, pursuant to Section 36-105 (3), Idaho Code, will designate raptor species approved for capture, capture quotas, and a capture permit allocation system by proclamation. ( )

iii. Non-residents will be limited to the purchase of only one (1) Bird of Prey Capture Permit per calendar year. ( )

iv. Non-residents receiving a Bird of Prey Capture Permit shall be authorized to only capture and possess the species of raptor specified on their permit. ( )

v. Non-resident Capture Permit holders, successful with the capture of a raptor shall, within seventy-two (72) hours of capture, have their Capture Permit validated by the Department at any Regional Office prior to transporting any captured raptor out of Idaho. ( )

**04. Approved Capture Dates - Resident and Non-Resident Falconers.** ( )

**a.** Immature raptors (birds less than one (1) year of age) are open to capture all year with no restrictions in regard to days of the week or times of capture. ( )

**b.** Kestrels and Great-horned Owls may be captured as immature or adult birds (birds that are one (1) year of age or older). The take of adult birds is prohibited from March 1st through July 31st. ( )

**05. Capture Area Restrictions.** ( )

**a.** No person may capture or attempt to capture any raptor when such activity is unlawful under federal, state, tribal, county or city law or ordinance. ( )



b. No person may possess any raptors taken in violation of any federal, state, tribal, county or city law. ( )

**06. Capture and Possession Limits.** No person may exceed approved state and federal raptor possession and capture limits. ( )

**07. Raptor Hacking.** Raptor hacking in compliance with federal rules, by holders of a valid Idaho Falconry or Rehabilitation Permits, is authorized. ( )

**08. Assisting with Raptor Rehabilitation.** General or Master Class Falconers possessing a valid Idaho Falconry Permit may assist the Department and permitted raptor rehabilitators with the rehabilitation, conditioning and hacking of raptors, provided the taking of any raptor into possession for rehabilitative conditioning or training is coordinated and pre-approved by the appropriate Department Regional Office. ( )

**301. -- 399. (RESERVED)**

**400. RAPTOR BANDING, RADIO TRANSMITTERS, TRANSFERS, REPORTING, AND RELEASE.**

**01. Raptor Banding.** Except as otherwise provided for temporary possession and housing under federal rule and Section 100 of this rule, falconers and captive breeders possessing raptors shall comply with all federal banding and micro-chipping regulations and comply with the following, with bands to be provided by the Department and micro-chips to be provided by the falconer: ( )

a. Wild-caught Peregrines, Harris' Hawks, Gyrfalcons and Goshawks: banded with a black federal, non-reusable leg band or an approved micro-chip (ISO compliant at 134.2 kHz). ( )

b. All Captive-bred raptors: banded with a seamless band within two (2) weeks of hatching. Federally approved micro-chips or yellow federal, non-reusable leg bands may be used to replace seamless bands that are broken or have become unreadable. ( )

c. Raptors that suffer injury or develop health issues caused by leg bands, or routinely remove or damage bands: micro-chipped, or, based on unusual circumstances, a special written exemption to banding or micro-chipping. ( )

d. Bands or micro-chips: attached or placed on all federally required wild-caught raptors within five (5) days of acquisition or capture. ( )

**02. Radio Transmitters.** At least two (2) functioning radio transmitters shall be attached to any raptor hybrid, or any raptor not listed under CFR 50, Part 10.13, when being free flown. ( )

**03. Raptor Transfers.** Resident falconers/captive breeders may not transfer any species of wild-caught raptor to a non-resident until the transfer is approved under an Idaho Wildlife Export Permit. ( )

a. Idaho Wildlife Export Permits may be purchased at a fee set forth under Section 36-416, Idaho Code, by submitting an application to the Department Wildlife Health Lab. ( )

b. With Department approval, wild-caught raptors, possessed less than two (2) years from date of capture, that have been injured and can no longer be flown for falconry purposes, as determined by a veterinarian or raptor rehabilitator, may be transferred to a Captive Breeding or Propagation Permit. ( )

**04. Release of Birds.** No raptor may be permanently released into the wild without prior Department approval. ( )

**05. Reporting.** A Form 3-186A shall be completed and electronically submitted into the United States Fish and Wildlife Service electronic records database, or a hard copy thereof, shall be completed and submitted to the appropriate Department Regional Office within five (5) days when any raptor is acquired, captured (including

captures of already banded or telemetry equipped birds), re-captured, transferred, lost, escaped, stolen, released, banded, re-banded, micro-chipped, or deceased. ( )

**401. -- 499. (RESERVED)**

**500. FALCONRY HUNTING SEASONS, BAG AND POSSESSION LIMITS.**

The Commission sets hunting seasons, bag limits, and possession limits by proclamation adopted and published in accordance with Section 36-105(3), Idaho Code. ( )

**501. -- 599. (RESERVED)**

**600. TRAINING RAPTORS USING ARTIFICIALLY PROPAGATED GAME BIRDS.**

**01. Permit.** A valid Idaho Falconry Training Permit is required before any person is authorized to possess, release, or use artificially propagated game birds for purposes of training raptors in the field. Training permits shall be issued at a fee set forth under Section 36-416, Idaho Code, currently a free permit, and are available to residents, non-residents and visitors, and all hunting license requirements apply. ( )

**02. Permits Valid.** Permits are valid for two (2) years from date of issuance. ( )

**03. Establishing Limitations and Guidelines.** In addition to the rules set forth, the Director is authorized to establish limitations and guidelines as to dates, locations, and conditions whereupon permits may be issued allowing the party or parties listed thereon to use, release and kill game birds obtained from a private domestic source for the purpose of field training raptors. ( )

**04. Raptor Field Training, Conditions of Use.** Raptor field training with a valid Idaho Falconry Training Permit and the use of artificially propagated game birds is lawful when the following conditions are met: ( )

**a.** The owner of the raptor(s) being trained possesses a valid Idaho Falconry Training Permit, or another state, country, territory or federal Falconry Permit. ( )

**b.** An Idaho Falconry Training Permit and required falconry permit(s) are carried in the field and available for Department inspection at the training site. ( )

**c.** Artificially propagated game birds used for training purposes are certified disease free under the standards set forth by the National Poultry Improvement Program (NPIP). ( )

**d.** Proof of lawful game bird origin is available for inspection. ( )

**e.** Permit holder complies with all additional stipulations outlined on the permit at time of issuance. ( )

**601. -- 699. (RESERVED)**

**700. FALCONRY MEETS, PERMITS, NON-RESIDENTS, NEW U.S. RESIDENTS, AND VISITORS.**

Non-residents, new U.S. residents and visitors shall purchase and possess an Idaho Falconry Meet Permit, at a fee set forth under 36-416, Idaho Code, or an appropriate Non-Resident hunting license to fly or hunt any raptor as a participant in any sponsored falconry meet or contest. ( )

**701. -- 799. (RESERVED)**

**800. PENALTIES.**

Conviction of a violation of these rules may be grounds for revocation of an Idaho falconry permit or denial of any pending applications for an Idaho falconry permit. The revocation of any permit may be appealed in writing to the Director within thirty (30) days of such revocation. ( )

**801. -- 999. (RESERVED)**

## 13.01.15 – RULES GOVERNING THE USE OF DOGS

### 000. LEGAL AUTHORITY.

Sections 36-104, 36-409, and 36-1101, Idaho Code, authorize the Commission to adopt rules concerning the use of dogs in taking wildlife, use of game birds in field training, and related permitting. ( )

### 001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.15, “Rules Governing the Use of Dogs.” These rules govern the use of dogs in taking wildlife and use of game birds in field training dogs in Idaho. ( )

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife,” defines upland game animals, upland game birds, and migratory game birds. ( )

01. **Licensed Outfitter.** An outfitter with a valid license issued under Title 36, Chapter 21, Idaho Code. ( )

02. **Licensed Guide.** A guide with a valid license issued under Title 36, Chapter 21, Idaho Code. ( )

03. **Unarmed Observers.** An unarmed person who is not the owner or controller of pursuit dogs and who accompanies a hunt without intent to take or harvest an animal. ( )

04. **Unqualified Idaho Resident.** A person who has moved into Idaho, and by notarized affidavit proves intent to become a bona fide Idaho resident but who is not yet qualified to purchase a resident license. ( )

### 011. -- 099. (RESERVED)

### 100. USE OF DOGS.

No person may use dogs for taking wildlife, except for the following wildlife under the following conditions: ( )

01. **Upland Game Animals, Upland Game Birds, and Migratory Game Birds.** A dog may be used for training on or hunting upland game animals, game birds, and migratory game birds. ( )

02. **Black Bear, Mountain Lion, Bobcat, and Fox—Taking.** Dogs may be used for taking black bear, mountain lion, bobcat, and fox in a take season open for the species, unless the Commission prohibits dog use in the area by proclamation. ( )

03. **Black Bear, Mountain Lion, Bobcat, and Fox—Training/Pursuit Only.** Dogs may be used for training and pursuit only (no harvest) of black bear, mountain lion, bobcat, and fox in a dog training season open for the species, unless the Commission prohibits dog use in the area by proclamation. A big game tag valid for the calendar year that has been filled is still valid for training/pursuit only of the species. ( )

04. **Blood Trailing of Big Game.** The use of one (1) blood-trailing dog controlled by leash during hunting hours and within seventy-two (72) hours of hitting a big game animal is allowed to track animals and aid in recovery. ( )

05. **Unprotected and Predatory Wildlife.** A dog may be used for training on or taking unprotected and predatory wildlife. ( )

### 101. -- 199. (RESERVED)

### 200. HOUND HUNTER PERMIT.

01. **Hound Hunter Permits.** ( )

a. The following persons must have a valid hunting license and Hound Hunter Permit in possession when any dog is being used to hunt, including training or pursuit only, black bear, mountain lion, bobcat, and fox: ( )

- i. Anyone who owns the dog. ( )
- ii. Anyone having control of the dog if owned by another person. ( )
- b. A permit is not transferable EXCEPT, a licensed outfitter may convey the authority of his Hound Hunter Permit to a nonresident licensed guide operating for him, provided the nonresident guide has a copy of the outfitter's Hound Hunter Permit in possession. ( )
- c. A permit is valid from January 1 through December 31 of each year. ( )
- 02. Exceptions.** A person owning or using a dog only for blood trailing does not need a hound hunter permit. An unarmed observer does not need a hunting license or hound hunter permit. ( )
- 03. Limit on Hound Hunter Permits for Nonresidents.** No more than seventy (70) nonresident hound hunter permits will be issued to nonresident hunters. Sales of nonresident Hound Hunter Permits to the following persons are exempt from this limit: ( )
  - a. A nonresident licensed outfitter or guide, provided the permit is not used for personal hunting. ( )
  - b. An unqualified Idaho resident. ( )
  - c. Persons who hound hunt solely in the Middle Fork Zone (Units 20A, 26, and 27). ( )
  - d. Persons who hound hunt solely in the Lolo Zone (Units 10 and 12). ( )
  - e. Persons who hound hunt solely within the Selway Zone (Units 16A, 17, 19, and 20), for which no more than forty (40) nonresident permits will be issued for Units 16A, 19, 20, and all of Unit 17, excluding Hunt Area 17-1, for which no more than six (6) nonresident permits will be issued. Hunt Area 17-1 is that portion of Unit 17 south of the following boundary: Beginning at the junction of the Unit 17 boundary and Forest Service Trail 24, then west along Forest Service Trail 24 to the Selway River, then north along the Selway River to Forest Service Trail 40, then southwest along Forest Service Trail 40 to Forest Service Trail 3, then along Forest Service Trail 3 to the Unit 17 boundary. ( )
- 04. Nonresident Applications.** ( )
  - a. To be eligible for a controlled draw for limited nonresident permits, a nonresident must submit a legible, complete application for a hound hunter permit on the form prescribed by the Department such that it is received at the Department's main office by no later than December 1 of the year preceding the year in which the permit is to be valid. ( )
  - b. No person may submit more than one (1) application for a Hound Hunter Permit. ( )
  - c. Two nonresidents may apply for two (2) permits on the same application form. ( )
  - d. If nonresident tags are available after the application period, they will be available for purchase at any Department office on a first-come, first-served basis on or after December 10. ( )

**201. -- 299. (RESERVED)**

**300. BIRD-DOG TRAINING AND FIELD TRIALS BY INDIVIDUALS USING ARTIFICIALLY PROPAGATED GAME BIRDS.**

- 01. Bird-Dog Training.** No person may conduct bird-dog field training with the use of artificially propagated game birds unless all of the following conditions are met: ( )

**a.** The owner of any dog being field trained has a valid Bird-Dog Training Permit (obtainable at Department Offices), and has the permit available for inspection at the training site. ( )

**b.** Artificially propagated game birds used for training purposes on Wildlife Management Areas are certified as disease free under the standards set forth by the National Poultry Improvement Program (NPIP). ( )

**c.** The permittee is in compliance with permit terms. ( )

**02. Bird-Dog Field Trials.** No person may conduct or own a dog participating in a bird-dog field trial using artificially propagated game birds unless all of the following conditions are met: ( )

**a.** There is a valid Bird-Dog Field Trial Permit (obtainable at Department Offices) available for inspection at the field trial site. ( )

**b.** Artificially propagated game birds used for training purposes are certified as disease free under the standards set forth by the National Poultry Improvement Program (NPIP). ( )

**c.** Proof of lawful game-bird origin is available for inspection at the field trial site. ( )

**d.** The permittee is in compliance with permit terms. ( )

**301. -- 999. (RESERVED)**

**13.01.16 – THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE  
AND THE TAKING OF FURBEARING ANIMALS**

**000. LEGAL AUTHORITY.**

Sections 36-104(b) and 36-1101(a), Idaho Code, authorize the Commission to adopt rules concerning the trapping of predatory and unprotected wildlife and the taking of furbearing animals. ( )

**001. TITLE AND SCOPE.**

The title for this chapter for citation is IDAPA 13.01.16, “The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals.” These rules govern the taking of trapping predatory and unprotected wildlife and the taking of furbearing animals in the state of Idaho. ( )

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife” defines furbearing animals and unprotected wildlife. Section 36-201, Idaho Code, defines predatory wildlife. ( )

**01. Bait.** Any animal parts; except bleached bones or liquid scent. ( )

**02. Sets.** ( )

**a. Ground Set.** Any foothold trap, body-gripping trap, or snare originally set in or on the land (soil, rock, etc.), which includes any traps elevated up to a maximum of thirty-six (36) inches above the natural ground level. ( )

**b. Water Set.** Any trap or snare originally set in or on any body of water, which includes traps on floats in the water and those that are set with a minimum of one-third (1/3) of the trap submerged. Water set includes traps set on beaver dams, in bank holes and in the water at bank slides. ( )

**c. Other Sets.** Any set not defined as a ground or water set, including without limitation, elevated sets originally set thirty-six (36) inches or more above natural ground level. ( )

**03. Public Trail.** Any trail designated by any city, county, state, or federal transportation or land management agency on the most current official map of the agency. ( )

**011. -- 099. (RESERVED)**

**100. IDENTIFICATION TAGS FOR TRAPS.**

All traps or snares, except those used for pocket gophers, ground squirrels or other unprotected rodents, shall have attached to the snare or the chain of every trap, a metal tag bearing: ( )

**01. Name and Address.** In legible English the name and current address of the trapper; or ( )

**02. Number.** A six (6) digit number, to be obtained by the trapper from any Department office. ( )

**a.** Any person assigned a six (6) digit number to mark his traps or snares must notify the Department in writing or in person at any Department Office within thirty (30) days of any change in address. ( )

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

**150. CONTROLLED TRAPPING PERMITS.**

**01. General.** No person may trap in a controlled trapping unit for the designated species without having a valid permit for that controlled trapping unit in possession. A permit issued based on erroneous information will be invalidated by the Department. The Department will notify the individual of the invalidation, and that person will not be eligible for a controlled trapping permit that year or in a succeeding year to which a waiting period applies. ( )

**02. Eligibility.** Any person possessing a valid Idaho trapping license is eligible to apply for a controlled trapping unit permit. ( )

**03. Applications.** Applications for controlled trapping permits will be made on a form prescribed by the Department. The Department will only consider applications received at the Headquarters Office of the Department or postmarked not later than September 15 of each year. Any application that is unreadable, has incomplete or incorrect trapping license numbers, or lacks mandatory information or fee will be declared void and will not be entered in the drawing. All applications will be considered final and cannot be resubmitted after correction. ( )

**a.** No person may submit more than one (1) application per species for a controlled trapping permit. ( )

**b.** No group applications will be accepted. ( )

**04. Controlled Trapping Permit Drawing.** ( )

**a.** Applications not drawn for the first choice unit will automatically be entered into a second choice drawing, provided the second choice applied for has not been filled. ( )

**b.** If an insufficient number of “first choice” applications are received for a unit, remaining permits will be filled from applications listing the unit as a second choice. ( )

**c.** Any permits left unfilled after the second choice drawing may be issued on a first-come-first-served basis. ( )

**05. Successful Applicants.** Successful applicants will be notified by mail and must contact the person listed on the notice by October 14 to obtain the permit. The permittee, upon agreeing to follow trapping instructions for the unit, will be issued a permit. ( )

**06. Revocation of Permits.** Any permittee who does not comply with Title 36, Idaho Code, administrative rules, or trapping unit instructions may have his permit revoked. ( )

**07. Alternative Permittee.** Any revoked permit may be issued to an alternate, selected at the time of the drawing. If there is no alternate, or the alternate fails to comply with Subsection 150.05 above, the permit may be issued to the first eligible trapper answering a notification of vacant trapping Unit as approved by the Regional Supervisor. ( )

**151. -- 199. (RESERVED)**

**200. TRAPS.**

**01. Checking Traps.** ( )

**a.** No person may place snares or traps for furbearing animals, predatory or unprotected wildlife, except pocket gophers, ground squirrels and other unprotected rodents, without visiting every trap or snare once every seventy-two (72) hours and removing any catch therein. ( )

**b.** Trappers acting as government employees or contractors are exempt from this rule. ( )

**02. Removing Trapped Animals of Another.** No person may remove wildlife from the trap or snare of another except licensed trappers with written permission from the owner. ( )

**03. Release of Non-Target Catches.** ( )

**a.** All non-target species caught alive shall be released immediately. Non-target species are defined as any species caught for which the season is closed or is in excess of the trapper’s limit. ( )

**b.** Any trapper who catches a non-target species that is dead shall: ( )

- i. Promptly record the date and species of animal caught and include this information in the mandatory furtaker harvest report. ( )
- ii. Remove the animal from the trap and take it into possession. ( )
- iii. Notify the Department through the local Conservation Officer or Department office within seventy-two (72) hours to make arrangements to transfer the animal to the Department. ( )
- c. The Department will reimburse trappers ten dollars (\$10) for each bobcat, lynx, wolverine, otter, or fisher caught accidentally and turned in. ( )

**201. -- 299. (RESERVED)**

**300. WOUNDING, RETRIEVING, AND POSSESSION.**

- 01. Wound or Kill.** No person may wound or kill any furbearer by hunting without making a reasonable effort to retrieve it and reduce it to possession. ( )
- 02. Live Furbearer.** No person may possess a live furbearer taken from the wild. ( )

**301. -- 399. (RESERVED)**

**400. METHODS OF TAKE.**

- 01. Furbearing Animals.** No person may take beaver, muskrat, mink, marten, or otter by any method other than trapping. No person may hunt any furbearing animal with or by the aid of artificial light. ( )
- 02. Hunting.** No person hunting furbearing animals or predatory or unprotected wildlife may hunt with dogs, except in accordance with IDAPA 13.01.15, "Rules Governing the Use of Dogs." ( )
- 03. Trapping.** No person trapping furbearing animals or predatory or unprotected wildlife may:
  - a. Use for bait or scent, any part of a domestic or wild origin game bird, big game animal, upland game animal, game fish, or protected nongame wildlife. ( )
  - b. Use any set within thirty (30) feet of any visible bait. ( )
  - c. Use a dirt hole ground set with bait unless the person ensures that the bait remains covered at all times to protect raptors and other meat-eating birds from being caught accidentally. ( )
  - d. Use live animals as a bait or attractant. ( )
  - e. Place any ground sets on, across, or within ten (10) feet of the edge of any maintained unpaved public trail. ( )
  - f. Place any ground set on, across, or within any public highway as defined in Section 36-202, Idaho Code; except ground sets may be placed underneath bridges and within and at culverts that are part of a public highway right-of-way. ( )
  - g. Place any ground set incorporating snare, trap, or attached materials within three hundred (300) feet of any designated public campground, trailhead, paved trail, or picnic area; except cage or box live traps may be placed within these areas as allowed by city, county, state, and federal law. ( )
  - h. Place or set any ground set snare without a break-away device or cable stop incorporated within the loop of the snare. ( )



i. Place any ground set incorporating a foothold trap with an inside jaw spread greater than nine (9) inches. ( )

**401. -- 499. (RESERVED)**

**500. MANDATORY CHECK AND REPORT – PELT TAGS.**

**01. Mandatory Check and Report.** Any person taking river otter or bobcat must comply with the mandatory check, report and pelt tag requirements by: ( )

**a.** Bobcat: Present the pelt to any Department office or official check point to obtain the appropriate pelt tag and complete a harvest report. ( )

**b.** River otter: Present the pelt to the Department office in the region in which the animal was taken within seventy-two (72) hours of taking to obtain the appropriate pelt tag and complete a harvest report. Trappers unable to comply with the tagging requirements due to special or unique circumstances must report their harvest to the appropriate regional office or field personnel within seventy-two (72) hours and make arrangements for tagging at the proper regional office. ( )

**02. Pelt Tags. ( )**

**a.** No person may have in possession, except during the open season and for ten (10) days after the close of the season, any raw bobcat pelt without an official state export tag attached, unless that person has a fur buyer or taxidermist license or appropriate import documentation. ( )

**b.** No person may have in possession, except during the open season and for seventy-two (72) hours after the close of the season, any raw otter pelt legally harvested in Idaho that does not have an official state export tag attached. ( )

**c.** No person may sell, offer for sale, purchase, or offer to purchase any raw bobcat or otter pelt that does not have an official state export tag attached, unless that person has a fur buyer or taxidermist license or appropriate import documentation. ( )

**501. -- 599. (RESERVED)**

**600. TRAPPING ON GAME PRESERVES AND WILDLIFE MANAGEMENT AREAS.**

**01. Game Preserves and Wildlife Management Areas.** All state game preserves and Department Wildlife Management Areas (WMAs) are open to the taking of furbearing animals during the open season declared for the areas in which they lie, provided that any person desiring to trap on a WMA must register in advance, either at WMA headquarters or at the Department regional office. ( )

**02. Restrictions.** The Regional Supervisor where a wildlife management area (WMA) is located may establish limits on the number of trappers allowed on the WMA, a method of equitable allocation of trapping opportunity on a WMA, the number and types of sets allowed, and posting and reporting requirements. ( )

**601. -- 649. (RESERVED)**

**650. AREAS CLOSED TO THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE AND THE TAKING OF FURBEARING ANIMALS.**

No person may hunt, trap, kill, or molest furbearing animals, predatory and unprotected wildlife in the following areas: ( )

**01. Craters of the Moon.** That area of Craters of the Moon National Monument in Blaine and Butte Counties prior to the November 2000 expansion (which excludes the Craters of the Moon National Preserve). ( )

- 02. Hagerman Fossil Beds National Monument.** In Twin Falls County. ( )
- 03. Nez Perce National Historical Park.** In Clearwater, Idaho, and Nez Perce Counties. ( )
- 04. Ada County.** That portion of Ada County: ( )
- a.** Within Veterans Memorial Park; ( )
- b.** Within one quarter (1/4) mile of the Boise River from the New York Canal Diversion Dam downstream to the Glenwood Bridge; and ( )
- c.** Between State Highway 21 and the New York Canal from the New York Canal Diversion Dam downstream to the Boise City limits. ( )
- 05. Stanley Creek.** Wildlife Interpretive Area. In Custer County. ( )
- 06. Yellowstone National Park.** In Fremont County. ( )
- 07. Other Areas.** On any of those portions of State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which trapping closures have been declared by legislative or Commission action. ( )
- 08. National Wildlife Refuges.** All or portions of national wildlife refuges, except as specified in federal regulations for individual refuges. ( )
- 651. -- 699. (RESERVED)**
- 700. COMMON SEASON BOUNDARIES FOR STREAMS AND RIVERS.**  
Whenever a stream or river forms a boundary between two (2) different trapping areas, the stream or river channel proper will open for trapping on the earlier opening date and close on the later closing date of the two (2) seasons involved. ( )
- 701. --749. (RESERVED)**
- 750. SEASONS AND LIMITS.**  
The Commission sets the seasons, bag limits, and possessions limits by proclamation, adopted and published in accordance with Section 36-105(3), Idaho Code. ( )
- 751. -- 799. (RESERVED)**
- 800. TRAPPING REPORTS.**
- 01. Trapping Report Completion.** By July 31, all trappers shall fill out the mandatory furtaker harvest report, including both target and non-target catch, for the trapping license year by submission via the Department website, in person at a Department office, or by mailing to Box 25, Boise, Idaho 83707. Any trapper failing to make such a report by July 31 will be refused a license to trap animals for the ensuing year until a late report is submitted. ( )
- 02. Return of Reports and Permits.** All permittees shall return their controlled trapping unit permits and controlled trapping reports to the person from whom they obtained their controlled trapping unit permits within ten (10) days of the close of the season for the controlled trapping unit. ( )
- 801. -- 999. (RESERVED)**

**13.01.17 – RULES GOVERNING THE USE OF BAIT AND TRAPPING  
FOR TAKING BIG GAME ANIMALS**

**000. LEGAL AUTHORITY.**

Sections 36-104, 409, and 36-1101, Idaho Code, authorize the Commission to adopt rules concerning the use of bait and trapping for taking big game animals. ( )

**001. TITLE AND SCOPE.**

The title of this chapter for citation is IDAPA 13.01.17, “Rules Governing the Use of Bait and Trapping for Taking Big Game Animals.” These rules govern the use of bait and trapping for taking big game animals. ( )

**002. – 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Bait (Hunting).** Bait for hunting purposes is any substance placed to attract big game animals, except synthetic liquid scent for deer and elk. ( )

**02. Bait (Trapping).** Bait for trapping purposes is defined as any animal parts; except bleached bones or liquid scent. ( )

**03. Established Roadway.** A roadway open to the general public for motorized traffic and capable of being traveled by full-sized automobiles. ( )

**04. Ground Set.** Any foothold trap, body-gripping trap, or snare originally set in or on the land (soil, rock, etc.), which includes any traps elevated up to a maximum of thirty-six (36) inches above the natural ground level. ( )

**05. Public Trail (Trapping).** Any trail designated by any city, county, state, or federal transportation or land management agency on the most current official map of the agency. ( )

**011. -- 099. (RESERVED)**

**100. USE OF BAIT FOR HUNTING BIG GAME.**

Bait may be used to hunt only black bear and only under the following conditions, except gray wolf may be taken incidentally to bear baiting. ( )

**01. Time. ( )**

**a.** No bait or bait container may be placed for the purpose of attracting or taking black bear prior to the opening of black bear take season, except bait may be placed one (1) week prior to the opening of bear season in Units 10, 12, 16A, 17, 19, 20, 20A, 26 and 27. ( )

**b.** All bait, bait containers and materials must be removed and all excavations refilled no later than seven (7) days after the close of each season (spring, fall, or black bear dog training); except bait, bait containers, and materials may remain in Units 10 and 12 between the dog training season and the fall season. ( )

**02. Location. ( )**

**a.** No bait site may be located within two hundred (200) feet of any water (lake, pond, reservoir, year round free flowing spring and year round free flowing stream). ( )

**b.** No bait site may be located within two hundred (200) yards from any maintained trail or any established roadway; except in the Panhandle and Clearwater Regions, no bait site may be located within two hundred (200) feet from any maintained trail or any established roadway. ( )

**c.** No bait site may be located within one-half (1/2) mile of any designated campground or picnic area, administrative site, or dwelling. ( )

**03. Types. ( )**

a. No person may use any part of a domestic or wild origin game bird, big game animal, upland game animal, game fish, or protected nongame wildlife for bait or scent. ( )

b. The skin must be removed from any mammal parts or carcasses used as bait. ( )

c. No person may use salt in any form (liquid or solid) for bait. ( )

**04. Containers.** ( )

a. No bait may be contained within paper, plastic, glass, metal, wood or other non-biodegradable materials, except that a single, metal container with a maximum size of fifty-five (55) gallons may be used if securely attached at the bait site. ( )

b. No bait may be contained in any excavated hole greater than four (4) feet in diameter. ( )

**05. Establishment of Bait Sites.** ( )

a. Any structures constructed at bait sites using nails, spikes, ropes, screws, or other materials must be removed by the permit holder within seven (7) days after the close of each season (spring, fall, or black bear dog training). ( )

b. All bait sites must be visibly marked at the nearest tree or on the bait container using a tag supplied by the Department. ( )

**101. -- 199. (RESERVED)**

**200. BAITING PERMIT.**

**01. Baiting Permit.** ( )

a. Baiting permits are issued by mail or in person from Department offices beginning March 1 of each year. ( )

b. Baiting permits are valid for the calendar year in which they are issued. ( )

**02. Use of Baiting Permit.** ( )

a. All persons placing bait must possess a baiting permit issued by the Department. ( )

b. Each hunter may possess only one (1) baiting permit each year and may maintain up to three (3) bait sites, except the number of bait sites maintained by outfitters will be that specified by the land management agency in the outfitter's operating plan. ( )

c. No person may hunt over an unlawful bait site. ( )

d. Guides and clients of outfitters are exempt from possessing a baiting permit, provided they have a copy of the outfitter's permit in their possession while placing bait or hunting over the outfitter's permitted bait site. ( )

**201. -- 399. (RESERVED)**

**400. TRAPPING BIG GAME ANIMALS.**

Trapping may be used to take only gray wolf and only under the following conditions. ( )

**01. Methods of Take When Trapping.** No person trapping gray wolf may: ( )

a. Use any set, except a ground set. ( )

- b.** Use for bait or scent, any part of a domestic or wild origin game bird, big game animal, upland game animal, game fish, or protected nongame wildlife; except: ( )

  - i.** Gray wolves may be trapped near a big game animal that has died naturally and the carcass has not been repositioned for trapping purposes. Natural causes do not include any man-caused mortality. ( )
  - ii.** Gray wolves may be trapped using a carcass of a legally taken gray wolf with the hide removed. ( )
  - iii.** Gray wolves may be trapped using the parts of accidentally killed wildlife salvaged in accordance with IDAPA 13.01.10, “Rules Governing the Importation, Possession, Release, Sale or Salvage of Wildlife,” Subsections 300.02.c. and 300.02.d. in Game Management Units as identified by the Commission’s Big Game Season Proclamation, adopted and published in accordance with Section 36-105(3), Idaho Code. ( )
- c.** Use any set within thirty (30) feet of any visible bait; including bait allowed in Subsection 400.01.b. ( )
- d.** Use a dirt hole ground set with bait unless the person ensures that the bait remains covered at all times to protect raptors and other meat-eating birds from being caught accidentally. ( )
- e.** Use live animals as a bait or attractant. ( )
- f.** Place any ground set on, across, or within ten (10) feet of the edge of any maintained unpaved public trail. ( )
- g.** Place any ground set on, across, or within any public highway as defined in Section 36-202, Idaho Code; except ground sets may be placed underneath bridges and within and at culverts that are part of a public highway right-of-way. ( )
- h.** Place any ground set incorporating snare, trap, or attached materials within three hundred (300) feet of any designated public campground, trailhead, paved trail, or picnic area, except cage or box live traps may be placed within these areas as allowed by city, county, state, and federal law. ( )
- i.** Place or set any ground set snare without a diverter; or without a break-away device or cable stop incorporated within the loop of the snare. ( )
- j.** Place any ground set incorporating a foothold trap with an inside jaw spread greater than nine (9) inches. ( )
- k.** Trap for any gray wolf within one-half (1/2) mile of any active Department big game feeding site. ( )
- l.** Trap for gray wolf within two hundred (200) yards of the perimeter of any designated dump ground or sanitary landfill. ( )

**02. Exceptions for Dispatch.** A trapped gray wolf may be dispatched any time of day or night, and a trapped gray wolf may be dispatched with any rimfire rifle, rimfire handgun or any muzzleloading handgun in exception to IDAPA 13.01.08, “Rules Governing the Taking of Big Game Animals,” Sections 400 and 410. ( )

**401. -- 449. (RESERVED)**

**450. TRAPS.**

The requirements for identification of traps, checking traps, removing trapped animals of another, and release of non-target catches, set forth in Sections 100 and 200 of IDAPA 13.01.16, “Trapping of Predatory and Unprotected Wildlife and Taking of Furbearing Animals,” apply to trapping gray wolf. Only a licensed trapper with wolf trapper certification and written permission of the trap owner may remove a wolf from another’s trap or snare. ( )

**451. -- 459. (RESERVED)**

**460. MANDATORY CHECK AND REPORT.**

**01. Harvest Report and Presentation of Animal Parts.** Mandatory check and report requirements as provided by IDAPA 13.01.08.420, “Rules Governing the Taking of Big Game Animals,” apply to any trapper taking gray wolf. ( )

**02. Trapping Report Completion.** By July 31, all trappers must fill out the mandatory fur-taking harvest report, including both target and non-target catch, for the trapping license year by submission via the Department website, at a Department office in person, or by mail to the Department at Box 25, Boise, Idaho 83707. Any trapper failing to make such a report by July 31 will be refused a license to trap animals for the following year until a late report is submitted. ( )

**461. MANDATORY WOLF TRAPPER EDUCATION CLASS.**

Successful completion of a wolf trapping education class held by the Department is a prerequisite to wolf trapping. A certificate of class completion and trapping license are necessary to purchase tags for wolf trapping. ( )

**462. -- 499. (RESERVED)**

**500. TAG VALIDATION AND ATTACHMENT AND PROXY STATEMENT; IDENTIFICATION OF SEX, SIZE, SPECIES IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.**

Gray wolf may only be taken and possessed in accordance with Sections 300, 320, and 350, IDAPA 13.01.08, “Rules Governing the Taking of Big Game Animals in the State of Idaho.” ( )

**501. -- 504. (RESERVED)**

**505. AREAS CLOSED TO HUNTING AND TRAPPING, AND TRAPPING ON GAME PRESERVES AND WILDLIFE MANAGEMENT AREAS.**

Gray wolf may only be taken and possessed in accordance with Section 500, IDAPA 13.01.08, “Rules Governing the Taking of Big Game Animals in the State of Idaho.” No person may trap for gray wolf in areas closed to trapping under Sections 600 and 650, IDAPA 13.01.16, “The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals.” ( )

**506. -- 999. (RESERVED)**

## 13.01.18 – RULES GOVERNING FEEDING OF PRONGHORN, ELK, AND DEER

### 000. LEGAL AUTHORITY.

Sections 36-104, 36-105 and 36-111, Idaho Code, authorize the Commission to adopt rules concerning feeding of pronghorn, elk, and deer. ( )

### 001. TITLE AND SCOPE.

The title of this chapter is “Rules Governing Feeding of Pronghorn, Elk, and Deer.” These rules establish criteria for determining a feeding emergency, govern feeding operations, and prohibit private feeding within a designated CWD Management Zone. ( )

### 002. -- 099. (RESERVED)

### 100. INTENT.

The Commission recognizes the importance of maintaining big game populations under natural conditions. Winter forage is the major limiting factor determining big game population size. To maintain these winter ranges, big game numbers are controlled through harvest. The Commission does not sanction widespread supplemental feeding programs. Additionally, supplemental feeding concentrates big game animals, making deer and elk susceptible to spreading or contracting Chronic Wasting Disease (CWD), as well as other diseases transmissible to livestock. The risk of disease transmission may factor into making a supplemental feeding decision. Big game harvests and weather vary from year to year throughout the state. In most years and areas, snow depths, temperatures, and animal body condition do not create adverse conditions for wintering animals. Unusual weather conditions, limited winter forage, or other circumstances may create critical periods of stress for animals or force them into areas involving public safety. The Commission is unable to manage big game populations for extreme weather. Therefore, emergency feeding of big game is appropriate under certain criteria. ( )

### 101. DELEGATION OF AUTHORITY TO REGIONAL SUPERVISORS.

Because the declaration of and quick response to a feeding emergency depends on local conditions, the Commission and Director delegate authority to declare a feeding emergency and to expend funds on feeding to the Department’s Regional Supervisors. ( )

### 102. EMERGENCY FEEDING CRITERIA.

**01. Declaration of Feeding Emergency.** A feeding emergency may be declared if one (1) or more of the following criteria are met: ( )

- a. Actual or imminent threat of depredation to private property. ( )
- b. Threat to public safety, including traffic hazards. ( )
- c. Excessive mortality that would affect herd recovery. ( )
- d. Limited or unavailable winter forage caused by fire or unusual weather. ( )

**02. Additional Guidelines.** Regional Supervisors may develop additional guidelines on emergency feeding within the listed criteria based on risk of disease transmission, local conditions, and local public input. ( )

### 103. FEED STOCKPILES.

The Department has identified certain locations for stockpiling emergency feed. It is impractical and cost prohibitive to purchase feed and transport it to these locations after snowfall. The Commission and Director declare that stockpile maintenance constitutes a feeding emergency and authorize the expenditure of funds for stockpile maintenance. ( )

### 104. -- 199. (RESERVED)

### 200. PRIVATE FEEDING OF DEER AND ELK WITHIN DESIGNATED CWD MANAGEMENT ZONE.

**01. Prohibition.** It is unlawful to purposely or knowingly provide supplemental feed to deer and elk within any CWD Management Zone designated by the Commission, except supplemental or emergency feeding

activities conducted or authorized by the Department. ( )

**02. Incidental Grazing.** Incidental grazing by big game animals on private rangeland forage, standing agricultural crops, or agricultural crop residue left on the ground following typical harvest practices is not a violation of this section. ( )

**03. Incidental Feeding.** Incidental feeding of big game animals during the normal practice of providing feed to livestock in the winter is not a violation of this section. ( )

**201. – 999. (RESERVED)**



## 13.01.19 – RULES FOR SELECTING, OPERATING, DISCONTINUING, AND SUSPENDING VENDORS

### 000. LEGAL AUTHORITY.

Sections 36-301 and 36-307, Idaho Code authorize the Commission to adopt rules governing issuance and sale of licenses and authorization and accountability of license vendors. ( )

### 001. TITLE AND SCOPE.

The title of this chapter for citation is IDAPA 13.01.19, “Rules for Selecting, Operating, Discontinuing, and Suspending Vendors.” These rules establish standards for license vendors and related administration. ( )

### 002. -- 099. (RESERVED)

### 100. VENDOR CLASSIFICATION.

The Department classifies vendor applications into the following designations for record keeping, approval, and statistical purposes. ( )

**01. Class One.** A sporting goods store carrying a complete line of hunting and fishing supplies and other sporting equipment, and open at least five (5) days a week year-round except for major holidays. ( )

**02. Class Two.** A store with a section carrying a complete line of hunting and fishing supplies and other sporting equipment, and open at least five (5) days a week year-round except for major holidays. ( )

**03. Class Three.** A store that specializes in a single aspect of hunting or fishing such as gun, archery or fly fishing shops. ( )

**04. Class Four.** ( )

**a. Strategic.** A business or government agency located in an area where the Department has determined there is a need for the public to have licenses available. This may be in areas where there is no or very limited license availability within a twenty-five (25) mile radius from established license vendors. ( )

**b. Exceptional Service.** A business that can provide exceptional license availability in comparison to existing license vendors in the vicinity, such as a business open twenty-four (24) hours a day, seven (7) days a week that would not be classified as a class one, two, or three vendor. ( )

**05. Class Five.** A business not open on a twelve (12) month basis such as a summer fishing resort that would otherwise qualify for any class one through four, which may include an outfitter or guide business with a permanent business location open to the public. ( )

**06. Class Six.** All other businesses that provide no special or exceptional service to the Department or public. ( )

### 101. APPLICATION.

**01. Form.** Applications will be on a form prescribed by the Department. ( )

**02. Department Review.** ( )

**a. Application Review.** The Department will evaluate and determine approval or denial of vendor applications quarterly, on or before March 1, June 1, September 1, and December 1. The Department will have thirty (30) calendar days after receipt of all necessary forms to review and investigate the application. The date received plus thirty (30) days will determine into which quarterly evaluation each vendor application will be considered. Applications from the same area will be compared to determine which will best meet vendorship needs in that area. Exceptions may be made by the Department when there are overriding needs for an immediate replacement of a license vendor in an area. This will primarily occur where there would be no vendor services available to the public within a twenty-five (25) mile radius. ( )

**b. Field Review.** After the License Section has received the application form and all other required information from an applicant, they will contact the Regional Conservation Officer for a recommendation on the application. The Regional Conservation Officer will have ten (10) days to provide the License Section with a recommendation on the application. ( )

**03. Applicant.** ( )

**a.** Application. The Department will only consider license vendorship applications completed in their entirety and accompanied by an original copy of a current credit rating from a recognized credit bureau. The Department will only consider completed applications received by the License section no later than sixty (60) days after the date of the application transmittal letter. The Department may grant an applicant's request to extend this period for up to thirty (30) additional days. Any false or misleading response will void the application. ( )

**b.** Approved Application. If the Department approves an application, the applicant will have sixty (60) days from the date of the applicant's approval letter to provide the Department with a signed vendorship contract, and any bond, deposit, or documentation the Department may require. Failure to meet this deadline will void the approval except for extenuating circumstances approved by the Department. ( )

**102. (RESERVED)**

**103. ACTIVE VENDOR CEILING.**

The number of active vendors, including approved vendor applicants, is limited to four hundred seventy-five (475). ( )

**104. LICENSING SYSTEM.**

**01. License Issuance.** A vendorship must issue licenses according to statutes, administrative rules, the vendorship contract, the License Vendor Manual, and Department instructions. ( )

**02. Deposit Schedule.** Amounts collected from the sale and issuance of licenses, along with the Department's share of the license issuance fee for each license will be deposited not less frequently than once every seven (7) calendar days in a bank account prescribed by the License Vendor. ( )

**03. Reporting Time Period.** The accounting and reporting time period is a calendar week (Sunday through Saturday). ( )

**105. -- 109. (RESERVED)**

**110. OUT-OF-STATE VENDORS.**

In general, an out-of-state location will not be approved to sell licenses unless it is located in close proximity (within fifty (50) miles) to the Idaho border or deemed to have a compelling benefit for the Department. ( )

**111. VENDOR LOCATION NOT MOVABLE.**

No vendorship may be relocated to another area (address) without advanced written consent from the Department. ( )

**112. TYPES OF LICENSES SOLD BY VENDOR.**

The Department will determine what licenses each vendor may issue. ( )

**113. -- 119. (RESERVED)**

**120. CONTRACT AGREEMENT VIOLATIONS.**

**01. Notices of Contract Violations.** The Department will issue notices of contract violations whenever a vendor fails to make deposits, submit reports, or send in voided or canceled licenses on time, or issue licenses as instructed. ( )

**02. Intent to Suspend.** Prior to suspending a vendor, a written notice of intent to suspend will be sent to the vendor, except where the Department determines that an emergency or a risk to the public is created by the vendor's conduct or where the vendor has failed to pay for any fund deficiency within the prescribed time, in which cases the Department may terminate the vendor's agreement immediately. The vendor will have fifteen (15) days in

which to submit a written dispute to the Department. ( )

**121. TERMINATION OR SUSPENSION OF VENDOR.**

**01. Grounds.** The Department may terminate or suspend a license vendor on the following grounds: ( )

**a.** Failure to have sufficient funds for the electronic funds transfer (EFT) to the Department more than once during any twelve (12) month period. ( )

**b.** Failure to make good any fund deficiency to the Department within three (3) days of notification. ( )

**c.** Failure to follow any procedures specified by the Department for selling or reporting sales. ( )

**d.** Failure to comply with any terms of the contract agreement or failure to maintain the original criteria used in determining vendor eligibility. ( )

**e.** Fraud or deception in the vendor application. ( )

**f.** Negligence in obtaining proof of residence or completion of the application portion of the license could constitute grounds for suspension of a vendorship. ( )

**02. Immediate Termination/Suspension.** ( )

**a.** A vendorship will be terminated immediately upon the following grounds: ( )

i. Notice from the bonding company that the vendor's bond has been canceled. ( )

ii. Inactivity for a year. ( )

iii. Receipt of two (2) suspensions in any three (3) year period. ( )

iv. Sale of the business that is the vendorship. ( )

**b.** A vendorship will be suspended immediately and may be terminated immediately upon the following grounds: ( )

i. Violation of Fish and Game laws or rules. ( )

ii. Violation in the issuance of a license or in performance as a vendor. ( )

iii. Alteration of any license. ( )

iv. Three contract violations within any twelve- (12) month period. The vendorship will be suspended for up to one (1) year following such a third violation. ( )

**03. Terminations – Minimum Sales.** ( )

**a.** Incorporated City. When a vendor located within an incorporated city fails to sell at least three hundred (300) licenses during the first year of operation, or sell at least six hundred twenty-five (625) licenses during the second and subsequent years, termination will be at the end of the calendar year. ( )

**b.** All Other Areas. All other vendors who fail to sell at least one hundred twenty-five (125) licenses during the first year of operation, or at least two hundred twenty-five (225) licenses during the second and subsequent year, will be terminated at the end of the calendar year. ( )

c. A vendorship not selling the minimum number of licenses will not be terminated if the Department determines the service is necessary. ( )

**04. Application After Termination.** An application after termination for reason of inactivity, sale of the business, or nonpayment of license fees will be processed as a new application. The Department will not consider an application for a vendorship terminated for nonpayment of license fees until the applicant makes payment in full of all outstanding fees, including interest charged at the legal rate for judgments. ( )

**122. -- 129. (RESERVED)**

**130. ISSUING LICENSES AND TAGS.**

**01. Identification.** A vendor will confirm proper identification and proof of residence as defined in IDAPA 13.01.04, "Rules Governing Licensing," for every individual before issuing a resident license. Nonresident licenses and daily fishing licenses do not require identification. ( )

**02. Social Security Numbers.** A vendor will enter into the licensing system the final four digits of social security number for any person who purchases a license, for compliance with Section 73-122, Idaho Code, while protecting that number as confidential information and preventing its use for other purposes or release to any third party. ( )

**131. -- 149. (RESERVED)**

**150. PUBLIC MONIES.**

All monies collected by a vendor are public monies of the state of Idaho and the state has a prior claim upon these monies over all creditors, assignees, or other claimants. ( )

**151. VOIDED AND CANCELLED LICENSES.**

No correction, alteration, or erasure may be made to an issued license. In case of error to an issued license, the vendor will cancel the license via the license terminal through the cancel function and return the original voided license and cancellation receipt to the Department at the week's end, to be postmarked on or before the following Wednesday. If the original license is not received when due, the vendor may be charged for the value of the license. ( )

**152. LOSS OF DOCUMENTS AND FEES.**

A vendor is responsible for all lost documents and blank license stock, regardless of the reason for loss, and will keep all documents and blank license stock in a safe and secure place, preferably in a fireproof box or vault. The vendor will immediately notify the Department of any loss and submit a detailed report of the loss. ( )

**153. INSPECTION AND AUDIT.**

License records are subject to inspection and audit at all times by an authorized employee or agent of the Department or the State Controller's Office. ( )

**154. TRANSFER AND SALE OF DOCUMENTS ISSUED TO VENDORS.**

A vendor may only transfer blank license stock to a location not listed on the original application or to another license vendor with advance written permission from the Department. ( )

**155. RETURN OF EQUIPMENT, LICENSE STOCK, FORMS, AND SUPPLIES.**

A vendor will return any equipment and unused blank license stock, forms, and supplies to the Department immediately upon termination or request by the Department. ( )

**156. INTERNET SERVICE PROVIDER (ISP).**

Each License Vendor will provide their own Internet Service Provider (ISP), at Vendor's cost, for the computerized license system. The ISP can be dial-up or any type of high-speed. ( )

**157. -- 199. (RESERVED)**

**200. CONTRACT TO TAKE LICENSE APPLICATIONS BY TELEPHONE OR OTHER ELECTRONIC METHODS.**

The Department may contract with one (1) or more suppliers to take applications for licenses by telephone or other electronic methods, provided license issuance complies with this chapter and any contract provisions. Any such contract will provide for the deposit of any license fees collected by the supplier to be deposited with the State Treasurer within twenty-four (24) hours of effective receipt of the monies. The supplier may collect a fee in addition to the license fee, which may be retained by the supplier. This contract between the Department and supplier will establish the fee. ( )

**201. – 999. (RESERVED)**

## IDAPA 13 – DEPARTMENT OF FISH AND GAME

### 13.01.08 – RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

DOCKET NO. 13-0108-1903

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 13-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104 and 36-408, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol. 19-9, pages 178-179](#). This rule is a new section relative to Omnibus rules.

**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 is no fiscal impact to the general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Toby Boudreau at (208) 334-2920.

Dated this 19th day of November, 2019.

Paul Kline  
Deputy Director  
Idaho Department of Fish and Game  
600 S. Walnut Street  
P.O. Box 25  
Boise, ID 83707  
Phone: (208) 334-3771  
Fax: (208) 334-4885  
Email: [rules@idfg.idaho.gov](mailto:rules@idfg.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, this agency hereby gives notice of proposed rulemaking. The action is authorized by Sections 36-104 and 36-408, 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 September 18, 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 rule would allow the Fish and Game Commission to make a controlled hunt applicant wait up to five (5) days to buy a general hunt tag for the same species in the same calendar year for specific hunts having limited tag numbers. For example, this rule would allow the Commission to make all applicants for controlled elk hunts in 2021 wait for a period of up to five (5) days to buy a 2021 general elk tag in a zone having limited tags available, such as the Sawtooth Zone.

**FEE SUMMARY:** The proposed rule has no associated fee.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: Not Applicable

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 5, 2019 Idaho Administrative Bulletin, **Vol. 19-6, page 49**. The agency received 160 responses via on-line submissions during a 21-day comment period. No commenter stated interest in negotiated rulemaking, and comments received indicated a polarity of opinion not suited to negotiation. The agency initiated proposed rulemaking.

**INCORPORATION BY REFERENCE:** Not Applicable

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions about the proposed rule, contact Toby Boudreau at (208) 334-2920. 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 September 25, 2019.

Dated this 1st day of August, 2019.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0108-1903

251. (RESERVED)

252. **DELAY IN ELIGIBILITY FOR BUYING LIMITED GENERAL HUNT TAG.**

*When the Commission limits the number of tags available for a general big game hunt, the Commission may establish a period of no more than five (5) days at the beginning of a tag sale period, during which any applicant for a controlled hunt in the same calendar year for the same species is not eligible to buy a tag for that limited hunt.*

( )

253. -- 254. (RESERVED)



## IDAPA 13 – DEPARTMENT OF FISH AND GAME

### 13.01.08 – RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

DOCKET NO. 13-0108-1904

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 13-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104 and 36-408, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule:

Except for changes made to conform with pending rules published in the November 20, 2019 Administrative Bulletin, there are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol. 19-9, pages 180-181](#).

**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 is no fiscal impact to the general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Toby Boudreau at (208) 334-2920.

Dated this 19th day of November, 2019.

Paul Kline  
Deputy Director  
Idaho Department of Fish and Game  
600 S. Walnut Street  
P.O. Box 25  
Boise, ID 83707  
Phone: (208) 334-3771  
Fax: (208) 334-4885  
Email: [rules@idfg.idaho.gov](mailto:rules@idfg.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, this agency hereby gives notice of proposed rulemaking. The action is authorized by Sections 36-104 and 36-408, 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 September 18, 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:

The proposed rule change would allow the Fish and Game Commission to limit the number of non-resident deer or elk tags available in a specific general hunt unit or zone to address hunter crowding to no less than ten percent (10%) of the average hunter participation estimated for that zone or unit during the preceding five (5) year period. If the Commission limited the number of nonresident general hunt tags without limiting for resident hunters, the options for allocation of outfitter tags in the proposed rule would be those that currently apply to controlled hunts, including controlled hunts limited for nonresidents and unlimited for residents.

**FEE SUMMARY:** Section 36-416, Idaho Code, identifies fees for Fish and Game licenses and tags to hunt deer and elk. This rule does not change those fees.

**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: Not Applicable

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6, page 49](#). The agency received 366 responses via on-line submissions during a 21-day comment period. No commenter stated interest in negotiated rulemaking, and comments received indicated opinions not suited to negotiation. The agency initiated proposed rulemaking.

**INCORPORATION BY REFERENCE:** Not Applicable

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Toby Boudreau at (208) 334-2920. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 1st day of August, 2019.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0108-1904**

255. NONRESIDENT TAG RESTRICTIONS.

01. Nonresident Tag Limitations. ( )

a. In controlled hunts with ten (10) or fewer tags, not more than one (1) nonresident tag will be issued. In controlled hunts, EXCEPT unlimited controlled hunts, with more than ten (10) tags, not more than ten percent (10%) of the tags will be issued to nonresidents. This rule *will* apply to each uniquely numbered controlled hunt and to the controlled hunts for each species. *Outfitter allocated hunts are exempt from the limitation of this Subsection.*

( )

b. In unlimited controlled hunts, the Commission may limit the number of tags available for nonresident hunters to no less than ten percent (10%) of the average number of tags drawn annually during the previous five (5) year period.

( )

c. For each species, the total number of outfitter allocated controlled hunt tags *will* be subtracted from the result of ten percent (10%) of the sum of all controlled hunt tags; including outfitter allocated controlled hunts, but excluding all unlimited controlled hunts. In addition to the limitations of Subsection 255.01.a., the resulting net number *will* be the maximum number of controlled hunt tags that may be issued to nonresidents for all controlled hunts except outfitter allocated and unlimited controlled hunts.

( )

*d. In general hunts, the Commission may limit by proclamation the number of tags available for nonresident hunters in a zone or big game hunting unit to no less than ten percent (10%) of the average hunter participation estimated for that zone or unit during the previous five (5) year period. If the Commission adopts tag limits in a zone or big game hunt unit for non-residents under this Subsection 01.d., without limiting residents, the provisions of IDAPA 13.01.04.505.02, "Rules Governing Licensing," applicable to controlled hunts with limited nonresident tags and unlimited resident tags will apply to deer and elk tag allocation instead of the provisions of IDAPA 13.01.04.505.01.*

( )

e. Governor's Wildlife Partnership Tags for deer, elk, pronghorn, bighorn sheep, mountain goat, and moose *will* be taken from the nonresident tag quota and availability is subject to Nonresident Tag Limitations.

( )

## IDAPA 13 – DEPARTMENT OF FISH AND GAME

### 13.01.09 – RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO

DOCKET NO. 13-0109-1902

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 13-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections, 36-104, 36-408, and 36-1102, Idaho Code.

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. In addition to changes made to conform with pending rules published in the November 20, 2019 Administrative Bulletin, the Commission adopted a minor change to the Section 102.02 catchline to reflect its added content. The complete text of the proposed rule was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol. 19-9, pages 182-185](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Jeff Knetter at (208) 334-2920.

Dated this 19th day of November, 2019.

Paul Kline, Deputy Director  
Idaho Department of Fish and Game  
600 S. Walnut Street  
P.O. Box 25, Boise, ID 83707  
Phone: (208) 334-3771  
Fax: (208) 334-4885  
Email: [rules@idfg.idaho.gov](mailto:rules@idfg.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, this agency hereby gives notice of proposed rulemaking. The action is authorized by Sections 36-104, 36-408, and 36-1102, 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 September 18, 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:

The proposed rule involves two changes. It would allow Hunting Passport holders ages eight (8) through seventeen (17) to hunt turkey in general season turkey hunts, youth-only general hunts, turkey landowner permission hunts, and depredation hunts with the appropriate tag. The proposed rule also replaces references in this chapter related to requirements for the Department's stocked pheasant program; it replaces specific references to the "WMA Upland Game Bird Permit" and "Wildlife Management Areas" with more generic references, such as "Upland Game Bird Permit" and "locations where an Upland Game Bird Permit is required," to support potential expansion of the Department's pheasant stocking program to locations in addition to WMAs.

**FEE SUMMARY:** Section 36-416, Idaho Code, sets fees for license, tag and permits to hunt turkeys or stocked pheasants or to obtain a hunting passport. The proposed rule does not change these fees.

**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: Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6, page 52](#). The agency received 131 responses via on-line submissions during a 21-day public comment period. No commenter stated interest in negotiated rulemaking, and comments received indicated a polarity of opinion not suited to negotiation. The agency initiated proposed rulemaking.

**INCORPORATION BY REFERENCE:** Not Applicable

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jeff Knetter at (208) 334-2920. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 1st day of August, 2019.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0109-1902**

**102. WILD TURKEY TAGS, STAMPS, PERMITS, AND VALIDATIONS.**

No person may hunt wild turkey without having in possession the appropriate hunting license, tag, and controlled hunt permit. ( )

**01. Tags.** There are three (3) types of turkey tags available: the general tag, extra tag, and special unit tag. A hunter may purchase one (1) general tag, two (2) extra tags, and three (3) special unit tags. The general tag and one (1) extra tag may be used during the spring general season; however, if one (1) or both go unused, the unused tag(s) may be used during the general fall season. A second extra tag may also be used during the general fall season. A general tag or an extra tag may be used with a controlled hunt permit in the spring and fall seasons. Special unit tags may be used in designated units during any season set by the Commission *or in a depredation hunt when authorized by the Director.* ( )

**02. Youth General Hunts and Youth Passport Holder Hunt Eligibility.** Youth-only general hunts are limited to participation by hunters who are ten (10) to seventeen (17) years of age with a valid license. ( )

**a.** Youth-only general hunts are limited to participation by hunters who are ten (10) to seventeen (17) years of age with a valid license. ( )

**b.** *Hunting passport holders eight (8) to seventeen (17) years of age are eligible to participate in general season hunts, youth-only general hunts, landowner permission hunts with the appropriate landowner permission tag, and depredation hunts.* ( )

**03. Controlled Hunts.** A controlled hunt permit for wild turkey is valid only for the hunt area for which the permit was drawn. ( )

**a.** Eligibility: The holders of hunting licenses valid for game birds are eligible to apply for spring and fall controlled hunts subject to the following restrictions: ( )

**i.** In the event a permit is issued based on erroneous information, the permit will be invalidated and the person will remain on the drawn list. ( )

**ii.** *Landowner permission hunt application eligibility is limited to persons who have a signed permission slip, which includes the landowner's name and address, from a landowner who owns more than seventy-nine (79) acres in the hunt area.* ( )

**iii.** *Youth-only controlled hunt application eligibility is limited to persons nine (9) to seventeen (17) years of age, provided they will be ten (10) to seventeen (17) years of age during the hunt for which they apply. A nine (9) year old cannot participate in the hunt until turning age ten (10). A person who turns eighteen (18) years of age during the hunt may continue to participate through the end of the youth-only controlled hunt. A person sixty-five (65) years of age or older with a senior or disabled combination or hunting license may apply on a first-come, first-served basis for leftover youth-only controlled hunt permits.* ( )

**b.** Applications: Applications for spring and fall controlled hunts may be submitted electronically through the automated licensing system at any vendor location, including Department offices, through the Internet, or via telephone, not later than March 1 for spring hunts and June 5 for fall hunts, annually. ( )

**i.** Duplicate license numbers will not be accepted. *Applications from Holders of a Duplicate License (Type 501) will be processed only if they include original license numbers.* ( )

**ii.** Only one (1) application per person or group will be accepted. Additional applications will result in all applicants being declared ineligible. ( )

**iii.** A single payment (either cashier's check, money order, certified check, or personal check) may be submitted to cover fees for all applications. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. ( )

iv. A “group application” is defined as two (2) hunters applying for the same controlled hunt on the same application. ( )

v. Hunting license and tag fees will NOT be refunded to unsuccessful applicants. ( )

c. Drawing information: Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing provided the second choice hunt applied for has not been filled. ( )

**04. Tag Validation.** ( )

a. Tag and permit validation and attachment: Immediately after any wild turkey is killed, the turkey tag and permit, if a controlled hunt, must be validated and securely attached to the wild turkey. *Tag and permit validation means cutting out and completely removing two (2) triangles on the border of each tag and permit, one (1) for the month and one (1) for the day of the kill.* ( )

b. The tag and permit must remain attached so long as the turkey is in transit or storage. ( )

**05. Tag Designation.** ( )

a. Any resident adult person who possesses a controlled hunt permit may designate the controlled hunt permit to his or her resident minor child or grandchild who is qualified to participate in the hunt. ( )

b. Any nonresident adult person who possesses a controlled hunt permit may designate the controlled hunt permit to his or her nonresident minor child or grandchild who is qualified to participate in the hunt. ( )

c. *The designation of the controlled hunt permit is not effective unless it is:* ( )

i. *Made on a form prescribed by the Department and submitted either in person to any Department Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707.* ( )

ii. *Completed before the first opening hunt date for the permit.* ( )

d. Any child cannot be designated more than one (1) controlled hunt permit per calendar year. ( )

**06. Landowner Permission Tags.** Landowner permission hunt tags will be sold on a first-come, first-served basis at Department offices after March 20 for spring hunts and after July 10 for fall hunts. ( )

**103. PHEASANT TAGS, PERMITS, AND VALIDATIONS.**

No person may hunt pheasant anywhere within the state, except licensed shooting preserves, without having in possession the appropriate hunting license and permit. ( )

**01. Upland Game Bird Permit.** ( )

a. Any person eighteen (18) years of age or older hunting for or having a pheasant in his or her possession on Fort Boise, C.J. Strike, Montour, Payette River, Sterling, Market Lake, Mud Lake, Cartier, or Niagara Springs Wildlife Management Areas, *or at other locations where the Department stocks pheasants, as identified by Commission proclamation,* must have a valid Upland Game Bird Permit in possession. ( )

b. Permit Limit. Each Upland Game Bird Permit has a limit of six (6) cocks. Multiple permits may be purchased. ( )

c. Permit Validation. Any person harvesting a pheasant where a Upland Game Bird Permit is required must immediately validate their Permit upon reducing a pheasant to possession by entering the harvest date and location in Non-Erasable ink, and removing a notch from the permit for each pheasant taken. ( )

02. **Youth Pheasant Season.** The youth pheasant season is open only to *licensed* hunters ten (10) to seventeen (17) years of age and hunting passport holders eight (8) to seventeen (17) years of age, *provided such youth hunters/passport holders are* accompanied in the field at all times by *a licensed hunter* eighteen (18) years of age or older. ( )

(BREAK IN CONTINUITY OF SECTIONS)

300. **UPLAND GAME BIRD METHODS OF TAKE.**

01. **Upland Game Birds.** No person *may* take upland game birds: ( )
- a. With a trap, snare, net, crossbow, or firearm. ( )
  - i. EXCEPT *upland game birds may be taken with* a shotgun using shells not exceeding three and one-half (3-1/2) inches maximum length, *or muzzleloading shotgun; or* ( )
  - ii. EXCEPT, forest grouse only *may be taken with* a crossbow *or firearm.* ( )
  - b. From any watercraft. ( )
  - c. By the use or aid of any electronic call. ( )
  - d. By the aid of baiting. Bait is defined as any substance placed to attract upland game birds. ( )
  - e. When hunting on *locations* where *an Upland Game Bird permit is required,* without wearing at least thirty-six (36) square inches of visible hunter orange above the waist. ( )
02. **Wild Turkey.** In addition to the methods listed above, *no person may take* wild turkey: ( )
- a. With lead shot exceeding BB size. ( )
  - b. With steel shot exceeding T size. ( )
  - c. By the use of dogs, except during fall hunts. ( )

(BREAK IN CONTINUITY OF SECTIONS)

500. **OFFICIAL SHOOTING HOURS.**

No person *may* take game birds outside of official shooting hours. ( )

01. **Migratory Game Birds and Wild Turkey.** Official shooting hours for migratory game birds and wild turkey are from one-half (1/2) hour before sunrise until sunset. ( )

02. **Upland Game Birds and American Crow.** Official shooting hours for upland game birds and American crow are from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. In locations requiring possession of a Upland Game Bird permit, the Commission may designate alternate official shooting hours by proclamation. ( )



## IDAPA 13 – DEPARTMENT OF FISH AND GAME

### 13.01.10 – RULES GOVERNING THE IMPORTATION, POSSESSION, RELEASE, SALE, OR SALVAGE OF WILDLIFE

DOCKET NO. 13-0110-1901

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 13-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b)(6), 36-106(e)(5)(A), 36-701(d), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule:

Except for changes made to conform with pending rules published in the November 20, 2019 Administrative Bulletin, there are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol. 19-9, pages 186-187](#).

**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 is no fiscal impact to the general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Toby Boudreau at (208) 334-2920.

Dated this 19th day of November, 2019.

Paul Kline  
Deputy Director  
Idaho Department of Fish and Game  
600 S. Walnut Street  
P.O. Box 25, Boise, ID 83707  
Phone: (208) 334-3771 / Fax: (208) 334-4885  
Email: [rules@idfg.idaho.gov](mailto:rules@idfg.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, this agency hereby gives notice of proposed rulemaking. The action is authorized by Sections 36-104(b)(6), 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 September 18, 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:

Under the proposed rule, the Department would not issue any permit to import into Idaho any live cervid not regulated as a domestic cervid by the Idaho State Department of Agriculture because of the threat of chronic wasting disease. The change would affect import of cervids under Fish and Game authority, including mule deer, white-tailed deer, moose, and wild-origin elk.

**FEE SUMMARY:** The proposed rule does not impose or increase fees.

**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: Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6, page 53](#). The agency received 101 responses via on-line submissions during a 21-day comment period. No commenter stated interest in negotiated rulemaking, and comments received indicated a polarity of opinion not suited to negotiation. The agency initiated proposed rulemaking.

**INCORPORATION BY REFERENCE:** Not Applicable

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Toby Boudreau at (208) 334-2920. 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 September 25, 2019.

Dated this 1st day of August, 2019.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0110-1901**

**100. PERMITS FOR IMPORT, EXPORT, TRANSPORT, POSSESSION, RELEASE, AND SALE OF LIVE WILDLIFE.**

No person may import into, export from, sell, or transport, cause to be transported, *possess (hold in captivity), propagate*, or release within the state of Idaho any living wildlife, including eggs thereof, without having first obtained a permit from the Department. ( )

**01. Exemptions for Import, Export, Transport, Possession or Sale.** No permit is *needed* from the Department to import, export, transport, possess or sell the following (although another state or federal agency may regulate such activity): ( )

- a. Agricultural or domestic animals. ( )
- b. Domestic furbearing animals, as defined and regulated under Chapter 30, Title 25, Idaho Code. ( )
- c. Domestic cervids, as defined and regulated under Chapter 37, Title 25, Idaho Code. ( )
- d. Animals commonly considered conventional household pets, including sugar glider (*Petaurus breviceps*) and African hedgehog (*Atelerix albiventris*). ( )
- e. Domestic Game birds produced in captivity and lawfully obtained, as shown by proof maintained and presented in accordance with Section 36-709, Idaho Code. ( )
- f. Birds of prey, provided actions comply with IDAPA 13.01.14, "Rules Governing Falconry." ( )

**02. Exemptions for Unprotected and Predatory Wildlife.** ( )

*a. Wildlife classified as Unprotected Wildlife and Predatory Wildlife that are lawfully taken by a person licensed or authorized to hunt or trap in accordance with Chapter 4, Title 36, Idaho Code, may be sold, exported, transported, or possessed, without additional permit from the Department, provided such action is not otherwise in violation of federal, state, county, or city laws, rules, ordinances, or regulations. The Idaho Department of Agriculture may restrict the possession, sale, or import of fox, skunk, raccoon or other animals, such as restrictions under Section 25-236, Idaho Code.* ( )

*b. Lawfully taken native unprotected or predatory wildlife may be released on private lands in the county of origin without a Department permit in accordance with Section 36-502, Idaho Code and with written landowner consent in possession while such wildlife is in transit to the release site.* ( )

*03. Exemption for Native Reptiles and Amphibians. A person licensed or authorized to hunt or trap in accordance with Chapter 4, Title 36, Idaho Code, may capture alive, or hold in captivity and possess, up to four (4) individuals per species of Idaho native reptiles or amphibians at the same time, provided such action is not otherwise in violation of federal, state, county, or city laws, rules, ordinances, or regulations.* ( )

**04. Restriction on Permit Issuance.** The Department will not issue any permit for import, export, transport, release, *possession*, or sale of live wildlife or eggs thereof, if the wildlife or eggs thereof would pose a threat to the state of Idaho, including threat of disease, genetic contamination or displacement of or competition with existing species. *Because of the threat of chronic wasting disease, the Department will not issue any permit for the import into Idaho of any live cervid not regulated as a domestic cervid by the Idaho State Department of Agriculture, including mule deer, white-tailed deer, moose, and wild-origin elk.* ( )

**IDAPA 13 – DEPARTMENT OF FISH AND GAME**  
**13.01.17 – RULES GOVERNING THE USE OF BAIT AND TRAPPING**  
**FOR TAKING BIG GAME ANIMALS**

**DOCKET NO. 13-0117-1901**

**NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 13-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104 and 36-1101, Idaho Code.

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 2, 2019 Idaho Administrative Bulletin, [Vol. 19-10, pages 122-124](#).

The Commission adopted the pending rule with a change to the proposed rule. After considering public comment, the Commission made the requirement concerning breakaway devices and stops an optional “or” requirement for one of the two types of devices. This language was different in the proposed rule. The Commission adopted the changes in the proposed rule to remove the requirement for diverters, with discretion to require diverters on a limited geographic basis under the conditions described in the rule.

**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 is no fiscal impact to the general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Cory Mosby at (208) 334-2920.

Dated this 19th day of November, 2019.

Paul Kline  
Deputy Director  
Idaho Department of Fish and Game  
600 S. Walnut Street  
P.O. Box 25  
Boise, ID 83707  
Phone: (208) 334-3771  
Fax: (208) 334-4885  
Email: [rules@idfg.idaho.gov](mailto:rules@idfg.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, this agency hereby gives notice of proposed rulemaking. The action is authorized by Sections 36-104 and 36-1101, 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 October 16, 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:

The proposed rule change would remove the general requirement that diverters be used on ground set snares for gray wolf trapping, but would allow the Commission to require diverters in specific areas based on levels of non-target catch of animals that might be avoided by diverter use. The proposed rule would also require ground set snares for gray wolf trapping to use both a breakaway device and a cable stop; the current rule requires the use of at least one of these devices.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: The proposed rule has no associated fee.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: Not Applicable.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6, page 54](#). The agency received 311 responses via on-line submissions during the 21-day comment period. One negotiated rulemaking meeting was conducted on July 22, 2019 to share information and discuss a draft rule prepared by the agency. Seventeen people participated in the negotiated rulemaking meeting. The meeting did not result in consensus, and polarized opinions stated by meeting participants on issues within and beyond the scope of rulemaking are not suited to further negotiation. The agency considered public input received and proceeded with proposed rulemaking.

**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 Cory Mosby at (208) 334-2920.

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 October 23, 2019.

Dated this 27th day of August, 2019.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0117-1901

**400. TRAPPING BIG GAME ANIMALS.**

Trapping may be used to take ONLY gray wolf and ONLY under the following conditions. ( )

**01. Methods of Take When Trapping.** No person trapping gray wolf may: ( )

**a.** Use any set, EXCEPT a ground set. ( )

**b.** Use for bait or scent, any part of a domestic or wild origin game bird, big game animal, upland game animal, game fish, or protected nongame wildlife; EXCEPT: ( )

**i.** Gray wolves may be trapped near a big game animal that has died naturally and the carcass has not been repositioned for trapping purposes. Natural causes *do* not include any man-caused mortality. ( )

**ii.** Gray wolves may be trapped using a carcass of a legally taken gray wolf with the hide removed. ( )

**iii.** Gray wolves may be trapped using the parts of accidentally killed wildlife salvaged in accordance with IDAPA 13.01.10, "Rules Governing the Importation, Possession, Release, Sale or Salvage of Wildlife," Subsections 300.02.c. and 300.02.d. in Game Management Units as identified by the Commission's Big Game Season Proclamation, adopted and published in accordance with Section 36-105(3), Idaho Code. ( )

**c.** Use any set within thirty (30) feet of any visible bait; including bait allowed in Subsection 400.01.b. ( )

**d.** Use a dirt hole ground set with bait unless the person ensures that the bait remains covered at all times to protect raptors and other meat-eating birds from being caught accidentally. ( )

**e.** Use live animals as a bait or attractant. ( )

**f.** Place any ground set on, across, or within ten (10) feet of the edge of any maintained unpaved public trail. ( )

**g.** Place any ground set on, across, or within any public highway as defined in Section 36-202, Idaho Code; EXCEPT ground sets may be placed underneath bridges and within and at culverts that are part of a public highway right-of-way. ( )

**h.** Place any ground set incorporating snare, trap, or attached materials within three hundred (300) feet of any designated public campground, trailhead, paved trail, or picnic area, except cage or box live traps may be placed within these areas as allowed by city, county, state, and federal law. ( )

**i.** Place or set any ground set snare without a break-away device or cable stop incorporated within the loop of the snare. ( )

**j.** Place any ground set incorporating a foothold trap with an inside jaw spread greater than nine (9) inches. ( )

**k.** Trap *for* any gray wolf within one-half (1/2) mile of any active Department big game feeding site. ( )

**l.** Trap *for* gray wolf within two hundred (200) yards of the perimeter of any designated dump ground or sanitary landfill. ( )

*m. Place or set any ground set snare without two (2) diverters in an area identified by Commission Proclamation as requiring their use (based on levels of non-target catch of animals whose capture may be avoided by diverter use). ( )*

**02. *Exceptions for Dispatch.*** *A trapped gray wolf may be dispatched any time of day or night, and a trapped gray wolf may be dispatched with any rimfire rifle, rimfire handgun or any muzzleloading handgun in exception to IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals," Sections 400 and 410. ( )*

## IDAPA 20 – IDAHO DEPARTMENT OF LANDS

DOCKET NO. 20-0000-1900

### NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and the Idaho State Board of Land Commissioners and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the approved or non-rejected portions of the rule become final and in full force and effect upon adoption of the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 38-115, 38-132, 38-402, 38-1304, 58-104, 58-105, and 67-5201 et seq., Idaho Code.

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

This rulemaking was prompted by the expiration of the rules. This pending rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 20, Rules of the Idaho Department of Lands:

#### **IDAPA 20**

- 20.01.01, *Rules of Practice and Procedure Before the State Board of Land Commissioners*
- 20.02.01, *Rules Pertaining to the Idaho Forest Practices Act*
- 20.04.01, *Rules Pertaining to Forest Fire Protection*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. Minor edits to the proposed rule were prompted by the Red Tape Reduction Act and the Department's continued efforts to clarify and streamline its rules. The complete text of these proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 4099–4159](#).

**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.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Amy Johnson at (208) 334-0255 or [rulemaking@idl.idaho.gov](mailto:rulemaking@idl.idaho.gov).

Dated this 17th day of October, 2019.

Dustin Miller, Director  
Idaho Department of Lands  
300 N. 6th St, Suite 103  
P.O. Box 83720  
Boise, Idaho 83720-0050  
Phone: (208) 334-0242  
Fax: (208) 334-3698  
[rulemaking@idl.idaho.gov](mailto:rulemaking@idl.idaho.gov)



**THE FOLLOWING NOTICE PUBLISHED WITH  
THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 38-115, 38-132, 38-402, 38-1304, 58-104, 58-105, 67-5201 et seq., and 67-5206(5)(b), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, 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 proposed rulemaking:

This temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 20, rules of the Idaho Department of Lands:

**IDAPA 20**

- 20.01.01, *Rules of Practice and Procedure Before the State Board of Land Commissioners – All rules except the following Sections: 790 through 860*
- 20.02.01, *Rules Pertaining to the Idaho Forest Practices Act*
- 20.04.01, *Rules Pertaining to Forest Fire Protection*

**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 rules of the Idaho Department of Lands serve the public interest by, for example, regulating forestland management practices to maintain and enhance benefits such as job creation, tax generation, and distributions to endowment beneficiaries, and by conserving resources such as forest tree species, soil, air, water, and wildlife habitat.

**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 and proposed rules attached hereto.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Amy Johnson at (208) 334-0255 or [rulemaking@idl.idaho.gov](mailto:rulemaking@idl.idaho.gov).

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0000-1900**

**20.01.01 – RULES OF PRACTICE AND PROCEDURE BEFORE  
THE STATE BOARD OF LAND COMMISSIONERS**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Sections 58-104 and 67-5206(5)(b), Idaho Code. (7-1-93)

**001. TITLE AND SCOPE.**

This chapter is titled IDAPA 20.01.01, “Rules of Practice and Procedure Before the State Board of Land Commissioners.” These rules govern the practice and procedure in contested cases before the Board and the Idaho Department of Lands. These rules do not govern practice and procedure during regular or special meetings of the Board. Furthermore, these rules are not intended to create the substantive right to a contested case hearing; any right to a contested case hearing must be established by other provision of law. ( )

**002. DEFINITIONS.**

As used in this chapter: (7-1-93)

- 01. Agency.** The state board of land commissioners and the Idaho department of lands. (7-1-93)
- 02. Agency Action.** Agency action means: (7-1-93)
  - a.** The whole or part of a rule or order; (7-1-93)
  - b.** The failure to issue a rule or order; or (7-1-93)
  - c.** An agency’s performance of, or failure to perform, any duty placed on it by law. (7-1-93)
- 03. Agency Head.** The state board of land commissioners and the board secretary, the director of the Idaho department of lands. (7-1-93)
- 04. Board.** The State Board of Land Commissioners. (7-1-93)
- 05. Contested Case.** A proceeding which results in the issuance of an order. (7-1-93)
- 06. Document.** Any proclamation, executive order, notice, rule or statement of policy of an agency. (7-1-93)
- 07. License.** The whole or part of any agency permit, certificate, approval, registration, charter, or similar form of authorization required by law, but does not include a license required solely for revenue purposes. (7-1-93)
- 08. Order.** An agency action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific persons. (7-1-93)
- 09. Party.** Each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party. (7-1-93)
- 10. Person.** Any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character. (7-1-93)

**003. FILING OF DOCUMENTS -- NUMBER OF COPIES.**

- 01. Where to File.** In general, all documents in contested cases may be filed with the Board Secretary/ Department of Lands Director at the address set forth at [www.idl.idaho.gov](http://www.idl.idaho.gov) if no other officer is designated for the particular proceeding. When a specific officer is designated to receive documents in a particular proceeding, documents may be filed with the designated officer as set forth in the order appointing a hearing officer. ( )
- 02. Number of Copies.** An original and five (5) legible copies of all documents shall be filed with the Board in all contested cases wherein a hearing officer has not been appointed by the Board. If a hearing officer has been appointed to hear a contested case, then one (1) original and one (1) legible copy of all documents shall be filed with the hearing officer. ( )

**004. -- 049. (RESERVED)**

**050. PROCEEDINGS GOVERNED.**

**01. Contested Case.** Sections 100 through 780 govern procedure before the Board in contested cases, unless otherwise provided by statute, rule, notice or order of the Board. ( )

**02. Other Specified Procedures.** Where another statute or rule requires specific procedures in a contested case before the Board, such other procedures will preempt these rules to the extent that these rules conflict with the other procedures. To the extent the other statute or rule does not address any matter of practice and procedure set forth in these rules, however, these rules shall govern. (7-1-93)

**03. Rules Not Applicable to Board Meetings.** These rules do not govern practice and procedure before regular or special board meetings. Board meetings are conducted informally and are not contested case hearings. A person who is dissatisfied with any decision of the Board may apply to appear before and be heard by the Board. Such appearances are informal and minutes will be taken and recorded the same as for regular Board meetings, unless application is made for a contested case hearing. A contested case hearing is available only where authorized by statute. See Subsection 104.02. (7-1-93)

**04. Rules Not Applicable to Proceedings or Public Hearings.** These rules do not govern proceedings in any public comment hearing that the Board may direct for the purpose of taking public comment on any matter. (7-1-93)

**051. REFERENCE TO AGENCY.**

Reference to the agency in these rules includes the Board and its Secretary, the Director of the Department of Lands, the hearing officer appointed by the agency, or the presiding officer, as context requires. Reference to the agency head means to the Board and its Secretary, the Director of the Department of Lands, as context requires, or such other officer designated by the agency head to review recommended or preliminary orders. (7-1-93)

**052. LIBERAL CONSTRUCTION.**

The rules in this chapter will be liberally construed to secure just, speedy and economical determination of all issues presented to the agency. Unless prohibited by statute, the agency may permit deviation from these rules when it finds that compliance with them is impracticable, unnecessary or not in the public interest. Unless required by statute, the Idaho Rules of Civil Procedure and the Idaho Rules of Evidence do not apply to contested case proceedings conducted before the agency. (7-1-93)

**053. COMMUNICATIONS WITH AGENCY.**

All written communications and documents that are intended to be part of an official record for a decision in a contested case must be filed with the Board's Secretary/Director of the Department of Lands, or such officer appointed by the Board. Unless otherwise provided by statute, rule, order or notice, documents are considered filed when received by the officer designated to receive them, not when mailed. (7-1-93)

**054. IDENTIFICATION OF COMMUNICATIONS.**

Parties' communications addressing or pertaining to a given proceeding must be written under that proceeding's case caption and case number. General communications by other persons should refer to case captions, case numbers, permit or license numbers, or the like, if this information is known. (7-1-93)

**055. SERVICE BY AGENCY.**

Unless otherwise provided by statute or these rules, the officer designated by the agency to serve rules, notices, summonses, complaints, and orders issued by the agency may serve these documents by certified mail, return receipt requested, to a party's last known mailing address or by personal service. Unless otherwise provided by statute, these rules, order or notice, service of orders and notices is complete when a copy, properly addressed and stamped, is deposited in the United States mail or the Statehouse mail, if the party is a state employee or state agency. The officer designated by the agency to serve documents in a proceeding must serve all orders and notices in a proceeding on the representatives of each party designated pursuant to these rules for that proceeding and upon other persons designated by these rules or by the agency. (7-1-93)

**056. COMPUTATION OF TIME.**

Whenever statute, these or other rules, order, or notice requires an act to be done within a certain number of days of a given day, the given day is not included in the count. If the day the act must be done is Saturday, Sunday or a legal holiday, the act may be done on the first day following that is not Saturday, Sunday or a legal holiday. (7-1-93)

**057. FEES AND REMITTANCES.**

Fees and remittances to the agency must be paid by money order, bank draft or check payable to agency. Remittances in currency or coin are wholly at the risk of the remitter, and the agency assumes no responsibility for their loss. (7-1-93)

**058. -- 099. (RESERVED)**

**100. INFORMAL PROCEEDINGS DEFINED.**

Informal proceedings are proceedings in contested cases authorized by statute, rule or order of the agency to be conducted using informal procedures, i.e., procedures without a record to be preserved for later agency or judicial review, without the necessity of representation according to Section 202, without formal designation of parties, without the necessity of hearing examiners or other presiding officers, or without other formal procedures required by these rules for formal proceedings. Unless prohibited by statute, an agency may provide that informal proceedings may precede formal proceedings in the consideration of a rulemaking or a contested case. (7-1-93)

**101. INFORMAL PROCEDURE.**

Statute authorizes and these rules encourage the use of informal proceedings to settle or determine contested cases. Unless prohibited by statute, the agency may provide for the use of informal procedure at any stage of a contested case. Informal procedure may include individual contacts by or with the agency staff asking for information, advice or assistance from the agency staff, or proposing informal resolution of formal disputes under the law administered by the agency. Informal procedures may be conducted in writing, by telephone or television, or in person. (7-1-93)

**102. FURTHER PROCEEDINGS.**

If statute provides that informal procedures shall be followed with no opportunity for further formal administrative review, then no opportunity for later formal administrative proceedings must be offered following informal proceedings. Otherwise, except as provided in Section 103, any person participating in an informal proceeding must be given an opportunity for a later formal administrative proceeding before the agency, if such person is entitled to a contested case hearing, at which time the parties may fully develop the record before the agency. (7-1-93)

**103. INFORMAL PROCEEDINGS DO NOT EXHAUST ADMINISTRATIVE REMEDIES.**

Unless all parties agree to the contrary in writing, informal proceedings do not substitute for formal proceedings and do not exhaust administrative remedies, and informal proceeding are conducted without prejudice to the right of the parties to present the matter formally to the agency. Settlement offers made in the course of informal proceedings are confidential. (7-1-93)

**104. FORMAL PROCEEDINGS.**

**01. Initiation of Proceedings.** Formal proceedings, which are governed by rules of procedure other than Sections 100 through 103, must be initiated by a document (generally a notice, order or complaint if initiated by the agency) or another pleading listed in Sections 220 through 260 if initiated by another person. Formal proceedings may be initiated by a document from the agency informing the party(ies) that the agency has reached an informal determination that will become final in the absence of further action by the person to whom the correspondence is addressed, provided that the document complies with the requirements of Sections 210 through 280. Formal proceedings can be initiated by the same document that initiates informal proceedings. (7-1-93)

**02. Right to Contested Case, Board Discretion.** Formal proceedings may be initiated by a party only where such party is given the statutory right to a contested case hearing. The Board may, in its discretion, direct that a contested case hearing be held in a contested case, or on any matter. The Board may, in its discretion, deny any request for a contested case hearing on any matter that is not a contested case. (7-1-93)

**105. -- 149. (RESERVED)**

**150. PARTIES TO CONTESTED CASES LISTED.**

Parties to contested cases before the agency are called applicants or claimants or appellants, petitioners, complainants, respondents, protestants, or intervenors. On reconsideration or appeal within the agency parties are called by their original titles listed in the previous sentence. (7-1-93)

**151. APPLICANTS/CLAIMANTS/APPELLANTS.**

Persons who seek any right, license, award or authority from the agency are called “applicants” or “claimants” or “appellants.” (7-1-93)

**152. PETITIONERS.**

Persons not applicants who seek to modify, amend or stay existing orders or rules of the agency, to clarify their rights or obligations under law administered by the agency, to ask the agency to initiate a contested case (other than an application or complaint), or to otherwise take action that will result in the issuance of an order or rule, are called “petitioners.” (7-1-93)

**153. COMPLAINANTS.**

Persons who charge other person(s) with any act or omission are called “complainants.” In any proceeding in which the agency itself charges a person with an act or omission, the agency is called “complainant.” (7-1-93)

**154. RESPONDENTS.**

Persons against whom complaints are filed or about whom investigations are initiated are called “respondents.” (7-1-93)

**155. PROTESTANTS.**

Persons who oppose an application or claim or appeal and who have a statutory right to contest the right, license, award or authority sought by an applicant or claimant or appellant are called “protestants.” (7-1-93)

**156. INTERVENORS.**

Persons, not applicants or claimants or appellants, complainants, respondents, or protestants to a proceeding, who are permitted to participate as parties pursuant to Sections 350 through 354 are called “intervenors.” (7-1-93)

**157. RIGHTS OF PARTIES AND OF AGENCY STAFF.**

Subject to Sections 558, 560, and 600, all parties and agency staff may appear at hearing or argument, introduce evidence, examine witnesses, make and argue motions, state positions, and otherwise fully participate in hearings or arguments. (7-1-93)

**158. PERSONS DEFINED -- PERSONS NOT PARTIES -- INTERESTED PERSONS.**

The term “person” includes natural persons, partnerships, corporations, associations, municipalities, government entities and subdivisions, and any other entity authorized by law to participate in the administrative proceeding. Persons other than the persons named in Sections 151 through 156 are not parties for the purpose of any statute or rule addressing rights or obligations of parties to a contested case. In kinds of proceedings in which persons other than the applicant or claimant or appellant, petitioner, complainant, or respondent would be expected to have an interest, persons may request the agency in writing that they be notified when proceedings of that kind are initiated. These persons are called “Interested Persons.” Interested persons may become protestants, intervenors or public witnesses. The agency must serve notice of such proceedings on all interested persons. (7-1-93)

**159. -- 199. (RESERVED)**

**200. INITIAL PLEADING BY PARTY -- LISTING OF REPRESENTATIVES.**

The initial pleading of each party at the formal stage of a contested case (be it an application or claim or appeal, petition, complaint, protest, motion, or answer) must name the party’s representative(s) for service and state the representative’s (s’) address(es) for purposes of receipt of all official documents. Service of documents on the named representative (s) is valid service upon the party for all purposes in that proceeding. If no person is explicitly named as the party’s representative, the person signing the pleading will be considered the party’s representative. (7-1-93)

**201. TAKING OF APPEARANCES -- PARTICIPATION BY AGENCY STAFF.**

The presiding officer at a formal hearing or prehearing conference will take appearances to identify the

representatives of all parties or other persons. In all proceedings in which the agency staff will participate, or any report or recommendation of the agency staff (other than a recommended order or preliminary order prepared by a hearing officer) will be considered or used in reaching a decision, at the timely request of any party the agency staff must appear at any hearing and participate in the same manner as a party. (7-1-93)

**202. REPRESENTATION OF PARTIES AT HEARING.**

**01. Appearances and Representation.** To the extent authorized or required by law, appearances and representation of parties or other persons at formal hearing or prehearing conference must be as follows: (7-1-93)

- a.** Natural person. A natural person may represent himself or herself or be represented by a duly authorized employee, attorney, family member, or next friend. (7-1-93)
- b.** A partnership may be represented by a partner, duly authorized employee, or attorney. (7-1-93)
- c.** A corporation may be represented by an officer, duly authorized employee, or attorney. (7-1-93)
- d.** A municipal corporation, local government agency, unincorporated association or nonprofit organization may be represented by an officer, duly authorized employee, or attorney. (7-1-93)

**02. Representatives.** The representatives of parties at hearing, and no other persons or parties appearing before the agency, are entitled to examine witnesses and make or argue motions. (7-1-93)

**203. SERVICE ON REPRESENTATIVES OF PARTIES AND OTHER PERSONS.**

From the time a party files its initial pleading in a contested case, that party must serve and all other parties must serve all future documents intended to be part of the agency record upon all other parties' representatives designated pursuant to Section 200, unless otherwise directed by order or notice or by the presiding officer on the record. The presiding officer may order parties to serve past documents filed in the case upon those representatives. The presiding officer may order parties to serve past or future documents filed in the case upon persons not parties to the proceedings before the agency. (7-1-93)

**204. WITHDRAWAL OF PARTIES.**

Any party may withdraw from a proceeding in writing or at hearing. (7-1-93)

**205. SUBSTITUTION OF REPRESENTATIVE -- WITHDRAWAL OF REPRESENTATIVE.**

A party's representative may be changed and a new representative may be substituted by notice to the agency and to all other parties so long as the proceedings are not unreasonably delayed. The presiding officer at hearing may permit substitution of representatives at hearing in the presiding officer's discretion. Persons representing a party who wish to withdraw their representation of a party in a proceeding before the agency must immediately file in writing a notice of withdrawal of representation and serve that notice on the party represented and all other parties. (7-1-93)

**206. CONDUCT REQUIRED.**

Representatives of parties and parties appearing in a proceeding must conduct themselves in an ethical and courteous manner. (7-1-93)

**207. -- 209. (RESERVED)**

**210. PLEADINGS LISTED -- MISCELLANEOUS.**

Pleadings in contested cases are called applications or claims or appeals, petitions, complaints, protests, motions, answers, and consent agreements. Affidavits or declarations under penalty of perjury may be filed in support of any pleading. A party's initial pleading in any proceeding must comply with Section 200, but the presiding officer may allow documents filed during informal stages of the proceeding to be considered a party's initial pleading without the requirement of resubmission to comply with this rule. All pleadings filed during the formal stage of a proceeding must be filed in accordance with Sections 300 through 303. A party may adopt or join any other party's pleading. Two (2) or more separately stated grounds, claims or answers concerning the same subject matter may be included in one (1) pleading. (7-1-93)

**211. -- 219. (RESERVED)**

**220. APPLICATIONS/CLAIMS/APPEALS -- DEFINED -- FORM AND CONTENTS.**

All pleadings requesting a right, license, award or authority from the agency are called “applications” or “claims” or “appeals.” Applications or claims or appeals must: (7-1-93)

**01. Facts.** Fully state the facts upon which they are based. (7-1-93)

**02. Refer to Provisions.** Refer to the particular provisions of statute, rule, order, or other controlling law upon which they are based. (7-1-93)

**03. Other.** State the right, license, award, or authority sought. (7-1-93)

**221. -- 229. (RESERVED)**

**230. PETITIONS -- DEFINED -- FORM AND CONTENTS.**

**01. Pleadings Defined.** All pleadings requesting the following are called “petitions”: (7-1-93)

**a.** Modification, amendment or stay of existing orders or rules; (7-1-93)

**b.** Clarification, declaration or construction of the law administered by the agency or of a party’s rights or obligations under law administered by the agency; (7-1-93)

**c.** The initiation of a contested case not an application, claim or complaint or otherwise taking action that will lead to the issuance of an order or a rule; (7-1-93)

**d.** Rehearing; or (7-1-93)

**e.** Intervention. (7-1-93)

**02. Petitions.** Petitions must: (7-1-93)

**a.** Fully state the facts upon which they are based; (7-1-93)

**b.** Refer to the particular provisions of statute, rule, order or other controlling law upon which they are based; (7-1-93)

**c.** State the relief desired; and (7-1-93)

**d.** State the name of the person petitioned against (the respondent), if any. (7-1-93)

**231. -- 239. (RESERVED)**

**240. COMPLAINTS -- DEFINED -- FORM AND CONTENTS.**

**01. Defined.** All pleadings charging other person(s) with acts or omissions under law administered by the agency are called “complaints.” (7-1-93)

**02. Form and Contents.** Complaints must: (7-1-93)

**a.** Be in writing; (7-1-93)

**b.** Fully state the acts or things done or omitted to be done by the persons complained against by reciting the facts constituting the acts or omissions and the dates when they occurred; (7-1-93)

**c.** Refer to statutes, rules, orders or other controlling law involved; (7-1-93)



d. State the relief desired; and (7-1-93)

e. State the name of the person complained against (the respondent). (7-1-93)

**241. -- 249. (RESERVED)**

**250. PROTESTS -- DEFINED -- FORM AND CONTENTS -- TIME FOR FILING.**

**01. Defined.** All pleadings opposing an application or claim or appeal as a matter of right are called “protests.” (7-1-93)

**02. Form and Contents, Time for Filing.** Protests must: (7-1-93)

a. Fully state the facts upon which they are based, including the protestant’s claim of right to oppose the application or claim; (7-1-93)

b. Refer to the particular provisions of statute, rule, order or other controlling law upon which they are based; and (7-1-93)

c. State any proposed limitation (or the denial) of any right, license, award or authority sought in the application. (7-1-93)

**251. -- 259. (RESERVED)**

**260. MOTIONS -- DEFINED -- FORM AND CONTENTS -- TIME FOR FILING.**

**01. Defined.** All other pleadings requesting the agency to take any other action in a contested case, except consent agreements or pleadings specifically answering other pleadings, are called “motions.” (7-1-93)

**02. Form and Contents.** Motions must: (7-1-93)

a. Fully state the facts upon they are based; (7-1-93)

b. Refer to the particular provision of statute, rule, order, notice, or other controlling law upon which they are based; and (7-1-93)

c. State the relief sought. (7-1-93)

**03. Other.** If the moving party desires oral argument or hearing on the motion, it must state so in the motion. Any motion to dismiss, strike or limit an application or claim or appeal, complaint, petition, or protest must be filed before the answer is due or be included in the answer, if the movant is obligated to file an answer. If a motion is directed to an answer, it must be filed within fourteen (14) days after service of the answer. Other motions may be filed at any time upon compliance with Section 565. (7-1-93)

**261. -- 269. (RESERVED)**

**270. ANSWERS -- DEFINED -- FORM AND CONTENTS -- TIME FOR FILING.**

All pleadings responding to the allegations or requests of applications or claims or appeals, complaints, petitions, protests, or motions are called “answers.” (7-1-93)

**01. Answers to Pleadings Other Than Motions.** Answers to applications, claims, or appeals, complaints, petitions, or protests must be filed and served on all parties of record within twenty-one (21) days after service of the pleading being answered, unless order or notice modifies the time within which answer may be made, or a motion to dismiss is made within twenty-one (21) days. When an answer is not timely filed under this rule, the presiding officer may issue a notice of default against the respondent pursuant to Section 700. Answers to applications or claims, complaints, petitions, or protests must admit or deny each material allegation of the

applications or claims, complaint, petition or protest. Any material allegation not specifically admitted shall be considered to be denied. Matters alleged by cross-complaint or affirmative defense must be separately stated and numbered. (7-1-93)

**02. Answers to Motions.** Answers to motions may be filed by persons or parties who are the object of a motion or by parties opposing a motion. The person or party answering the motion must do so with all deliberate and reasonable speed. In no event is a party entitled to more than fourteen (14) days to answer a motion or to move for additional time to answer. The presiding officer may act upon a prehearing motion under Section 565. (7-1-93)

**271. -- 279. (RESERVED)**

**280. CONSENT AGREEMENTS -- DEFINED -- FORM AND CONTENTS.**

Agreements between the agency or agency staff and another person(s) in which one or more person(s) agree to engage in certain conduct mandated by statute, rule, order, case decision, or other provision of law, or to refrain from engaging in certain conduct prohibited by statute, rule, order, case decision, or other provision of law, are called "consent agreements." Consent agreements are intended to require compliance with existing law. (7-1-93)

**01. Requirements.** Consent agreements must: (7-1-93)

**a.** Recite the parties to the agreement; and (7-1-93)

**b.** Fully state the conduct proscribed or prescribed by the consent agreement. (7-1-93)

**02. Additional.** In addition, consent agreements may: (7-1-93)

**a.** Recite the consequences of failure to abide by the consent agreement; (7-1-93)

**b.** Provide for payment of civil or administrative penalties authorized by law; (7-1-93)

**c.** Provide for loss of rights, licenses, awards or authority; (7-1-93)

**d.** Provide for other consequences as agreed to by the parties; and (7-1-93)

**e.** Provide that the parties waive all further procedural rights (including hearing, consultation with counsel, etc.) with regard to enforcement of the consent agreement. (7-1-93)

**281. -- 299. (RESERVED)**

**300. FILING DOCUMENTS WITH THE AGENCY -- NUMBER OF COPIES -- FACSIMILE TRANSMISSION (FAX).**

An original and necessary copies (if any are required by the agency) of all documents intended to be part of an agency record must be filed with the officer designated by the agency to receive filing in the case. Pleadings and other documents not exceeding ten (10) pages in length requiring urgent or immediate action may be filed by facsimile transmission (FAX) if the agency's individual rule of practice lists a FAX number for that agency. Whenever any document is filed by FAX, if possible, originals must be delivered by overnight mail the next working day. (7-1-93)

**301. FORM OF PLEADINGS.**

**01. Pleadings.** All pleadings submitted by a party and intended to be part of an agency record must: (7-1-93)

**a.** Be submitted on white, eight and one-half by eleven inch (8 1/2" x 11") paper copied on one (1) side only; (7-1-93)

**b.** State the case caption, case number and title of the document; (7-1-93)

**c.** Include on the upper left corner of the first page the name(s), mailing and street address(es), and

telephone and FAX number(s) of the person(s) filing the document or the person(s) to whom questions about the document can be directed; and (7-1-93)

**d.** Have at least one inch (1”) left and top margins. (7-1-93)

**02. Form.** Documents complying with this rule will be in the following form:

Name of Representative  
Mailing Address of Representative  
Street Address of Representative (if different)  
Telephone Number of Representative  
FAX Number of Representative (if there is one)  
Attorney/Representative for (Name of Party)

BEFORE THE AGENCY

(Title of Proceeding) )  
)  
)  
)

CASE NO.  
(TITLE OF DOCUMENT)

(7-1-93)

**302. SERVICE ON PARTIES AND OTHER PERSONS.**

All documents intended to be part of the agency record for decision must be served upon the representatives of each party of record concurrently with filing with the officer designated by the agency to receive filings in the case. When a document has been filed by FAX, it must be served upon all other parties with FAX facilities by FAX and upon the remaining parties by overnight mail, hand delivery, or the next best available service if these services are not available. The presiding officer may direct that some or all of these documents be served on interested or affected persons who are not parties. (7-1-93)

**303. PROOF OF SERVICE.**

Every document filed with and intended to be part of the agency record must be attached to or accompanied by proof of service by the following or similar certificate:

I HEREBY CERTIFY (swear or affirm) that I have this day of , served the foregoing (name(s) of document(s)) upon all parties of record in this proceeding, (by delivering a copy thereof in person: (list names)) (by mailing a copy thereof, properly addressed with postage prepaid, to: (list names)).

(Signature)

(7-1-93)

**304. DEFECTIVE, INSUFFICIENT OR LATE PLEADINGS.**

Defective, insufficient or late pleadings may be returned or dismissed. (7-1-93)

**305. AMENDMENTS TO PLEADINGS -- WITHDRAWAL OF PLEADINGS.**

The presiding officer may allow any pleading to be amended or corrected or any omission to be supplied. Pleadings will be liberally construed, and defects that do not affect substantial rights of the parties will be disregarded. A party desiring to withdraw a pleading must file a notice of withdrawal of the pleading and serve all parties with a copy. Unless otherwise ordered by the presiding officer, the notice is effective fourteen (14) days after filing. (7-1-93)

**306. -- 349. (RESERVED)**

**350. ORDER GRANTING INTERVENTION NECESSARY.**

Persons not applicants or claimants or appellants, petitioners, complainants, protestants, or respondents to a

proceeding who claim a direct and substantial interest in the proceeding may petition for an order from the presiding officer granting intervention to become a party. (7-1-93)

**351. FORM AND CONTENTS OF PETITIONS TO INTERVENE.**

Petitions to intervene must comply with Sections 200 and 300 through 303. The petition must set forth the name and address of the potential intervenor and must state the direct and substantial interest of the potential intervenor in the proceeding. If affirmative relief is sought, the petition must state the relief sought and the basis for granting it. (7-1-93)

**352. TIMELY FILING OF PETITIONS TO INTERVENE.**

Petitions to intervene must be filed at least fourteen (14) days before the date set for formal hearing or prehearing conference, whichever is earlier, unless a different time is provided by order or notice. Petitions not timely filed must state a substantial reason for delay. The presiding officer may deny or conditionally grant petitions to intervene that are not timely filed for failure to state good cause for untimely filing, to prevent disruption, prejudice to existing parties or undue broadening of the issues, or for other reasons. Intervenors who do not file timely petitions are bound by orders and notices earlier entered as a condition of granting the untimely petition. (7-1-93)

**353. GRANTING PETITIONS TO INTERVENE.**

If a petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, the presiding officer will grant intervention, subject to reasonable conditions. If it appears that an intervenor has no direct or substantial interest in the proceeding, the presiding officer may dismiss the intervenor from the proceeding. (7-1-93)

**354. ORDERS GRANTING INTERVENTION -- OPPOSITION.**

No order granting a petition to intervene will be acted upon fewer than seven (7) days after its filing, except in a hearing in which any party may be heard. Any party opposing a petition to intervene by motion must file the motion within seven (7) days after receipt of the petition to intervene and serve the motion upon all parties of record and upon the person petitioning to intervene. (7-1-93)

**355. PUBLIC WITNESSES.**

Persons not parties and not called by a party who testify at hearing are called "public witnesses." Public witnesses do not have parties' rights to examine witnesses or otherwise participate in the proceedings as parties. Public witnesses' written or oral statements and exhibits are subject to examination and objection by parties. Subject to Sections 558 and 560, public witnesses have a right to introduce evidence at hearing by their written or oral statements and exhibits introduced at hearing, except that public witnesses offering expert opinions at hearing or detailed analysis or detailed exhibits must comply with Section 530 with regard to filing and service of testimony and exhibits to the same extent as expert witnesses of parties. (7-1-93)

**356. -- 399. (RESERVED)**

**400. FORM AND CONTENTS OF PETITION FOR DECLARATORY RULINGS.**

Any person petitioning for a declaratory ruling on the applicability of a statute, rule or order administered by the agency must substantially comply with this rule. (7-1-93)

**01. Form.** The petition shall: (7-1-93)

**a.** Identify the petitioner and state the petitioner's interest in the matter; (7-1-93)

**b.** State the declaratory ruling that the petitioner seeks; and (7-1-93)

**c.** Indicate the statute, order, rule, or other controlling law, and the factual allegations upon which the petitioner relies to support the petition. (7-1-93)

**02. Legal Assertions.** Legal assertions in the petition may be accompanied by citations of cases and/or statutory provisions. (7-1-93)

**401. NOTICE OF PETITION FOR DECLARATORY RULING.**

Notice of petition for declaratory ruling may be issued in a manner designed to call its attention to persons likely to be interested in the subject matter of the petition. (7-1-93)

**402. PETITIONS FOR DECLARATORY RULINGS TO BE DECIDED BY ORDER.**

**01. Final Agency Action.** The agency’s decision on a petition for declaratory ruling on the applicability of any statute, rule, or order administered by the agency is a final agency action decided by order. (7-1-93)

**02. Content.** The order issuing the declaratory ruling shall contain or must be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (7-1-93)

**a.** This is a final agency action issuing a declaratory ruling. (7-1-93)

**b.** Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this declaratory ruling may appeal to district court by filing a petition in the District Court in the county in which: (7-1-93)

**i.** A hearing was held; (7-1-93)

**ii.** The declaratory ruling was issued; (7-1-93)

**iii.** The party appealing resides; or (7-1-93)

**iv.** The real property or personal property that was the subject of the declaratory ruling is attached. (7-1-93)

**c.** This appeal must be filed within twenty-eight (28) days of the service date of this declaratory ruling. See Section 67-5273, Idaho Code. (7-1-93)

**403. -- 409. (RESERVED)**

**410. APPOINTMENT OF HEARING OFFICERS.**

A hearing officer is a person other than the agency head appointed to hear contested cases on behalf of the agency. Unless otherwise provided by statute or rule, hearing officers may be employees of the agency or independent contractors. Hearing officers may be (but need not be) attorneys. Hearing officers who are not attorneys should ordinarily be persons with technical expertise or experience in issues before the agency. The appointment of a hearing officer is a public record available for inspection, examination and copying. (7-1-93)

**411. HEARING OFFICERS CONTRASTED WITH AGENCY HEAD.**

Agency heads are not hearing officers, even if they are presiding at contested cases. The term “hearing officer” as used in these rules refers only to officers subordinate to the agency head. (7-1-93)

**412. DISQUALIFICATION OF OFFICERS HEARING CONTESTED CASES.**

Pursuant to Section 67-5252, Idaho Code, hearing officers are subject to disqualification for bias, prejudice, interest, substantial prior involvement in the case other than as a presiding officer, status as an employee of the agency, lack of professional knowledge in the subject matter of the contested case, or any other reason provided by law or for any cause for which a judge is or may be disqualified. Any party may promptly petition for the disqualification of a hearing officer after receiving notice that the officer will preside at a contested case or upon discovering facts establishing grounds for disqualification, whichever is later. Any party may assert a blanket disqualification for cause of all employees of the agency hearing the contested case, other than the agency head, without awaiting the designation by a presiding officer. A hearing officer whose disqualification is requested shall determine in writing whether to grant the petition for disqualification, stating facts and reasons for the hearing officer’s determination. Disqualification of agency heads, if allowed, will be pursuant to Sections 74-704 and 67-5252(4), Idaho Code. (7-1-93)

**413. SCOPE OF AUTHORITY OF HEARING OFFICERS.**

The scope of hearing officers’ authority may be restricted in the appointment by the agency. (7-1-93)

**01. Scope of Authority.** Unless the agency otherwise provides, hearing officers have the standard scope of authority, which is: (7-1-93)

**a.** Authority to schedule cases assigned to the hearing officer, including authority to issue notices of prehearing conference and of hearing, as appropriate; (7-1-93)

**b.** Authority to schedule and compel discovery, when discovery is authorized before the agency, and to require advance filing of expert testimony, when authorized before the agency; (7-1-93)

**c.** Authority to preside at and conduct hearings, accept evidence into the record, rule upon objections to evidence, and otherwise oversee the orderly presentations of the parties at hearing; and (7-1-93)

**d.** Authority to issue a written decision of the hearing officer, including a narrative of the proceedings before the hearing officer and recommended findings of fact, conclusions of law, and recommended or preliminary orders by the hearing officer. (7-1-93)

**02. Limitation.** The hearing officer's scope of authority may be limited from the standard scope, either in general, or for a specific proceeding. For example, the hearing officer's authority could be limited to scope iii (giving the officer authority only to conduct hearing), with the agency retaining all other authority. Hearing officers can be given authority with regard to the agency's rules as provided in Section 416. (7-1-93)

**03. Final Decision by Board.** All final decisions in contested cases will be made by the Board. A hearing officer will only issue recommended findings of fact, conclusions of law, and orders to the Board, and the Board will make the final decision to adopt, modify, or reject any or all of the proposed findings, conclusions, and order. (7-1-93)

**414. PRESIDING OFFICER(S).**

One (1) or more members of the agency board, the agency director, or duly appointed hearing officers may preside at hearing as authorized by statute or rule. When more than one (1) officer sits at hearing, they may all jointly be presiding officers or may designate one of them to be the presiding officer. (7-1-93)

**415. CHALLENGES TO STATUTES.**

A hearing officer in a contested case has no authority to declare a statute unconstitutional. However, when a court of competent jurisdiction whose decisions are binding precedent in the state of Idaho has declared a statute unconstitutional, or when a federal authority has preempted a state statute or rule, and the hearing officer finds that the same state statute or rule or a substantively identical state statute or rule that would otherwise apply has been challenged in the proceeding before the hearing officer, then the hearing officer shall apply the precedent of the court or the preemptive action of the federal authority to the proceeding before the hearing officer and decide the proceeding before the hearing officer in accordance with the precedent of the court or the preemptive action of the federal authority. (7-1-93)

**416. REVIEW OF RULES.**

When an order is issued by the agency head in a contested case, the order may consider and decide whether a rule of that agency is within the agency's substantive rulemaking authority or whether the rule has been promulgated according to proper procedure. The agency head may delegate to a hearing officer the authority to recommend a decision on issues of whether a rule is within the agency's substantive rulemaking authority or whether the rule has been promulgated according to proper procedure or may retain all such authority itself. (7-1-93)

**417. EX PARTE COMMUNICATIONS.**

Unless required for the disposition of a matter specifically authorized by statute to be done ex parte, a presiding officer serving in a contested case shall not communicate, directly or indirectly, regarding any substantive issue in the contested case with any party, except upon notice and opportunity for all parties to participate in the communication. The presiding officer may communicate ex parte with a party concerning procedural matters (e.g., scheduling). Ex parte communications from members of the general public not associated with any party are not required to be reported by this rule. However, when a presiding officer has received a written ex parte communication regarding any substantive issue from a party or representative of a party during a contested case, the presiding officer shall place a

copy of the communication in the file for the case and distribute a copy of it to all parties of record or order the party providing the written communication to serve a copy of the written communication upon all parties of record. Written communications from a party showing service upon all other parties are not ex parte communications. (7-1-93)

**418. -- 499. (RESERVED)**

**500. ALTERNATIVE RESOLUTION OF CONTESTED CASES.**

The Idaho Legislature encourages informal means of alternative dispute resolution (ADR). For contested cases, the means of ADR include, but are not limited to, settlement negotiations, mediation, factfinding, minitrials, and arbitration, or any combination of them. These alternatives can frequently lead to more creative, efficient and sensible outcomes than may be attained under formal contested case procedures. An agency may use ADR for the resolution of issues in controversy in a contested case if the agency finds that such a proceeding is appropriate. Reasons why an agency may find that using ADR is not appropriate may include, but are not limited to, a finding that an authoritative resolution of the matter is needed for precedential value, that formal resolution of the matter is of special importance to avoid variation in individual decisions, that the matter significantly affects persons who are not parties to the proceeding, or that a formal proceeding is in the public interest. Nothing in this rule shall be interpreted to require the Board to utilize ADR procedures in a contested case, nor shall it require the Board to make any findings of fact, conclusions of law, or orders with respect to a decision concerning utilization of ADR procedures. A Board decision on utilization of ADR procedures is not reviewable. (7-1-93)

**501. NEUTRALS.**

When ADR is used for all or a portion of a contested case, the agency may provide a neutral to assist the parties in resolving their disputed issues. The neutral may be an employee of the agency or of another state agency or any other individual who is acceptable to the parties to the proceeding. A neutral shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is disclosed in writing to all parties and all parties agree that the neutral may serve. (7-1-93)

**502. CONFIDENTIALITY.**

Communications in an ADR proceeding shall not be disclosed by the neutral or by any party to the proceeding unless all parties to the proceeding consent in writing, the communication has already been made public, or is required by court order, statute or agency rule to be made public. (7-1-93)

**503. -- 509. (RESERVED)**

**510. PURPOSES OF PREHEARING CONFERENCES.**

The presiding officer may by order or notice issued to all parties and to all interested persons as defined in Section 158 convene a prehearing conference in a contested case for the purposes of formulating or simplifying the issues, obtaining concessions of fact or identification of documents to avoid unnecessary proof, scheduling discovery (when discovery is allowed), arranging for the exchange of proposed exhibits or prepared testimony, limiting witnesses, discussing settlement offers or making settlement offers, scheduling hearings, establishing procedure at hearings, and addressing other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. (7-1-93)

**511. NOTICE OF PREHEARING CONFERENCE.**

Notice of the place, date and hour of a prehearing conference will be served at least fourteen (14) days before the time set for the prehearing conference, unless the presiding officer finds it necessary or appropriate for the conference to be held earlier. Notices for prehearing conference must contain the same information as notices of hearing with regard to an agency's obligations under the American with Disabilities Act. (7-1-93)

**512. RECORD OF CONFERENCE.**

Prehearing conferences may be held formally (on the record) or informally (off the record) before or in the absence of a presiding officer, according to order or notice. Agreements by the parties to the conference may be put on the record during formal conferences or may be reduced to writing and filed with the agency after formal or informal conferences. (7-1-93)

**513. ORDERS RESULTING FROM PREHEARING CONFERENCE.**

The presiding officer may issue a prehearing order or notice based upon the results of the agreements reached at or

rulings made at a prehearing conference. A prehearing order will control the course of subsequent proceedings unless modified by the presiding officer for good cause. (7-1-93)

**514. FACTS DISCLOSED NOT PART OF THE RECORD.**

Facts disclosed, offers made and all other aspects of negotiation (except agreements reached) in prehearing conferences in a contested case are not part of the record. (7-1-93)

**515. -- 519. (RESERVED)**

**520. KINDS AND SCOPE OF DISCOVERY LISTED.**

**01. Kinds of Discovery.** The kinds of discovery recognized and authorized by these rules in contested cases are: (7-1-93)

- a. Depositions; (7-1-93)
- b. Production requests or written interrogatories; (7-1-93)
- c. Requests for admission; (7-1-93)
- d. Subpoenas; and (7-1-93)
- e. Statutory inspection, examination (including physical or mental examination), investigation, etc. (7-1-93)

**02. Rules of Civil Procedure.** Unless otherwise provided by statute, rule, order or notice, the scope of discovery, other than statutory inspection, examination, investigation, etc., is governed by the Idaho Rules of Civil Procedure (see Idaho Rule of Civil Procedure 26(b)). (7-1-93)

**521. WHEN DISCOVERY AUTHORIZED.**

No party before the agency is entitled to engage in discovery unless the party moves to compel discovery and the agency issues an order directing that the discovery be answered, or upon agreement of all parties to the discovery that discovery may be conducted. The presiding officer shall provide a schedule for discovery in the order compelling discovery, but the order compelling and scheduling discovery need not conform to the timetables of the Idaho Rules of Civil Procedure. The agency or agency staff may conduct statutory inspection, examination, investigation, etc., at any time without filing a motion to compel discovery. (7-1-93)

**522. RIGHTS TO DISCOVERY RECIPROCAL.**

All parties to a proceeding have a right of discovery of all other parties to a proceeding according to Section 521 and to the authorizing statutes and rules. The presiding officer may by order authorize or compel necessary discovery authorized by statute or rule. (7-1-93)

**523. DEPOSITIONS.**

Depositions may be taken in accordance with the Idaho Rules of Civil Procedure for any purpose allowed by statute, the Idaho Rules of Civil Procedure, or rule or order of the agency. (7-1-93)

**524. PRODUCTION REQUESTS OR WRITTEN INTERROGATORIES AND REQUESTS FOR ADMISSION.**

Production requests or written interrogatories and requests for admission may be taken in accordance with the Idaho Rules of Civil Procedure for any purpose allowed by statute, the Idaho Rules of Civil Procedure, or rule or order of the agency. (7-1-93)

**525. SUBPOENAS.**

The agency may issue subpoenas as authorized by statute, upon a party's motion or upon its own initiative. The agency upon motion to quash made promptly, and in any event, before the time to comply with the subpoena, may quash the subpoena, or condition denial of the motion to quash upon reasonable terms. (7-1-93)



**526. STATUTORY INSPECTION, EXAMINATION, INVESTIGATION, ETC. -- CONTRASTED WITH OTHER DISCOVERY.**

This rule recognizes, but does not enlarge or restrict, an agency's statutory right of inspection, examination (including mental or physical examination), investigation, etc. This statutory right of an agency is independent of and cumulative to any right of discovery in formal proceedings and may be exercised by the agency whether or not a person is party to a formal proceeding before the agency. Information obtained from statutory inspection, examination, investigation, etc., may be used in formal proceedings or for any other purpose, except as restricted by statute or rule. The rights of deposition, production request or written interrogatory, request for admission, and subpoena, can be used by parties only in connection with formal proceedings before the agency. (7-1-93)

**527. ANSWERS TO PRODUCTION REQUESTS OR WRITTEN INTERROGATORIES AND TO REQUESTS FOR ADMISSION.**

Answers to production requests or written interrogatories and to requests for admission shall be filed or served as provided by the order compelling discovery. Answers must conform to the requirements of the Idaho Rules of Civil Procedure. The order compelling discovery may provide that voluminous answers to requests need not be served so long as they are made available for inspection and copying under reasonable terms. (7-1-93)

**528. FILING AND SERVICE OF DISCOVERY-RELATED DOCUMENTS.**

Notices of deposition, cover letters stating that production requests, written interrogatories or requests for admission have been served, cover letters stating answers to production requests, written interrogatories, or requests for admission have been served or are available for inspection under Section 527, and objections to discovery must be filed and served as provided in the order compelling discovery. (7-1-93)

**529. EXHIBIT NUMBERS.**

The agency assigns exhibit numbers to each party. (7-1-93)

**530. PREPARED TESTIMONY AND EXHIBITS.**

Order, notice or rule may require a party or parties to file before hearing and to serve on all other parties prepared expert testimony and exhibits to be presented at hearing. Assigned exhibits numbers should be used in all prepared testimony. (7-1-93)

**531. SANCTIONS FOR FAILURE TO OBEY ORDER COMPELLING DISCOVERY.**

The agency may impose all sanctions recognized by statute or rules for failure to comply with an order compelling discovery. (7-1-93)

**532. PROTECTIVE ORDERS.**

As authorized by statute or rule, the agency may issue protective orders limiting access to information generated during settlement negotiations, discovery, or hearing. (7-1-93)

**533. -- 549. (RESERVED)**

**550. NOTICE OF HEARING.**

Notice of the place, date and hour of hearing will be served on all parties at least fourteen (14) days before the time set for hearing, unless the agency finds by order that it is necessary or appropriate that the hearing be held earlier. Notices must comply with the requirements of Section 551. Notices must list the names of the parties (or the lead parties if the parties are too numerous to name), the case number or docket number, the names of the presiding officers who will hear the case, the name, address and telephone number of the person to whom inquiries about scheduling, hearing facilities, etc., should be directed, and the names of persons with whom the documents, pleadings, etc., in the case should be filed if the presiding officer is not the person who should receive those documents. If no document previously issued by the agency has listed the legal authority of the agency to conduct the hearing, the notice of hearing must do so. The notice of hearing shall state that the hearing will be conducted under these rules of procedure and inform the parties where they may read or obtain a copy. (7-1-93)

**551. FACILITIES AT OR FOR HEARING AND ADA REQUIREMENTS.**

All hearings must be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act, and all notices of hearing must inform the parties that the hearing will be conducted in facilities meeting the accessibility requirements of the Americans with Disabilities Act. All notices of hearing must inform the parties and

other persons notified that if they require assistance of the kind that the agency is required to provide under the Americans with Disabilities Act (e.g., sign language interpreters, Braille copies of documents) in order to participate in or understand the hearing, the agency will supply that assistance upon request a reasonable number of days before the hearing. The notice of hearing shall explicitly state the number of days before the hearing that the request must be made. (7-1-93)

**552. HOW HEARINGS HELD.**

Hearings may be held in person or by telephone or television or other electronic means, if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place. (7-1-93)

**553. CONDUCT AT HEARINGS.**

All persons attending a hearing must conduct themselves in a respectful manner. Smoking is not permitted at hearing. (7-1-93)

**554. CONFERENCE AT HEARING.**

In any proceeding the presiding officer may convene the parties before hearing or recess the hearing to discuss formulation or simplification of the issues, admissions of fact or identification of documents to avoid unnecessary proof, exchanges of documents, exhibits or prepared testimony, limitation of witnesses, establishment of order of procedure, and other matters that may expedite orderly conduct of the hearing. The presiding officer shall state the results of the conference on the record. (7-1-93)

**555. PRELIMINARY PROCEDURE AT HEARING.**

Before taking evidence the presiding officer will call the hearing to order, take appearances of parties, and act upon any pending motions or petitions. The presiding officer may allow opening statements as necessary or appropriate to explain a party's presentation. (7-1-93)

**556. CONSOLIDATION OF PROCEEDINGS.**

The agency may consolidate two (2) or more proceedings for hearing upon finding that they present issues that are related and that the rights of the parties will not be prejudiced. In consolidated hearings the presiding officer determines the order of the proceeding. (7-1-93)

**557. STIPULATIONS.**

Parties may stipulate among themselves to any fact at issue in a contested case by written statement filed with the presiding officer or presented at hearing or by oral statement at hearing. A stipulation binds all parties agreeing to it only according to its terms. The agency may regard a stipulation as evidence or may require proof by evidence of the facts stipulated. The agency is not bound to adopt a stipulation of the parties, but may do so. If the agency rejects a stipulation, it will do so before issuing a final order, and it will provide an additional opportunity for the parties to present evidence and arguments on the subject matter of the rejected stipulation. (7-1-93)

**558. ORDER OF PROCEDURE.**

The presiding officer may determine the order of presentation of witnesses and examination of witnesses. (7-1-93)

**559. TESTIMONY UNDER OATH.**

All testimony presented in formal hearings will be given under oath. Before testifying each witness must swear or affirm that the testimony the witness will give before the agency is the truth, the whole truth, and nothing but the truth. (7-1-93)

**560. PARTIES AND PERSONS WITH SIMILAR INTERESTS.**

If two (2) or more parties or persons have substantially like interests or positions, to expedite the proceeding and avoid duplication, the presiding officer may limit the number of them who testify, examine witnesses, or make and argue motions and objections. (7-1-93)

**561. CONTINUANCE OF HEARING.**

The presiding officer may continue proceedings for further hearing. (7-1-93)

**562. RULINGS AT HEARINGS.**

The presiding officer rules on motions and objections presented at hearing. When the presiding officer is a hearing

officer, the presiding officer's rulings may be reviewed by the agency head in determining the matter on its merits and the presiding officer may refer or defer rulings to the agency head for determination. (7-1-93)

**563. ORAL ARGUMENT.**

The presiding officer may set and hear oral argument on any matter in the contested case on reasonable notice according to the circumstances. (7-1-93)

**564. BRIEFS -- MEMORANDA -- PROPOSED ORDERS OF THE PARTIES -- STATEMENTS OF POSITION -- PROPOSED ORDER OF THE PRESIDING OFFICER.**

In any contested case, any party may ask to file briefs, memoranda, proposed orders of the parties or statements of position, and the presiding officer may request briefs, proposed orders of the parties, or statements of position. The presiding officer may issue a proposed order and ask the parties for comment upon the proposed order. (7-1-93)

**565. PROCEDURE ON PREHEARING MOTIONS.**

The presiding officer may consider and decide prehearing motions with or without oral argument or hearing. If oral argument or hearing on a motion is requested and denied, the presiding officer must state the grounds for denying the request. Unless otherwise provided by the presiding officer, when a motion has been filed, all parties seeking similar substantive or procedural relief must join in the motion or file a similar motion within seven (7) days after receiving the original motion. The party(ies) answering to or responding to the motion(s) will have fourteen (14) days from the time of filing of the last motion or joinder pursuant to the requirements of the previous sentence in which to respond. (7-1-93)

**566. JOINT HEARINGS.**

The agency may hold joint hearings with federal agencies, with agencies of other states, and with other agencies of the state of Idaho. When joint hearings are held, the agencies may agree among themselves which agency's rules of practice and procedure will govern. (7-1-93)

**567. -- 599. (RESERVED)**

**600. RULES OF EVIDENCE -- EVALUATION OF EVIDENCE.**

Evidence should be taken by the agency to assist the parties' development of a record, not excluded to frustrate that development. The presiding officer at hearing is not bound by the Idaho Rules of Evidence. No informality in any proceeding or in the manner of taking testimony invalidates any order. The presiding officer, with or without objection, may exclude evidence that is irrelevant, unduly repetitious, inadmissible on constitutional or statutory grounds, or on the basis of any evidentiary privilege provided by statute or recognized in the courts of Idaho. All other evidence may be admitted if it is of a type commonly relied upon by prudent persons in the conduct of their affairs. The agency's experience, technical competence and specialized knowledge may be used in evaluation of evidence. (7-1-93)

**601. DOCUMENTARY EVIDENCE.**

Documentary evidence may be received in the form of copies or excerpts. Upon request, parties shall be given an opportunity to compare the copy with the original if available. (7-1-93)

**602. OFFICIAL NOTICE -- AGENCY STAFF MEMORANDA.**

Official notice may be taken of any facts that could be judicially noticed in the courts of Idaho and of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified of the specific facts or material noticed and the source of the material noticed, including any agency staff memoranda and data. Notice that official notice will be taken should be provided either before or during the hearing, and must be provided before the issuance of any order that is based in whole or in part on facts or material officially noticed. Parties must be given an opportunity to contest and rebut the facts or material officially noticed. When the presiding officer proposes to notice agency staff memoranda or agency staff reports, responsible staff employees or agents shall be made available for cross-examination if any party timely requests their availability. (7-1-93)

**603. DEPOSITIONS.**

Depositions may be offered into evidence. (7-1-93)

**604. OBJECTIONS -- OFFERS OF PROOF.**

Grounds for objection to the admission or exclusion of evidence must be stated briefly at the time the evidence is offered. Formal exceptions to rulings admitting or excluding evidence are unnecessary and need not be taken. An offer of proof for the record consists of a statement of the substance of the excluded evidence. When a party objects to the admission of evidence, the presiding officer will rule on the objection, or, if the presiding officer is a hearing officer, the presiding officer may receive the evidence subject to later ruling by the agency head or refer the matter to the agency head. (7-1-93)

**605. PREPARED TESTIMONY.**

The presiding officer may order a witness's prepared testimony previously distributed to all parties to be included in the record of hearing as if read. Admissibility of prepared testimony is subject to Section 600. (7-1-93)

**606. EXHIBITS.**

Exhibit numbers may be assigned to the parties before hearing. Exhibits prepared for hearing must ordinarily be typed or printed on eight and one-half inch by eleven inch (8-1/2" x 11") white paper, except maps, charts, photographs and non-documentary exhibits may be introduced on the size or kind of paper customarily used for them. A copy of each documentary exhibit must be furnished to each party present and to the presiding officer, except for unusually bulky or voluminous exhibits that have previously been made available for the parties' inspection. Copies must be of good quality. Exhibits identified at hearing are subject to appropriate and timely objection before the close of proceedings. Exhibits to which no objection is made are automatically admitted into evidence without motion of the sponsoring party. Motion pictures, slides, opaque projections, videotapes, audiotapes or other materials not capable of duplication by still photograph or reproduction on paper shall not be presented as exhibits without approval of the presiding officer. ( )

**607. -- 609. (RESERVED)**

**610. CONFIDENTIALITY OF SETTLEMENT NEGOTIATIONS.**

Settlement negotiations in a contested case are confidential, unless all participants to the negotiation agree to the contrary in writing. Facts disclosed, offers made and all other aspects of negotiation (except agreements reached) in settlement negotiations in a contested case are not part of the record. (7-1-93)

**611. SUGGESTION FOR OR INQUIRY ABOUT SETTLEMENTS.**

Through notice or order or on the record at prehearing conference or hearing, the presiding officer may inquire of the parties in any proceeding whether settlement negotiations are in progress or are contemplated or may invite settlement of an entire proceeding or certain issues. (7-1-93)

**612. CONSIDERATION OF SETTLEMENTS.**

Settlements must be reviewed under this rule. When a settlement is presented to the presiding officer, the presiding officer will prescribe procedures appropriate to the nature of the settlement to consider the settlement. For example, the presiding officer could summarily accept settlement of essentially private disputes that have no significant implications for administration of the law for persons other than the affected parties. On the other hand, when one (1) or more parties to a proceeding is not party to the settlement or when the settlement presents issues of significant implication for other persons, the presiding officer may convene an evidentiary hearing to consider the reasonableness of the settlement and whether acceptance of the settlement is consistent with the agency's charge under the law. (7-1-93)

**613. BURDENS OF PROOF.**

Proponents of a proposed settlement carry the burden of showing that the settlement is in accordance with the law. The presiding officer may require the development of an appropriate record in support of or opposition to a proposed settlement as a condition of accepting or rejecting the settlement. (7-1-93)

**614. SETTLEMENT NOT BINDING.**

The presiding officer is not bound by settlement agreements that are not unanimously accepted by all parties or that have significant implications for persons not parties. In these instances, the presiding officer will independently review any proposed settlement to determine whether the settlement is in accordance with the law. (7-1-93)

**615. -- 649. (RESERVED)**

**650. RECORD FOR DECISION.**

- 01. Requirement.** The agency shall maintain an official record for each for each contested case and (unless statute provides otherwise) base its decision in a contested case on the official record for the case. (7-1-93)
- 02. Contents.** The record for a contested case shall include: (7-1-93)
- a.** All notices of proceedings; (7-1-93)
  - b.** All applications or claims or appeals, petitions, complaints, protests, motions, and answers filed in the proceeding; (7-1-93)
  - c.** All intermediate or interlocutory rulings of hearing officers or the agency head; (7-1-93)
  - d.** All evidence received or considered (including all transcripts or recordings of hearings and all exhibits offered or identified at hearing); (7-1-93)
  - e.** All offers of proof, however made; (7-1-93)
  - f.** All briefs, memoranda, proposed orders of the parties or of the presiding officers, statements of position, statements of support, and exceptions filed by parties or persons not parties; (7-1-93)
  - g.** All evidentiary rulings on testimony, exhibits, or offers of proof; (7-1-93)
  - h.** All staff memoranda or data submitted in connection with the consideration of the proceeding; (7-1-93)
  - i.** A statement of matters officially noticed; and (7-1-93)
  - j.** All recommended orders, preliminary orders, final orders, and orders on reconsideration. (7-1-93)

**651. RECORDING OF HEARINGS.**

All hearings shall be recorded on audiotape or videotape at the agency's expense. The agency may provide for a transcript of the proceeding at its own expense. Any party may have a transcript prepared at its own expense. (7-1-93)

**652. -- 699. (RESERVED)**

**700. NOTICE OF PROPOSED DEFAULT AFTER FAILURE TO APPEAR.**

If an applicant or claimant or appellant, petitioner, complainant, or moving party fails to appear at the time and place set for hearing on an application or claim or appeal, petition, complaint, or motion, the presiding officer may serve upon all parties a notice of a proposed default order denying the application or claim or appeal, petition, complaint, or motion. The notice of a proposed default order shall include a statement that the default order is proposed to be issued because of a failure of the applicant or claimant or appellant, petitioner, complainant or moving party to appear at the time and place set for hearing. The notice of proposed default order may be mailed to the last known mailing address of the party proposed to be defaulted. (7-1-93)

**701. SEVEN DAYS TO CHALLENGE PROPOSED DEFAULT ORDER.**

Within seven (7) days after the service of the notice of proposed default order, the party against whom it was filed may file a written petition requesting that a default order not be entered. The petition must state the grounds why the petitioning party believes that default should not be entered. (7-1-93)

**702. ISSUANCE OF DEFAULT ORDER.**

The agency shall promptly issue a default order or withdraw the notice of proposed default order after expiration of the seven days for the party to file a petition contesting the default order or receipt of a petition. If a default order is issued, all further proceedings necessary to complete the contested case shall be conducted without participation of the party in default (if the defaulting party is not a movant) or upon the results of the denial of the motion (if the

defaulting party is a movant). All issues in the contested case shall be determined, including those affecting the defaulting party. If authorized by statute or rule, costs may be assessed against a defaulting party. (7-1-93)

**703. -- 709. (RESERVED)**

**710. INTERLOCUTORY ORDERS.**

Interlocutory orders are orders that do not decide all previously undecided issues presented in a proceeding, except the agency may by order decide some of the issues presented in a proceeding and provide in that order that its decision on those issues is final and subject to review by reconsideration or appeal, but is not final on other issues. Unless an order contains or is accompanied by a document containing one of the paragraphs set forth in Sections 720, 730 or 740 or a paragraph substantially similar, the order is interlocutory. The following orders are always interlocutory: orders initiating complaints or investigations; orders joining, consolidating or separating issues, proceedings or parties; orders granting or denying intervention; orders scheduling prehearing conferences, discovery, hearing, oral arguments or deadlines for written submissions; and orders compelling or refusing to compel discovery. Interlocutory orders may be reviewed by the officer issuing the order pursuant to Sections 711, 760, and 770.

(7-1-93)

**711. REVIEW OF INTERLOCUTORY ORDERS.**

Any party or person affected by an interlocutory order may petition the officer issuing the order to review the interlocutory order. The officer issuing an interlocutory order may rescind, alter or amend any interlocutory order on the officer's own motion, but will not on the officer's own motion review any interlocutory order affecting any party's substantive rights without giving all parties notice and an opportunity for written comment.

(7-1-93)

**712. -- 719. (RESERVED)**

**720. RECOMMENDED ORDERS.**

**01. Definition.** Recommended orders are orders issued by a person other than the agency head that will become a final order of the agency only after review of the agency head (or the agency head's designee) pursuant to Section 67-5244, Idaho Code.

(7-1-93)

**02. Content.** Every recommended order must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs:

(7-1-93)

**a.** This is a recommended order of the hearing officer. It will not become final without action of the agency head. Any party may file a petition for reconsideration of this recommended order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this recommended order will dispose of any petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code.

(7-1-93)

**b.** Within twenty-one (21) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of this recommended order and file briefs in support of the party's position on any issue in the proceeding.

(7-1-93)

**c.** Written briefs in support of or taking exceptions to the recommended order shall be filed with the agency head (or designee of the agency head). Opposing parties shall have twenty-one (21) days to respond. The agency head or designee may schedule oral argument in the matter before issuing a final order. The agency head or designee will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.

(7-1-93)

**721. -- 729. (RESERVED)**

**730. PRELIMINARY ORDERS.**

**01. Definition.** Preliminary orders are orders issued by a person other than the agency head that will become a final order of the agency unless reviewed by the agency head (or the agency head's designee) pursuant to Section 67-5245, Idaho Code. (7-1-93)

**02. Content.** Every preliminary order must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (7-1-93)

**a.** This is a preliminary order of the hearing officer. It can and will become final without further action of the agency unless any party petitions for reconsideration before the hearing officer issuing it or appeals to the hearing officer's superiors in the agency. Any party may file a motion for reconsideration of this preliminary order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this order will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code. (7-1-93)

**b.** Within twenty-one (21) days after (a) the service date of this preliminary order, (b) the service date of the denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing appeal or take exceptions to any part of the preliminary order and file briefs in support of the party's position on any issue in the proceeding to the agency head (or designee of the agency head). Otherwise, this preliminary order will become a final order of the agency. (7-1-93)

**c.** If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal within the agency. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the agency head (or designee). The agency head (or designee) may review the preliminary order on its own motion. (7-1-93)

**d.** If the agency head (or designee) grants a petition to review the preliminary order, the agency head (or designee) shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. The agency head (or designee) will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency head (or designee) may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. (7-1-93)

**e.** Pursuant to Sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (7-1-93)

- i. A hearing was held; (7-1-93)
- ii. The final agency action was taken; (7-1-93)
- iii. The party seeking review of the order resides; or (7-1-93)
- iv. The real property or personal property that was the subject of the agency action is attached. (7-1-93)

**f.** This appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. (7-1-93)

**731. -- 739. (RESERVED)**

**740. FINAL ORDERS.**

**01. Definition.** Final orders are preliminary orders that have become final under Section 730 pursuant to Section 67-5245, Idaho Code, or orders issued by the agency head pursuant to Section 67-5246, Idaho Code. (7-1-93)

**02. Content.** Every final order issued by the agency head must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (7-1-93)

**a.** This is a final order of the agency. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The agency will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5246(4), Idaho Code. (7-1-93)

**b.** Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (7-1-93)

i. A hearing was held; (7-1-93)

ii. The final agency action was taken; (7-1-93)

iii. The party seeking review of the order resides; or (7-1-93)

iv. The real property or personal property that was the subject of the agency action is attached. (7-1-93)

**c.** An appeal must be filed within twenty-eight (28) days (a) of the service date of this final order, (b) of an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. (7-1-93)

**741. -- 749. (RESERVED)**

**750. ORDER NOT DESIGNATED.**

If an order does not designate itself as recommended, preliminary or final at its release, but is designated as recommended, preliminary or final after its release, its effective date for purposes of reconsideration or appeal is the date of the order of designation. If a party believes that an order not designated as a recommended order, preliminary order or final order according to the terms of these rules should be designated as a recommended order, preliminary order or final order, the party may move to designate the order as recommended, preliminary or final, as appropriate. (7-1-93)

**751. -- 759. (RESERVED)**

**760. MODIFICATION OF ORDER ON PRESIDING OFFICER'S OWN MOTION.**

A hearing officer issuing a recommended or preliminary order may modify the recommended or preliminary order on the hearing officer's own motion within fourteen (14) days after issuance of the recommended or preliminary order by withdrawing the recommended or preliminary order and issuing a substitute recommended or preliminary order. The agency head may modify or amend a final order of the agency (be it a preliminary order that became final because no party challenged it or a final order issued by the agency head itself) at any time before notice of appeal to District Court has been filed or the expiration of the time for appeal to District Court, whichever is earlier, by withdrawing the earlier final order and substituting a new final order for it. (7-1-93)

**761. -- 769. (RESERVED)**

**770. CLARIFICATION OF ORDERS.**

Any party or person affected by an order may petition to clarify any order, whether interlocutory, recommended, preliminary or final. Petitions for clarification from final orders do not suspend or toll the time to petition for reconsideration or appeal the order. A petition for clarification may be combined with a petition for reconsideration or stated in the alternative as a petition for clarification and/or reconsideration. (7-1-93)

**771. -- 779. (RESERVED)**



**780. STAY OF ORDERS.**

Any party or person affected by an order may petition the agency to stay any order, whether interlocutory or final. Interlocutory or final orders may be stayed by the judiciary according to statute. The agency may stay any interlocutory or final order on its own motion. (7-1-93)

**781. -- 999. (RESERVED)**

## 20.02.01 – RULES PERTAINING TO THE IDAHO FOREST PRACTICES ACT

### 000. LEGAL AUTHORITY.

In accordance with Section 38-1304, Idaho Code, the Idaho Board of Land Commissioners has authority to adopt rules establishing minimum standards for the conduct of forest practices on forest land. (7-1-96)

### 001. TITLE AND SCOPE.

01. **Title.** These rules are titled IDAPA 20.02.01, “Rules Pertaining to the Idaho Forest Practices Act.” (4-11-06)

02. **Scope.** These rules constitute the minimum standards for the conduct of forest practices on forest land and describe administrative procedures necessary to implement those standards. (4-11-06)

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

Unless otherwise required by context as used in these rules: (10-14-75)

01. **Act.** The Idaho Forest Practices Act, Title 38, Chapter 13, Idaho Code. (7-1-96)

02 **Acceptable Tree Species.** Any of the tree species normally marketable in the region, which are suitable to meet stocking requirements. Acceptable trees must be of sufficient health and vigor to assure growth and harvest. (7-1-96)

03. **Additional Hazard.** The debris, slashings, and forest fuel resulting from a forest practice. (10-14-75)

04. **Average DBH.** Average diameter in inches of trees cut or to be cut, measured at four and one-half (4.5) feet above mean ground level on standing trees. All trees to be cut that do not have a measurable DBH will fall in the one inch (1”) class. (7-1-96)

05. **Best Management Practice (BMP).** A practice or combination of practices determined by the board, in consultation with the department and the forest practices advisory committee, to be the most effective and practicable means of preventing or reducing the amount of nonpoint pollution generated by forest practices. BMPs shall include, but not be limited to, those management practices included in these rules. (9-11-90)

06. **Board.** The Idaho State Board of Land Commissioners or its designee. (10-14-75)

07. **Buffer Strip.** A protective area adjacent to an area requiring special attention or protection. (10-14-75)

08. **Chemicals.** Substances applied to forest lands or timber to accomplish specific purposes and includes pesticides, as defined in the Idaho Pesticide Law, Title 22, Chapter 34, Idaho Code, fertilizers, soil amendments, road dust abatement products and other materials that may present hazards to the environment.(7-1-98)

09. **Constructed Skid Trail.** A skid trail created by the deliberate cut and fill action of a dozer or skidder blade resulting in a road-type configuration. (7-1-96)

10. **Commercial Products.** Saleable forest products of sufficient value to cover cost of harvest and transportation to available markets. (4-11-06)

11. **Condition of Adjoining Area.** Those fuel conditions in adjoining areas that relate to spread of fire and to economic values of the adjoining area. (1-24-78)

12. **Contaminate.** To introduce into the atmosphere, soil, or water sufficient quantities of substances that are injurious to public health, safety, or welfare or to domestic, commercial, industrial, agricultural or recreational uses or to livestock, wildlife, fish or other aquatic life. (4-11-06)

13. **Cross-Ditch.** A diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation, duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion. (3-13-90)

14. **Cull.** Nonmerchantable, alive, standing trees of greater height than twenty (20) feet. (1-24-78)
15. **Department.** The Idaho Department of Lands. (10-14-75)
16. **Deterioration Rate.** Rate of natural decomposition and compaction of fuel debris which decreases the hazard and varies by site. (1-24-78)
17. **Director.** The Director of the Idaho Department of Lands or his designee. (10-14-75)
18. **Emergency Forest Practice.** A forest practice initiated during or immediately after a fire, flood, windthrow, earthquake, or other catastrophic event to minimize damage to forest lands, timber, or public resources. (10-14-75)
19. **Fertilizers.** Any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment. (10-14-75)
20. **Fire Trail.** Access routes that are located and constructed in a manner to be either useful in fire control efforts or deterring the fire spread in the hazard area. (10-14-75)
21. **Forest Land.** Federal, state and private land growing forest tree species which are, or could be at maturity, capable of furnishing raw material used in the manufacture of lumber or other forest products. The term includes federal, state and private land from which forest tree species have been removed but have not yet been restocked. It does not include land affirmatively converted to uses other than the growing of forest tree species. (7-1-96)
22. **Forest Practice.** (10-14-75)
- a. The harvesting of forest tree species including felling, bucking, yarding, decking, loading and hauling; road construction, improvement or maintenance including installation or improvement of bridges, culverts or structures which convey stream flows within the operating area; also including the clearing of forest land for conversion to non-forest use when harvest occurs; (7-1-98)
- b. Road construction, reconstruction or maintenance of existing roads including installation or improvement of bridges, culverts or structures which convey streams not within the operating area associated with harvesting of forest tree species; (7-1-98)
- c. Reforestation; (10-14-75)
- d. Use of chemicals for the purpose of managing forest tree species or forest land; (7-1-98)
- e. The management of slash resulting from harvest, management or improvement of forest tree species or the use of prescribed fire on forest land. (7-1-98)
- f. “Forest Practice” shall not include preparatory work such as tree marking, surveying, and road flagging or removal or harvesting of incidental vegetation from forest lands; such as berries, ferns, greenery, mistletoe, herbs, mushrooms, or other products which cannot normally be expected to result in damage to forest soils, timber, or public resources. (10-14-75)
23. **Forest Regions.** Two (2) regions of forest land: one (1) being north of the Salmon River and one (1) being south of the Salmon River. (7-1-96)
24. **Forest Type.** Five forest types in Idaho are defined as follows: (3-20-14)
- a. North Idaho grand fir/western red cedar (NIGF): moist to wet interior forests with western red cedar, western hemlock, and grand fir being primary climax species, found in forests north of the Clearwater/ and Lochsa Rivers. (3-20-14)

**b.** Central Idaho grand fir/western red cedar (CIGF): productive conifer forests found in forests between the Lochsa River Basin and the Salmon River, characterized by stands having western red cedar and grand fir as climax species, with a mixed-conifer overstory increasingly comprised of ponderosa pine, Douglas-fir, and larch in the river breaks canyon-lands. Stocking levels are generally lower than that of the NIGF stands. (3-20-14)

**c.** South Idaho grand fir (SIGF): mixed-conifer forests, dominated by ponderosa pine and Douglas-fir, found south of the Salmon River with grand fir and occasionally western red cedar being the stand climax species. (3-20-14)

**d.** Western hemlock-subalpine fir (WH): higher-elevation, moist, cool interior forests dominated by western hemlock, mountain hemlock, and/or subalpine fir. (3-20-14)

**e.** Douglas-fir-ponderosa pine (PP): drier forests dominated by ponderosa pine and Douglas-fir, generally found in lower-elevation, dry sites. (3-20-14)

**25. Fuel Quantity.** The diameter, the number of stems and the predominate species to be cut or already cut, and the size of the continuous thinning block all of which determine quantity of fuel per unit of area. (1-24-78)

**26. Ground Based Equipment.** Mobile equipment such as tractors, dozers, skidders, excavators, loaders, mechanized harvesters and forwarders used for harvesting, site preparation or hazard reduction. This does not include cable systems associated with stationary yarding equipment. (4-4-13)

**27. Habitat Types.** Forest land capable of producing similar plant communities at climax. (7-1-96)

**28. Harvesting.** A commercial activity related to the cutting or removal of forest tree species to be used as a forest product. A commercial activity does not include the cutting or removal of forest tree species by a person for his own personal use. (10-14-75)

**29. Hazard.** Any vegetative residue resulting from a forest practice which constitutes fuel. (1-24-78)

**30. Hazard Offset.** Improvements or a combination of practices which reduces the spread of fire and increases the ability to control fires. (10-14-75)

**31. Hazard Points.** The number of points assigned to certain hazardous conditions on an operating area, to actions designed to modify conditions on the same area or to actions by the operator, timber owner or landowner to offset the hazardous conditions on the same area. (1-24-78)

**32. Hazard Reduction.** The burning or physical reduction of slash by treatment in some manner which will reduce the risk from fire after treatment. (10-14-75)

**33. Lake.** A body of perennial standing open water, natural or human-made, larger than one (1) acre in size. Lakes include the beds, banks or wetlands below the ordinary high water mark. Lakes do not include drainage or irrigation ditches, farm or stock ponds, settling or gravel ponds. Any reference in these rules to Class I streams shall also apply to lakes. (7-1-96)

**34. Landowner.** A person, partnership, corporation, or association of whatever nature that holds an ownership interest in forest lands, including the state. (10-14-75)

**35. Large Organic Debris (LOD).** Live or dead trees and parts or pieces of trees that are large enough or long enough or sufficiently buried in the stream bank or bed to be stable during high flows. Pieces longer than the channel width or longer than twenty (20) feet are considered stable. LOD creates diverse fish habitat and stable stream channels by reducing water velocity, trapping stream gravel and allowing scour pools and side channels to form. (3-13-90)

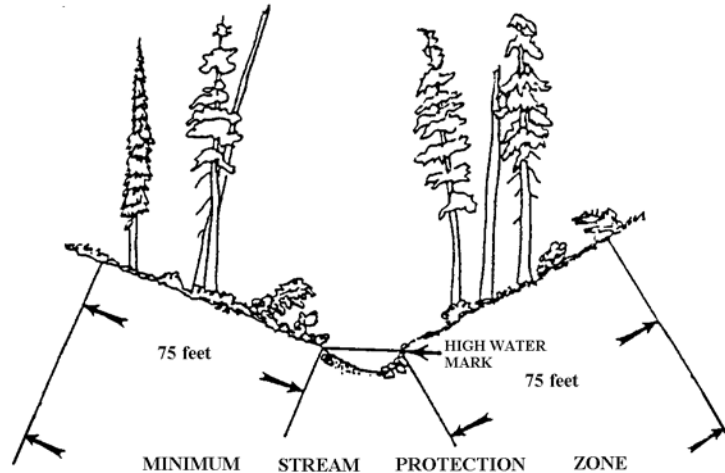
**36. Merchantable Material.** That portion of forest tree species suitable for the manufacture of commercial products which can be merchandised under normal market conditions. (10-14-75)

37. **Merchantable Stand of Timber.** A stand of trees that will yield logs or fiber: (7-1-96)
- a. Suitable in size and quality for the production of lumber, plywood, pulp, or other forest products; (10-14-75)
  - b. Of sufficient value at least to cover all costs of harvest and transportation to available markets. (10-14-75)
38. **Noncommercial Forest Land.** Habitat types not capable of producing twenty (20) cubic feet per acre per year. (7-1-96)
39. **Operator.** A person who conducts or is required to conduct a forest practice. (10-14-75)
40. **Operating Area.** That area where a forest practice is taking place or will take place. (1-24-78)
41. **Ordinary High Water Mark.** That mark on all water courses, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition exists on the effective date of this chapter, or as it may naturally change thereafter. (10-14-75)
42. **Outstanding Resource Water.** A high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been so designated by the legislature. ORW constitutes as outstanding national or state resource that requires protection from nonpoint activities, including forest practices, that may lower water quality. (7-1-96)
43. **Partial Cutting.** The well distributed removal of a portion of the merchantable volume in a stand of timber. This includes seed tree, shelterwood, or individual tree selection harvesting techniques. (10-14-75)
44. **Prescribed Fire.** The controlled application of fire to wildland fuels in either their natural or modified state, under such conditions of weather, fuel moisture and soil moisture, to allow the fire to be confined to a predetermined area and at the same time to produce the intensity of heat and rate of spread required to meet planned objectives. (7-1-96)
45. **Present Condition of Area.** The amount or degree of hazard present before a thinning operation commences. (1-24-78)
46. **Public Resource.** Water, fish, and wildlife, and in addition means capital improvements of the State or its political subdivisions. (10-14-75)
47. **Reforestation.** The establishment of an adequately stocked stand of trees of species acceptable to the department to replace the ones removed by a harvesting or a catastrophic event on commercial forest land. (10-14-75)
48. **Relative Stocking.** A measure of site occupancy calculated as a ratio comparison of actual stand density to the biological maximum density for a given forest type. This ratio, expressed as a percentage, shows the extent to which trees utilize a plot of forestland. (3-20-14)
49. **Relief Culvert.** A structure to relieve surface runoff from roadside ditches to prevent excessive buildup in volume and velocity. (10-14-75)
50. **Rules.** Rules adopted by the Board pursuant to Section 38-1304, Idaho Code. (7-1-96)
51. **Slash.** Any vegetative residue three inches (3") and under in diameter resulting from a forest practice or the clearing of land. (7-1-96)

- 52. Site.** An area considered as to its ecological factors with reference to capacity to produce forest vegetation; the combination of biotic, climatic, and soil conditions of an area. (10-14-75)
- 53. Site Factor.** A combination of percent of average ground slope and predominate aspect of the forest practice area which relate to rate of fire spread. (1-24-78)
- 54. Site Specific Best Management Practice.** A BMP that is adapted to and takes account of the specific factors influencing water quality, water quality objectives, on-site conditions, and other factors applicable to the site where a forest practice occurs, and which has been approved by the Department, or by the Board in consultation with the Department and the Forest Practices Advisory Committee. (7-1-96)
- 55. Size of Thinning Block.** Acres of continuous fuel creating an additional hazard within a forest practice area. Distance between the perimeter of thinning blocks containing continuous fuel must be a minimum of six (6) chains apart to qualify as more than one (1) block. (1-24-78)
- 56. Snags.** Dead, standing trees twenty (20) feet and greater in height. (1-24-78)
- 57. Soil Erosion.** Movement of soils resulting from forest practices. (10-14-75)
- 58. Soil Stabilization.** The minimizing of soil movement. (10-14-75)
- 59. State.** The state of Idaho or other political subdivision thereof. (10-14-75)
- 60. Stream.** A natural water course of perceptible extent with definite beds and banks which confines and conducts continuously or intermittently flowing water. Definite beds are defined as having a sandy or rocky bottom which results from the scouring action of water flow. Any reference in these rules to Class I streams shall also apply to lakes. (7-1-96)
- a.** Class I streams are used for domestic water supply or are important for the spawning, rearing or migration of fish. Such waters shall be considered to be Class I upstream from the point of domestic diversion for a minimum of one thousand three hundred and twenty (1,320) feet. (11-7-86)
- b.** Class II streams are usually headwater streams or minor drainages that are used by only a few, if any, fish for spawning or rearing. Where fish use is unknown, consider streams as Class II where the total upstream watershed is less than two hundred and forty (240) acres in the north forest region and four hundred and sixty (460) acres in the south forest region. Their principle value lies in their influence on water quality or quantity downstream in Class I streams. (7-1-96)
- c.** Class I Stream Protection Zone means the area encompassed by a slope distance of seventy-five (75) feet on each side of the ordinary high water marks. (Figure 1.)

**FIGURE 1**

CLASS 1 STREAM PROTECTION ZONE

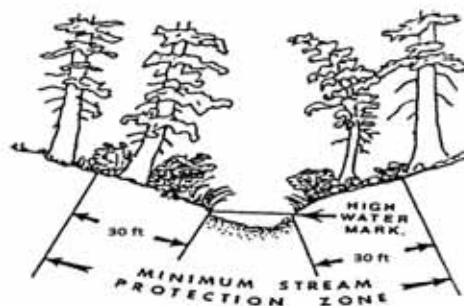


(7-1-96)

d. Class II Stream Protection Zone means the area encompassed by a minimum slope distance of thirty (30) feet on each side of the ordinary high water marks. (Figure 2.) For Class II streams that do not contribute surface flow into Class I streams, provide soil stabilization and water filtering effects by leaving undisturbed soils in widths sufficient to prevent washing of sediment. In no case shall this width be less than five (5) feet slope distance on each side of the ordinary high water marks.

FIGURE 2  
CLASS II STREAM PROTECTION ZONE

CLASS II STREAM PROTECTION ZONE



(7-1-96)

61. **Timber Owner.** A person, partnership, corporation, or association of whatever nature, other than the landowner, that holds an ownership interest in forest tree species on forest land. (10-14-75)

**62. Time of Year of Forest Practice.** Those combinations of months during which time the forest practice is taking place. Points assigned are: October through December - two (2) points; August through September - four (4) points; January through April - seven (7) points; May through July - ten (10) points. (1-24-78)

**011. -- 019. (RESERVED)**

**020. GENERAL RULES.**

**01. Compliance.** Practices contained within a rule shall be complied with to accomplish the purpose to which the rule is related. (8-13-85)

**a.** If conditions of sites or activities require the application of practices which differ from those prescribed by the rules, the operator shall obtain a variance according to the following procedure: (8-13-85)

**i.** The operator shall submit a request for variance to the department in writing. The request shall include a description of the site and particular conditions which necessitate a variance, and a description of proposed practices which, if applied, will result in a violation of the rules. (8-13-85)

**ii.** Within fourteen (14) calendar days the department shall evaluate the request and notify the operator in writing of the determination to allow or disallow the variance request. (7-1-96)

**iii.** All practices authorized under this procedure shall provide for equivalent or better results over the long term than the rules which are superseded to insure site productivity, water quality and fish and wildlife habitat. A variance can be applied only at approved sites. (8-13-85)

**b.** Practices shall also be in compliance with the Stream Channel Alteration Act (Title 42, Chapter 38, Idaho Code), Idaho Water Quality Standards and Waste Water Treatment Requirements (Title 39, Chapter 1, Idaho Code), the Idaho Pesticide Law (Title 22, Chapter 34, Idaho Code), and the Hazardous Waste Management Act of 1983 (Title 39, Chapter 44, Idaho Code), and rules and regulations pursuant thereto. (8-13-85)

**c.** Water may be diverted from a stream and used at any time to carry out Idaho forest practices and for forest road dust abatement, provided that: 1) The total daily volume diverted is no greater than two-tenths (0.2) acre-feet (65,170 gallons) from a single stream; and 2) The rate of diversion shall never exceed twenty-five (25) percent of the rate of flow then available in the stream at the point of diversion for these purposes. (5-8-09)

**i.** No person shall, under this Section 020, divert water from an irrigation canal, irrigation reservoir, or other irrigation facility while water is lawfully diverted, stored, captured, conveyed, used or otherwise physically controlled by an irrigator, irrigation district or canal company. (5-8-09)

**ii.** If water is to be diverted from a stream within a water district, or from a stream from which an irrigation delivery entity diverts water, a person diverting water shall give notice to the watermaster of the intent to divert water for the purposes as authorized herein. (5-8-09)

**iii.** Water diversion intakes used for diversions under Subsection 020.01 shall be screened with a maximum screen mesh size as follows: 1) fish-bearing Class I streams: 3/32 inch, and 2) all other streams: 1/4 inch. (5-8-09)

**d.** Any alternative conservation measure having received a favorable Biological Opinion or Incidental Take Permit from the National Marine Fisheries Service or US Fish and Wildlife Service will be considered as complying with these rules. (4-4-13)

**02. Conversion of Forest Lands.** Conversions require a notification be filed, and compliance with all rules except those relating to reforestation. On converted parcels larger than one (1) acre, plant acceptable vegetative cover sufficient to maintain soil productivity and minimize erosion. Cover shall be established within one (1) year of completion of the forest practice except that the director may grant an extension of time if weather or other conditions interfere. Within three (3) years of completion of the forest practice, the director shall determine if the conversion has been accomplished by: (7-1-96)



- a. The presence or absence of improvements necessary for use of land for its intended purpose; (7-1-96)
- b. Evidence of actual use of the land for the intended purpose. (10-14-75)
- c. If the conversion has not been accomplished within three (3) years of the completion of harvest, supplemental reforestation Subsection 050.06 applies. (7-1-96)

**03. Annual Review and Consultation.** The director shall, at least once each year, meet with other state agencies and the Forest Practices Advisory Committee and review recommendations for amendments to rules, new rules, or repeal of rules. He shall then report to the board a summary of such meeting or meetings, together with recommendations for amendments to rules, new rules, or repeal of rules. (10-14-75)

**04. Consultation.** The director shall consult with other state agencies and departments concerned with the management of forest environment where expertise from such agencies or departments is desirable or necessary. (10-14-75)

a. The Idaho Water Quality Standards and Wastewater Treatment Requirements, IDAPA 58.01.02, (Title 39, Chapter 1, Idaho Code) reference the Forest Practice Rules as approved best management practices and describe a procedure of modifying the practices based on monitoring and surveillance. The director shall review petitions from Idaho Department of Environmental Quality for changes or additions to the rules according to Administrative Procedures Act (Title 67, Chapter 52, Idaho Code) and make recommendations for modification to the Board of Land Commissioners. (9-20-88)

**05. Notification of Forest Practice.** (10-14-75)

a. Before commencing a forest practice or a conversion of forest lands the department shall be notified as required in Paragraph 020.05.b. The notice shall be given by the operator. However, the timber owner or landowner satisfies the responsibility of the operator under this Subsection. When more than one forest practice is to be conducted in relation to harvesting of forest tree species, one notice including each forest practice to be conducted shall be filed with the department. (5-8-09)

b. The notification required by Paragraph 020.05.a. shall be on forms prescribed and provided by the department and shall include the name and address of the operator, timber owner, and landowner; the legal description of the area in which the forest practice is to be conducted; whether the forest practice borders an outstanding resource water and other information the department considers necessary for the administration of the rules adopted by the board under Section 38-1304, Idaho Code. All notifications must be formally accepted by the department before any forest practice may begin. Promptly upon formal acceptance of the notice but not more than fourteen (14) calendar days from formal acceptance of the notice, the department shall mail a copy of the notice to whichever of the operator, timber owner, or landowner that did not submit the notification. The department shall make available to the operator, timber owner, and landowner a copy of the rules. (7-1-96)

c. An operator, timber owner, or landowner, whichever filed the original notification, shall notify the department of any subsequent change in the information contained in the notice within thirty (30) calendar days of the change. Promptly upon receipt of notice of change, but not to exceed fourteen (14) calendar days from receipt of notice, the department shall mail a copy of the notice to whichever of the operator, timber owner, or landowner that did not submit the notice of change. (7-1-96)

d. The notification is valid for the same period as set forth in the certificate of compliance under Section 38-122, Idaho Code. At the expiration of the notification, if the forest practice is continuing, the notification shall be renewed using the same procedures provided for in this section. (4-21-92)

e. If the notification required by Paragraph 020.05.a. of this section indicates that at the expiration of the notification that the forest practice will be continuing, the operator, timber owner, or landowner, at least thirty (30) calendar days prior to the expiration of the notification, shall notify the department and obtain a renewal of the notification. Promptly upon receipt of the request for renewal, but not to exceed fourteen (14) calendar days from

receipt of the request, the department shall mail a copy of the renewed notification to whichever of the operator, timber owner, or landowner that did not submit the request for renewal. (7-1-96)

**06. Notification Exception.** A notification of Forest Practice is required except for: (7-1-98)

**a.** Routine road maintenance, recreational uses, grazing by domestic livestock, cone picking, culture and harvest of Christmas trees on lands used solely for the production of Christmas trees, or harvesting of other minor forest products. (10-14-75)

**b.** Non-commercial cutting and removal of forest tree species by a person for his own personal use. (10-14-75)

**c.** Clearing forest land for conversion to surface mining or dredge and placer mining operations under a reclamation plan or dredge mining permit. (9-20-88)

**07. Emergency Forest Practices.** No prior notification shall be required for emergency forest practices necessitated by and commenced during or immediately after a fire, flood, windthrow, earthquake, or other catastrophic event. Within forty-eight (48) hours after commencement of such practice, the operator, timber owner, or landowner shall notify the director with an explanation of why emergency action was necessary. Such emergency forest practices are subject to the rules herein, except that the operator, timber owner, or landowner may take any reasonable action to minimize damage to forest lands, timber, or public resource from the direct or indirect effects of the catastrophic event. (7-1-96)

**08. Duty of Purchaser.** The initial purchaser of forest tree species which have been harvested from forest lands shall, before making such purchase or contract to purchase or accepting delivery of the same, receive and keep on file a copy of the notice required by Section 38-1306, Idaho Code relating to the harvesting practice for which the forest tree species are being acquired by the initial purchaser. Such notice shall be available for inspection upon request by the department at all reasonable times. (7-1-96)

**09. State Divided into Regions.** For the purpose of administering this Act, the State is divided into two (2) forest regions: one (1) north of the Salmon River and one (1) south of the Salmon River. (7-1-96)

**10. Regions Divided into Forest Habitat Types.** For the purpose of further refining the on-the-ground administration of the Act, the forest regions can be divided into Habitat Types. (7-1-96)

**021. -- 029. (RESERVED)**

**030. TIMBER HARVESTING.**

**01. Purpose.** Harvesting of forest tree species is a part of forest management by which wood for human use is obtained and by which forests are established and tended. It is recognized that during harvesting operations there will be a temporary disturbance to the forest environment. It is the purpose of these rules to establish minimum standards for forest practices that will maintain the productivity of the forest land and minimize soil and debris entering streams and protect wildlife and fish habitat. (10-14-75)

**02. Quality of Residual Stocking.** Reforestation is required if harvesting reduces stocking of acceptable trees below minimums of Subsection 050.04. (7-1-96)

**03. Soil Protection.** Select for each harvesting operation the logging method and type of equipment adapted to the given slope, landscape and soil properties in order to minimize soil erosion. (8-13-85)

**a.** An operation that uses ground-based equipment shall not be conducted if it will cause rutting, deep soil disturbance, or accelerated erosion. On slopes exceeding forty-five percent (45%) gradient and which are immediately adjacent to a Class I or II stream, ground-based equipment shall not be used except with an approved variance. Where slopes in the area to be logged exceed forty-five percent (45%) gradient the operator, landowner or timber owner shall notify the department of these steep slopes upon filing the notification as provided for in Subsection 020.05. (4-4-13)

**b.** Limit the grade of constructed skid trails on geologically unstable, saturated, or highly erodible or easily compacted soils to a maximum of thirty percent (30%). (7-1-96)

**c.** In accordance with appropriate silvicultural prescriptions, skid trails shall be kept to the minimum feasible width and number. Tractors used for skidding shall be limited to the size appropriate for the job. (8-13-85)

**d.** Uphill cable yarding is preferred. Where downhill yarding is used, reasonable care shall be taken to lift the leading end of the log to minimize downhill movement of slash and soils. (8-13-85)

**04. Location of Landings, Skid Trails, and Fire Trails.** Locate landings, skid trails, and fire trails on stable areas to prevent the risk of material entering streams. (10-14-75)

**a.** All new or reconstructed landings, skid trails, and fire trails shall be located on stable areas outside the appropriate stream protection zones. Locate fire and skid trails where sidecasting is held to a minimum. (3-13-90)

**b.** Minimize the size of a landing to that necessary for safe economical operation. (8-13-85)

**c.** To prevent landslides, fill material used in landing construction shall be free of loose stumps and excessive accumulations of slash. On slopes where sidecasting is necessary, landings shall be stabilized by use of seeding, compaction, riprapping, benching, mulching or other suitable means. (8-13-85)

**05. Drainage Systems.** For each landing, skid trail or fire trail a drainage system shall be provided and maintained that will control the dispersal of surface water to minimize erosion. (4-21-92)

**a.** Stabilize skid trails and fire trails whenever they are subject to erosion, by water barring, cross draining, outsloping, scarifying, seeding or other suitable means. This work shall be kept current to prevent erosion prior to fall and spring runoff. (8-13-85)

**b.** Reshape landings as needed to facilitate drainage prior to fall and spring runoff. Stabilize all landings by establishing ground cover or by some other means within one (1) year after harvesting is completed. (8-13-85)

**06. Treatment of Waste Materials.** All debris, overburden, and other waste material associated with harvesting shall be left or placed in such a manner as to prevent their entry by erosion, high water, or other means into streams. (10-14-75)

**a.** Wherever possible trees shall be felled, bucked, and limbed in such a manner that the tree or any part thereof will fall away from any Class I streams. Continuously remove slash that enters Class I streams as a result of harvesting operations. Continuously remove other debris that enters Class I streams as a result of harvesting operations whenever there is a potential for stream blockage or if the stream has the ability for transporting such debris. Place removed material five (5) feet slope distance above the ordinary high water mark. (3-13-90)

**b.** Remove slash and other debris that enters Class II streams whenever there is a potential for stream blockage or if the stream has the ability for transporting the debris immediately following skidding and place removed material above the ordinary high water mark or otherwise treat as prescribed by the department. No formal variance is required. (11-7-86)

**c.** Deposit waste material from construction or maintenance of landings and skid and fire trails in geologically stable locations outside of the appropriate Stream Protection Zone. (8-13-85)

**07. Stream Protection.** During and after forest practice operations, stream beds and streamside vegetation shall be protected to leave them in the most natural condition as possible to maintain water quality and aquatic habitat. (8-13-85)

**a.** Lakes require an approved site specific riparian management prescription prior to conducting forest practices within the stream protection zone. (7-1-96)

b. Operations that utilize ground-based equipment that result in logs being skidded or forwarded in or through streams shall not be permitted. When streams must be crossed, adequate temporary structures to carry stream flow shall be installed. Cross the stream at right angles to its channel if at all possible. (Construction of hydraulic structures in stream channels is regulated by the Stream Channel Protection Act - Title 42, Chapter 38, Idaho Code). Remove all temporary crossings immediately after use and, where applicable, water bar the ends of the skid trails. (4-4-13)

c. Operation of ground based equipment shall not be allowed within the Stream Protection Zone except at approaches to stream crossings. (7-1-96)

d. When cable yarding is necessary, across or inside the Stream Protection Zones it shall be done in such a manner as to minimize stream bank vegetation and channel disturbance. (8-13-85)

e. Provide for large organic debris (LOD), shading, soil stabilization, wildlife cover and water filtering effects of vegetation along streams. (7-1-96)

i. Leave shrubs, grasses, and rocks wherever they afford shade over a stream or maintain the integrity of the soil near a stream. (3-20-14)

ii. Adjacent to all Class I streams, to maintain and enhance shade and large woody debris recruitment, landowners must comply with one of the two following options defining tree retention. The Relative Stocking per acre (RS) referenced in the options is calculated according to the relative-stocking-contribution table in Subparagraph 030.07.e.ii. (3-20-14)

(1) Option 1: Within twenty-five (25) feet from the ordinary high water mark on each side of the stream, live conifers and hardwoods will be retained to maintain a minimum relative stocking per acre of sixty (60). A relative stocking per acre of thirty (30) must be retained in the stream protection zone between twenty-five (25) feet and seventy-five (75) feet from the ordinary high water mark on both sides of the stream. (3-20-14)

(2) Option 2: Within fifty (50) feet from the ordinary high water mark on each side of a stream, live conifers and hardwoods will be retained to maintain a minimum relative stocking per acre of sixty (60). A relative stocking per acre of ten (10) must be retained in the stream protection zone between fifty (50) feet and seventy-five (75) feet from the ordinary high water mark on both sides of the stream. (3-20-14)

(3) Only one (1) option may be implemented within the stream protection zones of a harvesting unit covered by a single notification. Landowners are strongly encouraged to retain all trees immediately adjacent to the stream. (3-20-14)

Forest Type	Per Tree Contribution to Relative Stocking by Diameter Class						
	Diameter Class (DBH in inches)						
	4-7.9"	8-11.9"	12-15.9"	16-19.9"	20-23.9"	24-27.9"	28-31.9"
NIGF (North Idaho Grand Fir)	0.097	0.209	0.347	0.506	0.683	0.878	1.088
CIGF (Central Idaho Grand Fir)	0.113	0.244	0.405	0.59	0.797	1.024	1.27
SIGF (Southern Idaho Grand Fir)	0.136	0.293	0.486	0.708	0.957	1.229	1.524
WHSF (Western Hemlock-Subalpine Fir)	0.123	0.267	0.442	0.644	0.87	1.117	1.385
DFPP (Douglas-fir-Ponderosa Pine)	0.151	0.326	0.54	0.787	1.063	1.366	1.693

(3-20-14)

iii. To protect filtering and shade effects of streamside vegetation adjacent to all Class II streams

following harvesting and hazard management activities, live trees will be retained or new trees established within thirty (30) feet on each side of the streams ordinary high water mark to comply with the minimum stocking standards expressed in Subsection 050.04. (3-20-14)

iv. During harvesting, carefully remove timber from the Stream Protection Zone in such a way that large organic debris, shading and filtering effects are maintained and protected. When portions of felled trees fall into or over a Class I stream, leave the portion consistent with the LOD definition of Subsection 010.35. (4-11-06)

v. When harvesting portions of trees that have fallen naturally into or over a Class I stream, leave the portion(s) over the stream consistent with the LOD definition of Subsection 010.35. Leaving the section with the root ball attached is preferred. (4-11-06)

vi. During harvesting operations, portions of felled or bucked trees not meeting the LOD definition shall be removed, consistent with the slash removal requirements of Subsection 030.06. (4-11-06)

vii. To obtain a variance from the standing tree and shade requirements, the operator must develop a site specific riparian management prescription and submit it to the department for approval. The prescription should consider stream characteristics and the need for large organic debris, stream shading and wildlife cover which will achieve the objective of these rules. (4-11-06)

viii. Stream width shall be measured as average between ordinary high water marks. (3-13-90)

f. Direct ignition of prescribed burns will be limited to hand piles within stream protection zones (SPZ), all other direct ignitions shall occur outside of SPZs, so a backing (cooler) fire will more likely occur within the SPZ. (4-11-06)

i. Hand piles shall be at least five (5) feet from the ordinary high water-mark of streams. (4-11-06)

ii. No mechanical piling of slash or natural forest fuels is allowed in a SPZ (an exception is filter windrows for erosion control which shall not be ignited. (4-11-06)

**08. Maintenance of Productivity and Related Values.** Harvesting practices will first be designed to assure the continuous growing and harvesting of forest tree species by suitable economic means and also to protect soil, air, water, and wildlife resources. (10-14-75)

a. Where major scenic attractions, highways, recreation areas or other high-use areas are located within or traverse forest land, give special consideration to scenic values by prompt cleanup and regeneration. (10-14-75)

b. Give special consideration to preserving any critical aquatic or wildlife habitat, including snags, especially within stream protection zones. Wherever practical, preserve fruit, nut, and berry producing trees and shrubs. (4-4-13)

c. Avoid conducting operations along or through bogs, swamps, wet meadows, springs, seeps, wet draws or other locations where the presence of water is indicated by associated vegetation; temporary crossings can be used as referred to in Paragraph 030.07.b. Protect soil and vegetation from disturbance which would cause adverse affects on water quality, quantity and wildlife and aquatic habitat. (4-4-13)

d. Harvesting operations within a single ownership, in which essentially all trees have been removed in one operation, shall be planned so that adequate wildlife escape cover (e.g. topography, vegetation, stream protection zones, etc.) is available within one-quarter (¼) mile. (4-4-13)

### **031. CUMULATIVE WATERSHED EFFECTS.**

**01. Purpose.** In accordance with Section 38-1305(8), Idaho Code, the department has developed methods for controlling cumulative watershed effects (CWE). The methods and procedures are described in the department manual entitled "Forest Practices Cumulative Watershed Effects Process for Idaho." Proper application of

this process will help ensure watersheds are managed to protect water quality so that beneficial uses are supported. This rule describes how the process is to be implemented on forest land. (7-1-98)

**02. Process Application.** (7-1-98)

**a.** Application of the CWE process and any resulting site-specific BMPs are encouraged but not mandatory. (7-1-98)

**b.** The process may be initiated by either the department, a watershed advisory group (WAG), or an individual landowner or group of landowners that collectively own at least twenty-five percent (25%) of the forested land in a watershed. In any case, a reasonable effort will be made to notify forest landowners within the watershed, and the landowners will be given the opportunity to participate in the process. (7-1-98)

**c.** The department shall be notified prior to the initiation of the CWE process. (7-1-98)

**d.** The department will review and approve the watershed assessment and CWE site-specific BMPs for compliance with the Forest Practices Act. (7-1-98)

**03. Site-Specific BMP Implementation.** Approved CWE site-specific BMPs are encouraged and applied on a voluntary basis. (7-1-98)

**04. Site-Specific BMPs on Former Stream Segments of Concern.** Practices approved by the department from 1989 through 1995 under former stream segments of concern rules remain in effect until revised by a CWE analysis, at which point the CWE site-specific BMPs would be mandatory. (7-1-98)

**032. -- 039. (RESERVED)**

**040. ROAD CONSTRUCTION, RECONSTRUCTION AND MAINTENANCE.**

**01. Purpose.** Provide standards and guidelines for road construction, reconstruction, and maintenance that will maintain forest productivity, water quality, and fish and wildlife habitat. (4-5-00)

**02. Road Specifications and Plans.** Road specifications and plans shall be consistent with good safety practices. Plan each road to the minimum use standards adapted to the terrain and soil materials to minimize disturbances and damage to forest productivity, water quality, fish, and wildlife habitat. (4-5-00)

**a.** Plan transportation networks to avoid road construction within stream protection zones, except at approaches to stream crossings. Leave or reestablish areas of vegetation between roads and streams. (4-5-00)

**b.** Roads shall be no wider than necessary to safely accommodate the anticipated use. Minimize cut and fill volumes by aligning the road to fit the natural terrain features as closely as possible. Adequately compact fill material. Dispose of excess material on geologically stable sites. (4-5-00)

**c.** Plan roads to drain naturally by out-sloping or in-sloping with cross-drainage and by grade changes where possible. Plan dips, water bars, cross-drainage, or subsurface drainage on roads when necessary. (4-5-00)

**d.** Relief culverts and roadside ditches shall be planned whenever reliance upon natural drainage would not protect the running surface, cut slopes or fill slopes. Plan culvert installations to prevent erosion of the fill by properly sizing, bedding and compacting. Plan drainage structures to achieve minimum direct discharge of sediment into streams. (4-5-00)

**e.** The following rule applies to installations of new culverts and re-installations during road reconstructions or re-installations caused by flood or other catastrophic events. Culverts used for temporary crossings are exempt from the fifty (50) year design requirement, but they must be removed immediately after they are no longer needed and before the spring run-off period. (4-5-00)

**i.** Culvert installations on fish bearing streams must provide for fish passage. (4-5-00)

ii. Design culverts for stream crossings to carry the fifty (50) year peak flow using engineering methods acceptable to the department or determine culvert size by using the culvert sizing tables below. The minimum size culvert required for stream crossings shall not be less than eighteen (18) inches in diameter, with the exception of that area of the Snake River drainage upstream from the mouth of the Malad River, including the Bear River basin, where the minimum size shall be fifteen (15) inches.

**CULVERT SIZING TABLE - I  
USE FOR NORTH IDAHO AND THE SALMON RIVER DRAINAGE**

This culvert sizing table is used for the area of the state north of the Salmon River and within the South Fork Salmon River drainage. It was developed to carry the fifty (50) year peak flow at a headwater-to-diameter ratio of one (1).

<b>Watershed Area (acres)</b>	<b>Required Culvert Diameter (inches)</b>	<b>Culvert Capacity (in cubic feet/sec)</b>
less than 32	18	6
33 - 74	24	12
75 - 141	30	20
142 - 240	36	32
241 - 366	42	46
367 - 546	48	65
547 - 787	54	89
788 - 1027	60	112

Strongly consider having culverts larger than sixty (60) inches designed, or consider alternative structures, such as bridges, mitered culverts, arches, etc.

<b>Watershed Area (acres)</b>	<b>Required Culvert Diameter (inches)</b>	<b>Culvert Capacity (in cubic feet/sec)</b>
1028 - 1354	66	142
1355 - 1736	72	176
1737 - 2731	84	260
2732 - 4111	96	370
4112 - 5830	108	500
5831 - 8256	120	675

Culverts larger than one hundred twenty (120) inches must be designed; consider alternative structures.

**CULVERT SIZING TABLE - II  
USE FOR SOUTH IDAHO**

This culvert sizing table is used for the area of the state south of the Salmon River and outside the South Fork Salmon River drainage. It was developed to carry the fifty (50) year peak flow at a headwater-to-diameter ratio of one (1).

<b>Watershed Area (acres)</b>	<b>Required Culvert Diameter (inches)</b>	<b>Culvert Capacity (in cubic feet/sec)</b>
less than 72	18#	6
73 - 150	24	12
151 - 270	30	20
271 - 460	36	32
461 - 720	42	46
721 - 1025	48	65
1026 - 1450	54	89
1451 - 1870	60	112

Strongly consider having culverts larger than sixty (60) inches designed, or consider alternative structures, such as bridges, mitered culverts, arches, etc.

<b>Watershed Area (acres)</b>	<b>Required Culvert Diameter (inches)</b>	<b>Culvert Capacity (in cubic feet/sec)</b>
1871 - 2415	66	142
2416 - 3355	72	176
3356 - 5335	84	260
5336 - 7410	96	370
7411 - 9565	108	500
9566 - 11780	120	675

Culverts larger than one hundred twenty (120) inches must be designed; consider alternative structures.

# See exception for southeast Idaho in Subparagraph 040.02.a.ii. of this rule. (4-5-00)

iii. Relief culverts, and those used for seeps, springs, wet areas, and draws shall not be less than twelve (12) inches in diameter for permanent installations. (7-1-96)

f. On existing roads that are not reconstructed or damaged by catastrophic events, landowners or operators are encouraged, but not required, to replace or provide mitigation for culverts that do not provide for fish passage in accordance with Subparagraph 040.02.e.i. or cannot carry the fifty (50) year peak flow of Subparagraph 040.02.e.ii. (4-11-06)

g. Stream crossings, including fords, shall be minimum in number and planned and installed in compliance with the Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and with culvert sizing requirements of Paragraph 040.02.e. Fords are an acceptable stream crossing structure on small, shallow streams, with flat, less than four percent (4%) gradients. Fords should cross the stream at right angles. Approaches shall be adequately cross-drained and rocked for at least seventy-five (75) feet. During times of salmonid spawning and egg incubation or to protect active domestic water diversions, use shall be limited to low water, dry, or frozen conditions and hauling or equipment crossing trips limited to minimize sediment delivery to streams. (4-11-06)

h. Avoid reconstruction of existing roads located in stream protection zones, except for approaches to



stream crossings, unless it will result in the least long-term impact on site productivity, water quality, and fish and wildlife habitat. Reconstruction of existing roads in stream protection zones will require a variance. Reusing existing roads in stream protection zones for skidding or landing logs shall require a variance. Reusing existing roads in stream protection zones for hauling fully suspended logs only, where no reconstruction will occur, does not require a variance. (4-11-06)

**03. Road Construction.** Construct or reconstruct roads in a manner to prevent debris, overburden, and other material from entering streams. (4-5-00)

**a.** Roads shall be constructed in compliance with the planning guidelines of Subsection 040.02. (7-1-96)

**b.** Clear all debris generated during construction or maintenance which potentially interferes with drainage or water quality. Deposit excess material and slash on geologically stable sites outside the stream protection zones. (4-5-00)

**c.** Where exposed material (road surface, cut slopes or fill slopes, borrow pits, waste piles, etc.) is potentially erodible, and where sediments would enter streams, stabilize prior to fall or spring runoff by seeding, compacting, rocking, riprapping, benching, mulching or other suitable means. (4-5-00)

**d.** In the construction of road fills, compact the material to reduce the entry of water, minimize erosion, and settling of fill material. Minimize the amount of snow, ice, or frozen soil buried in embankments. No significant amount of woody material shall be incorporated into fills. Available slash and debris may be utilized as a filter windrow along the toe of the fill, but must meet the requirements of the Idaho Forestry Act and Fire Hazard Reduction Laws, Title 38, Chapters 1 and 4, Idaho Code. (4-5-00)

**e.** During and following operations on out-sloped roads, retain out-slope drainage and remove berms on the outside edge except those intentionally constructed for protection of road grade fills. (8-13-85)

**f.** Provide for drainage of quarries to prevent sediment from entering streams. (8-13-85)

**g.** Construct cross drains and relief culverts to minimize erosion of embankments. Installation of erosion control devices should be concurrent with road construction. Use riprap, vegetative matter, downspouts and similar devices to minimize erosion of the fill. Install drainage structures or cross drain incompleated roads which are subject to erosion prior to fall or spring runoff. Install relief culverts with a minimum grade of one percent (1%). (4-5-00)

**h.** Earthwork or material hauling shall be postponed during wet periods if, as a result, erodible material would enter streams. (4-5-00)

**i.** Cut slopes shall be reconstructed to minimize sloughing of material into road surfaces or ditchlines. Remove or stabilize material subject to sloughing concurrent with the construction operation. (4-5-00)

**j.** Roads constructed on slopes greater than sixty percent (60%) in unstable or erodible soils shall be full benched without fill slope disposal. At stream and draw crossings keep fills to a minimum. A variance is required if a full bench is not used. (4-5-00)

**04. Road Maintenance.** Conduct regular preventive maintenance operations to minimize disturbance and damage to forest productivity, water quality, and fish and wildlife habitat. (4-5-00)

**a.** Place all debris or slide material associated with road maintenance in a manner to prevent their entry into streams. (4-5-00)

**b.** Repair slumps, slides, and other erosion sources causing stream sedimentation to minimize sediment delivery. (4-5-00)

**c.** Active roads. An active road is a forest road being used for hauling forest products, rock and other

- road building materials. The following maintenance shall be conducted on such roads. (8-13-85)
- i. Culverts and ditches shall be kept functional. (8-13-85)
  - ii. During and upon completion of seasonal operations, the road surface shall be crowned, out-sloped, in-sloped or cross-ditched, and berms removed from the outside edge except those intentionally constructed for protection of fills. (4-5-00)
  - iii. The road surface shall be maintained as necessary to minimize erosion of the subgrade and to provide proper drainage. (8-13-85)
  - iv. Hauling shall be postponed during wet periods if necessary to minimize sediment delivery to streams. (4-5-00)
  - v. If road surface stabilizing materials are used, apply them in such a manner as to prevent their entry into streams. (4-5-00)
- d.** Incidental Haul Road. An incidental haul road is a multi-use road (residential traffic; its primary purpose is other than forest practices) that has log haul during active harvest activities. Active road maintenance requirements apply. Once active road maintenance is completed, no other maintenance is required under the Forest Practices Act (FPA). (4-11-06)
- e.** Inactive roads. An inactive road is a forest road (primary purpose is for forest practices) no longer used for commercial hauling but maintained for access (e.g., for fire control, forest management activities, recreational use, and occasional or incidental use for minor forest products harvesting). The following maintenance shall be conducted on inactive roads. (4-11-06)
- i. Following termination of active use, ditches and culverts shall be cleared and the road surface shall be crowned, out-sloped or in-sloped, water barred or otherwise left in a condition to minimize erosion. Drainage structures shall be maintained thereafter as needed. (7-1-96)
  - ii. The roads may be permanently or seasonally blocked to vehicular traffic. (8-13-85)
- f.** Long-term Inactive Roads. A long-term inactive road is not intended to be used again in the near future but will likely be used again at some point in the future. No subsequent maintenance of a long-term inactive road is required after the following procedures are completed: (4-5-00)
- i. The road is left in a condition suitable to control erosion by out-sloping, water barring, seeding, or other suitable methods. (8-13-85)
  - ii. The road is blocked to vehicular traffic. (8-13-85)
  - iii. The department may require the removal of bridges, culverts, ditches and unstable fills. Any bridges or culverts left in place shall be maintained by the landowner. (4-5-00)
- g.** Permanently Abandoned Roads. Permanently abandoned roads are not intended to be used again. All drainage structures must be removed and roadway sections treated so that erosion and landsliding are minimized. (4-5-00)
- i. Drainage structures shall be removed and stream gradients restored to their natural slope. (4-5-00)
  - ii. The road prism shall be treated to break up compacted areas. (4-5-00)
  - iii. Fill slopes of roads within stream protection zones shall be pulled back to a stable configuration unless long-term stability has already been achieved. (4-5-00)
  - iv. Unstable sidehill fills shall be pulled back to a stable configuration. (4-5-00)

v. Ditch line erosion shall be controlled by cross-ditching, outsloping, or regrading to eliminate ditches. (4-5-00)

vi. All bare earth areas created by regrading, ripping, and drainage removal shall be stabilized by seeding, mulching, armoring, or other suitable means. (4-5-00)

**05. Winter Operations.** Due to risk of erosion and damage from roads and constructed skid trails inherent in winter logging, at minimum the following shall apply: (4-21-92)

a. Roads to be used for winter operations must have adequate surface and cross drainage installed prior to winter operations. Drain winter roads by installing rolling dips, driveable cross ditches, open top culverts, outsloping, or by other suitable means. (4-21-92)

b. During winter operations, roads will be maintained as needed to keep the road surface drained during thaws or break up. This may include active maintenance of existing drainage structures, opening of drainage holes in snow berms and installation of additional cross drainage on road surfaces by ripping, placement of native material or other suitable means. (4-21-92)

**041. -- 049. (RESERVED)**

**050. RESIDUAL STOCKING AND REFORESTATION.**

**01. Purpose.** The purpose of these rules is to provide for residual stocking and reforestation that will maintain a continuous growing and harvesting of forest tree species by describing the conditions under which reforestation will be required, specifying the minimum number of acceptable trees per acre, the maximum period of time allowed after harvesting for establishment of forest tree species, and for sites not requiring reforestation, to maintain soil productivity and minimize erosion. (7-1-96)

**02. Quality of Residual Stocking.** On any operation, trees left for future harvest shall be of acceptable species and adequately protected from harvest damage to enhance their survival and growth. This may be accomplished by locating roads and landings and by conducting felling, bucking, skidding, yarding, and decking operations so as to minimize damage to residual trees. Acceptable residual trees should have a minimum live crown ratio of thirty percent (30%), minimum basal scarring, and should not have dead or broken tops. When stands have a high percentage of unacceptable trees, consider stand replacement rather than intermediate cuttings. (7-1-96)

**03. Sites Unpractical to Reforest.** Sites unpractical to reforest, generally ponderosa pine and drier Douglas-fir habitat types, shall not be harvested below minimum stocking, unless the site is converted to some other use, or in instances of wildfire, insects, disease or other natural causes where salvage of the damaged timber is planned. (4-4-13)

a. When harvesting timber on these sites, one (1) of the following actions must be taken: (4-4-13)

i. Establish a new stand by leaving seed trees on the site and inter-planting at least once within five (5) years of completing the harvest, if needed to meet minimum stocking. (4-4-13)

ii. Establish a new stand of timber by planting the site with an acceptable tree species, and inter-planting at least once within five (5) years of the original planting, if needed to meet minimum stocking. (4-4-13)

b. If the efforts listed in Subparagraphs 050.03.a.i. and 03.a.ii. fall short of meeting the minimum stocking level, the landowner will be encouraged, but not required, to meet the minimum stocking level through additional reforestation efforts. (4-4-13)

**04. Stocking.** Stocking will be deemed adequate immediately following harvest if the following number of acceptable trees per acre, within each specified region, for at least one (1) size class, are reasonably well distributed over the area affected by forest harvesting. (NOTE: (1) DBH = Average Diameter (outside of the bark) of a tree four and one half (4.5) feet above mean ground level):

**MINIMUM STOCKING - ACCEPTABLE TREES**

Idaho Region	Size Class DBH (inches)	Average Number of Retained Trees Per Acre	Average Spacing (feet)
North	0" – 2.9"	170	16 x 16
South	0" – 2.9"	125	18 x 18
North	3.0" – 10.9"	110	19 x 19
South	3.0" – 10.9"	75	24 x 24
North	11.0" and greater	20	46 x 46
South	11.0" and greater	15	53 x 53

If immediately following harvest, the stand consists of retained trees of mixed size classes that are reasonably well distributed over the harvested area, and none of the size classes individually equal or exceed the minimum trees per acre shown above, stocking will also be deemed adequate if the weighted total of all of the size classes of the retained trees exceeds a value of one hundred seventy (170) for a stand in the North Region and one hundred twenty-five (125) in the South Region. The weighted total is calculated by multiplying the number of retained trees per acre in each size class by the weighting factors below, and adding all of these size class totals together.

Size Class	Weight
0" – 2.9"	1
3.0" – 10.9"	1.6
11.0" and greater	8.4

Harvested stands which are not adequately stocked, as defined above, will be subject to supplemental reforestation requirements specified in Subsection 050.06. Minimum stocking requirements for Class I stream protection zones are specified in Subparagraphs 030.07.e.ii. and 07.e.vi. (4-4-13)

**05. Reforestation Exemptions.** (7-1-96)

**a.** Reforestation is not required for: (7-1-96)

i. Noncommercial forest land; (7-1-96)

ii. Land converted to another use. This may include land converted to roads used in a forest practice; (7-1-96)

iii. A forest practice which will result in ten (10) acres or less below minimum stocking levels. (7-1-96)

**b.** On lands exempted under Subsection 050.03, where reforestation is not being planned, some form of grass or planted cover shall be established within one (1) year in order to maintain soil productivity and minimize erosion. (7-1-96)

**06. Supplemental Reforestation.** Seeding and/or planting may be required if after three (3) growing seasons from the date of harvest, stocking levels do not meet the standards in Subsection 050.04. Required seeding and/or planting shall be completed before the end of the fifth growing season following the time of harvest, except that the director shall grant an extension of time if suitable seeds or seedlings are not available or if weather or other conditions interfere. (7-1-96)

**a.** Reforestation practices must ensure seedlings become established. This can be accomplished by adequate site preparation, utilizing acceptable seed or seedlings, following accepted planting or sowing practices, or by other suitable means. (7-1-96)

**b.** The party responsible for reforestation is the landowner during the harvest which reduced stand stocking below the minimum levels stated in Subsection 050.04. (4-4-13)

**051. -- 059. (RESERVED)**

**060. USE OF CHEMICALS AND PETROLEUM PRODUCTS.**

**01. Purpose.** Chemicals perform an important function in the growing and harvesting of forest tree species. The purpose of these rules is to regulate handling, storage and application of chemicals in such a way that the public health and aquatic and terrestrial habitats will not be endangered by contamination of streams or other bodies of water. In addition, the application of chemicals are regulated by the Commercial Fertilizer Law, Title 22, Chapter 6; the Soil and Plant Amendment Law, Title 22, Chapter 22, and the Idaho Pesticide Law, Title 22, Chapter 34, Idaho Code and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application." (7-1-98)

**02. Petroleum Products.** Petroleum storage containers with capacities of more than two hundred (200) gallons, stationary or mobile, will be located no closer than one hundred (100) feet from any stream, water course, lake, or area of open water. Dikes, berms or embankments will be constructed to contain at least one hundred ten percent (110%) of the volume of petroleum products stored within the tanks. Diked areas will be sufficiently impervious and of adequate capacity to contain spilled petroleum products. In the event any leakage or spillage enters any stream, water course, lake, or area of open water, the operator will immediately notify the department. (7-1-98)

**a.** Transferring petroleum products. During fueling operations or petroleum product transfer to other containers, there shall be a person attending such operations at all times. Fueling operations should not take place where, if spillage occurs, the fuel will enter streams, lakes or other areas of open water. (7-1-98)

**b.** Equipment and containers used for transportation, storage or transfer of petroleum products shall be maintained in a leakproof condition. If the department determines there is evidence of petroleum product leakage or spillage, the use of such equipment shall be suspended until the deficiency has been corrected. (7-1-98)

**c.** Waste resulting from logging operations, such as crankcase oil, filters, grease, oil containers, or other nonbiodegradable waste shall be removed from the operating area and disposed of properly. (7-1-98)

**03. Licensing.** Any person applying, mixing or loading pesticides shall comply with the licensing requirements of Idaho Pesticide Law and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application." This requirement does not pertain to individuals applying general use pesticides on their own property. (7-1-98)

**04. Maintenance of Equipment. (10-14-75)**

**a.** Equipment used for transportation, storage or application of chemicals shall be maintained in leakproof condition. If, in the director's judgment, there is evidence of chemical leakage, he shall have the authority to suspend the further use of such equipment until the deficiency has been corrected. (10-14-75)

**b.** The storage of pesticide shall also be conducted in accordance with the requirements Rules of the Idaho Pesticide Law and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application." (7-1-98)

**05. Mixing. (10-14-75)**

**a.** When water is used in mixing chemicals: (10-14-75)

**i.** Provide an air gap or reservoir between the water source and the mixing tank. (10-14-75)

- ii. Use uncontaminated tanks, pumps, hoses and screens to handle and transfer mix water for utilization in pesticide operations. (7-1-98)
- b. Mixing and landing areas: (10-14-75)
  - i. Mix chemicals and clean tanks and equipment only where spills will not enter any water source or streams. (10-14-75)
  - ii. Landing areas shall be located where spilled chemicals will not enter any water source or stream. (8-13-85)
  - iii. Rinsate and wash water should be recovered and used for make-up water, be applied to the target area, or disposed of according to state and federal laws. (7-1-98)
- 06. Aerial Application:** (10-14-75)
  - a. With the exception of pesticides approved for aquatic use and applied according to labeled directions, when applying pesticide leave at least one (1) swath width (minimum one hundred (100) feet) untreated on each side of all Class I streams, flowing Class II streams and other areas of open water. When applying pelletized fertilizer, leave a minimum of fifty (50) feet untreated on each side of all Class I streams, flowing Class II streams, and other areas of open water. (7-1-98)
  - b. Use a bucket or spray device capable of immediate shutoff. (10-14-75)
  - c. Shut off chemical application during turns and over open water. (10-14-75)
  - d. Aerial application of pesticides shall also be conducted according to the Idaho Pesticide Law and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application." (7-1-98)
- 07. Ground Application with Power Equipment.** (10-14-75)
  - a. With exception of pesticides approved for aquatic use and applied according to labeled directions, when applying pesticide, leave at least twenty-five (25) feet untreated on each side of all Class I streams, flowing Class II streams and areas of open water. (7-1-98)
  - b. When applying fertilizer, leave at least ten (10) feet untreated on each side of all streams and areas of open water. (10-14-75)
- 08. Hand Application.** (10-14-75)
  - a. Apply only to specific targets; such as, a stump, burrow, bait, or trap. (10-14-75)
  - b. Keep chemicals out of all water sources or streams. (10-14-75)
- 09. Limitations on Applications.** (10-14-75)
  - a. Chemicals shall be applied in accordance with all limitations and instructions printed on the product registration labels, supplemental labels, and others established by regulation of the director. (7-1-98)
  - b. Do not exceed allowable rates. (7-1-98)
  - c. Prevent direct entry of chemicals into any water source or stream. (8-13-85)
- 10. Daily Records of Chemical Applications.** (10-14-75)
  - a. When pesticides are applied on forest land, the operator shall maintain a daily record of spray

- operations which includes: (7-1-98)
- i. Date and time of day of application. (8-13-85)
  - ii. Name and address of owner of property treated. (8-13-85)
  - iii. Purpose of the application (control of vegetation, control of Douglas-fir tussock moth, etc.). (8-13-85)
  - iv. Contractor's name and pilot's name when applied aerially. Contractor's name or applicator's name for ground application. (7-1-96)
  - v. Location of project (section, township, range and county). (10-14-75)
  - vi. Air temperature (hourly). (10-14-75)
  - vii. Wind velocity and direction (hourly). (10-14-75)
  - viii. Pesticides used including trade or brand name, EPA product registration number, mixture, application rate, carrier used and total amounts applied. (7-1-98)
- b.** Whenever fertilizers or soil amendments are applied, the operator shall maintain a daily record of such application which includes Subsection 060.10 and the name of the fertilizer or soil amendment and application rate. (7-1-98)
- c.** The records required in Subsection 060.10 shall be maintained in compliance with the record-keeping requirements of IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application." (7-1-98)
- d.** All records required in Subsection 060.10 shall be retained for three (3) years. (7-1-98)
- 11. Container Disposal.** Chemical containers shall be: cleaned and removed from the forest and disposed of in a manner approved by the director in accordance with applicable local, state and federal regulations; or removed for reuse in a manner consistent with label directions and applicable regulations of a state or local health department. Open burning of containers is prohibited. (7-1-98)
- 12. Spills.** Spills shall be reported and appropriate cleanup action taken in accordance with applicable state and federal laws and rules and regulations. (8-13-85)
- a.** All chemical accidents and spills shall be reported immediately to the director. (7-1-98)
  - b.** If chemical is spilled, appropriate procedures shall be taken immediately to control the spill source and contain the released material. (7-1-98)
  - c.** It is the applicator's responsibility to collect, remove, and dispose of the spilled material in accordance with applicable local, state and federal rules and regulations and in a manner approved by the director. (7-1-98)
- 13. Misapplications.** Whenever chemicals are applied to the wrong site or pesticides are applied outside of the directions on the product label, it is the responsibility of the applicator to report these misapplications immediately to the director. (7-1-98)

**061. -- 069. (RESERVED)**

**070. SLASHING MANAGEMENT.**

- 01. Purpose.** To provide for management of slashing and fire hazard resulting from harvesting, forest

management, or improvement of forest tree species, or defoliation caused by chemical applications in that manner necessary to protect reproduction and residual stands, reduce risk from fire, insects and disease or optimize the conditions for future regeneration of forest tree species and to maintain air and water quality, fish and wildlife habitat. (10-14-75)

**02. Commercial Slash.** Fuels and debris resulting from a forest practice involving removal of a commercial product shall be managed as set forth in the Idaho Forestry Act, Title 38, Chapters 1 and 4, Idaho Code and the rules and regulations pertaining to forest fire protection. (7-1-96)

**03. Non-Commercial Slash.** Fuels and debris resulting from a forest practice where no commercial product is removed shall be managed in a manner as hereinafter designated under authority of the Idaho Forest Practices Act, Title 38, Chapter 13, Idaho Code. (1-24-78)

**a.** Within ten (10) days or a time mutually agreed upon following receipt by the department of the “Notification of Forest Practice” as provided in Subsection 020.05, the department shall make a determination of the potential fire hazard and hazard reduction and/or hazard offsets, if any, needed to reduce, abate or offset the fire hazard. Such determination shall be based on a point system found in Paragraph 070.03.e. (7-1-96)

**b.** The operator, timber owner and landowner shall be notified in writing of the determination made in Paragraph 070.03.a. above (on forms provided by the department) and of the hazard reductions and/or hazard offsets, if any, that must be accomplished by the operator, timber owner or landowner. The notification shall specify a reasonable time period not to exceed twelve (12) months from the date the forest practice commenced in which to complete the hazard reduction and shall specify the number of succeeding years that on site improvements or extra protection must be provided. (7-1-96)

**c.** A release of all obligations under Subsection 070.03 shall be granted in writing on forms provided by the department when the hazard reduction and/or hazard offsets have been accomplished. When hazard offsets are to be accomplished during succeeding years, the release shall be conditioned upon the completion of the required hazard offsets. Notification of release shall be mailed to the operator, timber owner and landowner within seven (7) days of the inspection by the department. Inspections by the department shall be made within ten (10) days of notification by the operator, timber owner or landowner unless otherwise mutually agreed upon. (7-1-96)

**d.** If the department determines upon inspection that the hazard reduction or hazard offsets have not been accomplished within the time limit specified in Paragraph 070.03.b., extensions of time, each not to exceed three months, may be granted if the director determines that a diligent effort has been made and that conditions beyond the control of the party performing the hazard reduction or hazard offsets prevented completion. If an extension is not granted the department shall proceed as required in Section 38-1307, Idaho Code (Idaho Forest Practices Act). (7-1-96)

**e.** For the purpose of determining the potential fire hazard and the appropriate hazard reduction and/or hazard offsets, a point system using the following rating guides will be used by the department. A value of eighty (80) points or less for any individual forest practice under Paragraph 070.03, as determined by the department, will be sufficient to release the operator, timber owner and landowner of all further obligations under Subsection 070.03. Total points of the proposed forest practice will be determined from Tables I and II. If the total points are greater than eighty (80), modification of the thinning practice to reduce points may be made as determined by Tables I and II, slash hazard offsets may be scheduled to reduce points as determined by Table III or a combination of these options may be used to reduce the hazards to a point total of eighty (80) or less. Consideration will be given to the operator’s, timber owner’s and landowner’s preference in selecting the options to reduce the points to eighty (80) or less.

**TABLE I - HAZARD POINTS**



**Hazard Points for Ponderosa Pine, Western Red Cedar or Western Hemlock**

<b>Thinned Stems Per Acre</b>											
<b>Ave. DBH</b>	<b>250</b>	<b>500</b>	<b>750</b>	<b>1000</b>	<b>1250</b>	<b>1500</b>	<b>1750</b>	<b>2000</b>	<b>2500</b>	<b>3000</b>	<b>4000</b>
1	1	2	3	3	4	5	6	7	9	10	16
2	3	6	9	13	16	22	25	30	36	42	51
3	7	16	25	32	38	46	51	52	56	59	
4	9	22	32	40	50	52	54	56	60		
5	13	28	40	51	54	56	59	60			
6	19	36	51	54	58	60	60				

**Hazard Points for Douglas Fir, Grand Fir or Engelmann Spruce**

<b>Thinned Stems Per Acre</b>											
<b>Ave. DBH</b>	<b>250</b>	<b>500</b>	<b>750</b>	<b>1000</b>	<b>1250</b>	<b>1500</b>	<b>1750</b>	<b>2000</b>	<b>2500</b>	<b>3000</b>	<b>4000</b>
1	1	2	3	4	6	7	8	9	13	16	22
2	4	7	13	16	22	28	32	36	42	50	54
3	8	19	28	36	44	51	53	54	58	60	
4	10	25	36	46	51	54	57	59	60		
5	16	32	46	52	56	59	60	60			
6	22	40	52	56	60	60	60				

**Hazard Points for Western Larch, Lodgepole Pine or Western White Pine**

<b>Thinned Stems Per Acre</b>											
<b>Ave. DBH</b>	<b>250</b>	<b>500</b>	<b>750</b>	<b>1000</b>	<b>1250</b>	<b>1500</b>	<b>1750</b>	<b>2000</b>	<b>2500</b>	<b>3000</b>	<b>4000</b>
1	1	2	2	3	4	4	5	6	8	9	13
2	3	6	8	11	16	19	22	28	32	38	48
3	6	16	25	32	38	46	51	52	56	59	
4	8	16	28	36	44	50	52	54	58		
5	9	22	32	42	50	53	55	57			
6	13	28	40	50	53	56	59				

**TABLE II - HAZARD POINTS WORKSHEET**

**HAZARD CHARACTERISTICS**

**HAZARD POINTS**

Fuel Quantity

Hazard points from Slash Hazard Table I 1/  
 Record number of trees/acre to be cut  
 Average D.B.H.  
 Predominant species

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

	Size of thinning block			
Points	0 - 15	16 - 30	31 - 45	46 - 60 1/
Acres	20	20 - 40	40 - 80	80

Site Factor

Record Slope \_\_\_\_\_ % Aspect \_\_\_\_\_  
 Determine points from table below 1/

ASPECT	PERCENT SLOPE			
	0 - 19	20 - 39	40 - 59	60
E or NE	0	5	10	20
E or NW	0	5	10	30
W or SE	0	10	30	40
S or SW	0	20	40	60
1/	Max. 60 points			

Other Factors	
Condition of operating area before forest practice commences	0 - 20 points
Condition of adjoining area	0 - 20 points
Presence of snags and culls	0 - 5 points
Deterioration rate of slash	0 - 5 points
Time of year forest practice operation	10 points
October thru December	2 points
August thru September	4 points
January thru April	7 points
May thru July	10 points

Other Factors	
TOTAL FOREST PRACTICE AREA POINTS	(Max. 240 points)

TABLE III - HAZARD OFFSETS

Offsets	Hazard Point Deductions
<b>Physical Changes to the Hazard (1)</b>	
(1) Points will be proportional to the amount of hazard disposed of or modified.	
Disposal by burning or removal.	0 - 160
Modification by reducing depth through crushing, chipping or lopping.	0 - 60
<b>On Site Improvements</b>	
Condition of main access road to forest practice area should allow movement of heavy trucks without difficulty.	0 - 5
Access control to forest practice area provided by closure to public traffic.	0 - 5
Availability of water for tankers within one mile of forest practice area or within three miles for helicopter bucket use. Water supply to be sufficient to supply at least fifty thousand (50,000) gallons.	0 - 15
Buffer zones of unthinned areas at least two chains in width between roadways and thinned areas.	0 - 10
Fuel breaks with slash hazard removal around and/or through forest practice area, located so as to provide optimum fire control effect and of two to four chains in width.	0 - 25
Fire trails with fuel removed to expose mineral soil to a width of twelve (12) feet. Maximum points allowed if combined with a fuel break.	0 - 15
<b>Extra Protection</b>	
Increased attack capability such as retardant availability, increased attack manpower and equipment. Must be in addition to regular forces normally available during the fire season.	0 - 40
Fire detection and prevention increased beyond that normally available for lands in the fire protection district.	0 - 15
Initial attack time based on proximity of forest practice area to initial attack forces.	0 - 5
Landowner protection plan which would provide extra fire protection on a voluntary basis such as extra equipment and/or manpower.	0 - 5

(1-24-78)

**071. PRESCRIBED FIRE.**

**01. Purpose.** Prescribed fire is a tool with application in land management. Smoke from prescribed fires can have adverse impacts on ambient air quality or public health. It is the purpose of these rules to establish a management system for smoke from prescribed fires that will protect air quality. (7-1-96)

**02. Notification.** The use of prescribed fire requires a valid notification in accordance with Subsection 020.05 to maintain air quality and to protect public health. Possession of a valid notification will not preclude meeting the fire safety requirements specified in Section 38-115, Idaho Code. (7-1-96)

**03. Recommended Practices.** To maintain air quality and protect public health the following practices are recommended: (7-1-96)

**a.** Slash and large woody debris piles should be compact and free of stumps, soil, snow, and nonwoody organic material. (7-1-96)

**b.** Piles should be fully cured, dried at least two (2) months, prior to ignition. Piles should be at least partially covered with a water resistant material so they can be ignited after enough precipitation to lower the fire danger. (7-1-96)

**c.** Broadcast burns should be conducted within a prescription that minimizes adverse effects on air quality. (7-1-96)

**d.** Membership in good standing in a recognized Airshed Group is encouraged. (7-1-96)

**072. -- 999. (RESERVED)**

## 20.04.01 – RULES PERTAINING TO FOREST FIRE PROTECTION

### 000. AUTHORITY.

This chapter is adopted under the legal authority of Sections 38-115, 38-132, 38-402, 58-104(6), 58-105, and 67-5201 et seq., Idaho Code. (4-11-19)

### 001. TITLE AND SCOPE.

01. **Title.** These rules are titled IDAPA 20.04.01, “Rules Pertaining to Forest Fire Protection.” (4-11-19)

02. **Scope.** These rules govern requirements pertaining to forest fire protection. (4-11-19)

### 002. INCORPORATION BY REFERENCE.

01. **Incorporated Document.** IDAPA 20.04.01 adopts and incorporates by reference the full text of the following documents published by the San Dimas Technology & Development Center (SDTDC). (4-11-19)

a. Spark Arrester Guide – General Purpose and Locomotive (GP/Loco), Volume 1, September 2012, 1251 1809-SDTDC. (4-11-19)

b. Spark Arrester Guide – Multiposition Small Engine (MSE), Volume 2, August 2012, 1251 1808-SDTDC. (4-11-19)

c. Spark Arrester Guide – Off- Highway Vehicles (OHV), Volume 3, April 2012, 1251 1805-SDTDC. (4-11-19)

02. **Printed and Bound Copies.** Printed copies or bound copies may be viewed at any District Office or requested through SDTDC, 444 E. Bonita Ave, San Dimas, 91773. (4-11-19)

### 003. -- 009. (RESERVED)

### 010. DEFINITIONS.

01. **Block.** A piece of logging equipment where steel rope or cable is actively turning the block’s pulley and used as part of a cable logging/yarding system for the specific purposes of establishing tail hold anchor points, intermediate support of main lines, or carriage haul-back capability for the purposes of yarding or hauling of logs to a log landing for transportation to a mill or processing facility. (4-11-19)

02. **Cable or Cable Assisted Logging.** A harvest system for felling or yarding of forest product materials consisting of the use of a cable assisted harvester or the use of a yarder, spar tree, or intermediate support with motorized or non-motorized carriage to transport logs to the landing for further processing purposes. (4-11-19)

03. **Closed Fire Season.** The period from May 10 to October 20, inclusive, of each year or as designated by the Director due to conditions of unusual fire danger pursuant to Section 38-115, Idaho Code. (4-11-19)

04. **Department.** The Idaho Department of Lands. (4-11-19)

05. **Director.** The director of the Idaho Department of Lands or his authorized representative. (10-28-91)

06. **District.** A designated forest protective district. (10-28-91)

07. **Fire Warden.** A duly appointed fire warden or deputy. (10-28-91)

08. **Forest Land.** Any land which has upon it sufficient brush or flammable forest growth of any kind or size, living or dead, standing or down, including debris or growth following a fire or removal of forest products, to constitute a fire menace to life (including animal) or property. (10-28-91)

09. **Forest Operation.** An activity or service conducted on forest lands involving any of the operations as described below where a Certificate of Compliance is required pursuant to Section 38-122, Idaho Code. (4-11-19)

- a. The harvesting of trees using equipment that includes, but is not limited to, felling, bucking, yarding, delimiting, and decking operations; (4-11-19)
  - b. Thinning or mastication operations for stand improvement, stand density management or fuel reduction purposes; (4-11-19)
  - c. Road construction or reconstruction of existing roads including installation or improvement of bridges, culverts or structures; and (4-11-19)
  - d. Slash management including chipping, grinding, or other mechanized reduction activities. (4-11-19)
- 10. Metal-Tracked Harvester.** Any machine with metal tracks used to fall, bunch or process trees into forest products at the stump. (4-11-19)
- 11. Operator.** A person who conducts a forest operation. (4-11-19)
- 12. Operating Area.** That area where a forest operation is taking place. (4-11-19)
- 13. Person.** Includes any person or persons, and any corporation, firm or other entity. (10-28-91)
- 14. Range Land.** Any land that is not cultivated and that has upon it native grasses or other forage plants making it best suited for grazing of domestic and wild animals and which land is adjacent to or intermingled with forest land. (10-28-91)
- 15. Slash.** Brush, severed limbs, poles, tops and/or other waste material incident to such cutting or to the clearing of land that are four (4) inches and under in diameter. (10-28-91)
- 16. State.** State of Idaho. (10-28-91)

**011. -- 019. (RESERVED)**

**020. VARIANCE.**

If conditions or activities require the application of practices that differ from those prescribed in these rules, the Operator must obtain a variance prior to employing any of those differing practices. (4-11-19)

**01. Obtaining a Variance.** In order to obtain a variance, the Operator must submit a written request for a variance to the local Fire Warden. The request includes the following: (4-11-19)

- a. A description of the specific Operating Area where the variance is being requested; (4-11-19)
- b. The particular conditions that necessitate a variance; (4-11-19)
- c. A detailed description of the alternative practice; and (4-11-19)
- d. A detailed description of how the alternate practice, if applied, will provide fire protection that is equal to or greater than the fire protection provided by the standards set forth in these rules. (4-11-19)

**02. Department Response to Request for Variance.** Within five (5) business days from receipt of the variance request, the Department will evaluate the request and notify the Operator in writing of the Department's determination to allow or disallow the variance request. (4-11-19)

**021. -- 029. (RESERVED)**

**030. STANDARDS FOR FIRE PROTECTION BY INDIVIDUALS.**

The following rules and standards for protection by owners of forest land who have elected to provide their own

protection as provided by Section 38-111, Idaho Code, apply: (10-28-91)

**01. Fire Plans.** Each owner must submit to the director for approval, through the district fire warden in charge of the district in which such forest land lies, before April 1, of each year, a written fire plan that includes, but not be limited to: (10-28-91)

**a.** A map, with scale of two (2) inches to the mile, revealing section, township, and range lines of the forest land involved and showing thereon roads, streams, trails, and the location of protection facilities for such land. (10-28-91)

**b.** A description of the system for discovering and reporting any and all fires originating on or spreading to the forest land involved. (10-28-91)

**c.** A statement showing the number of firefighters available for immediate action to suppress any fire on the forest land; and further, their sources of additional manpower available as firefighters. (10-28-91)

**d.** A statement showing the type and amount of firefighting equipment in serviceable condition including, but not limited to, fire hose, fire engines, portable pumps, dozers, and mobile equipment for the transportation of men and equipment. (10-28-91)

**e.** A statement as to the location of fire-tool caches and the number and kind of serviceable hand tools in each cache kept available for immediate use in firefighting, including shovels, hoes, axes, and fire-pump cans. (10-28-91)

**f.** The name, address, and telephone number of the person who is in charge of the protection facilities and obligated to carry out the provisions of the fire plan. (10-28-91)

**02. Approval of Fire Plan Required.** No plan will become effective unless approved by the director. (10-28-91)

**031. -- 039. (RESERVED)**

**040. COSTS OF FIRE SUPPRESSION AND PROTECTION.**

Whenever the state incurs costs in controlling or extinguishing a fire that any person willfully or is negligently responsible for, such costs include all actual costs to the state, including wages of full-time personnel and use of equipment of the forest protective district or districts where the fire originated or burned. (10-28-91)

**041. -- 049. (RESERVED)**

**050. BURNERS.**

Any sawmill, planing mill, shingle mill, or other woodworking plant, or plant manufacturing wood products, operating in or within five hundred (500) feet of forest land, and burning refuse wood material outside of and/or adjacent to such mill or plant, will meet the terms of Section 38-108, Idaho Code. (10-28-91)

**051. -- 059. (RESERVED)**

**060. BURNING PERMITS.**

The burning permit specified in Section 38-115, Idaho Code, is be used to protect public health, safety, and welfare. The permit is subject to the following conditions: (10-28-91)

**01. When Permit Required.** Permits issued for open fires are required from May 10 to October 20, inclusive, of each year and be limited to that period of time needed to accomplish the permitted burning; provided, however, in no event will such permit be issued to cover a period of more than ten (10) days. (10-28-91)

**02. Permit Conditions.** Each permit contains all the terms and conditions deemed necessary by the director for such burning, which terms and conditions remain effective for the entire period of the permit. (10-28-91)

**061. -- 069. (RESERVED)**

**070. PERMIT TO ENTER CLOSED AREA.**

Pursuant to Section 38-115, Idaho Code, the director, because of critical fire hazard, may close specified areas to entry by any person or party. (10-28-91)

**01. Notice of Closure.** Notice of closure to specified areas will be by proclamation of the director and will be published at least once in a newspaper of general circulation throughout the county or counties affected. Such proclamation will immediately be mailed to the fire wardens of the affected districts. (10-28-91)

**02. Fire Warden Permits.** The fire warden in charge of the forest protective district in which such areas are located may, in his discretion, issue permits to individuals to enter such closed areas. The permittee is required to carry a copy of the permit at all times while in the closed area. (10-28-91)

**071. -- 079. (RESERVED)**

**080. SPARK ARRESTERS.**

**01. Requirements.** The steam or internal combustion engines referred to in Section 38-121, Idaho Code, must be equipped with properly installed, maintained, and effectively working spark arresters that comply with the standards set forth in the San Dimas Technology and Development Center's "Spark Arrester Guide(s)." (4-11-19)

**02. Exemptions.** The following are exempt from the requirements of the rule: (10-28-91)

**a.** Turbo-charged internal combustion engines in which one hundred percent (100%) of the exhaust gases pass through the turbo-charger. (10-28-91)

**b.** Engines of passenger-carrying vehicles and light trucks, equipped with baffle-type muffler and tailpipe through which all exhaust gasses pass, that are kept in good repair. (10-28-91)

**c.** Engines of heavy-duty trucks equipped with a vertical exhaust stack and muffler extending above the cab of the vehicle. (10-28-91)

**d.** Engines of water pumping equipment used in firefighting. (10-28-91)

**e.** Engines of helicopters and other aircraft. (10-28-91)

**081. -- 089. (RESERVED)**

**090. SMOKING IN THE WOODS.**

**01. Smoking Prohibited.** Smoking is prohibited on forest or range lands of the state during periods of critical fire danger as designated by the director. Logging operators will post "NO SMOKING" signs conspicuously in their camps and operating areas when such periods of critical fire danger have been declared. (10-28-91)

**02. Designated Smoking Areas.** Fire wardens may designate those areas where smoking may be permitted upon approval of the director. (10-28-91)

**091. -- 099. (RESERVED)**

**100. FIRE TOOLS AND FIRE EXTINGUISHERS.**

During closed fire season the following fire tool requirements apply: (10-28-91)

**01. Basic Fire Cache.** Every Operator engaged in any Forest Operation on Forest Lands will have available for firefighting purposes the number of tools and tool boxes set forth in Table 1. A Forest Operation having more than ten (10) people must use multiples of any of the columns in the table to arrive at a tool distribution equal to or in excess of the number of people in the Forest Operation.



People in Operation	2 - 5	6 - 8	9 - 10
Tool Box	1	1	1
Shovels	2	4	5
Pulaskis	2	4	4
5 gallon pump cans or bladder bags	1	1	2

(4-11-19)

a. The tool boxes required by this rule must be clearly marked “FOR FIRE USE ONLY”; and (4-11-19)

b. The tools required by Subsection 100.01 must be in a location immediately accessible for firefighting purposes, maintained in a serviceable condition and be fully functional at the time of deployment. (4-11-19)

**02. Warming Fires or Campfires.** Except when in designated developed campgrounds or when traveling as a pedestrian, all persons or parties igniting warming fires or campfires will be equipped with the following: (10-28-91)

a. One (1) serviceable shovel at least twenty-four (24) inches in overall length with six (6) inch or wider blade. (10-28-91)

b. One (1) water container, capacity one (1) gallon or more. (4-11-19)

**03. Power Equipment.** Each unit of mobile or stationary power equipment other than portable power saws, trail bikes, motorcycles, all-terrain vehicles and similar type vehicles operating on forest lands of the state must be equipped with a minimum of one (1) chemical fire extinguisher rated by the Underwriters Laboratory as not less than 4-BC. (10-28-91)

**04. Portable Power Saw.** Any person using a portable power saw on forest land in the state must have the following immediately available for the prevention and suppression of fire: (10-28-91)

a. A fully charged operable fire extinguisher of at least eight (8) ounce minimum capacity. (10-28-91)

b. A serviceable round-pointed size zero (0) or larger shovel. (10-28-91)

**101. -- 109. (RESERVED)**

**110. FIRE CREWS.**

When engaged in a Forest Operation on Forest Lands during closed fire season, the person responsible for the Forest Operation designates a fire crew and a fire foreman, with powers to act for their employer, to take immediate initial action within the scope of their knowledge, skills and abilities and make a reasonable effort to suppress any fire starting on the Operating Area without compromising the safety of the crew. (4-11-19)

**111. -- 119. (RESERVED)**

**120. RESTRICTED ACTIVITIES.**

**01. Critical Fire Danger.** During periods of critical fire danger, as determined by the director, all persons engaged in any activities in forest areas of the state, determined to be critical, may have those activities restricted to the least dangerous periods of the day. (10-28-91)

**02. Notice.** Notification of such restriction will be by proclamation of the director and will be published at least once in a newspaper of general circulation throughout the county or counties affected. (10-28-91)

**121. -- 129. (RESERVED)**

**130. WATER SUPPLY AND EQUIPMENT.**

Every Operator conducting a Forest Operation using a cable logging system or a metal tracked harvester during the period of July 1st through September 30th annually must provide the following water supply and fire suppression equipment in the Operating Area. (4-11-19)

**01. Water Supply.** (4-11-19)

**a.** The water supply must consist of a self-propelled motor vehicle or trailer equipped with a water tank containing not less than two hundred (200) gallons of water. (4-11-19)

**b.** Trailers used for this purpose will be equipped with a functional hitch attachment and have a serviceable tow vehicle immediately available to provide for timely fire suppression response. (4-11-19)

**02. Water Delivery.** (4-11-19)

**a.** Water pump. The size and capacity of the water pump must be sufficient to provide a discharge of not less than twenty (20) gallons per minute when pumping through fifty (50) feet of hose of not less than three quarter ( $\frac{3}{4}$ ) inch inside diameter with an adjustable nozzle at pump level. (4-11-19)

**b.** Hose and nozzle. The Operator must have at least five hundred (500) feet of serviceable hose of not less than three quarter ( $\frac{3}{4}$ ) inch inside diameter and a nozzle. (4-11-19)

**03. Readiness.** (4-11-19)

**a.** All hose, motor vehicles, trailers, tanks, nozzles and pumps will be kept ready for immediate use during active operations, including fire watch service as set forth in Section 140 of these rules. (4-11-19)

**b.** The water supply, pump, a minimum of two hundred (200) feet of hose packaged in a suitable manner for immediate deployment, and the nozzle will be maintained as a connected, operating unit ready for immediate use. (4-11-19)

**04. Water Supply and Equipment Exemption.** A Forest Operation conducted under an Option 1 Certificate of Compliance is exempt from the water supply and equipment requirements of Section 130. (4-11-19)

**131. -- 139. (RESERVED)**

**140. FIRE WATCH SERVICE.**

Every Operator engaged in a Forest Operation within a Stage 2 proclamation area must provide Fire Watch Service in the Operating Area. (4-11-19)

**01. Duties and Requirements.** Fire Watch Service consists of at least one (1) person who: (4-11-19)

**a.** Is constantly on duty for three (3) hours after all power-operated equipment has been shut down for the day. (4-11-19)

**b.** Visually observes the Operating Area where activity occurred during the day. (4-11-19)

**c.** Has adequate equipment for transportation and communications to summon fire-fighting assistance in a timely manner; and (4-11-19)

**d.** Immediately responds to any fire in the Operating Area to initiate such fire suppression actions to suppress the fire within the scope of their knowledge, skills and abilities. (4-11-19)

**02. Fire Watch Service Exemption.** A Forest Operation conducted under an Option 1 Certificate of Compliance is exempt from the fire watch service requirements of Section 140. (4-11-19)

**141. -- 149. (RESERVED)**

**150. OPERATION AREA FIRE PREVENTION.**

To prevent the spread of fire on or from an Operating Area, every Operator conducting a Forest Operation during the period of July 1st through September 30th, annually, must comply with the following precautions: (4-11-19)

**01. Cable or Cable Assisted Logging.** The following practices and equipment are required by the operator when conducting a cable logging operation on forest land. (4-11-19)

**a.** Clear the ground of all flammable debris for not less than ten (10) feet slope distance from the point directly below any block. (4-11-19)

**b.** Prevent moving lines from rubbing on rock or woody material in such a way to cause sparks or sufficient heat that may cause fuel ignition. (4-11-19)

**c.** Provide a water supply that complies with the capacity, pump, hose, nozzle and readiness requirements set forth in Section 130 of these rules. (4-11-19)

**d.** Provide at each Block: (4-11-19)

i. One (1) pump equipped can or bladder containing not less than five (5) gallons of water; and (4-11-19)

ii. One (1) round pointed size zero (0) or larger shovel in a serviceable condition. (4-11-19)

**151. -- 999. (RESERVED)**

## IDAPA 20 – IDAHO DEPARTMENT OF LANDS

### 20.03.03 – RULES GOVERNING ADMINISTRATION OF THE RECLAMATION FUND

DOCKET NO. 20-0303-1901

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and the Idaho State Board of Land Commissioners and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 20-0000-1900F, which will also be filed for review for final approval during the upcoming legislative session.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code.

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. The pending rule was modified to correct a misspelling, provide more clarity, and further shorten the rule in compliance with the Red Tape Reduction Act.

The pending rule text is being republished in its entirety following this notice. The text of the proposed rule was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol. 19-9, pages 359-366](#).

The pending rule adopts the changes initially proposed by IDL that update definitions and terminology to comport with the 2019 changes to Title 47, Chapter 15, Idaho Code. IDL also proposed to remove mandatory participation for operators with less than 40 acres of disturbance and less than \$100,000 of reclamation liability and to allow operators to provide an alternative type of financial assurance if it satisfies a minimum reclamation dollar per acre and is on an IDL form. Changes also raise the maximum limitations on participation in the Reclamation Fund to 80 acres or \$440,000 of reclamation liability. The Land Board would establish by policy the actual allowed acres and amount of reclamation liability per operator based on the fund's required minimum balance and updated actuarial analysis. This will allow the Land Board to expand access for participants when it becomes financially prudent.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Todd Drage at (208) 334-0247 or [tdrage@idl.idaho.gov](mailto:tdrage@idl.idaho.gov).

Dated this 17th day of October, 2019.

Todd Drage  
Minerals Regulatory Program Manager  
Idaho Department of Lands  
300 N. 6th Street, Suite 103  
P.O. Box 83720  
Boise, Idaho 83720-0050  
Phone: (208) 334-0247 / Fax: (208) 334-3698

**THE FOLLOWING NOTICE PUBLISHED WITH THE 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 58-104(6) and 58-105, Idaho Code.

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

**PUBLIC HEARING**

**Monday, September 16, 2019**  
**2:30 p.m. (MDT)**

**Idaho State Capitol**  
**4th Floor, Majority Caucus Room (W-433)**  
**700 West Jefferson Street**  
**Boise, ID 83702**

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

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

The passage of House Bill 141 during the 2019 legislative session amended definitions and terminology associated with Idaho's Reclamation Fund (Fund). Pursuant to Title 47, Chapter 18, Idaho Code, the Idaho Department of Lands (IDL) manages the Fund, which provides affordable and attainable financial assurances for mining operators, allowing compliance with Idaho's mining regulations. IDL is proposing to update definitions and terminology in the rule to comport with the 2019 statute changes. IDL is also proposing to amend the rule to remove the mandatory participation requirement for operators with a single mining operation with less than 40 acres of disturbance. The proposed rule will allow operators to provide alternative forms of financial assurance if it satisfies a minimum reclamation dollar per acre and is provided in a form acceptable to IDL.

Additionally, IDL is proposing changes to allow more flexibility to the limits that restrict participation in the Fund. Currently, operators with a total cumulative mining disturbance greater than 40 acres and greater than \$100,000 of reclamation liability are ineligible to participate in the Fund, and the Land Board is required to set a minimum balance to be maintained in the Fund to cover the Fund's reclamation liabilities. IDL is proposing to remove the limits of 40 acres and \$100,000 reclamation costs liability and instead allow the Land Board to set disturbance and reclamation costs limits based on the Fund's required minimum balance.

Finally, amendments are proposed to remove words and restrictions, wherever possible, to comply with the Red Tape Reduction Act.

**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 as a result of 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 June 5, 2019, Idaho Administrative Bulletin, [Vol. 19-6, page 63](#).

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Todd Drage at (208) 334-0247 or [tdrage@idl.idaho.gov](mailto:tdrage@idl.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 September 25, 2019.

Dated this 2nd day of August, 2019.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0303-1901**

**000. LEGAL AUTHORITY.**

These rules are promulgated by the Idaho State Board of Land Commissioners under Sections 58-104(3) and (6), Idaho Code, and Title 47, Chapter 18, Idaho Code. The Board has delegated to the Director of the Idaho Department of Lands the duties and powers under Title 47, Chapter 18, Idaho Code and these rules, except that the Board retains responsibility for administrative review. ( )

**001. TITLE AND SCOPE.**

**01. Title.** These rules are titled IDAPA 20.03.03, "Rules Governing Administration of the Reclamation Fund," IDAPA 20, Title 03, Chapter 03. (3-16-04)

**02. Scope.** These rules constitute the Department's administrative procedures and participation criteria for the Reclamation Fund, which is an alternative form of financial assurance for certain mines in Idaho. These rules are to be construed in a manner consistent with the duties and responsibilities of the Board and of operators, permit holders, or lessees as set forth in Title 47, Chapter 7, Idaho Code, "Mineral Rights in State Lands;" Title 47, Chapter 13, Idaho Code, "Dredge Mining;" Title 47, Chapter 15, Idaho Code, "Mined Land Reclamation;" Title 47, Chapter 18, Idaho Code, "Financial Assurance;" IDAPA 20.03.01, "Dredge and Placer Mining Operations in Idaho;" IDAPA 20.03.02, "Rules Governing Mined Land Reclamation;" and IDAPA 20.03.05, "Riverbed Mineral Leasing In Idaho." ( )

**002. ADMINISTRATIVE APPEALS.**

Any person aggrieved by a final agency action or a party aggrieved by a final order of the Board arising from its administration of the Reclamation Fund Act is entitled to judicial review pursuant to the provisions of Title 67, Chapter 52, Idaho Code, "Administrative Procedure Act," and IDAPA 20.01.01, "Rules of Practice and Procedure Before the State Board of Land Commissioners." ( )

**003. -- 009. (RESERVED)**

**010. DEFINITIONS.**

Except as provided in these rules, the Board adopts the definitions set forth in the Mineral Leasing Act, the Dredge Mining Act, and the Mined Land Reclamation Act. As used in these rules: ( )

**01. Actual Allowable Cost.** The allowable total reclamation cost as set by the Board to allow participation in the Reclamation Fund. ( )

**02. Actual Allowable Disturbance.** The area of disturbed acres or affected land as set by the Board to allow participation in the Reclamation Fund. ( )

**03. Board.** The Idaho State Board of Land Commissioners or its authorized representative. ( )

- 04. Department.** The Idaho Department of Lands. (3-16-04)
- 05. Disturbed Acres; Affected Lands.** Any land, natural watercourses, or existing stockpiles or waste piles affected by placer or dredge mining, re-mining, exploration, stockpiling of ore, waste from placer or dredge mining, or construction of roads, settling ponds, structures, or facilities appurtenant to a placer or dredge mine. The land area included in overburden disposal areas, mined areas, mineral stockpiles, roads, tailings ponds, and other areas disturbed at a mine. The land area disturbed by motorized exploration of state land under a mineral lease. ( )
- 06. Dredge Mining Act.** Title 47, Chapter 13, Idaho Code, and IDAPA 20.03.01, “Dredge and Placer Mining Operations in Idaho.” (3-16-04)
- 07. Financial Assurance.** Cash, corporate surety bond, collateral bond, or letter of credit as described in the Dredge Mining Act, the Mineral Leasing Act, or a mineral lease. Financial assurance as defined in the Mined Land Reclamation Act. ( )
- 08. Mine; Mine Panel.** All areas designated by the operator on the map or plan submitted pursuant to Section 47-703A, Idaho Code, or Section 47-1506, Idaho Code, or as an identifiable portion of a placer or dredge mine on the map submitted under Section 47-1317, Idaho Code. ( )
- 09. Mined Land Reclamation Act.** Title 47, Chapter 15, Idaho Code, and IDAPA 20.03.02, “Rules Governing Mined Land Reclamation.” ( )
- 10. Mineral Lease.** Lease executed by the Board and the mineral lessee pursuant to the Mineral Leasing Act. ( )
- 11. Mineral Lessee.** The lessee of a mineral lease. ( )
- 12. Mineral Leasing Act.** Title 47, Chapter 7, Idaho Code. (3-16-04)
- 13. Mining Reclamation Plan.** Any reclamation plan approved pursuant to the Mined Land Reclamation Act. ( )
- 14. Motorized Exploration.** Exploration which may appreciably disturb or damage the land or resources thereon. Motorized exploration includes, but is not limited to, drilling, trenching, dredging, or other techniques which employ the use of earth moving equipment, seismic operations using explosives, and includes sampling with a suction dredge having an intake diameter greater than two (2) inches when operated in a perennial stream. When operated in an intermittent stream, suction dredges shall be considered motorized exploration regardless of intake size. ( )
- 15. Operator.** Any person or entity authorized to conduct business in Idaho, partnership, joint venture, or public or governmental agency required to have any reclamation plan under the Mined Land Reclamation Act or the Mineral Leasing Act, or a permit under the Dredge Mining Act, whether individually or jointly through subsidiaries, agents, employees, or contractors. ( )
- 16. Permit.** Dredge or placer mining permit issued pursuant to the Dredge Mining Act. ( )
- 17. Reclamation Fund.** The interest-bearing dedicated fund authorized pursuant to the Reclamation Fund Act. ( )
- 18. Reclamation Fund Act.** Title 47, Chapter 18, Idaho Code, and IDAPA 20.03.03, “Rules Governing Administration of the Reclamation Fund.” ( )
- 011. -- 015. (RESERVED)**
- 016. REQUIRED PARTICIPANTS.** Any operator, with the exception of the mines and operators listed in Section 017 of these rules, shall be required to

provide alternative financial assurance through the Reclamation Fund to assure the reclamation of disturbed acres or affected lands. **Alternative** financial assurance pursuant to the Reclamation Fund Act is in lieu of **other types of financial assurance** as set forth in the **Mined Land Reclamation Act**, **the Mineral Leasing Act**, or the Dredge Mining Act. ( )

**017. INELIGIBLE MINES OR OPERATORS.**

The following types of **mines** and operators are not allowed to participate in the Reclamation Fund and **must file proof of other acceptable financial assurance as required by the Department.** ( )

**01. Disturbed Acres Limit.** A mine or mineral lease with un-reclaimed disturbed acres **in excess of the actual allowable disturbance** may not provide alternative financial assurance through the Reclamation Fund. Un-reclaimed disturbance is that which does not meet the final **financial assurance** release criteria in the Dredge Mining Act, the **Mined Land Reclamation Act** or a mineral lease. ( )

**02. Reclamation Cost Limit.** Operators with an estimated reclamation cost in excess of **the actual allowable reclamation cost**, regardless of **the disturbed** acres. ( )

**03. Phosphate Mines.** Operators **or mineral lessees** of phosphate mines. ( )

**04. Hardrock Mines.** Operators **or mineral lessees** of hardrock mines such as gold, silver, molybdenum, copper, lead, zinc, cobalt, and other precious metal mines. ( )

**05. Potential Heavy Metal Releases.** Operators of mines with a reasonable potential to release heavy metals or other substances harmful to human health or the environment, but not including substances such as fuels and other materials commonly used in excavation or construction. (3-16-04)

**06. Oil and Gas Conservation.** Oil and gas exploration and development under Title 47, Chapter 3, Idaho Code. ( )

**07. Oil and Gas Leasing.** Oil and gas leases and associated exploration and development under Title 47, Chapter 8, Idaho Code. ( )

**08. Geothermal.** Operators **or mineral lessees of geothermal wells** and development under Title 47, Chapter 16, Idaho Code. ( )

**09. Off Lease Exploration.** Motorized exploration on state lands that are not under a mineral lease or exploration location. (3-16-04)

**10. Violators.** **Mines** or operators in violation of the **Reclamation Fund Act**, Dredge Mining Act, **Mined Land Reclamation Act**, Mineral Leasing Act, or a mineral lease. ( )

**11. Reclamation Fund Forfeitures.** Operators, permittees or lessees who have not reimbursed the Reclamation Fund for a forfeiture from the Reclamation Fund due to their violations of the **Reclamation Fund Act**, Dredge Mining Act, **Mined Land Reclamation Act**, Mineral Leasing Act, or a mineral lease. ( )

**12. Other Forfeitures.** An operator who has forfeited **any financial assurance.** ( )

**13. Operators Providing Acceptable Financial Assurance.** An operator who provides proof of financial assurance accepted by the Department that is greater than or equal to the minimum dollar per acre for each acre of affected land at a mine. ( )

**018. ACREAGE AND RECLAMATION COST LIMITATIONS.**

**01. Actual Allowable Participation.** The Board will *establish by policy* the actual allowable disturbance, actual allowable reclamation cost, and the minimum dollar per acre of disturbance in order to provide financial assurance to opt out of participation in the Reclamation Fund. ( )



**02. Maximum Disturbance and Reclamation Cost.** *The maximum disturbance and maximum reclamation costs in these rules are maximums. The maximum allowable disturbance is eighty (80) acres; the maximum allowable reclamation cost is four hundred forty thousand dollars (\$440,000).* ( )

**03. Multiple Plans or Permits.** An operator who has multiple mining reclamation plans or permits *that* have a total disturbance in excess of the actual allowable disturbance, or with total reclamation costs in excess of the actual allowable reclamation cost, may participate in the Reclamation Fund with one (1) or more sites that together contain less than both of the Board-established actual allowable limits. ( )

**019. OPTIONAL PARTICIPATION.**

Operators who have one (1) or more **mines** or **mineral** leases that are ineligible to participate in the Reclamation Fund as set forth in Section 017 or 018 of these rules may choose to not participate in the Reclamation Fund with respect to all other **eligible mines** or **mineral** leases in their name. An operator who does not participate in the Reclamation Fund must secure **all mines** with **other types of financial assurance approved by the Department.** ( )

**020. FEDERAL AGENCY NON-ACCEPTANCE OF RECLAMATION FUND.**

If a federal agency will not accept an operator's participation in the Reclamation Fund as proof of reclamation security, the operator will be required to provide **the Department with proof of other types of financial assurance acceptable to the Department.** ( )

**021. -- 025. (RESERVED)**

**026. PAYMENT.**

**01. Board Approved Payment Schedule.** The Board will adopt a payment schedule *that* determines the annual Reclamation Fund payment for each **operator participating** in the Reclamation Fund. Any changes to the payment **schedule will** be approved by the Board. **Participating operators shall pay all required payments annually.** ( )

**02. Acreage Calculation.** The annual payment for each participant in the Reclamation Fund **will** be established based upon the number of disturbed **acres** at each **mine**. The acres used to calculate the annual payment **will** include the **total** current disturbed **acres of affected lands** and the acres planned to be disturbed or affected during the next twelve (12) months. The **total acreage calculation will** not be rounded when determining annual payments. ( )

**03. Annual Payments Non-Refundable.** Payments to the Reclamation Fund are non-refundable. Payments will be billed annually and, **if not timely paid, will accrue late fees and interest** as established by the Board. New participants will be assessed a pro-rated payment based on the Department's established billing cycle. ( )

**04. Supplemental Payments.** If an operator affects more acreage than the acreage secured through the Reclamation Fund for a current period, the Department may require supplemental Reclamation Fund payments. ( )

**05. Assignment.** When a **mineral** lease, **mining reclamation** plan, or permit is assigned, **all** financial assurance requirements must be assumed by the new operator. No Reclamation Fund payments will be refunded following an assignment. If the new operator is ineligible to participate in the Reclamation Fund, the new operator must provide **proof of other acceptable financial assurance** before the assignment **may** be approved. ( )

**06. Non-Payment Constitutes Lack of Bonding.** For **any** operator participating in the Reclamation Fund, non-payment of the annual **payment** shall be considered a failure to provide **financial assurance** as required by the Dredge Mining Act, the **Mined Land Reclamation** Act, Mineral Leasing Act, or a mineral lease. ( )

**027. -- 030. (RESERVED)**

**031. ENFORCEMENT AND FAILURE TO COMPLY.**

**01. Forfeiture.** Prior to withdrawing monies from the Reclamation Fund due to a violation of the

Dredge Mining Act, the **Mined Land Reclamation Act**, Mineral Leasing Act, or a mineral lease, the Department will comply with the *respective financial assurance forfeiture* procedures. ( )

**02. Penalties.** If an operator fails to provide financial assurance as required by these rules or has forfeited monies from the Reclamation Fund and has not repaid those monies, the Board shall be authorized to file liens against personal property and equipment of the operator to recover costs. The operator shall be liable for actual costs of **all unpaid annual payments, interest, and late payment charges, the actual** reclamation costs, and administrative costs incurred by the Department in reclaiming the disturbed or affected lands. Authorization to obtain a lien under **these rules** and Section 47-1804, Idaho Code, shall be in addition to, not in lieu of, any other legal remedy available to the Board and the Department pursuant to the Dredge Mining Act, **Mined Land Reclamation Act**, Mineral Leasing Act, or a mineral lease. ( )

## IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

DOCKET NO. 26-0000-1900

### NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-4223, 67-4238, 67-7001, 67-7002, 67-7008A, 67-7103, 67-7122, 67-7125, and 67-7132, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 26, rules of the Department of Parks and Recreation:

#### **IDAPA 26**

- IDAPA 26.01.03, *Rules Governing Recreational Registration Program Vendors*
- IDAPA 26.01.21, *Rules Governing Leasing Practices and Procedures for Recreational Residences Within Heyburn State Park, except Sections 030 and 170*
- IDAPA 26.01.22, *Rules Governing Cooperating Associations*
- IDAPA 26.01.24, *Rules Governing the Administration of the Sawtooth National Recreation Area Special License Plate Funds*
- IDAPA 26.01.30, *Idaho Safe Boating Rules*
- IDAPA 26.01.31, *Rules Governing the Administration of the Idaho Department of Parks and Recreation State and Federal Grant Funds*
- IDAPA 26.01.34, *Idaho Protection Against Invasive Species Sticker Rules*
- IDAPA 26.01.37, *Rules Governing Test Procedures and Instruments for Noise Abatement of Off Highway Vehicles*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of these proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 4987–5027**.

**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.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Anna Canning (208) 514-2252.

Dated this 5th day of August, 2019.

Anna Borchers Canning, AICP  
Management Services Administrator  
Idaho Department of Parks and Recreation  
5657 Warm Springs Avenue, Boise, ID  
P.O. Box 83720, Boise, ID 83720-0065  
(208) 514-2252

THE FOLLOWING NOTICE PUBLISHED WITH  
THE TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 67-4223, 67-4238, 67-7001, 67-7002, 67-7008A, 67-7103, 67-7122, 67-7125, and 67-7132, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, 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 proposed rulemaking:

This temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 26, rules of the Department of Parks and Recreation:

**IDAPA 26**

- IDAPA 26.01.03, *Rules Governing Recreational Registration Program Vendors*
- IDAPA 26.01.21, *Rules Governing Leasing Practices and Procedures for Recreational Residences Within Heyburn State Park, exclusive of Sections 030 and 170*
- IDAPA 26.01.22, *Rules Governing Cooperating Associations*
- IDAPA 26.01.24, *Rules Governing the Administration of the Sawtooth National Recreation Area Special License Plate Funds*
- IDAPA 26.01.30, *Idaho Safe Boating Rules*
- IDAPA 26.01.31, *Rules Governing the Administration of the Idaho Department of Parks and Recreation State and Federal Grant Funds*
- IDAPA 26.01.34, *Idaho Protection Against Invasive Species Sticker Rules*
- IDAPA 26.01.37, *Rules Governing Test Procedures and Instruments for Noise Abatement of Off Highway Vehicles*

**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. Without the rules in place we would be unable to protect public health through the safe boating funds we received from boat registrations and the Coast Guard (close to \$3.1 million) and through noise abatement of off-highway vehicles. We would also not be able to administer important funding to other agencies through our recreation programs, state and federal grant programs (totaling over \$8.2 million) and the invasive species sticker program (\$1.4 million). Finally, we would be unable to administer our leases with cabin owners in Heyburn State Park (\$450,000).

**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 and proposed rules attached hereto.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Anna Canning (208) 514-2252.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 26-0000-1900**

## IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

### 26.01.03 – RULES GOVERNING RECREATIONAL REGISTRATION PROGRAM VENDORS

#### 000. LEGAL AUTHORITY.

The Parks and Recreation Board, State of Idaho, acting pursuant to the Administrative Procedures Act, Title 67, Chapter 52, Idaho Code, and its powers and responsibilities under the Parks and Recreation Act, Title 67, Chapter 42, Idaho Code, adopted the following rules. These rules are promulgated under the Department's authority to administer the following Acts: Recreational Activities, Sections 67-7101 through 67-7133, Idaho Code, and Idaho Safe Boating Act, Section 67-7001 et seq., Idaho Code. (4-11-15)

#### 001. TITLE AND SCOPE.

**01. Title.** The title of this chapter are cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.03, "Rules Governing Recreational Registration Program Vendors." (4-11-15)

**02. Scope.** These rules are intended to set forth the procedures for vendors to apply to sell Recreational Registration Program products including, but not limited to, certificates of number, permits, user certificates, and stickers for the Idaho Department of Parks and Recreation and to set forth procedures necessary to effect consistent, effective, and efficient operation and management of the recreational registration program. (4-11-15)

#### 002. -- 009. (RESERVED)

#### 010. DEFINITION OF TERMS.

**01. Application.** A form prescribed and furnished to prospective vendors by the Department. (7-1-93)

**02. Department or Central Office.** The Idaho Department of Parks and Recreation. (7-1-93)

**03. Memorandum of Agreement.** A contract between the Department and the Vendor. (7-1-93)

**04. Products.** Recreational Registration Program products include, but not be limited to, certificates of number, permits, user certificates, and stickers. (4-11-15)

**05. Recreational Registration Program.** A unit within Idaho Department of Parks and Recreation responsible for the administration and oversight of the vendor program, the sale of program products, and the management and distribution of the resulting funds. (4-11-15)

**06. Vendor.** Any business authorized to sell products. (4-11-15)

**07. Vendor Policy Manual.** A policy manual setting forth guidelines for selling products. (4-11-15)

#### 011. -- 049. (RESERVED)

#### 050. DEPARTMENT RESPONSIBILITIES.

The Department has the responsibility to provide, but is not limited to providing the following: (7-1-93)

**01. Reporting Procedures.** Effective and efficient reporting procedures. (7-1-93)

**02. Training.** Training and assistance for vendor problem areas. (7-1-93)

**03. Supplies.** Maintenance of adequate supplies provided on a timely basis. (7-1-93)

**04. Internal Control.** Maintenance of adequate internal controls to ensure system integrity. (7-1-93)

#### 051. -- 099. (RESERVED)

#### 100. CRITERIA FOR APPLYING FOR VENDORSHIP.

A prospective vendor may apply to sell one (1) or more types of products. A prospective vendor may make a request to the Department at any time by phone, mail, or in person to receive Vendor Application forms and a copy of the applicable vendor Memorandum of Agreement. The application and the signed Memorandum of Agreement must be

completed in full and returned to the Department for approval. If approved by the Department, the vendorship will be effective upon issuance of the signed Memorandum of Agreement by the Licensing Section, Department of Parks and Recreation. (4-11-15)

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

**150. MINIMUM QUALIFICATIONS OF VENDORS.**

**01. Established Business.** The prospective vendor's business must be known as an established business in the general area they will serve and they may need to provide additional references to establish, to the department's satisfaction, the likelihood of an ongoing business operation. No vendor will be given an exclusive territory or area in which to sell products. (4-11-15)

**02. Taxes and Fees.** The applicant must not be delinquent in payment of any taxes or fees to the state of Idaho or any subdivision thereof. (7-1-93)

**03. Operating Hours.** The location of the business and hours of operation must be convenient to the intended customers. (4-11-15)

**04. Service.** Every effort will be made by the applicant to provide satisfactory service to both the Department and its customers in properly collecting fees, safeguarding supplies and reporting in a timely, accurate manner. (4-11-15)

**05. Bonding.** When applicable, a vendor must be bondable to the extent that his gross fees collected will exceed one thousand dollars (\$1,000); such bond to be provided by the Department. (7-1-93)

**06. Nondiscrimination.** Vendors may not discriminate against any Department customers on the basis of race, religion, or nationality or gender. (4-11-15)

**151. -- 199. (RESERVED)**

**200. NOTIFICATIONS AND TIME LIMITS.**

**01. Action on Application.** The Department must provide written notification within thirty (30) days following receipt of a vendor application and contract as to the approval or denial of same. Delivery at the central office of the Department constitutes receipt of the documents. This decision for approval or denial is based on the rules contained herein and or such other procedures as are considered necessary by the Department. (7-1-93)

**02. Notification.** If approved, a fully executed copy of the vendor contract will be returned to the vendor. If denied, notification will outline reasons for such denial. (7-1-93)

**201. -- 249. (RESERVED)**

**250. VENDOR SUSPENSION AND TERMINATION.**

**01. Suspension.** A vendor may be suspended from selling products for up to one (1) year for: (4-11-15)

**a.** Failure to file a sales report on or before the date required by law, even if there were no products sold. (4-11-15)

**b.** Filing of inaccurate or incorrect reports. (7-1-93)

**c.** Failure to issue products in accordance with the provisions of Idaho Code, the Vendor Memorandum of Agreement and procedures, policies and instructions of the Department. (4-11-15)

**02. Termination.** A vendor may be terminated permanently for: (7-1-93)

- a. Being suspended twice in any three (3) year period. (7-1-93)
- b. Breach of the vendor Contract. (7-1-93)
- c. Remitting fees with a nonsufficient funds check which is not due to bank error. (7-1-93)
- d. A volume of ten (10) or less sales, for a one (1) year period. (4-11-15)
- e. Refusal to remit fees collected or return voided or unused product. (4-11-15)
- f. Use of unacceptable or unbusiness-like conduct toward a Department customer. (4-11-15)

**251. -- 299. (RESERVED)**

**300. VENDOR FEES.**

In order to establish consistency in vendor fees, vendors are strongly encouraged to charge the maximum allowable vendor fee as established under appropriate statutes as outlined in Section 000 of this chapter, and to notify the Department of vendor's intent to reduce the fee. The fee must remain consistent for a full season or program year, and changes must be approved by the Department in advance. (4-11-15)

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

**350. DEPARTMENT RESERVES EXCLUSIVE RIGHT TO RENEW CERTIFICATES OF NUMBER BY MAIL.**

The Department reserves the exclusive right to mail out requests for renewal on all certificates of number which it is authorized to administer. This does not preclude vendors from making arrangements with Department customers who may be physically removed from their place of residence at a time when numbering becomes necessary. To perform such numbering as a service to that patron, vendor should follow the procedures as outlined in the Vendor Policy Manual. (4-11-15)

**351. -- 399. (RESERVED)**

**400. VENDORS TO OBTAIN EVIDENCE OF OWNERSHIP PRIOR TO ISSUING CERTIFICATES OF NUMBER.**

Vendors must take reasonable care that adequate evidence of ownership is presented prior to numbering. Prior certificate of number is sufficient evidence. (4-11-15)

**401. -- 999. (RESERVED)**



**26.01.21 – RULES GOVERNING LEASING PRACTICES AND PROCEDURES  
FOR RECREATIONAL RESIDENCES WITHIN HEYBURN STATE PARK**

**000. LEGAL AUTHORITY.**

These rules are promulgated by the Idaho Park and Recreation Board pursuant to Idaho Code, Section 67-4223 and are intended to further define and make specific Idaho Code, Section 67-4223 as it pertains to the administration of recreational residence site leases within Heyburn State Park. (7-1-99)

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.21, “Rules Governing Leasing Practices and Procedures for Recreational Residences Within Heyburn State Park.” (7-1-99)

**02. Scope.** This chapter establishes rules to effectuate the purposes of and aid in the administration of recreational residence site leases within Heyburn State Park. (7-1-99)

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

As used in this chapter: (7-1-99)

**01. Board.** The Idaho Park and Recreation Board, a bipartisan, six (6) member board, appointed by the Governor. (7-1-99)

**02. Department.** The Idaho Department of Parks and Recreation. (7-1-99)

**03. Director.** The director and chief administrator of the Department, or the designee of the director. (7-1-99)

**04. Lease.** The contract defining the rights and duties of the parties regarding a recreational residence site within Heyburn State Park. (7-1-99)

**05. Lease Payment.** The annual fee paid by a Lessee to the Lessor. (7-1-99)

**06. Lessee.** A person who holds a valid lease for a recreational residence site within Heyburn State Park. (7-1-99)

**07. Lessor.** The Board or it’s authorized representative. (7-1-99)

**08. Recreational Residence Site.** A particularly described parcel of real property, located within Heyburn State Park and owned by the Department, which has been made available to private individuals through a lease for the purpose of constructing and maintaining a recreational residence. (7-1-99)

**011. -- 049. (RESERVED)**

**050. LEASE TERM.**

**01. Cottage Site Leases.** Leases are issued for a term not to exceed ten (10) years commencing upon January 1 of the year the lease is entered into and ending upon December 31 of the final year of the term. (4-11-15)

**02. Float Home Moorage Site Leases.** Lease of a float home moorage site may be issued for a period of up to thirty (30) years commencing upon January 1 of the year the lease is entered into and ending upon December 31 of the final year of the term. (4-11-15)

**051. -- 069. (RESERVED)**

**070. RENEWAL.**

No lease may include any right of renewal, whether expressed or implied. (7-1-99)

**071. -- 089. (RESERVED)**

**090. LEASE RATES.**

**01. Base Rates.** Base lease rates are set so as to provide the Department a reasonable return based upon the fair market value of the lease site. (7-1-99)

**02. Lease Rate Adjustments.** The lease provides for annual adjustments. (7-1-99)

**091. -- 109. (RESERVED)**

**110. OCCUPANCY.**

**01. Recreational Occupancy.** With the exception of those leases that have been grandfathered for full-time occupancy, the leased premises may be used solely for recreational residential purposes. Use may be intermittent or seasonal but in no event may the residence be occupied in excess of six (6) months in any twelve (12) consecutive months or more than one hundred eighty five (185) days in any three hundred sixty five (365) day cycle. (7-1-99)

**02. Full-Time Occupancy.** Leases that have been grandfathered for full-time occupancy revert to recreational residential purposes when they are transferred, whether by gift, sale, or devise. (7-1-99)

**111. -- 129. (RESERVED)**

**130. USE.**

**01. Commercial Use Prohibited.** Leased premises may not be used for commercial purposes. This includes, but is not limited to, short- or long-term rental for profit, and the conduct of any enterprise of a commercial nature. (7-1-99)

**02. Public Use.** Heyburn State Park is a public facility that is managed for the use and benefit of the public. Recreational residence leases reserve to the Department and its agents the right of ingress and egress across lease premises. Recreational residence leases preserve the right of the general public to cross the leased premises for any lawful purpose. (7-1-99)

**131. -- 999. (RESERVED)**

## 26.01.22 – RULES GOVERNING COOPERATING ASSOCIATIONS

### 000. LEGAL AUTHORITY.

These rules, promulgated by the Idaho Parks and Recreation Board pursuant to Section 67-5201, et seq., Idaho Code, and Section 67-4223, Idaho Code, are intended to further define and make specific Section 67-4238, Idaho Code, which deals with establishment of cooperating associations. (7-1-93)

### 001. -- 009. (RESERVED)

### 010. DEFINITIONS.

When used in these rules, the terms set forth below have the following definitions: (7-1-93)

**01. Agreement.** A written document between the association and the Department which defines a specific facility, terms, and conditions of operation to which both parties agree. (7-1-93)

**02. Cooperating Association.** Any private, nonprofit organization that enters into an agreement with the Department to aid the interpretive, educational, and related visitor service activities of a state park facility in which the cooperating association is authorized to function. (7-1-93)

**03. Department.** The Idaho Department of Parks and Recreation. (7-1-93)

**04. Director.** The director of the Idaho Department of Parks and Recreation or his designee. (7-1-93)

**05. State Park Facility.** A structure or area within an Idaho state park, the entire state park, state park region or state park system. (7-1-93)

### 011. -- 049. (RESERVED)

### 050. PURPOSE OF COOPERATING ASSOCIATIONS.

**01. Generally.** The purpose of a cooperating association is to assist the Department at a local, regional, or statewide level to enhance the interpretive, educational, and/or related visitor services activities. (7-1-93)

**02. Authorized Organizations and Activities.** The Department may enter into agreements with private nonprofit scientific, historic or educational organizations for the purpose of providing interpretive services to state park facilities in Idaho. Said associations may provide such services as educational or interpretive material for sale; acquire display materials and equipment for exhibits; provide support for park interpretive programs or environmental education programs; support park facility libraries; provide support for other interpretive projects related to a specific park facility; provide fund raising activities within the park facility; or other specifically approved activities. All proposed services or activities must receive approval of the director prior to the activity taking place. (7-1-93)

### 051. -- 099. (RESERVED)

### 100. CRITERIA FOR COOPERATING ASSOCIATIONS.

**01. Number Limited.** No more than one (1) association may be created on behalf of any park. (7-1-93)

**02. Requirements.** Associations are encouraged to incorporate under the laws of the state of Idaho and to attain nonprofit, tax-exempt status under provisions of Section 501(c)3 of the federal Internal Revenue Service tax code, but it is neither a requirement nor a responsibility of the Department. Requirements of an association are that they have, as a minimum, a chairman, vice-chairman, secretary and treasurer, who may also serve on the board of directors of the association. Each association determines the number of association board members. Summary minutes of official association meetings must be forwarded to the Department within thirty (30) days after the meeting. A department representative, designated by the director, is an ex-officio member of the board. Association membership dues may be established by the association. (7-1-93)

### 101. -- 149. (RESERVED)

### 150. DEPARTMENT ASSISTANCE TO ASSOCIATIONS.

If the association desires, the Department, in its discretion, may provide assistance to the association on an incidental basis. The Department may provide space at a state park facility for the interpretive materials provided by the association. (7-1-93)

**151. -- 199. (RESERVED)**

**200. AGREEMENT REQUIRED/PRIOR APPROVAL OF ACTIVITIES REQUIRED.**

An agreement must be signed between officials of the association and the Department prior to an association undertaking activities enumerated under Subsection 050.02 of this chapter. Agreements signed by officials of the association and the Department are binding on successor officers of the association and the Department. Association activities at a park may not conflict with park resources or objectives, must comply with all applicable statutes, rules and regulations, and are subject to prior approval of the director. Decisions of the director are deemed to be a final decision. (7-1-93)

**201. -- 249. (RESERVED)**

**250. DISPOSITION OF ASSETS AND PROFITS.**

**01. Profits to Benefit Park Facilities.** Any profits received from the sale of publications or other materials provided by an association pursuant to an agreement entered into under these rules must be used by the association for interpretive or educational purposes to benefit the state park facility for which the association provides services. (7-1-93)

**02. Dissolution of Association.** In the event that the association disbands, dissolves, or the agreement between the association and the Department is terminated for any reason whatsoever, all profits that have accrued to the association as a result of the association/Department agreement must be donated to the Department. The Department will use such assets or profits for interpretive and educational purposes at the designated state park facility. (7-1-93)

**251. -- 299. (RESERVED)**

**300. ACCOUNTABILITY.**

**01. Annual Statements Required.** An annual financial statement of the association must be prepared and presented to the department director by May 1 of each year. (7-1-93)

**02. Department Not Liable.** In no event will the Department be held liable for any debts incurred by the association. (7-1-93)

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

**350. TERMINATION.**

An agreement between an association and the Department may be terminated upon thirty (30) days written notice by either party to the other at the address for "Notices" listed in the agreement. (7-1-93)

**351. -- 999. (RESERVED)**

**26.01.24 – RULES GOVERNING THE ADMINISTRATION OF THE SAWTOOTH NATIONAL  
RECREATION AREA SPECIAL LICENSE PLATE FUNDS**

**000. LEGAL AUTHORITY.**

The Idaho Park and Recreation Board is authorized under Section 67-4223(a), Idaho Code, to adopt, amend, or rescind rules as may be necessary for proper administration of the Department and its programs. (4-5-00)

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.24, “Rules Governing the Administration of the Sawtooth National Recreation Area Special License Plate Funds.” (4-5-00)

**02. Scope.** This chapter establishes procedures for the administration of the Sawtooth National Recreation Area special plate funds, received pursuant to Section 49-419A, Idaho Code, including requirements for project application, eligibility, review, award and management. (4-5-00)

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Applicant.** A public entity, user group, organization, or individual that identifies a need for a project and applies for a sawtooth national recreation area special license plate fund grant through the Department. (4-5-00)

**02. Board.** The Idaho Park and Recreation Board, a bipartisan, six (6) member board, appointed by the governor. (4-5-00)

**03. Department.** The Idaho Department of Parks and Recreation. (4-5-00)

**04. Director.** The director and chief administrator of the Department or the designee of the director. (4-5-00)

**05. Park and Recreation Fund.** That fund created in Section 67-4225, Idaho Code. (4-5-00)

**06. Project.** Any effort in compliance with applicable rules and policies governing the use of Sawtooth National Recreation Area special license plate funds. (4-5-00)

**07. Sawtooth National Recreation Area (SNRA) Special License Plate Funds.** Those funds derived from the sale and purchase of Sawtooth National Recreation Area special license plates pursuant to Section 49-419A, Idaho Code. (4-5-00)

**011. -- 049. (RESERVED)**

**050. ELIGIBLE APPLICANTS FOR SAWTOOTH NATIONAL RECREATION AREA SPECIAL LICENSE PLATE FUNDS.**

Any public entity or private group, organization or individual which provides evidence of its ability to implement or operate and maintain the project following the completion of the project. (4-5-00)

**051. -- 099. (RESERVED)**

**100. ELIGIBLE PROJECTS.**

**01. Determination of Eligibility.** The director determines eligibility of projects in accordance with Section 49-419A, Idaho Code, and this chapter. (4-5-00)

**02. Eligible Projects.** Eligible projects are limited to planning, design, development, construction, repair and maintenance of: (4-5-00)

**a.** Motorized and non-motorized trails; (4-5-00)

**b.** Camping facilities; (4-5-00)

- c. Bridges located on a motorized or non-motorized trail; (4-5-00)
- d. Restrooms used primarily by recreationists; (4-5-00)
- e. Parking areas used primarily to access outdoor recreation facilities; (4-5-00)
- f. Boat launch facilities; (4-5-00)
- g. Boat docks; (4-5-00)
- h. Interpretive centers, facilities and services for recreationists including informational and directional signs; (4-5-00)
- i. Emergency medical facilities and services for recreationists; and (4-5-00)
- j. Unpaved roads leading to recreation areas. (4-5-00)

**03. Location of Eligible Projects.** All eligible projects must be located within the SNRA and must be open to the public regardless of race, color, religion, national origin, gender, age or disability. (4-5-00)

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

**150. APPLICATION PROCEDURES.**

To be considered for a grant, an applicant must file with the Department a memorandum of understanding in a form prescribed by the director and bearing original signatures no later than January 1 of each year. (4-5-00)

**151. -- 199. (RESERVED)**

**200. DISBURSEMENT OF FUNDS.**

The Department will remit to the applicant at least eighty-five percent (85%) of all moneys collected pursuant to Section 49-419A, Idaho Code, not later than January 25, April 25, July 25 and October 25 of each year. The Department retains up to fifteen percent (15%) to cover costs related to the administration of this chapter. (4-5-00)

**201. -- 249. (RESERVED)**

**250. EXPENDITURE OF FUNDS.**

The applicant must expend all funds received pursuant to this chapter within two (2) years of receipt. (4-5-00)

**251. -- 299. (RESERVED)**

**300. RETURN OF FUNDS.**

Any funds required by these rules to be returned from the applicant to the Department will be credited to the park and recreation account and disbursed on or before the dates provided in Section 150 of this chapter. (4-5-00)

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

**350. DOCUMENTATION.**

**01. Allowable Costs.** Applicable Office of Management and Budget (OMB) cost principles must be followed in determining reasonable and allowable costs. (4-5-00)

**02. Documentation and System of Internal Controls.** The applicant must maintain a system of internal controls in order to identify the source and disbursement of funds provided for all project costs by project. Accounting records must be supported by source documentation such as vouchers, canceled checks, invoices, payroll, time and attendance records, contract and sub-grant award documents, and other required billing forms. (4-5-00)

**03. Record Retention.** The applicant must retain all financial information referenced in these rules

regarding a project for a time period of three (3) years from the date of the receipt of funds, or until the satisfactory completion of any litigation or audit concerning the project, whichever date is later. (4-5-00)

**04. Audit Authority.** The Department has the right of access to any pertinent books, documents, papers, or other records of applicant which are pertinent to these rules, in order to make audits, examinations, excerpts, and transcripts. An audit may result in the disallowance of costs incurred by the applicant and the establishment of a debt (account receivable) due the Department. (4-5-00)

**351. -- 399. (RESERVED)**

**400. MAINTENANCE STANDARDS.**

The applicant must ensure facilities developed, constructed or repaired with SNRA special license plate funds are maintained and operated in a condition equivalent to that existing when it was funded, normal wear and tear excepted. Maintenance standards must be adopted by the applicant during the application phase of the grant. (4-5-00)

**401. -- 449. (RESERVED)**

**450. PROJECT CONVERSIONS.**

No project funded by SNRA special license plate funds may, without prior approval of the Department, be converted to uses other than for the authorized purpose of the original grant. The Department must approve a conversion only when the SNRA special license plate funds expended on the project can be returned to the Department, or the applicant can provide an immediate substitution of other projects of at least equal current fair market value and of reasonable equivalent usefulness and location. (4-5-00)

**451. -- 499. (RESERVED)**

**500. PURCHASE AND BIDDING REQUIREMENTS.**

All local, state and federal laws pertaining to the expenditure of SNRA special license plate funds must be followed by the applicant. (4-5-00)

**501. -- 999. (RESERVED)**

## 26.01.30 – IDAHO SAFE BOATING RULES

### 000. LEGAL AUTHORITY.

The Idaho Park and Recreation Board is authorized under Section 67-7002, Idaho Code to promulgate rules to effectuate the purposes of and aid in the administration of the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code. (1-1-94)

### 001. TITLE AND SCOPE.

**01. Title.** The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.30, "Idaho Safe Boating Rules." (1-1-94)

**02. Scope.** This chapter establishes rules to effectuate the purposes of and aid in the administration and enforcement of the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code. (1-1-94)

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

As used in this chapter: (1-1-94)

**01. Duly Constituted Water Ski School.** A profit-making business that files Idaho income tax returns in accordance with the Idaho Income Tax Act (Title 63, Chapter 30, Idaho Code) substantiating that instruction of water ski students for the making of a profit is or was being performed by the instructor. (1-1-94)

**02. Lifeboat.** A vessel that: (7-1-93)

**a.** Is owned by the owner of a vessel for which a valid certificate of number has been issued; (7-1-93)

**b.** Is kept with the numbered vessel during normal operation of the numbered vessel; and (7-1-93)

**c.** Is used solely in life threatening situations. (7-1-93)

**03. Motorboat.** Any vessel propelled by machinery, which is powered by an energy source other than human effort, whether or not such machinery is the principal source of propulsion. (7-1-93)

**04. Sailboat.** Any vessel equipped with mast(s) and sail(s), dependent upon the wind to propel the vessel in the normal course of operation of the vessel. (1-1-94)

**05. Sailboard.** A surfboard type sailboat with no freeboard and using a triangular sail on a swivel mounted mast not secured to a hull by guys or stays. (7-1-93)

**06. Tender.** A vessel equipped with propulsion machinery of less than ten (10) horsepower that: (7-1-93)

**a.** Is owned by the owner of a vessel for which a valid certificate of number has been issued; (7-1-93)

**b.** Displays the number of that numbered vessel followed by the suffix "1"; and (7-1-93)

**c.** Is used for direct transportation between the numbered vessel and the shore and for no other purpose. (7-1-93)

**07. Watercraft.** Those devices designed as a means of transportation on water. The following devices are not considered watercraft: (7-1-93)

**a.** Diver's aids operated and designed primarily to propel a diver below the surface of the water; and (7-1-93)

**b.** Non-motorized devices not designed as a means of transportation on water, such as inflatable air mattresses, single inner tubes, and beach and water toys. (3-23-98)

**c.** Float houses as defined in Section 67-7003(8), Idaho Code. (3-23-98)

**08. Whistle or Horn.** Any sound producing appliance capable of producing the prescribed blasts and which complies with the specifications of 33 U.S.C. Section 2001 et seq. and 33 CFR Section 86.01 et seq. (1-1-94)



**09. Other Definitions.** Other definitions set forth in the Idaho Safe Boating Act (Title 67, Chapter 70, Idaho Code) are incorporated herein by reference. (7-1-93)

**011. -- 049. (RESERVED)**

**050. PERSONAL FLOTATION DEVICES (PFD'S).**

**01. Personal Flotation Devices Required.** Except seaplanes, sailboards, and as provided in Subsections 050.03 and 050.04 of this chapter, no person may operate or permit to be operated any vessel on the waters of this state without carrying on board personal flotation devices (Type I life preservers, Type II buoyant vests, Type III special purpose marine buoyant devices, Type IV buoyant cushions or ring life buoys, or Type V restricted use devices) as follows: (7-1-93)

**a.** Recreational vessels (used for non-commercial use) less than sixteen (16) feet in length, and canoes and kayaks of any length, must have one (1) type I, II, or III wearable personal flotation devices of a suitable size for each person on board. (5-1-95)

**b.** Recreational vessels sixteen (16) feet in length and over, except as stated in Subsection 050.01.a. of this chapter, must have one (1) type I, II, or III wearable personal flotation device of a suitable size for each person on board and, in addition, one (1) type IV throwable device. (1-1-94)

**c.** Commercial vessels less than forty (40) feet in length not carrying passengers for hire must have at least one (1) Type I, II, or III wearable personal flotation device of a suitable size for each person on board. (1-1-94)

**d.** Commercial vessels carrying passengers for hire and commercial vessels forty (40) feet in length or longer not carrying passengers for hire must have at least one Type I wearable personal flotation device of a suitable size for each person on board. (1-1-94)

**e.** Commercial vessels twenty-six (26) feet in length or longer must have at least one (1) Type IV throwable ring life buoy in addition to other requirements. (1-1-94)

**f.** Children fourteen (14) years of age and younger, onboard vessels nineteen (19) feet or less, must wear an approved flotation device when the vessel is underway. (3-15-02)

**02. Location and Condition.** All personal flotation devices required by Section 050 of this chapter must be readily accessible to persons on board and be of good and serviceable condition. When aboard a personal watercraft (Jet Ski, Wave Runner, etc.) or being towed by a boat (water ski, wake board, knee board, tube, etc.), an approved flotation device must be worn to be considered readily accessible. All such devices must be approved by the U.S. Coast Guard, and must be marked in accordance with U.S. Coast Guard standards. All such devices must comply with the construction and design standards set forth by 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and applicable federal regulations. (3-30-01)

**03. Alternative PFD Requirement.** A Type V personal flotation device may be carried in lieu of any required personal flotation device if U.S. Coast Guard approved for the activity engaged in. (7-1-93)

**04. Exemptions.** (7-1-99)

**a.** Racing shells, rowing sculls and racing kayaks are exempt from the requirements of Section 050 of this chapter provided they are manually propelled, recognized by a national or international racing association and designed solely for competitive racing. (7-1-99)

**b.** Float tubes are exempt from the requirements of Section 050 of this chapter while being operated on lakes and reservoirs of this state of less than two hundred (200) surface acres in size at natural or ordinary high water. (7-1-99)

**051. -- 074. (RESERVED)**

**075. FIRE EXTINGUISHERS.**

**01. Fire Extinguishers Required.** Except seaplanes and those motorboats less than twenty-six (26) feet in length, propelled by outboard motors, of open construction that will not permit the entrapment of explosive or flammable gases or vapors, and not carrying passengers for hire, no person may operate or permit to be operated any motorboat on the waters of this state unless it carries on board and have readily accessible at least the minimum number of serviceable U.S. Coast Guard approved fire extinguishers as set forth below. (7-1-93)

**02. Type and Size -- Table.** Extinguishers approved for use on motorboats are hand portable of either B-I or B-II classification. "B" type is for gasoline, oil and grease fires. "I" and "II" denotes size as follows:

Classification	Foam Dioxide	Carbon Chemical	Dry Freon	Halon/
B-I	1.25 gals.	4 lbs.	2 lbs.	2.5 lbs.
B-II	2.50 gals.	15 lbs.	10 lbs.	

(1-1-94)

**03. Inspections.** Dry chemical fire extinguishers without gauges or indicating devices must be inspected every six (6) months. If the gross weight of a carbon dioxide (CO<sub>2</sub>) fire extinguisher is reduced by more than ten percent (10%) of the net weight, the extinguisher is not acceptable and must be recharged. (1-1-94)

**04. Specific Requirements.** Except as provided in Subsection 075.01 of this chapter, the requirements for fire extinguishers by length of motorboat are as follows: (7-1-93)

- a. Less than twenty-six (26) feet in length: At least one (1) B-I fire extinguisher is required. (7-1-93)
- b. Twenty-six (26) feet to less than forty (40) feet in length: At least two (2) B-I fire extinguishers are required. (7-1-93)
- c. Forty (40) feet to not more than sixty-five (65) feet in length: At least three (3) B-I fire extinguishers are required. (7-1-93)
- d. Over sixty-five (65) feet in length: Federal requirements apply as stated in 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and 46 CFR Section 25.30-1 et seq. (1-1-94)

**05. Alternative Fire Extinguisher Requirement.** One (1) B-II fire extinguisher may be substituted for two (2) B-I fire extinguishers. (7-1-93)

**06. Fixed Systems.** When a fixed fire extinguishing system is installed in machinery space(s), one (1) less B-I fire extinguisher is required. (7-1-93)

**076. -- 099. (RESERVED)**

**100. LIGHTS AND SHAPES.**

**01. Lights Required.** No person may operate or permit the operation of any vessel on the waters of this state between sunset and sunrise or in other times of restricted visibility unless the vessel is equipped with and displays the lights herein specified, and during such time no other lights which may be mistaken for those prescribed must be exhibited. (1-1-94)

**02. Motorized Vessels.** A motorboat less than sixty-five and six-tenths (65.6) feet in length must exhibit navigation lights as follows: (7-1-93)

- a. A white light placed over the fore and aft centerline of the vessel showing an unbroken light over

an arc of the horizon of two hundred twenty-five (225) degrees (twenty (20) points) and so fixed as to show the light from right ahead to twenty-two and five-tenths (22.5) degrees (two (2) points) abaft (toward the stern from) the beam on either side of the vessel. (1-1-94)

**b.** A white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon one hundred thirty-five (135) degrees (twelve (12) points) and so fixed as to show the light sixty-seven and five-tenths (67.5) degrees (six (6) points) from right aft on each side of the vessel. (7-1-93)

**c.** On the starboard side a green light and on the port side a red light each showing an unbroken light over an arc of the horizon of one hundred twelve and five-tenths (112.5) degrees (ten (10) points) and so fixed as to show the light from right ahead to twenty-two and five-tenths (22.5) degrees (two (2) points) abaft (toward the stern from) the beam on its respective side. These sidelights may be combined in one (1) lantern carried on the fore and aft centerline of the vessel. (1-1-94)

**d.** A motorboat less than thirty-nine and four-tenths (39.4) feet in length may exhibit a white light aft visible all around the horizon in lieu of the white lights prescribed in Subsections 100.02.a. and 100.02.b. of this chapter. (7-1-93)

**03. Non-Motorized Vessels.** A sailboat, under sail alone, and a vessel under oars or paddles, must exhibit navigation lights as follows: (1-1-94)

**a.** On the starboard side a green light and on the port side a red light each showing an unbroken light over an arc of the horizon of one hundred twelve and five-tenths (112.5) degrees (ten (10) points) and so fixed as to show the light from right ahead to twenty-two and five-tenths (22.5) degrees (two (2) points) abaft (toward the stern from) the beam on its respective side. These sidelights may be combined in one (1) lantern carried on the fore and aft centerline of the vessel. (1-1-94)

**b.** A white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon one hundred thirty-five (135) degrees (twelve (12) points) and so fixed as to show the light sixty-seven and five-tenths (67.5) degrees (six (6) points) from right aft on each side of the vessel. (7-1-93)

**c.** A sailboat of less than twenty-three (23) feet in length or a vessel under oars or paddles must, if practicable, exhibit the lights prescribed in Subsections 100.03.a. and 100.03.b. of this chapter, but if it does not, it must have ready at hand an electric torch or lighted lantern showing a white light that must be exhibited in sufficient time to prevent collision. (7-1-93)

**04. Anchorage.** All vessels must display a white light visible all around the horizon when anchored on the waters of this state, unless anchored in a designated mooring area. (1-1-94)

**05. Seaplanes.** Where it is impracticable for a seaplane to exhibit lights of the characteristics or in the positions prescribed in Section 100 of this chapter, it must exhibit lights as similar in characteristics and position as is possible. (1-1-94)

**06. Sailboats.** Between sunrise and sunset, a vessel proceeding under sail when also being propelled by machinery must exhibit forward where it can best be seen a conical shape, apex downward. A vessel of less than thirty-nine and four-tenths (39.4) feet in length is not required to exhibit this shape, but may do so. (7-1-93)

**07. Visibility.** Every white light prescribed by Section 100 of this chapter must be of such character as to be visible at a distance of at least two (2) miles. Every other colored light must be fitted with inboard screens of sufficient height so set as to prevent these lights from being seen across the bow and must be of such character as to be visible at a distance of at least one (1) mile. The word "visible" in Section 100 of this chapter means visible on a dark night with clear atmosphere. (7-1-93)

**08. Alternative Lights and Shapes.** In lieu of the lights and shapes required in Section 100 of this chapter, a vessel may exhibit those lights and shapes provided for by 33 U.S.C. Section 1601 et seq., or 33 U.S.C. Section 2001 et seq. and applicable regulations, and as published by the U.S. Coast Guard in the Navigational Rules International - Inland. (1-1-94)

**101. -- 124. (RESERVED)**

**125. VENTILATION.**

**01. Ventilation Required.** Except seaplanes, no person may operate or permit to be operated any vessel having aboard a gasoline engine used for any purpose, unless it is provided with proper ventilation. (7-1-93)

**02. Compartments With Gasoline Engines.** Each compartment in a vessel that has a permanently installed gasoline engine with a cranking motor must be open to the atmosphere, or be ventilated by a natural ventilation system and a mechanical exhaust blower system as required by 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and 33 CFR Section 183.601 et seq. (1-1-94)

**03. Collection of Vapors or Gases.** Each compartment or tank in a vessel that may permit the entrapment of explosive or flammable gases or vapors must be ventilated by a natural ventilation system. (1-1-94)

**04. Natural Ventilation System.** A natural ventilation system must be approved for use by the U.S. Coast Guard and include a supply opening or duct from the atmosphere or from a ventilated compartment or from a compartment that is open to the atmosphere, and an exhaust opening into another ventilated compartment or an exhaust duct to the atmosphere. Each exhaust opening or duct must originate in the lower third of the compartment; and each supply opening or duct and each exhaust opening or duct in a compartment must be above the normal accumulation of bilge water. Each supply opening must be forward facing and located on the exterior surface of a vessel, or be constructed so that air effectively flows into or out of the supply or exhaust openings. (1-1-94)

**05. Exhaust Blowers.** Each vessel that is required to have an exhaust blower must have a label that is located as close as practicable to each ignition switch, is in plain view of the operator, and has at least the following information:

**“WARNING -- GASOLINE VAPORS CAN EXPLODE. BEFORE STARTING ENGINE  
OPERATE BLOWER FOR FOUR (4) MINUTES AND CHECK ENGINE  
COMPARTMENT BILGE FOR GASOLINE VAPORS.”**

(1-1-94)

**06. Alternative Ventilation System.** In lieu of the ventilation and warning label required in Section 125 of this chapter, a vessel may be provided with any type of ventilating system as required by 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and applicable federal regulations. (1-1-94)

**126. -- 149. (RESERVED)**

**150. SOUND PRODUCING DEVICES.**

No person may operate or permit to be operated any vessel on the waters of this state without carrying on board sound producing devices as follows: (7-1-93)

**01. Vessels Thirty-Nine and Four-Tenths Feet and Over.** A vessel of thirty-nine and four-tenths (39.4) feet or more in length must be provided with a whistle or horn capable of making the prescribed signals provided for by 33 U.S.C. Section 2001 et seq., and a bell. The whistle or horn must be audible for at least one-half (1/2) nautical mile, and the bell, when struck, must produce a clear bell-like tone of full sound characteristic. (1-1-94)

**02. Vessels Under Thirty-Nine and Four-Tenths Feet.** A vessel of less than thirty-nine and four-tenths (39.4) feet in length must be provided with a whistle or horn capable of making the prescribed signals provided for by 33 U.S.C. Section 2001 et seq. The whistle or horn must be audible for at least one-half (1/2) nautical mile. (1-1-94)

**151. -- 174. (RESERVED)**

**175. BACKFIRE FLAME CONTROL.**

Except seaplanes, no person may operate or permit to be operated any motorboat on the waters of this state unless each carburetor on every inboard gasoline engine installed in a motorboat must be equipped with a U.S. Coast Guard approved backfire flame arrester or other means of backfire flame control approved for use by the U.S. Coast Guard, each of which is securely attached to the carburetor and in proper working order. (7-1-93)

**176. -- 199. (RESERVED)**

**200. WARNING FLAGS FOR DOWNED SKIERS.**

No person may operate or permit to be operated any vessel used for towing waterskiers or similar devices in which persons or objects are being towed above, in, or on the waters of this state unless it has on board and displays a warning flag as specified in Section 200 of this chapter. (7-1-93)

**01. Size and Color.** A warning flag must be international orange or red in color and must be at least one (1) foot square. (7-1-93)

**02. Use.** When any person being towed by the vessel becomes disengaged from the towline and is down in the water, a person in the vessel must immediately hold the warning flag aloft, visible from all sides, as an indicator to other vessels in the area that a person is down in the water. As long as such downed person is in the water, the flag must remain displayed to prevent danger to that person and hazards to passing vessels. (1-1-94)

**03. Use Limited.** Such warning flag must be displayed only under the conditions set forth in Section 200 of this chapter or when other eminent danger exists. (3-23-98)

**201. -- 224. (RESERVED)**

**225. VESSEL LIVERIES -- EQUIPMENT.**

Neither the owner of a vessel livery nor his agent or employee may permit any vessel permitted by him to be operated as a vessel to depart from his premises unless it has been provided, either by owner or renter, with the equipment required pursuant to Title 67, Chapter 70, Idaho Code and this chapter. (1-1-94)

**226. PERSONAL WATERCRAFT LIVERIES.**

**01. Education Required.** All liveries renting, leasing or hiring out any personal watercraft must provide education in the laws, rules and safe operation of the personal watercraft to each person that will operate the personal watercraft. No person may operate any personal watercraft that is rented, leased or hired without first completing instruction in the laws, rules and safe operation of the personal watercraft. This instruction must include: (3-23-98)

a. The complete reading of "Personal Watercraft Laws and Safe Operation," IDPR form REV 50.13; and (3-23-98)

b. The complete viewing of the video "Play It Safe" produced by the Personal Watercraft Industry Association. (3-23-98)

**02. Acknowledgment Required.** All persons operating a rented, leased or hired personal watercraft must carry on board for inspection by any law enforcement officer a valid "Idaho PWC Renter's Acknowledgment of Education" form, IDPR form REV 50.14. (3-23-98)

**03. Provision of Forms, Videos, Publications.** All forms, videos and other required educational materials will be provided to personal watercraft liveries by the Department at no charge to the livery. (3-23-98)

**227. -- 249. (RESERVED)**

**250. VESSEL NUMBERS -- DISPLAY, SIZE, COLOR.**

**01. Requirements.** Each vessel number required by Section 67-7008, Idaho Code, must: (4-11-15)

- a. Be in plain vertical block characters of not less than three (3) inches in height; (7-1-93)
- b. Contrast with the color of the background; (7-1-93)
- c. Have spaces or hyphens that are equal to the width of a letter other than “I” or a number other than “1” between the letter and number groupings (Example: ID 5678 A or ID-5678-A); (7-1-93)
- d. Read from left to right; (7-1-93)
- e. Be maintained in legible condition; (7-1-93)
- f. Be as high above the waterline as practicable without decreasing the visibility of the number. (7-1-93)

**02. Manufacturers and Dealers.** When a vessel is used by a manufacturer or dealer for testing or demonstrating, the vessel number may be painted on or attached to removable plates that are temporarily but firmly attached to each side of the forward half of the vessel. (4-11-15)

**03. Special Circumstances.** On vessels so configured that a vessel number on the hull or superstructure would not be easily visible, the vessel number must be painted on or attached to a backing plate that is attached to the forward half of the vessel so that the vessel number is visible from each side of the vessel. (4-11-15)

**251. -- 274. (RESERVED)**

**275. VESSEL NUMBERS -- FORM.**

**01. Numbering.** Each vessel number issued according to Section 67-7008, Idaho Code, must consist of the prefix “ID,” which denotes Idaho as the State of issuing authority, followed by: (4-11-15)

- a. Not more than four (4) numerals followed by not more than two (2) capital letters (Example: ID 1234 AB); or (1-1-94)
- b. Not more than three (3) numerals followed by not more than three (3) capital letters (Example: ID 123 ABC). (7-1-93)

**02. Prohibited Letters.** A vessel number suffix may not include the letters “I,” “O,” or “Q,” which may be mistaken for numerals. (4-11-15)

**276. -- 299. (RESERVED)**

**300. VALIDATION STICKERS.**

**01. Size and Location of Stickers.** Validation stickers issued according to Section 67-7008, Idaho Code, must: (4-11-15)

- a. Be displayed within six (6) inches of and directly in line with the vessel number displayed on the vessel; (4-11-15)
- b. Be approximately three (3) inches square; and (7-1-93)
- c. Indicate the year in which each validation sticker expires by the colors, green, red, blue, and international orange, in rotation beginning with green for stickers that expire in 1987. (7-1-93)

**02. Removal of Stickers.** Validation stickers issued according to Sections 67-7008 or 67-7011, Idaho Code, that have become invalid must be removed from the vessel. (1-1-94)

**301. -- 324. (RESERVED)**

**325. APPLICATION AND CERTIFICATE OF NUMBER -- CONTENTS.**

**01. Requirements.** Except as allowed in Subsections 325.03 and 325.04 of this chapter, each application for a certificate of number and each certificate of number, referred to in Section 67-7008, Idaho Code, must contain the following information: (4-11-15)

- a.** Number issued to the vessel; (7-1-93)
- b.** Expiration date of the certificate; (7-1-93)
- c.** State of principal use; (7-1-93)
- d.** Name of the owner; (7-1-93)
- e.** Address of owner, including ZIP code; (7-1-93)
- f.** Whether the vessel is used for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying, commercial fishing or other use; (7-1-93)
- g.** Manufacturer's hull identification number (if any); (7-1-93)
- h.** Make of vessel; (7-1-93)
- i.** Year vessel was manufactured; (7-1-93)
- j.** Overall length of vessel; (7-1-93)
- k.** Whether the vessel is an open boat, cabin cruiser, houseboat, or other type; (7-1-93)
- l.** Hull material; (7-1-93)
- m.** Whether the propulsion is inboard, outboard, inboard-outdrive, or sail; (7-1-93)
- n.** Whether the fuel is gasoline, diesel, or other; (7-1-93)
- o.** The number previously issued by an issuing authority for the vessel, if any; (7-1-93)
- p.** Whether the application is for a new certificate of number, renewal of a certificate of number, or transfer of ownership; (4-11-15)
- q.** The signature of the owner. (7-1-93)

**02. Manufacturer or Dealer.** A certificate of number issued to a manufacturer or dealer to be used on a vessel for test or demonstration purposes may omit the requirements of Subsections 325.01.g. through 325.01.n. of this chapter if the word "manufacturer" or "dealer" is plainly marked on the certificate. (4-11-15)

**03. Livery Vessels.** A certificate of number issued to a vessel that is to be rented or leased without propulsion machinery may omit the requirements of Subsections 325.01.m. and 325.01.n. of this chapter if the words "livery vessel" are plainly marked on the certificate. (4-11-15)

**04. Proof of Ownership.** Each applicant for a certificate of number as prescribed in Section 67-7008, Idaho Code, must submit one (1) of the following documents to the Department or authorized vendor: (4-11-15)

- a.** The bill of sale from the dealer or a bill of sale from the previous owner of the vessel; (3-23-98)
- b.** If the vessel is home built, a sworn statement attesting to the identity of the builder, the location or

place of construction, the source of the material used for construction and a description of the vessel. The statement must also be accompanied by any receipts received from the purchase or acquisition of the materials used in the construction of the vessel and a copy of the construction plans, if any; (3-23-98)

**c.** If the vessel has been rebuilt, a sworn statement attesting to the identity of the builder, the location or place of rebuilding, the source of the material used for rebuilding and a description of the vessel. The statement must also be accompanied by any receipts received for the purchase or acquisition of the materials used in the rebuilding of the vessel and documentation indicating the source of the original hull and proof of ownership from the previous owner; (3-23-98)

**d.** If none of the documents listed in Subsections 325.04.a. or 325.04.b. of this Section are available, the applicant must submit an affidavit of ownership to the Department. (3-23-98)

**326. -- 349. (RESERVED)**

**350. NUMBERING - EXEMPTIONS.**

The following vessels are exempt from the numbering provisions of Title 67, Chapter 70, Idaho Code, pursuant to Section 67-7009(5), Idaho Code: (7-1-93)

**01. Rowboats.** Rowboats without motors; (7-1-93)

**02. Canoes.** Canoes without motors; (7-1-93)

**03. Kayaks.** Kayaks without motors; (7-1-93)

**04. Inflatables.** Inflatable vessels without motors; (7-1-93)

**05. Paddle Vessels.** Paddle vessels without motors; (7-1-93)

**06. Sailboards.** Sailboards without motors; (7-1-93)

**07. Tenders.** Tenders; (7-1-93)

**08. Documented Vessels.** Vessels properly documented with the U.S. Coast Guard, according to 46 U.S.C. 12101 et seq.; and (3-23-98)

**09. Government Vessels.** Vessels exempted in Section 67-7009(3), Idaho Code, include those vessels owned by the United States, another state or a political subdivision thereof, which are used principally for governmental purposes other than recreation, and which are clearly identifiable as a government-owned vessel. (7-1-93)

**351. -- 399. (RESERVED)**

**400. COUNTY ELIGIBILITY TO RECEIVE MONEYS FROM THE STATE VESSEL ACCOUNT.**

**01. Boating Improvement Program.** Only those counties in the state with a boating improvement program, as recognized by the Department, are eligible to receive moneys from the state vessel account. "A 'boating improvement program' means that one or more recognized boating facilities are being developed and/or maintained within the county's jurisdiction and/or that the county has or is actively developing a recognized boating law enforcement program" (Section 67-7013(6), Idaho Code). (1-1-94)

**02. Requirements for Boating Improvement Program.** A boating improvement program is recognized if it contains one (1) or more of the following: (7-1-93)

**a.** Boating facilities that are being maintained within the county's jurisdiction. A boating facility is an improved public boating access site, which includes at least an improved (concrete or asphalt) boat ramp and any type parking area for vehicles and their attached boat trailers. (1-1-94)



**b.** Boating facilities that are being developed within the county's jurisdiction. "Being developed" means that substantiating evidence can and must be presented in proof of the development. (1-1-94)

**c.** The county has a boating law enforcement program. A boating law enforcement program is a program whereby an agent of the county sheriff's Department is currently, or has in the recent past, patrolled the county's waterways and enforced Title 67, Chapter 70, Idaho Code. (1-1-94)

**d.** The county is actively developing a boating law enforcement program. "Actively developing" means that substantiating evidence can and must be presented in proof if the development. (1-1-94)

**401. -- 424. (RESERVED)**

**425. HULL IDENTIFICATION NUMBERS - REQUIRED.**

**01. Obtaining a Hull Identification Number.** A person who builds or imports a vessel for his own use and not for the purposes of sale must request a hull identification number from the director and affix the number as instructed (Section 67-7004(2), Idaho Code). (1-1-94)

**02. Displaying the Hull Identification Number.** A person must identify a vessel with the display of two (2) identical hull identification numbers, or as otherwise provided by 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and 33 CFR Section 181.21 et seq. (1-1-94)

**03. Duplicate Numbers Prohibited.** The same hull identification number may not be assigned to more than one (1) vessel. (7-1-93)

**04. Proof of Ownership.** Each applicant for a hull identification number as prescribed in Sections 67-7004(2) and 67-7004(4), Idaho Code, must submit one (1) of the following documents to the Department: (3-23-98)

**a.** The bill of sale from the dealer or a bill of sale from the previous owner of the vessel; (3-23-98)

**b.** If the vessel is home built, a sworn statement attesting to the identity of the builder, the location or place of construction, the source of the material used for construction and a description of the vessel. The statement must also be accompanied by any receipts received from the purchase or acquisition of the materials used in the construction of the vessel and a copy of the construction plans, if any; (3-23-98)

**c.** If the vessel has been rebuilt, a sworn statement attesting to the identity of the builder, the location or place of rebuilding, the source of the material used for rebuilding and a description of the vessel. The statement must also be accompanied by any receipts received for the purchase or acquisition of the materials used in the rebuilding of the vessel and documentation indicating the source of the original hull and proof of ownership from the previous owner; (3-23-98)

**d.** If none of the documents listed in Subsections 425.04.a. or 425.04.b. of this Section are available, the applicant must submit an affidavit of ownership to the Department. (3-23-98)

**426. -- 449. (RESERVED)**

**450. HULL IDENTIFICATION NUMBERS -- FORM.**

Each hull identification number issued according to Section 67-7004(2), Idaho Code, consists of twelve (12) characters, uninterrupted by slashes, hyphens, or spaces, as follows: (1-1-94)

**01. Prefix.** The first three (3) characters (prefix) are "IDZ," which denotes Idaho as the issuing authority. (1-1-94)

**02. Hull Serial Number.** Characters four (4) through eight (8) are the hull serial number assigned by the director in letters of the English alphabet, or Arabic numerals, or both, except the letters "I," "O," and "Q." (1-1-94)

**03. Date of Manufacture.** Characters nine (9) and ten (10) indicate the month and year of manufacture. The date indicated can be no earlier than the date construction or assembly began and no later than the date construction or assembly is completed or the vessel is imported into the United States. Character nine (9) are indicated using letters of the English alphabet. The first month of the year, January, is designated by the letter "A," the second month, February, by the letter "B," and so on until the last month of the year, December. Character ten (10) is the last digit of the year of manufacture or import and must be an Arabic numeral. (1-1-94)

**04. Model Year.** Characters eleven (11) and twelve (12) indicate the model year using Arabic numerals for the last two (2) numbers of the model year such as "87" for 1987 and "88" for 1988. (1-1-94)

**451. -- 474. (RESERVED)**

**475. HULL IDENTIFICATION NUMBERS -- DISPLAY.**

Each hull identification number issued according to Section 67-7004(2), Idaho Code must be displayed as follows: (1-1-94)

**01. Primary Number.** The primary hull identification number must be affixed: (1-1-94)

**a.** On vessels with transoms, to the starboard outboard side of the transom within two (2) inches of the top of the transom, gunwale, or hull/deck joint, whichever is lowest. (7-1-93)

**b.** On vessels without transoms or on vessels on which it would be impractical to use the transom, to the starboard outboard side of the hull, aft, within one (1) foot of the stern and within two (2) inches of the top of the hull side, gunwale or hull/deck joint, whichever is lowest. (7-1-93)

**c.** On catamarans and pontoon vessels which have readily replaceable hulls, to the aft crossbeam within one (1) foot of the starboard hull attachment. (7-1-93)

**d.** If the hull identification number would not be visible, because of rails, fittings, or other accessories, the number must be affixed as near as possible to the location specified in Subsection 475.01 of this chapter. (1-1-94)

**02. Duplicate Number.** The duplicate hull identification number must be affixed in an unexposed location on the interior of the vessel or beneath a fitting or item of hardware. (1-1-94)

**03. Hull Identification Number to Be Permanently Affixed.** Each hull identification number must be carved, burned, stamped, embossed, molded, bonded, or otherwise permanently affixed to the vessel so that alteration, removal, or replacement would be obvious. If the number is on a separate plate, the plate must be fastened in such a manner that its removal would normally cause some scarring of or damage to the surrounding hull area. A hull identification number may not be attached to parts of the vessel that are removable. (1-1-94)

**04. Size of Characters.** The characters of each hull identification number may be no less than one-fourth (1/4) of an inch high. (1-1-94)

**476. -- 499. (RESERVED)**

**500. IDAHO WATERWAY MARKING SYSTEM.**

**01. Uniform System.** In the marking of water areas, as described in Section 67-7031, Idaho Code, the Uniform State Waterway Marking System is used for the placement of aids to navigation and regulatory markers in the waters of the state. (1-1-94)

**02. Regulatory Markers.** Regulatory markers are used to indicate to a vessel operator the existence of dangerous areas as well as those which are restricted or controlled, such as speed zones and areas dedicated to a particular use, or to provide general information and directions. (1-1-94)

**03. Colors.** Each regulatory marker must be colored white with international orange geometric shapes. (7-1-93)

**04. Buoy.** When a buoy is used as a regulatory marker it must be white with horizontal bands of international orange placed completely around the buoy circumference. One (1) band must be at the top of the buoy body, with a second band placed just above the waterline of the buoy so that both international orange bands are clearly visible to approaching vessels. The area of buoy body visible between the two (2) bands must be white. (7-1-93)

**05. Geometric Shapes.** Geometric shapes must be placed on the white portion of the buoy body and must be colored international orange. The authorized geometric shapes and meanings associated with them are as follows: (7-1-93)

**a.** A vertical open faced diamond shape to mean danger. (7-1-93)

**b.** A vertical open faced diamond shape having a cross centered in the diamond to mean that a vessel is excluded from the marked area. (7-1-93)

**c.** A circular shape to mean that vessel operated in the marked area is subject to certain operating restrictions. (7-1-93)

**d.** A square or rectangular shape with directions or information lettered on the inside. (7-1-93)

**06. Signs.** Where a regulatory marker consists of a square or rectangular shaped sign displayed from a structure, the sign must be white, with an international orange border. When a diamond or circular geometric shape associated with meaning of the marker is included it must be centered on the signboard. (7-1-93)

**07. Navigation Aids.** Aids to navigation are used to supplement the federal lateral system of buoyage and have either a lateral or cardinal meaning. (1-1-94)

**08. Defined Channel.** On a well defined channel including a river or other relatively narrow natural or improved waterway, an aid to navigation is normally a solid colored buoy. A buoy that marks the left side of the channel viewed looking upstream or toward the head of navigation must be colored all black. A buoy that marks the right side of the channel viewed looking upstream or toward the head of a navigation must be colored all red. On a well defined channel, solid colored buoys are established in pairs, one (1) on each side of the navigable channel that they mark, and opposite each other to inform the user that the channel lies between the buoys and that he should pass between the buoys. (7-1-93)

**09. Irregularly Defined Channel.** On an irregularly defined channel, solid colored buoys may be used singly in staggered fashion on alternate sides of the channel provided they are spaced at sufficiently close intervals to inform the user that the channel lies between the buoys and that he should pass between the buoys. (7-1-93)

**10. Undefined Channel.** Where there is no well defined channel or when a body of water is obstructed by objects whose nature or location is such that the obstruction can be approached by a vessel from more than one (1) direction, supplemental aids to navigation having cardinal meaning (i.e., pertaining to the cardinal points of the compass, north, east, south, and west) may be used. The use of an aid to navigation having cardinal meaning is discretionary provided that the use of such a marker is limited to wholly state owned waters and the state waters for private aids to navigation as defined and described in Section 500 of this chapter. (1-1-94)

**11. Cardinal System.** Aids to navigation conforming to the cardinal system consist of three (3) distinctly colored buoys. (7-1-93)

**a.** A white buoy with a red top may be used to indicate to a vessel operator that he will pass to the south or west of the buoy. (1-1-94)

**b.** A white buoy with a black top may be used to indicate to a vessel operator that he will pass to the north or east of the buoy. (1-1-94)

**c.** In addition, a buoy showing alternate vertical red and white stripes may be used to indicate to a

vessel operator that an obstruction to navigation extends from the nearest shore to the buoy and that he may not pass between the buoy and shore. The number of white and red stripes is discretionary, provided that the white stripes are twice the width of the red stripes. (1-1-94)

**12. Markers to Be Visible.** The size, shape, material, and construction of all markers, both fixed and floating, must be such as to be observable under normal conditions of visibility at a distance such that the significance of the marker or aid must be recognizable before the observer stands into danger. (1-1-94)

**13. Lettering to Be Visible.** Numbers, letters or words on an aid to navigation or regulatory marker must be placed in a manner to enable them to be clearly visible to an approaching and passing vessel. They must be block style, well proportioned, and as large as the available space permits. Numbers and letters on red or black backgrounds must be white; numbers and letters on white backgrounds must be black. (7-1-93)

**14. Numbering Buoys.** Odd numbers must be used to identify solid colored black buoys or black topped buoys; even numbers must be used to identify solid colored red buoys or red topped buoys. All numbers must increase in an upstream direction or toward the head of navigation. The use of numbers to identify buoys is discretionary. (7-1-93)

**15. Lettering Markers.** Letters only may be used to identify regulatory and the white and red vertically striped obstruction markers. When used the letters must follow alphabetical sequence in an upstream direction or toward the head of navigation. The letters "I" and "O" are omitted to preclude confusion with numbers. The use of letters to identify regulatory markers and obstruction markers is discretionary. (7-1-93)

**16. Reflective Material.** The use of reflectors or retroreflective materials is discretionary. (7-1-93)

**17. Color of Reflective Material.** When used on buoys having lateral significance, red reflectors or retroreflective materials must be used on solid colored red buoys; green reflectors or retroreflective materials must be used on solid colored black buoys; white reflectors or retroreflective materials only may be used for all other buoys including regulatory markers, except that orange reflectors or retroreflective materials may be used on the orange portions of regulatory markers. (7-1-93)

**18. Lights.** The use of navigational lights on state aids to navigation, including regulatory markers, is discretionary. When used, lights on solid colored buoys must be regularly flashing, regularly occulting, or equal interval lights. For ordinary purposes the frequency of flashes may not be more than thirty (30) flashes per minute (slow flashing). When it is desired that lights have a distinct cautionary significance, as at sharp turns or sudden constrictions in the channel or to mark wrecks or other artificial or natural obstructions, the frequency of flashes may not be less than sixty (60) flashes per minute (quick flashing). When a light is used on a cardinal system buoy or a vertically striped white and red buoy it must always be quick flashing. The colors of the lights must be the same as for reflectors; a red light only on a solid colored red buoy; a green light on solid colored black buoy; white light only for all other buoys including regulatory markers. (1-1-94)

**19. Ownership Identification.** The use and placement of ownership identification is discretionary, provided that ownership identification is worded and placed in a manner that avoids detracting from the meaning intended to be conveyed by a navigational aid or regulatory marker. (1-1-94)

**20. Mooring Buoys.** Mooring buoys in state waters for private aids to navigation must be colored white and must have a horizontal blue band around the circumference of the buoy centered midway between the top of the buoy and the waterline. (1-1-94)

**21. Lighted Mooring Buoys.** A lighted mooring buoy must normally display a slow flashing white light. When its location in a waterway is such that it constitutes an obstruction to a vessel operated during hours of darkness, it must display a quick flashing white light. (1-1-94)

**22. Identifying Mooring Buoys.** A mooring buoy may bear ownership identification provided that the manner and placement of the identification does not detract from the meaning intended to be conveyed by the color scheme or identification letter when assigned. (7-1-93)

**501. -- 524. (RESERVED)**

**525. NEGLIGENCE OPERATION.**

Negligent operation, as used in Section 67-7017, Idaho Code, includes, but not be limited to, the following: (1-1-94)

**01. Airborne.** Becoming airborne or completely leaving the water while crossing the wake of another vessel at an unsafe distance from the vessel creating the wake; or (3-23-98)

**02. Weaving.** Weaving through congested traffic; or (3-23-98)

**03. Speed or Proximity.** Operating at such a speed and proximity to another vessel, a person, or property of other persons so as to require the operator to swerve at the last moment to avoid collision. (3-23-98)

**526. -- 999. (RESERVED)**

**26.01.31 – RULES GOVERNING THE ADMINISTRATION OF THE IDAHO DEPARTMENT  
OF PARKS AND RECREATION STATE AND FEDERAL GRANT FUNDS**

**000. LEGAL AUTHORITY.**

The Idaho Park and Recreation Board is authorized under Section 67-4223(a), Idaho Code, to adopt, amend, or rescind rules as may be necessary for proper administration of the Department and its programs. (7-1-99)

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.31, “Rules Governing the Administration of the Idaho Department of Parks and Recreation State and Federal Grant Funds.” (4-11-06)

**02. Scope.** This chapter establishes procedures for grants administration of the Off-Road Motor Vehicle Account, the Recreational Vehicle Account, the Waterways Improvement Fund, the State Trust for Outdoor Recreation Enhancement, the Recreational Trails Program, the Motorbike Recreation Account, the Cutthroat License Plate Fund, and the Recreational Road and Bridge Fund. This chapter includes requirements for project application, eligibility, review, award and management. (4-11-06)

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

As used in this chapter: (7-1-99)

**01. Applicant.** An IDPR approved entity, that identifies a need for a project, supplies initial support data, and applies for program grant through the Department. (4-11-06)

**02. Board.** The Idaho Park and Recreation Board. (7-1-99)

**03. County Waterways Committee.** Those committees created by Section 67-7012, Idaho Code, whose purpose is to advise the county on the maintenance and improvements of waterways and expenditures of moneys deposited in the county vessel account. (4-11-06)

**04. Cutthroat License Plate Fund (CLP).** That portion of the Park and Recreation fund created in Section 67-4225, Idaho Code, received from the sale of cutthroat wildlife license plates. (4-11-06)

**05. Department.** The Idaho Department of Parks and Recreation. (7-1-99)

**06. Director.** The chief administrator of the Department, or the designee of the Director. (7-1-99)

**07. Grant.** A grant from programs or funds as described in Section 001.02 of this chapter. (4-11-06)

**08. Grantee.** An applicant who receives a grant from the Department for the programs or funds as described in Section 001.02. (4-11-06)

**09. IDPR Grant Guidelines.** A compilation of state procedures, rules, and instructions assembled in manual form for dissemination to the potential applicant and public entities that may wish to apply for grants. (4-11-06)

**10. Management.** The actions taken in exercising control over, regulating the use, operation, and maintenance of facilities or programs. (7-1-99)

**11. Motorbike Recreation (MBR) Account.** This account, created by Section 67-7126, Idaho Code, may be used for all of the purposes outlined in Subsection 010.11 of this chapter and rider education programs. When reference is made to the ORMV Account in this chapter, it is intended to include the MBR Fund the same as if it was specifically denoted as such except enforcement of laws and rules governing the use of off-road motor vehicles in Idaho. (4-11-06)

**12. Off-Road Motor Vehicle (ORMV) Account.** That account created by Section 57-1901, Idaho Code. These moneys may be used to acquire, purchase, improve, repair, maintain, furnish and equip off-road motor vehicle facilities and sites or areas used by off-road vehicles on public or private land, and to assist with enforcement of laws and regulations governing the use of off-road vehicles in the state of Idaho. (7-1-99)

13. **Off-Road Motor Vehicle (ORMV) Account Advisory Committee.** A nine (9) member committee appointed by the Board to advise the Department on matters involving ORMV Fund grants. (7-1-99)
14. **Project.** An effort to comply with Idaho statutes and rules for which grant funds are used to assist the grantee in achieving the objectives of the grant programs. (4-11-06)
15. **Project Manager.** Any individual who has the principle responsibility for the ongoing management of projects. (7-1-99)
16. **Public Entity.** The state, federal or local government or a subdivision thereof, or an Indian tribe. (7-1-99)
17. **Recreational Road and Bridge Fund (RRBF).** That portion of the park and recreation capital improvement account designated for grants to improve roads, bridges, and parking lots in or leading to park and recreation areas of the state. (4-11-06)
18. **Recreational Trails Program (RTP).** The account created by the Transportation Equity Act for the 21st Century (Section 1112). This fund may be used for maintenance and restoration of existing recreational trails, development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails, purchase and lease of recreational trail construction equipment, construction of new recreational trails, acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors, and the operation of education programs to promote safety and environmental protection as those objectives relate to the use of recreational trails. (4-11-06)
19. **Recreational Trails Program (RTP) Advisory Committee.** A ten (10) member advisory committee appointed by the Board to advise the Department on matters related to the Recreational Trails Program. (4-11-06)
20. **Recreational Vehicle (RV) Account.** That account created by Section 49-448, Idaho Code. The moneys may be used for the acquisition, lease, development, improvement, and maintenance of facilities designed to promote the health, safety, and enjoyment of recreational vehicle users. (7-1-99)
21. **Recreational Vehicle (RV) Advisory Committee.** A six (6) member committee appointed by the Board to advise the Board and Department on matters involving the RV Account. (7-1-99)
22. **Staff.** Any individual employed by the Department. (7-1-99)
23. **State and Federal Grant Manager.** The Department administrator in charge of State and Federal grant programs. (4-11-06)
24. **State and Federal Grant Program.** That section of the Department responsible for the administration of state and federal grant programs. (4-11-06)
25. **State Trust for Outdoor Recreation Enhancement (STORE).** The recreation account created by Section 67-4247, Idaho Code. (7-1-99)
26. **Waterways Improvement Fund (WIF).** That fund created by Section 57-1501, Idaho Code. These moneys may be used for the protection and promotion of safety, waterways improvements, creation and improvement of parking areas for boating purposes, making and improving boat ramps and moorings, marking of waterways, search and rescue, and all things incident to such purposes including the purchase of real and personal property. No such improvements may be constructed in any county of the state without the approval of the county waterways committee of the plan for such improvements. (4-11-06)
27. **Waterways Improvement Fund Grant Advisory Committee.** A six (6) member committee appointed by the Board to advise the Department on matters relating to Waterways Improvement Fund grants. (7-1-99)

**011. -- 049. (RESERVED)**

**050. GENERAL PROVISIONS OF THE STATE AND FEDERAL GRANT PROGRAM.**

It is the intent of the Department, through the State and Federal Grant program, to provide funds and planning assistance to entities for the acquisition, lease, development, improvement and maintenance of facilities and equipment to promote the health, safety, enjoyment and general welfare of recreational users in the state of Idaho.

(4-11-06)

**051. -- 074. (RESERVED)**

**075. ELIGIBLE APPLICANTS.**

Public entities as defined in Subsection 010.16, and sponsors as defined by Federal Highway Administration Recreation Trail Program Interim Guidance, are eligible to apply for and receive grants as described on Subsection 001.02 of this chapter.

(4-11-06)

**076. -- 099. (RESERVED)**

**100. APPLICATION PROCEDURE.**

All forms and documents required by these rules and the Department must be completed and submitted according to these rules in order for a grant application to be considered for approval.

(7-1-99)

**01. Forms.** To be considered for a grant, an applicant must file with the Department a completed grant application form and other documentation specified in the IDPR Grant Guidelines, all of which must have original signatures. An applicant must file with the Department a completed grant agreement form, with original signatures, within sixty (60) calendar days of written notification of grant approval. The application and grant agreement forms must be provided to the applicant by the Department.

(4-11-06)

**02. Review.** The applicant or applicant's representative may review the project and all associated documentation with the Department prior to submitting the application to ensure the project and documentation meet the criteria of the State and Federal grant program. When possible, Department staff may perform an on-site visit to the project site for preliminary fact finding and to evaluate the viability and eligibility of the project.

(4-11-06)

**03. Public Comment.** The applicant must submit to the Department proof of public comment regarding the project. Proof of public comment may include the results of public meetings, scoping of National Environmental Policy Act (NEPA) processes, individual contacts with recreationists and others that may be affected by the project, newspaper articles and/or other media releases that describe the project and request public input.

(4-11-06)

**04. Deadline.** The deadline for grant applications is established by the Department. The Department announces the availability of funds at least sixty (60) days prior to the deadline date for receipt of applications.

(4-11-06)

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

**150. ELIGIBILITY AND PRIORITY RATING OF PROJECTS.**

Eligibility of all projects or applicants is determined by the State and Federal Grant Manager who considers relevant rules, statutes and past performance of the applicant.

(4-11-06)

**01. Pre-Application Activities.** Projects, or any part thereof, either paid for by the grantee or completed prior to the grant application deadline date established by the Department, are ineligible for grant funding or to be considered as match. However, costs for design and engineering incurred within one (1) year prior to the application deadline date may be considered as match, provided they are listed as a scope element on the application. Recreational Trail Program projects, or any part thereof, completed prior to the execution of the project agreement must be ineligible for grant funding or to be considered as match.

(4-11-06)

**02. Priority Rating Criteria.** The Department and/or appropriate advisory committee establishes



project rankings by rating each eligible project using criteria established by the Board. Specific evaluation criteria is listed in the IDPR Grant Guidelines. (4-11-06)

**151. -- 174. (RESERVED)**

**175. PROJECT TIME PERIOD.**

**01. Grant Cycle.** Applications for ORMV Fund, RV Account, WIF, Motorbike Recreation Account (MRB), Cutthroat License Plate Fund, (CLP), Recreational Road and Bridge Fund (RRBF), or STORE will be considered at least once each state fiscal year (July 1 through June 30) dependent upon adequate funding availability. Applications for RTP projects will be considered at least once each federal fiscal year (October 1 through September 30) dependent upon adequate funding availability. (4-11-06)

**02. Expenditure of Grant Funds.** Except as herein provided, the grantee has only the designated state or federal fiscal year or years to expend grant funds. If the grant funds are not expended within the designated fiscal year or years, the grant will be revoked unless the applicant requests and receives an extension of time from the Department. (4-11-06)

**03. Requests for Extension.** A written request for an extension of the project period must be received by the Department prior to the end of the project period. The State and Federal Grant Manager must make the final determination of extensions. No project extension will be granted for more than one (1) year, however, project extensions may be granted in consecutive years. (4-11-06)

**176. -- 199. (RESERVED)**

**200. AUTHORITY FOR FUNDING APPROVAL.**

Projects up to, and including, twenty thousand dollars (\$20,000) may be approved by the Director. Projects over twenty thousand dollars (\$20,000) must be presented to the Board for approval. (4-11-06)

**01. Minor Cost Increases.** Cost increases of fifteen percent (15%) or less of the original grant amount may be approved by the Director. (4-11-06)

**02. Major Cost Increases.** Cost increases of more than fifteen percent (15%) of the original grant amount require the project be presented as a totally new proposal and compete through the general application process described herein. Should the revised project not receive approval for cost increase grant funding, the grantee will be required to complete the scope of the project as originally proposed at its expense or return any project grant funds paid to it so that the project may be canceled and the grant funds reallocated. (4-11-06)

**03. Waterways Improvement Fund Grant Limit.** The total sum of WIF grant funds approved to be used in any one (1) county may not exceed thirty percent (30%) of the total WIF grant funds approved to be used statewide in any state fiscal year. (4-11-06)

**201. -- 249. (RESERVED)**

**250. DISBURSEMENT OF FUNDS.**

**01. Allowable Costs.** Applicable Office of Management and Budget (OMB) cost principles, program regulations, and the terms of grant agreements must be followed in determining the reasonableness and allowability of costs. (7-1-99)

**02. Documentation and System of Internal Controls.** The grantee must maintain a system of internal controls in order to identify the source and disbursement of funds provided for all project costs and match by grant or project. Accounting records must be supported by source documentation such as vouchers, canceled checks, invoices, payroll, time and attendance records, contract and sub-grant award documents, and other required billing forms. (4-11-06)

**03. Match.** Match is the donation of cash, product or service used to complete the grant project as

approved. The following types of match may be used: (4-11-06)

**a.** Force account labor and equipment, i.e., the use of the grantee's staff (labor) and equipment costs. Documentation of force account must include: the name of each worker, dates worked, hourly rate of pay, number of hours worked, and the total cost by each person. Documentation of equipment costs includes the type of equipment used, dates used, hourly rate value, number of hours used, how the hourly rate was determined, and total cost. (7-1-99)

**b.** Donated material that is used as match must be reasonable and cannot exceed the costs of the materials to the donor or the market price at the time they are charged to the project, whichever is less. A detailed invoice marked "donation" or a letter from the donor must be used as documentation of donated material. (7-1-99)

**c.** Donated Contract Labor. When an employer, other than the grantee, furnishes the services of an employee, these services are valued at the employee's regular rate of pay (not including fringe benefits and overhead costs). These services must be for the same skill for which the employees is normally paid. Documentation must include the employee's name, dates worked, hourly rate, number of hours worked, and total cost. (7-1-99)

**d.** Rates for Volunteers. Skilled and unskilled must be consistent with the rate regularly paid by the grantee for similar work or must be consistent with those paid for similar work in the grantee's labor market. If the volunteer is professionally skilled and employed in the work he is performing on the project, the grantee may use the individual's normal wage rate. If the volunteer is unskilled and not professionally employed in the work he is performing the grantee must value the donated labor at the national minimum wage rate. Documentation must include the volunteer's name, date worked, hourly rate, number of hours worked, and total cost. (7-1-99)

**04. Disbursement of Funds.** Except as provided in Subsection 250.05 herein, the Department will authorize disbursement of funds allocated to a project on a reimbursement basis. This means that the grantee must initially pay all project costs and then seek reimbursement through the Department. (4-11-06)

**a.** General. Grantees must use only the forms specified in this section, and such supplementary or other forms as may from time to time be authorized by the Department. (7-1-99)

**b.** Request for Reimbursement. The grantee must complete an Idaho Department of Parks & Recreation (IDPR), Request for Reimbursement/Close-out Report form certifying that the data is correct and submit the form to the State and Federal grant program with an original signature. (4-11-06)

**c.** Extend the Due Date. The Department may extend the due date of any financial report upon receiving a justified request from a grantee. (7-1-99)

**d.** Accounting Basis. Each grantee must report program outlays and program income on a cash or accrual basis pursuant to Generally Accepted Accounting Principles. (7-1-99)

**05. Cash Advances.** When approved for an advance grantees will be paid in advance no sooner than thirty (30) days prior to project start, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of funds and their disbursement by the grantee. (4-11-06)

**a.** Requesting an Advance. A disbursement of funds may be made on an advance basis by submitting an IDPR Request for Advancement form provided by the Department. Written Justification for an advance is required unless there is a Memorandum of Understanding or Collection Agreement on file. (4-11-06)

**b.** Interest Earned on Advances. Grantees and subgrantees must promptly, at grant close-out, remit interest earned on advances to the Department. (7-1-99)

**06. Reporting.** Each grantee receiving grant funds that require reporting must remit a complete activities report to the Department no later than January 31 of each year that covers the preceding calendar year and must be on forms provided by the Department. Failure to report or poor performance indicated by the report may disqualify grantee from future grant application. (4-11-06)

**07. Grant Closeouts.** Within forty-five (45) days after the completion of the project, the grantee must submit an IDPR Request for Reimbursement/Close-out form and immediately refund to the Department any balance of unobligated cash advanced and interest earned. (4-11-06)

**08. Record Retention.** The grantee must retain all financial information referenced in these rules regarding a project for a time period of three (3) years from the date of the final grant payment, unless any litigation or audit concerning the project has been started or announced. (4-11-06)

**09. Audit Authority.** The Department has the right of access to any pertinent books, documents, papers, or other records of grantees that are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts. An audit of the award may result in the disallowance of costs incurred by the recipient and the establishment of a debt (account receivable) due the Department. (7-1-99)

**10. Contingency Fund.** The Department may retain grant funds from each recreational program grant account for the exclusive purpose of providing facilities or services. (7-1-99)

**251. OFF-HIGHWAY VEHICLE LAW ENFORCEMENT FUND DISTRIBUTION.**

**01. Deposits Into and Usage of Fund.** One dollar (\$1) of every off-highway vehicle certificate of number will be deposited into the off-highway vehicle law enforcement fund. Moneys in this fund are paid out and used as follows: (4-11-15)

**a.** Sheriffs of counties with a current or an actively developing off-highway vehicle law enforcement program recognized by the Department receive moneys from the fund based upon the formula provided in this rule. (3-29-10)

**b.** A program is recognized as an off-highway vehicle law enforcement program if it is sponsored by a county sheriff to promote off-highway vehicle safety, education, and law enforcement and is overseen by an advisory committee of three (3) or more individuals to include at least one (1) sheriff or deputy sheriff, one (1) motorbike representative, and one (1) all-terrain vehicle or utility type vehicle representative. (3-29-10)

**c.** The Department must not withhold recognition of an off-highway vehicle law enforcement program unless it is clearly demonstrated that the program has not performed its off-highway vehicle enforcement duties within the past calendar year. An annual report of accomplishments of the previous calendar year by each participating sheriff must be delivered to the Department by March 1 of each year and includes (3-29-10)

i. The number of citations issued; (3-29-10)

ii. Assistance calls responded to; (3-29-10)

iii. Off-highway vehicle contacts made; and (3-29-10)

iv. Safety classes held. (3-29-10)

**d.** Money from the off-highway vehicle law enforcement fund will be used to defray costs for enforcement by sheriffs' offices pertaining to the use of all terrain vehicles, motorbikes, specialty off-highway vehicles, and utility type vehicles as defined in section 67-7101, Idaho Code. (3-29-10)

**e.** Money in the off-highway vehicle law enforcement fund will be used by the Department for the purpose of defraying costs of off highway vehicle related law enforcement activities that are conducted by a county sheriff's office and for no other purpose. Defrayable costs include: (3-29-10)

i. Wages (including overtime wages) of county sheriff's deputies directly engaged in off-highway vehicle law enforcement, as described in this Section; (3-29-10)

ii. Wages for court appearances pertaining to violations of Idaho law pertaining to off-highway

vehicles, as described in this Section; and (3-29-10)

iii. Direct costs to the sheriff's office required to facilitate the enforcement of off-highway vehicle laws, including vehicle purchase costs, fuel costs, supply costs and vehicle maintenance costs. (3-29-10)

**02. Annual Notification of Qualifying Offices.** Each year no later than April 1, the Department will notify the Idaho Sheriffs' Association in writing regarding which sheriff's offices are recognized by the Department as qualifying for enforcement funding under Section 67-7126, Idaho Code, and the balance of the off-highway vehicle law enforcement fund. It is the responsibility of each sheriff's office to provide information regarding its off-highway vehicle enforcement program in order for the Department to determine whether it recognizes the program. A sheriff's office has fourteen (14) days to request reconsideration of the Department's decision withholding recognition, and the Department must act upon such request within fourteen (14) days. (3-29-10)

**03. Formula for Distribution of Funds.** The Department distributes the funds in the off-highway vehicle law enforcement fund based on the following formula: (3-29-10)

a. Total federal acres with reference to the Payments in Lieu of Taxes (PILT) number for each eligible county minus large tracts of land not open to off-highway vehicle use. The result is the total off-highway vehicle opportunity on federal public land for that county. (3-29-10)

b. Calculate the percentage of the total off-highway vehicle opportunity on federal public land for each eligible county as compared to the entire state. (3-29-10)

c. Multiply this percentage by point zero six (0.6) to get sixty percent (60%) of the value. (3-29-10)

d. Calculate the percentage of off-highway vehicle certificate of number designations for each eligible county as compared to the entire state. (4-11-15)

e. Multiply this percentage by point zero four (0.4) to get forty percent (40%) of the value. (3-29-10)

f. Add the sixty percent (60%) value from the total off-highway vehicle opportunity on federal public land to the forty (40%) value of the off-highway vehicle certificates of number. This total will be the percentage of the off-highway vehicle law enforcement funds for which the individual county is eligible. (4-11-15)

**04. Distribution of Funds Not Used.** For the off-highway vehicle law enforcement funds that are not allocated to a county because they do not have an off-highway vehicle enforcement program as described by this rule, or for funds from undesignated certificates of number, the funds return to the off-highway vehicle law enforcement fund. Any undistributed money must be allocated as follows: (4-11-15)

a. Fifty percent (50%) of the unallocated money must be distributed as per the distribution formula previously listed; and (3-29-10)

b. Fifty percent (50%) of the unallocated money will be held by the Idaho Sheriff's Association to be used for emphasis areas of off-highway vehicle law enforcement. (3-29-10)

**05. Annual Audit.** All counties that receive off-highway vehicle law enforcement funding are subject to an annual audit of the expenditure of the funds. (3-29-10)

**252. -- 299. (RESERVED)**

**300. GRANTEE OBLIGATIONS.**

**01. Project Completion.** Except as herein proved, upon approval of a grant application the grantee is obligated to complete all elements of a project as described on the approved grant application, grant agreement, or approved amendment. (4-11-06)

**02. Project Management.** Except as herein provided, upon approval of a grant application the grantee must ensure adequate management of the project as specified in the approved grant application or grant agreement. (4-11-06)

**03. Grant Modification.** Only for good cause, and upon the submission of detailed justification shown in writing and approval by the State and Federal Grant Manager may the terms and obligations of the grant application or grant agreement be modified. (4-11-06)

**04. Maintenance and Operation.** Real property, physical facilities and equipment funded by a grant must be maintained and operated in the condition or state equivalent to that existing when such facility was completed or property or equipment purchased, normal wear and tear excepted. (4-11-06)

**05. Public Use/Nondiscrimination.** Physical facilities and real property purchased in whole or in part with grant moneys must be available for public use regardless of race, color, religion, national origin, gender, age, or disability. Facilities constructed with grant moneys must meet the requirements as set by the Americans with Disabilities Act Guidelines. (4-11-06)

**06. Fees And Donations.** Except as herein provided, fees may be charged or donations subscribed for the use of or access to facilities or real property developed or purchased with grant funds at a level commensurate with the costs of maintenance and upkeep of the facility or real property with the approval of the Board. Fees may be charged or donations subscribed for special events of limited duration at the facility when approved by the Department. (4-11-06)

**07. Acknowledgment of Funding Assistance.** Grantee must post and maintain appropriate permanent signs or decals upon project sites or equipment acknowledging funding assistance from the appropriate grant fund and the Department upon start of the project or purchase of equipment. (4-11-06)

**08. Notice Of Numbering Requirements.** Off-Road Motor Vehicle Account project applicants and sponsors are responsible for posting a written notice of the requirement of applicable certificate of number requirements and enforcing such requirements for special events as well as general use. (4-11-15)

**09. Project Liability.** Grantees, through a signed agreement, assume all project liability and hold the Department harmless. (4-11-06)

**10. Purchase and Bidding Requirements.** The grantee must follow all local, state and federal laws pertaining to the expenditure of public funds. (4-11-06)

**11. Permits.** The grantee must legally acquire all required local, state and federal permits for the construction or development of the project before grant funds are expended. Construction must comply with the then current codes and standards as set by the Uniform Building Code, Uniform Plumbing Code, and the National Electrical Code. (4-11-06)

**12. Failure to Comply.** Failure by the grantee to comply with such terms and obligations as set forth in the approved grant application or grant agreement will result in the immediate revocation of an approved grant or constitutes a conversion pursuant to Section 350 of this chapter, as applicable. (4-11-06)

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

**350. PROJECT CONVERSIONS.**

No grant funded project may, without the prior written approval of the Board, be converted to uses other than for the authorized purposes specified in the original grant application or grant agreement. (4-11-06)

**01. Approval of a Conversion.** The Board may approve a conversion only when the grant moneys spent on the project can be returned to the appropriate grant fund or the grantee can provide an immediate substitution of other projects of at least equal current fair market value and of reasonably equivalent recreational usefulness and location. (4-11-06)

**02. Resolving a Conversion.** If there is a project conversion, the grantee is responsible for repaying the appropriate grant fund an amount determined by investment amortization through use, project life expectancy, and depreciation or appreciation of the facilities or equipment. (4-11-06)

**03. Conversion Requests.** Project conversion requests must be in writing by the grantee prior to any conversion attempts. (7-1-99)

**351. -- 399. (RESERVED)**

**400. RESPONSIBILITY FOR EQUIPMENT.**

Motorized equipment purchased with grant funds become property of the grantee. Such units of motorized equipment are subject to Subsection 250.06 and Section 350 of this chapter. (4-11-06)

**401. -- 449. (RESERVED)**

**450. REAL PROPERTY.**

**01. Appraisals.** A real estate appraisal is required for all real property to be acquired with grant funds. All appraisals must be prepared according to Department procedures. The appraisal must be paid for by the grantee, but may be included as part of eligible project costs. The selection of the appraiser must be approved by the Department. (4-11-06)

**02. Appraisal Review.** The Department reviews appraisals as necessary. Any appraisal report that does not meet content requirements or use correct analysis procedures must be corrected to the satisfaction of the Department. All costs are covered by the grantee. (4-11-06)

**03. Negotiated Price.** An approved appraisal is an acceptable estimate of property value. The negotiation between a willing seller and a willing buyer may set a price that is higher than the appraisal, and this value can be considered along with the appraised value in establishing the reasonable limits of assistance. If the grantee believes the negotiated price is a better indication of market value, yet is higher than the appraised value, a detailed statement of this difference must be submitted to the Department. (4-11-06)

**04. Adequate Title and Public Access.** The grantee must have clear title to, or adequate control and tenure of, the real property (land, land improvement, structures, and appurtenances) to be developed. The term “adequate control and tenure” of real property means a lease or an easement that provides the grantee sufficient control over the real property to permit the proposed development and use for a period of at least twenty-five (25) years from the date of application, unless specifically approved in writing by the Department for a shorter term. The grantee must list all outstanding rights or interests held by others in the real property to be developed. If access to the real property to be developed is over private property, then the grantee must describe the provisions made to ensure adequate public access. In the event the real property becomes unusable for its intended purposes or if such use ceases, the grantee is responsible for conversion of the project as described in Section 350 of this chapter. (4-11-06)

**05. Limitations on Use.** Property rights obtained with grant funds must be free of all reservations or encumbrances that would limit the use of the site disproportionate to the public benefit. (4-11-06)

**451. -- 999. (RESERVED)**

## 26.01.34 – IDAHO PROTECTION AGAINST INVASIVE SPECIES STICKER RULES

### 000. LEGAL AUTHORITY.

The Idaho Park and Recreation Board is authorized under Section 67-7002, Idaho Code to promulgate rules to aid in the administration of the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code; and is authorized under Section 67-7008A, Idaho Code, to promulgate rules prescribing the display of protection against invasive species stickers. (3-29-10)

### 001. TITLE AND SCOPE.

**01. Title.** The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.34, “Idaho Protection Against Invasive Species Sticker Rules.” (3-29-10)

**02. Scope.** This chapter establishes rules to aid in the administration and enforcement of the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code. (3-29-10)

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

As used in this chapter: (3-29-10)

**01. Commercial Outfitters.** As defined in Section 36-2102(b), Idaho Code. (3-29-10)

**02. Department.** The Idaho Department of Parks and Recreation. (3-29-10)

**03. Fund.** Invasive Species Fund as defined in Section 22-1911, Idaho Code. (3-29-10)

**04. Idaho Invasive Species Act.** The Idaho Invasive Species Act of 2008 as established in Title 22, Chapter 19, Idaho Code. (3-29-10)

**05. Motorized Vessel.** Any watercraft requiring certificate of number under Section 67-7008, Idaho Code, or any comparable U.S. vessel certificate of number program. (4-11-15)

**06. Non-Motorized Vessel.** Any watercraft used or capable of being used as a means of transportation on water that is propelled by human effort. For the purpose of this chapter this term does not include small inflatable rafts or other inflatable vessels less than ten (10) feet in length. (3-29-10)

**07. Protection Against Invasive Species Sticker.** Any sticker issued by the Department in accordance with the provisions of Section 67-7008(A), Idaho Code. (3-29-10)

**08. Validation Sticker.** Any sticker issued by the Department in accordance with the provisions of Section 67-7008, Idaho Code. (4-11-15)

### 011. -- 049. (RESERVED)

### 050. COLLECTION OF FEES AND DISTRIBUTION OF REVENUES INTO FUND.

In addition to any other moneys or fees collected pursuant to Section 67-7008 or any other provision of Title 67, Chapter 70, Idaho Code, all vessels are required to pay an additional fee as established in Section 67-7008A, Idaho Code. (3-29-10)

**01. Operator Responsibilities.** The operator of any watercraft required to display a Protection Against Invasive Species Sticker pursuant to this chapter will ensure that fees are paid and that a Protection Against Invasive Species Sticker is displayed on the vessel, except as provided in Subsection 075.01 of this chapter, prior to launch into the public waters of Idaho. (3-29-10)

**02. Prorated Group Rates for Commercial Outfitters.** (4-7-11)

**a.** Group rates for commercial outfitters with nonmotorized fleets exceeding five (5) vessels will be determined using the number of vessels within the fleet at the time of purchase of the stickers, as provided in Section 67-7008A(1)(c). Previous or future sticker purchases will be prorated separately. (4-7-11)

**b.** Protection Against Invasive Species Stickers purchased by outfitters or guides who are duly licensed in accordance with Title 36, Chapter 21, Idaho Code, must be accompanied by an affidavit that must be

signed by the outfitter or guide. The signed affidavit verifies the number of vessels within the covered fleet and that the appropriate number of Protection Against Invasive Species Stickers has been purchased. The Protection Against Invasive Species Stickers and affidavit must be kept on file at the outfitter or guide's physical address and must be made available for inspection upon request of the Department or upon request by law enforcement. Non-motorized commercial outfitters and guides are not required to place a Protection Against Invasive Species Sticker on their vessels. Identification of commercial outfitted and guided boats must be in compliance with IDAPA 25.01.01, "Rules of the Outfitters and Guides Licensing Board," Subsection 054.03.a. (4-7-11)

**03. Transfer of Funds.** Fees collected will be transferred and deposited into the Fund no less than quarterly during any fiscal year. (3-29-10)

**051. -- 074. (RESERVED)**

**075. PROTECTION AGAINST INVASIVE SPECIES STICKER.**

**01. Motorized Vessels.** Beginning with the 2010 boating season, upon payment of the fees required by Section 050 of these rules, the validation sticker as identified in IDAPA 26.01.30, "Idaho Safe Boating Rules," will also serve as the Protection Against Invasive Species Sticker for those vessels numbered pursuant to Section 67-7008, Idaho Code. (4-11-15)

**02. All Other Watercraft.** A separate Protection Against Invasive Species Sticker will be issued for all other watercraft upon payment of the fees required under Section 050 of these rules. (3-29-10)

**076. PLACEMENT OF PROTECTION AGAINST INVASIVE SPECIES STICKER.**

**01. Location.** (3-29-10)

**a.** Motorized vessel. Except as provided in Subsection 075.01 of this chapter, the Protection Against Invasive Species Sticker should be affixed next to the current year validation sticker on the port (left) side of the vessel. (4-11-15)

**b.** Non-motorized. Except as provided in Subsection 050.02.a. of this chapter, the Protection Against Invasive Species Sticker should be affixed in the following manner. (3-29-11)

**i.** For canoes, kayaks, and other small rigid vessels, the Protection Against Invasive Species Sticker should be affixed near the bow above the waterline on the port (left) side, or on top of the vessel if there is little or no waterline distinction. (3-29-10)

**ii.** For inflatable (non-rigid) vessels, the Protection Against Invasive Species Sticker can be modified to allow attachment of a zip tie, plastic attachment, or other similar mechanism, or be laminated into a hang tag. (3-29-10)

**02. Removal.** Protection Against Invasive Species Stickers issued in accordance with Section 67-7008A, Idaho Code, that have become invalid, must be removed from the vessel. (3-29-10)

**077. ENFORCEMENT.**

All operators of vessels as defined in this chapter must ensure their vessel is in compliance with the provisions of this chapter when launched upon the public waters of the state of Idaho. Non-compliance with the provisions of this chapter will result in possible assessment of penalties as described in Sec. 67-7033, Idaho Code, the Idaho Safe Boating Act. (3-29-10)

**078. -- 999. (RESERVED)**



**26.01.37 – RULES GOVERNING TEST PROCEDURES AND INSTRUMENTS  
FOR NOISE ABATEMENT OF OFF HIGHWAY VEHICLES**

**000. LEGAL AUTHORITY.**

The Idaho Park and Recreation Board is authorized under Section 67-7125, Idaho Code to promulgate rules to effectuate the purposes of and aid in the administration of Section 67-7125, Idaho Code. (7-1-94)

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.37, "Rules Governing Test Procedures and Instruments for Noise Abatement of Off Highway Vehicles." (7-1-94)

**02. Scope.** This chapter establishes rules to effectuate the purposes of and aid in the administration and enforcement of Section 67-7125, Idaho Code. (7-1-94)

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

As used in this chapter: (7-1-94)

**01. All Terrain Vehicle (ATV).** Any recreation vehicle with three (3) or more tires, under eight hundred fifty (850) pounds and less than forty-eight (48) inches in width, having a wheelbase of sixty-one (61) inches or less, traveling on low pressure tires, less than ten (10) pounds per square inch (psi). (4-11-06)

**02. A-Weighting Scale.** A sound filtering system contained in a sound meter which adjusts (weights) the incoming sound energy to approximate human hearing. (7-1-94)

**03. Calibrator.** A device used to standardize the reading of a sound level meter. (7-1-94)

**04. CC.** The displacement (size) of an engine in cubic centimeters. The cc's of an engine refers to the piston displacement or engine size. (7-1-94)

**05. Db or Decibel.** A unit used to measure the amplitude of sounds. As a sound measured in decibels increases, so does its loudness. (7-1-94)

**06. Off Highway Vehicle (OHV).** Any ATV or motorbike as defined in Section 67-7101, Idaho Code, used off public highways but excluding those vehicles used exclusively on private land for agricultural use or used exclusively for snow removal purposes. These vehicles, together with others not covered by these rules, are sometimes commonly known as off-road vehicles or ORMV's. (7-1-94)

**07. Operator.** Any person who is in physical control of an OHV. (7-1-94)

**08. Red-Line Speed.** The lowest numerical engine speed included in the red zone on the OHV tachometer or prescribed by the manufacturer as compiled in the "Off-Highway Motorcycle and ATV Stationary Sound Test Manual" published by the Motorcycle Industry Council, Inc. (7-1-94)

**09. Revolutions per Minute (RPM).** The number of times the crankshaft of an engine revolves in one (1) minute. (7-1-94)

**10. Sound Level Meter.** An instrument used for measuring sound levels, which includes a microphone, an amplifier, and meter with frequency weighing networks, such as the A-weighting scale. (7-1-94)

**11. Tachometer.** A device used to measure RPM of an engine. Tachometers used to obtain sound level measurements may be permanently affixed to the OHV or may be portable units such as hand-held electric, vibrating reed, or inductive tachometers. (4-11-06)

**011. -- 049. (RESERVED)**

**050. TEST PROCEDURE.**

**01. Test Site.** The test site must be a flat, open surface free of large reflecting surfaces, other than the ground, such as parked vehicles, signboards, or hillsides located within sixteen (16) feet of the (OHV) being tested

and the location of the microphone of the sound level meter. (7-1-94)

**a.** Ambient sound level. The ambient sound level, including wind effects, at the test site due to sources other than the OHV being measured must be at least ten (10) dB lower than the sound produced by the OHV under test. (7-1-94)

**b.** Wind speed. Wind speed at the test site must be less than twenty (20) miles per hour. (7-1-94)

**c.** Persons in test area. While making sound level measurements, not more than one (1) person other than the operator, the measurer, and the assistant, if necessary, may be within ten (10) feet of the OHV under test or the microphone of the sound level meter, and that person must be directly behind the measurer on a line through the microphone of the sound level meter and the measurer. (7-1-94)

**02. Test Surface.** The surface of the ground within the test area must be paving or hard packed earth, level within an average slope of five (5) inches per foot and must be free of loose or powdered snow, plowed soil, grass of a height greater than six (6) inches, trees, or other extraneous materials. (7-1-94)

**03. Position of OHV.** (7-1-94)

**a.** For two (2) wheeled OHV's, the operator may sit astride of the OHV, in normal riding position with both feet on the ground. If this is not possible because of the seat height of the OHV, an assistant may hold the OHV by the forks, front wheel, or handlebars so that it is stationary with its longitudinal plane of symmetry vertical. If an assistant is not available to assist in holding the OHV upright, the operator may use a box, rock or other object to rest his feet upon to steady the OHV, so long as the OHV longitudinal plane of symmetry is vertical and stationary. (7-1-94)

**b.** For three (3) wheeled and four (4) wheeled ATV's, the operator may sit in the normal riding position with one (1) or both feet on the footrests. (7-1-94)

**04. Operation of OHV.** (7-1-94)

**a.** If the OHV has a neutral gear, the operator must run the engine with the gear box in neutral at a speed equal to one-half (1/2) of the rated engine speed or one-half (1/2) of the red line speed specified by the manufacturer as compiled in the "Off Highway Motorcycle and ATV Stationary Sound Test Manual." (7-1-94)

**b.** If the OHV has no neutral gear, it must be operated either with the rear wheel(s) at least two (2) inches clear of the ground or with the drive chain or belt removed, or the clutch, if the OHV is so equipped, disengaged. (7-1-94)

**05. Engine Temperature.** The engine of the OHV being tested must be at a normal operating temperature during the test. (7-1-94)

**051. -- 099. (RESERVED)**

## **100. MEASUREMENT.**

**01. Sound Level Meter Settings.** The sound meter must be set for the A-weighting scale and may be set for either slow or fast dynamic response. (7-1-94)

**02. Exhaust Outlets.** Tests must be made on each side of the OHV having an exhaust outlet. (7-1-94)

**03. Location of the Microphone of the Sound Level Meter.** (7-1-94)

**a.** The microphone of the sound level meter must be located twenty (20) inches - one-half (1/2) inch behind the exhaust. If there is more than one (1) exhaust outlet per side, the microphone of the sound level meter must be located with reference to the rear most outlet. (7-1-94)

**b.** The microphone of the sound level meter must be within one-half (1/2) inch of the height of the exhaust outlet. (7-1-94)

**c.** The microphone of the sound level meter must be at a forty-five (45) degree - ten (10) degree angle to the normal line of travel of the OHV. (7-1-94)

**d.** The longitudinal axis of the microphone of the sound level meter must be in a plane parallel to the ground plane. (7-1-94)

**e.** The axis of the microphone of the sound level meter must be oriented as specified for field response by the manufacturer. (7-1-94)

**04. Attachments Prohibited.** No wire or other rigid means of distance measurement may be attached to the sound level meter measuring system. (7-1-94)

**05. Sound Level.** The sound level recorded must be that measured during steady state operation at the engine speed specified in Subsections 050.04 and 050.05 of this chapter, two hundred (200) RPM, measured on the loudest side of the OHV. The test speed in RPM must also be recorded. (7-1-94)

**06. Calibration.** Calibration of the sound level meter using a sound level calibrator with an accuracy of one-half (1/2) dB must be made immediately before the first test of each day. Field calibration should be made at intervals of no more than one (1) hour. (7-1-94)

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

**150. EQUIPMENT.**

**01. Sound Level Meter.** A type one (1) sound level meter, which generally can provide the most accurate measurements, must be used for certification of exhaust systems and for law enforcement purposes. (7-1-94)

**02. Tachometer.** A hand-held tachometer of the type described in Subsection 010.11 must be used if the OHV does not have a permanently affixed tachometer. (7-1-94)

**03. Calibrator.** A calibrator appropriate for use with the sound level meter must be used to calibrate the sound level meter. (7-1-94)

**04. Manual.** Persons measuring sound levels for law enforcement purposes must use the "Off-Highway Motorcycle and ATV Stationary Sound Test Manual," published by the Motorcycle Industry Council, Inc. for current information concerning manufacturer's specifications for OHV operation. (7-1-94)

**151. -- 999. (RESERVED)**

**IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES  
IDAHO WATER RESOURCE BOARD**

**DOCKET NO. 37-0000-1900**

**NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE**

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 42-238, 42-603, 42-1414, 42-1701A, 42-1714, 42-1709, 42-1721, 42-1734D, 42-1761, 42-1762, 42-1765, 42-1414, 42-1805(8), 42-3803, 42-3913, 42-39-14, 42-3915, 42-4001, and 42-4015 Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 37, rules of the Idaho Department of Water Resources and Idaho Water Resource Board:

**IDAPA 37**

- 37.02.01, *Comprehensive State Water Plan Rules*
- 37.02.04, *Shoshone-Bannock Tribal Water Supply Bank Rules*
- 37.03.11, *Rules for Conjunctive Management of Surface and Ground Water Resources*
- 37.03.12, *Idaho Department of Water Resources Water Distribution Rules - Water District 34*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), [Vol. 19-6SE, pages 5296 - 5956](#)

**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.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Mathew Weaver, Deputy Director at (208) 287-4800.

Dated this 16th day of October, 2019.

Gary Spackman, Director  
Idaho Department of Water Resources  
322 E. Front Street  
PO Box 83720  
Boise, ID 83720  
Phone: (208) 287-4800

**THE FOLLOWING NOTICE PUBLISHED WITH  
THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 42-238, 42-603, 42-1414, 42-1701A, 42-1714, 42-1709, 42-1721, 42-1734D, 42-1761, 42-1762, 42-1765, 42-1414, 42-1805(8), 42-3803, 42-3913, 42-39-14, 42-3915, 42-4001, and 42-4015 Idaho Code.

**PUBLIC HEARING SCHEDULE:** Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, 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 proposed rulemaking:

This temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 37, rules of the Idaho Department of Water Resources and Idaho Water Resource Board:

**IDAPA 37**

- 37.02.01, *Comprehensive State Water Plan Rules*
- 37.02.04, *Shoshone-Bannock Tribal Water Supply Bank Rules*
- 37.03.11, *Rules for Conjunctive Management of Surface and Ground Water Resources*
- 37.03.12, *Idaho Department of Water Resources Water Distribution Rules - Water District 34 – All rules except Subsections/Sections 010.05, 010.14, 020, 035.02, 035.03, 035.06, 035.07, 040.01.a., 045, 050, 055.01, 055.02, 055.03, and 055.04; and parts of Subsections 025.01, 040.01, 040.03.a., 040.03.b., and 055.06).*

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rules 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.

These temporary and proposed rules are necessary for the Idaho Department of Water Resources (IDWR) and the Idaho Water Resource Board (IWRB) to achieve their mission as it relates to serving the citizens of Idaho by ensuring that water is available to appropriate, administered properly, conserved and accounted for in order to sustain Idaho's economy, ecosystems, and resulting quality of life. Specifically, the rules are necessary for IDWR and IWRB to fulfill their respective legislative purposes which include, but are not limited to: approving and denying proposals to appropriate or change existing water rights; recommending adjudicated water rights; regulating the delivery of water in times of shortage; monitoring and measuring the water supplies of the state; ensuring the safety of dams; protecting Idaho's ground water resources; regulating stream channel alterations; authoring and updating state water plans; and holding monetary accounts in trust for the funding of water projects and improvements within Idaho.

Specifically, IDAPA 37.02.01 establishes the procedures used by the IWRB for designating a waterway as an interim protected river, adopting a comprehensive plan for a waterway, and providing adequate notice of any petition filed or actions contemplated pursuant to the State Comprehensive Water Plan Act.

IDAPA 37.02.04 allows for the Shoshone-Bannock Water Supply Bank to provide for and regulate the rental, for beneficial use, all or any part of the water accruing to the federal storage contracts in the America Falls Reservoir and the Palisades Reservoir.

IDAPA 37.03.11 prescribes procedures for responding to a delivery call made by the holder of a senior-priority surface or ground water right against the holder of a junior-priority ground water right in an area having a common ground water supply.

IDAPA 37.03.12 governs the distribution of surface and ground water within Water District 34, the Big Lost River Basin.

**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 and proposed rules attached hereto.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Mathew Weaver, Deputy Director at (208) 287-4800.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th of June, 2019.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 37-0000-1900**

## 37.02.01 – COMPREHENSIVE STATE WATER PLAN RULES

### 000. LEGAL AUTHORITY (RULE 0).

The Board promulgates these rules pursuant to authority provided by Sections 42-1734D and 67-5203, Idaho Code. (7-1-93)

### 001. TITLE AND SCOPE (RULE 1).

**01. Title.** The 1988 Idaho Legislature passed House Bill 780, 1988 Session Laws, ch. 370, p. 1090, amending Chapter 17, Title 42, Idaho Code, effective July 1, 1988, to provide for the development of a comprehensive state water plan which may include protected rivers designated either as natural or recreational rivers. The legislative purpose states that selected rivers possessing outstanding fish and wildlife, recreational, aesthetic, historic, cultural, natural or geologic values should be protected for the public benefit and enjoyment. The legislation provides that a waterway may be designated as an interim protected river prior to the preparation of a comprehensive plan for the waterway. (7-1-93)

**02. Scope.** The purpose of these rules is to establish the procedures used by the Idaho Water Resource Board for designating a waterway as an interim protected river, adopting a comprehensive plan for a waterway, and providing adequate notice of any petitions filed or actions contemplated pursuant to the State Comprehensive Water Plan Act, 1988 Sess. Laws, ch. 370, p. 1090, codified as Sections 42-1730--1731 and 42-1734A--1734I, Idaho Code. (7-1-93)

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS (RULE 10).

**01. Alteration.** Any activity using mechanized equipment that moves or overturns gravel or earth. (7-1-93)

**02. Board.** The Idaho Water Resource Board. (7-1-93)

**03. Comprehensive State Water Plan.** The plan adopted by the Board pursuant to Section 42-1734A, Idaho Code, or a component of such plan developed for a particular water resource, waterway or waterways and approved by the Legislature. (7-1-93)

**04. Director.** The director of the Idaho Department of Water Resources. (7-1-93)

**05. Dredge or Placer Mining.** Any dredge or other placer mining operation to recover minerals with the use of a dredge boat or sluice washing plant whether fed by bucket line as a part of such dredge or by a separate dragline or any other method including, but not limited to, suction dredges that are capable of moving more than two (2) cubic yards per hour of earth material. (7-1-93)

**06. Hydropower Project.** Any development that uses a flow of water as a source of electrical or mechanical power, or that regulates the flow of water for the purpose of generating electrical or mechanical power. A hydropower project development includes all powerhouses, dams, water conduits, transmission lines, water impoundments, roads, and other appurtenant works and structures. (7-1-93)

**07. Interim Protected River.** A waterway designated pursuant to Section 42-1734D or 42-1734H, Idaho Code, as protected for up to two (2) years while a component of the comprehensive state water plan is prepared for that waterway. (7-1-93)

**08. Natural River.** A waterway that possesses outstanding fish and wildlife, recreation, geologic or aesthetic values, is free of substantial existing man-made impoundments, dams or other structures, and has riparian areas that are largely undeveloped, although accessible in places by trails and roads. (7-1-93)

**09. Publicize.** To notify the public through press releases to the media, published notice in local, regional or statewide publications, and other procedures, as may be appropriate to inform and notify the local and general public of an impending action or decision. (7-1-93)

**10. Protected River.** A waterway protected in the comprehensive state water plan by designation as either a natural river or a recreational river. (7-1-93)

**11. Recreational River.** A waterway that possesses outstanding fish and wildlife, recreation, geologic or aesthetic values, and might include some man-made development within the waterway or within the riparian area of the waterway. (7-1-93)

**12. Riparian Area.** That area within one hundred (100) feet of the mean highwater mark of a waterway. (7-1-93)

**13. State Agency.** Any board, commission, department or executive agency of the state of Idaho. (7-1-93)

**14. Stream Bed.** A natural water course of perceptible extent with definite bed and banks that confines and conducts the water of a waterway that lies below and between the ordinary high water mark on either side of that waterway. (7-1-93)

**15. Waterway.** A river, stream, creek, lake or spring, or a portion thereof, and does not include any tributary thereof. (7-1-93)

**011. -- 014. (RESERVED)**

**015. INTERIM PROTECTED RIVERS (RULE 15).**

**01. Legislative Directive.** Pursuant to the legislative directive of Section 42-1734H, Idaho Code, the Board by resolution at a regularly scheduled meeting on July 1, 1988, designated the following waterways as interim protected rivers: (7-1-93)

**a.** Priest River, from the Canadian Border to the confluence of Priest Lake; (7-1-93)

**b.** South Fork of the Boise River, from Anderson Ranch Dam to Neal Bridge; (7-1-93)

**c.** Snake River, from Section 5, Township 11 South, Range 20 East, B.M. to King Hill; (7-1-93)

**d.** The following waterways within the Payette River Basin: (7-1-93)

**i.** North Fork of the Payette River, from Cabarton Bridge to Banks; (7-1-93)

**ii.** South Fork of the Payette River, from the Sawtooth Wilderness Boundary to Banks; (7-1-93)

**iii.** Main Payette River, from Banks to Black Canyon Dam; and (7-1-93)

**e.** Henry's Fork of the Snake River from its point of origin at Henry's Lake to the point of its confluence with the backwaters of Ashton Reservoir. (7-1-93)

**02. Designation.** Prior to the adoption of a comprehensive plan for a waterway the board may designate a waterway as an interim protected river. (7-1-93)

**03. Board Initiative.** The board may consider a waterway for designation as an interim protected river upon its own initiative. (7-1-93)

**04. Petitions.** The board will accept petitions requesting the board to designate a waterway as an interim protected river only from a state agency. The acceptability of a petition requiring clarification or corrections shall be determined by the director. (7-1-93)

**05. Form.** Petitions shall be in writing, signed by the agency head, and shall describe the waterway, or portion thereof, requested to be designated as an interim protected river. (7-1-93)

**06. Filing.** Petitions shall be filed with the director. No petition will be considered by the board at a board meeting unless filed with the director at least thirty (30) days prior to such board meeting. (7-1-93)



**07. Notice of Consideration.** The petitioning agency will be notified at least ten (10) days prior to the meeting of the time, place, and agenda for the board meeting at which the petition will first be considered. (7-1-93)

**08. Board Agenda.** The board agenda will include time for representatives of the petitioning agency to describe the affected waterway and the agency's reasons for seeking interim protection for that waterway. (7-1-93)

**09. Public Notice.** The board will publicize the proposed interim designation of the waterway. (7-1-93)

**10. Public Input.** The board will hold either a public information meeting or a hearing, as the board deems appropriate, to obtain public input on the merits of a proposed interim protected river designation. The board is not limited to one (1) meeting or hearing, and may elect to hold more than one (1) of each, or any combination thereof, as the board deems appropriate. (7-1-93)

**11. Board Determination.** At a board meeting not more than six (6) months after a petition for interim protected river designation has been filed with the director, the board shall determine whether the nominated waterway merits designation as an interim protected river. The results of the board decision, including identification of any prohibited activities under Rule 25, shall be publicized. (7-1-93)

**a. Basis of Determination.** Designation of a waterway as an interim protected river shall be based upon a determination by the board that: (7-1-93)

i. It is probable that the waterway would be designated a protected river in the comprehensive state water plan; and (7-1-93)

ii. Interim protected river status is necessary to protect the values that would support such waterway's designation as a protected river in a comprehensive state water plan. (7-1-93)

**b. Staff and Funding Considerations.** Since the designation of a waterway as an interim protected river is limited to a term of two (2) years, unless extended by law, the board shall consider in its determination process the availability of staff and funding to complete a comprehensive plan for the designated waterway during the two (2) years following designation. (7-1-93)

**c. Repeat Filing of Denied Petitions.** If the board determines not to afford interim protection to a nominated waterway, the board shall not subsequently entertain petitions seeking interim designation for that same waterway for a period of one (1) year from the date of board action. (7-1-93)

**d. Lack of Review.** There shall be no review of any board decision rejecting or accepting a nomination for an interim protected waterway. (7-1-93)

**12. Relation to Comprehensive Water Plan.** If a waterway is designated as an interim protected river, then the board shall, pursuant to Subsection 6 of Section 42-1734D, Idaho Code, proceed to prepare a comprehensive state water plan for the waterway. The board shall in preparing the state comprehensive water plan for the waterway consider, after review of all relevant factors contained in Section 42-1734A, Idaho Code, whether the designation should continue or whether modification of the designation is warranted. (7-1-93)

**13. Duration of Interim Protected Status.** The designation of a waterway as an interim protected river shall remain in effect, pursuant to Subsection 4 of Section 42-1734D, Idaho Code, until the earliest of: (7-1-93)

**a.** The adoption of a comprehensive state water plan for the waterway designated as an interim protected river; (7-1-93)

**b.** Two (2) years following the designation of an interim protected river unless extended by law. (7-1-93)

**c.** The revocation of a waterway's interim protected river status by law. (7-1-93)

**14. Subsequent Designations.** If the designation of a waterway as an interim protected river is either revoked by law, or terminated as provided in Section 42-1734D, Idaho Code, then the waterway shall not be eligible for designation as an interim protected river for a period of two (2) years following the revocation or termination of its interim protected river status. (7-1-93)

**016. -- 024. (RESERVED)**

**025. PROHIBITED ACTIVITIES ON INTERIM PROTECTED RIVERS (RULE 25).**

**01. Board Identification.** Upon designating a waterway for interim protected river status, the board shall indicate which of the following activities listed in Subsection 5 of Section 42-1734A, Idaho Code, shall be prohibited: (7-1-93)

- a.** Construction or expansion of dams or impoundments; (7-1-93)
- b.** Construction of hydropower projects; (7-1-93)
- c.** Construction of water diversion works; (7-1-93)
- d.** Dredge or placer mining; (7-1-93)
- e.** Alterations of the stream bed; and (7-1-93)
- f.** Mineral or sand and gravel extraction within the stream bed. (7-1-93)

**02. Petitions to Exempt Specific Action or Projects.** Any person who is the owner, operator, or authorized official of an organization proposing to undertake or construct a prohibited activity or project may petition the board seeking a determination that the particular proposed action or project will not significantly impair the values supporting a waterway's designation as an interim protected river. (7-1-93)

**a.** Form. Petitions shall be in writing, signed by the owner, operator, or designated official of the petitioner, and describe the proposed action or project and its location. (7-1-93)

**b.** Filing. Petitions shall be filed with the director. No petition will be considered by the board at a board meeting unless filed with the director at least thirty (30) days prior to such board meeting. (7-1-93)

**03. Notice of Consideration.** Petitioning parties will be notified at least ten (10) days prior to the meeting of the time, place, and agenda for the board meeting at which their petition will first be considered. (7-1-93)

**04. Board Agenda.** The board agenda will include time for the petitioner or his representative to describe the affected waterway or stream reach and to explain how the particular proposed action or project would not significantly impair the values supporting a waterway's designation as an interim protected river. (7-1-93)

**05. Public Notice.** The board will publicize the fact that the board is considering exempting the particular proposed action or project from one or more of the activities prohibited by the designation of the waterway as an interim protected river. (7-1-93)

**06. Public Input.** The board will hold a public hearing, and may hold one (1) or more information meetings in the affected area if the board deems this to be appropriate, to obtain public input on the merits of a proposed exemption. The public hearing may be scheduled in conjunction with the board meeting provided for in Rule Subsection 025.07. (7-1-93)

**07. Board Determination.** At a board meeting not more than four (4) months after a petition for exemption from the prohibitions of interim protected river status has been received by the director, the board shall determine whether the proposed action or project would impair those values being protected by interim designation. In unusual circumstances, the board may extend the four (4) month period allowed for board action. (7-1-93)

**a.** Basis of Determination. In determining whether a particular proposed action or project will significantly impair the values supporting a waterway's designation as an interim protected river, the board may consider any relevant information including environmental impact statements, technical studies and any other relevant comments or recommendations prepared for use before other state or federal agencies. The burden shall be on the petitioner to show that the proposed action will not impair those values supporting a waterway's designation as an interim protected river. (7-1-93)

**b.** Approved Exemptions -- Conditions. If the board determines the proposed action or project will not significantly impair the values supporting the waterway's designation as an interim protected river, then the proposed action or project shall be allowed to proceed, except that the board, after consultation with relevant state agencies, may impose appropriate conditions on such action or project, and shall advise any affected regulatory agency of such conditions. (7-1-93)

**c.** Emergency Waiver. The board delegates to the director the authority to determine if immediate action is required because of a potential for loss of life, damage to structures, or damage to public utilities or thoroughfares. In such cases alterations of a stream bed shall be allowed even though otherwise prohibited by board action. Such alterations shall meet all other applicable state law. (7-1-93)

**08. Judicial Review.** Pursuant to Subsection 5 of Section 42-1734D, Idaho Code, an aggrieved party may seek judicial review of the board's decision in accordance with Sections 67-5215 and 67-5216, Idaho Code. (7-1-93)

**026. -- 029. (RESERVED)**

**030. COMPREHENSIVE STATE WATER PLAN (RULE 30).**

**01. Planning Authority.** Pursuant to the provisions of Sections 42-1734A and 42-1734B, Idaho Code, the board shall, subject to legislative approval, progressively formulate, adopt and implement a comprehensive state water plan for conservation, development, management and optimum use of all unappropriated water resources and waterways of the state in the public interest. As part of the comprehensive state water plan, the board may designate selected waterways as protected rivers. The comprehensive state water plan shall contain a description of existing and planned uses, and the impact of such uses at the local, state, and regional level for those resources and uses identified in Subsection 3 of Section 42-1734A, Idaho Code. The plan shall quantify, insofar as possible, the unappropriated waters of the planning area, and shall plan the allocation of such waters among the various competing uses. (7-1-93)

**a.** Coordination. The comprehensive state water plan shall be based upon studies and public hearings in affected areas. In addition, the board will encourage the cooperation, participation and assistance of the state departments of Lands, Parks and Recreation, Fish and Game, Health and Welfare, and Transportation, as well as federal agencies, local units of government, and affected Indian tribes. (7-1-93)

**b.** Local Advisory Group. The board will seek the involvement of volunteers from the geographic area to be affected by a portion of the comprehensive water plan. These volunteers shall constitute a local advisory group that shall inform the board of local concerns. (7-1-93)

**02. Public Hearings.** Prior to developing a comprehensive plan for any waterway, river basin, drainage area, river reach, ground water aquifer or other geographic area, the board will hold at least one information meeting in the affected area at which all interested parties will be given the opportunity to advise the board on the scope of the proposed planning effort. Prior to adopting a comprehensive plan for any area the board will hold at least one (1) hearing in the affected area at which all interested parties will be given the opportunity to appear or to present written testimony in response to published proposals for adoption of a comprehensive plan. (7-1-93)

**a.** Public Notice. The board will publicize both information meetings and hearings that impact on the development or adoption of a comprehensive plan for any area. (7-1-93)

**b.** Written Comments. A minimum of sixty (60) days shall be allowed by the board between the announcing of a proposal for the adoption of a comprehensive state water plan or any component thereof and the

close of the comment period for such proposed action. (7-1-93)

**03. Legislative Review.** Upon adoption of a comprehensive state water plan or any component thereof, the board shall present such plan for review to the Idaho legislature at the next regular legislative session following adoption. (7-1-93)

**031. -- 034. (RESERVED)**

**035. AMENDING THE COMPREHENSIVE STATE WATER PLAN (RULE 35).**

**01. Petitions.** The board will accept written petitions seeking amendment of the comprehensive state water plan only from a state agency. (7-1-93)

**02. Form.** Petitions shall be in writing, signed by the agency head, and shall describe those portions of the comprehensive water plan to be amended and the reasons for the proposed amendments. (7-1-93)

**03. Filing.** Petitions shall be filed with the director. No petition shall be considered by the board at a board meeting unless filed with the director at least thirty (30) days prior to such board meeting. (7-1-93)

**04. Notice of Consideration.** The petitioning state agency will be notified at least ten (10) days prior to the meeting of the time, place, and agenda for the board meeting at which the agency's petition will first be considered. (7-1-93)

**05. Board Agenda.** The board agenda will include time for representatives of the petitioning agency to explain why amending the comprehensive state water plan is considered necessary. (7-1-93)

**06. Board Determination.** At a board meeting not more than six (6) months after a petition to amend the comprehensive state water plan has been filed with the director, the board shall either commence action to amend the comprehensive plan or set forth its reason for denying the request in writing. (7-1-93)

**07. Amending Procedure.** If the board chooses to amend the comprehensive state water plan, the board shall do so in the same manner as provided for adoption of the original plan. (7-1-93)

**08. Amendment by Board Initiative.** Nothing in these rules shall prevent the board from reviewing and reevaluating portions of the plan upon its own initiative, and amending the plan in the same manner as provided for adoption of the original plan. (3-15-02)

**09. Requests to Amend.** The board will entertain requests from individuals to amend a component of the comprehensive state water plan. (7-1-93)

**10. Board Evaluation.** The board shall determine whether to consider a proposed amendment based on those factors contained in Section 42-1734A(3), Idaho Code, and their charge to plan for the conservation, development, management and optimum use of all unappropriated water resources and waterways of the state in the public interest. (7-1-93)

**11. Legislative Review.** The board shall submit the comprehensive state water plan and any component thereof for a particular waterway, or any modification of the plan, to the legislature for review and possible amendment by law at the next regular legislative session following adoption by the board. (7-1-93)

**036. -- 999. (RESERVED)**

## 37.02.04 – SHOSHONE-BANNOCK TRIBAL WATER SUPPLY BANK RULES

### 000. LEGAL AUTHORITY (RULE 0).

These rules have been adopted pursuant to Sections 42-1761 to 42-1765, Idaho Code, Idaho Water Resources Board Water Supply Bank Rule 40 and The 1990 Fort Hall Indian Water Rights Agreement (Agreement) to assure orderly operation of the Shoshone-Bannock Tribal Water Supply Bank. (7-8-94)

### 001. TITLE AND SCOPE (RULE 1).

**01. Purpose.** The purpose of establishing this Shoshone-Bannock Water Supply Bank is to allow for rental for any beneficial use all or any part of the water accruing to the federal contract storage rights in the American Falls Reservoir and the Palisades Reservoir as described in Article 7.3.1 of the Agreement not used on Indian lands or otherwise required to fulfill the exchange established by Article 8 of the Michaud Contract. (7-8-94)

**02. Intent.** These rules are not intended to prohibit the Tribes from renting the storage contract water from Palisades and American Fall Reservoirs for any beneficial use within the exterior boundaries of the Reservation. (7-8-94)

**03. Agreement.** The Idaho Water Resources Board or its successors, pursuant to Section 7.3.6 of the Agreement, agrees not to take any action that will interfere with the nature, scope, spirit and purposes of the Shoshone-Bannock Water Supply Bank. (7-8-94)

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS (RULE 10).

In addition to the definitions set forth below, the definitions in “The 1990 Fort Hall Indian Water Rights Agreement” are incorporated to the extent they are applicable. (7-8-94)

**01. Acre Foot.** The amount of water necessary to cover one (1) acre of land to a depth of one (1) foot and is equivalent to forty-three thousand five hundred sixty (43,560) cubic feet or three hundred twenty-five thousand eight hundred fifty-one (325,851) gallons of water. (7-8-94)

**02. Agreement.** “The 1990 Fort Hall Indian Water Rights Agreement” as ratified by the Shoshone-Bannock Tribes in June, 1991, and as approved by the United States in Public Law 101-602, 104 Stat. 3061 on November 16, 1990, and by the state of Idaho in 1991 Idaho Session Laws Chapter 228 at 547. (7-8-94)

**03. Annual.** The period starting on the day following the first Monday in March of each year and ending on the first Monday of March of the succeeding year. (7-8-94)

**04. Bank.** The “Shoshone-Bannock Tribal Water Supply Bank.” (7-8-94)

**05. Beneficial Use.** Any use of water for DCMI, irrigation, hydropower generation, recreation, stock watering, fish propagation and instream flow uses as well as any other uses that provide a benefit to the user of the water. (7-8-94)

**06. Bureau.** The United States Department of Interior Bureau of Reclamation. (7-8-94)

**07. Chairperson.** The person selected by the Tribal Rental Pool Committee to be the head of the Committee. (7-8-94)

**08. Committee.** The Tribal Rental Pool Committee. (7-8-94)

**09. Council.** The Fort Hall Business Council. (7-8-94)

**10. IDWR.** The Idaho Department of Water Resources an executive agency of the state of Idaho created by Section 42-1701, Idaho Code, or any successor agency. (7-8-94)

**11. IWRB.** The Idaho Water Resource Board an agency constituted in accordance with Idaho Const. art. XV, Section 7, or any successor agency. (7-8-94)

**12. Rent.** A temporary legal conveyance by the Tribes of the right to use storage water pursuant to Section 42-1761, Idaho Code, for a fixed period of time during which ownership of the federal contract storage right is retained for the benefit of the Tribes. (7-8-94)

13. **Rental Pool.** The Tribal stored water assigned to the Bank. (7-8-94)
14. **Renter.** The person renting water from the rental pool. (7-8-94)
15. **Reservation.** The Fort Hall Indian Reservation. (7-8-94)
16. **Reservation Watermaster.** The Tribal Water Engineer or any successor designated by the Tribes to administer the Tribal water rights under the Tribal Water Code. (7-8-94)
17. **Snake River Watermaster.** The watermaster of Water District 01 or any successor. (7-8-94)
18. **Tribal Stored Water.** The storage water accruing to the federal contract storage space identified in Article 7.3.1 of the Agreement. (7-8-94)
19. **Tribal Water Engineer.** The Tribal officer or any successor designated to administer the Tribal Water Code. (7-8-94)
20. **Tribes.** The Shoshone-Bannock Tribes. (7-8-94)

**011. -- 024. (RESERVED)**

**025. GENERAL (RULE 25).**

01. **Priority of Use.** Before stored water is assigned to the rental pool, Tribal stored water shall be maintained and made available for Tribal uses as determined by the Council and to meet the commitment of the Tribes under Article 8 of the Michaud Contract. The water is to be rented for beneficial use and may be rented outside the Reservation subject to the provisions of Rule 45 of these Water Supply Bank Rules. (7-8-94)

02. **Bank Operation.** The operation of the Bank shall be consistent with the Agreement. The Bank shall be for the exclusive purpose of rental of Tribal stored water. (7-8-94)

03. **Authority of Bank.** The Shoshone-Bannock Water Supply Bank is created pursuant to the provisions of the following Sections 42-1761, 42-1762, 42-1763, 42-1764, and 42-1765, Idaho Code. (7-8-94)

04. **Incorporation of Articles.** These rules incorporate by reference the provisions set forth in Article 7.3.5, 7.3.10 and 7.3.11 of the Agreement. (7-8-94)

05. **Consistency.** The operation of the Bank shall be consistent with provisions of the Tribes' spaceholder contracts with the United States. (7-8-94)

06. **Storage Water.** Tribal stored water rented from the pool shall be deemed storage water of the renter. (7-8-94)

07. **Evaporation Losses.** Evaporation losses associated with any Tribal stored water assigned to the Bank shall be charged to storage space from which the water is released. (7-8-94)

**026. -- 029. (RESERVED)**

**030. MANAGEMENT (RULE 30).**

01. **Bank Operation.** The Bank shall be operated by the Tribal Rental Pool Committee in conformity with these rules and the Agreement. (7-8-94)

02. **Committee Composition.** The Tribal Rental Pool Committee shall be composed of the following members: the Bureau Snake River Area Manager, the Snake River Watermaster, the Tribal Reservation Watermaster and three (3) individuals designated by the Council. The composition of this Committee shall only be changed as provided in the Agreement. (7-8-94)

**03. Chairperson Selection.** The Committee shall select its own Chairperson from the Committee as determined by a majority vote of the Committee. Each term of the Chairperson of the Committee shall not exceed four (4) years; however, nothing precludes the same person from being re-elected as Chairperson by the members for more than one (1) term. (7-8-94)

**04. Committee Responsibilities.** The Tribal Rental Pool Committee shall have the following responsibilities: (7-8-94)

**a.** The Committee shall ensure that the Bank is operated in compliance with these rules and the Agreement and shall establish such other polices for the operation of the Bank as are consistent with these rules and the Agreement. (7-8-94)

**b.** The Committee shall advise the Fort Hall Business Council on water banking activities upon request. (7-8-94)

**05. Chairperson Duties.** The Chairperson shall be responsible for such duties as are delegated by the Committee. (7-8-94)

**031. -- 034. (RESERVED)**

**035. ASSIGNMENTS OF TRIBAL STORED WATER TO THE BANK (RULE 35).**

**01. Assignments of Stored Water.** Assignments of Tribal stored water to the Bank should identify the reservoir from which the assignment is being made. If no reservoir is identified, the Tribal stored water shall be deemed to come first from the Palisades Reservoir and secondly from American Falls Reservoir. (7-8-94)

**02. Assignment Forms.** Assignments of Tribal stored water to the Bank shall be in writing on forms provided by the Committee and shall bear the date received by the Chairperson. Copies of all assignments shall be provided to all the Committee members and a copy shall be provided to the Council. (7-8-94)

**03. Term of Assignment.** Assignments of Tribal stored water may be made for any period of time. (7-8-94)

**04. Control of Assigned Water.** All Tribal stored water assigned to the Bank by the Council shall be under the control of the Committee for the duration of the term of the assignment to be rented in accordance with these rules and the terms of the assignment. (7-8-94)

**05. Space Assignment.** Whenever Tribal stored water is made available for rental, it shall be deemed that it is the intention of the Tribes to assign sufficient space to yield the amount of water designated. (7-8-94)

**06. Return of Unrented Water.** Any Tribal stored water assigned to the rental pool that is not rented shall be returned to the credit of the Tribes. (7-8-94)

**036. -- 039. (RESERVED)**

**040. RENTAL OF WATER FROM THE RENTAL POOL (RULE 40).**

**01. Rental Priorities.** Tribal stored water assigned to the Bank shall be made available for rental in accordance with the priorities established by the Committee, provided that the Fort Hall Indian Irrigation Project water users shall have a right of first refusal to rent any tribal stored water assigned to the rental pool. Notice shall be given in accordance with procedures established by agreement of the Tribes and the Fort Hall Indian Irrigation Project water users. (7-8-94)

**02. Rental Application.** A request to rent water shall be in writing on a form provided by the Committee. A copy of the request shall be provided to each member of the Committee and forwarded to the Council. (7-8-94)

- 03. Content of Agreements.** All rental agreements shall contain the following information: (7-8-94)
- a.** Name and address of the renter, (7-8-94)
  - b.** Amount of tribal stored water obligated, (7-8-94)
  - c.** The beneficial use, (7-8-94)
  - d.** The rental price, (7-8-94)
  - e.** The legal description of the point of diversion and place of use, (7-8-94)
  - f.** The duration of the rental agreement, (7-8-94)
  - g.** The understanding of responsibilities and exposures if reservoir space does not fill at some time during the term of the rental agreement. (7-8-94)
  - h.** The understanding that transportation losses occurring between the reservoir and the place of use shall be deducted from water delivered under the rental agreement. (7-8-94)

**041. -- 044. (RESERVED)**

**045. GEOGRAPHIC SCOPE OF RENTING (RULE 45).**

- 01. Palisades Storage.** Tribal stored water from the Palisades Reservoir may be rented for use within the Snake River Basin above Milner Dam. (7-8-94)
- 02. American Falls Storage.** Tribal stored water from the American Falls Reservoir may be rented for use within the Snake River Basin within the state of Idaho. (7-8-94)

**046. -- 049. (RESERVED)**

**050. RENTAL PAYMENTS (RULE 50).**

- 01. Rental Price.** The price for rental Tribal stored water from the bank shall be set by the Council. (7-8-94)
- 02. Management of Rental Income.** Rental payments shall be made directly to the Council. The Council shall be responsible for the management of the rental income. The Council shall give written notice to the Committee that payment was properly received and that water may be released under the rental agreement. If payments are made over time, and payment is not received by the Council, the Council shall promptly notify the Committee to hold back on release of the water until payment is properly received. (7-8-94)

**051. -- 054. (RESERVED)**

**055. TERM OF RENTALS (RULE 55).**

The Committee may rent tribal stored water for a period of up to five (5) years. Any request to rent water for a period in excess of five (5) years shall be subject to negotiations between the Tribes and the IWRB. (7-8-94)

**056. -- 059. (RESERVED)**

**060. LIABILITY (RULE 60).**

Nothing in these rules shall be construed as modifying or altering any provisions of the Agreement, including but not limited to Article 7.3.12. (7-8-94)

**061. -- 999. (RESERVED)**



**37.03.11 – RULES FOR CONJUNCTIVE MANAGEMENT OF SURFACE  
AND GROUND WATER RESOURCES**

**000. LEGAL AUTHORITY (RULE 0).**

These rules are promulgated pursuant to Chapter 52, Title 67, Idaho Code, the Idaho Administrative Procedure Act, and Section 42-603, Idaho Code, which provides that the Director of the Department of Water Resources is authorized to adopt rules and regulations for the distribution of water from the streams, rivers, lakes, ground water and other natural water sources as necessary to carry out the laws in accordance with the priorities of the rights of the users thereof. These rules are also issued pursuant to Section 42-1805(8), Idaho Code, which provides the Director with authority to promulgate rules implementing or effectuating the powers and duties of the department. (10-7-94)

**001. TITLE AND SCOPE (RULE 1).**

These rules may be cited as “Rules for Conjunctive Management of Surface and Ground Water Resources.” The rules prescribe procedures for responding to a delivery call made by the holder of a senior-priority surface or ground water right against the holder of a junior-priority ground water right in an area having a common ground water supply. It is intended that these rules be incorporated into general rules governing water distribution in Idaho when such rules are adopted subsequently. (10-7-94)

**003. OTHER AUTHORITIES REMAIN APPLICABLE (RULE 5).**

Nothing in these rules limits the Director’s authority to take alternative or additional actions relating to the management of water resources as provided by Idaho law. (10-7-94)

**004. -- 009. (RESERVED)**

**010. DEFINITIONS (RULE 10).**

For the purposes of these rules, the following terms will be used as defined below. (10-7-94)

**01. Area Having a Common Ground Water Supply.** A ground water source within which the diversion and use of ground water or changes in ground water recharge affect the flow of water in a surface water source or within which the diversion and use of water by a holder of a ground water right affects the ground water supply available to the holders of other ground water rights. (Section 42-237a.g., Idaho Code) (10-7-94)

**02. Artificial Ground Water Recharge.** A deliberate and purposeful activity or project that is performed in accordance with Section 42-234(2), Idaho Code, and that diverts, distributes, injects, stores or spreads water to areas from which such water will enter into and recharge a ground water source in an area having a common ground water supply. (10-7-94)

**03. Conjunctive Management.** Legal and hydrologic integration of administration of the diversion and use of water under water rights from surface and ground water sources, including areas having a common ground water supply. (10-7-94)

**04. Delivery Call.** A request from the holder of a water right for administration of water rights under the prior appropriation doctrine. (10-7-94)

**05. Department.** The Department of Water Resources created by Section 42-1701, Idaho Code. (10-7-94)

**06. Director.** The Director of the Department of Water Resources appointed as provided by Section 42-1801, Idaho Code, or an employee, hearing officer or other appointee of the Department who has been delegated to act for the Director as provided by Section 42-1701, Idaho Code. (10-7-94)

**07. Full Economic Development of Underground Water Resources.** The diversion and use of water from a ground water source for beneficial uses in the public interest at a rate that does not exceed the reasonably anticipated average rate of future natural recharge, in a manner that does not result in material injury to senior-priority surface or ground water rights, and that furthers the principle of reasonable use of surface and ground water as set forth in Rule 42. (10-7-94)

**08. Futile Call.** A delivery call made by the holder of a senior-priority surface or ground water right that, for physical and hydrologic reasons, cannot be satisfied within a reasonable time of the call by immediately curtailing diversions under junior-priority ground water rights or that would result in waste of the water resource. (10-7-94)

**09. Ground Water Management Area.** Any ground water basin or designated part thereof as

designated by the Director pursuant to Section 42-233(b), Idaho Code. (10-7-94)

**10. Ground Water.** Water under the surface of the ground whatever may be the geological structure in which it is standing or moving as provided in Section 42-230(a), Idaho Code. (10-7-94)

**11. Holder of a Water Right.** The legal or beneficial owner or user pursuant to lease or contract of a right to divert or to protect in place surface or ground water of the state for a beneficial use or purpose. (10-7-94)

**12. Idaho Law.** The constitution, statutes, administrative rules and case law of Idaho. (10-7-94)

**13. Junior-Priority.** A water right priority date later in time than the priority date of other water rights being considered. (10-7-94)

**14. Material Injury.** Hindrance to or impact upon the exercise of a water right caused by the use of water by another person as determined in accordance with Idaho Law, as set forth in Rule 42. (10-7-94)

**15. Mitigation Plan.** A document submitted by the holder(s) of a junior-priority ground water right and approved by the Director as provided in Rule 043 that identifies actions and measures to prevent, or compensate holders of senior-priority water rights for, material injury caused by the diversion and use of water by the holders of junior-priority ground water rights within an area having a common ground water supply. (10-7-94)

**16. Person.** Any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character. (10-7-94)

**17. Petitioner.** Person who asks the Department to initiate a contested case or to otherwise take action that will result in the issuance of an order or rule. (10-7-94)

**18. Reasonable Ground Water Pumping Level.** A level established by the Director pursuant to Sections 42-226, and 42-237a.g., Idaho Code, either generally for an area or aquifer or for individual water rights on a case-by-case basis, for the purpose of protecting the holders of senior-priority ground water rights against unreasonable lowering of ground water levels caused by diversion and use of surface or ground water by the holders of junior-priority surface or ground water rights under Idaho law. (10-7-94)

**19. Reasonably Anticipated Average Rate of Future Natural Recharge.** The estimated average annual volume of water recharged to an area having a common ground water supply from precipitation, underflow from tributary sources, and stream losses and also water incidentally recharged to an area having a common ground water supply as a result of the diversion and use of water for irrigation and other purposes. The estimate will be based on available data regarding conditions of diversion and use of water existing at the time the estimate is made and may vary as these conditions and available information change. (10-7-94)

**20. Respondent.** Persons against whom complaints or petitions are filed or about whom investigations are initiated. (10-7-94)

**21. Senior-Priority.** A water right priority date earlier in time than the priority dates of other water rights being considered. (10-7-94)

**22. Surface Water.** Rivers, streams, lakes and springs when flowing in their natural channels as provided in Sections 42-101 and 42-103, Idaho Code. (10-7-94)

**23. Water District.** An instrumentality of the state of Idaho created by the Director as provided in Section 42-604, Idaho Code, for the purpose of performing the essential governmental function of distribution of water among appropriators under Idaho law. (10-7-94)

**24. Watermaster.** A person elected and appointed as provided in Section 42-605, and Section 42-801, Idaho Code, to distribute water within a water district. (10-7-94)

**25. Water Right.** The legal right to divert and use or to protect in place the public waters of the state of Idaho where such right is evidenced by a decree, a permit or license issued by the Department, a beneficial or

constitutional use right or a right based on federal law. (10-7-94)

**011. -- 019. (RESERVED)**

**020. GENERAL STATEMENTS OF PURPOSE AND POLICIES FOR CONJUNCTIVE MANAGEMENT OF SURFACE AND GROUND WATER RESOURCES (RULE 20).**

**01. Distribution of Water Among the Holders of Senior and Junior-Priority Rights.** These rules apply to all situations in the state where the diversion and use of water under junior-priority ground water rights either individually or collectively causes material injury to uses of water under senior-priority water rights. The rules govern the distribution of water from ground water sources and areas having a common ground water supply. (10-7-94)

**02. Prior Appropriation Doctrine.** These rules acknowledge all elements of the prior appropriation doctrine as established by Idaho law. (10-7-94)

**03. Reasonable Use of Surface and Ground Water.** These rules integrate the administration and use of surface and ground water in a manner consistent with the traditional policy of reasonable use of both surface and ground water. The policy of reasonable use includes the concepts of priority in time and superiority in right being subject to conditions of reasonable use as the legislature may by law prescribe as provided in Article XV, Section 5, Idaho Constitution, optimum development of water resources in the public interest prescribed in Article XV, Section 7, Idaho Constitution, and full economic development as defined by Idaho law. An appropriator is not entitled to command the entirety of large volumes of water in a surface or ground water source to support his appropriation contrary to the public policy of reasonable use of water as described in this rule. (10-7-94)

**04. Delivery Calls.** These rules provide the basis and procedure for responding to delivery calls made by the holder of a senior-priority surface or ground water right against the holder of a junior-priority ground water right. The principle of the futile call applies to the distribution of water under these rules. Although a call may be denied under the futile call doctrine, these rules may require mitigation or staged or phased curtailment of a junior-priority use if diversion and use of water by the holder of the junior-priority water right causes material injury, even though not immediately measurable, to the holder of a senior-priority surface or ground water right in instances where the hydrologic connection may be remote, the resource is large and no direct immediate relief would be achieved if the junior-priority water use was discontinued. (10-7-94)

**05. Exercise of Water Rights.** These rules provide the basis for determining the reasonableness of the diversion and use of water by both the holder of a senior-priority water right who requests priority delivery and the holder of a junior-priority water right against whom the call is made. (10-7-94)

**06. Areas Having a Common Ground Water Supply.** These rules provide the basis for the designation of areas of the state that have a common ground water supply and the procedures that will be followed in incorporating the water rights within such areas into existing water districts or creating new districts as provided in Section 42-237a.g., and Section 42-604, Idaho Code, or designating such areas as ground water management areas as provided in Section 42-233(b), Idaho Code. (10-7-94)

**07. Sequence of Actions for Responding to Delivery Calls.** Rule 30 provides procedures for responding to delivery calls within areas having a common ground water supply that have not been incorporated into an existing or new water district or designated a ground water management area. Rule 40 provides procedures for responding to delivery calls within water districts where areas having a common ground water supply have been incorporated into the district or a new district has been created. Rule 41 provides procedures for responding to delivery calls within areas that have been designated as ground water management areas. Rule 50 designates specific known areas having a common ground water supply within the state. (10-7-94)

**08. Reasonably Anticipated Average Rate of Future Natural Recharge.** These rules provide for administration of the use of ground water resources to achieve the goal that withdrawals of ground water not exceed the reasonably anticipated average rate of future natural recharge. (Section 42-237a.g., Idaho Code) (10-7-94)

**09. Saving of Defenses.** Nothing in these rules affects or in any way limit any person's entitlement to assert any defense or claim based upon fact or law in any contested case or other proceeding. (10-7-94)

**10. Wells as Alternate or Changed Points of Diversion for Water Rights from a Surface Water Source.** Nothing in these rules prohibits any holder of a water right from a surface water source from seeking, pursuant to Idaho law, to change the point of diversion of the water to an inter-connected area having a common ground water supply. (10-7-94)

**11. Domestic and Stock Watering Ground Water Rights Exempt.** A delivery call shall not be effective against any ground water right used for domestic purposes regardless of priority date where such domestic use is within the limits of the definition set forth in Section 42-111, Idaho Code, nor against any ground water right used for stock watering where such stock watering use is within the limits of the definition set forth in Section 42-1401A(11), Idaho Code; provided, however, this exemption shall not prohibit the holder of a water right for domestic or stock watering uses from making a delivery call, including a delivery call against the holders of other domestic or stockwatering rights, where the holder of such right is suffering material injury. (10-7-94)

**021. -- 029. (RESERVED)**

**030. RESPONSES TO CALLS FOR WATER DELIVERY IN AN UNORGANIZED WATER DISTRICT OR WITH NO GROUND WATER REGULATION (RULE 30).**

Responses to calls for water delivery made by the holders of senior-priority surface or ground water rights against the holders of junior-priority ground water rights within areas of the state not in organized water districts or within water districts where ground water regulation has not been included in the functions of such districts or within areas that have not been designated ground water management areas shall be as follows: (10-7-94)

**01. Delivery Call (Petition).** When a delivery call is made by the holder of a surface or ground water right (petitioner) alleging that by reason of diversion of water by the holders of one (1) or more junior-priority ground water rights (respondents) the petitioner is suffering material injury, the petitioner shall file with the Director a petition in writing containing, at least, the following in addition to the information required by IDAPA 37.01.01, "Rules of Procedure of the Department of Water Resources," Rule 230: (10-7-94)

**a.** A description of the water rights of the petitioner including a listing of the decree, license, permit, claim or other documentation of such right, the water diversion and delivery system being used by petitioner and the beneficial use being made of the water. (10-7-94)

**b.** The names, addresses and description of the water rights of the ground water users (respondents) who are alleged to be causing material injury to the rights of the petitioner in so far as such information is known by the petitioner or can be reasonably determined by a search of public records. (10-7-94)

**c.** All information, measurements, data or study results available to the petitioner to support the claim of material injury. (10-7-94)

**d.** A description of the area having a common ground water supply within which petitioner desires junior-priority ground water diversion and use to be regulated. (10-7-94)

**02. Contested Case.** The Department will consider the matter as a petition for contested case under the Department's Rules of Procedure, IDAPA 37.01.01. The petitioner shall serve the petition upon all known respondents as required by IDAPA 37.01.01, "Rules of Procedure of the Department of Water Resources," Rule 203. In addition to such direct service by petitioner, the Department will give such general notice by publication or news release as will advise ground water users within the petitioned area of the matter. (10-7-94)

**03. Informal Resolution.** The Department may initially consider the contested case for informal resolution under the provisions of Section 67-5241, Idaho Code, if doing so will expedite the case without prejudicing the interests of any party. (10-7-94)

**04. Petition for Modification of an Existing Water District.** In the event the petition proposes regulation of ground water rights conjunctively with surface water rights in an organized water district, and the water rights have been adjudicated, the Department may consider such to be a petition for modification of the organized water district and notice of proposed modification of the water district shall be provided by the Director pursuant to

Section 42-604, Idaho Code. The Department will proceed to consider the matter addressed by the petition under the Department's Rules of Procedure. (10-7-94)

**05. Petition for Creation of a New Water District.** In the event the petition proposes regulation of ground water rights from a ground water source or conjunctively with surface water rights within an area having a common ground water supply which is not in an existing water district, and the water rights have been adjudicated, the Department may consider such to be a petition for creation of a new water district and notice of proposed creation of a water district shall be provided by the Director pursuant to Section 42-604, Idaho Code. The Department will proceed to consider the matter under the Department's Rules of Procedure. (10-7-94)

**06. Petition for Designation of a Ground Water Management Area.** In the event the petition proposes regulation of ground water rights from an area having a common ground water supply within which the water rights have not been adjudicated, the Department may consider such to be a petition for designation of a ground water management area pursuant to Section 42-233(b), Idaho Code. The Department will proceed to consider the matter under the Department's Rules of Procedure. (10-7-94)

**07. Order.** Following consideration of the contested case under the Department's Rules of Procedure, the Director may, by order, take any or all of the following actions: (10-7-94)

**a.** Deny the petition in whole or in part; (10-7-94)

**b.** Grant the petition in whole or in part or upon conditions; (10-7-94)

**c.** Determine an area having a common ground water supply which affects the flow of water in a surface water source in an organized water district; (10-7-94)

**d.** Incorporate an area having a common ground water supply into an organized water district following the procedures of Section 42-604, Idaho Code, provided that the ground water rights that would be incorporated into the water district have been adjudicated relative to the rights already encompassed within the district; (10-7-94)

**e.** Create a new water district following the procedures of Section 42-604, Idaho Code, provided that the water rights to be included in the new water district have been adjudicated; (10-7-94)

**f.** Determine the need for an adjudication of the priorities and permissible rates and volumes of diversion and consumptive use under the surface and ground water rights of the petitioner and respondents and initiate such adjudication pursuant to Section 42-1406, Idaho Code; (10-7-94)

**g.** By summary order as provided in Section 42-237 a.g., Idaho Code, prohibit or limit the withdrawal of water from any well during any period it is determined that water to fill any water right is not there available without causing ground water levels to be drawn below the reasonable ground water pumping level, or would affect the present or future use of any prior surface or ground water right or result in the withdrawing of the ground water supply at a rate beyond the reasonably anticipated average rate of future natural recharge. The Director will take into consideration the existence of any approved mitigation plan before issuing any order prohibiting or limiting withdrawal of water from any well; or (10-7-94)

**h.** Designate a ground water management area under the provisions of Section 42-233(b), Idaho Code, if it appears that administration of the diversion and use of water from an area having a common ground water supply is required because the ground water supply is insufficient to meet the demands of water rights or the diversion and use of water is at a rate beyond the reasonably anticipated average rate of future natural recharge and modification of an existing water district or creation of a new water district cannot be readily accomplished due to the need to first obtain an adjudication of the water rights. (10-7-94)

**08. Orders for Interim Administration.** For the purposes of Rule Subsections 030.07.d. and 030.07.e., an outstanding order for interim administration of water rights issued by the court pursuant to Section 42-1417, Idaho Code, in a general adjudication proceeding shall be considered as an adjudication of the water rights involved. (10-7-94)

**09. Administration Pursuant to Rule 40.** Upon a finding of an area of common ground water supply and upon the incorporation of such area into an organized water district, or the creation of a new water district, the use of water shall be administered in accordance with the priorities of the various water rights as provided in Rule 40. (10-7-94)

**10. Administration Pursuant to Rule 41.** Upon the designation of a ground water management area, the diversion and use of water within such area shall be administered in accordance with the priorities of the various water rights as provided in Rule 41. (10-7-94)

**031. DETERMINING AREAS HAVING A COMMON GROUND WATER SUPPLY (RULE 31).**

**01. Director to Consider Information.** The Director will consider all available data and information that describes the relationship between ground water and surface water in making a finding of an area of common ground water supply. (10-7-94)

**02. Kinds of Information.** The information considered may include, but is not limited to, any or all of the following: (10-7-94)

**a.** Water level measurements, studies, reports, computer simulations, pumping tests, hydrographs of stream flow and ground water levels and other such data; and (10-7-94)

**b.** The testimony and opinion of expert witnesses at a hearing on a petition for expansion of a water district or organization of a new water district or designation of a ground water management area. (10-7-94)

**03. Criteria for Findings.** A ground water source will be determined to be an area having a common ground water supply if: (10-7-94)

**a.** The ground water source supplies water to or receives water from a surface water source; or (10-7-94)

**b.** Diversion and use of water from the ground water source will cause water to move from the surface water source to the ground water source. (10-7-94)

**c.** Diversion and use of water from the ground water source has an impact upon the ground water supply available to other persons who divert and use water from the same ground water source. (10-7-94)

**04. Reasonably Anticipated Average Rate of Future Natural Recharge.** The Director will estimate the reasonably anticipated average rate of future natural recharge for an area having a common ground water supply. Such estimates will be made and updated periodically as new data and information are available and conditions of diversion and use change. (10-7-94)

**05. Findings.** The findings of the Director will be included in the Order issued pursuant to Rule Subsection 030.07. (10-7-94)

**032. -- 039. (RESERVED)**

**040. RESPONSES TO CALLS FOR WATER DELIVERY IN AN ORGANIZED WATER DISTRICT (RULE 40)**

Responses to calls for water delivery made by the holders of senior-priority surface or ground water rights against the holders of junior-priority ground water rights from areas having a common ground water supply in an organized water district shall be as follows: (10-7-94)

**01. Responding to a Delivery Call.** When a delivery call is made by the holder of a senior-priority water right (petitioner) alleging that by reason of diversion of water by the holders of one (1) or more junior-priority ground water rights (respondents) from an area having a common ground water supply in an organized water district the petitioner is suffering material injury, and upon a finding by the Director as provided in Rule 42 that material

injury is occurring, the Director, through the watermaster, shall: (10-7-94)

**a.** Regulate the diversion and use of water in accordance with the priorities of rights of the various surface or ground water users whose rights are included within the district, provided, that regulation of junior-priority ground water diversion and use where the material injury is delayed or long range may, by order of the Director, be phased-in over not more than a five-year (5) period to lessen the economic impact of immediate and complete curtailment; or (10-7-94)

**b.** Allow out-of-priority diversion of water by junior-priority ground water users pursuant to a mitigation plan that has been approved by the Director. (10-7-94)

**02. Regulation of Uses of Water by Watermaster.** The Director, through the watermaster, shall regulate use of water within the water district pursuant to Idaho law and the priorities of water rights as provided in Section 42-604, Idaho Code, and under the following procedures: (10-7-94)

**a.** The watermaster shall determine the quantity of surface water of any stream included within the water district which is available for diversion and shall shut the headgates of the holders of junior-priority surface water rights as necessary to assure that water is being diverted and used in accordance with the priorities of the respective water rights from the surface water source. (10-7-94)

**b.** The watermaster shall regulate the diversion and use of ground water in accordance with the rights thereto, approved mitigation plans and orders issued by the Director. (10-7-94)

**c.** Where a call is made by the holder of a senior-priority water right against the holder of a junior-priority ground water right in the water district the watermaster shall first determine whether a mitigation plan has been approved by the Director whereby diversion of ground water may be allowed to continue out of priority order. If the holder of a junior-priority ground water right is a participant in such approved mitigation plan, and is operating in conformance therewith, the watermaster shall allow the ground water use to continue out of priority. (10-7-94)

**d.** The watermaster shall maintain records of the diversions of water by surface and ground water users within the water district and records of water provided and other compensation supplied under the approved mitigation plan which shall be compiled into the annual report which is required by Section 42-606, Idaho Code. (10-7-94)

**e.** Under the direction of the Department, watermasters of separate water districts shall cooperate and reciprocate in assisting each other in assuring that diversion and use of water under water rights is administered in a manner to assure protection of senior-priority water rights provided the relative priorities of the water rights within the separate water districts have been adjudicated. (10-7-94)

**03. Reasonable Exercise of Rights.** In determining whether diversion and use of water under rights will be regulated under Rule Subsection 040.01.a. or 040.01.b., the Director shall consider whether the petitioner making the delivery call is suffering material injury to a senior-priority water right and is diverting and using water efficiently and without waste, and in a manner consistent with the goal of reasonable use of surface and ground waters as described in Rule 42. The Director will also consider whether the respondent junior-priority water right holder is using water efficiently and without waste. (10-7-94)

**04. Actions of the Watermaster Under a Mitigation Plan.** Where a mitigation plan has been approved as provided in Rule 42, the watermaster may permit the diversion and use of ground water to continue out of priority order within the water district provided the holder of the junior-priority ground water right operates in accordance with such approved mitigation plan. (10-7-94)

**05. Curtailment of Use Where Diversions Not in Accord With Mitigation Plan or Mitigation Plan Is Not Effective.** Where a mitigation plan has been approved and the junior-priority ground water user fails to operate in accordance with such approved plan or the plan fails to mitigate the material injury resulting from diversion and use of water by holders of junior-priority water rights, the watermaster will notify the Director who will immediately issue cease and desist orders and direct the watermaster to terminate the out-of-priority use of ground water rights otherwise benefiting from such plan or take such other actions as provided in the mitigation plan to ensure protection

of senior-priority water rights. (10-7-94)

**06. Collection of Assessments Within Water District.** Where a mitigation plan has been approved, the watermaster of the water district shall include the costs of administration of the plan within the proposed annual operation budget of the district; and, upon approval by the water users at the annual water district meeting, the water district shall provide for the collection of assessment of ground water users as provided by the plan, collect the assessments and expend funds for the operation of the plan; and the watermaster shall maintain records of the volumes of water or other compensation made available by the plan and the disposition of such water or other compensation. (10-7-94)

**041. ADMINISTRATION OF DIVERSION AND USE OF WATER WITHIN A GROUND WATER MANAGEMENT AREA (RULE 41).**

**01. Responding to a Delivery Call.** When a delivery call is made by the holder of a senior-priority ground water right against holders of junior-priority ground water rights in a designated ground water management area alleging that the ground water supply is insufficient to meet the demands of water rights within all or portions of the ground water management area and requesting the Director to order water right holders, on a time priority basis, to cease or reduce withdrawal of water, the Director shall proceed as follows: (10-7-94)

**a.** The petitioner shall be required to submit all information available to petitioner on which the claim is based that the water supply is insufficient. (10-7-94)

**b.** The Director will conduct a fact-finding hearing on the petition at which the petitioner and respondents may present evidence on the water supply, and the diversion and use of water from the ground water management area. (10-7-94)

**02. Order.** Following the hearing, the Director may take any or all of the following actions: (10-7-94)

**a.** Deny the petition in whole or in part; (10-7-94)

**b.** Grant the petition in whole or in part or upon conditions; (10-7-94)

**c.** Find that the water supply of the ground water management area is insufficient to meet the demands of water rights within all or portions of the ground water management area and order water right holders on a time priority basis to cease or reduce withdrawal of water, provided that the Director shall consider the expected benefits of an approved mitigation plan in making such finding. (10-7-94)

**d.** Require the installation of measuring devices and the reporting of water diversions pursuant to Section 42-701, Idaho Code. (10-7-94)

**03. Date and Effect of Order.** Any order to cease or reduce withdrawal of water will be issued prior to September 1 and shall be effective for the growing season during the year following the date the order is given and until such order is revoked or modified by further order of the Director. (10-7-94)

**04. Preparation of Water Right Priority Schedule.** For the purposes of the Order provided in Rule Subsections 041.02 and 041.03, the Director will utilize all available water right records, claims, permits, licenses and decrees to prepare a water right priority schedule. (10-7-94)

**042. DETERMINING MATERIAL INJURY AND REASONABLENESS OF WATER DIVERSIONS (RULE 42).**

**01. Factors.** Factors the Director may consider in determining whether the holders of water rights are suffering material injury and using water efficiently and without waste include, but are not limited to, the following: (10-7-94)

**a.** The amount of water available in the source from which the water right is diverted. (10-7-94)



- b.** The effort or expense of the holder of the water right to divert water from the source. (10-7-94)
- c.** Whether the exercise of junior-priority ground water rights individually or collectively affects the quantity and timing of when water is available to, and the cost of exercising, a senior-priority surface or ground water right. This may include the seasonal as well as the multi-year and cumulative impacts of all ground water withdrawals from the area having a common ground water supply. (10-7-94)
- d.** If for irrigation, the rate of diversion compared to the acreage of land served, the annual volume of water diverted, the system diversion and conveyance efficiency, and the method of irrigation water application. (10-7-94)
- e.** The amount of water being diverted and used compared to the water rights. (10-7-94)
- f.** The existence of water measuring and recording devices. (10-7-94)
- g.** The extent to which the requirements of the holder of a senior-priority water right could be met with the user's existing facilities and water supplies by employing reasonable diversion and conveyance efficiency and conservation practices; provided, however, the holder of a surface water storage right shall be entitled to maintain a reasonable amount of carry-over storage to assure water supplies for future dry years. In determining a reasonable amount of carry-over storage water, the Director shall consider the average annual rate of fill of storage reservoirs and the average annual carry-over for prior comparable water conditions and the projected water supply for the system. (10-7-94)
- h.** The extent to which the requirements of the senior-priority surface water right could be met using alternate reasonable means of diversion or alternate points of diversion, including the construction of wells or the use of existing wells to divert and use water from the area having a common ground water supply under the petitioner's surface water right priority. (10-7-94)

**02. Delivery Call for Curtailment of Pumping.** The holder of a senior-priority surface or ground water right will be prevented from making a delivery call for curtailment of pumping of any well used by the holder of a junior-priority ground water right where use of water under the junior-priority right is covered by an approved and effectively operating mitigation plan. (10-7-94)

**043. MITIGATION PLANS (RULE 43).**

**01. Submission of Mitigation Plans.** A proposed mitigation plan shall be submitted to the Director in writing and shall contain the following information: (10-7-94)

- a.** The name and mailing address of the person or persons submitting the plan. (10-7-94)
- b.** Identification of the water rights for which benefit the mitigation plan is proposed. (10-7-94)
- c.** A description of the plan setting forth the water supplies proposed to be used for mitigation and any circumstances or limitations on the availability of such supplies. (10-7-94)

**d.** Such information as shall allow the Director to evaluate the factors set forth in Rule Subsection 043.03. (10-7-94)

**02. Notice and Hearing.** Upon receipt of a proposed mitigation plan the Director will provide notice, hold a hearing as determined necessary, and consider the plan under the procedural provisions of Section 42-222, Idaho Code, in the same manner as applications to transfer water rights. (10-7-94)

**03. Factors to Be Considered.** Factors that may be considered by the Director in determining whether a proposed mitigation plan will prevent injury to senior rights include, but are not limited to, the following: (10-7-94)

- a.** Whether delivery, storage and use of water pursuant to the mitigation plan is in compliance with Idaho law. (10-7-94)

**b.** Whether the mitigation plan will provide replacement water, at the time and place required by the senior-priority water right, sufficient to offset the depletive effect of ground water withdrawal on the water available in the surface or ground water source at such time and place as necessary to satisfy the rights of diversion from the surface or ground water source. Consideration will be given to the history and seasonal availability of water for diversion so as not to require replacement water at times when the surface right historically has not received a full supply, such as during annual low-flow periods and extended drought periods. (10-7-94)

**c.** Whether the mitigation plan provides replacement water supplies or other appropriate compensation to the senior-priority water right when needed during a time of shortage even if the effect of pumping is spread over many years and will continue for years after pumping is curtailed. A mitigation plan may allow for multi-season accounting of ground water withdrawals and provide for replacement water to take advantage of variability in seasonal water supply. The mitigation plan must include contingency provisions to assure protection of the senior-priority right in the event the mitigation water source becomes unavailable. (10-7-94)

**d.** Whether the mitigation plan proposes artificial recharge of an area of common ground water supply as a means of protecting ground water pumping levels, compensating senior-priority water rights, or providing aquifer storage for exchange or other purposes related to the mitigation plan. (10-7-94)

**e.** Where a mitigation plan is based upon computer simulations and calculations, whether such plan uses generally accepted and appropriate engineering and hydrogeologic formulae for calculating the depletive effect of the ground water withdrawal. (10-7-94)

**f.** Whether the mitigation plan uses generally accepted and appropriate values for aquifer characteristics such as transmissivity, specific yield, and other relevant factors. (10-7-94)

**g.** Whether the mitigation plan reasonably calculates the consumptive use component of ground water diversion and use. (10-7-94)

**h.** The reliability of the source of replacement water over the term in which it is proposed to be used under the mitigation plan. (10-7-94)

**i.** Whether the mitigation plan proposes enlargement of the rate of diversion, seasonal quantity or time of diversion under any water right being proposed for use in the mitigation plan. (10-7-94)

**j.** Whether the mitigation plan is consistent with the conservation of water resources, the public interest or injures other water rights, or would result in the diversion and use of ground water at a rate beyond the reasonably anticipated average rate of future natural recharge. (10-7-94)

**k.** Whether the mitigation plan provides for monitoring and adjustment as necessary to protect senior-priority water rights from material injury. (10-7-94)

**l.** Whether the plan provides for mitigation of the effects of pumping of existing wells and the effects of pumping of any new wells which may be proposed to take water from the areas of common ground water supply. (10-7-94)

**m.** Whether the mitigation plan provides for future participation on an equitable basis by ground water pumpers who divert water under junior-priority rights but who do not initially participate in such mitigation plan. (10-7-94)

**n.** A mitigation plan may propose division of the area of common ground water supply into zones or segments for the purpose of consideration of local impacts, timing of depletions, and replacement supplies. (10-7-94)

**o.** Whether the petitioners and respondents have entered into an agreement on an acceptable mitigation plan even though such plan may not otherwise be fully in compliance with these provisions. (10-7-94)

**044. -- 049. (RESERVED)**

**050. AREAS DETERMINED TO HAVE A COMMON GROUND WATER SUPPLY (RULE 50).**

**01. Eastern Snake Plain Aquifer.** The area of coverage of this rule is the aquifer underlying the Eastern Snake River Plain as the aquifer is defined in the report, Hydrology and Digital Simulation of the Regional Aquifer System, Eastern Snake River Plain, Idaho, USGS Professional Paper 1408-F, 1992 excluding areas south of the Snake River and west of the line separating Sections 34 and 35, Township 10 South, Range 20 East, Boise Meridian. (10-7-94)

**a.** The Eastern Snake Plain Aquifer supplies water to and receives water from the Snake River. (10-7-94)

**b.** The Eastern Snake Plain Aquifer is found to be an area having a common ground water supply. (10-7-94)

**c.** The reasonably anticipated average rate of future natural recharge of the Eastern Snake Plain Aquifer will be estimated in any order issued pursuant to Rule 30. (10-7-94)

**d.** The Eastern Snake Plain Aquifer area of common ground water supply will be created as a new water district or incorporated into an existing or expanded water district as provided in Section 42-604, Idaho Code, when the rights to the diversion and use of water from the aquifer have been adjudicated, or will be designated a ground water management area. (10-7-94)

**051. -- 999. (RESERVED)**

**37.03.12 – IDAHO DEPARTMENT OF WATER RESOURCES WATER DISTRIBUTION RULES –  
WATER DISTRICT 34**

**000. LEGAL AUTHORITY (RULE 0).**

The Idaho Department of Water Resources (IDWR) is authorized under Section 42-603, Idaho Code, to adopt rules for the distribution of water from the streams, rivers, lakes, ground water and other natural water sources. (10-26-94)

**001. TITLE AND SCOPE (RULE 1).**

These rules are titled IDAPA 37.03.12, “Idaho Department of Water Resources Water Distribution Rules – Water District 34.” This chapter contains the rules that govern the distribution of surface and ground water within Water District 34, the Big Lost River Basin, by the duly appointed watermaster pursuant to the provisions of Chapter 6, Title 42, Idaho Code, and applicable court decrees. This chapter shall not be construed to limit the authority of the Director of the Idaho Department of Water Resources in exercising the duties and responsibilities of the director or the department under other provisions of Idaho law. (10-26-94)

**002. -- 009. (RESERVED)**

**010. DEFINITIONS (RULE 10).**

For the purposes of these rules, the following terms will be used as defined below. (10-26-94)

**01. 2-B Gage.** The U.S. Geological Survey gaging station located below Mackay Dam in the SW1/4SW1/4NE1/4, Section 18, Township 7 North, Range 24 East, B.M. (10-26-94)

**02. Acre-Foot (AF).** The unit commonly used to measure a volume of water which is equal to the amount of water to cover one (1) acre of land one (1) foot deep and is equal to forty-three thousand five hundred sixty (43,560) cubic feet or three hundred twenty-five thousand eight hundred fifty-one (325,851) gallons. (10-26-94)

**03. Acre-Foot Per Year (AFY).** Acre foot per calendar year. (10-26-94)

**04. Arco Gage.** The U.S. Geological Survey gaging station located near the town of Arco in the SW1/4SE1/4SW1/4, Section 17, Township 3 North, Range 27 East, B.M. (10-26-94)

**05. Cubic Foot Per Second (CFS).** The unit used to express a rate of flow of water equal to fifty (50) miner’s inches or about four hundred forty-eight and eight tenths (448.8) gallons per minute. (10-26-94)

**06. Delivery Call.** A request from the holder of a water right for administration of water rights under the prior appropriation doctrine. (10-26-94)

**07. Director.** The Director of the Idaho Department of Water Resources (IDWR) or the director’s duly authorized designee. (10-26-94)

**08. Eastside Canal.** The Eastside Canal diverts from the east side of the Big Lost River in the NW1/4SE1/4SE1/4, Section 4, Township 5 North, Range 26 East, B.M. and extends southerly to the point it discharges back into the Big Lost River in the NW1/4NW1/4NW1/4, Section 26, Township 4 North, Range 26 East, B.M. (10-26-94)

**09. Holder of a Water Right.** The legal owner or user pursuant to lease or contract of a right to divert or to protect in place surface or ground water of the state for a beneficial use or purpose. (10-26-94)

**10. Howell Gage.** The U.S. Geological Survey gaging station located above Mackay Reservoir in the SE1/4NE1/4NW1/4, Section 30, Township 8 North, Range 21 East, B.M. (10-26-94)

**11. Rotation Credit.** Water impounded in Mackay Reservoir pursuant to a water right whose source of water is the Big Lost River and which does not include storage as a purpose of use. The impoundment of water as rotation credit is described in Rule Subsection 040.02. (10-26-94)

**12. Small Domestic and Stock Water Uses.** Water uses meeting the definition of Section 42-111 or Section 42-1401A(12), Idaho Code. (10-26-94)

**13. Storage Water.** Water impounded in a storage facility, including Mackay Reservoir, pursuant to a water right which includes storage as a purpose of use. (10-26-94)

**14. Watermaster.** The duly elected and appointed state watermaster of Water District 34 who is

authorized to perform duties pursuant to Chapters 6 and 8, Title 42, Idaho Code, and the decree, or order for interim administration, of water rights for Basin 34. (10-26-94)

**011. -- 024. (RESERVED)**

**025. RIVER REACHES (RULE 25).**

**01. Divisions of the Big Lost River.** For the purposes of quantifying river gains, losses, and calculating and accounting for natural flow, the Big Lost River shall be divided into the reaches identified below. Reference to a specific river reach will be by the name of the downstream station or terminus point. (6-30-19T)

- a.** Above Howell Gage. (10-26-94)
- b.** Howell Gage to Chilly Bridge located in the NW1/4NE1/4NW1/4, Section 5, Township 8 North, Range 22 East, B.M. (10-26-94)
- c.** Chilly Bridge to the 2-B Gage. (10-26-94)
- d.** 2-B Gage to Leslie Gage located in the NW1/4SW1/4SE1/4, Section 10, Township 6 North, Range 25 East, B.M. (10-26-94)
- e.** Leslie Gage to Moore diversion located in the NW1/4SE1/4SE1/4, Section 4, Township 5 North, Range 26 East, B.M. (10-26-94)
- f.** Moore diversion to Arco diversion located in the NW1/4NW1/4NW1/4, Section 26, Township 4 North, Range 26 East, B.M. (10-26-94)
- g.** Below Arco diversion to the Arco Gage. (10-26-94)

**02. River Reach Computations.** For each reach of the river the natural flow will be computed as the natural flow entering the reach plus gains entering the reach minus losses from the reach. The natural flow thus calculated will be allocated as described in Rule 40. (10-26-94)

**03. Gage Station or Other Flow Measuring Facility.** A gage station or other flow measuring facility, as approved by the director, shall be located at the Howell Gage, Chilly Bridge, 2-B Gage, Leslie Gage, Moore diversion, Arco diversion and Arco Gage. The Howell, 2-B and Arco gages shall be maintained as part of the USGS Cooperative Program, or equivalent measurement program, and operated continuously. Water District 34 shall continue to contribute to the maintenance and operation of these gage sites in the same proportion as is currently contributed. All other gages shall be operated when water diversions, other than solely storage in Mackay Reservoir, are being made from the river. The cost of installation, operation and maintenance of these other measuring facilities is the responsibility of Water District 34. (10-26-94)

**026. -- 029. (RESERVED)**

**030. NATURAL FLOWS (RULE 30).**

Natural flow shall be delivered through the natural river channel to the point of diversion of record except as provided in these rules. (10-26-94)

**01. Eastside Canal.** The watermaster, with the approval of the director and after consultation with the Big Lost River Irrigation District, may elect to deliver the natural flow of the river through the Eastside Canal when the following conditions are met: (10-26-94)

- a.** The full flow of the river, including impounded water, to be delivered downstream of the Moore diversion is not greater than the capacity of the Eastside Canal. (10-26-94)
- b.** More natural flow water can be delivered to calls for natural flow than could be delivered by using the natural river channel. (10-26-94)

- c. No water right is injured. (10-26-94)
- d. Measuring devices of a type acceptable to the director are installed and maintained where the flow leaves the river channel and where it returns to the river channel. (10-26-94)
- e. When used for the delivery of natural flow to the Arco diversion, the Eastside Canal is considered to be the river channel for water delivery accounting purposes and the watermaster shall protect the natural flow for delivery to prior water rights. Water rights diverting water from the river channel downstream from the point the Eastside Canal returns to the river channel shall be measured at their point of diversion from the river downstream from the Eastside Canal return. (10-26-94)
- f. Conveyance losses in the Eastside Canal, when considered to be the river channel, shall be proportioned between the river flow, the diversions from the Eastside and pumps that inject ground water into the Eastside Canal. The proportioning will be based upon the ratio of total Eastside diversions and injected ground water to the total inflow to the canal. (10-26-94)
- 02. Alternate Point of Diversion.** The watermaster may elect, with the approval of the director, to deliver natural flow water rights to the alternate point of diversion described in Rule Subsection 030.02.a. below when conditions in Rule Subsections 030.02.b. through 030.02.f. below are met: (10-26-94)
- a. This rule may be used to deliver water rights through the Munsey diversion located in the NW1/4NW1/4NW1/4, Section 26, Township 4 North, Range 26 East, B.M. as an alternate point of diversion for water rights with a recorded point of diversion at the McLaughlin diversion located in the NE1/4NW1/4SE1/4, Section 12, Township 3 North, Range 26 East, B.M. (10-26-94)
- b. The additional delivery losses through the natural channel to the recorded point of diversion for a water right prevents delivery of natural flow to one (1) or more other water rights then calling for water. (10-26-94)
- c. The user receives the same amount of water at the field headgate from the natural flow water right that would be delivered to the field headgate had the natural flow right been delivered at the recorded point of diversion. (10-26-94)
- d. Delivery of the water right at the alternate point of diversion is limited to the period of time the water right could have been delivered to the recorded point of diversion based upon the natural flow available at any time delivery is called for and the loss of the river channel at the time the alternate point of diversion began to be used for the delivery of this water right. (10-26-94)
- e. No water right is injured by the use of the alternate point of diversion. (10-26-94)
- f. The owner of the diversion works at the alternate point of diversion and the ditch(es) used to deliver the water to the field headgate from the alternate point of diversion concurs in the use of those facilities. (10-26-94)

**031. -- 034. (RESERVED)**

**035. MEASURING DEVICES AND CONTROL WORKS (RULE 35).**

**01. Installation and Maintenance of Measuring Devices and Control Works.** In addition to measuring devices or control works specifically described in the listing of the water right, each water user, except small domestic and stock water users from ground water, shall, at the water user's expense, install and maintain measuring devices and control works of a type acceptable to the director, at all points of diversion and any other points, as determined necessary by the director for the proper administration of the use of water. The director may prohibit or prevent the diversion of water by a water user who refuses or fails to comply with this rule in accordance with the provisions of Chapter 7, Title 42, Idaho Code. (10-26-94)

**02. Access to Diversion Works.** Water users shall provide the water district staff continual access to

all diversion works, measuring devices and control structures, except ground water diversions for small domestic and stock water uses. (10-26-94)

**03. Diversions Which May Be Exempt.** Diversions below the Chilly Bridge and above the Mackay Reservoir that divert water from the Big Lost River, whose place of use is within the flood plain of the Big Lost River as determined by the director, may be exempt from the requirement for measuring devices and control works with the approval of the director. Flow rates through exempt diversions will be estimated by the watermaster for accounting purposes by assuming the recorded flow rate of the water right is being diverted. (10-26-94)

**036. -- 039. (RESERVED)**

**040. ALLOCATION OF NATURAL FLOW (RULE 40).**

**01. Administration of Surface Water Rights.** Water not diverted or rotated for credit is available for the next in time water right. Natural flow rights are delivered to the point of diversion with no conveyance loss assessment. A natural flow water right delivered through a lateral or canal of a water conveyance entity shall be assessed the conveyance loss for the canal through which the water right is delivered. ( )

**a.** All water deliveries must be called for by the water user at least forty-eight (48) hours in advance of the actual water delivery. Water which can be delivered by the watermaster in less than forty-eight (48) hours may be used by the water user. (10-26-94)

**b.** The water user must notify the watermaster of the water users intent to use water as required by Rule Subsection 040.05. (10-26-94)

**02. Rotation Credit.** Water rights that do not include storage as a purpose of use may not be stored. Water rights whose source is Big Lost River with their point of diversion below the Mackay Dam may, however, be rotated for credit when such practice improves the efficiency of water use as contemplated by the Big Lost River Irrigation District's plan of operation subject to the following conditions: (10-26-94)

**a.** Rotation for credit must be approved by the director as provided by these rules. (10-26-94)

**b.** Rotation for credit must be pursuant to the Big Lost River Irrigation District's approved plan of operation. (10-26-94)

**c.** Any water credited under such a rotation, if not used in the same irrigation season in which it is credited, shall become storage water of the Big Lost River Irrigation District at the end of the irrigation season. (10-26-94)

**d.** Rotation for credit cannot occur prior to the need for irrigation water on the land, as determined pursuant to these rules, in any year. (10-26-94)

**i.** Natural flow must be available at the river headgate point of diversion for the water right requesting rotation credit. (10-26-94)

**ii.** The water user must have operable delivery and use facilities and an actual need for the water on the land in the year rotation is sought. (10-26-94)

**iii.** If natural flow can not be delivered to a point of diversion at the beginning of the irrigation season and the watermaster determines rotation credit is needed to make possible the delivery of water rights being called for, and there is room in Mackay Reservoir for rotation credit, the watermaster may rotate natural flow rights, which would not otherwise be deliverable to their point of diversion, for credit of up to a combined total of three thousand five hundred (3,500) AF to be released from the reservoir under the control of the watermaster to make natural flow rights deliverable to their point of diversion. The watermaster may use storage water to assist the delivery of natural flow water rights at the beginning of the irrigation season when requested to do so by the storage holder. (10-26-94)

**e.** Water rotated for credit may only be used on the land to which the water right being rotated is

appurtenant (water rotated for credit may not be marketed) except under the provisions of Section 42-222A, Idaho Code. (10-26-94)

**f.** If the reservoir fills after rotation has begun in any year, (or would have filled except for flood operations) and the natural flow is sufficient to allow diversion of water by 1905 or junior water rights while the reservoir is full, all rotation credits accrued at that time are lost and all water in Mackay Reservoir at that time becomes storage water of the Big Lost River Irrigation District for reallocation. For purposes of this rule Mackay Reservoir will be considered full when the elevation of the water in the reservoir reaches or exceeds a four (4) day average of six thousand sixty-six and twelve one hundredths (6,066.12) feet MSL (spillway crest). Rotation for credit stops at the time Mackay Reservoir fills, and while it remains full, but if the natural flow does not increase sufficiently to allow 1905 or junior water rights to divert after the reservoir fills the rotation credit in the reservoir shall remain the credit of the water user(s) who accrued the rotation credit. (10-26-94)

**g.** Water rights being rotated must be identified to the watermaster as being rotated into Mackay Reservoir. Water rights identified as such will have the Mackay Reservoir as the temporary point of diversion during the time rotation is occurring. (10-26-94)

**h.** The rate of diversion for a water right being rotated for credit combined with other water rights for the same place of use being diverted at the same time cannot exceed the combined diversion limit specified in the listing of water rights. This rule does not limit the rate at which rotation credit, once impounded, can be used. (10-26-94)

**03. Assessment of Evaporation and Conveyance Losses to Impounded Water.** (10-26-94)

**a.** Evaporation losses from Mackay Reservoir shall be estimated daily by the watermaster by applying correlated evapotranspiration data and shall be assessed to all impounded water. ( )

**b.** Conveyance losses in the natural channel shall be proportioned by the watermaster between natural flow and impounded water. The proportioning shall be done on a river reach basis. Impounded water flowing through a river reach that does not have a conveyance loss will not be assessed a loss for that reach. Impounded water flowing through any river reach that does have a conveyance loss will be assessed the proportionate share of the loss for each losing reach through which the impounded water flows. ( )

**i.** An exception is made for impounded water delivered through the Beck and Evan diversion located in the SW1/4SE1/4SW1/4, Section 11, Township 6 North, Range 25 East, B.M. Conveyance loss for this impounded water will be assessed the conveyance loss of the Leslie reach, if any, and the additional conveyance loss to the Beck and Evan diversion but not the conveyance loss of the entire Moore reach. (10-26-94)

**04. Initiation and Duration of Surface Water Allocation for Irrigation.** Any time after May 1 an irrigation water user can make a delivery call on the natural flow if the water user can make beneficial use of the water for irrigation. If sufficient natural flow exists to deliver the called for water right in a useable amount to the water users place of use, the watermaster shall deliver the right. In addition, the director may allow the diversion of rights or portions of rights for irrigation use from the Big Lost River as early as April 20 and as late as October 31, and from surface water tributaries to the Big Lost River either before or after the period of use for irrigation described in the water right where: (10-26-94)

**a.** The water so diverted is applied to a beneficial use resulting in an immediate benefit to growing plants or is necessary to allow performance of an agricultural practice generally accepted in the community, as determined by the director. (10-26-94)

**b.** All surface water rights, regardless of priority, unless subordinated to the water right or class of rights being called for, (now existing or developed subsequent to these rules), existing at the time of diversion that are within their period of use can be satisfied. (10-26-94)

**c.** The diversion and use of the water does not conflict with the public interest as determined by the director. (10-26-94)



**05. Notice to Initiate Delivery.** Water users must initiate delivery of their water right(s) by notifying the watermaster that they are ready to put water to beneficial use. (10-26-94)

**06. Diversion of Additional Flows.** The director may allow the diversion of surface water in addition to the quantity of surface water described in a water right for irrigation use to be diverted for irrigation of the described place of use where: (10-26-94)

**a.** The waters so diverted are applied to a beneficial use, as determined by the director. (10-26-94)

**b.** All surface water rights, regardless of priority, unless subordinated to the water right or class of water rights being called for, (now existing or developed subsequent to these rules), existing at the time of diversion that are within their period of use can be satisfied. (10-26-94)

**c.** The diversion and use of the water does not conflict with the public interest as determined by the director. (10-26-94)

**d.** Additional flows diverted pursuant to Rule 040.06 are natural flows and will not be assessed as impounded water. (10-26-94)

**07. Mackay Dam Minimum By-Pass.** Mackay Dam and Reservoir shall be operated to maintain a minimum flow of fifty (50) CFS at the 2-B gage. (10-26-94)

**08. Canal or Lateral Delivery.** In the event a water user feels inappropriate delivery of natural flow water is occurring on any lateral or canal, the water user can request the watermaster to investigate. In the event the watermaster determines that delivery of natural flow water rights within a lateral or canal is being improperly conducted he shall: (10-26-94)

**a.** Notify the ditch rider and the water delivery entity of the results of his investigation and coordinate efforts to make proper delivery of the natural flow. (10-26-94)

**b.** If the situation has not been sufficiently resolved within twenty-four (24) hours the watermaster will notify the director who may take all actions authorized by law to remedy the situation. (10-26-94)

**041. -- 054. (RESERVED)**

**055. WATER USAGE (RULE 55).**

**01. Incidental Stock Water.** When stock water is not specifically included for a water right that includes irrigation, a portion of the quantity described for irrigation use may be diverted and used, from the same point of diversion and at the same place of use as the irrigation use, for purposes of maintaining a reasonable water supply for stock watering use during the period of use for irrigation described in the water right. (10-26-94)

**02. Winter (Non-Irrigation Season) Stock Water.** During the non-irrigation season, from October 16 through April 30 except as modified by Rule 040.04, the storage of water in Mackay Reservoir is superior to all rights from the Big Lost River with points of diversion downstream from Mackay Dam, subject to minimum release.( )

**a.** Winter stock water can be called for and delivered pursuant to the list of water rights if it does not interfere with storage in Mackay Reservoir. ( )

**b.** A right holder calling for delivery of stock water must have access to a diversion point and delivery system to convey the right to the place of use recorded in the list of water rights. If the headgate and delivery system are controlled by an entity other than the water user, the watermaster will only deliver the water with the concurrence of the owner of the headgate and delivery system and then only when such delivery does not constitute unreasonable waste as determined by the director. (10-26-94)

**056. -- 059. (RESERVED)**

**060. ACCOUNTING FOR WATER DELIVERY (RULE 60).**

Water diversions shall be accounted for continuously, throughout the year by the watermaster. (10-26-94)

**061. -- 999. (RESERVED)**

## IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-1900

### NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

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

- IDAPA 58.01.02 – Chapters 1 and 36, Title 39, Idaho Code
- IDAPA 58.01.04 – Chapters 1 and 36, Title 39, Idaho Code
- IDAPA 58.01.10 – Section 39-4405, Idaho Code
- IDAPA 58.01.16 – Chapters 1 and 36, Title 39, Idaho Code
- IDAPA 58.01.21 – Sections 39-105, 39-107, and 74-114(8), Idaho Code
- IDAPA 58.01.22 – Chapters 1 and 36, Title 39, Idaho Code
- IDAPA 58.01.23 – Sections 39-105, 39-107 and 67-5206, Idaho Code
- IDAPA 58.01.24 – Chapters 1, 36, 44, 72 and 74, Title 39, Idaho Code

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 58, rules of the Department of Environmental Quality:

- IDAPA 58.01.02, *Water Quality Standards*
- IDAPA 58.01.04, *Rules for Administration of Wastewater Treatment Facility Grants*
- IDAPA 58.01.10, *Rules Regulating the Disposal of Radioactive Materials Not Regulated Under the Atomic Energy Act of 1954, As Amended*
- IDAPA 58.01.16, *Wastewater Rules*
- IDAPA 58.01.21, *Rules Governing the Protection and Disclosure of Records in the Possession of DEQ*
- IDAPA 58.01.22, *Rules for Administration of Planning Grants for Public Drinking Water Facilities*
- IDAPA 58.01.23, *Rules of Administrative Procedure Before the Board of Environmental Quality*
- IDAPA 58.01.24, *Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites*

More information regarding this rule docket is available at [www.deq.idaho.gov/58-0000-1900](http://www.deq.idaho.gov/58-0000-1900).

DEQ received no public comments; however, the text of the rule has been amended in accordance with Idaho Code § 67-5227. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 6719 through 7039**.

Certain sections of IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality,” were revised as a logical outgrowth of the proposed rule and for consistency with **Executive Order No. 2019-02, Red Tape Reduction Act**, issued by Governor Little on January 21, 2019. IDAPA 58.01.23, Subsections 001.03, 008.01, and 010.07, have been simplified and updated. IDAPA 58.01.23, Section 814, has been identified for deletion as it is included verbatim in Idaho Code § 67-5220(f).

The provisions in IDAPA 58.01.23, Sections 500, 501, 808 through 813, and 815 through 860, are included in IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General” (Attorney General Rules), and have been identified for deletion. With the deletion of those sections, it is necessary to incorporate by reference

certain sections of the Attorney General Rules to meet the requirements of Idaho Code § 67-5206(5). IDAPA 04.11.01, Sections 800 through 815 and 830 through 860 (2018 Idaho Administrative Code), have been incorporated by reference and are attached. IDAPA 58.01.23, Sections 004 and 006, have been updated accordingly.

The proposed rule also includes non-substantive clerical revisions made by the Administrative Rules Coordinator using his authority under Idaho Code § 67-5202. “The coordinator shall have the authority to make clerical revisions or to correct manifest typographical or grammatical errors to both proposed and existing rules that do not alter the sense, meaning or effect of such rules.” Idaho Code § 67-5202(2). The revisions are consistent with [Executive Order No. 2019-02](#), and did not alter the sense, meaning or effect of the rules (i.e., elimination of restrictive words such as “shall”).

The pending rule adopted by the Idaho Board of Environmental Quality includes 1) the described revisions in IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality,” 2) the Administrative Rules Coordinator’s clerical revisions, and 3) the remainder of the rule adopted as initially proposed.

**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.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact the undersigned.

Dated this 20th day of November, 2019.

Paula J. Wilson  
Department of Environmental Quality  
1410 N. Hilton Street  
Boise, Idaho 83706  
Phone: (208) 373-0418  
Fax No.: (208) 373-0481  
[paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH  
THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that the Idaho Board of Environmental Quality has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to the following Idaho Code provisions:

- IDAPA 58.01.02 – Chapters 1 and 36, Title 39, Idaho Code
- IDAPA 58.01.04 – Chapters 1 and 36, Title 39, Idaho Code
- IDAPA 58.01.10 – Idaho Code § 39-4405
- IDAPA 58.01.16 – Chapters 1 and 36, Title 39, Idaho Code

- IDAPA 58.01.21 – Idaho Code §§ 74-114(8), 39-105, 39-107
- IDAPA 58.01.22 – Chapters 1 and 36, Title 39, Idaho Code
- IDAPA 58.01.23 – Idaho Code §§ 39-105, 39-107 and 67-5206
- IDAPA 58.01.24 – Chapters 1, 36, 44, 72 and 74, Title 39, Idaho Code

**PUBLIC HEARING SCHEDULE:** Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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

This temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified rule chapters under IDAPA 58 rules of the Department of Environmental Quality:

- IDAPA 58.01.02, *Water Quality Standards*
- IDAPA 58.01.04, *Rules for Administration of Wastewater Treatment Facility Grants*
- IDAPA 58.01.10, *Rules Regulating the Disposal of Radioactive Materials Not Regulated Under the Atomic Energy Act of 1954, As Amended*
- IDAPA 58.01.16, *Wastewater Rules*
- IDAPA 58.01.21, *Rules Governing the Protection and Disclosure of Records in the Possession of DEQ*
- IDAPA 58.01.22, *Rules for Administration of Planning Grants for Public Drinking Water Facilities*
- IDAPA 58.01.23, *Rules of Administrative Procedure Before the Board of Environmental Quality*
- IDAPA 58.01.24, *Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites*

More information regarding this rule docket is available at [www.deq.idaho.gov/58-0000-1900](http://www.deq.idaho.gov/58-0000-1900).

**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. 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.

**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 and proposed rules attached hereto.

**IDAHO CODE SECTION 39-107D STATEMENT:** These rules are either (1) not broader in scope or more stringent than federal law nor propose to regulate an activity not regulated by the federal government, or (2) have previously been approved as meeting the requirements of Idaho Code § 39-107D.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact the undersigned.

Anyone may submit written comments regarding the proposed rulemaking by mail, fax, or email. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0000-1900**

# IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.02 – WATER QUALITY STANDARDS

### 000. LEGAL AUTHORITY.

Pursuant to Sections 39-105 and 39-3601 et seq., Idaho Code, the Director is directed to formulate and recommend to the Board, such rules and regulations and standards as may be necessary to deal with the problems related to personal health and water pollution. The Director is further charged with the supervision and administration of a system to safeguard the quality of the waters of the state including the enforcement of standards relating to the discharge of effluent into the waters of the state. Authority to adopt rules, regulations and standards as are necessary and feasible to protect the environment and health of the citizens of the state is vested in the Board pursuant to Section 39-107, Idaho Code. (3-20-97)

### 001. TITLE AND SCOPE.

01. **Title.** These rules are titled IDAPA 58.01.02, “Water Quality Standards.” (4-11-06)

02. **Scope.** These rules designate uses which are to be protected in and of the waters of the state and establish standards of water quality protective of those uses. Restrictions are placed on the discharge of wastewaters and on human activities which may adversely affect public health and water quality in the waters of the state. In addition, unique and outstanding waters of the state are recognized. These rules do not provide any legal basis for an additional permit system, nor can they be construed as granting to the Department any authority not identified in the Idaho Code. (4-2-03)

### 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, [www.deq.idaho.gov](http://www.deq.idaho.gov). (4-11-06)

### 003. ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality.” (3-15-02)

### 004. INCORPORATION BY REFERENCE.

Codes, standards and regulations may be incorporated by reference in these rules 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 these rules. Copies of the codes, standards or regulations adopted by reference throughout these rules are available in the following locations: (8-24-94)

01. **Department.** Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255, [www.deq.idaho.gov](http://www.deq.idaho.gov); and (3-28-18)

02. **Code of Federal Regulations.** Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, [www.ecfr.gov](http://www.ecfr.gov), and State Law Library, 451 W. State Street, Boise, Idaho 83720. (3-28-18)

### 005. 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 a.m. to 5 p.m. Monday through Friday. (4-11-06)

### 006. 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 the Rules of the Department of Environmental Quality, IDAPA 58.01.21, “Use and Disclosure of Records in the Possession of the Department of Environmental Quality.” (4-5-00)

### 007. EFFECTIVE FOR CLEAN WATER ACT PURPOSES.

01. **Alaska Rule.** Water quality standards adopted and submitted to EPA since May 30, 2000, are not

effective for federal Clean Water Act (CWA) purposes until EPA approves them (see [40 CFR 131.21](#)). This is known as the Alaska Rule. The process for revising the Idaho water quality standards subject to EPA review and approval, while also retaining the rules effective for CWA purposes, is set out in Subsections 007.02 and 007.03. (3-28-18)

**02. Existing Rule Retained for Clean Water Act Purposes Until EPA Approval of Rule Revisions.** (3-28-18)

**a.** When proposing revisions, the Department will make the proposed revisions using legislative format and, in the same rule docket, retain the existing rule that continues to be effective for CWA purposes until the date EPA issues written notification that the rule revisions have been approved. (3-28-18)

**b.** Notations explaining the effectiveness of both versions of the rule will be included along with the rule text. (3-28-18)

**c.** Upon the date EPA issues written notification that the rule revisions have been approved, the revised rule will become effective for CWA purposes and the previous rule and notations will be deleted from the Idaho Administrative Code. (3-28-18)

**d.** In the event EPA issues written notification that the rule revisions have been disapproved, the existing rule effective for CWA purposes will continue to apply. The disapproved rule revisions and notations will be deleted from the Idaho Administrative Code. (3-28-18)

**03. Previously Approved Rules.** Pursuant to [40 CFR 131.21\(e\)](#), previously approved rules remain in effect for CWA purposes until a replacement water quality standard is promulgated by the state and approved by EPA or a more stringent federal standard is promulgated. (3-28-18)

**04. Information Regarding the Status of EPA Review.** Information regarding the status of EPA review will be posted at <http://www.deq.idaho.gov/epa-actions-on-proposed-standards>. (3-28-18)

**008. -- 009. (RESERVED)**

**010. DEFINITIONS.**

For the purpose of the rules contained in IDAPA 58.01.02, "Water Quality Standards," the following definitions apply: (4-11-06)

**01. Activity.** For purposes of antidegradation review, an activity that causes a discharge to a water subject to the jurisdiction of the Clean Water Act. (3-18-11)

**02. Acute.** A stimulus severe enough to induce a rapid response. In aquatic toxicity tests, acute refers to a single or short-term (i.e., ninety-six (96) hours or less) exposure to a concentration of a toxic substance or effluent which results in death to fifty percent (50%) of the test organisms. When referring to human health, an acute effect is not always measured in terms of lethality. (3-30-07)

**03. Acute Criteria.** Unless otherwise specified in these rules, the maximum instantaneous or one (1) hour average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from acute toxicity due to exposure to the toxic substance or effluent. Acute criteria are expected to adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. This is also known as the Criterion Maximum Concentration (CMC). There are no specific acute criteria for human health; however, the human health criteria are based on chronic health effects and are expected to adequately protect against acute effects. (3-30-07)

**04. Aquatic Species.** Any plant or animal that lives at least part of its life in the water column or benthic portion of waters of the state. (8-24-94)

**05. Assigned Criteria.** Criteria associated with beneficial uses from Section 100 of these rules. (3-18-11)



**06. Background.** The biological, chemical or physical condition of waters measured at a point immediately upstream (up-gradient) of the influence of an individual point or nonpoint source discharge. If several discharges to the water exist or if an adequate upstream point of measurement is absent, the Department will determine where background conditions should be measured. (8-24-94)

**07. Basin Advisory Group.** No less than one (1) advisory group named by the Director, in consultation with the designated agencies, for each of the state's six (6) major river basins which shall generally advise the Director on water quality objectives for each basin, work in a cooperative manner with the Director to achieve these objectives, and provide general coordination of the water quality programs of all public agencies pertinent to each basin. Each basin advisory group named by the Director reflect a balanced representation of the interests in the basin and shall, where appropriate, include representatives from each of the following: agriculture, mining, nonmunicipal point source discharge permittees, forest products, local government, livestock, Indian tribes (for areas within reservation boundaries), water-based recreation, and environmental interests. (3-20-97)

**08. 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. (8-24-94)

**09. Best Management Practice.** A practice or combination of practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be the cost-effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals. (3-20-97)

**10. Bioaccumulation.** The process by which a compound is taken up by, and accumulated in the tissues of an aquatic organism from the environment, both from water and through food. (8-24-94)

**11. Bioaccumulative Pollutants.** A compound with a bioaccumulation factor of greater than one thousand (1,000) or a bioconcentration factor of greater than one thousand (1,000). (4-11-15)

**12. Biological Monitoring or Biomonitoring.** The use of a biological entity as a detector and its response as a measure to determine environmental conditions. Toxicity tests and biological surveys, including habitat monitoring, are common biomonitoring methods. (8-24-94)

**13. Board.** The Idaho Board of Environmental Quality. (7-1-93)

**14. Chronic.** A stimulus that persists or continues for a long period of time relative to the life span of an organism. In aquatic toxicity tests, chronic refers to continuous exposure to a concentration of a toxic substance or effluent which results in mortality, injury, reduced growth, impaired reproduction, or other adverse effect to aquatic organisms. The test duration is long enough that sub-lethal effects can be reliably measured. When referring to human health, a chronic effect is usually measured in terms of estimated changes in rates (# of cases/ 1000 persons) of illness over a lifetime of exposure. (3-30-07)

**15. Chronic Criteria.** Unless otherwise specified in these rules, the four (4) day average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from chronic toxicity due to exposure to the toxic substance or effluent. Chronic criteria are expected to adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. This is also known as the Criterion Continuous Concentration (CCC). Human health chronic criteria are based on lifetime exposure. (3-30-07)

**16. Compliance Schedule or Schedule Of Compliance.** A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard. (8-24-94)

**17. Cost-Effective and Reasonable Best Management Practices (BMPs) for Nonpoint Sources.** All

approved BMPs specified in Subsections 350.03 and 055.07 of these rules. BMPs for activities not specified are, in accordance with Section 350, determined on a case-by-case basis. (3-18-11)

**18. Daily Maximum (Minimum).** The highest (lowest) value measured during one (1) calendar day or a twenty-four (24) hour period, as appropriate. For ambient monitoring of dissolved oxygen, pH, and temperature, multiple measurements should be obtained at intervals short enough that the difference between consecutive measurements around the daily maximum (minimum) is less than zero point two (0.2) ppm for dissolved oxygen, zero point one (0.1) SU for pH, or zero point five (0.5) degree C for temperature. (3-30-07)

**19. Daily Mean.** The average of at least two (2) appropriately spaced measurements, acceptable to the Department, calculated over a period of one (1) day: (3-20-97)

**a.** Confidence bounds around the point estimate of the mean may be required to determine the sample size necessary to calculate a daily mean; (8-24-94)

**b.** If any measurement is greater or less than five-tenths (0.5) times the average, additional measurements over the one-day period may be needed to obtain a more representative average; (3-20-97)

**c.** In calculating the daily mean for dissolved oxygen, values used in the calculation shall not exceed the dissolved oxygen saturation value. If a measured value exceeds the dissolved oxygen saturation value, then the dissolved oxygen saturation value will be used in calculating the daily mean. (8-24-94)

**d.** For ambient monitoring of temperature, the daily mean should be calculated from equally spaced measurements, at intervals such that the difference between any two (2) consecutive measurements does not exceed one point zero (1.0) degree C. (3-30-07)

**20. Degradation or Lower Water Quality.** “Degradation” or “lower water quality” means, for purposes of antidegradation review, a change in a pollutant that is adverse to designated or existing uses, as calculated for a new point source, and based upon monitoring or calculated information for an existing point source increasing its discharge. Such degradation shall be calculated or measured after appropriate mixing of the discharge and receiving water body. (3-29-12)

**21. Deleterious Material.** Any nontoxic substance which may cause the tainting of edible species of fish, taste and odors in drinking water supplies, or the reduction of the usability of water without causing physical injury to water users or aquatic and terrestrial organisms. (8-24-94)

**22. Department.** The Idaho Department of Environmental Quality. (7-1-93)

**23. Design Flow.** The critical flow used for steady-state wasteload allocation modeling. (8-24-94)

**24. Designated Agency.** The department of lands for timber harvest activities, oil and gas exploration and development, and mining activities; the soil conservation commission for grazing and agricultural activities; the transportation department for public road construction; the department of agriculture for aquaculture; and the Department’s division of environmental quality for all other activities. (3-20-97)

**25. Designated Beneficial Use or Designated Use.** Those beneficial uses assigned to identified waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, “Water Quality Standards,” Sections 110 through 160, whether or not the uses are being attained. (3-28-18)

**26. Desirable Species.** Species indigenous to the area or those introduced species identified as desirable by the Idaho Department of Fish and Game. (3-15-02)

**27. Director.** The Director of the Idaho Department of Environmental Quality or his authorized agent. (7-1-93)

**28. Discharge.** When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. For purposes of antidegradation review, means “discharge” as

- used in Section 401 of the Clean Water Act. (3-18-11)
- 29. Dissolved Oxygen (DO).** The measure of the amount of oxygen dissolved in the water, usually expressed in mg/l. (7-1-93)
- 30. Dissolved Product.** Petroleum product constituents found in solution with water. (8-24-94)
- 31. Dynamic Model.** A computer simulation model that uses real or derived time series data to predict a time series of observed or derived receiving water concentrations. Dynamic modeling methods include continuous simulation, Monte Carlo simulations, lognormal probability modeling, or other similar statistical or deterministic techniques. (8-24-94)
- 32. *E. coli* (Escherichia coli).** A common fecal and intestinal organism of the coliform group of bacteria found in warm-blooded animals. (4-5-00)
- 33. Effluent.** Any wastewater discharged from a treatment facility. (7-1-93)
- 34. Effluent Biomonitoring.** The measurement of the biological effects of effluents (e.g., toxicity, biostimulation, bioaccumulation, etc.). (8-24-94)
- 35. EPA.** The United States Environmental Protection Agency. (7-1-93)
- 36. Ephemeral Waters.** A stream, reach, or water body that flows naturally only in direct response to precipitation in the immediate watershed and whose channel is at all times above the water table. (4-11-06)
- 37. Existing Activity or Discharge.** An activity or discharge that has been previously authorized or did not previously require authorization. (3-18-11)
- 38. Existing Beneficial Use Or Existing Use.** Those beneficial uses actually attained in waters on or after November 28, 1975, whether or not they are designated for those waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards." (4-11-06)
- 39. Facility.** As used in Section 850 only, any building, structure, installation, equipment, pipe or pipeline, well pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock or aircraft, area, place or property from which an unauthorized release of hazardous materials has occurred. (8-24-94)
- 40. Four Day Average.** The average of all measurements within a period of ninety-six (96) consecutive hours. While a minimum of one (1) measurement per each twenty-four (24) hours is preferred, for toxic chemicals in Section 210, any number of data points is acceptable. (3-30-07)
- 41. Free Product.** A petroleum product that is present as a nonaqueous phase liquid. Free product includes the presence of petroleum greater than one-tenth (0.1) inch as measured on the water surface for surface water or the water table for ground water. (7-1-93)
- 42. Full Protection, Full Support, or Full Maintenance of Designated Beneficial Uses of Water.** Compliance with those levels of water quality criteria listed in Sections 200, 210, 250, 251, 252, 253, and 275 (if applicable) or where no major biological group such as fish, macroinvertebrates, or algae has been modified by human activities significantly beyond the natural range of the reference streams or conditions approved by the Director in consultation with the appropriate basin advisory group. (3-15-02)
- 43. General Permit.** An NPDES permit issued by the U.S. Environmental Protection Agency authorizing a category of discharges under the federal Clean Water Act or a nationwide or regional permit issued by the U.S. Army Corps of Engineers under the federal Clean Water Act. (3-29-12)
- 44. Geometric Mean.** The geometric mean of "n" quantities is the "nth" root of the product of the quantities. (7-1-93)

- 45. Ground Water.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (3-30-07)
- 46. Harmonic Mean.** The number of daily measurements divided by the sum of the reciprocals of the measurements (i.e., the reciprocal of the mean of reciprocals). (3-25-16)
- 47. Hazardous Material.** A material or combination of materials which, when discharged in any quantity into state waters, presents a substantial present or potential hazard to human health, the public health, or the environment. Unless otherwise specified, published guides such as Quality Criteria for Water (1976) by EPA, Water Quality Criteria (Second Edition, 1963) by the state of California Water Quality Control Board, their subsequent revisions, and more recent research papers, regulations and guidelines will be used in identifying individual and specific materials and in evaluating the tolerances of the identified materials for the beneficial uses indicated. (7-1-93)
- 48. Highest Statutory and Regulatory Requirements for Point Sources.** All applicable effluent limits required by the Clean Water Act and other permit conditions. It also includes any compliance schedules or consent orders requiring measures to achieve applicable effluent limits and other permit conditions required by the Clean Water Act. (3-18-11)
- 49. Hydrologic Unit Code (HUC).** A unique eight (8) digit number identifying a subbasin. A subbasin is a United States Geological Survey cataloging unit comprised of water body units. (4-5-00)
- 50. Hydrologically-Based Design Flow.** A statistically derived receiving water design flow based on the selection and identification of an extreme value (e.g., 1Q10, 7Q10). The underlying assumption is that the design flow will occur X number of times in Y years, and limits the number of years in which one (1) or more excursions below the design flow can occur. (8-24-94)
- 51. Hypolimnion.** The bottom layer in a thermally-stratified body of water. It is fairly uniform in temperature and lays beneath a zone of water which exhibits a rapid temperature drop with depth such that mixing with overlying water is inhibited. (3-30-07)
- 52. Integrated Report.** Refers to the consolidated listing and reporting of the state's water quality status pursuant to Sections 303(d), 305(b), and 314 of the Clean Water Act. (3-18-11)
- 53. Inter-Departmental Coordination.** Consultation with those agencies responsible for enforcing or administering the practices listed as approved best management practices in Subsection 350.03. (7-1-93)
- 54. Intermittent Waters.** A stream, reach, or water body which naturally has a period of zero (0) flow for at least one (1) week during most years. Where flow records are available, a stream with a 7Q2 hydrologically-based unregulated flow of less than one-tenth (0.1) cubic feet per second (cfs) is considered intermittent. Streams with natural perennial pools containing significant aquatic life uses are not intermittent. (4-11-06)
- 55. Load Allocation (LA).** The portion of a receiving water's loading capacity that is attributed either to one (1) of its existing or future nonpoint sources of pollution or to natural background sources. (8-24-94)
- 56. Loading Capacity.** The greatest amount of pollutant loading that a water can receive without violating water quality standards. (8-24-94)
- 57. Lowest Observed Effect Concentration (LOEC).** The lowest concentration of a toxic substance or an effluent that results in observable adverse effects in the aquatic test population. (3-30-07)
- 58. Man-Made Waterways.** Canals, flumes, ditches, wasteways, drains, laterals, and/or associated features, constructed for the purpose of water conveyance. This may include channels modified for such purposes prior to November 28, 1975. These waterways may have uniform and rectangular cross-sections, straight channels, follow rather than cross topographic contours, be lined to reduce water loss, and be operated or maintained to promote water conveyance. (3-30-07)

**59. Maximum Weekly Maximum Temperature (MWMT).** The weekly maximum temperature (WMT) is the mean of daily maximum temperatures measured over a consecutive seven (7) day period ending on the day of calculation. When used seasonally, e.g., spawning periods, the first applicable WMT occurs on the seventh day into the time period. The MWMT is the single highest WMT that occurs during a given year or other period of interest, e.g., a spawning period. (3-30-07)

**60. Milligrams Per Liter (mg/l).** Milligrams of solute per liter of solution, equivalent to parts per million, assuming unit density. (7-1-93)

**61. Mixing Zone.** A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated. (7-1-93)

**62. National Pollutant Discharge Elimination System (NPDES).** Point source permitting program established pursuant to Section 402 of the federal Clean Water Act. (8-24-94)

**63. Natural Background Conditions.** The physical, chemical, biological, or radiological conditions existing in a water body without human sources of pollution within the watershed. Natural disturbances including, but not limited to, wildfire, geologic disturbance, diseased vegetation, or flow extremes that affect the physical, chemical, and biological integrity of the water are part of natural background conditions. Natural background conditions should be described and evaluated taking into account this inherent variability with time and place. (3-30-07)

**64. Nephelometric Turbidity Units (NTU).** 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. (8-24-94)

**65. New Activity or Discharge.** An activity or discharge that has not been previously authorized. Existing activities or discharges not currently permitted or licensed will be presumed to be new unless the Director determines to the contrary based on review of available evidence. An activity or discharge that has previously taken place without need for a license or permit is not a new activity or discharge when first licensed or permitted. (3-18-11)

**66. Nonpoint Source Activities.** Activities on a geographical area on which pollutants are deposited or dissolved or suspended in water applied to or incident on that area, the resultant mixture being discharged into the waters of the state. Nonpoint source activities on ORWs do not include issuance of water rights permits or licenses, allocation of water rights, operation of diversions, or impoundments. Nonpoint sources activities include, but are not limited to: (3-20-97)

- a. Irrigated and nonirrigated lands used for: (7-1-93)
  - i. Grazing; (7-1-93)
  - ii. Crop production; (7-1-93)
  - iii. Silviculture; (7-1-93)
- b. Log storage or rafting; (7-1-93)
- c. Construction sites; (7-1-93)
- d. Recreation sites; (3-20-97)
- e. Septic tank disposal fields. (8-24-94)
- f. Mining; (3-20-97)

- g.** Runoff from storms or other weather related events; and (3-20-97)
- h.** Other activities not subject to regulation under the federal national pollutant discharge elimination system. (3-20-97)
- 67. Nuisance.** Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state. (7-1-93)
- 68. Nutrients.** The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. (7-1-93)
- 69. One Day Minimum.** The lowest daily instantaneous value measured. (3-20-97)
- 70. One Hour Average.** The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of one (1) hour. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the one-hour period may be needed to obtain a more representative mean. (3-20-97)
- 71. Operator.** For purposes of Sections 851 and 852, any person presently or who was at any time during a release in control of, or having responsibility for, the daily operation of the petroleum storage tank (PST) system. (4-2-03)
- 72. Outstanding Resource Water (ORW).** A high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been designated by the legislature and subsequently listed in this chapter. ORW constitutes an outstanding national or state resource that requires protection from point and nonpoint source activities that may lower water quality. (3-20-97)
- 73. Owner.** For purposes of Sections 851 and 852, any person who owns or owned a petroleum storage tank (PST) system any time during a release and the current owner of the property where the PST system is or was located. (4-2-03)
- 74. Permit or License.** A permit or license for an activity that is subject to certification by the state under Section 401 of the Clean Water Act, including, for example, NPDES permits, dredge and fill permits, and FERC licenses. (3-18-11)
- 75. Person.** An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties. (3-20-97)
- 76. Petroleum Products.** Products derived from petroleum through various refining processes. (7-1-93)
- 77. Petroleum Storage Tank (PST) System.** Any one (1) or combination of storage tanks or other containers, including pipes connected thereto, dispensing equipment, and other connected ancillary equipment, and stationary or mobile equipment, that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. (7-1-93)
- 78. Point Source.** Any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (7-1-93)
- 79. Pollutant.** Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials

which, when discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials do not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities. (3-20-97)

**80. Project Plans.** Documents which describe actions to be taken under a proposed activity. These documents include environmental impact statements, environmental assessments, and other land use or resource management plans. (7-1-93)

**81. Public Swimming Beaches.** Areas indicated by features such as signs, swimming docks, diving boards, slides, or the like, boater exclusion zones, map legends, collection of a fee for beach use, or any other unambiguous invitation to public swimming. Privately owned swimming docks or the like which are not open to the general public are not included in this definition. (4-11-06)

**82. Receiving Waters.** Those waters which receive pollutants from point or nonpoint sources. (7-1-93)

**83. Reference Stream or Condition.** A water body which represents the minimum conditions necessary to fully support the applicable designated beneficial uses as further specified in these rules, or natural conditions with few impacts from human activities and which are representative of the highest level of support attainable in the basin. In highly mineralized areas or in the absence of such reference streams or water bodies, the Director, in consultation with the basin advisory group and the technical advisors to it, may define appropriate hypothetical reference conditions or may use monitoring data specific to the site in question to determine conditions in which the beneficial uses are fully supported. (3-20-97)

**84. Release.** Any unauthorized spilling, leaking, emitting, discharging, escaping, leaching, or disposing into soil, ground water, or surface water. (8-24-94)

**85. Resident Species.** Those species that commonly occur in a site including those that occur only seasonally or intermittently. This includes the species, genera, families, orders, classes, and phyla that: (8-24-94)

a. Are usually present at the site; (8-24-94)

b. Are present only seasonally due to migration; (8-24-94)

c. Are present intermittently because they periodically return or extend their ranges into the site; (8-24-94)

d. Were present at the site in the past but are not currently due to degraded conditions, and are expected to be present at the site when conditions improve; and (8-24-94)

e. Are present in nearby bodies of water but are not currently present at the site due to degraded conditions, and are expected to be present at the site when conditions improve. (8-24-94)

**86. Responsible Persons in Charge.** Any person who: (8-24-94)

a. By any acts or omissions, caused, contributed to or exacerbated an unauthorized release of hazardous materials; (8-24-94)

b. Owns or owned the facility from which the unauthorized release occurred and the current owner of the property where the facility is or was located; or (8-24-94)

c. Presently or who was at any time during an unauthorized release in control of, or had responsibility for, the daily operation of the facility from which an unauthorized release occurred. (8-24-94)

**87. Sediment.** Undissolved inorganic matter. (3-30-07)

**88. Seven Day Mean.** The average of the daily mean values calculated over a period of seven (7) consecutive days. (3-20-97)

- 89. Sewage.** The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (8-24-94)
- 90. Short-Term or Temporary Activity.** An activity which is as short as possible but lasts for no more than one (1) year, is limited in scope and is expected to have only minimal impact on water quality as determined by the Director. Short-term or temporary activities include, but are not limited to, those activities described in Subsection 080.02. (3-30-07)
- 91. Silviculture.** Those activities associated with the regeneration, growing and harvesting of trees and timber including, but not limited to, disposal of logging slash, preparing sites for new stands of trees to be either planted or allowed to regenerate through natural means, road construction and road maintenance, drainage of surface water which inhibits tree growth or logging operations, fertilization, application of herbicides or pesticides, all logging operations, and all forest management techniques employed to enhance the growth of stands of trees or timber. (3-20-97)
- 92. Specialized Best Management Practices.** Those practices designed with consideration of geology, land type, soil type, erosion hazard, climate and cumulative effects in order to fully protect the beneficial uses of water, and to prevent or reduce the pollution generated by nonpoint sources. (3-3-87)
- 93. State.** The state of Idaho. (7-1-93)
- 94. State Water Quality Management Plan.** The state management plan developed and updated by the Department in accordance with Sections 205, 208, and 303 of the Clean Water Act. (3-20-97)
- 95. Suspended Sediment.** The undissolved inorganic fraction of matter suspended in surface water. (3-30-07)
- 96. Suspended Solids.** The undissolved organic and inorganic matter suspended in surface water. (3-30-07)
- 97. Technology-Based Effluent Limitation.** Treatment requirements under Section 301(b) of the Clean Water Act that represent the minimum level of control that must be imposed in a permit issued under Section 402 of the Clean Water Act. (8-24-94)
- 98. Thermal Shock.** A rapid temperature change that causes aquatic life to become disoriented or more susceptible to predation or disease. (4-11-15)
- 99. Total Maximum Daily Load (TMDL).** The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. (8-24-94)
- 100. Toxicity Test.** A procedure used to determine the toxicity of a chemical or an effluent using living organisms. A toxicity test measures the degree of response of an exposed test organism to a specific chemical or effluent. (8-24-94)
- 101. Toxic Substance.** Any substance, material or disease-causing agent, or a combination thereof, which after discharge to waters of the State and upon exposure, ingestion, inhalation or assimilation into any organism (including humans), either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, malignancy, genetic mutation, physiological abnormalities (including malfunctions in reproduction) or physical deformations in affected organisms or their offspring. Toxic substances include, but are not limited to, the one hundred twenty-six (126) priority pollutants identified by EPA pursuant to Section 307(a) of the federal Clean Water Act. (8-24-94)



**102. Treatment.** A process or activity conducted for the purpose of removing pollutants from wastewater. (7-1-93)

**103. Treatment System.** Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment by disposal plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishing thereof and their appurtenances. A treatment system may also be known as a treatment facility. (4-11-06)

**104. Twenty-Four Hour Average.** The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of twenty-four (24) consecutive hours. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the twenty-four (24)-hour period may be needed to obtain a more representative mean. (3-20-97)

**105. Unique Ecological Significance.** The attribute of any stream or water body which is inhabited or supports an endangered or threatened species of plant or animal or a species of special concern identified by the Idaho Department of Fish and Game, which provides anadromous fish passage, or which provides spawning or rearing habitat for anadromous or desirable species of lake dwelling fishes. (8-24-94)

**106. Use Attainability Analysis.** A structured scientific assessment of the factors affecting the attainment of the use which may include physical, chemical, biological, and economic factors as described in Subsection 102.02.a. (3-25-16)

**107. Wasteload Allocation (WLA).** The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. (8-24-94)

**108. Wastewater.** Unless otherwise specified, sewage, industrial waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present. (7-1-93)

**109. Water Body Unit.** Includes all named and unnamed tributaries within a drainage and is considered a single unit unless designated otherwise. (4-5-00)

**110. 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. (8-24-94)

**111. Water Quality-Based Effluent Limitation.** An effluent limitation that refers to specific levels of water quality that are expected to render a body of water suitable for its designated or existing beneficial uses. (8-24-94)

**112. Water Quality Limited Water Body.** After monitoring, evaluation of required pollution controls, and consultation with the appropriate basin and watershed advisory groups, a water body identified by the Department, which does not meet applicable water quality standards, and/or is not expected to meet applicable water quality standards after the application of required pollution controls. A water body identified as water quality limited shall require the development of a TMDL or other equivalent process in accordance with Section 303 of the Clean Water Act and Sections 39-3601 et seq., Idaho Code. (3-20-97)

**113. 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. (7-1-93)

**114. Watershed.** The land area from which water flows into a stream or other body of water which drains the area. (3-20-97)

**115. Watershed Advisory Group.** An advisory group appointed by the Director, with the advice of the appropriate Basin Advisory Group, which will recommend to the Department those specific actions needed to control point and nonpoint sources of pollution affecting water quality limited water bodies within the watershed. Members of each watershed advisory group shall be representative of the industries and interests affected by the management of that watershed, along with representatives of local government and the land managing or regulatory agencies with an interest in the management of that watershed and the quality of the water bodies within it. (3-20-97)

**116. Whole-Effluent Toxicity.** The aggregate toxic effect of an effluent measured directly with a toxicity test. (8-24-94)

**117. Zone of Initial Dilution (ZID).** An area within a Department authorized mixing zone where acute criteria may be exceeded. This area shall be no larger than necessary and be sized to prevent lethality to swimming or drifting organisms by ensuring that organisms are not exposed to concentrations exceeding acute criteria for more than one (1) hour more than once in three (3) years. The actual size of the ZID will be determined by the Department for a discharge on a case-by-case basis, taking into consideration mixing zone modeling and associated size recommendations and any other pertinent chemical, physical, and biological data available. (4-11-15)

**011. -- 049. (RESERVED)**

**050. ADMINISTRATIVE POLICY.**

**01. Apportionment of Water.** The adoption of water quality standards and the enforcement of such standards is not intended to conflict with the apportionment of water to the state through any of the interstate compacts or court decrees, or to interfere with the rights of Idaho appropriators, either now or in the future, in the utilization of the water appropriations which have been granted to them under the statutory procedure, or to interfere with water quality criteria established by mutual agreement of the participants in interstate water pollution control enforcement procedures. (7-1-93)

**02. Protection of Waters of the State.** (7-1-93)

**a.** Wherever attainable, surface waters of the state shall be protected for beneficial uses which for surface waters includes all recreational use in and on the water surface and the preservation and propagation of desirable species of aquatic life; (4-5-00)

**b.** In all cases, existing beneficial uses of the waters of the state will be protected. (7-1-93)

**03. Annual Program.** To fully achieve and maintain water quality in the state, it is the intent of the Department to develop and implement a Continuing Planning Process that describes the on-going planning requirements of the State's Water Quality Management Plan. The Department's planned programs for water pollution control comprise the State's Water Quality Management Plan. (4-5-00)

**04. Program Integration.** Whenever an activity or class of activities is subject to provisions of these rules, as well as other regulations or standards of either this Department or other Governmental agency, the Department will seek and employ those methods necessary and practicable to integrate the implementation, administration and enforcement of all applicable regulations through a single program. Integration will not, however, be affected to the extent that applicable provisions of these rules would fail to be achieved or maintained unless the Department's role in these cases is limited by state statute or federal law. (7-1-93)

**05. Revisions.** These rules are subject to amendment as technical data, surveillance programs, and technological advances require. Any revisions made to these rules will be in accordance with Sections 39-101, et seq., and 67-5201, et seq., Idaho Code. (8-24-94)

**051. ANTIDegradation POLICY.**

**01. Maintenance of Existing Uses for All Waters (Tier I Protection).** The existing in stream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected. (3-18-11)

**02. High Quality Waters (Tier II Protection).** Where the quality of the waters exceeds levels necessary to support propagation of fish, shellfish and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the Department finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the Department's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the Department shall assure water quality adequate to protect existing uses fully. Further, the Department shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and cost-effective and reasonable best management practices for nonpoint source control. In providing such assurance, the Department may enter together into an agreement with other state of Idaho or federal agencies in accordance with Sections 67-2326 through 67-2333, Idaho Code. (3-18-11)

**03. Outstanding Resource Waters (Tier III Protection).** Where an outstanding resource water has been designated by the legislature, that water quality shall be maintained and protected from the impacts of point and nonpoint source activities. (3-29-12)

**04. Thermal Discharges.** In those cases where potential water quality impairment associated with a thermal discharge is involved, antidegradation shall be implemented consistent with Section 316 of the Clean Water Act. (3-18-11)

**05. Waters Subject to the Antidegradation Policy.** Idaho's antidegradation policy only applies to waters subject to the jurisdiction of the Clean Water Act. (3-18-11)

**052. ANTIDEGRADATION IMPLEMENTATION.**  
The antidegradation policy shall be implemented as follows: (3-18-11)

**01. Waters Protected.** All waters receive Tier I protection. Waters receiving Tier II protection will be identified using a water body by water body approach during the antidegradation review. Waters given Tier III protection are designated in law. (3-18-11)

**02. Restoration Projects.** Changes in water quality may be allowed by the Department without an antidegradation review where determined necessary to secure long-term water quality improvement through restoration projects designed to trend toward natural characteristics and associated uses to a water body where those characteristics and uses have been lost or diminished. Restoration projects shall implement best management practices. (3-18-11)

**03. General Permits.** For general permits issued on or after July 1, 2011, the Department will conduct an antidegradation review, including any required Tier II analysis, at the time at which general permits are certified. For general permits that the Department determines adequately address antidegradation, review of individual applications for coverage will not be required unless it is required by the general permit. For general permits that the Department determines do not adequately address antidegradation, the Department may conclude that other conditions, such as the submittal of additional information or individual certification at the time an application is submitted for coverage under a general permit, may be necessary in the general permit to provide reasonable assurance of compliance with the antidegradation policy. If supported by the permit record, the Department may also presume that discharges authorized under a general permit are insignificant or that the pollution controls required in the general permit are the least degrading alternative as specified in Subsection 052.08.c. (3-29-12)

**04. Initiation of Antidegradation Review.** Review of degradation potential and application of the appropriate level of protection from degradation will be triggered by an application for a new or reissued permit or license. (3-18-11)

**05. Identification of Tier II Waters.** The Department will utilize a water body by water body approach in determining where Tier II protection is appropriate in addition to Tier I protection. This approach shall be based on an assessment of the chemical, physical, biological and other information regarding the water body. The most recent federally approved Integrated Report and supporting data will be used to determine the appropriate level of protection as follows: (3-29-12)

**a.** Water bodies identified in the Integrated Report as fully supporting assessed uses will be provided Tier II protection. (3-29-12)

**b.** Water bodies identified in the Integrated Report as not assessed will be provided an appropriate level of protection on a case-by-case basis using information available at the time of a proposal for a new or reissued permit or license. (3-29-12)

**c.** Water bodies identified in the Integrated Report as not fully supporting assessed uses will receive Tier I protection for the impaired aquatic life or recreational use, except as follows: (3-29-12)

**i.** For aquatic life uses identified as impaired for dissolved oxygen, pH or temperature, if biological or aquatic habitat parameters show a healthy, balanced biological community is present, as described in the “Water Body Assessment Guidance” published by the Idaho Department of Environmental Quality, then the water body shall receive Tier II protection for aquatic life uses. (3-29-12)

**ii.** For recreational uses, if water quality data show compliance with those levels of water quality criteria listed in Sections 200, 210, 251, and 275 (where applicable), then the water body shall receive Tier II protection for recreational uses. (3-29-12)

**06. Evaluation of Effect of an Activity or Discharge on Water Quality.** The Department will evaluate the effect on water quality for each pollutant. The Department will determine whether an activity or discharge results in an improvement, no change, or degradation of water quality. (3-18-11)

**a.** Effect on water quality will be based on the calculated change in concentration in the receiving water as a result of a new or reissued permit or license. With respect to a discharge, this calculation will take into account dilution using appropriate mixing of the receiving water under critical conditions coupled with the design flow of the discharge. For a reissued permit or license, the calculated change will be the difference in water quality that would result from the activity or discharge as authorized in the current permit or license and the water quality that would result from the activity or discharge as proposed in the reissued permit or license. For a new permit or license, the calculated change will be the difference between the existing receiving water quality and water quality that would result from the activity or discharge as proposed in the new permit or license. (3-18-11)

**i.** Current Discharge Quality. For pollutants that are currently limited, current discharge quality shall be based on limits in the current permit or license. For pollutants not currently limited, current discharge quality shall be based on available discharge quality data collected within five years of the application for a permit or license or other relevant information. (3-18-11)

**ii.** Proposed Quality for an Existing Discharge. Future discharge quality shall be based on proposed permit limits. For pollutants not limited in the proposed permit or license, future discharge quality will be estimated from available discharge quality data since the last permit or license was issued accounting for any changes in production, treatment or operation. For the proposed discharge of a new pollutant or a proposed increased discharge of a pollutant, future discharge quality will be estimated based on information provided by the applicant or other relevant information. (3-18-11)

**iii.** New Permit Limits for an Existing Discharge. When new permit limits are proposed for the first time for a pollutant in an existing discharge, then for purposes of calculating the change in water quality, any statistical procedures used to derive the proposed new limits will be applied to past discharge quality as well, where appropriate. (3-18-11)

**iv.** Proposed Quality for a New Discharge. Future discharge quality shall be based on proposed permit limits. For pollutants not limited in the proposed permit or license, future discharge quality will be based on information provided by the applicant or other relevant information. (3-18-11)

**b.** Receiving water quality will be the quality measured, or modeled as appropriate, immediately above the discharge for flowing waters and outside any Department authorized mixing zone for lakes and reservoirs. (3-18-11)

**c.** Offsets. In determining the effect of an activity or discharge on water quality of Tier II or Tier III waters, the Department may take into account reductions in pollution from other sources that are tied to the proposed activity or discharge. These offsets in pollution must be upstream of the degradation in water quality due to the proposed activity or discharge and occur before the activity or discharge is allowed to begin. The applicant seeking a permit or license for an activity or discharge based on offsets will be held responsible for assuring offsets are achieved and maintained as a condition of their permit or license. (3-18-11)

**07. Tier I Review.** Tier I review will be performed for all new or reissued permits or licenses. Existing uses and the water quality necessary to protect the existing uses must always be maintained and protected. No degradation or lowering of water quality may be allowed that would cause or contribute to violation of water quality criteria as calculated after authorized mixing of the discharge with the receiving water. Identification of existing uses and the water quality necessary for their protection will be based on all available information, including any water quality related data and information submitted during the public comment period for the permit or license. (3-18-11)

**08. Tier II Analysis.** A Tier II analysis will only be conducted for activities or discharges, subject to a permit or a license, that cause degradation. The Department may allow significant degradation of surface water quality that is better than assigned criteria only if it is determined to be necessary to accommodate important economic or social development in the area in which the waters are located. The process and standard for this determination are set forth below. (3-18-11)

**a.** Insignificant Degradation. If the Department determines an activity or discharge will cause degradation, then the Department shall determine whether the degradation is insignificant. (4-11-15)

**i.** A cumulative decrease in assimilative capacity of more than ten percent (10%), from conditions as of July 1, 2011, shall constitute significant degradation. If the cumulative decrease in assimilative capacity from conditions as of July 1, 2011, is equal to or less than ten percent (10%), then, taking into consideration the size and character of the activity or discharge and the magnitude of its effect on the receiving stream, the Department may determine that the degradation is insignificant. (4-11-15)

**ii.** The Department may request additional information from the applicant as needed to determine the significance of the degradation. (4-11-15)

**iii.** If degradation is determined to be insignificant, then no further Tier II analysis for other source controls (Subsection 052.08.b.), alternatives analysis (Subsection 052.08.c.), or socioeconomic justification (Subsection 052.08.d.) is required. (4-11-15)

**b.** Other Source Controls. In allowing any degradation of high water quality, the Department must assure that there shall be achieved in the watershed the highest statutory and regulatory requirements for all new and existing point sources and cost-effective and reasonable best management practices for all nonpoint source controls. In providing such assurance, the Department may enter together into an agreement with other State of Idaho or federal agencies in accordance with Sections 67-2326 through 67-2333, Idaho Code. (3-18-11)

**c.** Alternatives Analysis. Degradation will be deemed necessary only if there are no reasonable alternatives to discharging at the levels proposed. The applicant seeking authorization to degrade high water quality must provide an analysis of alternatives aimed at selecting the best combination of site, structural, managerial and treatment approaches that can be reasonably implemented to avoid or minimize the degradation of water quality. To identify the least degrading alternative that is reasonable, the following principles shall be followed: (3-18-11)

**i.** Controls to avoid or minimize degradation should be considered at the earliest possible stage of project design. (3-18-11)

**ii.** Alternatives that must be evaluated as appropriate, are: (3-18-11)

(1) Relocation or configuration of outfall or diffuser; (3-18-11)

(2) Process changes/improved efficiency that reduces pollutant discharge; (3-18-11)

- (3) Seasonal discharge to avoid critical time periods for water quality; (3-18-11)
- (4) Non-discharge alternatives such as land application; and (3-18-11)
- (5) Offsets to the activity or discharge's effect on water quality. (3-18-11)
- iii. The Department retains the discretion to require the applicant to examine specific alternatives or provide additional information to conduct the analysis. (3-18-11)
- iv. In selecting the preferred alternative the applicant shall: (3-18-11)
  - (1) Evaluate economic impacts (total cost effectiveness, incremental cost effectiveness) of all technologically feasible alternatives; (3-18-11)
  - (2) Rank all technologically feasible treatment alternatives by their cost effectiveness at pollutant reduction; (3-18-11)
  - (3) Consider the environmental costs and benefits across media and between pollutants; and (3-18-11)
  - (4) Select the least degrading option or show that a more degrading alternative is justified based on Subsections 052.08.c.iv.(1), 052.08.c.iv.(2), or 052.08.c.iv.(3) above. (3-29-12)
- d. Socioeconomic Justification. Degradation of water quality deemed necessary must also be determined by the Department to accommodate important economic or social development. Therefore, the applicant seeking authorization to degrade water quality must at a minimum identify the important economic or social development for which lowering water quality is necessary and should use the following steps to demonstrate this: (3-18-11)
  - i. Identify the affected community; (3-18-11)
  - ii. Describe the important social or economic development associated with the activity which can include cleanup/restoration of a closed facility; (3-18-11)
  - iii. Identify the relevant social, economic and environmental health benefits and costs associated with the proposed degradation in water quality for the preferred alternative. Benefits and costs that must be analyzed include, but are not limited to: (3-18-11)
    - (1) Economic benefits to the community such as changes in employment, household incomes and tax base; (3-18-11)
    - (2) Provision of necessary services to the community; (3-18-11)
    - (3) Potential health impacts related to the proposed activity; (3-18-11)
    - (4) Impacts to direct and indirect uses associated with high quality water, e.g., fishing, recreation, and tourism; and (3-18-11)
    - (5) Retention of assimilative capacity for future activities or discharges. (3-18-11)
  - iv. Factors identified in the socioeconomic justification should be quantified whenever possible but for those factors that cannot be quantified a qualitative description of the impacts may be accepted; and (3-18-11)
  - v. If the Department determines that more information is required, then the Department may require the applicant to provide further information or seek additional sources of information. (3-18-11)
- e. Process. (3-18-11)

i. Analysis. The Department in cooperation with State of Idaho designated management agencies and/or federal agencies will collect information regarding the other source controls specified in Subsection 052.08.b. The applicant for a new or reissued permit or license is responsible for providing information pertinent to determining significance/insignificance of proposed changes in water quality and completing an alternatives analysis and socioeconomic justification as appropriate and submitting them to the Department for review. (3-29-12)

ii. Departmental review. The Department shall review all pertinent information and, after intergovernmental coordination, public notice and input, make a determination as to whether there is assurance that the other source controls specified in Subsection 052.08.b. shall be achieved, and whether degradation of water quality is necessary to accommodate important economic or social development. (3-29-12)

iii. Public Involvement. The Department will satisfy the public participation provisions of Idaho's continuing planning process. Public notice and review of antidegradation will be coordinated with existing 401 certification notices for public review. (3-18-11)

**09. Tier III - Outstanding Resource Waters (ORWs).** ORWs are designated by the legislature. Subsection 052.09 describes the nomination, public notice and comment, public hearing, and board review process for directing the Department to develop legislation designating ORWs. Only the legislature may designate ORWs. Once designated by the legislature, the ORWs are listed in these rules. (3-18-11)

a. Nominations. Any person may request, in writing to the board, that a stream segment be considered for designation as an Outstanding Resource Water. To be considered for ORW designation, nominations must be received by the board by April 1 or ten (10) days after the adjournment sine die of that year's regular session of the legislature, whichever is later, for consideration during the next regular session of the legislature. All nominations shall be addressed to:

Idaho Board of Environmental Quality  
Department of Environmental Quality  
Outstanding Resource Water Nomination  
1410 N. Hilton  
Boise, Idaho 83706-1255

The nomination shall include the following information: (3-18-11)

- i. The name, description and location of the stream segment; (3-18-11)
- ii. The boundaries upstream and downstream of the stream segment; (3-18-11)
- iii. An explanation of what makes the segment a candidate for the designation; (3-18-11)
- iv. A description of the existing water quality and any technical data upon which the description is based as can be found in the most current basin status reports; (3-18-11)
- v. A discussion of the types of nonpoint source activities currently being conducted that may lower water quality, together with those activities that are anticipated during the next two (2) years, as described in the most current basin status reports; and (3-18-11)
- vi. Any additional evidence to substantiate such a designation. (3-18-11)

b. Public Notice and Public Comment. The board will give public notice that one (1) or more stream segments are being considered for recommendation to the legislature as outstanding resource waters. Public notice will also be given if a public hearing is being held. Public comments regarding possible designation will be accepted by the board for a period of at least forty-five (45) days. Public comments may include, but are not limited to, discussion of socioeconomic considerations; fish, wildlife or recreational values; and other beneficial uses. (3-18-11)

c. Public Hearing. A public hearing(s) may be held at the board's discretion on any stream segment nominated for ORW designation. Public notice will be given if a hearing is held. The decision to hold a hearing may

be based on the following criteria: (3-18-11)

- i. One (1) or more requests contain supporting documentation and valid reasons for designation; (3-18-11)
- ii. A stream segment is generally recognized as constituting an outstanding national resource, such as waters of national and state parks, and wildlife refuges; (3-18-11)
- iii. A stream segment is generally recognized as waters of exceptional recreational or ecological significance; (3-18-11)
- iv. The board shall give special consideration to holding a hearing and to recommending for designation by the legislature, waters which meet criteria found in Subsections 052.09.c.ii. and 052.09.c.iii.; (3-29-12)
- v. Requests for a hearing will be given due consideration by the board. Public hearings may be held at the board's discretion. (3-18-11)

**d. Board Review.** The board shall review the stream segments nominated for ORW designation and based on the hearing or other written record, determine the segments to recommend as ORWs to the legislature. The board shall submit a report for each stream segment it recommends for ORW designation. The report shall contain the information specified in Subsection 052.09.a. and information from the hearing record or other written record concerning the impacts the designation would have on socioeconomic conditions; fish, wildlife and recreational values; and other beneficial uses. The Department shall then prepare legislation for each segment that will be recommended to the legislature as an ORW. The legislation shall provide for the listing of designated segments in these rules without the need for formal rulemaking procedures, pursuant to Sections 67-5201, et seq., Idaho Code. (3-29-12)

**e. Designated Waters.** Those stream segments designated by the legislature as ORWs are listed in Sections 110 through 160. (3-18-11)

**f. Restriction of Nonpoint Source Activities on ORWs.** Nonpoint source activities on ORWs shall be restricted as follows: (3-18-11)

i. The water quality of ORWs shall be maintained and protected. After the legislature has designated a stream segment as an outstanding resource water, no person shall conduct a new or substantially modify an existing nonpoint source activity that can reasonably be expected to lower the water quality of that ORW, except for conducting short term or temporary nonpoint source activities which do not alter the essential character or special uses of a segment, allocation of water rights, or operation of water diversions or impoundments. Stream segments not designated as ORWs that discharge directly into an ORW shall not be subject to the same restrictions as an ORW, nor shall the ORW mixing zone be subject to the same restrictions as an ORW. A person may conduct a new or substantially modify an existing nonpoint source activity that can reasonably be expected to lower the water quality of a tributary or stream segment, which discharges directly into an ORW or an ORW mixing zone, provided that the water quality of that ORW below the mixing zone shall not be lowered. (3-18-11)

ii. After the legislature has designated a stream segment as an outstanding resource water as outlined in Subsection 052.09.e., existing nonpoint source activities may continue and shall be conducted in a manner that maintains and protects the current water quality of an ORW. The provisions of this section shall not affect short term or temporary activities that do not alter the essential character or special uses of a segment, allocation of water rights, or operations of water diversions or impoundments, provided that such activities shall be conducted in conformance with applicable laws and regulations. (3-29-12)

**g. Restriction of Point Source Discharges to ORWs.** The water quality of ORWs shall be maintained and protected. Point source discharges that may cause degradation to ORWs may be allowed only if they are offset by reductions in other discharges per Subsection 052.06.c. (3-29-12)

**053. PUBLIC PARTICIPATION.**



In providing general coordination of water quality programs within each basin, in carrying out the duties of the Basin Advisory Groups as assigned, and in carrying out the provisions of Sections 39-3601, et seq., Idaho Code, the Director and the Basin Advisory Groups shall employ all means of public involvement deemed necessary, including the public involvement required under Section 67-2340 through Section 67-2347, Idaho Code, Section 051 of this rule or required in Chapter 52, Title 67, Idaho Code, and shall cooperate fully with the public involvement or planning processes of other appropriate public agencies. (3-20-97)

**054. BENEFICIAL USE SUPPORT STATUS.**

In determining whether a water body fully supports designated and existing beneficial uses, the Department shall determine whether all of the applicable water quality standards are being achieved, including any criteria developed pursuant to these rules, and whether a healthy, balanced biological community is present. The Department shall utilize biological and aquatic habitat parameters listed below and in the current version of the “Water Body Assessment Guidance,” as published by the Idaho Department of Environmental Quality, as a guide to assist in the assessment of beneficial use status. Revisions to this guidance will be made after notice and an opportunity for public comment. These parameters are not to be considered or treated as individual water quality criteria or otherwise interpreted or applied as water quality standards. The Department shall employ a weight of evidence approach in evaluating a combination of water quality data types (including, but not limited to, aquatic habitat and biological parameters), when such a combination of data are available, in making its final use support determination. (3-30-07)

**01. Aquatic Habitat Parameters.** These parameters may include, but are not limited to, stream width, stream depth, stream shade, measurements of sediment impacts, bank stability, water flows, and other physical characteristics of the stream that affect habitat for fish, macroinvertebrates or other aquatic life. (3-30-07)

**02. Biological Parameters.** These parameters may include, but are not limited to, evaluation of aquatic macroinvertebrates including Ephemeroptera, Plecoptera and Trichoptera (EPT), Hilsenhoff Biotic Index, measures of functional feeding groups, and the variety and number of fish or other aquatic life to determine biological community diversity and functionality. (3-20-97)

**03. Use of Data Regarding pH, Turbidity, Dissolved Oxygen, and Temperature.** In making use support determinations, the Department may give less weight to departures from criteria in Section 250 for pH, turbidity, dissolved oxygen, and temperature that are infrequent, brief, and small if aquatic habitat and biological data indicate to the assessor that aquatic life beneficial uses are otherwise supported. Unless otherwise determined by the Department, “infrequent” means less than ten percent (10%) of valid, applicable, representative measurements when continuous data are available; “brief” means two (2) hours or less; and “small” means conditions that avoid acute effects. Subsection 054.03 only applies to use of this data for determination of beneficial use support status. Subsection 054.03 does not apply to or affect the application of criteria for any other regulatory purpose including, but not limited to, determining whether a particular discharge or activity violates water quality standards. (3-18-11)

**04. Natural Conditions.** There is no impairment of beneficial uses or violation of water quality standards where natural background conditions exceed any applicable water quality criteria as determined by the Department, and such natural background conditions shall not, alone, be the basis for placing a water body on the list of water quality limited water bodies described in Section 055. (3-18-11)

**05. Rigor, Quality and Relevance of Data.** In making any use support determination, the Department shall consider the scientific rigor associated with the collection of samples or data (e.g., the scientific methods used to collect samples or data); the quality of measurements and/or analysis of the samples (e.g., methodology, instrumentation, accuracy, precision, and limits of detection where applicable); and the relevance of the data (e.g., the relationship to a water quality standard, beneficial use or cause of impairment, and how representative the samples or data are of the water body in question). (3-30-07)

**055. WATER QUALITY LIMITED WATERS AND TMDLS.**

**01. Reporting Water Body Use Support Status.** After using the provisions in Section 054, and after consultation with the appropriate basin and watershed advisory groups, the Department shall identify water bodies in the appropriate category in the Integrated Report. The Integrated Report shall be published periodically by the Department in accordance with the applicable provisions of the Clean Water Act and shall be subject to public review

and comment prior to submission to EPA for approval. (4-11-15)

**02. Water Bodies Needing Development of a Total Maximum Daily Load (TMDL).** (4-11-15)

**a.** The Department shall develop TMDLs or other equivalent processes, as required under Section 303(d)(1) of the Clean Water Act, for those water bodies identified in the Integrated Report as not fully supporting designated or existing beneficial uses and not meeting applicable water quality standards despite the application of required pollution controls. (4-11-15)

**b.** Informational TMDLs may be developed for water bodies fully supporting beneficial uses as described under Section 303(d)(3) of the Clean Water Act, however, they will not be subject to the provisions of this Section. (3-18-11)

**c.** TMDLs do not need to be developed for water bodies where other pollutant control requirements are expected to achieve full support of uses and compliance with water quality standards in a reasonable period of time. Such water bodies shall be identified as Category 4(b) waters in the Integrated Report. (4-11-15)

**03. Priority of TMDL Development.** The priority of TMDL development for water quality limited water bodies identified in the Integrated Report shall be determined by the Director depending upon the severity of pollution and the uses of the water body, including those of unique ecological significance. In determining the severity of pollution and the effect on uses, the Director shall apply the factors set forth in Section 39-3609, Idaho Code. Water bodies identified as a high priority through this process will be the first to be targeted for development of a TMDL or equivalent process. (4-11-15)

**04. Protection of Uses Prior to Completion of TMDLs.** Prior to the completion of a TMDL or equivalent process for water quality limited water bodies, the Department shall take those actions required by the antidegradation policy (Section 051), the antidegradation implementation procedures (Section 052), and the provisions in Section 39-3610, Idaho Code. Nothing in this section shall be interpreted as requiring best management practices for agricultural operations which are not adopted on a voluntary basis. (4-11-15)

**05. Consistency with TMDLs.** Once a TMDL or equivalent process is completed, discharges of causative pollutants shall be consistent with the allocations in the TMDL. Nothing in this section shall be interpreted as requiring best management practices for agricultural operations which are not adopted on a voluntary basis. (4-11-15)

**06. Pollutant Trading.** Development of TMDLs or equivalent processes or interim changes under these rules may include pollutant trading with the goal of restoring water quality limited water bodies to compliance with water quality standards. (3-20-97)

**07. Idaho Agriculture Pollution Abatement Plan.** Use of best management practices by agricultural activities is strongly encouraged in high, medium and low priority watersheds. The Idaho Agriculture Pollution Abatement Plan is the source for best management practices for the control of nonpoint sources of pollution for agriculture. (3-20-97)

**056. -- 059. (RESERVED)**

**060. MIXING ZONE POLICY.**

Note: Final rule submitted to EPA on December 22, 2016 (docket 58-0102-1401). This revision updates DEQ's Mixing Zone Policy to take into account modern tools for evaluating mixing, lessons learned from years of implementation, and to provide greater clarity for DEQ and the regulated community. Until EPA approves the revisions in this docket, the previous standards published in [2014 Idaho Administrative Code](#) continue to apply and are effective for CWA purposes. The following definitions were updated in docket 58-0102-1401: Bioaccumulative Pollutants, Thermal Shock, and Zone of Initial Dilution. For more information, go to <http://www.deq.idaho.gov/epa-actions-on-proposed-standards>.

**01. Mixing Zones for Point Source Discharges.** Whether a mixing zone is authorized, and its size, configuration and location, is determined by the Department on a case-by-case basis. This determination is made in accordance with the provisions of Section 060 at the time a permit is issued, renewed, or materially modified and is in effect as long as the permit remains in effect. Such an authorization is required before a mixing zone can be used to determine the need for, or level of, effluent limits for a particular pollutant. (4-11-15)

**a.** Mixing zones shall not be authorized for a given pollutant when the receiving water does not meet water quality criteria for that pollutant; provided, however, the Department may authorize a mixing zone when the permitted discharge is consistent with an approved TMDL allocation or other applicable plans or analyses (such as 4b implementation plans, watershed loading analyses, or facility-specific water quality pollutant management plans) that demonstrate that there is available assimilative capacity and authorizing a mixing zone is consistent with achieving compliance with water quality standards in the receiving water. (4-11-15)

**b.** Water quality within an authorized mixing zone is allowed to exceed chronic water quality criteria for those parameters approved by the Department. If approved by the Department, acute water quality criteria for one (1) or more parameters may be exceeded within the zone of initial dilution inside the mixing zone. Narrative criteria in Subsections 200.03 and 200.05 apply within the mixing zone. All water quality criteria must be met at the boundary of any mixing zone under its design conditions. (4-11-15)

**c.** The size of mixing zone(s) and the concentration of pollutant(s) present shall be evaluated based on the permitted design flow. The Department shall not authorize a mixing zone that is determined to be larger than is necessary considering siting, technological, and managerial options available to the discharger. (4-11-15)

**d.** Mixing zones, individually or in combination with other mixing zones, shall not cause unreasonable interference with, or danger to, beneficial uses. Unreasonable interference with, or danger to, beneficial uses includes, but is not limited to, the following: (4-11-15)

**i.** Impairment to the integrity of the aquatic community, including interfering with successful spawning, egg incubation, rearing, or passage of aquatic life. (4-11-15)

**ii.** Heat in the discharge that causes thermal shock, lethality, or loss of cold water refugia. (4-11-15)

**iii.** Bioaccumulation of pollutants (as defined in Section 010) resulting in tissue levels in aquatic organisms that exceed levels protective of human health or aquatic life. (4-11-15)

**iv.** Lethality to aquatic life passing through the mixing zone. (4-11-15)

**v.** Concentrations of pollutants that exceed Maximum Contaminant Levels at drinking water intake structures. (4-11-15)

**vi.** Conditions which impede or prohibit recreation in or on the water body. Mixing zones shall not be authorized for *E. coli*. (4-11-15)

**e.** Multiple nested mixing zones may be established for a single point of discharge, each being specific for one (1) or more pollutants contained within the discharge. (4-11-15)

**f.** Multiple mixing zones may be established for a single activity with multiple points of discharge. When these individual mixing zones overlap or merge, their combined area and volume shall not exceed that which would be allowed if there was a single point of discharge. When these individual mixing zones do not overlap or merge, they may be authorized as individual mixing zones. (4-11-15)

**g.** Adjacent mixing zones of independent activities shall not overlap. (4-11-15)

**h.** Mixing zones shall meet the following restrictions; provided, however, that the Department may authorize mixing zones that vary from the restrictions under the circumstances set forth in Subsection 060.01.i. below: (4-11-15)

**i.** For flowing waters: (4-11-15)

(1) The width of a mixing zone is not to exceed twenty-five percent (25%) of the stream width; and (4-11-15)

(2) The mixing zone shall not include more than twenty-five percent (25%) of the low flow design discharge conditions as set forth in Subsection 210.03.b. of these rules. (4-11-15)

**ii.** For all new discharges to nonflowing waters authorized after July 1, 2015: (4-11-15)

(1) The size of the mixing zone is not to exceed five percent (5%) of the total open surface area of the water body or one hundred (100) meters from the point of discharge, whichever is smaller; (4-11-15)

(2) Shore-hugging plumes are not allowed; and (4-11-15)

(3) Diffusers shall be used. (4-11-15)

**iii.** For all existing discharges to nonflowing waters authorized prior to July 1, 2015, the total horizontal area allocated to the mixing zone is not to exceed ten percent (10%) of the surface area of the lake. (4-11-15)

**iv.** Lakes and reservoirs with a mean detention time of fifteen (15) days or greater shall be considered nonflowing waters for this purpose. Detention time will be calculated as the mean annual storage volume divided by the mean annual flow rate out of the reservoir for the same time period. (4-11-15)

**i.** The Department may authorize a mixing zone that varies from the limits in Subsection 060.01.h. if it is established that: (4-11-15)

**i.** A smaller mixing zone is needed to avoid an unreasonable interference with, or danger to, beneficial uses as described in Subsection 060.01.d., and the mixing zone meets the other requirements set forth in Section 060; or (4-11-15)

**ii.** A larger mixing zone is needed by the discharger and does not cause an unreasonable interference with, or danger to, beneficial uses as described in Subsection 060.01.d., and the mixing zone meets the other requirements set forth in Section 060. The discharger shall provide to the Department an analysis that demonstrates a larger mixing zone is needed given siting, technological, and managerial options. (4-11-15)

**j.** The following elements shall be considered when designing an outfall: (4-11-15)

**i.** Encourage rapid mixing to the extent possible. This may be done through careful location and design of the outfall; and (4-11-15)

**ii.** Avoid shore-hugging plumes in those water bodies where the littoral zone is a major supply of food and cover for migrating fish and other aquatic life or where recreational activities are impacted by the plume. (4-11-15)

**02. Points of Compliance as Alternatives to Mixing Zones.** Specification of mixing zones for some 404 dredge and fill activities, stormwater, and nonpoint source discharges may not be practicable due to the generally intermittent and diffuse nature of these discharges. Rather, the Department may allow limited dilution of the discharge by establishing points for monitoring compliance with ambient water quality criteria. These alternatives to a mixing zone are still subject to requirements outlined in Subsections 060.01.a., 060.01.d., 200.03, and 200.05. (4-11-15)

**061. -- 069. (RESERVED)**

**070. APPLICATION OF STANDARDS.**

**01. Multiple Criteria.** In the application of the use designation, the most stringent criterion of a multiple criteria applies. (4-5-00)

**02. Application of Standards to Nonpoint Source Activities.** The application of water quality standards to nonpoint source activities shall be in accordance with Section 350. (7-1-93)

**03. Application of Standards to Point Source Discharges.** The application of water quality standards to point source discharges shall be in accordance with Sections 400 and 401. (4-11-06)

**04. Applicability of Gas Supersaturation Standard.** The application of gas supersaturation standard shall be in accordance with Section 300. (4-5-00)

**05. Mixing Zones.** The application of water quality standards to mixing zones shall be in accordance with Section 060. (7-1-93)

**06. Application of Standards to Intermittent Waters.** Numeric water quality standards only apply to intermittent waters during optimum flow periods sufficient to support the uses for which the water body is designated. For recreation, optimum flow is equal to or greater than five (5) cubic feet per second (cfs). For aquatic life uses, optimum flow is equal to or greater than one (1) cfs. (3-30-01)

**07. Temperature Criteria.** In the application of temperature criteria, the Director may, at his discretion, waive or raise the temperature criteria as they pertain to a specific water body. Any such determination shall be made consistent with 40 CFR 131.11 and shall be based on a finding that the designated aquatic life use is not an existing use in such water body or would be fully supported at a higher temperature criteria. For any determination, the Director shall, prior to making a determination, provide for public notice and comment on the proposed determination. For any such proposed determination, the Director shall prepare and make available to the public a technical support document addressing the proposed modification. (4-5-00)

**08. Protection of Downstream Water Quality.** All waters shall maintain a level of water quality at their pour point into downstream waters that provides for the attainment and maintenance of the water quality standards of those downstream waters, including waters of another state or tribe. (3-25-16)

**071. -- 079. (RESERVED)**

**080. VIOLATION OF WATER QUALITY STANDARDS.**

**01. Discharges Which Result in Water Quality Standards Violation.** No pollutant shall be discharged from a single source or in combination with pollutants discharged from other sources in concentrations or in a manner that: (7-1-93)

**a.** Will or can be expected to result in violation of the water quality standards applicable to the receiving water body or downstream waters; or (7-1-93)

**b.** Will injure designated or existing beneficial uses; or (8-24-94)

**c.** Is not authorized by the appropriate authorizing agency for those discharges that require authorization. (8-24-94)

**02. Short Term Activity Exemption.** The Department or the Board can authorize, with whatever conditions deemed necessary, short term activities even though such activities can result in a violation of these rules; (8-24-94)

**a.** No activity can be authorized by the provisions of Subsection 080.02 unless: (7-1-93)

i. The activity is essential to the protection or promotion of public interest; (7-1-93)

ii. No permanent or long term injury of beneficial uses is likely as a result of the activity. (7-1-93)

**b.** Activities eligible for authorization by Subsection 080.02 include, but are not limited to: (7-1-93)

i. Wastewater treatment facility maintenance; (7-1-93)

ii. Fish eradication projects; (7-1-93)

iii. Mosquito abatement projects; (7-1-93)

iv. Algae and weed control projects; (7-1-93)

v. Dredge and fill activities; (3-20-97)

vi. Maintenance of existing structures; (3-20-97)

vii. Limited road and trail reconstruction; (3-20-97)

viii. Soil stabilization measures; (3-20-97)

ix. Habitat enhancement structures; and (3-20-97)

x. Activities which result in overall enhancement or maintenance of beneficial uses. (7-1-93)

**03. Temperature Exemption.** Exceeding the temperature criteria in Section 250 will not be considered a water quality standard violation when the air temperature of a given day exceeds the ninetieth percentile of a yearly series of the maximum weekly maximum air temperature (MWMAT) calculated over the historic record measured at the nearest weather reporting station. (3-15-02)

**081. -- 089. (RESERVED)**

**090. ANALYTICAL PROCEDURES.**

These procedures are available for review at the Idaho Department of Environmental Quality, or may be obtained from the U.S. Environmental Protection Agency or U.S. Government Printing Office. (8-24-94)

**01. Chemical and Physical Procedures.** Sample collection, preservation and analytical procedures to determine compliance with these standards shall conform with the guidelines of the Environmental Protection Agency, [40 CFR, Part 136](#), or other methods accepted by the scientific community and deemed appropriate by the Department. (8-24-94)

**02. Metals Procedures.** For the purposes of NPDES permitting, sample collection, preservation and analytical procedures for metals should conform to clean or ultra-clean techniques as described in: (8-24-94)

**a.** "Guidance Document on Clean Analytical Techniques and Monitoring," EPA, October 1993; or (8-24-94)

- b. "Interim Guidance on Determination and Use of Water-Effect Ratios for Metals," EPA, February 1994; or (8-24-94)
- c. Other scientifically valid methods deemed appropriate by the Department. (8-24-94)
- 03. Biological Procedures.** Biological tests to determine compliance with these standards should be based on methods as outlined in: (8-24-94)
  - a. "Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms," Fourth Edition, EPA, 1991; or (8-24-94)
  - b. "Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms," Second Edition, EPA 1989; or (8-24-94)
  - c. "Rapid Bioassessment Protocols for Use in Streams and Rivers," EPA, 1989; or (8-24-94)
  - d. Other scientifically valid methods deemed appropriate by the Department. (7-1-93)

**091. -- 099. (RESERVED)**

**100. SURFACE WATER USE DESIGNATIONS.**

Waterbodies are designated in Idaho to protect water quality for existing or designated uses. The designated use of a waterbody does not imply any rights to access or ability to conduct any activity related to the use designation, nor does it imply that an activity is safe. For example, a designation of primary or secondary contact recreation may occur in areas where it is unsafe to enter the water due to water flows, depth or other hazardous conditions. Another example is that aquatic life uses may be designated in areas that are closed to fishing or access is not allowed by property owners. Wherever attainable, the designated beneficial uses for which the surface waters of the state are to be protected include: (3-15-02)

- 01. Aquatic Life.** (7-1-93)
  - a. Cold water (COLD): water quality appropriate for the protection and maintenance of a viable aquatic life community for cold water species. (4-5-00)
  - b. Salmonid spawning (SS): waters which provide or could provide a habitat for active self-propagating populations of salmonid fishes. (3-30-07)
  - c. Seasonal cold water (SC): water quality appropriate for the protection and maintenance of a viable aquatic life community of cool and cold water species, where cold water aquatic life may be absent during, or tolerant of, seasonally warm temperatures. (4-5-00)
  - d. Warm water (WARM): water quality appropriate for the protection and maintenance of a viable aquatic life community for warm water species. (4-5-00)
  - e. Modified (MOD): water quality appropriate for an aquatic life community that is limited due to one (1) or more conditions set forth in [40 CFR 131.10\(g\)](#) which preclude attainment of reference streams or conditions. (4-5-00)
- 02. Recreation.** (7-1-93)
  - a. Primary contact recreation (PCR): water quality appropriate for prolonged and intimate contact by humans or for recreational activities when the ingestion of small quantities of water is likely to occur. Such activities include, but are not restricted to, those used for swimming, water skiing, or skin diving. (4-5-00)

Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.
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**a.** Primary contact recreation (PCR): water quality appropriate for prolonged and intimate contact by humans or for recreational activities when the ingestion of small quantities of water is likely to occur. Such activities include, but are not restricted to, those used for swimming, water skiing, or skin diving. PCR includes all activities associated with secondary contact recreation (SCR). (4-11-19)

Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.

**b.** Secondary contact recreation (SCR): water quality appropriate for recreational uses on or about the water and which are not included in the primary contact category. These activities may include fishing, boating, wading, infrequent swimming, and other activities where ingestion of raw water is not likely to occur. (4-5-00)

**03. Water Supply.** (7-1-93)

**a.** Domestic (DWS): water quality appropriate for drinking water supplies. (4-5-00)

Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1703 have been approved.

**a.** Domestic (DWS): water quality appropriate for use as untreated raw water (as defined under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems") for public drinking water. (4-11-19)

Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1703 have been approved.

**b.** Agricultural: water quality appropriate for the irrigation of crops or as drinking water for livestock. This use applies to all surface waters of the state. (4-5-00)

**c.** Industrial: water quality appropriate for industrial water supplies. This use applies to all surface waters of the state. (4-5-00)

**04. Wildlife Habitats.** Water quality appropriate for wildlife habitats. This use applies to all surface waters of the state. (4-5-00)

**05. Aesthetics.** This use applies to all surface waters of the state. (7-1-93)

**101. NONDESIGNATED SURFACE WATERS.**

**01. Undesignated Surface Waters.** Surface waters not designated in Sections 110 through 160 shall be designated according to Section 39-3604, Idaho Code, taking into consideration the use of the surface water and such physical, geological, chemical, and biological measures as may affect the surface water. Prior to designation, undesignated waters shall be protected for beneficial uses, which includes all recreational use in and on the water and the protection and propagation of fish, shellfish, and wildlife, wherever attainable. (3-23-98)

**a.** Because the Department presumes most waters in the state will support cold water aquatic life and primary or secondary contact recreation beneficial uses, the Department will apply cold water aquatic life and primary or secondary contact recreation criteria to undesignated waters unless Sections 101.01.b and 101.01.c. are followed. (4-5-00)

**b.** During the review of any new or existing activity on an undesignated water, the Department may examine all relevant data or may require the gathering of relevant data on beneficial uses; pending determination in Section 101.01.c. existing activities will be allowed to continue. (3-23-98)

**c.** If, after review and public notice of relevant data, it is determined that beneficial uses in addition to



or other than cold water aquatic life and primary or secondary contact recreation are appropriate, then the Department will: (4-5-00)

i. Complete the review and compliance determination of the activity in context with the new information on beneficial uses, and (3-23-98)

ii. Initiate rulemaking necessary to designate the undesignated water, including providing all necessary data and information to support the proposed designation. (3-23-98)

**02. Man-Made Waterways.** Unless designated in Sections 110 through 160, man-made waterways are to be protected for the use for which they were developed. (7-1-93)

**03. Private Waters.** Unless designated in Sections 110 through 160, lakes, ponds, pools, streams and springs outside public lands but located wholly and entirely upon a person's land are not protected specifically or generally for any beneficial use. (7-1-93)

**102. DESIGNATION AND REVISION OF BENEFICIAL USES.**

When designating or revising beneficial uses for a water body, the Department shall consult with the basin advisory group and the watershed advisory group with the responsibilities for the water body described in Chapter 36, Title 39, Idaho Code. After consultation, the Director shall identify the designated beneficial uses of each water body in these rules pursuant to the rulemaking and public participation provisions of [Chapter 52, Title 67, Idaho Code](#). (3-25-16)

**01. Designation of Beneficial Uses.** Beneficial uses shall be designated in accordance with Section 39-3604, Idaho Code, taking into consideration the uses set forth in Section 100, and such physical, geological, chemical, and biological measures as may affect the surface water. Beneficial uses are designated according to water body unit unless designated otherwise. Use designations are made for each water body or segment whether or not they are being attained or are fully supported at the time of designation. (3-25-16)

**a.** In designating beneficial uses, which a water body can reasonably be expected to attain, the Department shall consider: (3-25-16)

i. Existing uses of the water body; (3-25-16)

ii. The physical, geological, hydrological, atmospheric, chemical and biological measures that affect the water body; (3-25-16)

iii. The beneficial use attainability measures identified in Section [39-3607, Idaho Code](#); (3-25-16)

iv. The economic impact of the designation and the economic costs required to fully support the beneficial uses; (3-25-16)

v. The attainment and maintenance of the water quality standards of downstream waters, including the waters of downstream states; (3-25-16)

vi. Adopting subcategories of a beneficial use and setting the appropriate criteria to reflect varying needs of such subcategories of beneficial uses, for instance, to differentiate between cold water and warm water fisheries; (3-25-16)

vii. At a minimum, that beneficial uses are deemed attainable if they can be achieved by the imposition of effluent limits required under sections 301(b) and 306 of the federal Clean Water Act and cost-effective and reasonable best management practices for nonpoint source control; and (3-25-16)

viii. Designating seasonal beneficial uses as an alternative to reclassifying a water body or segment thereof to uses requiring less stringent water quality criteria. If seasonal beneficial uses are adopted, water quality criteria may be adjusted to reflect the timing of the beneficial use, e.g., salmonid spawning. However, seasonal beneficial uses and their criteria shall not preclude the attainment and maintenance of a more protective beneficial use at other times. (3-25-16)

b. In no case shall waste transport or waste assimilation be a designated beneficial use for a water body. (3-25-16)

**02. Revision of Beneficial Uses.** (3-25-16)

a. Designated beneficial uses shall be reviewed and revised when such physical, geological, hydrological, atmospheric, chemical or biological measures indicate the need to do so. Designated beneficial uses may be revised or removed if the designated beneficial use is not an existing use, and it is demonstrated that attaining the designated beneficial use is not feasible due to one of the following factors: (3-25-16)

i. Naturally occurring pollutant concentrations prevent the attainment of the use; (3-25-16)

ii. Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating state water conservation requirements to enable uses to be met; (3-25-16)

iii. Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place; (3-25-16)

iv. Dams, diversions or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in the attainment of the use; (3-25-16)

v. Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, preclude attainment of aquatic life protection uses; or (3-25-16)

vi. Controls more stringent than those required by sections 301(b) and 306 of the federal Clean Water Act would result in substantial and widespread economic and social impact. (3-25-16)

b. Designated beneficial uses may not be removed if: (3-25-16)

i. They are existing uses unless a use requiring more stringent criteria is added; or (3-25-16)

ii. Such uses can be attained by implementing effluent limits required under sections 301(b) and 306 of the federal Clean Water Act and by implementing cost-effective and reasonable best management practices for nonpoint source control. (3-25-16)

c. Where existing water quality standards specify designated uses less than those which are presently being attained, the Department shall revise its standards to reflect the uses actually being attained. (3-25-16)

d. A use attainability analysis is a structured scientific assessment of the factors affecting the attainment of the use which may include physical, chemical, biological, and economic factors as described in Subsection 102.02.a. A use attainability analysis must be conducted whenever: (3-25-16)

i. The Department designates uses for a water body that do not include the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water; or (3-25-16)

ii. The Department acts to remove a designated use which provides for protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water; to remove a subcategory of such uses; or to designate subcategories of such uses which require less stringent criteria than previously applicable. (3-25-16)

e. A use attainability analysis is not required under this rule whenever: (3-25-16)

i. The Department designates beneficial uses which include protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water; or (3-25-16)

ii. The Department removes a beneficial use that does not include the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water. (3-25-16)

**103. -- 108. (RESERVED)**

**109. HUC INDEX AND ABBREVIATIONS FOR SECTIONS 110, 120, 130, 140, 150, AND 160.**

**01. Map.** The following map depicts the hydrologic units and basins described here in. (4-5-00)



**02. Table.** The following table describes the hydrologic unit code (HUC), associated subbasin name, and the rule section describing the water bodies within the subbasin.

HUC	SUBBASIN	RULE SECTION	HUC	SUBBASIN	RULE SECTION
16010102	Central Bear	160.01	16010201	Bear Lake	160.02
16010202	Middle Bear	160.03	16010203	Little Bear-Logan	160.04
16010204	Lower Bear-Malad	160.05	16020309	Curlew Valley	160.06
17010101	Upper Kootenai	110.01	17010104	Lower Kootenai	110.02
17010105	Moyie	110.03	17010213	Lower Clark Fork	110.04
17010214	Pend Oreille Lake	110.05	17010215	Priest	110.06
17010216	Pend Oreille	110.07	17010301	Upper Coeur d'Alene	110.08
17010302	South Fork Coeur d'Alene	110.09	17010303	Coeur d'Alene Lake	110.10
17010304	St. Joe	110.11	17010305	Upper Spokane	110.12
17010306	Hangman	110.13	17010308	Little Spokane	110.14
17040104	Palisades	150.01	17040105	Salt	150.02
17040201	Idaho Falls	150.03	17040202	Upper Henrys	150.04
17040203	Lower Henrys	150.05	17040204	Teton	150.06
17040205	Willow	150.07	17040206	American Falls	150.08
17040207	Blackfoot	150.09	17040208	Portneuf	150.10
17040209	Lake Walcott	150.11	17040210	Raft	150.12
17040211	Goose	150.13	17040212	Upper Snake-Rock	150.14
17040213	Salmon Falls	150.15	17040214	Beaver-Camas	150.16
17040215	Medicine Lodge	150.17	17040216	Birch	150.18
17040217	Little Lost	150.19	17040218	Big Lost	150.20
17040219	Big Wood	150.21	17040220	Camas	150.22
17040221	Little Wood	150.23	17050101	C.J. Strike Reservoir	140.01
17050102	Bruneau	140.02	17050103	Middle Snake-Succor	140.03
17050104	Upper Owyhee	140.04	17050105	South Fork Owyhee	140.05
17050106	East Little Owyhee	140.06	17050107	Middle Owyhee	140.07
17050108	Jordan	140.08	17050111	North/Middle Fork Boise	140.09
17050112	Boise-Mores	140.10	17050113	South Fork Boise	140.11
17050114	Lower Boise	140.12	17050115	Middle Snake-Payette	140.13
17050120	South Fork Payette	140.14	17050121	Middle Fork Payette	140.15
17050122	Payette	140.16	17050123	North Fork Payette	140.17
17050124	Weiser	140.18	17050201	Brownlee Reservoir	140.19

HUC	SUBBASIN	RULE SECTION	HUC	SUBBASIN	RULE SECTION
17060101	Hells Canyon	130.01	17060103	Lower Snake-Asotin	130.02
17060108	Palouse	120.01	17060109	Rock	120.02
17060201	Upper Salmon	130.03	17060202	Pahsimeroi	130.04
17060203	Middle Salmon-Panther	130.05	17060204	Lemhi	130.06
17060205	U. Middle Fork Salmon	130.07	17060206	L. Middle Fork Salmon	130.08
17060207	Mid. Salmon-Chamberlain	130.09	17060208	South Fork Salmon	130.10
17060209	Lower Salmon	130.11	17060210	Little Salmon	130.12
17060301	Upper Selway	120.03	17060302	Lower Selway	120.04
17060303	Lochsa	120.05	17060304	Middle Fork Clearwater	120.06
17060305	South Fork Clearwater	120.07	17060306	Clearwater	120.08
17060307	U. North Fork Clearwater	120.09	17060308	L. North Fork Clearwater	120.10

(4-5-00)

- 03. Abbreviations.** (4-5-00)
- a. COLD -- Cold Water Communities. (4-5-00)
  - b. SS -- Salmonid Spawning. (4-5-00)
  - c. SC -- Seasonal Cold Water Communities. (4-5-00)
  - d. WARM -- Warm Water Communities. (4-5-00)
  - e. MOD -- Modified Communities. (4-5-00)
  - f. PCR -- Primary Contact Recreation. (4-5-00)
  - g. SCR -- Secondary Contact Recreation. (4-5-00)
  - h. DWS -- Domestic Water Supply. (4-5-00)
  - i. NONE -- Use Unattainable. (4-5-00)
  - j. No entry in the Aquatic Life or Recreation columns -- nondesignated waters for those uses. (3-15-02)

**110. PANHANDLE BASIN.**

Surface waters found within the Panhandle basin total fourteen (14) subbasins and are designated as follows:

(4-5-00)

**01. Upper Kootenai Subbasin.** The Upper Kootenai Subbasin, HUC 17010101, is comprised of six (6) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Star Creek - source to Idaho/Montana border	COLD SS	PCR	
P-2	North Callahan Creek - source to Idaho/Montana border	COLD SS	PCR	
P-3	South Callahan Creek - Glad Creek to Idaho/Montana border	COLD SS	PCR	
P-4	South Callahan Creek - source to Glad Creek	COLD SS	PCR	
P-5	Glad Creek - source to mouth	COLD SS	PCR	
P-6	Keeler Creek - source to Idaho/Montana border	COLD SS	PCR	

(3-30-01)

**02. Lower Kootenai Subbasin.** The Lower Kootenai Subbasin, HUC 17010104, is comprised of forty (40) water body units.

<sup>1</sup>Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
<sup>2</sup>Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Kootenai River - Shorty's Island to the Idaho/Canadian border	COLD SS	PCR	DWS
P-2	Boundary Creek - Idaho/Canadian border to mouth	COLD SS	PCR	
P-3	Grass Creek - source to Idaho/Canadian border	COLD SS	PCR	
P-4	Blue Joe Creek - source to Idaho/Canadian border	COLD SS	PCR	
P-5	Smith Creek - Cow Creek to mouth	COLD SS	PCR	
P-6	Cow Creek - source to mouth	COLD SS	PCR	
P-7	Smith Creek - source to Cow Creek	COLD SS	PCR	
P-8	Long Canyon Creek - source to mouth	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
P-9	Parker Creek - source to mouth	COLD SS	PCR	
P-10	Trout Creek - source to mouth	COLD SS	PCR	
P-11	Ball Creek - source to mouth	COLD SS	PCR	
P-12	Kootenai River - Deep Creek to and including Shorty's Island	COLD SS	PCR	DWS
P-13	Myrtle Creek - source to mouth	COLD SS	PCR	-- <sup>1</sup> ----- DWS <sup>2</sup>
P-14	Cascade Creek - source to mouth	COLD SS	PCR	
P-15	Deep Creek - Snow Creek to mouth	COLD SS	PCR	DWS
P-16	Snow Creek - source to mouth	COLD SS	PCR	
P-17	Caribou Creek - source to mouth	COLD SS	PCR	
P-18	Deep Creek - Brown Creek to Snow Creek	COLD SS	PCR	DWS
P-19	Deep Creek - Trail Creek to Brown Creek	COLD SS	PCR	DWS
P-20	Ruby Creek - source to mouth	COLD SS	PCR	
P-21	Fall Creek - source to mouth	COLD SS	PCR	
P-22	Deep Creek - McArthur Lake to Trail Creek	COLD SS	PCR	DWS
P-23	McArthur Lake	COLD		
P-24	Dodge Creek - source to mouth	COLD SS	SCR	
P-25	Deep Creek - source to McArthur Lake	COLD SS	PCR	
P-26	Trail Creek - source to mouth	COLD SS	PCR	
P-27	Brown Creek - source to mouth	COLD SS	PCR	



Unit	Waters	Aquatic Life	Recreation	Other
P-28	Twentymile Creek - source to mouth	COLD SS	PCR	-- <sup>1</sup> ----- DWS <sup>2</sup>
P-29	Kootenai River - Moyie River to Deep Creek	COLD SS	PCR	DWS
P-30	Cow Creek - source to mouth	COLD SS	SCR	-- <sup>1</sup> ----- DWS <sup>2</sup>
P-31	Kootenai River - Idaho/Montana to Moyie River	COLD SS	PCR	DWS
P-32	Boulder Creek - East Fork Boulder Creek to mouth	COLD SS	PCR	
P-33	Boulder Creek - source to East Fork Boulder Creek	COLD SS	PCR	
P-34	East Fork Boulder Creek - source to mouth	COLD SS	PCR	
P-35	Curley Creek - source to mouth	COLD SS	SCR	
P-36	Flemming Creek - source to mouth	COLD SS	SCR	
P-37	Rock Creek - source to mouth	COLD SS	SCR	
P-38	Mission Creek - Brush Creek to mouth	COLD SS	PCR	
P-39	Brush Creek - source to mouth	COLD SS	SCR	
P-40	Mission Creek - Idaho/Canadian border to Brush Creek	COLD SS	SCR	

(4-11-19)

**03. Moyie Subbasin.** The Moyie Subbasin, HUC 17010105, is comprised of twelve (12) water body units.

<sup>1</sup>Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
<sup>2</sup>Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Moyie River - Moyie Falls Dam to mouth	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
P-2	Moyie River - Meadow Creek to Moyie Falls Dam	COLD SS	PCR	DWS
P-3	Skin Creek - Idaho/Montana border to mouth	COLD SS	PCR	-- <sup>1</sup> ----- DWS <sup>2</sup>
P-4	Deer Creek - source to mouth	COLD SS	PCR	
P-5	Moyie River - Round Prairie Creek to Meadow Creek	COLD SS	PCR	DWS
P-6	Moyie River - Idaho/Canadian border to Round Prairie Creek	COLD SS	PCR	DWS
P-7	Canuck Creek - Idaho/Montana border to Idaho/Canadian border	COLD SS	SCR	
P-8	Round Prairie Creek - Gillon Creek to mouth	COLD SS	PCR	
P-9	Gillon Creek - Idaho/Canadian border to mouth	COLD SS	PCR	
P-10	Round Prairie Creek - source to Gillon Creek	COLD SS	PCR	
P-11	Miller Creek - source to mouth	COLD SS	PCR	
P-12	Meadow Creek - source to mouth	COLD SS	PCR	-- <sup>1</sup> ----- DWS <sup>2</sup>

(4-11-19)

**04. Lower Clark Fork Subbasin.** The Lower Clark Fork Subbasin, HUC 17010213, is comprised of twenty-one (21) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Clark Fork River Delta - Mosquito Creek to Pend Oreille Lake	COLD SS	PCR	DWS
P-2	Johnson Creek - source to mouth			
P-3	Clark Fork River - Cabinet Gorge Dam to Mosquito Creek	COLD SS	PCR	DWS
P-4	Dry Creek - source to mouth			
P-5	Clark Fork River - Idaho/Montana border to Cabinet Gorge Dam	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
P-6	West Fork Elk Creek - source to Idaho/Montana border			
P-7	West Fork Blue Creek - source to Idaho/Montana border			
P-8	Gold Creek - source to Idaho/Montana border			
P-9	Mosquito Creek - source to mouth			
P-10	Lightning Creek - Spring Creek to mouth	COLD SS	PCR	DWS
P-11	Lightning Creek - Cascade Creek to Spring Creek	COLD SS	PCR	DWS
P-12	Cascade Creek - source to mouth			
P-13	Lightning Creek - East Fork Creek to Cascade Creek	COLD SS	PCR	DWS
P-14	East Fork Creek - Idaho/Montana border to mouth			
P-15	Savage Creek - Idaho/Montana border to mouth			
P-16	Lightning Creek - Wellington Creek to East Fork Creek	COLD SS	PCR	DWS
P-17	Lightning Creek - Rattle Creek to Wellington Creek	COLD SS	PCR	DWS
P-18	Rattle Creek - source to mouth			
P-19	Lightning Creek - source to Rattle Creek	COLD SS	PCR	DWS
P-20	Wellington Creek - source to mouth			
P-21	Spring Creek - source to mouth			

(3-29-12)

**05. Pend Oreille Lake Subbasin.** The Pend Oreille Lake Subbasin, HUC 17010214, is comprised of sixty-one (61) water body units.

<sup>1</sup>Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
<sup>2</sup>Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Pend Oreille River - Priest River to Albeni Falls Dam	COLD	PCR	DWS
P-2	Pend Oreille River - Pend Oreille Lake to Priest River	COLD	PCR	DWS
P-3	Hoodoo Creek - source to mouth			
P-4	Kelso Lake and outlet	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
P-5	Granite Lake			
P-6	Beaver Lake			
P-7	Spirit Creek - source to mouth			
P-8	Blanchard Lake			
P-9	Spirit Lake	COLD SS	PCR	DWS
P-10	Brickel Creek - Idaho/Washington border to mouth			
P-11	Jewell Lake			
P-12	Cocolalla Creek - Cocolalla Lake to mouth	COLD	PCR	DWS
P-13	Cocolalla Lake	COLD	PCR	DWS
P-14	Cocolalla Creek - source to Cocolalla Lake			-- <sup>1</sup> ----- DWS <sup>2</sup>
P-15	Fish Creek - source to mouth			
P-16	Fry Creek - source to mouth			
P-17	Shepard Lake			
P-18	Pend Oreille Lake	COLD SS	PCR	DWS
P-19	Gamble Lake			
P-20	Mirror Lake			
P-21	Gold Creek - West Gold Creek to mouth			
P-22	West Gold Creek- source to mouth			
P-23	Gold Creek - source to West Gold Creek			
P-24	Chloride Creek - source to mouth			
P-25	North Gold Creek - source to mouth			
P-26	Cedar Creek - source to mouth			
P-27	Granite Creek - source to mouth	COLD SS	SCR	
P-28	Riser Creek - source to mouth			-- <sup>1</sup> ----- DWS <sup>2</sup>
P-29	Strong Creek - source to mouth			-- <sup>1</sup> ----- DWS <sup>2</sup>
P-30	Trestle Creek - source to mouth	COLD SS	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
P-31	Lower Pack River - Sand Creek to mouth	COLD SS	PCR	DWS
P-32	Trout Creek - source to mouth			
P-33	Rapid Lightning Creek - source to mouth			
P-34	Gold Creek - source to mouth			
P-35	Grouse Creek - North Fork Grouse Creek to mouth			
P-36	Grouse Creek - source to North Fork Grouse Creek			
P-37	North Fork Grouse Creek - source to mouth			
P-38	Sand Creek - source to mouth			
P-39	Upper Pack River - Lindsey Creek to Sand Creek	COLD SS	PCR	DWS
P-40	Walsh Lake			
P-41	Upper Pack River - source to and including Lindsey Creek	COLD SS	PCR	DWS
P-42	McCormick Creek - source to mouth			
P-43	Jeru Creek - source to mouth			
P-44	Hellroaring Creek - source to mouth			
P-45	Caribou Creek - source to mouth			
P-46	Berry Creek - source to mouth			-- <sup>1</sup> ----- DWS <sup>2</sup>
P-47	Colburn Creek - source to mouth			
P-48	Sand Creek - Schweitzer Creek to mouth			-- <sup>1</sup> ----- DWS <sup>2</sup>
P-49	Sand Creek - source to Schweitzer Creek			
P-50	Spring Jack Creek - source to mouth			
P-51	Swede Creek - source to mouth			
P-52	Schweitzer Creek - source to mouth			
P-53	Little Sand Creek - source to mouth			-- <sup>1</sup> ----- DWS <sup>2</sup>
P-54	Syringa Creek - source to mouth			
P-55	Carr Creek - source to mouth			
P-56	Hornby Creek - source to mouth			
P-57	Smith Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
P-58	Johnson Creek - source to mouth			
P-59	Riley Creek - source to mouth			
P-60	Manley Creek - source to mouth			
P-61	Strong Creek - source to mouth			

(4-11-19)

**06. Priest Subbasin.** The Priest Subbasin, HUC 17010215, is comprised of thirty-one (31) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Lower Priest River - Upper West Branch Priest River to mouth	COLD	PCR	DWS
P-2	Big Creek - source to mouth			
P-3	Middle Fork East River - source to mouth			
P-4	North Fork East River - source to mouth			
P-5	Lower Priest River - Priest Lake to Upper West Branch Priest River	COLD	PCR	DWS
P-6	Priest Lake	COLD SS	PCR	DWS
P-7	Chase Lake			
P-8	Soldier Creek - source to mouth			
P-9	Hunt Creek - source to mouth			
P-10	Indian Creek - source to mouth			
P-11	Bear Creek - source to mouth			
P-12	Two Mouth Creek - source to mouth			
P-13	Lion Creek - source to mouth			
P-14	Priest Lake Thorofare - Upper Priest Lake to Priest Lake	COLD SS	PCR	DWS
P-15	Caribou Creek - source to mouth			
P-16	Upper Priest Lake	COLD SS	PCR	DWS
P-17	Trapper Creek - source to mouth			
P-18	Upper Priest River - Idaho/Canadian border to mouth	COLD SS	PCR	DWS
P-19	Hughes Fork - source to mouth			
P-20	Beaver Creek - source to mouth			
P-21	Tango Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
P-22	Granite Creek - Idaho/Washington border to mouth			
P-23	Reeder Creek - source to mouth			
P-24	Kalispell Creek - Idaho/Washington border to mouth			
P-25	Lamb Creek - Idaho/Washington border to mouth			
P-26	Binarch Creek - Idaho/Washington border to mouth			
P-27	Upper West Branch Priest River - Idaho/Washington border to mouth			
P-28	Goose Creek - Idaho/Washington border to mouth			
P-29	Quartz Creek - source to mouth			
P-30	Lower West Branch Priest River - Idaho/Washington border to mouth			
P-31	Moore's Creek - source to mouth			

(3-29-12)

**07. Pend Oreille Subbasin.** The Pend Oreille Subbasin, HUC 17010216, is comprised of two (2) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	South Salmo River - source to Idaho/Washington border			
P-2	Pend Oreille River - Albeni Falls Dam to Idaho/Washington border	COLD	PCR	DWS

(4-5-00)

**08. Upper Coeur d'Alene Subbasin.** The Upper Coeur d'Alene Subbasin, HUC 17010301, is comprised of thirty-nine (39) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	North Fork Coeur d'Alene River - Yellow Dog Creek to mouth	COLD SS	PCR	DWS
P-2	Graham Creek - source to mouth			
P-3	Beaver Creek - source to mouth			
P-4	Prichard Creek - Butte Creek to mouth	COLD SS	PCR	
P-5	Prichard Creek - source to Butte Creek	COLD SS	PCR	DWS
P-6	Butte Creek - source to mouth			
P-7	Eagle Creek - source to mouth			
P-8	West Fork Eagle Creek - source to mouth			
P-9	Lost Creek - source to mouth			

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
P-10	Shoshone Creek - Falls Creek to mouth			
P-11	Falls Creek - source to mouth			
P-12	Shoshone Creek - source to Falls Creek			
P-13	North Fork Coeur d'Alene River - Jordan Creek to Yellow Dog Creek	COLD SS	PCR	DWS
P-14	Jordan Creek - source to mouth			
P-15	North Fork Coeur d'Alene River - source to Jordan Creek	COLD SS	PCR	DWS
P-16	Cataract Creek - source to mouth			
P-17	Tepee Creek - confluence of Trail Creek and Big Elk Creek to mouth			
P-18	Independence Creek - source to mouth			
P-19	Trail Creek - source to mouth			
P-20	Big Elk Creek - source to mouth			
P-21	Brett Creek - source to mouth			
P-22	Miners Creek - source to mouth			
P-23	Flat Creek - source to mouth			
P-24	Yellow Dog Creek - source to mouth			
P-25	Downey Creek - source to mouth			
P-26	Brown Creek - source to mouth			
P-27	Grizzly Creek - source to mouth			
P-28	Steamboat Creek - source to mouth			
P-29	Cougar Gulch - source to mouth			
P-30	Little North Fork Coeur d'Alene River - source to mouth			
P-31	Bumblebee Creek - source to mouth			
P-32	Laverne Creek - source to mouth			
P-33	Leiberg Creek - source to mouth			
P-34	Bootjack Creek - source to mouth			
P-35	Iron Creek - source to mouth			
P-36	Burnt Cabin Creek - source to mouth			
P-37	Deception Creek - source to mouth			
P-38	Skookum Creek - source to mouth			
P-39	Copper Creek - source to mouth			

(3-29-12)

**09. South Fork Coeur d'Alene Subbasin.** The South Fork Coeur d'Alene Subbasin, HUC 17010302,



is comprised of twenty (20) water body units.

<sup>1</sup>Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
<sup>2</sup>Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
P-1	South Fork Coeur d'Alene River - Canyon Creek to mouth	COLD	SCR	
P-2	Pine Creek - East Fork Pine Creek to mouth	COLD SS	SCR	
P-3	Pine Creek - source to East Fork Pine Creek	COLD SS	PCR	DWS
P-4	East Fork Pine Creek - source to mouth			
P-5	Hunter Creek - source to mouth			
P-6	Government Gulch - source to mouth	COLD SS	SCR	
P-7a	Big Creek - source to mining impact area	COLD SS	PCR	DWS
P-7b	Big Creek - mining impact area to mouth	COLD SS	SCR	
P-8a	Shields Gulch - source to mining impact area	COLD SS	PCR	DWS
P-8b	Shields Gulch - mining impact area to mouth		SCR	
P-9a	Lake Creek - source to mining impact area	COLD SS	PCR	DWS
P-9b	Lake Creek - mining impact area to mouth	COLD SS	SCR	-- <sup>1</sup> ----- DWS <sup>2</sup>
P-10	Placer Creek - source to mouth			-- <sup>1</sup> ----- DWS <sup>2</sup>
P-11	South Fork Coeur d'Alene River - from and including Daisy Gulch to Canyon Creek	COLD	SCR	-- <sup>1</sup> ----- DWS <sup>2</sup>
P-12	Willow Creek - source to mouth			
P-13	South Fork Coeur d'Alene River - source to Daisy Gulch	COLD SS	PCR	DWS
P-14	Canyon Creek - from and including Gorge Gulch to mouth	COLD	SCR	-- <sup>1</sup> ----- DWS <sup>2</sup>

Unit	Waters	Aquatic Life	Recreation	Other
P-15	Canyon Creek - source to Gorge Gulch	COLD SS	PCR	DWS
P-16	Ninemile Creek - from and including East Fork Ninemile Creek to mouth	COLD SS	SCR	
P-17	Ninemile Creek - source to East Fork Ninemile Creek	COLD SS	PCR	DWS
P-18	Moon Creek - source to mouth			
P-19	West Fork Moon Creek - source to mouth			
P-20	Bear Creek - source to mouth	COLD SS	PCR	DWS

(4-11-19)

**10. Coeur d'Alene Lake Subbasin.** The Coeur d'Alene Lake Subbasin, HUC 17010303, is comprised of thirty-four (34) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Coeur d'Alene Lake	COLD SS	PCR	DWS
P-2	Cougar Creek - source to mouth			
P-3	Kid Creek - source to mouth			
P-4	Mica Creek - source to mouth			
P-5	Fighting Creek - source to mouth			
P-6	Lake Creek - Idaho/Washington border to mouth			
P-7	Coeur d'Alene River - Latour Creek to mouth	COLD	PCR	
P-8	Anderson Lake			
P-9	Black Lake			
P-10	Medicine Lake			
P-11	Willow Creek - source to mouth			
P-12	Evans Creek - source to mouth			
P-13	Robinson Creek - source to mouth			
P-14	Bull Run Lake			
P-15	Latour Creek - source to mouth			
P-16	Coeur d'Alene River - South Fork Coeur d'Alene River to Latour Creek	COLD	PCR	
P-17	Skeel and Cataldo Creeks - source to mouth			
P-18	French Gulch - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
P-19	Hardy and Hayden Gulch and Whitman Draw Creeks Complex - source to mouth			
P-20	Fourth of July Creek - source to mouth			
P-21	Rose Lake			
P-22	Killarney Lake			
P-23	Swan Lake			
P-24	Blue Lake			
P-25	Thompson Lake			
P-26	Carlin Creek - source to mouth			
P-27	Turner Creek - source to mouth			
P-28	Beauty Creek - source to mouth			
P-29	Wolf Lodge Creek - source to mouth	COLD SS	PCR	DWS
P-30	Cedar Creek - source to mouth			
P-31	Marie Creek - source to mouth			
P-32	Fernan Creek - Fernan Lake to mouth	COLD SS	PCR	DWS
P-33	Fernan Lake	COLD SS	PCR	DWS
P-34	Fernan Creek - source to Fernan Lake			

(3-29-12)

**11. St. Joe Subbasin.** The St. Joe Subbasin, HUC 17010304, is comprised of sixty-nine (69) water body units.

<sup>1</sup>Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
<sup>2</sup>Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Chatcolet Lake			
P-2	Plummer Creek - source to mouth	COLD SS	SCR	
P-3	Pedee Creek - source to mouth			
P-4	Benewah Creek - source to mouth			
P-5	St. Joe River - St. Maries River to mouth	COLD	PCR	
P-6	Cherry Creek - source to mouth			

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
P-7	St. Maries River - Santa Creek to mouth	COLD	PCR	
P-8	Alder Creek - source to mouth			
P-9	John Creek - source to mouth			
P-10	Santa Creek - source to mouth	COLD SS	PCR	
P-11	Charlie Creek - source to mouth			
P-12	St. Maries River - Carpenter Creek to Santa Creek	COLD	PCR	
P-13	Tyson Creek - source to mouth			
P-14	Carpenter Creek - source to mouth			
P-15	St. Maries River - confluence of West Fork and Middle Fork St. Maries Rivers to Carpenter Creek	COLD	PCR	DWS
P-16	Emerald Creek - source to mouth			
P-17	West Fork St. Maries River - source to mouth			
P-18	Middle Fork St. Maries River - source to mouth			
P-19	Gold Center Creek - source to mouth			
P-20	Merry Creek - source to mouth			
P-21	Childs Creek - source to mouth			
P-22	Olson Creek - source to mouth			
P-23	Crystal Creek - source to mouth			
P-24	Renfro Creek - source to mouth			
P-25	Beaver Creek - source to mouth			
P-26	Thorn Creek - source to mouth			
P-27	St. Joe River - North Fork St. Joe River to St. Maries River	COLD SS	PCR	DWS
P-28	Bond Creek - source to mouth			
P-29	Hugus Creek- source to mouth			
P-30	Mica Creek - source to mouth			
P-31	Marble Creek - Hobo Creek to mouth			
P-32	Eagle Creek - source to mouth			
P-33	Bussel Creek - source to mouth			
P-34	Hobo Creek - source to mouth			
P-35	Marble Creek - source to Hobo Creek			
P-36	Homestead Creek - source to mouth			
P-37	Daveggio Creek - source to mouth			
P-38	Boulder Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
P-39	Fishhook Creek - source to mouth			
P-40	Siwash Creek - source to mouth			
P-41	St. Joe River - source to North Fork St. Joe River	COLD SS	PCR	DWS
P-42	Sisters Creek - source to mouth			
P-43	Prospector Creek - source to mouth			
P-44	Nugget Creek - source to mouth			
P-45	Bluff Creek - source to mouth			
P-46	Mosquito Creek - source to mouth			
P-47	Fly Creek - source to mouth			
P-48	Beaver Creek - source to mouth			
P-49	Copper Creek - source to mouth			
P-50	Timber Creek - source to mouth			
P-51	Red Ives Creek - source to mouth			
P-52	Simmons Creek - source to mouth			
P-53	Gold Creek - source to mouth			
P-54	Bruin Creek - source to mouth			
P-55	Quartz Creek - source to mouth			
P-56	Eagle Creek - source to mouth			
P-57	Bird Creek - source to mouth			
P-58	Skookum Creek - source to mouth			
P-59	North Fork St. Joe River - Loop Creek to mouth			
P-60	Loop Creek - source to mouth			
P-61	North Fork St. Joe River - source to Loop Creek			
P-62	Slate Creek - source to mouth			
P-63	Big Creek - source to mouth			
P-64	Trout Creek - source to mouth			
P-65	Falls Creek - source to mouth			
P-66	Reeds Gulch Creek - source to mouth			
P-67	Rochat Creek - source to mouth			--1 ----- DWS <sup>2</sup>
P-68	Street Creek - source to mouth			
P-69	Deep Creek - source to mouth			

(4-11-19)

**12. Upper Spokane Subbasin.** The Upper Spokane Subbasin, HUC 17010305, is comprised of eighteen (18) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Liberty Creek - source to Idaho/Washington border			
P-2	Cable Creek - source to Idaho/Washington border			
P-3	Spokane River - Post Falls Dam to Idaho/Washington border	COLD SS	PCR	DWS
P-4	Spokane River - Coeur d'Alene Lake to Post Falls Dam	COLD SS	PCR	DWS
P-5	Hayden Lake	COLD SS	PCR	DWS
P-6	Yellowbank Creek - source to mouth			
P-7	Jim Creek - source to mouth			
P-8	Mokins Creek - source to mouth			
P-9	Nilsen Creek - source to mouth			
P-10	Hayden Creek -source to mouth			
P-11	Sage Creek and Lewellen Creek - source to mouth			
P-12	Rathdrum Creek - Twin Lakes to mouth			
P-13	Twin Lakes	COLD	PCR	DWS
P-14	Fish Creek - Idaho/Washington border to Twin Lakes			
P-15	Hauser Lake outlet - Hauser Lake to mouth			
P-16	Hauser Lake	COLD	PCR	DWS
P-17	Lost Lake, Howell, and Lost Creeks - source to mouth			
P-18	Hauser Creek - source to mouth			

(3-29-12)

**13. Hangman Subbasin.** The Hangman Subbasin, HUC 17010306, is comprised of five (5) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Hangman Creek - source to Idaho/Washington border	COLD	SCR	
P-2	Little Hangman Creek - source to Idaho/Washington border			
P-3	Rock Creek - source to Idaho/Washington border		SCR	
P-4	Middle Fork Rock Creek - source to Idaho/Washington border			
P-5	North Fork Rock Creek - source to Idaho/Washington border			

(4-5-00)

**14. Little Spokane Subbasin.** The Little Spokane Subbasin, HUC 17010308, is comprised of one (1) water body unit.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	McDonald Creek - source to mouth			

(4-5-00)

**111. -- 119. (RESERVED)**

**120. CLEARWATER BASIN.**

Surface waters found within the Clearwater basin total ten (10) subbasins and are designated as follows: (4-5-00)

**01. Palouse Subbasin.** The Palouse Subbasin, HUC 17060108, is comprised of thirty-three (33) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	Cow Creek - source to Idaho/Washington border	COLD	SCR	
C-2	South Fork Palouse River - Gnat Creek to Idaho/Washington border	COLD SS	SCR	
C-3	South Fork Palouse River - source to Gnat Creek	COLD SS	SCR	
C-4a	Gnat Creek - source to T40N, R05W, Sec. 26	COLD	SCR	
C-4b	Gnat Creek - T40N, R05W, Sec. 26 to mouth	COLD	SCR	
C-5	Paradise Creek - source to Idaho/Washington border	COLD	SCR	
C-6a	Missouri Flat Creek - source to T40N, R5W, Sec. 17	COLD	SCR	
C-6b	Missouri Flat Creek-T40N, R5W, Sec. 17 to Idaho/Washington border	COLD	SCR	
C-7a	Fourmile Creek - source to T40N, R5W, Sec. 5	COLD	SCR	
C-7b	Fourmile Creek - T40N, R5W, Sec. 5 to Idaho/Washington border	COLD	SCR	
C-8a	Silver Creek - source to T43, R5W, Sec. 29	COLD	SCR	
C-8b	Silver Creek - T43, R5W, Sec. 29 to Idaho/Washington border	COLD	SCR	
C-9	Palouse River - Deep Creek to Idaho/Washington border	COLD	SCR	
C-10	Palouse River - Hatter Creek to Deep Creek	COLD	SCR	
C-11a	Flannigan Creek - source to T41N, R05W, Sec. 23	COLD	SCR	
C-11b	Flannigan Creek - T41N, R05W, Sec. 23 to mouth	COLD	SCR	
C-12	Rock Creek - confluence of West and East Fork Rock Creeks to mouth	COLD	SCR	
C-13a	West Fork Rock Creek - source to T41N, R04W, Sec. 30	COLD	SCR	
C-13b	West Fork Rock Creek - T41N, R04W, Sec. 30 to mouth	COLD	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
C-14a	East Fork Rock Creek - source to T41N, R 04W, Sec. 29	COLD	SCR	
C-14b	East Fork Rock Creek - T41N, R 04W, Sec. 29 to mouth	COLD	SCR	
C-15a	Hatter Creek - source to T40N, R04W, Sec. 3	COLD	SCR	
C-15b	Hatter Creek - T40N, R04W, Sec. 3 to mouth	COLD	SCR	
C-16	Palouse River - Strychnine Creek to Hatter Creek	COLD SS	PCR	DWS
C-17	Flat Creek - source to mouth	COLD	SCR	
C-18	Palouse River - source to Strychnine Creek	COLD SS	PCR	DWS
C-19	Little Sand Creek - source to mouth	COLD SS	SCR	
C-20	Big Sand Creek - source to mouth	COLD SS	SCR	
C-21	North Fork Palouse River - source to mouth	COLD SS	SCR	
C-22	Strychnine Creek - source to mouth	COLD SS	SCR	
C-23	Meadow Creek - East Fork Meadow Creek to mouth	COLD	SCR	
C-24	East Fork Meadow Creek - source to mouth	COLD SS	SCR	
C-25	Meadow Creek - source to East Fork Meadow Creek	COLD SS	SCR	
C-26	White Pine Creek - source to mouth	COLD SS	SCR	
C-27a	Big Creek - source to T42N, R03W, Sec. 08	COLD SS	SCR	
C-27b	Big Creek - T42N, R03W, Sec. 08 to mouth	COLD	SCR	
C-28	Jerome Creek - source to mouth	COLD SS	SCR	
C-29	Gold Creek - T42N, R04W, Sec. 28 to mouth	COLD	SCR	
C-30	Gold Creek - source to T42N, R04W, Sec. 28	COLD SS	SCR	
C-31a	Crane Creek - source to T42N, 04W, Sec. 28	COLD	SCR	
C-31b	Crane Creek - T42N, 04W, Sec. 08 to mouth	COLD	SCR	
C-32a	Deep Creek - source to T42, R05, Sec. 02	COLD	SCR	
C-32b	Deep Creek - T42, R05, Sec. 02 to mouth	COLD	SCR	
C-33a	Cedar Creek - source to T43N, R05W, Sec. 28	COLD	SCR	



Unit	Waters	Aquatic Life	Recreation	Other
C-33b	Cedar Creek - T43N, R05W, Sec. 28 to Idaho/Washington border	COLD	SCR	

(5-3-03)

**02. Rock Subbasin.** The Rock Subbasin, HUC 17060109, is comprised of three (3) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	South Fork Pine Creek - source to Idaho/Washington border	COLD	SCR	
C-2	North Fork Pine Creek - source to Idaho/Washington border	COLD	SCR	
C-3	Unnamed Tributaries - source to Idaho/Washington border (T44N, R05W, Sec.31 / T43N, R05W, Sec. 6)	COLD	SCR	

(5-3-03)

**03. Upper Selway Subbasin.** The Upper Selway Subbasin, HUC 17060301, is comprised of fifty-eight (58) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	Selway River - Bear Creek to Moose Creek	COLD SS	PCR	DWS
C-2	Magpie Creek - source to mouth			
C-3	Bitch Creek - source to mouth			
C-4	Selway River - White Cap Creek to Bear Creek	COLD SS	PCR	DWS
C-5	Ditch Creek - source to mouth			
C-6	Elk Creek - source to mouth			
C-7	Goat Creek - source to mouth			
C-8	Running Creek - Lynx Creek to mouth			
C-9	Running Creek - source to Lynx Creek			
C-10	South Fork Running Creek - source to mouth			
C-11	Lynx Creek - source to mouth			
C-12	Eagle Creek - source to mouth			
C-13	Crooked Creek - source to mouth			
C-14	Selway River - Deep Creek to White Cap Creek	COLD SS	PCR	DWS
C-15	Little Clearwater River- Flat Creek to mouth			
C-16	Short Creek - source to mouth			

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
C-17	Little Clearwater River - source to Flat Creek			
C-18	Burnt Knob Creek - source to mouth			
C-19	Salamander Creek - source to mouth			
C-20	Flat Creek - source to mouth			
C-21	Magruder Creek - source to mouth			
C-22	Selway River - confluence of Hidden and Surprise Creeks to Deep Creek	COLD SS	PCR	DWS
C-23	Three Lakes Creek - source to mouth			
C-24	Swet Creek - source to mouth			
C-25	Stripe Creek - source to mouth			
C-26	Hidden Creek - source to mouth			
C-27	Surprise Creek - source to mouth			
C-28	Wilkerson Creek - Storm Creek to mouth			
C-29	Wilkerson Creek - source to Storm Creek			
C-30	Storm Creek - source to mouth			
C-31	Deep Creek - source to mouth			
C-32	Vance Creek - source to mouth			
C-33	Lazy Creek - source to mouth			
C-34	Pete Creek - source to mouth			
C-35	Cayuse Creek - source to mouth			
C-36	Indian Creek - source to mouth			
C-37	Schofield Creek - source to mouth			
C-38	Snake Creek - source to mouth			
C-39	White Cap Creek - Canyon Creek to mouth			
C-40	Canyon Creek - source to mouth			
C-41	Cooper Creek - source to mouth			
C-42	White Cap Creek - source to Canyon Creek			
C-43	Paloma Creek - source to mouth			
C-44	Bad Luck Creek - source to mouth			
C-45	Gardner Creek - source to mouth			
C-46	North Star Creek - source to mouth			
C-47	Bear Creek - Cub Creek to mouth			
C-48	Cub Creek - Brushy Fork Creek to mouth			
C-49	Brushy Fork Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
C-50	Cub Creek - source to Brushy Fork Creek			
C-51	Paradise Creek - source to mouth			
C-52	Bear Creek - Wahoo Creek to Cub Creek			
C-53	Bear Creek - source to Wahoo Creek			
C-54	Granite Creek - source to mouth			
C-55	Wahoo Creek - source to mouth			
C-56	Pettibone Creek - source to mouth			
C-57	Cow Creek - source to mouth			
C-58	Dog Creek - source to mouth			

(3-29-12)

**04. Lower Selway Subbasin.** The Lower Selway Subbasin, HUC 17060302, is comprised of fifty-five (55) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	Selway River - O'Hara Creek to mouth	COLD SS	PCR	DWS
C-2	Goddard Creek - source to mouth	COLD SS	SCR	
C-3	O'Hara Creek - confluence of West and East Fork O'Hara Creeks to mouth	COLD SS	SCR	
C-4	West Fork O'Hara Creek - source to mouth			
C-5	East Fork O'Hara Creek - source to mouth			
C-6	Selway River - Meadow Creek to O'Hara Creek	COLD SS	PCR	DWS
C-7	Falls Creek - source to mouth	COLD SS	SCR	
C-8	Meadow Creek - Buck Lake Creek to mouth	COLD SS	SCR	
C-9	Horse Creek - source to mouth			
C-10	Fivemile Creek - source to mouth			
C-11	Little Boulder Creek - source to mouth			
C-12	Meadow Creek - East Fork Meadow Creek to Buck Lake Creek	COLD SS	SCR	
C-13	Butte Creek - source to mouth	COLD SS	SCR	

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
C-14	Sable Creek - source to mouth	COLD SS	SCR	
C-15	Simmons Creek - source to mouth	COLD SS	SCR	
C-16	Meadow Creek - source to East Fork Meadow Creek			
C-17	Butter Creek - source to mouth			
C-18	Three Prong Creek - source to mouth			
C-19	East Fork Meadow Creek - source to mouth			
C-20	Schwar Creek - source to mouth			
C-21	Buck Lake Creek - source to mouth			
C-22	Selway River - Moose Creek to Meadow Creek	COLD SS	PCR	DWS
C-23	Otter Creek - source to mouth			
C-24	Mink Creek - source to mouth			
C-25	Marten Creek - source to mouth			
C-26	Trout Creek - source to mouth			
C-27	Moose Creek - East Fork Moose Creek to mouth			
C-28	East Fork Moose Creek - Cedar Creek to Moose Creek			
C-29	Freeman Creek - source to mouth			
C-30	Monument Creek - source to mouth			
C-31	Elbow Creek - source to mouth			
C-32	Battle Creek - source to mouth			
C-33	East Fork Moose Creek - source to Cedar Creek			
C-34	Chute Creek - source to mouth			
C-35	Dead Elk Creek - source to mouth			
C-36	Cedar Creek - source to mouth			
C-37	Maple Creek - source to mouth			
C-38	Double Creek - source to mouth			
C-39	Fitting Creek - source to mouth			
C-40	North Fork Moose Creek - Rhoda Creek to mouth			
C-41	North Fork Moose Creek - West Moose Creek to Rhoda Creek			
C-42	North Fork Moose Creek - source to West Fork Moose Creek			
C-43	West Fork Moose Creek - source to mouth			
C-44	Rhoda Creek - Wounded Doe Creek to mouth			
C-45	Wounded Doe Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
C-46	Rhoda Creek - source to Wounded Doe Creek			
C-47	Lizard Creek - Lizard Lakes to mouth			
C-48	Meeker Creek - source to mouth			
C-49	Three Links Creek - source to mouth			
C-50	Gedney Creek - West Fork Gedney Creek to mouth			
C-51	Gedney Creek - source to West Fork Gedney Creek			
C-52	West Fork Gedney Creek - source to mouth			
C-53	Glover Creek - source to mouth	COLD SS	SCR	
C-54	Boyd Creek - source to mouth	COLD SS	SCR	
C-55	Rackliff Creek - source to mouth	COLD SS	SCR	

(3-29-12)

**05. Lochsa Subbasin.** The Lochsa Subbasin, HUC 17060303, is comprised of sixty-five (65) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	Lochsa River - Deadman Creek to mouth	COLD SS	PCR	DWS
C-2	Kerr Creek - source to mouth			
C-3	Lochsa River - Old Man Creek to Deadman Creek	COLD SS	PCR	DWS
C-4	Coolwater Creek - source to mouth			
C-5	Fire Creek - source to mouth			
C-6	Split Creek - source to mouth			
C-7	Old Man Creek - source to mouth			
C-8	Lochsa River - Fish Creek to Old Man Creek	COLD SS	PCR	DWS
C-9	Lochsa River - Indian Grave Creek to Fish Creek	COLD SS	PCR	DWS
C-10	Boulder Creek - source to mouth			
C-11	Stanley Creek - source to mouth			
C-12	Eagle Mountain Creek - source to mouth			
C-13	Lochsa River- Warm Springs Creek to Indian Grave Creek	COLD SS	PCR	DWS

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
C-14	Sponge Creek - Fish Lake Creek to mouth			
C-15	Sponge Creek - source to Fish Lake Creek			
C-16	Fish Lake Creek - source to mouth			
C-17	Warm Springs Creek - Wind Lakes Creek to mouth			
C-18	Warm Springs Creek - source to Wind Lakes Creek			
C-19	Wind Lakes Creek - source to mouth			
C-20	Lochsa River - confluence of Crooked Fork, White Sand Creek, and Walton Creek to Warm Springs Creek	COLD SS	PCR	DWS
C-21	Jay Creek - source to mouth			
C-22	Cliff Creek - source to mouth			
C-23	Walton Creek - source to mouth			
C-24	White Sand Creek - Storm Creek to mouth			
C-25	White Sand Creek - source to Storm Creek			
C-26	Colt Creek - source to mouth			
C-27	Big Sand Creek - Hidden Creek to mouth			
C-28	Swamp Creek - source to mouth			
C-29	Big Sand Creek - source to Hidden Creek			
C-30	Hidden Creek - source to mouth			
C-31	Big Flat Creek - source to mouth			
C-32	Storm Creek - source to mouth			
C-33	Beaver Creek - source to mouth			
C-34	Crooked Fork - Brushy Fork to mouth			
C-35	Brushy Fork - Spruce Creek to mouth			
C-36	Spruce Creek - source to mouth			
C-37	Brushy Fork - source to Spruce Creek			
C-38	Crooked Fork - source to Brushy Fork			
C-39	Hopeful Creek - source to mouth			
C-40	Boulder Creek - source to mouth			
C-41	Papoose Creek - source to mouth			
C-42	Parachute Creek - source to mouth			
C-43	Wendover Creek - source to mouth			
C-44	Badger Creek - source to mouth			
C-45	Squaw Creek - source to mouth			
C-46	West Fork Squaw Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
C-47	Doe Creek - source to mouth			
C-48	Postoffice Creek - source to mouth			
C-49	Weir Creek - source to mouth			
C-50	Indian Grave Creek - source to mouth			
C-51	Bald Mountain Creek - source to mouth			
C-52	Fish Creek - Hungery Creek to mouth			
C-53	Willow Creek - source to mouth			
C-54	Hungery Creek - Obia Creek to mouth			
C-55	Obia Creek - source to mouth			
C-56	Hungery Creek - source to Obia Creek			
C-57	Fish Creek - source to Hungery Creek			
C-58	Bimerick Creek - source to mouth			
C-59	Deadman Creek - East Fork Deadman Creek to mouth			
C-60	East Fork Deadman Creek - source to mouth			
C-61	Deadman Creek - source to East Fork Deadman Creek			
C-62	Canyon Creek - source to mouth			
C-63	Pete King Creek - Walde Creek to mouth			
C-64	Walde Creek - source to mouth			
C-65	Pete King Creek - source to Walde Creek			

(3-29-12)

**06. Middle Fork Clearwater Subbasin.** The Middle Fork Clearwater Subbasin, HUC 17060304, is comprised of eleven (11) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	Middle Fork Clearwater River - confluence of Lochsa and Selway River to mouth	COLD SS	PCR	DWS
C-2	Clear Creek - South Fork Clear Creek to mouth			
C-3	West Fork Clear Creek - source to mouth			
C-4	South Fork Clear Creek - source to mouth			
C-5	Kay Creek - source to mouth			
C-6	Clear Creek - source to South Fork Clear Creek	COLD SS	SCR	
C-7	Middle Fork Clear Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
C-8	Browns Spring Creek - source to mouth	COLD SS	SCR	
C-9	Pine Knob Creek - source to mouth	COLD SS	SCR	
C-10	Lodge Creek - source to mouth	COLD SS	SCR	
C-11	Maggie Creek - source to mouth			

(3-29-12)

**07. South Fork Clearwater Subbasin.** The South Fork Clearwater Subbasin, HUC 17060305, is comprised of eighty-two (82) water body units.

<sup>1</sup>Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
<sup>2</sup>Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
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Unit	Waters	Aquatic Life	Recreation	Other
C-1	South Fork Clearwater River - Butcher Creek to mouth	COLD SS	PCR	
C-2	Cottonwood Creek - Cottonwood Creek waterfall (9.0 miles upstream) to mouth	COLD SS	PCR	
C-3	Cottonwood Creek - source to Cottonwood Creek waterfall (9.0 miles upstream)	COLD SS	PCR	
C-4	Red Rock Creek - Red Rock Creek waterfall (3.6 miles upstream) to mouth			
C-5	Red Rock Creek - source to Red Rock Creek waterfall (3.6 miles upstream)			
C-6	Stockney Creek - source to mouth			
C-7	Shebang Creek - source to mouth			
C-8	South Fork Cottonwood Creek - source to mouth			
C-9	Long Haul Creek - source to mouth			
C-10	Threemile Creek - source to mouth	COLD SS	SCR	
C-11a	Butcher Creek - unnamed tributary (4.5 miles above mouth) in T30N, R03E, Sec. 1 to mouth	COLD SS	SCR	
C-11b	Butcher Creek - source to unnamed tributary (4.5 miles above mouth) in T30N, R03E, Sec. 1	COLD	SCR	
C-12	South Fork Clearwater River - Johns Creek to Butcher Creek	COLD SS	PCR	



<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
C-13	Mill Creek - source to mouth			
C-14	Johns Creek - Gospel Creek to mouth	COLD SS	SCR	
C-15	Gospel Creek - source to mouth	COLD SS	SCR	
C-16	West Fork Gospel Creek - source to mouth	COLD SS	SCR	
C-17	Johns Creek - Moores Creek to Gospel Creek	COLD SS	SCR	
C-18	Johns Creek - source to Moores Creek	COLD SS	SCR	
C-19	Moores Creek - source to mouth	COLD SS	SCR	
C-20	Square Mountain Creek - source to mouth	COLD SS	SCR	
C-21	Hagen Creek - source to mouth	COLD SS	SCR	
C-22	South Fork Clearwater River - Tenmile Creek to Johns Creek	COLD SS	PCR	
C-23	Wing Creek - source to mouth	COLD SS	SCR	
C-24	Twentymile Creek - source to mouth			
C-25	Tenmile Creek - Sixmile Creek to mouth			
C-26	Tenmile Creek - Williams Creek to Sixmile Creek	COLD SS	SCR	
C-27	Tenmile Creek - source to Williams Creek	COLD SS	SCR	
C-28	Williams Creek - source to mouth	COLD SS	SCR	
C-29	Sixmile Creek - source to mouth			
C-30	South Fork Clearwater River - Crooked River to Tenmile Creek	COLD SS	PCR	
C-31	Crooked River - Relief Creek to mouth	COLD SS	SCR	
C-32	Crooked River - confluence of West and East Fork Crooked Rivers to Relief Creek	COLD SS	SCR	
C-33	West Fork Crooked River - source to mouth			
C-34	East Fork Crooked River - source to mouth			
C-35	Relief Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
C-36	South Fork Clearwater River - confluence of American River and Red River to Crooked River	COLD SS	PCR	
C-37	Red River- Siegel Creek to mouth	COLD SS	PCR	DWS
C-38	Red River - South Fork Red River to Siegel Creek	COLD SS	PCR	DWS
C-39	Moose Butte Creek - source to mouth			
C-40	South Fork Red River - Trapper Creek to mouth	COLD SS	SCR	
C-41	South Fork Red River - West Fork Red River to Trapper Creek	COLD SS	SCR	
C-42	West Fork Red River - source to mouth	COLD SS	SCR	
C-43	South Fork Red River - source to West Fork Red River	COLD SS	SCR	
C-44	Trapper Creek - source to mouth	COLD SS	SCR	
C-45	Red River - source to South Fork Red River	COLD SS	SCR	DWS
C-46	Soda Creek - source to mouth	COLD SS	SCR	
C-47	Bridge Creek - source to mouth	COLD SS	SCR	
C-48	Otterson Creek - source to mouth	COLD SS	SCR	
C-49	Trail Creek - source to mouth	COLD SS	SCR	
C-50	Siegel Creek - source to mouth	COLD SS	SCR	
C-51	Red Horse Creek - source to mouth			
C-52	American River - East Fork American River to mouth	COLD SS	PCR	DWS
C-53	Kirks Fork - source to mouth			
C-54	East Fork American River - source to mouth			
C-55	American River - source to East Fork American River	COLD SS	PCR	DWS
C-56	Elk Creek - confluence of Big Elk and Little Elk Creeks to mouth			--1 ----- DWS <sup>2</sup>

Unit	Waters	Aquatic Life	Recreation	Other
C-57	Little Elk Creek - source to mouth	COLD SS	SCR	
C-58	Big Elk Creek - source to mouth	COLD SS	SCR	
C-59	Buffalo Gulch - source to mouth			
C-60	Whiskey Creek - source to mouth	COLD SS	SCR	
C-61	Maurice Creek - source to mouth			
C-62	Newsome Creek - Beaver Creek to mouth			
C-63	Bear Creek - source to mouth			
C-64	Nugget Creek - source to mouth			
C-65	Beaver Creek - source to mouth			
C-66	Newsome Creek - Mule Creek to Beaver Creek			
C-67	Mule Creek - source to mouth	COLD SS	SCR	
C-68	Newsome Creek - source to Mule Creek			
C-69	Haysfork Creek - source to mouth			
C-70	Baldy Creek - source to mouth	COLD SS	SCR	
C-71	Pilot Creek - source to mouth			
C-72	Sawmill Creek - source to mouth			
C-73	Sing Lee Creek - source to mouth			
C-74	West Fork Newsome Creek - source to mouth			
C-75	Leggett Creek - source to mouth			
C-76	Fall Creek - source to mouth			
C-77	Silver Creek - source to mouth	COLD SS	SCR	
C-78	Peasley Creek - source to mouth			
C-79	Cougar Creek - source to mouth			
C-80	Meadow Creek - source to mouth			
C-81	Sally Ann Creek - source to mouth			--1 ----- DWS <sup>2</sup>
C-82	Rabbit Creek - source to mouth			

(4-11-19)

**08. Clearwater Subbasin.** The Clearwater Subbasin, HUC 17060306, is comprised of sixty-seven (67) water body units.

<sup>1</sup>Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
<sup>2</sup>Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
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Unit	Waters	Aquatic Life	Recreation	Other
C-1	Lower Granite Dam pool	COLD	PCR	DWS
C-2	Clearwater River - Potlatch River to Lower Granite Dam pool	COLD SS	PCR	DWS
C-3	Lindsay Creek - source to mouth	COLD	SCR	
C-4	Lapwai Creek - Sweetwater Creek to mouth	COLD	PCR	
C-5	Sweetwater Creek - Webb Creek to mouth			
C-6	Sweetwater Creek - source to Webb Creek			
C-7	Webb Creek - source to mouth			
C-8	Lapwai Creek - Winchester Lake to Sweetwater Creek	COLD	PCR	
C-9	Winchester Lake	COLD	PCR	DWS
C-10	Lapwai Creek - source to Winchester Lake	COLD SS	PCR	DWS
C-11	Mission Creek - source to mouth			
C-12	Tom Beall Creek - source to mouth			
C-13	Clearwater River - North Fork Clearwater River to mouth	COLD SS	PCR	DWS
C-14	Cottonwood Creek - source to mouth	COLD SS	SCR	
C-15	Jacks Creek - source to mouth			
C-16	Big Canyon Creek - source to mouth	COLD SS	PCR	-- <sup>1</sup> ----- DWS <sup>2</sup>
C-17	Cold Springs Creek - source to mouth			
C-18	Little Canyon Creek - confluence of Holes and Long Hollow Creeks to mouth			
C-19	Holes Creek - source to mouth			
C-20	Long Hollow Creek - source to mouth			
C-21	Clearwater River - Lolo Creek to North Fork Clearwater River	COLD SS	PCR	DWS
C-22	Clearwater River - confluence of South and Middle Fork Clearwater Rivers to Lolo Creek	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
C-23	Sixmile Creek - source to mouth			
C-24	Lawyer Creek - source to mouth	COLD SS	PCR	
C-25	Sevenmile Creek - source to mouth			
C-26	Lolo Creek - Yakus Creek to mouth			
C-27	Yakus Creek - source to mouth			
C-28	Lolo Creek - source to Yakus Creek			
C-29	Eldorado Creek - source to mouth			
C-30	Yoosa Creek - source to mouth			
C-31	Jim Brown Creek - source to mouth			
C-32	Musselshell Creek - source to mouth			
C-33	Big Creek - source to mouth			
C-34	Jim Ford Creek - Jim Ford Creek waterfall (12.5 miles upstream) to mouth	COLD	PCR	
C-35	Jim Ford Creek - source to Jim Ford Creek waterfall (12.5 miles upstream)	COLD	PCR	
C-36	Grasshopper Creek - source to mouth	COLD	PCR	DWS
C-37	Winter Creek - Winter Creek waterfall (3.4 miles upstream) to mouth			
C-38	Winter Creek - source to Winter Creek waterfall (3.4 miles upstream)			
C-39	Orofino Creek - source to mouth	COLD SS	PCR	--- <sup>1</sup> ----- DWS <sup>2</sup>
C-40	Whiskey Creek - source to mouth			
C-41	Bedrock Creek - source to mouth			
C-42	Louse Creek - source to mouth			
C-43	Pine Creek - source to mouth			
C-44	Potlatch River - Big Bear Creek to mouth	COLD SS	PCR	DWS
C-45	Potlatch River - Corral Creek to Big Bear Creek	COLD SS	PCR	DWS
C-46	Cedar Creek - source to mouth			
C-47	Boulder Creek - source to mouth			
C-48	Potlatch River - Moose Creek to Corral Creek	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
C-49	Potlatch River - source to Moose Creek	COLD SS	PCR	DWS
C-50	Little Boulder Creek - source to mouth			
C-51	East Fork Potlatch River - source to mouth			
C-52	Ruby Creek - source to mouth			
C-53	Moose Creek - source to mouth			
C-54	Corral Creek - source to mouth			
C-55	Pine Creek - source to mouth			
C-56	Big Bear Creek - confluence of West and East Fork Big Bear Creeks to mouth			
C-57	East Fork Big Bear Creek - source to mouth			
C-58	West Fork Big Bear Creek - source to mouth			
C-59	Dry Creek - source to mouth			
C-60	Little Bear Creek - source to mouth	COLD SS	SCR	
C-61	West Fork Little Bear Creek - source to mouth			..1 ----- DWS <sup>2</sup>
C-62	Middle Potlatch Creek - source to mouth	COLD	SCR	
C-63	Bethel Canyon - source to mouth			
C-64	Little Potlatch Creek - source to mouth	COLD	SCR	
C-65	Howard Gulch - source to mouth			
C-66	Catholic Creek - source to mouth			
C-67	Hatwai Creek - source to mouth			

(4-11-19)

**09. Upper North Fork Clearwater Subbasin.** The Upper North Fork Clearwater Subbasin, HUC 17060307, is comprised of forty-nine (49) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	North Fork Clearwater River - Skull Creek to Aquarius Campground (T40N, R07E, Sec. 05)	COLD SS	PCR	DWS
C-2	North Fork Clearwater River- Washington Creek to Skull Creek	COLD SS	PCR	DWS
C-3	Washington Creek - source to mouth	COLD SS	SCR	

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
C-4	North Fork Clearwater River - Orogrande Creek to Washington Creek	COLD SS	PCR	DWS
C-5	Orogrande Creek - French Creek to mouth			
C-6	Orogrande Creek - source to French Creek			
C-7	French Creek - source to mouth	COLD	SCR	
C-8	North Fork Clearwater River - Weitas Creek to Orogrande Creek	COLD SS	PCR	DWS
C-9	Weitas Creek - Hemlock Creek to mouth			
C-10	Hemlock Creek - source to mouth			
C-11	Weitas Creek - Windy Creek to Hemlock Creek			
C-12	Middle Creek - source to mouth	COLD SS	SCR	
C-13	Little Weitas Creek - source to mouth	COLD	SCR	
C-14	Weitas Creek - source to Windy Creek	COLD SS	SCR	
C-15	Windy Creek - source to mouth	COLD	SCR	
C-16	North Fork Clearwater River - Kelly Creek to Weitas Creek	COLD SS	PCR	DWS
C-17	Fourth of July Creek - source to mouth			
C-18	Kelly Creek - Cayuse Creek to mouth			
C-19	Cayuse Creek - Gravey Creek to mouth			
C-20	Monroe Creek - source to mouth	COLD SS	SCR	
C-21	Gravey Creek - source to mouth	COLD SS	SCR	
C-22	Cayuse Creek - source to Gravey Creek			
C-23	Toboggan Creek - source to mouth	COLD	SCR	
C-24	Kelly Creek - confluence of North and Middle Fork Kelly Creek to Cayuse Creek			
C-25	South Fork Kelly Creek - source to mouth			
C-26	Middle Fork Kelly Creek - source to mouth			
C-27	North Fork Kelly Creek - source to mouth			
C-28	Moose Creek - Osier Creek to mouth			
C-29	Little Moose Creek - source to mouth			
C-30	Osier Creek - source to mouth	COLD SS	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
C-31	Moose Creek - source to Osier Creek			
C-32	North Fork Clearwater River - Lake Creek to Kelly Creek	COLD SS	PCR	DWS
C-33	Lake Creek - source to mouth	COLD SS	SCR	
C-34	North Fork Clearwater River - Vanderbilt Gulch to Lake Creek	COLD SS	PCR	DWS
C-35	Long Creek - source to mouth	COLD SS	SCR	
C-36	North Fork Clearwater River - source to Vanderbilt Gulch	COLD SS	PCR	DWS
C-37	Vanderbilt Gulch - source to mouth			
C-38	Meadow Creek - source to mouth			
C-39	Elizabeth Creek - source to mouth	COLD SS	SCR	
C-40	Cold Springs Creek - source to mouth	COLD SS	SCR	
C-41	Sprague Creek - source to mouth			
C-42	Larson Creek - source to mouth	COLD	SCR	
C-43	Rock Creek - source to mouth	COLD SS	SCR	
C-44	Quartz Creek - source to mouth			
C-45	Cougar Creek - source to mouth			
C-46	Skull Creek - Collins Creek to mouth	COLD	SCR	
C-47	Skull Creek - source to Collins Creek			
C-48	Collins Creek - source to mouth	COLD SS	SCR	

(3-29-12)

**10. Lower North Fork Clearwater Subbasin.** The Lower North Fork Clearwater Subbasin, HUC 17060308, is comprised of thirty-four (34) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	North Fork Clearwater River - Dworshak Reservoir Dam to mouth	COLD SS	PCR	DWS
C-2	Dworshak Reservoir	COLD SS	PCR	DWS



<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
C-3	Reeds Creek - Alder Creek to Dworshak Reservoir	COLD SS	PCR	DWS
C-4	Reeds Creek - source to Alder Creek	COLD SS	PCR	DWS
C-5	Alder Creek - source to mouth			
C-6	Silver Creek - source to Dworshak Reservoir			
C-7	Benton Creek - source to Dworshak Reservoir			
C-8	North Fork Clearwater River - Aquarius Campground (T40N, R07E, Sec. 05) to Dworshak Reservoir	COLD SS	PCR	DWS
C-9	Beaver Creek - source to mouth	COLD SS	SCR	
C-10	Isabella Creek - source to mouth			
C-11	Little North Fork Clearwater River - Foehl Creek to Dworshak Reservoir			
C-12	Little North Fork Clearwater River - Spotted Louis Creek to Foehl Creek			
C-13	Sawtooth Creek - source to mouth			
C-14	Canyon Creek - source to mouth			
C-15	Spotted Louis Creek - source to mouth			
C-16	Little North Fork Clearwater River - Rutledge Creek to Spotted Louis Creek			
C-17	Rutledge Creek - source to mouth			
C-18	Little North Fork Clearwater River - source to Rutledge Creek			
C-19	Foehl Creek - source to mouth			
C-20	Stoney Creek - Glover Creek to Dworshak Reservoir			
C-21	Floodwood Creek - source to mouth			
C-22	Glover Creek - source to mouth			
C-23	Stoney Creek - source to Glover Creek	COLD SS	SCR	
C-24	Isabella Creek - source to mouth			
C-25	Breakfast Creek - source to mouth			
C-26	Gold Creek - source to Dworshak Reservoir			
C-27	Weitas Creek - source to Dworshak Reservoir			
C-28	Swamp Creek - source to Dworshak Reservoir			
C-29	Cranberry Creek - source to Dworshak Reservoir			

Unit	Waters	Aquatic Life	Recreation	Other
C-30	Elk Creek - source to Dworshak Reservoir	COLD SS	PCR	DWS
C-31	Bull Run Creek - confluence of Squaw and Shattuck Creeks to mouth			
C-32	Shattuck Creek - source to mouth			
C-33	Squaw Creek - source to mouth			
C-34	Long Meadow Creek - source to Dworshak Reservoir			
C-35	Dicks Creek - source to Dworshak Reservoir			

(3-29-12)

**121. -- 129. (RESERVED)**

**130. SALMON BASIN.**

Surface waters found within the Salmon basin total twelve (12) subbasins and are designated as follows: (4-5-00)

**01. Hells Canyon Subbasin.** The Hells Canyon Subbasin, HUC 17060101, is comprised of twenty-eight (28) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Snake River - Wolf Creek to Salmon River	COLD SS	PCR	DWS
S-2	Snake River - Sheep Creek to Wolf Creek	COLD SS	PCR	DWS
S-3	Snake River - Hells Canyon Dam to Sheep Creek	COLD SS	PCR	DWS
S-4	Deep Creek - source to mouth			
S-5	Brush Creek - source to mouth			
S-6	Granite Creek - source to mouth			
S-7	Little Granite Creek - source to mouth			
S-8	Bernard Creek - source to mouth			
S-9	Sheep Creek - confluence of West and East Fork Sheep Creeks to mouth			
S-10	West Fork Sheep Creek - source to mouth			
S-11	East Fork Sheep Creek - source to mouth			
S-12	Clarks Fork - source to mouth			
S-13	Caribou Creek - source to mouth			
S-14	Kirkwood Creek - source to mouth			
S-15	Kirby Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-16	Corral Creek - source to mouth			
S-17	Klopton Creek - source to mouth			
S-18	Kurry Creek - source to mouth			
S-19	West Creek - source to mouth			
S-20	Big Canyon Creek - source to mouth			
S-21	Jones Creek - source to mouth			
S-22	Highrange Creek - source to mouth			
S-23	Getta Creek - source to mouth			
S-24	Wolf Creek - Basin Creek to mouth			
S-25	Wolf Creek - source to Basin Creek			
S-26	Basin Creek - source to mouth			
S-27	Dry Creek - source to mouth			
S-28	Divide Creek - source to mouth			

(3-29-12)

**02. Lower Snake-Asotin Subbasin.** The Lower Snake-Asotin Subbasin, HUC 17060103, is comprised of sixteen (16) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Snake River - Asotin River (Idaho/Oregon border) to Lower Granite Dam pool	COLD	PCR	DWS
S-2	Snake River - Captain John Creek to Asotin River (Idaho/Oregon border)	COLD	PCR	DWS
S-3	Snake River - Cottonwood Creek to Captain John Creek	COLD	PCR	DWS
S-4	Snake River - Salmon River to Cottonwood Creek	COLD	PCR	DWS
S-5	Cottonwood Creek - source to mouth			
S-6	Cave Gulch - source to mouth	COLD	SCR	
S-7	Corral Creek - source to mouth			
S-8	Middle Creek - source to mouth	COLD	SCR	
S-9	Dough Creek - source to mouth	COLD	SCR	
S-10	Billy Creek - source to mouth			
S-11	Captain John Creek - source to mouth			
S-12	Redbird Creek - source to mouth	COLD	SCR	
S-13	Tenmile Canyon - source to mouth	COLD	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
S-14	Tammany Creek - Unnamed Tributary (T34N, R05W, Sec. 24) to mouth	COLD	SCR	
S-15	Unnamed Tributary - source to mouth (T34N, R05W, Sec. 24)	COLD	SCR	
S-16	Tammany Creek - source to Unnamed Tributary (T34N, R05W, Sec. 24)	COLD	SCR	

(3-29-12)

**03. Upper Salmon Subbasin.** The Upper Salmon Subbasin, HUC 17060201, is comprised of one hundred thirty-five (135) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Salmon River - Pennal Gulch to Pashimeroi River	COLD SS	PCR	DWS
S-2	Morgan Creek - West Creek to mouth			
S-3	Morgan Creek - source to West Creek			
S-4	West Creek - Blowfly Creek to mouth			
S-5	Blowfly Creek - source to mouth			
S-6	West Creek - source to Blowfly Creek			
S-7	Challis Creek - Darling Creek to mouth			
S-8	Darling Creek - source to mouth			
S-9	Challis Creek - Bear Creek to Darling Creek			
S-10	Eddy Creek - source to mouth			
S-11	Bear Creek - source to mouth			
S-12	Challis Creek - source to Bear Creek			
S-13	Mill Creek - source to mouth			
S-14	Salmon River - Garden Creek to Pennal Gulch	COLD SS	PCR	DWS
S-15	Garden Creek - source to mouth			
S-16	Salmon River - East Fork Salmon River to Garden Creek	COLD SS	PCR	DWS
S-17	Bayhorse Creek - source to mouth			
S-18	Lyon Creek - source to mouth			
S-19	Salmon River - Squaw Creek to East Fork Salmon River	COLD SS	PCR	DWS
S-20	Kinnikinic Creek - source to mouth			

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
S-21	Squaw Creek - Cash Creek to mouth	COLD SS	SCR	
S-22	Cash Creek - source to mouth			
S-23	Squaw Creek - confluence of Aspen and Cinnabar Creeks to Cash Creek	COLD SS	SCR	
S-24	Aspen Creek - source to mouth			
S-25	Cinnabar Creek - source to mouth			
S-26	Bruno Creek - source to mouth			
S-27	Salmon River - Thompson Creek to Squaw Creek	COLD SS	PCR	DWS
S-28	Thompson Creek - source to mouth	COLD SS	SCR	
S-29	Pat Hughes Creek -source to mouth			
S-30	Buckskin Creek - source to mouth			
S-31	Salmon River - Yankee Fork Creek to Thompson Creek	COLD SS	PCR	DWS
S-32	Yankee Fork Creek - Jordan Creek to mouth	COLD SS	PCR	DWS
S-33	Ramey Creek - source to mouth			
S-34	Yankee Fork Creek - source to Jordan Creek	COLD SS	PCR	DWS
S-35	Fivemile Creek - source to mouth			
S-36	Elevenmile Creek - source to mouth			
S-37	McKay Creek - source to mouth			
S-38	Twentymile Creek - source to mouth			
S-39	Tenmile Creek - source to mouth			
S-40	Eightmile Creek - source to mouth			
S-41	Jordan Creek - from and including Unnamed Tributary (T13N, R15E, Sec. 29) to mouth			
S-42	Jordan Creek - source to Unnamed Tributary (T13N, R15E, Sec. 29)			
S-43	West Fork Yankee Fork Creek - Lightning Creek to mouth			
S-44	Lightning Creek - source to mouth			
S-45	West Fork Yankee Fork Creek - source to Lightning Creek			
S-46	Cabin Creek - source to mouth			
S-47	Salmon River - Valley Creek to Yankee Fork Creek	COLD SS	PCR	DWS

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
S-48	Basin Creek - East Basin Creek to mouth			
S-49	East Basin Creek - source to mouth			
S-50	Basin Creek - source to East Basin Creek			
S-51	Valley Creek - Trap Creek to mouth			
S-52	Stanley Creek - source to mouth			
S-53	Valley Creek - source to Trap Creek			
S-54	Trap Creek - Meadow Creek to mouth			
S-55	Trap Creek - source to Meadow Creek			
S-56	Meadow Creek - source to mouth			
S-57	Elk Creek - source to mouth			
S-58	Stanley Creek - source to mouth			
S-59	Crooked Creek - source to mouth			
S-60	Iron Creek - source to mouth			
S-61	Goat Creek - source to mouth			
S-62	Meadow Creek - source to mouth			
S-63	Salmon River - Redfish Lake Creek to Valley Creek	COLD SS	PCR	DWS
S-64	Redfish Lake Creek - Redfish Lake to mouth			
S-65	Fishhook Creek - source to mouth			
S-66	Redfish Lake			
S-67	Redfish Lake Creek - source to Redfish Lake			
S-68	Salmon River - Unnamed Tributary (T19N, R13E, Sec. 25) to Redfish Lake Creek	COLD SS	PCR	DWS
S-69	Decker Creek - Huckleberry Creek to mouth			
S-70	Decker Creek - source to Huckleberry Creek			
S-71	Huckleberry Creek - source to mouth			
S-72	Salmon River - Fisher Creek to Decker Creek	COLD SS	PCR	DWS
S-73	Salmon River - Alturas Lake Creek to Fisher Creek	COLD SS	PCR	DWS
S-74	Hell Roaring Creek - source to mouth			
S-75	Alturas Lake Creek - Alturas Lake to mouth			
S-76	Toxaway/Farley Lake - source to mouth			
S-77	Pettit Lake			
S-78	Alturas Lake			

Unit	Waters	Aquatic Life	Recreation	Other
S-79	Alturas Lake Creek - source to Alturas Lake			
S-80	Alpine Creek - source to mouth			
S-81	Salmon River - source to Alturas Lake Creek	COLD SS	PCR	DWS
S-82	Beaver Creek - source to mouth			
S-83	Smiley Creek - source to mouth			
S-84	Frenchman Creek - source to mouth			
S-85	Pole Creek - source to mouth			
S-86	Champion Creek - source to mouth			
S-87	Fourth of July Creek - source to mouth			
S-88	Fisher Creek - source to mouth			
S-89	Williams Creek - source to mouth			
S-90	Gold Creek - source to mouth			
S-91	Little Casino Creek - source to mouth			
S-92	Big Casino Creek - source to mouth			
S-93	Rough Creek - source to mouth			
S-94	Warm Springs Creek - Swimm Creek to mouth			
S-95	Warm Springs Creek - Pigtail Creek to Swimm Creek			
S-96	Pigtail Creek - source to mouth			
S-97	Warm Springs Creek - source to Pigtail Creek			
S-98	Swimm Creek - source to mouth			
S-99	Slate Creek - source to mouth			
S-100	Holman Creek - source to mouth			
S-101	Sullivan Creek - source to mouth			
S-102	East Fork Salmon River - Herd Creek to mouth	COLD SS	PCR	DWS
S-103	East Fork Salmon River - Germania Creek to Herd Creek	COLD SS	PCR	DWS
S-104	Big Lake Creek - source to mouth			
S-105	Big Boulder Creek - source to mouth			
S-106	Little Boulder Creek - source to mouth			
S-107	Germania Creek - Chamberlain Creek to mouth			
S-108	Chamberlain Creek - source to mouth			
S-109	Germania Creek - source to Chamberlain Creek			

Unit	Waters	Aquatic Life	Recreation	Other
S-110	East Fork Salmon River - confluence of South and West Fork Salmon Rivers to Germania	COLD SS	PCR	DWS
S-111	West Fork East Fork Salmon River - source to mouth			
S-112	South Fork East Fork Salmon River - source to mouth			
S-113	Ibex Creek - source to mouth			
S-114	West Pass Creek - source to mouth			
S-115	Bowery Creek - source to mouth			
S-116	Pine Creek - source to mouth			
S-117	McDonald Creek - source to mouth			
S-118	Herd Creek - confluence of West Fork Herd Creek and East Pass Creek to mouth			
S-119	East Pass Creek - source to mouth			
S-120	Taylor Creek - source to mouth			
S-121	West Fork Herd Creek - source to mouth			
S-122	East Fork Herd Creek - source to mouth			
S-123	Lake Creek - source to mouth			
S-124	Road Creek - Corral Basin Creek to mouth			
S-125	Road Creek - source to Corral Basin Creek			
S-126	Mosquito Creek - source to mouth			
S-127	Corral Basin Creek - source to mouth			
S-128	Horse Basin Creek - source to mouth			
S-129	Spar Canyon Creek - source to mouth			
S-130	Bradshaw Gulch - source to mouth			
S-131	Warm Spring Creek - Hole-in-Rock Creek to mouth			
S-132	Warm Spring Creek - source to Hole-in-Rock Creek			
S-133	Broken Wagon Creek - source to mouth			
S-134	Hole-in-Rock Creek - source to mouth			
S-135	Pennal Gulch - source to mouth			

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**04. Pahsimeroi Subbasin.** The Pahsimeroi Subbasin, HUC 17060202, is comprised of thirty-nine (39) water body units.



<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
S-1	Pahsimeroi River - Patterson Creek to mouth	COLD SS	PCR	DWS
S-2	Pahsimeroi River - Meadow Creek to Patterson Creek	COLD SS	PCR	DWS
S-3	Lawson Creek - confluence of North and South Fork Lawson Creeks to mouth			
S-4	North Fork Lawson Creek - source to mouth			
S-5	South Fork Lawson Creek - source to mouth			
S-6	Meadow Creek - source to mouth			
S-7	Pahsimeroi River - Furley Road (T15S, R22E) to Meadow Creek	COLD SS	PCR	DWS
S-8	Pahsimeroi River - Big Creek to Furley Road (T15S, R22E)	COLD SS	PCR	DWS
S-9	Grouse Creek - source to mouth			
S-10	Pahsimeroi River - Goldberg Creek to Big Creek	COLD SS	PCR	DWS
S-11	Pahsimeroi River - Unnamed Tributary (T12N, R23E, Sec. 22) to Goldberg Creek	COLD SS	PCR	DWS
S-12	Unnamed Tributary - source to mouth (T12N, R23E, Sec. 22)			
S-13	Doublespring Creek - Christian Gulch to mouth			
S-14	Christian Gulch - source to mouth			
S-15	Doublespring Creek - source to Christian Gulch			
S-16	Mud Spring Canyon Complex			
S-17	Pahsimeroi River - Burnt Creek to Unnamed Tributary (T12N, R23E, Sec. 22)	COLD SS	PCR	DWS
S-18	Pahsimeroi River - Mahogany Creek to Burnt Creek	COLD SS	PCR	DWS
S-19	Mahogany Creek - source to mouth			
S-20	Pahsimeroi River - confluence of Rock Creek and East Fork Pahsimeroi River to Mahogany Creek	COLD SS	PCR	DWS
S-21	Rock Creek - source to mouth			
S-22	East Fork Pahsimeroi River - source to mouth			
S-23	Burnt Creek - Long Creek to mouth			
S-24	Burnt Creek - source to Long Creek			
S-25	Long Creek - Short Creek to mouth			
S-26	Short Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-27	Long Creek - source to Short Creek			
S-28	Goldburg Creek - Donkey Creek to mouth			
S-29	Donkey Creek -source to mouth			
S-30	Goldburg Creek - source to Donkey Creek			
S-31	Big Creek - confluence of North and South Fork Big Creeks to mouth			
S-32	South Fork Big Creek - source to mouth			
S-33	North Fork Big Creek - source to mouth			
S-34	Patterson Creek - Inyo Creek to mouth			
S-35	Patterson Creek - source to and including Inyo Creek			
S-36	Falls Creek - source to mouth			
S-37	Morse Creek - Irrigation junction to mouth			
S-38	Morse Creek - source to Irrigation junction (T15S, R23E)			
S-39	Morgan Creek - source to mouth			

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**05. Middle Salmon-Panther Subbasin.** The Middle Salmon-Panther Subbasin, HUC 17060203, is comprised of ninety-two (92) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Salmon River - Panther Creek to Middle Fork Salmon River	COLD SS	PCR	DWS
S-2	Panther Creek - Big Deer Creek to mouth	COLD SS	SCR	
S-3	Garden Creek - source to mouth			
S-4	Clear Creek - source to mouth			
S-5	Big Deer Creek - South Fork Big Deer Creek to mouth			
S-6	Big Deer Creek - source to South Fork Big Deer Creek			
S-7	South Fork Big Deer Creek - Bucktail Creek to mouth			
S-8	South Fork Big Deer Creek -source to Bucktail Creek			
S-9	Bucktail Creek - source to mouth	NONE	NONE	
S-10	Panther Creek - Napias Creek to Big Deer Creek	COLD SS	SCR	
S-11	Panther Creek - Blackbird Creek to Napias Creek	COLD SS	SCR	

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
S-12a	Blackbird Creek - source to Blackbird Reservoir Dam	COLD SS	SCR	
S-12b	Blackbird Creek - Blackbird Reservoir Dam to mouth	NONE	SCR	
S-13a	West Fork Blackbird Creek - source to concrete channel	COLD SS	SCR	
S-13b	West Fork Blackbird Creek - concrete channel to mouth only	NONE	SCR	
S-14	Panther Creek - Porphyry Creek to Blackbird Creek	COLD SS	PCR	DWS
S-15	Musgrove Creek - source to mouth			
S-16	Porphyry Creek - source to mouth			
S-17	Panther Creek - source to Porphyry Creek	COLD SS	PCR	DWS
S-18	Moyer Creek - source to mouth			
S-19	Woodtick Creek - source to mouth			
S-20	Deep Creek - Little Deep Creek to mouth			
S-21	Little Deep Creek - source to mouth			
S-22	Deep Creek - source to Little Deep Creek			
S-23	Napias Creek - Moccasin Creek to mouth			
S-24	Napias Creek - Arnett Creek to and including Moccasin Creek			
S-25	Napias Creek - source to Arnett Creek			
S-26	Arnett Creek - source to mouth			
S-27	Trail Creek - source to mouth			
S-28	Beaver Creek - source to mouth			
S-29	Salmon River - Indian Creek to Panther Creek	COLD SS	PCR	DWS
S-30	Pine Creek - source to mouth			
S-31	East Boulder Creek - source to mouth			
S-32	Salmon River - North Fork Sheep Creek to Indian Creek	COLD SS	PCR	DWS
S-33	Moose Creek - Little Moose Creek to mouth			
S-34	Little Moose Creek - source to mouth			
S-35	Moose Creek - Dolly Creek to Little Moose Creek			
S-36	Moose Creek - source to Dolly Creek			
S-37	Dolly Creek - source to mouth			
S-38	Dump Creek - Moose Creek to mouth			

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
S-39	Salmon River - Carmen Creek to North Fork Salmon River	COLD SS	PCR	DWS
S-40	Wallace Creek - source to mouth			
S-41	Salmon River - Pollard Creek to Carmen Creek	COLD SS	PCR	DWS
S-42	Salmon River - Williams Creek to Pollard Creek	COLD SS	PCR	DWS
S-43	Williams Creek - confluence of North and South Fork Williams Creek to mouth			
S-44	North Fork Williams Creek - source to mouth			
S-45	South Fork Williams Creek - source to mouth			
S-46	Salmon River - Twelvemile Creek to Williams Creek	COLD SS	PCR	DWS
S-47	Salmon River - Iron Creek to Twelvemile Creek	COLD SS	PCR	DWS
S-48	Iron Creek - North Fork Iron Creek to mouth			
S-49	North Fork Iron Creek - source to mouth			
S-50	Iron Creek - source to North Fork Iron Creek			
S-51	West Fork Iron Creek - source to mouth			
S-52	South Fork Iron Creek - source to mouth			
S-53	Salmon River - Pahsimeroi River to Iron Creek	COLD SS	PCR	DWS
S-54	Hot Creek - source to mouth			
S-55	Cow Creek - source to mouth			
S-56	Allison Creek - source to mouth			
S-57	McKim Creek - source to mouth			
S-58	Poison Creek - source to mouth			
S-59	Warm Springs Creek - source to mouth			
S-60	Twelvemile Creek - source to mouth			
S-61	Carmen Creek - Freeman Creek to mouth			
S-62	Freeman Creek - source to mouth			
S-63	Carmen Creek - source to Freeman Creek			
S-64	Tower Creek - source to mouth			
S-65	Fourth of July Creek - Little Fourth of July Creek to mouth			
S-66	Fourth of July Creek - source to Little Fourth of July Creek			
S-67	Little Fourth of July Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-68	North Fork Salmon River - Hughes Creek to mouth	COLD SS	PCR	DWS
S-69	Big Silverlead Creek - source to mouth			
S-70	North Fork Salmon River - Sheep Creek to Hughes Creek	COLD SS	PCR	DWS
S-71	Sheep Creek - source to mouth			
S-72	North Fork Salmon River - Dahlongega Creek to Sheep Creek	COLD SS	PCR	DWS
S-73	Dahlongega Creek - Nez Perce Creek to mouth			
S-74	Dahlongega Creek - source to Nez Perce Creek			
S-75	Nez Perce Creek - source to mouth			
S-76	Anderson Creek - source to mouth			
S-77	North Fork Salmon River - Twin Creek to Dahlongega Creek	COLD SS	PCR	DWS
S-78	North Fork Salmon River - source to Twin Creek	COLD SS	PCR	DWS
S-79	Pierce Creek - source to mouth			
S-80	Twin Creek - source to mouth			
S-81	Hughes Creek - source to mouth			
S-82	Hull Creek - source to mouth			
S-83	Indian Creek - source to mouth			
S-84	Squaw Creek - source to mouth			
S-85	Spring Creek - source to mouth			
S-86	Boulder Creek - source to mouth			
S-87	Owl Creek - East Fork Owl Creek to mouth			
S-88	East Fork Owl Creek - source to mouth			
S-89	Owl Creek - source to East Fork Owl Creek			
S-90	Colson Creek - source to mouth			

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**06. Lemhi Subbasin.** The Lemhi Subbasin, HUC 17060204, is comprised of eighty-two (82) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Lemhi River - Kenney Creek to mouth	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
S-2	Mulkey Creek - source to mouth			
S-3a	Withington Creek - diversion (T20N, R23E, Sec. 09) to mouth			
S-3b	Withington Creek - source to diversion (T20N, R23E, Sec. 09)	COLD SS	SCR	
S-4	Haynes Creek - source to mouth			
S-5	Lemhi River - Hayden Creek to Kenney Creek	COLD SS	PCR	DWS
S-6	Baldy Creek - source to mouth			
S-7a	McDevitt Creek - diversion (T19N, R23E, Sec. 36) to mouth			
S-7b	McDevitt Creek - source to diversion (T19N, R23E, Sec. 36)	COLD SS	SCR	
S-8	Muddy Creek - source to mouth			
S-9	Hayden Creek - Basin Creek to mouth	COLD SS	SCR	
S-10	Basin Creek - Lake Creek to mouth	COLD SS	SCR	
S-11	Basin Creek - confluence of McNutt Creek and Trail Creek to Lake Creek	COLD SS	SCR	
S-12	Trail Creek - source mouth			
S-13	McNutt Creek - source to mouth			
S-14	Lake Creek - source to mouth			
S-15	Hayden Creek - Bear Valley Creek to Basin Creek	COLD SS	SCR	
S-16	Bear Valley Creek -Wright Creek to mouth	COLD SS	SCR	
S-17	Bear Valley Creek - source to Wright Creek	COLD SS	SCR	
S-18	Wright Creek - source to mouth			
S-19	Kadletz Creek - source to mouth			
S-20	Hayden Creek -West Fork Hayden Creek to Bear Valley Creek	COLD SS	SCR	
S-21	Hayden Creek - source to West Fork Hayden Creek	COLD SS	SCR	
S-22	West Fork Hayden Creek - source to mouth			
S-23	East Fork Hayden Creek - source to mouth	COLD SS	SCR	
S-24	Lemhi River - Peterson Creek to Hayden Creek	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
S-25	Lemhi River - confluence of Big and Little Eightmile Creeks to Peterson Creek	COLD SS	PCR	DWS
S-26a	Mill Creek - diversion (T16N, R24E, Sec. 22) to mouth			
S-26b	Mill Creek - source to diversion (T16N, R24E, Sec. 22)	COLD SS	SCR	
S-27	Walter Creek - source to mouth			
S-28	Lee Creek - source to mouth			
S-29a	Big Eightmile Creek - diversion (T16N, R25E, Sec. 21) to mouth			
S-29b	Big Eightmile Creek - source to diversion (T16N, R25E, Sec. 21)	COLD SS	SCR	
S-30	Lemhi River - confluence of Eighteenmile Creek and Texas Creek to the confluence of Big and Little Eightmile Creeks	COLD SS	PCR	DWS
S-31	Big Timber Creek - Little Timber Creek to mouth			
S-32a	Little Timber Creek - diversion (T15N, R25E, Sec. 24) to mouth			
S-32b	Little Timber Creek - source to diversion (T15N, R25E, Sec. 24)	COLD SS	SCR	
S-33	Big Timber Creek - Rocky Creek to Little Timber Creek	COLD SS	SCR	
S-34	Rocky Creek - source to mouth			
S-35	Big Timber Creek - source to Rocky Creek	COLD SS	SCR	
S-36	Texas Creek - Deer Creek to mouth			
S-37	Deer Creek - source to mouth			
S-38	Texas Creek - Meadow Creek to Deer Creek			
S-39	Meadow Lake Creek - source to mouth			
S-40	Texas Creek - source to Meadow Lake Creek			
S-41	Eighteenmile Creek - Hawley Creek to mouth			
S-42	Eighteenmile Creek - Clear Creek to Hawley Creek			
S-43	Eighteenmile Creek - Divide Creek to Hawley Creek	COLD	SCR	
S-44	Divide Creek - source to mouth			
S-45	Eighteenmile Creek - source to Divide Creek	COLD SS	SCR	
S-46	Clear Creek - source to mouth			
S-47	Tenmile Creek - Powderhorn Gulch to mouth			
S-48	Tenmile Creek - source to Powderhorn Gulch			
S-49	Powderhorn Gulch - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-50a	Hawley Creek - diversion (T15N, R27E, Sec. 03) to mouth			
S-50b	Hawley Creek - source to diversion (T15N, R27E, Sec. 03)			
S-51a	Canyon Creek - diversion (T16N, R26E, Sec.22) to mouth			
S-51b	Canyon Creek - source to diversion (T16N, R26E, Sec.22)	COLD SS	SCR	
S-52a	Little Eightmile Creek - diversion (T16N, R25E, Sec. 02) to mouth			
S-52b	Little Eightmile Creek - source to diversion (T16N, R25E, Sec. 02)	COLD SS	SCR	
S-53	Peterson Creek - source to mouth			
S-54	Reese Creek - source to mouth			
S-55a	Yearian Creek - diversion (T17N, R24E, Sec. 03) to mouth			
S-55b	Yearian Creek - source to diversion (T17N, R24E, Sec. 03)	COLD SS	SCR	
S-56a	Agency Creek - diversion (T19N, R24E, Sec. 28) to mouth			
S-56b	Agency Creek - Cow Creek to diversion (T19N, R24E, Sec. 28)	COLD SS	SCR	
S-57	Cow Creek - source to mouth	COLD SS	SCR	
S-58	Agency Creek - source to Cow Creek	COLD SS	SCR	
S-59a	Pattee Creek - diversion (T19N, R24E, Sec. 16) to mouth			
S-59b	Pattee Creek - source to diversion (T19N, R24E, Sec. 16)	COLD SS	SCR	
S-60a	Pratt Creek - diversion (T20N, R23E, Sec. 11) to mouth			
S-60b	Pratt Creek - source to diversion (T20N, R23E, Sec. 11)	COLD SS	SCR	
S-61	Kenney Creek - source to mouth	COLD SS	SCR	
S-62a	Sandy Creek - diversion (T20N, R24E, Sec. 17) to mouth			
S-62b	Sandy Creek - source to diversion (T20N, R24E, Sec. 17)	COLD SS	SCR	
S-63	Wimpey Creek - source to mouth	COLD SS	SCR	
S-64a	Bohannon Creek - diversion (T21N, R23E, Sec. 22) to mouth			
S-64b	Bohannon Creek - source to diversion (T21N, R23E, Sec. 22)	COLD SS	SCR	
S-65a	Geertson Creek - diversion (T21N, R23E, Sec. 20) to mouth			



Unit	Waters	Aquatic Life	Recreation	Other
S-65b	Geertson Creek - source to diversion (T21N, R23E, Sec. 20)	COLD SS	SCR	
S-66a	Kirtley Creek - diversion (T21N, R22E, Sec. 02) to mouth			
S-66b	Kirtley Creek - source to diversion (T21N, R22E, Sec. 02)	COLD SS	SCR	

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**07. Upper Middle Fork Salmon Subbasin.** The Upper Middle Fork Salmon Subbasin, HUC 17060205, is comprised of seventy (70) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Middle Fork Salmon River - confluence of Bear Valley Creek and Marsh Creek to Loon Creek	COLD SS	PCR	DWS
S-2	Marble Creek - source to mouth			
S-3	Trail Creek - source to mouth			
S-4	Big Cottonwood Creek - source to mouth			
S-5	Dynamite Creek - source to mouth			
S-6	Indian Creek - source to mouth			
S-7	Pistol Creek - source to mouth			
S-8	Elkhorn Creek - source to mouth			
S-9	Sulphur Creek - source to mouth			
S-10	Boundary Creek - source to mouth			
S-11	Dagger Creek - source to mouth			
S-12	Bear Valley Creek - source to mouth			
S-13	Elk Creek - source to mouth			
S-14	Sheep Trail Creek - source to mouth			
S-15	Cub Creek - source to mouth			
S-16	Cache Creek - source to mouth			
S-17	Fir Creek - source to mouth			
S-18	Marsh Creek - Beaver Creek to mouth			
S-19	Marsh Creek - Knapp Creek to Beaver Creek			
S-20	Cape Horn Creek - Banner Creek to mouth			
S-21	Cape Horn Creek - source to Banner Creek			
S-22	Banner Creek - source to mouth			
S-23	Swamp Creek - source to mouth			

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
S-24	Marsh Creek - source to Knapp Creek			
S-25	Knapp Creek - source to mouth			
S-26	Asher Creek - source to mouth			
S-27	Unnamed Tributary - source to mouth (T12N, R11E, Sec. 11)			
S-28	Beaver Creek - Bear Creek to mouth			
S-29	Beaver Creek - Winnemucca Creek to Bear Creek			
S-30	Winnemucca Creek - source to mouth			
S-31	Beaver Creek - source to Winnemucca Creek			
S-32	Bear Creek - source to mouth			
S-33	Soldier Creek - source to mouth			
S-34	Greyhound Creek - source to mouth			
S-35	Rapid River - Bell Creek to mouth			
S-36	Bell Creek - source to mouth			
S-37	Rapid River - Lucinda Creek to Bell Creek			
S-38	Rapid River - Float Creek to Lucinda Creek			
S-39	Float Creek - source to mouth			
S-40	Rapid River - Vanity Creek to Float Creek			
S-41	Vanity Creek - source to mouth			
S-42	Rapid River - source to Vanity Creek			
S-43	Lucinda Creek - source to mouth			
S-44	Sheep Creek - confluence of North and South Fork Sheep Creek to mouth			
S-45	South Fork Sheep Creek - source to mouth			
S-46	North Fork Sheep Creek - source to mouth			
S-47	Little Loon Creek - source to mouth			
S-48	Loon Creek - Cabin Creek to mouth			
S-49	Loon Creek - Warm Springs Creek to Cabin Creek			
S-50	Loon Creek - Cottonwood Creek to Warm Springs Creek			
S-51	Loon Creek - Shell Creek to Cottonwood Creek			
S-52	Shell Creek - source to mouth			
S-53	Loon Creek - Grouse Creek to Shell Creek			
S-54	Grouse Creek - source to mouth			
S-55	Loon Creek - Canyon Creek to Grouse Creek			
S-56	Canyon Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-57	Loon Creek - Pioneer Creek to Canyon Creek			
S-58	Trail Creek - source to mouth			
S-59	Loon Creek - source to Pioneer Creek			
S-60	Pioneer Creek - source to mouth			
S-61	No Name Creek - source to mouth			
S-62	Mayfield Creek - confluence of East and West Fork Mayfield Creek to mouth			
S-63	West Fork Mayfield Creek - source to mouth			
S-64	East Fork Mayfield Creek - source to mouth			
S-65	Cottonwood Creek - source to mouth			
S-66	South Fork Cottonwood Creek - source to mouth			
S-67	Warm Springs Creek - Trapper Creek to mouth			
S-68	Trapper Creek - source to mouth			
S-69	Warm Springs Creek - source to Trapper Creek			
S-70	Cabin Creek - source to mouth			

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**08. Lower Middle Fork Salmon Subbasin.** The Lower Middle Fork Salmon Subbasin, HUC 17060206, is comprised of fifty (50) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Middle Fork Salmon River - Loon Creek to mouth	COLD SS	PCR	DWS
S-2	Papoose Creek - source to mouth			
S-3	Big Creek - source to mouth	COLD SS	PCR	DWS
S-4	Cabin Creek - source to mouth			
S-5	Cave Creek - source to mouth			
S-6	Crooked Creek - source to mouth			
S-7	Big Ramey Creek - source to mouth			
S-8	Beaver Creek - source to mouth			
S-9	Smith Creek - source to mouth			
S-10	Logan Creek - source to mouth			
S-11	Little Marble Creek - source to mouth			

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
S-12	Monumental Creek - source to mouth	COLD SS	PCR	DWS
S-13	Snowslide Creek - source to mouth			
S-14	West Fork Monumental Creek - source to mouth			
S-15	Rush Creek - source to mouth			
S-16	Two Point Creek - source to mouth			
S-17	Soldier Creek - source to mouth			
S-18	Brush Creek - source to mouth			
S-19	Sheep Creek - source to mouth			
S-20	Camas Creek - Yellowjacket Creek to mouth			
S-21	Camas Creek - Forge Creek to Yellowjacket Creek			
S-22	Camas Creek - Duck Creek to Forge Creek			
S-23	Camas Creek - Silver Creek to Duck Creek			
S-24	West Fork Camas Creek - source to mouth			
S-25	Camas Creek - Castle Creek to Silver Creek			
S-26	Camas Creek - Furnance Creek to Castle Creek			
S-27	Camas Creek - White Goat Creek to Furnance Creek			
S-28	Camas Creek - South Fork Camas Creek to White Goat Creek			
S-29	South Fork Camas Creek - source to mouth			
S-30	Camas Creek - source to South Fork Camas Creek			
S-31	White Goat Creek - source to mouth			
S-32	Furnace Creek - source to mouth			
S-33	Castle Creek - source to mouth			
S-34	Silver Creek - source to mouth			
S-35	Duck Creek - source to mouth			
S-36	Forge Creek - source to mouth			
S-37	Yellowjacket Creek - Jenny Creek to mouth			
S-38	Yellowjacket Creek - Hoodoo Creek to Jenny Creek			
S-39	Yellowjacket Creek - Little Jacket Creek to Hoodoo Creek			
S-40	Little Jacket Creek - source to mouth			
S-41	Yellowjacket Creek - Trail Creek to Little Jacket Creek			
S-42	Trail Creek - source to mouth			
S-43	Yellowjacket Creek - source to Trail Creek			
S-44	Hoodoo Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-45	Jenny Creek - source to mouth			
S-46	Wilson Creek - source to mouth			
S-47	Waterfall Creek - source to mouth			
S-48	Ship Island Creek - source to mouth			
S-49	Roaring Creek - source to mouth			
S-50	Goat Creek - source to mouth			

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**09. Middle Salmon-Chamberlain Subbasin.** The Middle Salmon-Chamberlain Subbasin, HUC 17060207, is comprised of seventy-seven (77) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Salmon River - South Fork Salmon River to river mile 106 (T24N, R04E, Sec. 18)	COLD	PCR	DWS
S-2	Fall Creek - source to mouth			
S-3	Carey Creek - source to mouth			
S-4	California Creek - source to mouth			
S-5	Cottontail Creek - source to mouth			
S-6	Rabbit Creek - source to mouth			
S-7	Warren Creek - source to mouth			
S-8	Salmon River - Chamberlain Creek to South Fork Salmon River	COLD SS	PCR	DWS
S-9	Fivemile Creek - source to mouth			
S-10	Little Fivemile Creek - source to mouth			
S-11	Lemhi Creek - source to mouth			
S-12	Fall Creek - source to mouth			
S-13	Trout Creek - source to mouth			
S-14	Richardson Creek - source to mouth			
S-15	Dillinger Creek - source to mouth			
S-16	Hot Springs Creek - source to mouth			
S-17	Big Bear Creek - source to mouth			
S-18	Salmon River - Horse Creek to Chamberlain Creek	COLD SS	PCR	DWS
S-19	Chamberlain Creek - McCalla Creek to mouth			
S-20	Chamberlain Creek - Game Creek to McCalla Creek			

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
S-21	Queen Creek - source to mouth			
S-22	Game Creek - source to mouth			
S-23	West Fork Game Creek - source to mouth			
S-24	Chamberlain Creek - confluence of Rim and South Fork Chamberlain Creeks to Game Creek			
S-25	Flossie Creek - source to mouth			
S-26	Rim Creek - source to mouth			
S-27	South Fork Chamberlain Creek - source to mouth			
S-28	Moose Creek - source to mouth			
S-29	Lodgepole Creek - source to mouth			
S-30	McCalla Creek - source to mouth			
S-31	Whimstick Creek - source to mouth			
S-32	Disappointment Creek - source to mouth			
S-33	Starvation Creek - source to mouth			
S-34	Hungry Creek - source to mouth			
S-35	Cottonwood Creek - source to mouth			
S-36	Peak Creek - source to mouth			
S-37	Salmon River - Middle Fork Salmon River to Horse Creek	COLD SS	PCR	DWS
S-38	Butts Creek - source to mouth			
S-39	Kitchen Creek - source to mouth			
S-40	Corn Creek - source to mouth			
S-41	Horse Creek - Little Horse Creek to mouth			
S-42	Little Horse Creek - source to mouth			
S-43	Horse Creek - Reynolds Creek to Little Horse Creek			
S-44	Horse Creek - source to Reynolds Creek			
S-45	East Fork Reynolds Creek - source to mouth			
S-46	Reynolds Creek - source to mouth			
S-47	West Horse Creek - source to mouth			
S-48	Little Squaw Creek - source to mouth			
S-49	Harrington Creek - source to mouth			
S-50	Sabe Creek - Hamilton Creek to mouth			
S-51	Hamilton Creek - source to mouth			
S-52	Sabe Creek - source to Hamilton Creek			

Unit	Waters	Aquatic Life	Recreation	Other
S-53	Center Creek - source to mouth			
S-54	Rattlesnake Creek - source to mouth			
S-55	Bargamin Creek - source to mouth			
S-56	Porcupine Creek - source to mouth			
S-57	Prospector Creek - source to mouth			
S-58	Cache Creek - source to mouth			
S-59	Salt Creek - source to mouth			
S-60	Rainey Creek - source to mouth			
S-61	Big Mallard Creek - source to mouth			
S-62	Little Mallard Creek - source to mouth			
S-63	Rhett Creek - source to mouth			
S-64	Big Blowout Creek - source to mouth			
S-65	Jersey Creek - source to mouth			
S-66	Indian Creek - source to mouth			
S-67	Crooked Creek - Lake Creek to mouth			
S-68	Crooked Creek - source to Lake Creek			
S-69	Big Creek - source to mouth			
S-70	Lake Creek - source to mouth			
S-71	Arlington Creek - source to mouth			
S-72	Bull Creek - source to mouth			
S-73	Elk Creek - source to mouth			
S-74	Sheep Creek - source to mouth			
S-75	Long Meadow Creek - source to mouth			
S-76	Wind River - source to mouth			
S-77	Meadow Creek - source to mouth			

(3-29-12)

**10. South Fork Salmon Subbasin.** The South Fork Salmon Subbasin, HUC 17060208, is comprised of thirty-five (35) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	South Fork Salmon River - East Fork Salmon River to mouth	COLD SS	PCR	DWS
S-2	Raines Creek - source to mouth	COLD SS	PCR	

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
S-3	Pony Creek - source to mouth	COLD SS	PCR	
S-4	Bear Creek - source to mouth	COLD SS	PCR	
S-5	Secesh River - confluence of Summitt Creek and Lake Creek to mouth	COLD SS	PCR	DWS
S-6	Lake Creek - source to mouth	COLD SS	PCR	
S-7	Summit Creek - source to mouth	COLD SS	PCR	
S-8	Loon Creek - source to mouth	COLD SS	PCR	
S-9	Lick Creek - source to mouth	COLD SS	PCR	
S-10	South Fork Salmon River - source to East Fork of the South Fork Salmon River	COLD SS	PCR	DWS
S-11	Fitsum Creek - source to mouth	COLD SS	PCR	
S-12	Buckhorn Creek - source to mouth	COLD SS	PCR	
S-13	Cougar Creek - source to mouth	COLD SS	PCR	
S-14	Blackmare Creek - source to mouth	COLD SS	PCR	
S-15	Dollar Creek - source to mouth	COLD SS	PCR	
S-16	Six-bit Creek - source to mouth	COLD SS	PCR	
S-17	Trail Creek - source to mouth	COLD SS	PCR	
S-18	Rice Creek - source to mouth	COLD SS	PCR	
S-19	Cabin Creek - source to mouth	COLD SS	PCR	
S-20	Warm Lake	COLD	PCR	
S-21	Fourmile Creek - source to mouth	COLD SS	PCR	
S-22	Camp Creek - source to mouth	COLD SS	PCR	



Unit	Waters	Aquatic Life	Recreation	Other
S-23	East Fork of the South Fork Salmon River - source to mouth	COLD SS	PCR	DWS
S-24	Caton Creek - source to mouth	COLD SS	PCR	
S-25	Johnson Creek - source to mouth	COLD SS	PCR	DWS
S-26	Burntlog Creek - source to mouth	COLD SS	PCR	
S-27	Trapper Creek - source to mouth	COLD SS	PCR	
S-28	Riordan Creek - source to mouth	COLD SS	PCR	
S-29	Sugar Creek - source to mouth	COLD SS	PCR	
S-30	Tamarack Creek - source to mouth	COLD SS	PCR	
S-31	Profile Creek - source to mouth	COLD SS	PCR	
S-32	Quartz Creek - source to mouth	COLD SS	PCR	
S-33	Sheep Creek - source to mouth	COLD SS	PCR	
S-34	Elk Creek - source to mouth	COLD SS	PCR	
S-35	Porphyry Creek - source to mouth	COLD SS	PCR	

(3-29-12)

**11. Lower Salmon Subbasin.** The Lower Salmon Subbasin, HUC 17060209, is comprised of sixty-five (65) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Salmon River - Rice Creek to mouth	COLD	PCR	DWS
S-2	Flynn Creek - source to mouth			
S-3	Cottonwood Creek - source to mouth			
S-4	Billy Creek - source to mouth			
S-5	Burnt Creek - source to mouth			
S-6	Round Spring Creek - source to mouth			

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
S-7	Rice Creek - source to mouth			
S-8	Salmon River - Slate Creek to Rice Creek	COLD	PCR	DWS
S-9	Sotin Creek - source to mouth			
S-10	Deer Creek - source to mouth			
S-11	Salmon River - Little Salmon River to Slate Creek	COLD	PCR	DWS
S-12	China Creek- source to mouth			
S-13	Cow Creek - source to mouth			
S-14	Race Creek - confluence West and South Fork Race Creek to mouth			
S-15	West Fork Race Creek - source to mouth			
S-16	South Fork Race Creek - source to mouth			
S-17	Kessler Creek - source to mouth			
S-18	Grave Creek - source to mouth			
S-19	Salmon River - river mile 106 (T24N, R04E, Sec. 18) to Little Salmon River	COLD	PCR	DWS
S-20	Lake Creek - source to mouth			
S-21	Partridge Creek - source to mouth			
S-22	Elkhorn Creek - source to mouth			
S-23	French Creek - Little French Creek to mouth			
S-24	Little French Creek - source to mouth			
S-25	French Creek - source to Little French Creek			
S-26	Kelly Creek - source to mouth			
S-27	Van Creek - source to mouth			
S-28	Allison Creek - West Fork Allison Creek to mouth			
S-29	Allison Creek - source to West Fork Allison Creek			
S-30	West Fork Allison Creek - source to mouth			
S-31	Berg Creek - source to mouth			
S-32	Fiddle Creek - source to mouth			
S-33	John Day Creek - source to mouth			
S-34	Slate Creek - from and including Hurley Creek to mouth			
S-35	Little Van Buren Creek - source to mouth			
S-36	Slate Creek - Little Slate Creek to Hurley Creek			
S-37	Little Slate Creek - source to mouth			
S-38	Deadhorse Creek - source to mouth			
S-39	Van Buren Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-40	Tumble Creek - source to mouth			
S-41	Slate Creek - source to Little Slate Creek			
S-42	North Fork Slate Creek - source to mouth			
S-43	McKinzie Creek - source to mouth			
S-44	Skookumchuck Creek - confluence North and South Fork Skookumchuck Creeks to mouth			
S-45	South Fork Skookumchuck Creek - source to mouth			
S-46	North Fork Skookumchuck Creek - source to mouth			
S-47	Whitebird Creek - confluence of North and South Fork Whitebird Creeks to mouth	COLD SS	PCR	DWS
S-48	South Fork Whitebird Creek - Little Whitebird Creek to mouth			
S-49	Little Whitebird Creek - source to mouth			
S-50	South Fork Whitebird Creek - source to Little Whitebird Creek			
S-51	Jungle Creek - source to mouth			
S-52	Asbestos Creek - source to mouth			
S-53	Teepee Creek - source to mouth			
S-54	Pinnacle Creek - source to mouth			
S-55	North Fork Whitebird Creek - source to mouth			
S-56	Rock Creek - Grave Creek to mouth	COLD SS	PCR	
S-57	Rock Creek - source to Grave Creek	COLD SS	PCR	
S-58	Grave Creek - source to mouth			
S-59	Telcher Creek - source to mouth			
S-60	Deep Creek - source to mouth			
S-61	Maloney Creek - source to mouth			
S-62	Deer Creek - source to mouth			
S-63	Eagle Creek - source to mouth			
S-64	China Creek - source to mouth			
S-65	Wapshilla Creek - source to mouth			

(3-29-12)

**12. Little Salmon Subbasin.** The Little Salmon Subbasin, HUC 17060210, is comprised of sixteen (16) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Little Salmon River - Round Valley Creek to mouth	COLD SS	PCR	DWS
S-2	Rapid River - source to mouth	COLD SS	PCR	DWS
S-3	West Fork Rapid River - source to mouth			
S-4	Paradise Creek - source to mouth			
S-5	Boulder Creek - source to mouth			
S-6	Round Valley Creek - source to mouth			
S-7	Little Salmon River - source to Round Valley Creek	COLD SS	PCR	DWS
S-8	Mud Creek - source to mouth			
S-9	Big Creek - source to mouth			
S-10	Goose Creek - source to mouth			
S-11	Brundage Reservoir			
S-12	Goose Lake			
S-13	Sixmile Creek - source to mouth			
S-14	Hazard Creek - source to mouth			
S-15	Hard Creek - source to mouth			
S-16	Elk Creek - source to mouth			

(3-29-12)

**131. -- 139. (RESERVED)**

**140. SOUTHWEST IDAHO BASIN.**

Surface waters found within the Southwest basin total nineteen (19) subbasins and are designated as follows:

(4-5-00)

**01. C.J. Strike Reservoir Subbasin.** The C.J. Strike Reservoir Subbasin, HUC 17050101, is comprised of twenty-six (26) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Snake River - Browns Creek to C.J. Strike Dam	COLD	PCR	DWS
SW-2	Dune's Lake			
SW-3	Browns Creek - source to mouth			
SW-4	West Fork Browns Creek - source to mouth			
SW-5	Snake River - Clover Creek to Browns Creek	COLD	PCR	DWS
SW-6	Sailor Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
SW-7	Pot Hole Creek - source to mouth			
SW-8	Deadman Creek - source to mouth			
SW-9	Rosevear Gulch - source to mouth			
SW-10	King Hill Creek - source to mouth			
SW-11	West Fork King Hill Creek - source to mouth			
SW-12	Little Canyon Creek - source to mouth			
SW-13	Alkali Creek - source to mouth			
SW-14	Cold Springs Creek - source to mouth			
SW-15	Ryegrass Creek - source to mouth			
SW-16	Bennett Creek - source to mouth			
SW-17	Hot Springs Reservoir			
SW-18	Dive Creek - source to mouth			
SW-19	Rattlesnake Creek - source to mouth (T05S, R06E)			
SW-20	Mountain Home Reservoir			
SW-21	Canyon Creek - Fraiser Reservoir Dam to mouth			
SW-22	Fraiser Reservoir			
SW-23	Canyon Creek - confluence of Syrup and Long Tom Creeks to Fraiser Reservoir			
SW-24	Long Tom Creek - source to mouth			
SW-25	Syrup Creek - source to mouth			
SW-26	Squaw Creek - source to mouth			

(3-29-12)

**02. Bruneau Subbasin.** The Bruneau Subbasin, HUC 17050102, is comprised of thirty-five (35) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	C.J. Strike Reservoir	COLD	PCR	
SW-2	Jacks Creek - confluence of Little and Big Jacks Creeks to C.J. Strike Reservoir			
SW-3	Little Jacks Creek - source to mouth			
SW-4	Big Jacks Creek -source to mouth			
SW-5	Cottonwood Creek - source to mouth			
SW-6	Duncan Creek - source to mouth			
SW-7	Wickahoney Creek - source to mouth			

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
SW-8	Sugar Valley Creek - source to mouth			
SW-9	Bruneau River - Hot Creek to C.J. Strike Reservoir	COLD SS	PCR	
SW-10	Hot Creek - source to mouth			
SW-11	Bruneau River - Clover Creek (East Fork Bruneau River) to Hot Creek	COLD SS	PCR	DWS
SW-12	Miller Water - source to mouth			
SW-13	Bruneau River - Jarbridge River to Clover Creek (East Fork Bruneau River)	COLD SS	PCR	DWS
SW-14	Sheep Creek - Idaho/Nevada border to mouth	COLD	PCR	
SW-15	Louse Creek - source to mouth			
SW-16	Marys Creek - source to mouth			
SW-17	Bull Creek - source to mouth			
SW-18	Pole Creek - Idaho/Nevada border to mouth			
SW-19	Cat Creek - Idaho/Nevada border to mouth			
SW-20	Bruneau River - Idaho/Nevada border to Jarbridge River	COLD SS	PCR	DWS
SW-21	Jarbridge River -Idaho/Nevada border to mouth	COLD SS	PCR	DWS
SW-22	Cougar Creek - source to mouth			
SW-23	Dorsey Creek - Idaho/Nevada border to mouth			
SW-24	East Fork Jarbridge River - Idaho/Nevada border to mouth	COLD SS	PCR	
SW-25	Poison Creek - Idaho/Nevada border to mouth			
SW-26	Unnamed Tributary - source to mouth (T11S, R07E, Sec. 27)			
SW-27	Sheepshead Draw - source to mouth			
SW-28	Clover Creek (East Fork Bruneau River) - confluence of Big Flat, Three, and Deadwood Creeks to mouth	COLD SS	PCR	DWS
SW-29	Juniper Draw - source to mouth			
SW-30	Big Flat Creek - Idaho/Nevada border to mouth			
SW-31	Three Creek - Idaho/Nevada border to mouth			
SW-32	Cherry Creek - Idaho/Nevada border to mouth			
SW-33	Deer Creek - Idaho/Nevada border to mouth			
SW-34	Deadwood Creek - Idaho/Nevada to mouth			
SW-35	Buck Flat Draw - source to mouth			

(3-29-12)

**03. Middle Snake-Succor Subbasin.** The Middle Snake-Succor Subbasin, HUC 17050103, is comprised of twenty-six (26) water body units.

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
SW-1	Snake River - river mile 425 (T02N, R04W, Sec. 02) to Idaho/Oregon border	COLD	PCR	DWS
SW-2	Succor Creek - Idaho/Oregon border to mouth	COLD SS	PCR	
SW-3	Succor Creek - source to Idaho/Oregon border	COLD SS	PCR	
SW-4	McBride Creek - source to Idaho/Oregon border			
SW-5	Jump Creek - source to mouth	COLD	PCR	
SW-6	Snake River - C.J. Strike Dam to river mile 425 (T02N, R04W, Sec. 02)	COLD	PCR	DWS
SW-7	Squaw Creek - source to mouth			
SW-8	Hardtrigger Creek - source to mouth			
SW-9	Reynolds Creek - source to mouth	COLD SS	PCR	
SW-10	West Rabbit Creek - source to mouth			
SW-11	Rabbit Creek - source to mouth			
SW-12	Sinker Creek - source to mouth	COLD SS	PCR	
SW-13	Fossil Creek - source to mouth			
SW-14	Castle Creek - source to mouth	COLD SS	PCR	
SW-15	Catherine Creek - confluence of Hart and Pickett Creeks to mouth			
SW-16	Pickett Creek - source to mouth			
SW-17	Bates Creek - source to mouth			
SW-18	Hart Creek - source to mouth			
SW-19	Brown Creek - source to mouth			
SW-20	South Fork Castle Creek - source to mouth			
SW-21	Birch Creek - source to mouth			
SW-22	McKeeth Wash - source to mouth			
SW-23	Vinson Wash - source to mouth			
SW-24	Shoofly Creek - source to mouth			
SW-25	Corder Creek - source to mouth			
SW-26	Rabbit Creek - source to mouth			

(3-29-12)

**04. Upper Owyhee Subbasin.** The Upper Owyhee Subbasin, HUC 17050104, is comprised of thirty-four (34) water body units.

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
SW-1	Owyhee River - Juniper Creek to South Fork Owyhee River	COLD SS	PCR	DWS
SW-2	Unnamed Tributaries and playas of YP Desert (T14S, R04W)			
SW-3	Piute Creek - source to mouth			
SW-4	Juniper Creek - Juniper Basin Reservoir Dam to mouth			
SW-5	Juniper Basin Reservoir			
SW-6	Owyhee River - Idaho/Nevada border to Juniper Creek	COLD SS	PCR	DWS
SW-7	Blue Creek - Blue Creek Reservoir Dam to mouth			
SW-8	Boyle Creek Reservoir (Mt. View Lake)	COLD	PCR	
SW-9	Papoose/Mud Creek complex			
SW-10	Payne Creek - source to mouth			
SW-11	Squaw Creek - source to mouth			
SW-12	Little Blue Creek - source to mouth			
SW-13	Blue Creek - source to Blue Creek Reservoir Dam			
SW-14	Shoofly Creek - source to mouth			
SW-15	Harris Creek - source to mouth			
SW-16	Little Jarvis Lake			
SW-17	Rough Little Lake			
SW-18	Ross Lake			
SW-19	Juniper Lake			
SW-20	Henry Lake			
SW-21	Unnamed Tributary - source to mouth (T15S, R01W, Sec. 01)			
SW-22	Yatahoney Creek - source to mouth			
SW-23	Battle Creek - source to mouth			
SW-24	Dry Creek - source to mouth			
SW-25	Big Springs Creek - source to mouth			
SW-26	Deep Creek - source to mouth			
SW-27	Dickshooter Creek - source to mouth			
SW-28	Pole Creek - source to mouth			
SW-29	Camas Creek - source to mouth			
SW-30	Camel Creek - source to mouth			



Unit	Waters	Aquatic Life	Recreation	Other
SW-31	Nickel Creek - source to mouth			
SW-32	Castle Creek - source to mouth			
SW-33	Beaver Creek - source to mouth			
SW-34	Red Canyon Creek - source to mouth	COLD	PCR	

(3-29-12)

**05. South Fork Owyhee Subbasin.** The South Fork Owyhee Subbasin, HUC 17050105, is comprised of five (5) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	South Fork Owyhee River - Idaho/Nevada border to mouth	COLD SS	PCR	DWS
SW-2	Spring Creek - source to mouth			
SW-3	Bull Camp Reservoir			
SW-4	Homer Wells Reservoir			
SW-5	Coyote Flat - source to mouth			

(3-29-12)

**06. East Little Owyhee Subbasin.** The East Little Owyhee Subbasin, HUC 17050106, is comprised of two (2) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Little Owyhee River - Idaho/Nevada border to mouth	COLD SS	PCR	DWS
SW-2	Tent Creek- Idaho/Oregon border to mouth			

(3-29-12)

**07. Middle Owyhee Subbasin.** The Middle Owyhee Subbasin, HUC 17050107, is comprised of fourteen (14) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Owyhee River - South Fork Owyhee River to Idaho/Oregon border	COLD SS	PCR	DWS
SW-2	Oregon Lake Creek - source to Idaho/Oregon border			
SW-3	Field Creek - source to Idaho/Oregon border			

Unit	Waters	Aquatic Life	Recreation	Other
SW-4	Middle Fork Owyhee River - source to Idaho/Oregon border	COLD SS	PCR	DWS
SW-5	Pole Creek - source to Idaho/Oregon border			
SW-6	Squaw Creek - source to Idaho/Oregon border	COLD SS	PCR	
SW-7	Cottonwood Creek - source to mouth			
SW-8	North Fork Owyhee River - source to Idaho/Oregon border	COLD SS	PCR	DWS
SW-9	Pleasant Valley Creek - source to mouth	COLD	PCR	
SW-10	Noon Creek - source to mouth	COLD SS	PCR	
SW-11	Cabin Creek - source to mouth	COLD SS	PCR	
SW-12	Juniper Creek - source to mouth	COLD SS	PCR	
SW-13	Cherry Creek - source to Idaho/Oregon border			
SW-14	Soldier Creek - source to Idaho/Oregon border			

(3-29-12)

**08. Jordan Subbasin.** The Jordan Subbasin, HUC 17050108, is comprised of twenty-three (23) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Jordan Creek - Williams Creek to Idaho/Oregon border	COLD SS	PCR	
SW-2	Lone Tree Creek - source to mouth			
SW-3	Williams Creek - source to mouth	COLD	PCR	
SW-4	Jordan Creek - source to Williams Creek	COLD SS	PCR	
SW-5	Big Boulder Creek - confluence of North and South Fork Boulder Creeks to mouth			
SW-6	South Fork Boulder Creek - source to mouth			
SW-7	North Fork Boulder Creek - source to mouth			
SW-8	Mammoth Creek - source to mouth			
SW-9	Combination Creek - source to mouth			
SW-10	Rock Creek -Triangle Reservoir Dam to mouth			
SW-11	Rose Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
SW-12	Josephine Creek - source to mouth			
SW-13	Rock Creek - source to and including Triangle Reservoir			
SW-14	Louisa Creek - source to Triangle Reservoir			
SW-15	Spring Creek - source to mouth			
SW-16	Deer Creek - source to mouth			
SW-17	Flint Creek - source to mouth			
SW-18	Louse Creek - source to mouth			
SW-19	Trout Creek - source to Idaho/Oregon border			
SW-20	Hooker Creek - source to Idaho/Oregon border			
SW-21	Cow Creek - source to Idaho/Oregon border			
SW-22	Soda Creek - source to mouth			
SW-23	Baxter Creek - source to Idaho/Oregon border			

(3-29-12)

**09. North and Middle Fork Boise Subbasin.** The North and Middle Fork Boise Subbasin, HUC 17050111, is comprised of seventeen (17) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Middle Fork Boise River - source to mouth	COLD SS	PCR	DWS
SW-2	East Fork Roaring River -source to mouth	COLD SS	PCR	
SW-3	Hot Creek - source to mouth	COLD SS	SCR	
SW-4	Yuba River - source to mouth	COLD SS	SCR	
SW-5	Decker Creek - source to mouth	COLD SS	SCR	
SW-6	Queens River - source to mouth	COLD SS	SCR	
SW-7	Little Queens River - source to mouth	COLD SS	SCR	
SW-8	Black Warrior Creek - source to mouth	COLD SS	SCR	
SW-9	Browns Creek - source to mouth	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
SW-10	North Fork Boise River - source to mouth	COLD SS	PCR	DWS
SW-11	Johnson Creek - source to mouth	COLD SS	SCR	
SW-12	Bear River - source to mouth	COLD SS	SCR	
SW-13	Big Owl/Little Owl Creeks - source to mouth	COLD SS	PCR	
SW-14	Crooked River - source to mouth	COLD SS	PCR	
SW-15	Rabbit Creek - source to mouth	COLD SS	PCR	
SW-16	Meadow Creek - source to mouth	COLD	SCR	
SW-17	French Creek - source to mouth	COLD SS	SCR	

(3-29-12)

**10. Boise-Mores Subbasin.** The Boise-Mores Subbasin, HUC 17050112, is comprised of seventeen (17) water body units.

<sup>1</sup>Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
<sup>2</sup>Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Lucky Peak Reservoir (Boise River)	COLD SS	PCR	DWS
SW-2	Arrowrock Reservoir (Boise River)	COLD SS	PCR	DWS
SW-3	Grouse Creek - source to Arrowrock Reservoir			
SW-4	Boise River - confluence of North and Middle Fork Boise Rivers to Arrowrock Reservoir	COLD SS	PCR	DWS
SW-5	Sheep Creek - source to mouth			
SW-6	Brown Creek - source to mouth			
SW-7	Cottonwood Creek - source to Arrowrock Reservoir			
SW-8	Deer Creek - source to Lucky Peak Reservoir			
SW-9	Mores Creek - source to Lucky Peak Reservoir	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
SW-10	Smith Creek - source to mouth			
SW-11	Thorn Creek - source to mouth			
SW-12	Elk Creek - source to mouth			-- <sup>1</sup> ----- DWS <sup>2</sup>
SW-13	Grimes Creek - source to mouth			
SW-14	Granite Creek - source to mouth	COLD	PCR	
SW-15	Macks Creek - source to mouth	COLD SS	PCR	
SW-16	Daggett Creek - source to mouth			
SW-17	Robie Creek - source to Lucky Peak Reservoir	COLD SS	PCR	

(4-11-19)

**11. South Fork Boise Subbasin.** The South Fork Boise Subbasin, HUC 17050113, is comprised of thirty-three (33) water body units.

<sup>1</sup> Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
<sup>2</sup> Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved. Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Arrowrock Reservoir (Boise River)	COLD SS	PCR	DWS
SW-2a	Willow Creek - Cottonwood Creek to Arrowrock Reservoir	COLD SS	PCR	
SW-2b	Willow Creek - source to Cottonwood Creek			
SW-3	Wood Creek - source to mouth	COLD SS	PCR	
SW-4	South Fork Boise River - Anderson Ranch Dam to Arrowrock Reservoir	COLD SS	PCR	DWS
SW-5	Anderson Ranch Reservoir (Boise River)	COLD SS	PCR	DWS
SW-6	Little Camas Creek - Little Camas Reservoir Dam to Anderson Ranch Reservoir			
SW-7	Little Camas Creek Reservoir	SC	PCR	
SW-8	Little Camas Creek - source to Little Camas Creek Reservoir			
SW-9	Wood Creek - source to Anderson Ranch Reservoir			

Unit	Waters	Aquatic Life	Recreation	Other
SW-10	Lime Creek - source to Anderson Ranch Reservoir	COLD SS	SCR	
SW-11	South Fork Lime Creek - source to mouth			
SW-12	Deer Creek - source to Anderson Ranch Reservoir	COLD SS	SCR	
SW-13	South Fork Boise River - Willow Creek to Anderson Ranch Reservoir	COLD SS	PCR	DWS
SW-14	Grouse Creek - source to mouth	COLD SS	PCR	
SW-15	South Fork Boise River - Little Smoky Creek to Willow Creek	COLD SS	PCR	DWS
SW-16	Beaver Creek - source to mouth	COLD SS	SCR	
SW-17	Boardman Creek - source to mouth	COLD SS		
SW-18	Little Smoky Creek - source to mouth	COLD SS	SCR	
SW-19	Big Smoky Creek - source to mouth	COLD SS	PCR	
SW-20	Paradise Creek - source to mouth	COLD SS	SCR	
SW-21	South Fork Boise River - confluence of Ross Fork and Johnson Creeks to Little Smoky Creek	COLD SS	PCR	DWS
SW-22	Johnson Creek - source to mouth			
SW-23	Ross Fork - source to mouth	COLD SS	PCR	
SW-24	Skeleton Creek - source to mouth	COLD SS	PCR	
SW-25	Willow Creek - source to South Fork Boise River			
SW-26	Shake Creek - source to mouth	COLD SS	PCR	
SW-27	Feather Creek - source to mouth	COLD SS	PCR	<sup>--1</sup> ----- DWS <sup>2</sup>
SW-28	Trinity Creek - source to mouth	COLD SS	PCR	
SW-29	Green Creek - source to mouth	COLD SS	SCR	
SW-30	Dog Creek - source to mouth	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
SW-31	Fall Creek - source to Anderson Ranch Reservoir	COLD SS	PCR	
SW-32	Smith Creek - source to mouth	COLD SS	PCR	
SW-33	Rattlesnake Creek - source to Arrowrock Reservoir	COLD SS	SCR	

(4-11-19)

**12. Lower Boise Subbasin.** The Lower Boise Subbasin, HUC 17050114, is comprised of seventeen (17) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Boise River- Indian Creek to mouth	COLD	PCR	
SW-2	Indian Creek - Sugar Ave. (T03N, R02W, Sec. 15) to mouth	COLD	SCR	
SW-3a	Split between New York Canal and historic creek bed to Sugar Ave. (T03N, R02W, Sec. 15)	COLD SS	SCR	
SW-3b	Indian Creek Reservoir to split between New York Canal and historic creek bed	COLD	SCR	
SW-3c	Indian Creek Reservoir	COLD	PCR	
SW-3d	Indian Creek - source to Indian Creek Reservoir	COLD	SCR	
SW-4	Lake Lowell	WARM	PCR	
SW-5	Boise River - river mile 50 (T04N, R02W, Sec. 32) to Indian Creek	COLD SS	PCR	
SW-6	Mason Creek - New York Canal to mouth		SCR	
SW-7	Fifteenmile Creek - Miller Canal to mouth		SCR	
SW-8	Tenmile Creek - Blacks Creek Reservoir Dam to Miller Canal	COLD	SCR	
SW-9	Blacks Creek - source to and including Blacks Creek Reservoir			
SW-10	Fivemile Creek - source to Miller Canal	COLD	SCR	
SW-11a	Boise River - Diversion Dam to river mile 50 (T04N, R02W, Sec. 32)	COLD SS	PCR	DWS
SW-11b	Boise River - Lucky Peak Dam to Diversion Dam	COLD	PCR	DWS
SW-12	Stewart Gulch, Cottonwood and Crane Creeks -source to mouth			
SW-13	Dry Creek - source to mouth			
SW-14	Big/Little Gulch Creek complex			
SW-15	Willow Creek - source to mouth			
SW-16	Langley/Graveyard Gulch complex			

Unit	Waters	Aquatic Life	Recreation	Other
SW-17	Sand Hollow Creek - source to mouth		SCR	

(3-29-12)

**13. Middle Snake-Payette Subbasin.** The Middle Snake-Payette Subbasin, HUC 17050115, is comprised of five (5) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Snake River - the Idaho/Oregon border to Weiser River	COLD	PCR	DWS
SW-2	Homestead Gulch - source to mouth			
SW-3	Ashlock Gulch - source to mouth			
SW-4	Hurd Gulch - source to mouth			
SW-5	Sand Hollow - source to mouth			

(3-20-04)

**14. South Fork Payette Subbasin.** The South Fork Payette Subbasin, HUC 17050120, is comprised of twenty-one (21) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	South Fork Payette River - Trail Creek to mouth	COLD SS	PCR	DWS
SW-2	Rock Creek - source to mouth			
SW-3	Tenmile Creek - source to mouth			
SW-4	Wapiti Creek - source to mouth			
SW-5	South Fork Payette River - source to and including Trail Creek	COLD SS	PCR	DWS
SW-6	Goat Creek - source to mouth			
SW-7	Baron Creek - source to mouth			
SW-8	Bear Creek - source to mouth			
SW-9	Canyon Creek - source to mouth			
SW-10	Warm Spring Creek - source to mouth			
SW-11	Eightmile Creek - source to mouth			
SW-12	Fivemile Creek - source to mouth			
SW-13	Clear Creek - source to mouth			
SW-14	Deadwood River - Deadwood Reservoir Dam to mouth	COLD SS	PCR	DWS
SW-15	Whitehawk Creek - source to mouth			



Unit	Waters	Aquatic Life	Recreation	Other
SW-16	Warm Springs Creek - source to mouth			
SW-17	Wilson Creek - source to mouth			
SW-18	Deadwood Reservoir	COLD SS	PCR	DWS
SW-19	Deadwood River - source to Deadwood Reservoir	COLD SS	PCR	DWS
SW-20	Scott Creek - source to mouth			
SW-21	Big Pine Creek - source to mouth			

(3-29-12)

**15. Middle Fork Payette Subbasin.** The Middle Fork Payette Subbasin, HUC 17050121, is comprised of ten (10) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Middle Fork Payette River - Big Bulldog Creek to mouth	COLD SS	PCR	DWS
SW-2	Anderson Creek - source to mouth	COLD SS	PCR	
SW-3	Lightning Creek - source to mouth	COLD SS	PCR	
SW-4	Big Bulldog Creek - source to mouth	COLD SS	PCR	
SW-5	Middle Fork Payette River - source to Big Bulldog Creek	COLD SS	PCR	DWS
SW-6	Rattlesnake Creek - source to mouth	COLD SS	PCR	
SW-7	Silver Creek - source to mouth	COLD SS	PCR	
SW-8	Peace Creek - source to mouth	COLD SS	PCR	
SW-9	Bull Creek - source to mouth	COLD SS	PCR	
SW-10	Scriver Creek - source to mouth	COLD SS	PCR	

(3-29-12)

**16. Payette Subbasin.** The Payette Subbasin, HUC 17050122, is comprised of twenty-one (21) water body units.

<sup>1</sup>Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
<sup>2</sup>Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Payette River - Black Canyon Reservoir Dam to mouth	COLD SS	PCR	DWS
SW-2	Black Canyon Reservoir	COLD SS	PCR	DWS
SW-3	Payette River - confluence of the North Fork and South Fork Payette Rivers to Black Canyon Reservoir	COLD SS	PCR	DWS
SW-4	Shafer Creek - source to mouth	COLD SS	PCR	-- <sup>1</sup> ----- DWS <sup>2</sup>
SW-5	Harris Creek - source to mouth	COLD SS	PCR	
SW-6	Porter Creek - source to mouth			
SW-7	Hill Creek - source to mouth			
SW-8	South Fork Payette River - Middle Fork Payette River to mouth	COLD SS	PCR	DWS
SW-9	Deer Creek - source to mouth			
SW-10	Squaw Creek - source to mouth	COLD SS	PCR	
SW-11	Little Squaw Creek - source to mouth			
SW-12	Soldier Creek - source to mouth			
SW-13	Pine Creek - source to mouth			
SW-14	Second Fork Squaw Creek - source to mouth			
SW-15	Bissel Creek - source to mouth			
SW-16	Sand Hollow - source to mouth			
SW-17	Big Willow Creek - source to mouth	COLD SS	PCR	
SW-18	Little Willow Creek - Paddock Valley Reservoir Dam to mouth			
SW-19	Indian Creek - source to mouth			
SW-20	Paddock Valley Reservoir			
SW-21	Little Willow Creek - source to Paddock Valley Reservoir			

(4-11-19)

**17. North Fork Payette Subbasin.** The North Fork Payette Subbasin, HUC 17050123, is comprised of twenty-two (22) water body units.

<sup>1</sup>Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
<sup>2</sup>Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	North Fork Payette River - Cascade Reservoir Dam to mouth	COLD SS	PCR	DWS
SW-2	Round Valley Creek - source to mouth			
SW-3	Clear Creek - source to mouth			
SW-4	Big Creek - source to mouth			
SW-5	Horsethief Reservoir			-- <sup>1</sup> ----- DWS <sup>2</sup>
SW-6	Beaver Creek - source to mouth			
SW-7	Cascade Reservoir	COLD SS	PCR	DWS
SW-8	Gold Fork - source to Cascade Reservoir	COLD SS	PCR	DWS
SW-9	Flat Creek - source to mouth			
SW-10	Kennally Creek - source to mouth			
SW-11	Boulder Creek - source to Cascade Reservoir			
SW-12	Lake Fork - Little Payette Lake to Cascade Reservoir	COLD SS	PCR	DWS
SW-13	Little Payette Lake	COLD SS	PCR	
SW-14	Lake Fork - source to Little Payette Lake	COLD SS	PCR	DWS
SW-15	Mud Creek - source to Cascade Reservoir			
SW-16	North Fork Payette River - Payette Lake to Cascade Reservoir	COLD SS	PCR	DWS
SW-17	Payette Lake	COLD SS	PCR	DWS
SW-18	North Fork Payette River - Upper Payette Lake to Payette Lake	COLD SS	PCR	DWS
SW-19	Upper Payette Lake	COLD SS	PCR	DWS
SW-20	Twentymile Creek - source to mouth	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
SW-21	North Fork Payette River - source to Upper Payette Lake	COLD SS	PCR	DWS
SW-22	Fisher Creek - source to mouth			

(4-11-19)

18. **Weiser Subbasin.** The Weiser Subbasin, HUC 17050124, is comprised of thirty-three (33) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Weiser River - Keithly Creek to mouth	COLD	PCR	DWS
SW-2	Cove Creek - source to mouth			
SW-3	Crane Creek - Crane Creek Reservoir Dam to mouth	COLD	PCR	
SW-4	Crane Creek Reservoir	COLD	PCR	
SW-5	South Fork Crane Creek - source to Crane Creek Reservoir			
SW-6	North Crane Creek - source to Crane Creek Reservoir			
SW-7	Weiser River - source to Keithly Creek	COLD	PCR	DWS
SW-8	Little Weiser River - source to mouth	COLD SS	PCR	DWS
SW-9	Ben Ross Creek - source to mouth			
SW-10	Mill Creek - source to mouth			
SW-11	Anderson Creek - source to mouth			
SW-12	Grays Creek - source to mouth			
SW-13	Bacon Creek - source to mouth			
SW-14	Middle Fork Weiser River - source to mouth	COLD SS	PCR	DWS
SW-15	Cottonwood Creek - source to mouth			
SW-16	East Fork Weiser River - source to mouth			
SW-17	West Fork Weiser River - source to mouth	COLD SS	PCR	DWS
SW-18	Lost Creek - Lost Valley Reservoir Dam to mouth			
SW-19	Lost Valley Reservoir			
SW-20	Lost Creek - source to Lost Valley Reservoir			
SW-21	Hornet Creek - source to mouth			
SW-22	Johnson Creek - source to mouth	COLD SS	PCR	
SW-23	Goodrich Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
SW-24	Cow Creek - source to mouth			
SW-25	Rush Creek - source to mouth			
SW-26	Spring Creek - source to mouth			
SW-27	Pine Creek - source to mouth	COLD SS	PCR	
SW-28	Keithly Creek - source to mouth			
SW-29	Sage Creek - source to mouth			
SW-30	Mann Creek - Mann Creek Reservoir Dam to mouth	COLD SS	PCR	
SW-31	Mann Creek Reservoir	COLD SS	PCR	
SW-32	Mann Creek - source to Mann Creek Reservoir	COLD SS	PCR	
SW-33	Monroe Creek - source to mouth			

(3-29-12)

**19. Brownlee Reservoir Subbasin.** The Brownlee Reservoir Subbasin, HUC 17050201, is comprised of seventeen (17) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Snake River (Hells Canyon Reservoir) - Oxbow Dam to Hells Canyon Dam	COLD	PCR	DWS
SW-2	Snake River (Oxbow Reservoir) - Brownlee Dam to Oxbow Dam	COLD	PCR	DWS
SW-3	Snake River (Brownlee Reservoir) - Scott Creek to Brownlee Dam	COLD	PCR	DWS
SW-4	Snake River - Weiser River to Scott Creek	COLD	PCR	DWS
SW-5	Jenkins Creek - source to mouth	COLD	PCR	
SW-6	Scott Creek - source to mouth			
SW-7	Warm Springs Creek - source to mouth			
SW-8	Hog Creek - source to mouth			
SW-9	Grouse Creek - source to mouth			
SW-10	Rock Creek - source to mouth			
SW-11	Wolf Creek - source to mouth			
SW-12	Dennett Creek - source to mouth			
SW-13	Sturgill Creek - source to mouth			
SW-14	Brownlee Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
SW-15	Wildhorse River - confluence of Bear Creek and including Crooked River to mouth	COLD SS	PCR	
SW-16	Bear Creek - source to mouth	COLD SS	PCR	
SW-17	Indian Creek - source to mouth			

(3-29-12)

**141. -- 149. (RESERVED)**

**150. UPPER SNAKE BASIN.**

Surface waters found within the Upper Snake basin total twenty-three (23) subbasins and are designated as follows:  
 (4-5-00)

**01. Palisades Subbasin.** The Palisades Subbasin, HUC 17040104, is comprised of thirty-one (31) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Snake River - Black Canyon Creek to river mile 856 (T03N, R41E, Sec. 16)	COLD SS	PCR	DWS
US-2	Antelope Creek - source to mouth			
US-3	Snake River - Fall Creek to Black Canyon Creek	COLD SS	PCR	DWS
US-4	Pritchard Creek - source to mouth			
US-5	Fall Creek - South Fork Fall Creek to mouth			
US-6	Fall Creek - source to South Fork Fall Creek			
US-7	South Fork Fall Creek - source to mouth			
US-8	Snake River - Palisades Reservoir Dam to Fall Creek	COLD SS	PCR	DWS
US-9	Indian Creek - source to mouth			
US-10	Palisades Reservoir	COLD SS	PCR	DWS
US-11	Bear Creek - North Fork Bear Creek to Palisades Reservoir			
US-12	North Fork Bear Creek - source to mouth			
US-13	Bear Creek - source to North Fork Bear Creek			
US-14	McCoy Creek - Fish Creek to Palisades Reservoir			
US-15	McCoy Creek - Iowa Creek to Fish Creek			
US-16	McCoy Creek - Clear Creek to Iowa Creek			
US-17	Wolverine Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
US-18	Clear Creek - source to mouth			
US-19	McCoy Creek - source to Clear Creek			
US-20	Iowa Creek - source to mouth			
US-21	Fish Creek - source to mouth			
US-22	Trout Creek - source to mouth			
US-23	Burns Creek - source to Idaho/Wyoming border			
US-24	Indian Creek - Idaho/Wyoming border to Palisades Reservoir			
US-25	Big Elk Creek - Idaho/Wyoming border to Palisades Reservoir			
US-26	Little Elk Creek - source to Palisades Reservoir			
US-27	Palisades Creek - source to mouth			
US-28	Rainey Creek - source to mouth			
US-29	Pine Creek - source to mouth			
US-30	Black Canyon Creek - source to mouth			
US-31	Burnt Canyon Creek - source to mouth			

(3-29-12)

**02. Salt Subbasin.** The Salt Subbasin, HUC 17040105, is comprised of twelve (12) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Tributaries of Salt River - source to Idaho/Wyoming border (T04S, R46E)			
US-2	Jackknife Creek - source to Idaho/Wyoming border			
US-3	Tincup Creek - source to Idaho/Wyoming border			
US-4	South Fork Tincup Creek - source to mouth			
US-5	Tributaries of Salt River - source to Idaho/Wyoming border (T06S, R46E and T07S, R46E)			
US-6	Stump Creek - source to Idaho/Wyoming border			
US-7	Tygee Creek - source to mouth			
US-8	Crow Creek - source to Idaho/Wyoming border			
US-9	Sage Creek - source to mouth			
US-10	Deer Creek - source to mouth			
US-11	Rock Creek - source to mouth			
US-12	Spring Creek - source to mouth			

(4-5-00)

**03. Idaho Falls Subbasin.** The Idaho Falls Subbasin, HUC 17040201, is comprised of seventeen (17) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Snake River - Dry Bed Creek to river mile 791 (T01N, R37E, Sec. 10)	COLD SS	PCR	DWS
US-2	South Fork Willow Creek - source to mouth			
US-3	North Fork Willow Creek - source to mouth			
US-4	Dry Bed Creek - source to mouth			
US-5	Sand Creek complex			
US-6	Crow Creek - Willow Creek to mouth			
US-7	Crow Creek - source to Willow Creek			
US-8	Birch Creek - source to mouth			
US-9	Snake River - Annis Slough to Dry Bed Creek	COLD SS	PCR	DWS
US-10	Spring Creek - canal (T05N, R38E) to mouth			
US-11	Spring Creek - source to canal (T05N, R38E)			
US-12	Snake River - Dry Bed to Annis Slough	COLD SS	PCR	DWS
US-13	Snake River - river mile 856 (T03N, R41E, Sec. 16) to Dry Bed Creek	COLD SS	PCR	DWS
US-14	Lyons Creek - source to mouth			
US-15	Unnamed Tributary - source to mouth (T8N, R38E)			
US-16	Market Lake			
US-17	Kettle Butte complex			

(4-5-00)

**04. Upper Henrys Subbasin.** The Upper Henrys Subbasin, HUC 17040202, is comprised of fifty-two (52) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Henrys Fork - Warm River to Ashton Reservoir Dam	COLD SS	PCR	DWS
US-2	Warm River - Warm River Spring to mouth	COLD SS	PCR	DWS
US-3	Moose Creek - source to confluence with Warm River			
US-4	Partridge Creek - source to mouth			



Unit	Waters	Aquatic Life	Recreation	Other
US-5	Warm River - source to Warm River Spring	COLD SS	PCR	DWS
US-6	Robinson Creek - Rock Creek to mouth			
US-7	Porcupine Creek - source to mouth	COLD SS	SCR	
US-8	Rock Creek - Wyoming Creek to mouth			
US-9	Wyoming Creek - Idaho/Wyoming border to mouth			
US-10	Rock Creek - source to Wyoming Creek			
US-11	Robinson Creek - Idaho/Wyoming border and sources west of border to Rock Creek			
US-12	Snow Creek - source to mouth			
US-13	Fish Creek - source to mouth			
US-14	Henrys Fork - Thurman Creek to Warm River	COLD SS	PCR	DWS
US-15	Henrys Fork - Island Park Reservoir Dam to Thurman Creek	COLD SS	PCR	DWS
US-16	Buffalo River - Elk Creek to mouth	COLD SS	PCR	DWS
US-17	Toms Creek - source to mouth			
US-18	Buffalo River - source to Elk Creek	COLD SS	PCR	DWS
US-19	Elk Creek - source to mouth			
US-20	Island Park Reservoir	COLD SS	PCR	DWS
US-21	Henrys Fork - Confluence of Big Springs and Henrys Lake Outlet to Island Park Reservoir	COLD SS	PCR	DWS
US-22	Moose Creek - source to confluence with Henrys Fork			
US-23	Big Springs - source to mouth	COLD SS	PCR	DWS
US-24	Thirsty Creek - Idaho/ Wyoming border to mouth	COLD SS	SCR	
US-25	Henrys Lake Outlet - Henrys Lake Dam to mouth	COLD SS	PCR	DWS
US-26	Meadows Creek - source to mouth			
US-27	Reas Pass Creek - source to sink			
US-28	Jones Creek - source to mouth			
US-29	Jesse Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
US-30	Twin Creek - source to mouth			
US-31	Tygee Creek - source to sink			
US-32	Henrys Lake	COLD	SCR	
US-33	Howard Creek - source to mouth	COLD SS	SCR	
US-34	Targhee Creek - source to mouth	COLD SS	SCR	
US-35	Timber Creek - source to mouth			
US-36	Duck Creek - source to mouth	COLD SS	SCR	
US-37	Rock Creek - source to mouth			
US-38	Hope Creek - source to mouth			
US-39	Crooked Creek - source to mouth			
US-40	Hotel Creek - source to mouth	COLD SS	SCR	
US-41	Yale Creek - source to mouth	COLD SS	SCR	
US-42	Blue Creek - source to mouth			
US-43	Sheep Creek - source to mouth			
US-44	Icehouse Creek - source to Island Park Reservoir	COLD SS	SCR	
US-45	Sheridan Creek - Kilgore Road (T13N, R41E, Sec. 07) to mouth	COLD SS	SCR	
US-46	Willow Creek - source to mouth			
US-47	Myers Creek - source to mouth			
US-48	Sheridan Creek - source to Kilgore Road (T13N, R41E, Sec. 07)	COLD SS	SCR	
US-49	Sheridan Reservoir			
US-50	Dry Creek - source to Sheridan Reservoir			
US-51	Thurman Creek - source to mouth			
US-52	Rattlesnake Creek - source to mouth			

(3-29-12)

**05. Lower Henrys Subbasin.** The Lower Henrys Subbasin, HUC 17040203, is comprised of sixteen (16) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Henry's Fork - South Fork Teton River to hydrologic unit boundary	COLD SS	PCR	DWS
US-2	Henry's Fork - North Fork Teton River to South Fork Teton River	COLD SS	PCR	DWS
US-3	Henry's Fork - Falls River to North Fork Teton River	COLD SS	PCR	DWS
US-4	Falls River - Conant Creek to mouth	COLD SS	PCR	DWS
US-5	Conant Creek - Squirrel Creek to mouth			
US-6	Conant Creek - Idaho/Wyoming border to Squirrel Creek			
US-7	Squirrel Creek - Idaho/Wyoming border to mouth			
US-8	Falls River - Boone Creek to Conant Creek	COLD SS	PCR	DWS
US-9	Falls River - Idaho/Wyoming border to Boone Creek	COLD SS	PCR	DWS
US-10	Boone Creek - Idaho/Wyoming border to mouth			
US-11	Boundary Creek - Idaho/Wyoming border (T12N, R46E, Sec. 06) to Idaho/Wyoming border, (T12N, R46E, Sec. 31)			
US-12	Henry's Fork - Ashton Reservoir Dam to Falls River	COLD SS	PCR	DWS
US-13	Sand Creek - Pine Creek to mouth			
US-14	Pine Creek - source to mouth			
US-15	Sand Creek - source to Pine Creek			
US-16	Warm Slough - source to mouth			

(3-29-12)

**06. Teton Subbasin.** The Teton Subbasin, HUC 17040204, is comprised of sixty-five (65) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	South Fork Teton River - Teton River Forks to Henry's Fork	COLD SS	SCR	
US-2	North Fork Teton River - Teton River Forks to Henry's Fork	COLD SS	SCR	
US-3	Teton River - Teton Dam to Teton River Forks	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
US-4	Teton River - Canyon Creek to Teton Dam	COLD SS	PCR	DWS
US-5	Moody Creek - confluence of North and South Fork Moody Creeks to canal			
US-6	South Fork Moody Creek - source to mouth			
US-7	North Fork Moody Creek - source to mouth			
US-8	Canyon Creek - Warm Creek to mouth			
US-9	Canyon Creek - source to Warm Creek			
US-10	Calamity Creek - source to mouth			
US-11	Warm Creek - source to mouth			
US-12	Teton River - Milk Creek to Canyon Creek	COLD SS	PCR	DWS
US-13	Milk Creek - source to mouth			
US-14	Teton River - Felt Dam outlet to Milk Creek	COLD SS	PCR	DWS
US-15	Teton River - Felt Dam pool			
US-16	Teton River - Highway 33 bridge to Felt Dam pool	COLD SS	PCR	DWS
US-17	Teton River - Cache Bridge (NW ¼, NE ¼, Sec. 1, T5N, R44E) to Highway 33 bridge	COLD SS	PCR	DWS
US-18	Packsaddle Creek - diversion (NE ¼ Sec. 8, T5N, R44E) to mouth			
US-19	Packsaddle Creek - source to diversion (NE ¼ Sec. 8, T5N, R44E)			
US-20	Teton River - Teton Creek to Cache Bridge NW ¼, NE ¼, Sec. 1, T5N, R44E)	COLD SS	PCR	DWS
US-21	Horseshoe Creek - pipeline diversion (SE ¼, NW ¼, Sec. 27, T5N, R44E) to mouth			
US-22	Horseshoe Creek - source to pipeline diversion ( SE ¼, NW ¼, Sec. 27, T5N, R44E)			
US-23	Twin Creek - source to mouth			
US-24	Mahogany Creek - pipeline diversion (NE ¼, Sec. 27, T4N, R44E) to mouth			
US-25	Mahogany Creek - source to pipeline diversion (NE ¼, Sec. 27, T4N, R44E)			
US-26	Teton River - Trail Creek to Teton Creek	COLD SS	PCR	DWS
US-27	Henderson Creek - source to sink			
US-28	Teton River - confluence of Warm Creek and Drake Creek to Trail Creek	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
US-29	Patterson Creek - pump diversion (SE ¼, Sec. 31, T4N, R44E) to mouth			
US-30	Patterson Creek - source to pump diversion (SE ¼, Sec. 31, T4N, R44E)			
US-31	Grove Creek - source to sink			
US-32	Drake Creek - source to mouth			
US-33	Little Pine Creek - source to mouth			
US-34	Warm Creek - source to mouth			
US-35	Trail Creek - Trail Creek pipeline diversion (SW ¼, SE ¼, Sec 19, T3N, R46E) to mouth			
US-36	Game Creek - diversion (SW ¼, SW ¼, Sec. 17, T3N, R46E) to mouth			
US-37	Game Creek - source to diversion (SW ¼, SW ¼, Sec. 17, T3N, R46E)			
US-38	Trail Creek - Idaho/Wyoming border to Trail Creek pipeline diversion (SW ¼, SE ¼, Sec 19, T3N, R46E)			
US-39	Moose Creek - Idaho/Wyoming border to mouth			
US-40	Fox Creek - SE ¼, SW ¼, Sec. 28, T4N, R45E to confluence with Teton River, including spring creek tributaries			
US-41	Fox Creek - North Fox Creek Canal (NW ¼, Sec 29 T4N, R46E) to SE ¼, SW ¼, Sec. 28, T4N, R45E			
US-42	Fox Creek - Idaho/Wyoming border to North Fox Creek Canal (NW ¼, Sec 29 T4N, R46E)			
US-43	Foster Creek spring creek complex - south to Fox Creek and north to Darby Creek			
US-44	Darby Creek - SW ¼, SE ¼, S10, T4N, R45E, to mouth, including spring creek tributaries			
US-45	Darby Creek - Idaho/Wyoming border to SW ¼, SE ¼, Sec. 10, T4N, R45E			
US-46	Dick Creek spring complex - south to Darby Creek and north to Teton Creek			
US-47	Teton Creek - Highway 33 bridge to mouth, including spring creek tributaries			
US-48	Teton Creek - Idaho/Wyoming border to Highway 33 bridge			
US-49	Driggs Springs spring creek complex - located between Teton Creek and Woods Creek			
US-50	Woods Creek - source to mouth, including spring creek tributaries and spring creek complex north of Woods Creek to latitude 43 degrees, 45.5 minutes north.			

Unit	Waters	Aquatic Life	Recreation	Other
US-51	Dry Creek - Idaho/Wyoming border to sinks (SE ¼, NE ¼, S12, T5N, R45E)			
US-52	South Leigh Creek - SE ¼, NE ¼, Sec. 1 T5N, R44E to mouth			
US-53	South Leigh Creek - Idaho/Wyoming border to SE ¼, NE ¼, Sec. 1 T5N, R44			
US-54	Spring Creek - North Leigh Creek to mouth			
US-55	North Leigh Creek - Idaho/Wyoming border to mouth			
US-56	Spring Creek - source to North Leigh Creek, including Spring Creek complex north of Spring Creek to latitude 43 degrees, 49.9 minutes north			
US-57	Badger Creek - spring (NW ¼, SW ¼, Sec. 26 T7N, R44E) to mouth			
US-58	Badger Creek - diversion (NW ¼, SW ¼, Sec. 9, T6N, R45E) to spring (NW ¼, SW ¼, Sec. 26 T7N, R44E)			
US-59	Badger Creek - source to diversion (NW ¼, SW ¼, Sec. 9, T6N, R45E)			
US-60	South Fork Badger Creek - diversion (NE ¼, NE ¼, Sec. 12, T6N, R45E) to mouth			
US-61	South Fork Badger Creek - Idaho/Wyoming border to diversion (NE ¼, NE ¼, Sec. 12, T6N, R45E)			
US-62	North Fork Badger Creek - Idaho/Wyoming border to mouth			
US-63	Bitch Creek - Swanner Creek to mouth			
US-64	Swanner Creek - Idaho/Wyoming border to mouth			
US-65	Bitch Creek - Idaho/Wyoming border to Swanner Creek			

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**07. Willow Subbasin.** The Willow Subbasin, HUC 17040205, is comprised of thirty-two (32) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Willow Creek - Ririe Reservoir Dam to Eagle Rock Canal	COLD SS	SCR	
US-2	Ririe Reservoir (Willow Creek)	COLD SS	PCR	DWS
US-3	Blacktail Creek - source to Ririe Reservoir			
US-4	Willow Creek - Bulls Fork to Ririe Reservoir	COLD SS	PCR	DWS
US-5	Willow Creek - Birch Creek to Bulls Fork	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
US-6	Birch Creek - source to mouth			
US-7	Squaw Creek - source to mouth			
US-8	Willow Creek - Mud Creek to Birch Creek	COLD SS	PCR	DWS
US-9	Mud Creek - source to mouth			
US-10	Sellars Creek - source to mouth			
US-11	Willow Creek - Crane Creek to Mud Creek	COLD SS	PCR	DWS
US-12	Mill Creek - source to mouth			
US-13	Willow Creek - source to Crane Creek	COLD SS	PCR	DWS
US-14	Crane Creek - source to mouth			
US-15	Long Valley Creek - source to mouth			
US-16	Grays Lake outlet - Hell Creek to mouth			
US-17	Grays Lake outlet - Homer Creek to Hell Creek			
US-18	Homer Creek - source to mouth			
US-19	Grays Lake outlet - Brockman Creek to Homer Creek			
US-20	Grays Lake outlet - Grays Lake to Brockman Creek			
US-21	Grays Lake			
US-22	Little Valley Creek - source to mouth			
US-23	Gravel Creek - source to mouth			
US-24	Brockman Creek - Corral Creek to mouth			
US-25	Brockman Creek - source to Corral Creek			
US-26	Corral Creek - source to mouth			
US-27	Sawmill Creek - source to mouth			
US-28	Lava Creek - source to mouth			
US-29	Hell Creek - source to mouth			
US-30	Bulls Fork - source to mouth			
US-31	Tex Creek - source to mouth			
US-32	Meadow Creek - source to Ririe Reservoir			

(3-29-12)

**08. American Falls Subbasin.** The American Falls Subbasin, HUC 17040206, is comprised of twenty-six (26) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	American Falls Reservoir (Snake River)	COLD	PCR	DWS
US-2	Bannock Creek - source to American Falls Reservoir	COLD	SCR	
US-3	Starlight Creek - source to mouth			
US-4	Blind Spring - source to mouth			
US-5	Sunbeam Creek - source to mouth			
US-6	Moonshine Creek - source to mouth			
US-7	Sawmill Creek - source to mouth			
US-8	West Fork Bannock Creek - source to mouth			
US-9	Knox Creek - source to mouth			
US-10	Rattlesnake Creek - source to mouth			
US-11	Clifton Creek - source to mouth			
US-12	Midnight Creek - source to mouth			
US-13	Michaud Creek - source to mouth			
US-14	Ross Fork - Gibson Canal to American Falls Reservoir			
US-15	Ross Fork - Indian Creek to Gibson Canal			
US-16	Indian Creek - source to mouth			
US-17	South Fork Ross Fork - source to mouth			
US-18	Ross Fork - source to South Fork Ross Fork			
US-19	Clear Creek - source to American Falls Reservoir			
US-20	Spring Creek - source to American Falls Reservoir			
US-21	Big Jimmy Creek - source to American Falls Reservoir			
US-22	Snake River - river mile 791 (T01N, R37E, Sec. 10) to American Falls Reservoir	COLD SS	PCR	DWS
US-23	Jeff Cabin Creek - source to mouth			
US-24	McTucker Creek - source to American Falls Reservoir			
US-25	Little Hole Draw - source to American Falls Reservoir			
US-26	Pleasant Valley - source to American Falls Reservoir			

(4-5-00)

**09. Blackfoot Subbasin.** The Blackfoot Subbasin, HUC 17040207, is comprised of thirty-one (31) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Blackfoot River - Fort Hall Main Canal diversion to mouth		SCR	



<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
US-2	Blackfoot River - Blackfoot Reservoir Dam to Fort Hall Main Canal diversion	COLD SS	PCR	
US-3	Garden Creek - source to mouth			
US-4	Wood Creek - source to mouth			
US-5	Grave Creek - source to mouth			
US-6	Corral Creek - source to mouth			
US-7	Grizzly Creek - source to mouth			
US-8	Thompson Creek - source to mouth			
US-9	Blackfoot Reservoir	COLD	PCR	
US-10	Blackfoot River - confluence of Lanes and Diamond Creeks to Blackfoot Reservoir	COLD SS	PCR	DWS
US-11	Trail Creek - source to mouth			
US-12	Slug Creek - source to mouth			
US-13	Dry Valley Creek - source to mouth			
US-14	Maybe Creek - source to mouth			
US-15	Mill Canyon - source to mouth			
US-16	Diamond Creek - source to mouth			
US-17	Timothy Creek - source to mouth			
US-18	Lanes Creek - source to mouth			
US-19	Bacon Creek - source to mouth			
US-20	Browns Canyon Creek - source to mouth			
US-21	Chippy Creek - source to mouth			
US-22	Sheep Creek - source to mouth			
US-23	Angus Creek - source to mouth			
US-24	Wooley Valley - source to mouth			
US-25	Meadow Creek - source to Blackfoot Reservoir			
US-26	Brush Creek - source to mouth			
US-27	Rawlins Creek - source to mouth			
US-28	Miner Creek - source to mouth			
US-29	Cedar Creek - source to mouth			
US-30	Wolverine Creek - source to mouth			
US-31	Jones Creek - source to mouth			

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**10. Portneuf Subbasin.** The Portneuf Subbasin, HUC 17040208, is comprised of twenty-six (26) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Portneuf River - Marsh Creek to American Falls Reservoir	COLD SS	SCR	
US-2	City Creek - source to mouth			
US-3	Gibson Jack Creek - source to mouth			
US-4	Mink Creek - source to mouth			
US-5	Indian Creek - source to mouth			
US-6	Marsh Creek - source to mouth	COLD	SCR	
US-7	Walker Creek - source to mouth			
US-8	Bell Marsh Creek - source to mouth			
US-9	Goodenough Creek - source to mouth			
US-10	Garden Creek - source to mouth			
US-11	Hawkins Creek - Hawkins Reservoir Dam to mouth			
US-12	Hawkins Reservoir			
US-13	Hawkins Creek - source to Hawkins Reservoir			
US-14	Cherry Creek - source to mouth			
US-15	Birch Creek - source to mouth			
US-16	Portneuf River - Chesterfield Reservoir Dam to Marsh Creek	COLD SS	PCR	DWS
US-17	Dempsey Creek - source to mouth			
US-18	Twentyfourmile Creek - source to mouth			
US-19	Chesterfield Reservoir			
US-20	Portneuf River - source to Chesterfield Reservoir	COLD SS	PCR	DWS
US-21	Toponce Creek - source to mouth			
US-22	Pebble Creek - source to mouth			
US-23	Rapid Creek - source to mouth			
US-24	Pocatello Creek - confluence of North and South Fork Pocatello Creeks to mouth			
US-25	South Fork Pocatello Creek - source to mouth			
US-26	North Fork Pocatello Creek - source to mouth			

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**11. Lake Walcot Subbasin.** The Lake Walcot Subbasin, HUC 17040209, is comprised of thirteen (13) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Snake River - Heyburn/Burley Bridge (T10S, R23E, Sec.17) to Milner-Gooding Canal	WARM	PCR	
US-2	Snake River - Minidoka Dam to Heyburn/Burley Bridge (T10S, R23E, Sec.17)	COLD SS	PCR	
US-3	Marsh Creek - source to mouth			
US-4	Lake Walcott (Snake River)	COLD	PCR	DWS
US-5	Snake River - Raft River to Lake Walcott	COLD	PCR	DWS
US-6	Snake River - Rock Creek to Raft River	COLD	PCR	DWS
US-7	Fall Creek - source to mouth			
US-8	Rock Creek - confluence of South and East Fork Rock Creeks to mouth	COLD SS	PCR	
US-9	South Fork Rock Creek - source to mouth			
US-10	East Fork Rock Creek - source to mouth			
US-11	Snake River - American Falls Reservoir Dam to Rock Creek	COLD	PCR	DWS
US-12	Warm Creek - source to mouth			
US-13	Craters of the Moon complex			

(4-5-00)

**12. Raft Subbasin.** The Raft Subbasin, HUC 17040210, is comprised of twenty-three (23) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Raft River - Heglar Canyon Creek to mouth			
US-2	Raft River - Cassia Creek to Heglar Canyon Creek	COLD SS	PCR	
US-3	Cassia Creek - Conner Creek to mouth			
US-4	Conner Creek - source to mouth			
US-5	Cassia Creek - Clyde Creek to Conner Creek			
US-6	Clyde Creek - source to mouth			
US-7	Cassia Creek - source to Clyde Creek			
US-8	Raft River - Cottonwood Creek to Cassia Creek	COLD SS	PCR	
US-9	Cottonwood Creek - source to mouth			
US-10	Raft River - Unnamed Tributary (T15S, R26E, Sec. 24) to Cottonwood Creek	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
US-11	Grape Creek - source to mouth			
US-12	Edwards Creek - source to mouth			
US-13	Raft River - Idaho/Utah border to Edwards Creek	COLD SS	PCR	
US-14	Junction Creek - source to Idaho/Utah border			
US-15	Cottonwood Creek - source to Idaho/Utah border			
US-16	Clear Creek - Idaho/Utah border to mouth			
US-17	Kelsaw Canyon Creek - source to mouth			
US-18	Meadow Creek - source to mouth			
US-19	Sublett Creek - Sublett Reservoir Dam to mouth			
US-20	Sublett Reservoir			
US-21	Sublett Creek - source to Sublett Reservoir			
US-22	Lake Fork - source to Sublett Reservoir			
US-23	Heglar Canyon Creek - source to mouth			

(4-5-00)

**13. Goose Subbasin.** The Goose Subbasin, HUC 17040211, is comprised of fourteen (14) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Big Cottonwood Creek - source to mouth			
US-2	Lower Goose Creek Reservoir	COLD SS	PCR	
US-3	Trapper Creek - from and including Squaw Creek to Lower Goose Creek Reservoir			
US-4	Trapper Creek - source to Squaw Creek			
US-5	Goose Creek - Beaverdam Creek to Lower Goose Creek Reservoir	COLD SS	PCR	
US-6	Beaverdam Creek - source to mouth			
US-7	Trout Creek - source to Idaho/Utah border			
US-8	Goose Creek - source to Idaho/Utah border	COLD SS	PCR	
US-9	Birch Creek - Idaho/Utah border to mouth			
US-10	Blue Hill Creek - source to mouth			
US-11	Cold Creek - source to mouth			
US-12	Birch Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
US-13	Mill Creek - source to mouth			
US-14	Land/Willow/Smith Creek complex			

(4-5-00)

**14. Upper Snake-Rock Subbasin.** The Upper Snake-Rock Subbasin, HUC 17040212, is comprised of forty-one (41) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Snake River - Lower Salmon Falls to Clover Creek	COLD SS	PCR	
US-2	Big Pilgrim Gulch - source to mouth			
US-3	Cassia Gulch - source to mouth			
US-4	Tuana Gulch - source to mouth			
US-5	Snake River - Box Canyon Creek to Lower Salmon Falls	COLD SS	PCR	
US-6	Riley Creek - source to mouth	COLD SS	PCR	DWS
US-7	Snake River - Rock Creek to Box Canyon Creek	COLD SS	PCR	
US-8	Deep Creek - High Line Canal to mouth	COLD SS	SCR	
US-9	Deep Creek - source to High Line Canal	COLD SS	SCR	
US-10	Mud Creek - Deep Creek Road (T09S, R14E) to mouth	COLD SS	SCR	
US-11	Mud Creek - source to Deep Creek Road (T09S, R14E)			
US-12	Cedar Draw - source to mouth	COLD SS	SCR	
US-13	Rock Creek -river mile 25 (T11S, R18E, Sec. 36) to mouth	COLD SS	SCR	
US-14	Cottonwood Creek - source to mouth	COLD	SCR	
US-15	McMullen Creek - source to mouth	COLD	SCR	
US-16	Rock Creek - Fifth Fork Rock Creek to river mile 25 (T11S, R18E, Sec. 36)	COLD SS	PCR	DWS
US-17	Fifth Fork Rock Creek - source to mouth	COLD	SCR	
US-18	Rock Creek - source to Fifth Fork Rock Creek	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
US-19	Snake River - Twin Falls to Rock Creek	COLD SS	PCR	
US-20	Snake River - Milner Dam to Twin Falls	COLD SS	PCR	
US-21	Murtaugh Lake			
US-22	Dry Creek - source to mouth	COLD SS	SCR	
US-23	West Fork Dry Creek - source to mouth			
US-24	East Fork Dry Creek - source to mouth	COLD	SCR	
US-25	Big Cottonwood Creek - source to mouth			
US-26	Wilson Lake Reservoir			
US-27	Vinyard Creek - Vinyard Lake to mouth	COLD	SCR	
US-28	Clear Lakes	COLD	SCR	
US-29	Banbury Springs		PCR	
US-30	Box Canyon Creek - source to mouth	COLD	SCR	
US-31	Thousand Springs	COLD	SCR	
US-32	Bickel Springs	COLD	SCR	
US-33	Billingsley Creek - source to mouth	COLD SS	PCR	DWS
US-34	Clover Creek - Pioneer Reservoir Dam to mouth	COLD SS	PCR	
US-35	Pioneer Reservoir			
US-36	Clover Creek - source to Pioneer Reservoir	COLD SS	PCR	
US-37	Cottonwood Creek - source to mouth			
US-38	Catchall Creek - source to mouth			
US-39	Deer Creek - source to mouth			
US-40	Calf Creek - source to mouth	COLD	SCR	
US-41	Dry Creek - source to mouth	COLD	SCR	

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**15. Salmon Falls Subbasin.** The Salmon Falls Subbasin, HUC 17040213, is comprised of sixteen (16) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Salmon Falls Creek - Devil Creek to mouth	COLD SS	PCR	
US-2	Devil Creek - source to mouth			
US-3	Salmon Falls Creek - Salmon Falls Creek Dam to Devil Creek	COLD SS	PCR	
US-4	Cedar Creek Reservoir			
US-5	House Creek - source to Cedar Creek Reservoir			
US-6	Cedar Creek - source to Cedar Creek Reservoir			
US-7	Salmon Falls Creek Reservoir	COLD SS	PCR	
US-8	China, Browns, Corral, Whiskey Slough, Player Creeks - source to Salmon Falls Creek Reservoir			
US-9	Salmon Falls Creek - Idaho/Nevada border to Salmon Falls Creek Reservoir	COLD SS	PCR	
US-10	North Fork Salmon Falls Creek - source to Idaho/Nevada border			
US-11	Shoshone Creek - Hot Creek to Idaho/Nevada border			
US-12	Hot Creek - Idaho/Nevada border to mouth			
US-13	Shoshone Creek - Cottonwood Creek to Hot Creek			
US-14	Big Creek - source to mouth			
US-15	Cottonwood Creek - source to mouth			
US-16	Shoshone Creek - source to Cottonwood Creek			

(4-5-00)

**16. Beaver-Camas Subbasin.** The Beaver-Camas Subbasin, HUC 17040214, is comprised of twenty-six (26) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Camas Creek - Beaver Creek to Mud Lake	COLD SS	PCR	
US-2	Camas Creek - Spring Creek to Beaver Creek	COLD SS	PCR	
US-3	Beaver Creek - canal (T09N, R36E) to mouth	COLD SS	PCR	DWS
US-4	Spring Creek - Dry Creek to mouth			
US-5	Dry Creek - source to mouth			
US-6	Ching Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
US-7	Camas Creek - confluence of West and East Camas Creeks to Spring Creek	COLD SS	PCR	
US-8	Crooked/Crab Creek - source to mouth			
US-9	Warm Creek - Cottonwood Creek to mouth and East Camas Creek - T13N, R39E, Sec. 20, 6400 ft. elevation to Camas Creek			
US-10	East Camas Creek - from and including Larkspur Creek to T13N, R39E, Sec. 20, 6400 ft. elevation			
US-11	East Camas Creek - source to Larkspur Creek			
US-12	West Camas Creek - Targhee National Forest Boundary (T13N, R38E) to Camas Creek			
US-13	West Camas Creek - source to Targhee National Forest Boundary (T13N, R38E)			
US-14	Beaver Creek - Dry Creek to canal (T09N, R36E)	COLD SS	PCR	DWS
US-15	Beaver Creek - Rattlesnake Creek to Dry Creek	COLD SS	PCR	DWS
US-16	Rattlesnake Creek - source to mouth			
US-17	Threemile Creek - source to mouth			
US-18	Beaver Creek - Miners Creek to Rattlesnake Creek	COLD SS	PCR	DWS
US-19	Miners Creek - source to mouth			
US-20	Beaver Creek - Idaho Creek to Miners Creek	COLD SS	PCR	DWS
US-21	Beaver Creek - source to Idaho Creek	COLD SS	PCR	DWS
US-22	Idaho Creek - source to mouth			
US-23	Pleasant Valley Creek - source to mouth			
US-24	Huntley Canyon Creek - source to mouth			
US-25	Dry Creek - source to mouth			
US-26	Cottonwood Creek complex			

(4-5-00)

**17. Medicine Lodge Subbasin.** The Medicine Lodge Subbasin, HUC 17040215, is comprised of twenty-two (22) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Mud Lake			



Unit	Waters	Aquatic Life	Recreation	Other
US-2	Medicine Lodge Creek - Indian Creek to playas	COLD SS	PCR	DWS
US-3	Indian Creek - confluence of West and East Fork Indian Creeks to mouth			
US-4	East Fork Indian Creek - source to mouth			
US-5	West Fork Indian Creek - source to mouth	COLD SS	SCR	
US-6	Medicine Lodge Creek - Edie Creek to Indian Creek	COLD SS	PCR	DWS
US-7	Middle Creek - Dry Creek to mouth			
US-8	Middle Creek - source to Dry Creek			
US-9	Dry Creek - source to mouth			
US-10	Edie Creek - source to mouth	COLD SS	SCR	
US-11	Medicine Lodge Creek - confluence of Warm and Fritz Creeks to Edie Creek	COLD SS	PCR	DWS
US-12	Irving Creek - source to mouth	COLD SS	SCR	
US-13	Warm Creek - source to mouth	COLD SS	SCR	
US-14	Divide Creek - source to mouth			
US-15	Horse Creek - source to mouth			
US-16	Fritz Creek - source to mouth	COLD SS	SCR	
US-17	Webber Creek - source to mouth	COLD SS	SCR	
US-18	Deep Creek - source to mouth			
US-19	Blue Creek - source to mouth			
US-20	Warm Springs Creek - source to mouth			
US-21	Crooked Creek - source to mouth			
US-22	Chandler Canyon complex			

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18. **Birch Subbasin.** The Birch Subbasin, HUC 17040216, is comprised of sixteen (16) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Birch Creek - Reno Ditch to playas	COLD SS	PCR	DWS
US-2	Birch Creek - Pass Creek to Reno Ditch	COLD SS	PCR	DWS
US-3	Birch Creek - Unnamed Tributary (T11N, R11W, Sec. 35) to Pass Creek	COLD SS	PCR	DWS
US-4	Unnamed Tributary - source to mouth; includes Timber Canyon to Worthing Canyon Creeks (T11N, R11W, Sec. 35)			
US-5	Birch Creek - confluence of Mud and Scott Canyon Creeks to Unnamed Tributary (T11N, R11W, Sec. 35)	COLD SS	PCR	DWS
US-6	Scott Canyon Creek - source to mouth			
US-7	Mud Creek - Willow Creek to Scott Canyon Creek	COLD SS	PCR	DWS
US-8	Cedar Gulch and Irish Canyon - source to mouth			
US-9	Willow Creek - source to mouth			
US-10	Mud Creek - Unnamed Tributary (T12N, R11W, Sec. 29) to Willow Creek			
US-11	Mud Creek - source to Unnamed Tributary (T12N, R11W, Sec. 29)			
US-12	Unnamed Tributary - source to mouth (T12N, R11W, Sec. 29)			
US-13	Meadow Canyon Creek - source to mouth			
US-14	Rocky Canyon Creek - source to mouth			
US-15	Pass Creek - source to mouth			
US-16	Eightmile Canyon Creek - source to mouth			

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**19. Little Lost Subbasin.** The Little Lost Subbasin, HUC 17040217, is comprised of twenty-nine (29) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Little Lost River - canal (T06N, R28E) to playas	COLD SS	PCR	
US-2	Little Lost River - Big Spring Creek to canal (T06N, R28E)	COLD SS	PCR	
US-3	Big Spring Creek - source to mouth			
US-4	North Creek - source to mouth			
US-5	Uncle Ike Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
US-6	Unnamed Tributaries - source to mouth (T08N, R28E)			
US-7	Little Lost River - Badger Creek to Big Spring Creek	COLD SS	PCR	
US-8	Badger Creek - source to mouth			
US-9	Little Lost River - Wet Creek to Badger Creek	COLD SS	PCR	
US-10	Little Lost River - confluence of Summit and Sawmill Creeks to Wet Creek	COLD SS	PCR	
US-11	Deep Creek - source to mouth			
US-12	Sawmill Creek - Warm Creek to mouth			
US-13	Warm Creek - source to mouth			
US-14	Sawmill Creek - confluence of Timber Creek and Main Fork to Warm Creek			
US-15	Squaw Creek - source to mouth			
US-16	Bear Creek - source to mouth			
US-17	Main Fork - source to mouth			
US-18	Timber Creek - source to mouth			
US-19	Summit Creek - source to mouth			
US-20	Dry Creek - Dry Creek Canal to mouth			
US-21	Dry Creek - source to Dry Creek Canal			
US-22	Wet Creek - Squaw Creek to mouth			
US-23	Squaw Creek - source to mouth			
US-24	Wet Creek - source to Squaw Creek			
US-25	Deer Creek - source to mouth			
US-26	Taylor Canyon Creek - source to mouth			
US-27	Cabin Fork Creek - source to mouth			
US-28	Hurst Creek - source to mouth			
US-29	Unnamed Tributary - source to mouth (T5N, R29E, Sec. 04 and 09)			

(4-5-00)

**20. Big Lost Subbasin.** The Big Lost Subbasin, HUC 17040218, is comprised of sixty-one (61) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Big Lost River Sinks (playas) and Dry Channel	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
US-2	Big Lost River - Spring Creek to Big Lost River Sinks (playas)	COLD SS	PCR	DWS
US-3	Spring Creek - Lower Pass Creek to Big Lost River			
US-4	Big Lost River - Antelope Creek to Spring Creek	COLD SS	PCR	DWS
US-5	King, Lime Kiln, Ramshorn, and Anderson Canyon Creek - source to mouth			
US-6	Lower Pass Creek - source to mouth			
US-7	Big Lost River - Alder Creek to Antelope Creek	COLD SS	PCR	DWS
US-8	Elbow, Jepson, Clark, Maddock, and Jaggles Canyon Creek - source to mouth			
US-9	Pass Creek - source to mouth			
US-10	Big Lost River - Beck and Evan Ditch to Alder Creek	COLD SS	PCR	DWS
US-11	Big Lost River - McKay Reservoir Dam to Beck and Evan Ditch	COLD SS	PCR	DWS
US-12	McKay Reservoir	COLD SS	PCR	DWS
US-13	Big Lost River - Jones Creek to McKay Reservoir	COLD SS	PCR	DWS
US-14	Jones Creek - source to mouth			
US-15	Big Lost River - Thousand Springs Creek to Jones Creek	COLD SS	PCR	DWS
US-16	Thousand Springs Creek - source to mouth			
US-17	Lone Cedar Creek - source to mouth			
US-18	Cedar Creek - source to mouth			
US-19	Rock Creek - source to mouth			
US-20	Willow Creek - source to mouth			
US-21	Arentson Gulch and Unnamed Tributaries - source to mouth (T10N, R22E)			
US-22	Sage Creek - source to mouth			
US-23	Parsons Creek - T8N, R22E, Sec. 24, point of perennial flow north of road to Mackay Reservoir			
US-24	Big Lost River - Burnt Creek to Thousand Springs Creek	COLD SS	PCR	DWS
US-25	Big Lost River - Summit Creek to and including Burnt Creek	COLD SS	PCR	DWS

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
US-26	Bridge Creek - source to mouth			
US-27	North Fork Big Lost River - source to mouth			
US-28	Summit Creek - source to mouth			
US-29	Kane Creek - source to mouth			
US-30	Wildhorse Creek - Fall Creek to mouth			
US-31	Wildhorse Creek - source to Fall Creek			
US-32	Fall Creek - source to mouth			
US-33	East Fork Big Lost River - Cabin Creek to mouth			
US-34	Fox Creek - source to mouth			
US-35	Star Hope Creek - Lake Creek to mouth			
US-36	Star Hope Creek - source to Lake Creek			
US-37	Muldoon Canyon Creek - source to mouth			
US-38	Lake Creek - source to mouth			
US-39	East Fork Big Lost River - source to Cabin Creek			
US-40	Cabin Creek - source to mouth			
US-41	Corral Creek - source to mouth			
US-42	Boone Creek - source to mouth			
US-43	Warm Springs Creek - source to mouth			
US-44	Navarre Creek - source to mouth			
US-45	Alder Creek - source to mouth			
US-46	Antelope Creek - Spring Creek to mouth			
US-47	Antelope Creek - Dry Fork Creek to Spring Creek			
US-48	Spring Creek - source to mouth			
US-49	Cherry Creek - confluence of Left Fork Cherry and Lupine Creeks to mouth			
US-50	Lupine Creek - source to mouth			
US-51	Left Fork Cherry Creek - source to mouth			
US-52	Antelope Creek - Iron Bog Creek to Dry Fork Creek			
US-53	Bear Creek - source to mouth			
US-54	Iron Bog Creek - confluence of Left and Right Fork Iron Bog Creeks to mouth			
US-55	Right Fork Iron Bog Creek - source to mouth			
US-56	Left Fork Iron Bog Creek - source to mouth			
US-57	Antelope Creek - source to Iron Bog Creek			

Unit	Waters	Aquatic Life	Recreation	Other
US-58	Leadbelt Creek - source to mouth			
US-59	Dry Fork Creek - source to mouth			
US-60	South Fork Antelope Creek - Antelope Creek to mouth			
US-61	Hammond Spring Creek complex			

(3-29-12)

**21. Big Wood Subbasin.** The Big Wood Subbasin, HUC 17040219, is comprised of thirty (30) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Malad River - confluence of Black Canyon Creek and Big Wood River to mouth	COLD SS	PCR	
US-2	Big Wood River - Magic Reservoir Dam to mouth	COLD SS	PCR	
US-3	Magic Reservoir	COLD	PCR	
US-4	Big Wood River - Seamans Creek to Magic Reservoir	COLD SS	PCR	DWS
US-5	Seamans Creek - Slaughterhouse Creek to mouth			
US-6	Seamans Creek - source to and including Slaughterhouse Creek			
US-7	Big Wood River - North Fork Big Wood River to Seamans Creek	COLD SS	PCR	DWS
US-8	Quigley Creek - source to mouth			
US-9	Indian Creek - source to mouth			
US-10	East Fork Wood River - Hyndman Creek to mouth			
US-11	East Fork Wood River - source to Hyndman Creek			
US-12	Hyndman Creek - source Creek to mouth			
US-13	Trail Creek - Corral Creek to mouth			
US-14	Trail Creek - source to and including Corral Creek			
US-15	Lake Creek - source to mouth			
US-16	Eagle Creek - source to mouth			
US-17	North Fork Big Wood River - source to mouth			
US-18	Big Wood River - source to North Fork Big Wood River	COLD SS	PCR	DWS
US-19	Boulder Creek - source to mouth			
US-20	Prairie Creek - source to mouth			
US-21	Baker Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
US-22	Fox Creek - source to mouth			
US-23	Warm Springs Creek - Thompson Creek to mouth			
US-24	Warm Springs Creek - source to and including Thompson Creek			
US-25	Greenhorn Creek - source to mouth			
US-26	Deer Creek - source to mouth			
US-27	Croy Creek - source to mouth			
US-28	Rock Creek - source to mouth			
US-29	Thorn Creek - source to mouth			
US-30	Black Canyon Creek - source to mouth			

(3-29-12)

**22. Camas Subbasin.** The Camas Subbasin, HUC 17040220, is comprised of twenty-seven (27) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Camas Creek - Elk Creek to Magic Reservoir	COLD SS	PCR	
US-2	Camp Creek - source to mouth			
US-3	Willow Creek - Beaver Creek to mouth			
US-4	Beaver Creek - source to mouth			
US-5	Willow Creek - source to Beaver Creek			
US-6	Elk Creek - source to mouth			
US-7	Camas Creek - Solider Creek to Elk Creek	COLD SS	PCR	
US-8	Deer Creek - Big Deer Creek to mouth			
US-9	Deer Creek - source to and including Big Deer Creek			
US-10	Powell Creek - source to mouth			
US-11	Soldier Creek - Wardrop Creek to mouth			
US-12	Soldier Creek - source to and including Wardrop Creek			
US-13	Camas Creek - Corral Creek to Soldier Creek	COLD SS	PCR	
US-14	Threemile Creek - source to mouth			
US-15	Corral Creek - confluence of East Fork and West Fork Corral Creeks to mouth			
US-16	East Fork Corral Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
US-17	West Fork Corral Creek - source to mouth			
US-18	Camas Creek - source to Corral Creek	COLD SS	PCR	
US-19	Chimney Creek - source to mouth			
US-20	Negro Creek - source to mouth			
US-21	Wildhorse Creek - source to mouth			
US-22	Malad River - source to mouth			
US-23	Mormon Reservoir			
US-24	Dairy Creek - source to Mormon Reservoir			
US-25	McKinney Creek - source to Mormon Reservoir			
US-26	Spring Creek Complex			
US-27	Kelly Reservoir			

(4-5-00)

**23. Little Wood Subbasin.** The Little Wood Subbasin, HUC 17040221, is comprised of twenty-three (23) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Little Wood River - Richfield (T04S, R19E, Sec. 25) to mouth	COLD	PCR	
US-2	Little Wood River - Carey Lake outlet to Richfield (T04S, R19E, Sec. 25)	COLD SS	PCR	
US-3	Little Wood River - West Canal (north) to West Canal (south)	COLD SS	PCR	
US-4	Carey Lake outlet			
US-5	Carey Lake			
US-6	Fish Creek - Fish Creek Reservoir Dam to mouth			
US-7	Fish Creek Reservoir			
US-8	Fish Creek - source to Fish Creek Reservoir			
US-9	West Fork Fish Creek - source to Fish Creek Reservoir			
US-10	Little Wood River - Little Wood River Reservoir Dam to Carey Lake Outlet	COLD SS	PCR	
US-11	Little Fish Creek - source to mouth			
US-12	Little Wood River Reservoir	COLD SS	PCR	
US-13	Little Wood River - Muldoon Creek to Little Wood River Reservoir	COLD SS	PCR	



Unit	Waters	Aquatic Life	Recreation	Other
US-14	Muldoon Creek -source to mouth			
US-15	South Fork Muldoon Creek - Friedman Creek to mouth			
US-16	South Fork Muldoon Creek - source to Friedman Creek			
US-17	Friedman Creek - Trail Creek to mouth			
US-18	Trail Creek - source to mouth			
US-19	Friedman Creek - source to Trail Creek			
US-20	Little Wood River - source to Muldoon Creek	COLD SS	PCR	
US-21	Baugh Creek - source to mouth			
US-22	Dry Creek - source to mouth			
US-23	Silver Creek - source to mouth	COLD SS	PCR	DWS

(3-29-12)

**151. -- 159. (RESERVED)**

**160. BEAR RIVER BASIN.**

Surface waters found within the Bear River basin total six (6) subbasins and are designated as follows: (4-5-00)

**01. Central Bear Subbasin.** The Central Bear Subbasin, HUC 16010102, is comprised of eight (8) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
B-1	Bear River - Idaho/Wyoming border to railroad bridge (T14N, R45E, Sec. 21)	COLD SS	PCR	
B-2	Pegram Creek - source to mouth			
B-3	Thomas Fork - Idaho/Wyoming border to mouth	COLD SS	PCR	
B-4	Raymond Creek - Idaho/Wyoming border to mouth; and the Hollows - source to mouth			
B-5	Dry Creek - source to mouth	COLD SS	SCR	
B-6	Preuss Creek - source to mouth	COLD SS	SCR	
B-7	Salt Creek - source to Idaho/Wyoming border	COLD SS	SCR	
B-8	Sheep Creek - source to mouth			

(4-5-00)

**02. Bear Lake Subbasin.** The Bear Lake Subbasin, HUC 16010201, is comprised of twenty-five (25) water body units.

<sup>1</sup>Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
<sup>2</sup>Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
B-1	Alexander Reservoir (Bear River)	COLD SS	PCR	
B-2	Bear River -railroad bridge (T14N, R45E, Sec. 21) to Alexander Reservoir	COLD SS	PCR	
B-3	Bailey Creek - source to mouth	COLD SS	SCR	
B-4	Eightmile Creek - source to mouth	COLD SS	SCR	
B-5	Pearl Creek - source to mouth	COLD SS	SCR	
B-6	Stauffer Creek - source to mouth	COLD SS	SCR	
B-7	Skinner Creek - source to mouth	COLD SS	SCR	
B-8	Co-op Creek - source to mouth	COLD SS	SCR	
B-9	Ovid Creek - confluence of North and Mill Creek to mouth			
B-10	North Creek - source to mouth	COLD SS	PCR	
B-11	Mill Creek - source to mouth	COLD SS	PCR	
B-12	Bear Lake Outlet - Lifton Station to Bear River	COLD SS	PCR	DWS
B-13	Paris Creek - source to mouth	COLD SS	PCR	
B-14	Bloomington Creek - source to mouth	COLD SS	PCR	DWS
B-15	Spring Creek - source to mouth			
B-16	Little and St. Charles Creeks - source to Bear Lake	COLD SS	PCR	
B-17	Dry Canyon Creek - source to mouth			
B-18	Bear Lake	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
B-19	Fish Haven Creek - source to Bear Lake	COLD SS	PCR	
B-20	Montpelier Creek - source to mouth			
B-21	Snowslide Creek - source to mouth	COLD SS	SCR	
B-22	Georgetown Creek - source to mouth	COLD SS	PCR	DWS
B-23	Soda Creek - Soda Creek Reservoir Dam to Alexander Reservoir		SCR	-- <sup>1</sup> ----- DWS <sup>2</sup>
B-24	Soda Creek Reservoir		SCR	
B-25	Soda Creek - source to Soda Creek Reservoir		SCR	

(4-11-19)

**03. Middle Bear Subbasin.** The Middle Bear Subbasin, HUC 16010202, is comprised of twenty-one (21) water body units.

<sup>1</sup>Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
<sup>2</sup>Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.  
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
B-1	Spring Creek - source to Idaho/Utah border			
B-2	Cub River - US Hwy 91 Bridge (T16S, R40E, Sec. 20) to Idaho/Utah border	COLD	SCR	
B-3	Cub River - from and including Sugar Creek to US Hwy 91 Bridge (T16S, R40E, Sec. 20)	COLD	PCR	-- <sup>1</sup> ----- DWS <sup>2</sup>
B-4	Cub River - source to Sugar Creek	COLD SS	PCR	DWS
B-5	Worm Creek - source to Idaho/Utah border	COLD	SCR	
B-6	Bear River - Oneida Narrows Reservoir Dam to Idaho/Utah border	COLD SS	PCR	
B-7	Mink Creek - source to mouth	COLD SS	PCR	
B-8	Oneida Narrows Reservoir	COLD SS	PCR	
B-9	Bear River - Alexander Reservoir Dam to Oneida Narrows Reservoir	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
B-10	Williams Creek - source to mouth			
B-11	Trout Creek - source to mouth			
B-12	Whiskey Creek - source to mouth			
B-13	Densmore Creek - source to mouth			
B-14	Cottonwood Creek - source to Oneida Narrows Reservoir			
B-15	Battle Creek - source to mouth	COLD	SCR	
B-16	Twin Lakes Reservoir			
B-17	Oxford Slough			
B-18	Swan Lake Creek Complex			
B-19	Fivemile Creek - source to mouth			
B-20	Weston Creek - source to mouth			
B-21	Jenkins Hollow - source to Idaho/Utah border			

(4-11-19)

**04. Little Bear-Logan Subbasin.** The Little Bear-Logan Subbasin, HUC 16010203, is comprised of two (2) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
B-1	Beaver Creek - source to Idaho/Utah border			
B-2	Logan River - source to Idaho/Utah border			

(4-5-00)

**05. Lower Bear-Malad Subbasin.** The Lower Bear-Malad Subbasin, HUC 16010204, is comprised of thirteen (13) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
B-1	Malad River - Little Malad River to Idaho/Utah border	COLD	SCR	
B-2	Devil Creek - Devil Creek Reservoir Dam to mouth			
B-3	Devil Creek Reservoir			
B-4	Devil Creek - source to Devil Creek Reservoir			
B-5	Deep Creek - Deep Creek Reservoir Dam to mouth			
B-6	Deep Creek Reservoir			
B-7	Deep Creek - source to Deep Creek Reservoir			
B-8	Little Malad River - Daniels Reservoir Dam to mouth	COLD	PCR	
B-9	Daniels Reservoir			

Unit	Waters	Aquatic Life	Recreation	Other
B-10	Wright Creek - source to Daniels Reservoir	COLD SS	PCR	
B-11	Dairy Creek - source to mouth			
B-12	Malad River - source to Little Malad River	COLD	PCR	DWS
B-13	Samaria Creek - source to mouth			

(4-5-00)

**06. Curlew Valley Subbasin.** The Curlew Valley Subbasin, HUC 16020309, is comprised of three (3) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
B-1	Deep Creek - Rock Creek to Idaho/Utah border	COLD	PCR	DWS
B-2	Deep Creek - source to Rock Creek	COLD	PCR	DWS
B-3	Rock Creek - source to mouth			

(4-5-00)

**161. -- 199. (RESERVED)**

**200. GENERAL SURFACE WATER QUALITY CRITERIA.**

The following general water quality criteria apply to all surface waters of the state, in addition to the water quality criteria set forth for specifically designated waters. (4-5-00)

**01. Hazardous Materials.** Surface waters of the state shall be free from hazardous materials in concentrations found to be of public health significance or to impair designated beneficial uses. These materials do not include suspended sediment produced as a result of nonpoint source activities. (8-24-94)

**02. Toxic Substances.** Surface waters of the state shall be free from toxic substances in concentrations that impair designated beneficial uses. These substances do not include suspended sediment produced as a result of nonpoint source activities. (8-24-94)

**03. Deleterious Materials.** Surface waters of the state shall be free from deleterious materials in concentrations that impair designated beneficial uses. These materials do not include suspended sediment produced as a result of nonpoint source activities. (8-24-94)

**04. Radioactive Materials.** (7-1-93)

**a.** Radioactive materials or radioactivity shall not exceed the values listed in the Code of Federal Regulations, Title 10, Chapter 1, Part 20, Appendix B, Table 2, Effluent Concentrations, Column 2. (8-24-94)

**b.** Radioactive materials or radioactivity shall not exceed concentrations required to meet the standards set forth in Title 10, Chapter 1, Part 20, of the Code of Federal Regulations for maximum exposure of critical human organs in the case of foodstuffs harvested from these waters for human consumption. (7-1-93)

**05. Floating, Suspended or Submerged Matter.** Surface waters of the state shall be free from floating, suspended, or submerged matter of any kind in concentrations causing nuisance or objectionable conditions or that may impair designated beneficial uses. This matter does not include suspended sediment produced as a result

of nonpoint source activities. (8-24-94)

**06. Excess Nutrients.** Surface waters of the state shall be free from excess nutrients that can cause visible slime growths or other nuisance aquatic growths impairing designated beneficial uses. (8-24-94)

**07. Oxygen-Demanding Materials.** Surface waters of the state shall be free from oxygen-demanding materials in concentrations that would result in an anaerobic water condition. (7-1-93)

**08. Sediment.** Sediment shall not exceed quantities specified in Sections 250 and 252, or, in the absence of specific sediment criteria, quantities which impair designated beneficial uses. Determinations of impairment shall be based on water quality monitoring and surveillance and the information utilized as described in Section 350. (4-5-00)

**09. Natural Background Conditions as Criteria.** When natural background conditions exceed any applicable water quality criteria set forth in Sections 210, 250, 251, 252, or 253, the applicable water quality criteria shall not apply; instead, there shall be no lowering of water quality from natural background conditions. Provided, however, that temperature may be increased above natural background conditions when allowed under Section 401. (3-30-07)

**201. -- 209. (RESERVED)**

**210. NUMERIC CRITERIA FOR TOXIC SUBSTANCES FOR WATERS DESIGNATED FOR AQUATIC LIFE, RECREATION, OR DOMESTIC WATER SUPPLY USE.**

**01. Criteria for Toxic Substances.** The criteria of Section 210 apply to surface waters of the state as provided in Tables 1 and 2. (3-28-18)

**a.** Table 1 contains criteria set for protection of aquatic life. Criteria for metals (arsenic through zinc) are expressed as dissolved fraction unless otherwise noted. For purposes of these criteria, dissolved fraction means that which passes through a forty-five hundredths (0.45) micron filter. (3-28-18)

Table 1. Criteria for Protection of Aquatic Life					
Compound	<sup>a</sup> CAS Number	<sup>b</sup> CMC (µg/L)		<sup>b</sup> CCC (µg/L)	
<b>Inorganic Compounds/Metals</b>					
Arsenic	7440382	340	c	150	c
Cadmium	7440439	1.3	f	0.6	f
Chromium III	16065831	570	f	74	f
Chromium VI	18540299	16	c	11	c
Copper	7440508	12.3	k	7.6	k
Lead	7439921	65	f	2.5	f
Mercury	7439976		e		e

Table 1. Criteria for Protection of Aquatic Life					
Compound	<sup>a</sup> CAS Number	<sup>b</sup> CMC (µg/L)		<sup>b</sup> CCC (µg/L)	
<p><b>Note:</b> In 2005, Idaho adopted EPA's recommended methylmercury fish tissue criterion for protection of human health (docket 58-0102-0302). The decision was made to remove the old tissue-based aquatic life criteria and rely on the fish tissue criterion to provide protection for aquatic life as well as human health. Thus, current Idaho water quality standards do not have mercury water column criteria for the protection of aquatic life. While EPA approved Idaho's adoption of the fish tissue criterion in September 2005, it had withheld judgment on Idaho's removal of aquatic life criteria. On December 12, 2008, EPA disapproved Idaho's removal of the old aquatic life criteria. The water column criteria for total recoverable mercury published in <a href="#">2004 Idaho Administrative Code</a> continue to apply and are effective for CWA purposes. For more information go to <a href="http://www.deq.idaho.gov/epa-actions-on-proposed-standards">http://www.deq.idaho.gov/epa-actions-on-proposed-standards</a>.</p>					
Nickel	7440020	470	f	52	f
Selenium <sup>1</sup>	7782492	20	d	5	d
<p><sup>1</sup>Effective for CWA purposes. The CMC value and footnote and the CCC value are effective for CWA purposes until the date EPA issues written notification that the revisions adopted under Rule Docket No. 58-0102-1701 have been approved.</p>					
Selenium <sup>2</sup>	7782492	m		l	
<p><sup>2</sup>Not yet effective for CWA purposes. The CMC footnote <b>m.</b> and CCC footnote <b>l.</b> are not effective for CWA purposes until the date EPA issues written notification that the revisions adopted under Rule Docket No. 58-0102-1701 have been approved.</p>					
Silver	7440224	3.4	f		
Zinc	7440666	120	f	120	f
Inorganic Compounds/Non-Metals					
Chlorine		19	h	11	h
Cyanide	57125	22	g	5.2	g
Organic Compounds					
Acrolein	107028	$\frac{--^1}{3^2}$		$\frac{--^1}{3^2}$	
<p><sup>1</sup>Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.</p> <p><sup>2</sup>Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.</p>					
Aldrin	39002	3			
gamma-BHC (Lindane)	58899	2		0.08	
Carbaryl	63252	$\frac{--^1}{2.1^2}$		$\frac{--^1}{2.1^2}$	

Table 1. Criteria for Protection of Aquatic Life					
Compound	<sup>a</sup> CAS Number	<sup>b</sup> CMC (µg/L)		<sup>b</sup> CCC (µg/L)	
<sup>1</sup> Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved. <sup>2</sup> Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.					
Chlordane	57749	2.4		0.0043	
4,4'-DDT	50293	1.1		0.001	
Diazinon	333415	-- <sup>1</sup> ----- 0.17 <sup>2</sup>		-- <sup>1</sup> ----- 0.17 <sup>2</sup>	
<sup>1</sup> Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved. <sup>2</sup> Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.					
Dieldrin	60571	2.5		0.0019	
alpha-Endosulfan	959988	0.22		0.056	
beta-Endosulfan	33213659	0.22		0.056	
Endrin	72208	0.18		0.0023	
Heptachlor	76448	0.52		0.0038	
Heptachlor Epoxide	1024573	0.52		0.0038	
Pentachlorophenol	87865	20	i	13	i
Polychlorinated Biphenyls PCBs	j			0.014	j
Toxaphene	8001352	0.73		0.0002	
<b>Footnotes for Table 1. Criteria for Protection of Aquatic Life</b>					
<b>a.</b> Chemical Abstracts Service (CAS) registry numbers which provide a unique identification for each chemical.					
<b>b.</b> See definitions of Acute Criteria (CMC) and Chronic Criteria (CCC), Section 010 of these rules.					
<b>c.</b> Criteria for these metals are expressed as a function of the water effect ratio, WER, as defined in Subsection 210.03.c.iii. CMC = CMC column value X WER. CCC = CCC column value X WER.					
<b>d.</b> Criterion expressed as total recoverable (unfiltered) concentrations.					
<b>e.</b> No aquatic life criterion is adopted for inorganic mercury. However, the narrative criteria for toxics in Section 200 of these rules applies. The Department believes application of the human health criterion for methylmercury will be protective of aquatic life in most situations.					
<b>f.</b> Aquatic life criteria for these metals are a function of total hardness (mg/L as calcium carbonate), the pollutant's water effect ratio (WER) as defined in Subsection 210.03.c.iii. and multiplied by an appropriate dissolved conversion factor as defined in Subsection 210.02. For comparative purposes only, the example values displayed in this table are shown as dissolved metal and correspond to a total hardness of one hundred (100) mg/L and a water effect ratio of one (1.0).					



Table 1. Criteria for Protection of Aquatic Life					
Compound	<sup>a</sup> CAS Number	<sup>b</sup> CMC (µg/L)		<sup>b</sup> CCC (µg/L)	
g. Criteria are expressed as weak acid dissociable (WAD) cyanide.					
h. Total chlorine residual concentrations.					
i. Aquatic life criteria for pentachlorophenol are expressed as a function of pH, and are calculated as follows. Values displayed above in the table correspond to a pH of seven and eight tenths (7.8). CMC = exp(1.005(pH)-4.830) CCC = exp(1.005(pH)-5.290)					
j. PCBs are a class of chemicals which include Aroclors, 1242, 1254, 1221, 1232, 1248, 1260, and 1016, CAS numbers 53469219, 11097691, 11104282, 11141165, 12672296, 11096825 and 12674112 respectively. The aquatic life criteria apply to this set of PCBs.					
k. Aquatic life criteria for copper shall be derived in accordance with Subsection 210.03.c.v. For comparative purposes only, the example values displayed in this table correspond to the Biotic Ligand Model output based on the following inputs: temperature = 14.9°C, pH = 8.16, dissolved organic carbon = 1.4 mg/L, humic acid fraction = 10%, calcium = 44.6 mg/L, magnesium = 11.0 mg/L, sodium = 11.7 mg/L, potassium = 2.12 mg/L, sulfate = 46.2 mg/L, chloride = 12.7 mg/L, alkalinity = 123 mg/L CaCO <sub>3</sub> , and sulfide = 1.00 x 10 <sup>-8</sup> mg/L.					
<b>I. Chronic</b>					<b>Short-term</b>
<b>Egg-Ovary (mg/kg dw)</b>		<b>Fish Tissue (mg/kg dw)</b>		<b>Water Column (µg/L)</b>	
Egg-Ovary	Whole-Body	Muscle	Water Lentic	Water Lotic	Water
15.1 <sup>1</sup>	8.5 <sup>2</sup>	11.3 <sup>2</sup>	1.5 (30 day average) <sup>3</sup>	3.1 (30 day average) <sup>3</sup>	Intermittent Exposure Equation <sup>3,4</sup>
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter					
1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element.					
2. Fish whole-body or muscle tissue supersedes water column element when both fish tissue and water concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole body or muscle data to determine compliance with this criterion element.					
3. Water column values are based on dissolved total selenium in water and are derived from fish tissue values via bioaccumulation modeling. Water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. In fishless waters, selenium concentrations in fish from the nearest downstream waters may be used to assess compliance using methods provided in <a href="#">Aquatic Life Ambient Water Quality Criterion for Selenium – Freshwater, EPA-822-R-16-006, Appendix K: Translation of a Selenium Fish Tissue Criterion Element to a Site-Specific Water Column Value (June 2016)</a> .					

Table 1. Criteria for Protection of Aquatic Life			
Compound	<sup>a</sup> CAS Number	<sup>b</sup> CMC (µg/L)	<sup>b</sup> CCC (µg/L)
4. Intermittent Exposure Equation=			
$\frac{WQC - C_{bkgnd}(1 - f_{int})}{f_{int}}$			
<p>where WQC is the applicable water column element, for either lentic or lotic waters; C<sub>bkgnd</sub> is the average background selenium concentration, and f<sub>int</sub> is the fraction of any 30-day period during which elevated selenium concentrations occur, with f<sub>int</sub> assigned a value ≥ 0.033 (corresponding to one day).</p> <p><i>(Footnote l. is not effective for CWA purposes until the date EPA issues written notification that the revisions adopted under Rule Docket No. 58-0102-1701 have been approved.)</i></p>			
<p><b>m.</b> There is no specific acute criterion for aquatic life; however, the aquatic life criterion is based on chronic effects of the selenium on aquatic life and is expected to adequately protect against acute effects.</p> <p><i>(Footnote m. is not effective for CWA purposes until the date EPA issues written notification that the revisions adopted under Rule Docket No. 58-0102-1701 have been approved.)</i></p>			

(3-28-18)

**b.** Table 2 contains criteria set for protection of human health. The Water & Fish criteria apply to waters designated for domestic water supply use. The Fish Only criteria apply to waters designated for primary or secondary contact recreation use.

(3-28-18)

Table 2. Criteria for Protection of Human Health (based on consumption of:)						
Compound	<sup>a</sup> CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
<b>Inorganic Compounds/Metals</b>						
Antimony	7440360		5.2	b	190	b
Arsenic	7440382	Y	10	cdj	10	cdj
<p><b>Note:</b> In 2008, Idaho adopted 10 µg/L as its CWA arsenic criterion for both exposure through fish consumption only and exposure through drinking water+fish consumption, choosing the SDWA MCL due to concerns about background levels that exceed EPA’s 304(a) criteria (docket 58-0102-0801). EPA approved this action in 2010. In June 2015, Northwest Environmental Advocates challenged EPA’s 2010 approval. Court remanded action back to EPA. On September 15, 2016, EPA disapproved Idaho’s adoption of 10 µg/L. Neither EPA nor the state of Idaho has promulgated replacement criteria. For more information, go to <a href="http://www.deq.idaho.gov/epa-actions-on-proposed-standards">http://www.deq.idaho.gov/epa-actions-on-proposed-standards</a>.</p>						
Beryllium	7440417			e		e
Cadmium	7440439			e		e
Chromium III	16065831			e		e
Chromium VI	18540299			e		e
Copper	7440508		1300	j		

Table 2. Criteria for Protection of Human Health (based on consumption of:)						
Compound	<sup>a</sup> CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
Lead	7439921			e		e
Methylmercury	22967926				0.3mg/kg	i
Nickel	7440020		58	b	100	b
Selenium	7782492		29	b	250	b
Thallium	7440280		0.017	b	0.023	b
Zinc	7440666		870	b	1,500	b
Inorganic Compounds/Non-Metals						
Cyanide	57125		3.9	b	140	b
Asbestos	1332214		7,000,000 Fibers/L	j		
Organic Compounds						
Acenaphthene	83329		26	b	28	b
Acenaphthylene	208968			e		e
Acrolein	107028		3.2	b	120	b
Acrylonitrile	107131	Y	0.60	bf	22	bf
Aldrin	309002	Y	2.5E-06	bf	2.5E-06	bf
Anthracene	120127		110	b	120	b
alpha-BHC	319846	Y	0.0012	bf	0.0013	bf
beta-BHC	319857	Y	0.036	bf	0.045	bf
gamma-BHC (Lindane)	58899		1.4	b	1.4	b
delta-BHC	319868			e		e
Benzene	71432		3.0	bf	28	b
Benidine	92875	Y	0.0014	bf	0.033	bf
Benzo(a)Anthracene	56553	Y	0.0042	bf	0.0042	bf
Benzo(b)Fluoranthene	205992	Y	0.0042	bf	0.0042	bf
Benzo(k)Fluoranthene	207089	Y	0.042	bf	0.042	bf
Benzo(ghi)Perylene	191242			e		e
Benzo(a)Pyrene	50328	Y	0.00042	bf	0.00042	bf
Bis(2-Chloroethoxy) Methane	111911			e		e
Bis(2-Chloroethyl) Ether	111444	Y	0.29	bf	6.8	bf

Table 2. Criteria for Protection of Human Health (based on consumption of:)

Compound	a CAS Number	Carcinogen?	Water & Fish		Fish Only	
			(µg/L)		(µg/L)	
Bis(2-Chloroisopropyl) Ether	108601		220	b	1,200	b
Bis(Chloromethyl) Ether	542881	Y	0.0015	bf	0.055	bf
Bis(2-Ethylhexyl) Phthalate	117817	Y	1.2	bf	1.2	bf
Bromoform	75252	Y	62	bf	380	bf
4-Bromophenyl Phenyl Ether	101553			e		e
Butylbenzyl Phthalate	85687		0.33	b	0.33	b
Carbon Tetrachloride	56235	Y	3.6	bf	15	bf
Chlorobenzene	108907		89	b	270	b
Chlordane	57749	Y	0.0010	bf	0.0010	bf
Chlorodibromomethane	124481	Y	7.4	bf	67	bf
Chloroethane	75003			e		e
2-Chloroethylvinyl Ether	110758			e		e
Chloroform	67663		61	b	730	b
2-Chloronaphthalene	91587		330	b	380	b
2-Chlorophenol	95578		30	b	260	b
Chlorophenoxy Herbicide (2,4-D)	94757		1,000	b	3,900	b
Chlorophenoxy Herbicide (2,4,5-TP) [Silvex]	93721		82	b	130	b
4-Chlorophenyl Phenyl Ether	7005723			e		e
Chrysene	218019	Y	0.42	bf	0.42	bf
4,4'-DDD	72548	Y	0.00042	bf	0.00042	bf
4,4'-DDE	72559	Y	5.5E-05	bf	5.5E-05	bf
4,4'-DDT	50293	Y	9.8E-05	bf	9.8E-05	bf
Di-n-Butyl Phthalate	84742		8.2	b	8.3	b
Di-n-Octyl Phthalate	117840			e		e
Dibenzo (a,h) Anthracene	53703	Y	0.00042	bf	0.00042	bf
1,2-Dichlorobenzene	95501		700	b	1,100	b
1,3-Dichlorobenzene	541731		3.5	b	4.8	b
1,4-Dichlorobenzene	106467		180	b	300	b

Table 2. Criteria for Protection of Human Health (based on consumption of:)

Compound	<sup>a</sup> CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
3,3'-Dichlorobenzidine	91941	Y	0.29	bf	0.48	bf
Dichlorobromomethane	75274	Y	8.8	bf	86	bf
1,1-Dichloroethane	75343			e		e
1,2-Dichloroethane	107062	Y	96	bf	2,000	bf
1,1-Dichloroethylene	75354		310	b	5,200	b
2,4-Dichlorophenol	120832		9.6	b	19	b
1,2-Dichloropropane	78875	Y	8.5	bf	98	bf
1,3-Dichloropropene	542756	Y	2.5	bf	38	bf
Dieldrin	60571	Y	4.2E-06	bf	4.2E-06	bf
Diethyl Phthalate	84662		200	b	210	b
2,4-Dimethylphenol	105679		110	b	820	b
Dimethyl Phthalate	131113		600	b	600	b
Dinitrophenols	25550587		13	b	320	b
2,4-Dinitrophenol	51285		12	b	110	b
2,4-Dinitrotoluene	121142	Y	0.46	bf	5.5	bf
2,6-Dinitrotoluene	606202			e		e
1,2-Diphenylhydrazine	122667	Y	0.25	bf	0.65	bf
2, 3, 7, 8-TCDD Dioxin	1746016	Y	1.8E-08	bf	1.9E-08	bf
alpha-Endosulfan	959988		7.0	b	8.5	b
beta-Endosulfan	33213659		11	b	14	b
Endosulfan Sulfate	1031078		9.9	b	13	b
Endrin	72208		0.011	b	0.011	b
Endrin Aldehyde	7421934		0.38	b	0.40	b
Ethylbenzene	100414		32	b	41	b
Fluoranthene	206440		6.3	b	6.4	b
Fluorene	86737		21	b	22	b
Heptachlor	76448	Y	2.0E-05	bf	2.0E-05	bf
Heptachlor Epoxide	1024573	Y	0.00010	bf	0.00010	bf
Hexachlorobenzene	118741	Y	0.00026	bf	0.00026	bf
Hexachlorobutadiene	87683	Y	0.031	bf	0.031	bf
Hexachlorocyclohexane (HCH)-Technical	608731	Y	0.027	bf	0.032	bf

Table 2. Criteria for Protection of Human Health (based on consumption of:)

Compound	<sup>a</sup> CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
Hexachloro-cyclopentadiene	77474		1.3	b	1.3	b
Hexachloroethane	67721		0.23	b	0.24	b
Ideno (1,2,3-cd) Pyrene	193395	Y	0.0042	bf	0.0042	bf
Isophorone	78591	Y	330	bf	6,000	bf
Methoxychlor	72435		0.0054	b	0.0055	b
Methyl Bromide	74839		130	b	3,700	b
Methyl Chloride	74873			e		e
3-Methyl-4-Chlorophenol	59507		350	b	750	b
2-Methyl-4,6-Dinitrophenol	534521		1.6	b	8.6	b
Methylene Chloride	75092		38	b	960	b
Naphthalene	91203			e		e
Nitrobenzene	98953		12	b	180	b
2-Nitrophenol	88755			e		e
4-Nitrophenol	100027			e		e
N-Nitrosodimethylamine	62759	Y	0.0065	bf	9.1	bf
N-Nitrosodi-n-Propylamine	621647	Y	0.046	bf	1.5	bf
N-Nitrosodiphenylamine	86306	Y	3.14	bf	18	bf
Pentachlorobenzene	608935		0.035	b	0.036	b
Pentachlorophenol	87865	Y	0.11	bf	0.12	bf
Phenanthrene	85018			e		e
Phenol	108952		3,800	b	85,000	b
Polychlorinated Biphenyls PCBs	g	Y	0.00019	bfh	0.00019	bfh
Pyrene	129000		8.1	b	8.4	b
1,2,4,5-Tetrachlorobenzene	95943		0.0093	b	0.0094	b
1,1,2,2-Tetrachloroethane	79345	Y	1.4	bf	8.6	bf
Tetrachloroethylene	127184		15	b	23	b
Toluene	108883		47	b	170	b
Toxaphene	8001352	Y	0.0023	bf	0.0023	bf
1,2-Trans-Dichloroethylene	156605		120	b	1,200	b

Table 2. Criteria for Protection of Human Health (based on consumption of:)

Compound	a CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
1,2,4-Trichlorobenzene	120821		0.24	b	0.24	b
1,1,1-Trichloroethane	71556		11,000	b	56,000	b
1,1,2-Trichloroethane	79005	Y	4.9	bf	29	bf
Trichloroethylene	79016		2.6	b	11	b
2,4,5-Trichlorophenol	95954		140	b	190	b
2,4,6-Trichlorophenol	88062		1.5	b	2.0	b
Vinyl Chloride	75014	Y	0.21	bf	5.0	bf

**Footnotes for Table 2. Criteria for Protection of Human Health**

a. Chemical Abstracts Service (CAS) registry numbers which provide a unique identification for each chemical.

b. This criterion is based on input values to human health criteria calculation specified in [Idaho's Technical Support Document \(TSD\) for Human Health Criteria Calculations - 2015](#). Criteria for non-carcinogens are calculated using the formula:

$$AWQC = RfD * RSC * \left( \frac{BW}{DI + (FI * BAF)} \right)$$

and criteria for carcinogens are calculated using the formula:

$$AWQC = RSD * \left( \frac{BW}{DI + (FI * BAF)} \right)$$

Where:

AWQC = Ambient water quality criterion (mg/L)

BW = Human Body Weight (kg), 80 is used in these criteria

DI = Drinking Water Intake, (L/day), 2.4 is used in these criteria

FI = Fish Intake, (kg/day), 0.0665 is used in these criteria

BAF = Bioaccumulation Factor, L/kg, chemical specific value, see TSD

RfD = Reference dose (mg/kg-day), chemical specific value, see TSD

RSD =  $\frac{\text{Target Incremental Cancer Risk}}{\text{Cancer Potency Factor}}$  (mg/kg-day), chemical specific value, see TSD

RSC = Relative Source Contribution, chemical specific value, see TSD

c. Inorganic forms only.

d. Criterion expressed as total recoverable (unfiltered) concentrations.

Table 2. Criteria for Protection of Human Health (based on consumption of:)

Compound	<sup>a</sup> CAS Number	Carcinogen?	Water & Fish (µg/L)	Fish Only (µg/L)
e. No numeric human health criteria has been established for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the narrative criteria for toxics from Section 200 of these rules.				
f. EPA guidance allows states to choose from a range of 10 <sup>-4</sup> to 10 <sup>-6</sup> for the incremental increase in cancer risk used in human health criteria calculation. Idaho has chosen to base this criterion on carcinogenicity of 10 <sup>-5</sup> risk.				
g. PCBs are a class of chemicals which include Aroclors, 1242, 1254, 1221, 1232, 1248, 1260, and 1016, CAS numbers 53469219, 11097691, 11104282, 11141165, 12672296, 11096825 and 12674112 respectively. The aquatic life criteria apply to this set of PCBs.				
h. This criterion applies to total PCBs, (e.g. the sum of all congener, isomer, or Aroclor analyses).				
i. This fish tissue residue criterion (TRC) for methylmercury is based on a human health reference dose (RfD) of 0.0001 mg/kg body weight-day; a relative source contribution (RSC) estimated to be 27% of the RfD; a human body weight (BW) of 70 kg (for adults); and a total fish consumption rate of 0.0175 kg/day for the general population, summed from trophic level (TL) breakdown of TL2 = 0.0038 kg fish/day + TL3 = 0.0080 kg fish/day + TL4 = 0.0057 kg fish/day. This is a criterion that is protective of the general population. A site-specific criterion or a criterion for a particular subpopulation may be calculated by using local or regional data, rather than the above default values, in the formula: $TRC = [BW \times \{RfD - (RSC \times RfD)\}] / \sum TL$ . In waters inhabited by species listed as threatened or endangered under the Endangered Species Act or designated as their critical habitat, the Department will apply the human health fish tissue residue criterion for methylmercury to the highest trophic level available for sampling and analysis.				
j. This criterion is based on the drinking water Maximum Containment Level (MCL).				

(3-28-18)

**02. Factors for Calculating Hardness Dependent Metals Criteria.** Hardness dependent metals criteria are calculated using values from the following table in the equations: (5-3-03)

a.  $CMC = WER \exp\{mA[\ln(\text{hardness})] + bA\}$  X Acute Conversion Factor. (5-3-03)

b.  $CCC = WER \exp\{mc[\ln(\text{hardness})] + bc\}$  X Chronic Conversion Factor.

Metal	mA	bA	mc	bc	aAcute Conversion Factor	aChronic Conversion Factor
Arsenic	b	b	b	b	1.0	1.0
Cadmium	0.8367	-3.560	0.6247	-3.344	0.944 see footnote a	0.909
Chromium (III)	0.819	3.7256	0.8190	0.6848	0.316	0.860
Chromium (VI)	b	b	b	b	0.982	0.962
Lead	1.273	-1.460	1.273	-4.705	0.791	0.791
Mercury	b	b	b	b	0.85	0.85
Nickel	0.846	2.255	0.8460	0.0584	0.998	0.997
Silver	1.72	-6.52	c	c	0.85	c



Zinc	0.8473	0.884	0.8473	0.884	0.978	0.986
<p>Note to table: The term “exp” represents the base e exponential function.</p> <p style="text-align: center;">Footnotes to table:</p> <p><b>a.</b> Conversion factors (CF) are from “Stephan, C. E. 1995. Derivation of conversion factors for the calculation of dissolved freshwater aquatic life criteria for metals. U.S. Environmental Protection Agency, Environmental Research Laboratory – Duluth.” The conversion factors for cadmium and lead are hardness-dependent and can be calculated for any hardness (see limitations in Subsection 210.03.b.i.) using the following equations. For comparative purposes, the conversion factors for a total hardness of one hundred (100) mg/L are shown in the table. The conversion factor shall not exceed one (1).</p> <p style="padding-left: 40px;">Cadmium          Acute: <math>CF = 1.136672 - [(\ln \text{ hardness})(0.041838)]</math> NOTE: The cadmium acute criterion equation was derived from dissolved metals toxicity data and thus requires no conversion; this conversion factor may be used to back calculate an equivalent total recoverable concentration.</p> <p style="padding-left: 40px;">Chronic: <math>CF = 1.101672 - [(\ln \text{ hardness})(0.041838)]</math></p> <p style="padding-left: 40px;">Lead (Acute and Chronic): <math>CF = 1.46203 - [(\ln \text{ hardness})(0.145712)]</math></p> <p><b>b.</b> Not applicable</p> <p><b>c.</b> No chronic criteria are available for silver.</p>						

(3-28-18)

**03. Applicability.** The criteria established in Section 210 are subject to the general rules of applicability in the same way and to the same extent as are the other numeric chemical criteria when applied to the same use classifications. Mixing zones may be applied to toxic substance criteria subject to the limitations set forth in Section 060 and set out below. (3-25-16)

**a.** For all waters for which the Department has determined mixing zones to be applicable, the toxic substance criteria apply at the boundary of the mixing zone(s) and beyond. Absent an authorized mixing zone, the toxic substance criteria apply throughout the waterbody including at the end of any discharge pipe, canal or other discharge point. (3-25-16)

**b.** Low flow design conditions. Water quality-based effluent limits and mixing zones for toxic substances shall be based on the following low flows in perennial receiving streams. Numeric chemical criteria may be exceeded in perennial streams outside any applicable mixing zone only when flows are less than these values:

Aquatic Life		Human Health	
CMC (“acute” criteria)	1Q10 or 1B3	Non-carcinogens	Harmonic mean flow
CCC (“chronic” criteria)	7Q10 or 4B3	Carcinogens	Harmonic mean flow

(3-25-16)

i. Where “1Q10” is the lowest one-day flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

ii. Where “1B3” is biologically based and indicates an allowable exceedance of once every three (3) years. It may be determined by EPA’s computerized method (DFLOW model); (5-3-03)

iii. Where “7Q10” is the lowest average seven (7) consecutive day low flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

iv. Where “4B3” is biologically based and indicates an allowable exceedance for four (4) consecutive days once every three (3) years. It may be determined by EPA’s computerized method (DFLOW model); (5-3-03)

v. Where the harmonic mean flow is a long term mean flow value calculated by dividing the number of daily flows analyzed by the sum of the reciprocals of those daily flows. (5-3-03)

c. Application of aquatic life metals criteria. (3-25-16)

i. For metals other than cadmium, for purposes of calculating hardness dependent aquatic life criteria from the equations in Subsection 210.02, the minimum hardness allowed for use in those equations shall not be less than twenty-five (25) mg/l, as calcium carbonate, even if the actual ambient hardness is less than twenty-five (25) mg/l as calcium carbonate. For cadmium, the minimum hardness for use in those equations shall not be less than ten (10) mg/l, as calcium carbonate. The maximum hardness allowed for use in those equations shall not be greater than four hundred (400) mg/l, as calcium carbonate, except as specified in Subsections 210.03.c.ii. and 210.03.c.iii., even if the actual ambient hardness is greater than four hundred (400) mg/l as calcium carbonate. (3-29-10)

ii. The hardness values used for calculating aquatic life criteria for metals at design discharge conditions shall be representative of the ambient hardnesses for a receiving water that occur at the design discharge conditions given in Subsection 210.03.b. (5-3-03)

iii. Except as otherwise noted, the aquatic life criteria for metals (arsenic through zinc in Table 1 in Subsection 210.01) are expressed as dissolved metal concentrations. Unless otherwise specified by the Department, dissolved concentrations are considered to be concentrations recovered from a sample which has passed through a forty-five hundredths (0.45) micron filter. For the purposes of calculating aquatic life criteria for metals from the equations in footnotes c. and f. in Table 1 in Subsection 210.01, the water effect ratio is computed as a specific pollutant's acute or chronic toxicity values measured in water from the site covered by the standard, divided by the respective acute or chronic toxicity value in laboratory dilution water. The water-effect ratio shall be assigned a value of one (1.0), except where the Department assigns a different value that protects the designated uses of the water body from the toxic effects of the pollutant, and is derived from suitable tests on sampled water representative of conditions in the affected water body, consistent with the design discharge conditions established in Subsection 210.03.b. For purposes of calculating water effects ratios, the term acute toxicity value is the toxicity test results, such as the concentration lethal one-half (1/2) of the test organisms (i.e., LC50) after ninety-six (96) hours of exposure (e.g., fish toxicity tests) or the effect concentration to one-half of the test organisms, (i.e., EC50) after forty-eight (48) hours of exposure (e.g., daphnia toxicity tests). For purposes of calculating water effects ratios, the term chronic value is the result from appropriate hypothesis testing or regression analysis of measurements of growth, reproduction, or survival from life cycle, partial life cycle, or early life stage tests. The determination of acute and chronic values shall be according to current standard protocols (e.g., those published by the American Society for Testing and Materials (ASTM)) or other comparable methods. For calculation of criteria using site-specific values for both the hardness and the water effect ratio, the hardness used in the equations in Subsection 210.02 shall be as required in Subsection 210.03.c.ii. Water hardness shall be calculated from the measured calcium and magnesium ions present, and the ratio of calcium to magnesium shall be approximately the same in laboratory toxicity testing water as in the site water, or be similar to average ratios of laboratory waters used to derive the criteria. (3-28-18)

iv. Implementation Guidance for the Idaho Mercury Water Quality Criteria. (4-6-05)

(1) The “[Implementation Guidance for the Idaho Mercury Water Quality Criteria](#)” describes in detail suggested methods for discharge related monitoring requirements, calculation of reasonable potential to exceed (RPTE) water quality criteria in determining need for mercury effluent limits, and use of fish tissue mercury data in calculating mercury load reductions. This guidance, or its updates, will provide assistance to the Department and the public when implementing the methylmercury criterion. The “Implementation Guidance for the Idaho Mercury Water Quality Criteria” also provides basic background information on mercury in the environment, the novelty of a fish tissue criterion for water quality, the connection between human health and aquatic life protection, and the relation of environmental programs outside of Clean Water Act programs to reducing mercury contamination of the environment. The “[Implementation Guidance for the Idaho Mercury Water Quality Criteria](#)” is available at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706, and on the DEQ website at [www.deq.idaho.gov](http://www.deq.idaho.gov). (4-6-05)

(2) The implementation of a fish tissue criterion in NPDES permits and TMDLs requires a non-traditional approach, as the basic criterion is not a concentration in water. In applying the methylmercury fish tissue criterion in the context of NPDES effluent limits and TMDL load reductions, the Department will assume change in

fish tissue concentrations of methylmercury are proportional to change in water body loading of total mercury. Reasonable potential to exceed (RPTE) the fish tissue criterion for existing NPDES sources will be based on measured fish tissue concentrations potentially affected by the discharge exceeding a specified threshold value, based on uncertainty due to measurement variability. This threshold value is also used for TMDL decisions. Because measured fish tissue concentrations do not reflect the effect of proposed new or increased discharge of mercury, RPTE in these cases will be based upon an estimated fish tissue methylmercury concentration, using projected changes in waterbody loading of total mercury and a proportional response in fish tissue mercury. For the above purposes, mercury will be measured in the skinless filets of sport fish using techniques capable of detecting tissue concentrations down to point zero five (0.05) mg/kg. Total mercury analysis may be used, but will be assumed to be all methylmercury for purposes of implementing the criterion. (4-6-05)

- v. Copper Criteria for Aquatic Life. (3-28-18)
  - (1) Aquatic life criteria for copper shall be derived using: (3-28-18)
    - (a) Biotic Ligand Model (BLM) software that calculates criteria consistent with the “[Aquatic Life Ambient Freshwater Quality Criteria – Copper](#)”: EPA-822-R-07-001 (February 2007); or (3-28-18)
    - (b) An estimate derived from BLM outputs that is based on a scientifically sound method and protective of the designated aquatic life use. (3-28-18)
  - (2) To calculate copper criteria using the BLM, the following parameters from each site shall be used: temperature, pH, dissolved organic carbon (DOC), calcium, magnesium, sodium, potassium, sulfate, chloride, and alkalinity. The BLM inputs for humic acid (HA) as a proportion of DOC and sulfide shall be based on either measured values or the following default values: 10% HA as a proportion of DOC,  $1.00 \times 10^{-8}$  mg/L sulfide. Measured values shall supersede any estimate or default input. (3-28-18)
  - (3) BLM input measurements shall be planned to capture the most bioavailable conditions for copper. (3-28-18)
  - (4) A criterion derived under Subsection 210.03.c.v.(1)(a) shall supersede any criterion derived under Subsection 210.03.c.v.(1)(b). Acceptable BLM software includes the “[US EPA WQC Calculation](#)” for copper in BLM Version 3.1.2.37 (October 2015). (3-28-18)
  - (5) Implementation Guidance for the Idaho Copper Criteria for Aquatic Life. The “[Implementation Guidance for the Idaho Copper Criteria for Aquatic Life: Using the Biotic Ligand Model](#)” describes in detail methods for implementing the aquatic life criteria for copper using the BLM. This guidance, or its updates, will provide assistance to the Department and the public for determining minimum data requirements for BLM inputs and how to estimate criteria when data are incomplete or unavailable. The “[Implementation Guidance for the Idaho Copper Criteria for Aquatic Life: Using the Biotic Ligand Model](#)” is available at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706, and on the DEQ website at [www.deq.idaho.gov](http://www.deq.idaho.gov). (3-28-18)

- d. Application of toxics criteria. (3-25-16)
  - i. Frequency and duration for aquatic life toxics criteria. CMC column criteria in Table 1 in Subsection 210.01 are concentrations not to be exceeded for a one-hour average more than once in three (3) years unless otherwise specified. CCC column criteria in Table 1 in Subsection 210.01 are concentrations not to be exceeded for a four-day average more than once in three (3) years unless otherwise specified. (3-28-18)
  - ii. Frequency and duration for human health toxics criteria. Criteria in Table 2 in Subsection 210.01 are not to be exceeded based on an annual harmonic mean. (3-28-18)

**04. National Pollutant Discharge Elimination System Permitting.** For the purposes of NPDES permitting, interpretation and implementation of metals criteria listed in Subsection 210.02 should be governed by the following standards, that are hereby incorporated by reference, in addition to other scientifically defensible methods deemed appropriate by the Department; provided, however, any identified conversion factors within these documents are not incorporated by reference. Metals criteria conversion factors are identified in Subsection 210.02 of this rule.

(5-3-03)

a. "Guidance Document on Dissolved Criteria -- Expression of Aquatic Life Criteria," EPA, October 1993, <http://www.deq.idaho.gov/media/827413-epa-guidance-dissolved-criteria-1093.pdf>. (4-5-00)

b. "Guidance Document on Dynamic Modeling and Translators," EPA, August 1993, <http://www.deq.idaho.gov/media/827417-epa-guidance-dynamic-modeling-translators-0893.pdf>. (4-5-00)

c. "Guidance Document on Clean Analytical Techniques and Monitoring," EPA, October 1993, <http://www.deq.idaho.gov/media/827421-epa-guidance-analytical-techniques-1093.pdf>. (4-5-00)

d. "Interim Guidance on Determination and Use of Water-Effect Ratios for Metals," EPA, February 1994, <http://www.deq.idaho.gov/media/827409-epa-guidance-water-effect-ratios-for-metals-0294.pdf>. (4-5-00)

e. "Technical Support Document for Water Quality-Based Toxics Control." EPA, March 1991. <http://www.deq.idaho.gov/media/60177101/58-0102-1201-epa-technical-support-document-1991.pdf>. (3-25-16)

**05. Development of Toxic Substance Criteria.** (4-5-00)

a. Aquatic Life Communities Criteria. Numeric criteria for the protection of aquatic life uses not identified in these rules for toxic substances, may be derived by the Department from the following information: (4-5-00)

i. Site-specific criteria developed pursuant to Section 275; (4-5-00)

ii. Effluent biomonitoring, toxicity testing and whole-effluent toxicity determinations; (4-5-00)

iii. The most recent recommended criteria defined in EPA's ECOTOX database. When using EPA recommended criteria to derive water quality criteria to protect aquatic life uses, the lowest observed effect concentrations (LOECs) shall be considered; or (3-25-16)

iv. Scientific studies including, but not limited to, instream benthic assessment or rapid bioassessment. (4-5-00)

b. Human Health Criteria. (4-5-00)

i. When numeric criteria for the protection of human health are not identified in these rules for toxic substances, quantifiable criteria may be derived by the Department using best available science on toxicity thresholds (i.e. reference dose or cancer slope factor), such as defined in EPA's Integrated Risk Information System (IRIS) or other peer-reviewed source acceptable to the Department. (3-25-16)

ii. When using toxicity thresholds to derive water quality criteria to protect human health, a fish consumption rate representative of the population to be protected, a mean adult body weight, an adult 90th percentile water ingestion rate, a trophic level weighted BAF or BCF, and a hazard quotient of one (1) for non-carcinogens or a cancer risk level of  $10^{-5}$  for carcinogens shall be utilized. (3-25-16)

**211. -- 249. (RESERVED)**

**250. SURFACE WATER QUALITY CRITERIA FOR AQUATIC LIFE USE DESIGNATIONS.**

**01. General Criteria.** The following criteria apply to all aquatic life use designations. Surface waters are not to vary from the following characteristics due to human activities: (3-15-02)

a. Hydrogen Ion Concentration (pH) values within the range of six point five (6.5) to nine point zero (9.0); (3-30-01)

b. The total concentration of dissolved gas not exceeding one hundred and ten percent (110%) of

saturation at atmospheric pressure at the point of sample collection; (7-1-93)

**02. Cold Water.** Waters designated for cold water aquatic life are not to vary from the following characteristics due to human activities: (3-15-02)

**a.** Dissolved Oxygen Concentrations exceeding six (6) mg/l at all times. In lakes and reservoirs this standard does not apply to: (7-1-93)

**i.** The bottom twenty percent (20%) of water depth in natural lakes and reservoirs where depths are thirty-five (35) meters or less. (7-1-93)

**ii.** The bottom seven (7) meters of water depth in natural lakes and reservoirs where depths are greater than thirty-five (35) meters. (7-1-93)

**iii.** Those waters of the hypolimnion in stratified lakes and reservoirs. (7-1-93)

**b.** Water temperatures of twenty-two (22) degrees C or less with a maximum daily average of no greater than nineteen (19) degrees C. (8-24-94)

**c.** Temperature in lakes shall have no measurable change from natural background conditions. Reservoirs with mean detention times of greater than fifteen (15) days are considered lakes for this purpose. (3-15-02)

**d.** Ammonia. The following criteria are not to be exceeded dependent upon the temperature, T (degrees C), and pH of the water body: (3-15-02)

**i.** Acute Criterion (Criterion Maximum Concentration (CMC)). The one (1) hour average concentration of total ammonia nitrogen (in mg N/L) is not to exceed, more than once every three (3) years, the value calculated using the following equation:

$$CMC = \frac{0.275}{1 + 10^{7.204 - pH}} + \frac{39.0}{1 + 10^{pH - 7.204}} \quad (3-15-02)$$

**ii.** Chronic Criterion (Criterion Continuous Concentration (CCC)). (3-15-02)

**(1)** The thirty (30) day average concentration of total ammonia nitrogen (in mg N/L) is not to exceed, more than once every three (3) years, the value calculated using the following equations: (3-15-02)

**(a)** When fish early life stages are likely present:

$$CCC = \left( \frac{0.0577}{1 + 10^{7.688 - pH}} + \frac{2.487}{1 + 10^{pH - 7.688}} \right) \bullet MIN(2.85, 1.45 \cdot 10^{0.028(25 - T)}) \quad (3-15-02)$$

**(b)** When fish early life stages are likely absent:

$$CCC = \left( \frac{0.0577}{1 + 10^{7.688 - pH}} + \frac{2.487}{1 + 10^{pH - 7.688}} \right) \bullet 1.45 \cdot 10^{0.028(25 - T)} \quad (3-15-02)$$

**(2)** The highest four-day (4) average within the thirty-day (30) period should not exceed two point five (2.5) times the CCC. (3-15-02)

(3) Because the Department presumes that many waters in the state may have both spring-spawning and fall-spawning species of fish present, early life stages of fish may be present throughout much of the year. Accordingly, the Department will apply the CCC for when fish early life stages are present at all times of the year unless: (3-15-02)

(a) Time frames during the year are identified when early life stages are unlikely to be present, and (3-15-02)

(b) The Department is provided all readily available information supporting this finding such as the fish species distributions, spawning periods, nursery periods, and the duration of early life stages found in the water body; and (3-15-02)

(c) The Department determines early life stages are likely absent. (3-15-02)

e. Turbidity, below any applicable mixing zone set by the Department, shall not exceed background turbidity by more than fifty (50) NTU instantaneously or more than twenty-five (25) NTU for more than ten (10) consecutive days. (8-24-94)

f. Salmonid Spawning. The Department shall determine spawning periods on a waterbody specific basis taking into account knowledge of local fisheries biologists, published literature, records of the Idaho Department of Fish and Game, and other appropriate records of spawning and incubation, as further described in the current version of the "Water Body Assessment Guidance" published by the Idaho Department of Environmental Quality. Waters designated for salmonid spawning, in areas used for spawning and during the time spawning and incubation occurs, are not to vary from the following characteristics due to human activities: (3-30-07)

i. Dissolved Oxygen. (8-24-94)

(1) Intergravel Dissolved Oxygen. (8-24-94)

(a) One (1) day minimum of not less than five point zero (5.0) mg/l. (8-24-94)

(b) Seven (7) day average mean of not less than six point zero (6.0) mg/l. (8-24-94)

(2) Water-Column Dissolved Oxygen. (8-24-94)

(a) One (1) day minimum of not less than six point zero (6.0) mg/l or ninety percent (90%) of saturation, whichever is greater. (8-24-94)

ii. Water temperatures of thirteen (13) degrees C or less with a maximum daily average no greater than nine (9) degrees C. (8-24-94)

g. Bull Trout Temperature Criteria. Water temperatures for the waters identified under Subsection 250.02.g.i. shall not exceed thirteen degrees Celsius (13C) maximum weekly maximum temperature (MWMT) during June, July and August for juvenile bull trout rearing, and nine degrees Celsius (9C) daily average during September and October for bull trout spawning. For the purposes of measuring these criteria, the values shall be generated from a recording device with a minimum of six (6) evenly spaced measurements in a twenty-four (24) hour period. The MWMT is the mean of daily maximum water temperatures measured over the annual warmest consecutive seven (7) day period occurring during a given year. (3-30-01)

i. The bull trout temperature criteria shall apply to all tributary waters, not including fifth order main stem rivers, located within areas above fourteen hundred (1400) meters elevation south of the Salmon River basin-Clearwater River basin divide, and above six hundred (600) meters elevation north of the Salmon River basin-Clearwater River basin divide, in the fifty-nine (59) Key Watersheds listed in Table 6, Appendix F of Governor Batt's State of Idaho Bull Trout Conservation Plan, 1996, or as designated under Sections 110 through 160 of this rule. (3-23-98)

ii. No thermal discharges will be permitted to the waters described under Subsection 250.02.g.i.

unless socially and economically justified as determined by the Department, and then only if the resultant increase in stream temperature is less than five-tenths degrees Celsius (0.5C). (4-5-00)

**Note:** Idaho first adopted bull trout temperature criteria in 1998. These criteria were revised in 2001 (docket 58-0102-0002) and submitted to EPA for approval in 2003. EPA has not taken action, and so the bull trout temperature criterion effective for CWA purposes is the 1997 federally promulgated temperature criterion of 10°C for 7-day average maximum daily temperatures from June through September for waters specified in the federal rule (see 40 CFR 131.33). However, a few waters identified in Governor Batt's 1996 bull trout conservation plan are not listed in 40 CFR 131.33. For waters not listed in 40 CFR 131.33, the 1998 criteria published in [1998 Idaho Administrative Code](#) continue to apply and are effective for CWA purposes. For more information, go to <http://www.deq.idaho.gov/epa-actions-on-proposed-standards>.

**h.** Kootenai River sturgeon temperature criteria. Water temperatures within the Kootenai River from Bonners Ferry to Shorty's Island, shall not exceed a seven (7) day moving average of fourteen degrees celsius (14C) based on daily average water temperatures, during May 1 through July 1. (3-23-98)

**03. Seasonal Cold Water.** Between the summer solstice and autumn equinox, waters designated for seasonal cold water aquatic life are not to vary from the following characteristics due to human activities. For the period from autumn equinox to summer solstice the cold water criteria will apply: (3-15-02)

**Note:** Idaho first adopted seasonal cold water use and temperature criteria in April 2000 (docket 58-0102-9704). In March 2001, Idaho revised its temperature criteria for the seasonal cold beneficial use (docket 58-0102-0002). Although the seasonal cold water use and temperature criteria adopted in 2000 have not been acted on by EPA, they were adopted by Idaho and submitted to EPA prior to May 30, 2000. Therefore, the seasonal cold water use and temperature criteria published in [2000 Idaho Administrative Code](#) continue to apply and are effective for CWA purposes. For more information, go to <http://www.deq.idaho.gov/epa-actions-on-proposed-standards>.

**a.** Dissolved Oxygen Concentrations exceeding six (6) mg/l at all times. In lakes and reservoirs this standard does not apply to: (4-5-00)

**i.** The bottom twenty percent (20%) of water depth in natural lakes and reservoirs where depths are thirty-five (35) meters or less. (4-5-00)

**ii.** The bottom seven (7) meters of water depth in natural lakes and reservoirs where depths are greater than thirty-five (35) meters. (4-5-00)

**iii.** Those waters of the hypolimnion in stratified lakes and reservoirs. (4-5-00)

**b.** Water temperatures of twenty-six (26) degrees C or less as a daily maximum with a daily average of no greater than twenty-three (23) degrees C. (3-30-01)

**c.** Temperature in lakes shall have no measurable change from natural background conditions. Reservoirs with mean detention times of greater than fifteen (15) days are considered lakes for this purpose. (3-15-02)

**d.** Ammonia. Concentration of ammonia are not to exceed the criteria defined at Subsection 250.02.d. (3-15-02)

**04. Warm Water.** Waters designated for warm water aquatic life are not to vary from the following characteristics due to human activities: (3-30-07)

**a.** Dissolved oxygen concentrations exceeding five (5) mg/l at all times. In lakes and reservoirs this standard does not apply to: (7-1-93)

i. The bottom twenty percent (20%) of the water depth in natural lakes and reservoirs where depths are thirty-five (35) meters or less. (7-1-93)

ii. The bottom seven (7) meters of water depth in natural lakes and reservoirs where depths are greater than thirty-five (35) meters. (7-1-93)

iii. Those waters of the hypolimnion in stratified lakes and reservoirs. (7-1-93)

**b.** Water temperatures of thirty-three (33) degrees C or less with a maximum daily average not greater than twenty-nine (29) degrees C. (8-24-94)

**c.** Temperature in lakes shall have no measurable change from natural background conditions. Reservoirs with mean detention times of greater than fifteen (15) days are considered lakes for this purpose. (3-15-02)

**d.** Ammonia. The following criteria are to be met dependent upon the temperature, T (degrees C), and pH of the water body: (3-15-02)

i. Acute Criterion (Criterion Maximum Concentration (CMC)). The one (1) hour average concentration of total ammonia nitrogen (in mg N/L) is not to exceed, more than once every three (3) years, the value calculated using the following equation:

$$CMC = \frac{0.411}{1 + 10^{7.204 - pH}} + \frac{58.4}{1 + 10^{pH - 7.204}}$$

(3-15-02)

ii. Chronic Criterion (Criterion Continuous Concentration (CCC)). Concentrations of ammonia are not to exceed the criteria defined at Subsection 250.02.d.ii. (3-15-02)

**05. Modified.** Water quality criteria for modified aquatic life will be determined on a case-by-case basis reflecting the chemical, physical, and biological levels necessary to attain the existing aquatic life community. These criteria, when determined, will be adopted into these rules. (3-15-02)

## **251. SURFACE WATER QUALITY CRITERIA FOR RECREATION USE DESIGNATIONS.**

Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.
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**01. E. Coli Bacteria.** Waters designated for recreation are not to contain *E. coli* bacteria, used as indicators of human pathogens, in concentrations exceeding: (4-11-06)

**a.** Geometric Mean Criterion. Waters designated for primary or secondary contact recreation are not to contain *E. coli* bacteria in concentrations exceeding a geometric mean of one hundred twenty-six (126) *E. coli* organisms per one hundred (100) mL based on a minimum of five (5) samples taken every three (3) to seven (7) days over a thirty (30) day period. (4-11-06)

**b.** Use of Single Sample Values. A water sample exceeding the *E. coli* single sample maximums below indicates likely exceedance of the geometric mean criterion, but is not alone a violation of water quality standards. If a single sample exceeds the maximums set forth in Subsections 251.01.b.i., 251.01.b.ii., and 251.01.b.iii., then additional samples must be taken as specified in Subsection 251.01.c.: (4-11-06)

i. For waters designated as secondary contact recreation, a single sample maximum of five hundred



seventy-six (576) *E. coli* organisms per one hundred (100) mL; or (4-11-06)

ii. For waters designated as primary contact recreation, a single sample maximum of four hundred six (406) *E. coli* organisms per one hundred (100) mL; or (4-11-06)

iii. For areas within waters designated for primary contact recreation that are additionally specified as public swimming beaches, a single sample maximum of two hundred thirty-five (235) *E. coli* organisms per one hundred (100) mL. Single sample counts above this value should be used in considering beach closures. (4-11-06)

c. Additional Sampling. When a single sample maximum, as set forth in Subsections 251.01.b.i., 251.01.b.ii., and 251.01.b.iii., is exceeded, additional samples should be taken to assess compliance with the geometric mean *E. coli* criteria in Subsection 251.01.a. Sufficient additional samples should be taken by the Department to calculate a geometric mean in accordance with Subsection 251.01.a. This provision does not require additional ambient monitoring responsibilities for dischargers. (4-11-06)

**251. SURFACE WATER QUALITY CRITERIA FOR RECREATION USE DESIGNATIONS.**

Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.

**01. Toxics Criteria.** Waters designated for recreation must meet the Fish Only water quality criteria set forth in Subsection 210.01.b. (4-11-19)

**02. Fecal Indicators.** Waters designated for recreation must meet criteria for indicator organisms of fecal contamination. Either of the following indicator criterion would be considered sufficient for determining compliance with the fecal indicator criteria: (4-11-19)

a. *E. Coli* Bacteria. Waters designated for recreation are not to contain *E. coli* bacteria, used as indicators of human pathogens, in concentrations exceeding: (4-11-06)

i. Geometric Mean Criterion. Not to contain *E. coli* in concentrations exceeding a geometric mean of one hundred twenty-six (126) *E. coli* counts per one hundred (100) mL based on a minimum of five (5) samples taken every three (3) to seven (7) days over a thirty (30) day period; or (4-11-19)

ii. Statistical Threshold Value (STV). No greater than ten percent (10%) of valid samples collected over a thirty (30) day period are to contain *E. coli* bacteria in concentrations exceeding an STV of four hundred and ten (410) *E. coli* counts per one hundred (100) mL; or (4-11-19)

b. Enterococci. Waters designated for recreation are not to contain enterococci bacteria, used as indicators of human pathogens, in concentrations exceeding: (4-11-19)

i. Geometric Mean Criterion. Not to contain enterococci bacteria in concentrations exceeding a geometric mean of thirty-five (35) enterococci counts per one hundred (100) mL based on a minimum of five (5) samples taken every three (3) to seven (7) days over a thirty (30) day period; or (4-11-19)

ii. Statistical Threshold Value (STV). No greater than ten percent (10%) of valid samples collected over a thirty (30) day period are to contain enterococci bacteria in concentrations exceeding an STV of one hundred and thirty (130) enterococci counts per one hundred (100) mL. (4-11-19)

**252. SURFACE WATER QUALITY CRITERIA FOR WATER SUPPLY USE DESIGNATION.**

Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1703 have been approved.

**01. Domestic.** Waters designated for domestic water supplies are to exhibit the following characteristics: (4-5-00)

- a. Radioactive materials or radioactivity not to exceed concentrations specified in Idaho Department of Environmental Quality Rules, IDAPA 58.01.08, "Rules Governing Public Drinking Water Systems." (8-24-94)
- b. Small public water supplies (Surface Water). (8-24-94)
  - i. The following Table identifies waters, including their watersheds above the public water supply intake (except where noted), which are designated as small public water supplies.

**TABLE - DESIGNATED SMALL PUBLIC WATER SUPPLIES**

<b>County</b>	<b>Water Body</b>	<b>Supply No.*</b>	<b>Supply System Name</b>
Benewah	Spring	1050001	BLM Sheep Springs
Benewah	Spring	1050002	BLM Tingley Springs
Benewah	Adams Ck.	1050011	Fernwood Water Dist.
Benewah	Rochat Ck.	1050024	St Maries, City of
Boise	Elk Ck.	4080025	Idaho City Water Dept.
Boise	McBride Ck.	4080047	Terrace Lakes Rec. Ranch
Bonner	Spring	1090168	Beaver Ck Camp Assn
Bonner	Spring	1090017	Clark Fork U ID Field Campus
Bonner	Berry Ck.	1090021	Colburn Water Assn.
Bonner	Cougar Ck.	1090030	Cougar Creek Water Assn
Bonner	Strong Ck.	1090038	East Hope Water Dept.
Bonner	Composite Spring	1090052	Hope Water System
Bonner	Spring	1090074	Lakeview Townsite Improve Assn
Bonner	Spring	1090031	Midas Water System
Bonner	Little Sand Ck.	1090121	Sandpoint Water Dept
Bonner	Schweitzer Ck.	1090124	Schweitzer Basin Water Co
Bonner	Spring #1	1090123	Schweitzer Mtn Resort
Bonner	Spring #2	1090123	Schweitzer Mtn Resort
Bonner	Springs	1090151	West Bonner WD#1
Boundary	Meadow Ck.	1110001	Bee Line Water Assn.
Boundary	Myrtle Ck.	1110003	Bonnors Ferry, City of
Boundary	Spring	1110007	Cow Ck Water Assn
Boundary	Curley Ck.	1110008	Curley Ck. Water Assn.
Boundary	Mission Ck.	1110019	Mission Creek Water Assn.
Boundary	Caribou Ck.	1110020	Moravia Water Assn.
Boundary	Spring	1110044	Northwest Academy/Ascent
Boundary	Ruby Ck.	1110044	Northwest Academy/Ascent

<b>County</b>	<b>Water Body</b>	<b>Supply No.*</b>	<b>Supply System Name</b>
Boundary	Brown Creek and Cedar Ck.	1110023	Paradise Valley Water Assn.
Boundary	Spring #1	1110024	Rocky Mountain Academy
Boundary	Spring #2	1110024	Rocky Mountain Academy
Boundary	Skin Ck.	1110025	Skin Ck. Water Assn.
Boundary	Springs	1110029	Trow Creek Water Assn
Boundary	Twenty Mile Ck.	1110030	Twenty Mile Ck. Water Assn.
Clearwater	N.F. Clearwater R.**	2180001	Ahsahka Water and Sewer District
Clearwater	Reeds Ck.	2180029	Potlatch Corp-Headquarters
Custer	Garden Ck.	7190013	Challis, City of
Elmore	E.F. Montezuma Ck.	4200005	Atlanta Water Assn.
Idaho	Wall Creek	2250011	Clearwater Water Assn.
Idaho	Big Elk Ck.	2250017	Elk City Water/Sewer Assn.
Kootenai	Spring	1280068	Excelsior Beach Water
Kootenai	Rose Spring	1280161	Rose Lake Water Assn
Lemhi	Chick Ck., Jesse Ck., and Pollard Ck.	7300042	Salmon, City of
Nez Perce	Big Canyon Ck.	2350023	Peck Water System
Shoshone	Lake Ck.	1400081	Asarco Galena Unit
Shoshone	Shields Ck.	1400089	Central Shoshone County WD
Shoshone	Big Ck.	1400089	Central Shoshone County WD
Shoshone	McFarren Ck.	1400089	Central Shoshone County WD
Shoshone	Milo Ck.	1400089	Central Shoshone County WD
Shoshone	Sawmill Gulch and Canyon Ck.	1400016	East Shoshone County WD-Burke
Shoshone	Boulder Ck.	1400017	East Shoshone County WD-Mullan
Shoshone	Cranky Gulch	1400019	East Shoshone County WD-Wallace
Shoshone	Weyer Gulch	1400019	East Shoshone County WD-Wallace
Shoshone	Experimental Ck.	1400019	East Shoshone County WD-Wallace
Shoshone	Canyon Ck.	1400016	East Shoshone County WD-Burke
Shoshone	Mill Ck.	1400017	East Shoshone County WD-Mullan
Shoshone	Placer Ck.-main channel	1400019	East Shoshone County WD-Wallace
Shoshone	Placer Ck-WF	1400019	East Shoshone County WD-Wallace
Shoshone	Deadman Ck. MF	1400028	Hecla Mining Co-Lucky Friday
Shoshone	National Tunnel	1400028	Hecla Mining Co-Lucky Friday

County	Water Body	Supply No.*	Supply System Name
Shoshone	Deadman Ck. WF	1400028	Hecla Mining Co-Lucky Friday
Shoshone	Spring	1400067	Lookout Pass Ski Area
Shoshone	Alder Ck. and East Alder Ck.	1400039	Murray Water Works
Shoshone	E.F. Silver Ck.	1400046	Silver Creek Water Assn.
Shoshone	Big Ck #1	1400050	Sunshine Precious Metals
Valley	Boulder Ck.	4430059	Yellowpine Water System, Inc.

\* Public water supply number assigned by IDHW/DEQ.

\*\* Only the portion of the watershed below Dworshak Dam is included. (3-30-01)

ii. For those surface waters identified in Subsection 252.01.b.i. turbidity as measured at the public water intake shall not be: (4-5-00)

(1) Increased by more than five (5) NTU above natural background, measured at a location upstream from or not influenced by any human induced nonpoint source activity, when background turbidity is fifty (50) NTU or less. (8-24-94)

(2) Increased by more than ten percent (10%) above natural background, measured at a location upstream from or not influenced by any human induced nonpoint source activity, not to exceed twenty-five (25) NTU, when background turbidity is greater than fifty (50) NTU. (8-24-94)

**02. Agricultural.** Water quality criteria for agricultural water supplies will generally be satisfied by the water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, "Water Quality Criteria 1972" (Blue Book), Section V, Agricultural Uses of Water, EPA, March, 1973 will be used for determining criteria. This document is available for review at the Idaho Department of Environmental Quality, or can be obtained from EPA or the U.S. Government Printing Office. (4-5-00)

**03. Industrial.** Water quality criteria for industrial water supplies will generally be satisfied by the general water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, appropriate criteria will be adopted in Sections 252 or 275 through 298. (4-5-00)

**252. SURFACE WATER QUALITY CRITERIA FOR WATER SUPPLY USE DESIGNATION.**

Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1703 have been approved.

**01. Domestic.** Waters designated for domestic water supplies are to exhibit the following characteristics: (4-5-00)

a. Must meet general water quality criteria set forth in Section 200 and the Water & Fish criteria set forth in Subsection 210.01.b. (4-11-19)

b. Turbidity. (4-11-19)

i. Turbidity as measured at any public water intake shall not be: (4-11-19)

(1) Increased by more than five (5) NTU above background when background turbidity is fifty (50) NTU or less; (4-11-19)

(2) Increased by more than ten percent (10%) above background when background turbidity is greater than fifty (50) NTU and less than two hundred and fifty (250) NTU; or (4-11-19)

(3) Increased by more than twenty-five (25) NTU above background when background turbidity is two hundred and fifty (250) NTU or greater. (4-11-19)

ii. Turbidity Background/Criteria Table.

<b>Turbidity Background</b>	<b>Turbidity Criteria</b>
≤ 50 NTUs	5 NTUs above background
> 50 – < 250 NTUs	10% above background
≥ 250 NTUs	25 NTUs

(4-11-19)

**02. Agricultural.** Water quality criteria for agricultural water supplies will generally be satisfied by the water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, "Water Quality Criteria 1972" (Blue Book), Section V, Agricultural Uses of Water, EPA, March, 1973 will be used for determining criteria. This document is available for review at the Idaho Department of Environmental Quality, or can be obtained from EPA or the U.S. Government Printing Office. (4-5-00)

**03. Industrial.** Water quality criteria for industrial water supplies will generally be satisfied by the general water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, appropriate criteria will be adopted in Sections 252 or 275 through 298. (4-5-00)

**253. SURFACE WATER QUALITY CRITERIA FOR WILDLIFE AND AESTHETICS USE DESIGNATIONS.**

**01. Wildlife Habitats.** Water quality criteria for wildlife habitats will generally be satisfied by the general water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, appropriate criteria will be adopted in Sections 253 or 275 through 298. (4-5-00)

**02. Aesthetics.** Water quality criteria for aesthetics will generally be satisfied by the general water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, appropriate criteria will be adopted in Sections 253 or 275 through 298. (4-5-00)

**254. -- 259. (RESERVED)**

**260. VARIANCES FROM WATER QUALITY STANDARDS.**

**01. Variances.** Variances from meeting certain water quality standards may be granted by the Department provided they are consistent with the following requirements: (8-24-94)

**a.** When granted by the Department, individual variances are to be pollutant and discharger specific, and shall be granted pursuant to the following procedure: (3-15-02)

**i.** Prior to granting a variance, the Department shall publish notice of the Department's tentative determination to grant a variance and shall receive written comments for not less than thirty (30) days after the date the notice is published. The notice shall contain a clear description of the impacts of the variance upon the receiving stream segment. The Department shall also provide an opportunity for oral presentation of comments, if requested in writing within fourteen (14) days of the notice, by twenty-five (25) persons, a political subdivision, or an agency. (3-15-02)

**ii.** The Department's final decision with respect to a variance may be appealed pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." The Department shall

maintain and make available to the public an updated list of variances. (3-15-02)

**b.** In order to obtain a variance from a water quality standard, the discharger must demonstrate that meeting the standard is unattainable based on one or more of the following grounds: (8-24-94)

i. Naturally occurring pollutant concentrations prevent the attainment of the standard; or (8-24-94)

ii. Natural, intermittent, or low flow conditions or water levels prevent the attainment of the standard; or (4-5-00)

iii. Human caused conditions or sources of pollution prevent the attainment of the standard and cannot be remedied or would cause more environmental damage to correct than to leave in place; or (8-24-94)

iv. Dams, diversions or other types of hydrologic modifications preclude the attainment of the standard, and it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in attainment of the standard; or (8-24-94)

v. Physical conditions related to the natural features of the water body, unrelated to water quality, preclude attainment of the standard; or (8-24-94)

vi. Controls more stringent than technology-based effluent limitations would result in substantial and widespread economic and social impact. (8-24-94)

**c.** The discharger must submit to the Department documentation that treatment more advanced than required by technology-based effluent limitations have been considered and that alternative effluent control strategies have been evaluated. (8-24-94)

**d.** Any variance granted by the Department will remain in effect for a period of five (5) years or the life of the permit. (8-24-94)

i. Upon expiration of the five (5) year time period or permit, the discharger must either meet the standard or must re-apply for the variance in accordance with these rules. (8-24-94)

ii. In considering a re-application for a variance, the Department will require the discharger to demonstrate reasonable progress towards meeting the standard. (8-24-94)

**02. Specific Variances.** In addition to any variances listed separately from these rules as described in Subsection 260.01.a.ii., the following variances have also been granted by the Department in accordance with Subsection 260.01: (3-15-02)

**a.** The South Fork Coeur d'Alene River Sewer District (Page Wastewater Treatment Facility) is granted variances from meeting water quality standards in Section 250 for ammonia and chlorine, and Section 210 for cadmium, lead, and zinc, discharged to the West Page Swamp, located in T49N, R2E, S32, Boise Prime Meridian. (3-30-01)

**b.** The variances provided in Subsection 260.02.a. are conditioned upon the discharges showing reasonable progress toward reducing their discharge of ammonia and chlorine. Reasonable progress shall be measured according to the terms of the state's certification of the discharges. (3-30-01)

**Note:** Final rule submitted to EPA on May 29, 2003 (docket 58-0102-0002). This revision grants a variance to the South Fork Coeur d'Alene River Sewer District (Page Wastewater Treatment Facility) from meeting water quality standards for ammonia, chlorine, cadmium, lead, and zinc discharged to the West Page Swamp. On May 7, 2010, EPA disapproved the variance; therefore, Subsections 260.02.a. and b. are not effective for CWA purposes. For more information, go to <http://www.deq.idaho.gov/epa-actions-on-proposed-standards>.

261. -- 274. (RESERVED)

**275. SITE-SPECIFIC SURFACE WATER QUALITY CRITERIA.**

**01. Procedures for Establishing Site-specific Water Quality Criteria.** The water quality criteria adopted in these standards may not always reflect the toxicity of a pollutant in a specific water body. These criteria also represent a limited number of the natural and human-made chemicals that exist in the environment which may pose a threat to designated or existing beneficial uses. Thus, it may be possible in some water bodies to develop new water quality criteria or modify existing criteria through site-specific analyses which will effectively protect designated and existing beneficial uses. (8-24-94)

**a.** The following are acceptable conditions for developing site-specific criteria: (8-24-94)

**i.** Resident species of a water body are more or less sensitive than those species used to develop a water quality criterion. (8-24-94)

(1) Natural adaptive processes have enabled a viable, balanced aquatic community to exist in waters where natural background levels of a pollutant exceed the water quality criterion (i.e., resident species have evolved a greater resistance to higher concentrations of a pollutant). (8-24-94)

(2) The composition of aquatic species in a water body is different from those used to derive a water quality criterion (i.e., more or less sensitive species to a pollutant are present or representative of a water body than have been used to derive a criterion). (8-24-94)

**ii.** Biological availability and/or toxicity of a pollutant may be altered due to differences between the physicochemical characteristics of the water in a water body and the laboratory water used in developing a water quality criterion (e.g., alkalinity, hardness, pH, salinity, total organic carbon, suspended solids, turbidity, natural complexing, fate and transport water, or temperature). (8-24-94)

**iii.** The affect of seasonality on the physicochemical characteristics of a water body and subsequent effects on biological availability and/or toxicity of a pollutant may justify seasonally dependent site-specific criteria. (8-24-94)

**iv.** Water quality criteria may be derived to protect and maintain existing ambient water quality. (8-24-94)

**v.** Other factors or combinations of factors that upon review of the Department may warrant modifications to the criteria. (8-24-94)

**b.** Any person may develop site-specific criteria in accordance with these rules. To insure that the approach to be used in developing site-specific criteria is scientifically valid, the Department shall be involved early in the planning of any site-specific analyses so that an agreement can be reached concerning the availability of existing data, additional data needs, methods to be used in generating new data, testing procedures to be used, schedules to be followed and quality control and assurance provisions to be used. (8-24-94)

**c.** Site-specific criteria shall not impair designated or existing beneficial uses year-round (or seasonally for seasonal dependent criteria) and shall prevent acute and chronic toxicity outside of approved mixing zones. If site-specific criteria are seasonally dependent, the period when the criteria apply shall be clearly identified. (8-24-94)

**d.** Site-specific criteria, if appropriate, shall include both chronic and acute concentrations to more accurately reflect the different tolerances of resident species to the inherent variability between concentrations and toxicological characteristics of a pollutant. (8-24-94)

**e.** Site-specific criteria shall be clearly identified as maximum (not to be exceeded) or average values. If a criterion represents an average value, the averaging period shall be specified. The conditions, if any, when the

criteria apply shall be clearly stated (e.g., specific levels of hardness, pH, water temperature, or bioavailability). Specific sampling requirements (location, frequency, etc.), if any, shall also be specified. (8-24-94)

**f.** A site may be limited to the specific area affected by a point or nonpoint source of pollution or, if appropriate, an expanded geographical area (e.g., ecoregion, river basin, sub-basin, etc.). For a number of different water bodies to be designated as one site, their respective aquatic communities cannot vary substantially in sensitivity to a pollutant. Site boundaries shall be geographically defined. (8-24-94)

**g.** Proposed site-specific water quality criteria must be approved by the Board in accordance with the Idaho Administrative Procedure Act. The Department of Environmental Quality shall determine whether to approve a request for site-specific criteria in accordance with this section and within twenty-eight (28) days after receipt of the request, and will introduce acceptable site-specific criteria for rule-making. (8-24-94)

**h.** The following are acceptable procedures for developing site-specific criteria for aquatic life protection. (8-24-94)

**i.** Site-specific analyses for the development of new water quality criteria shall be conducted in a manner which is scientifically justifiable and consistent with the assumptions and rationale in "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses," EPA 1985. This document is available for review at the Idaho Department of Environmental Quality or may be obtained from EPA or the U.S. Government Printing Office. (8-24-94)

**ii.** Site-specific analyses for the modification of existing water quality criteria shall be conducted in accordance with one of the following procedures, as described in the "Water Quality Standards Handbook," EPA 1983. This document is available for review at the Idaho Department of Environmental Quality or may be obtained from EPA or the U.S. Government Printing Office. (8-24-94)

(1) Recalculation Procedure. This procedure is used to account for differences in sensitivity to a pollutant between resident species and those species used in deriving the criterion. Bioassays in laboratory water may be required for untested resident species. (8-24-94)

(2) Indicator Species Procedure. This procedure is used to account for differences in biological availability and/or toxicity of a chemical between the physicochemical characteristics of the water in a water body and the laboratory water used in developing criteria. Bioassays in site water are required using resident species or acceptable nonresident species. (8-24-94)

(3) Resident Species Procedure. This procedure is used to account for differences in both resident species sensitivity and biological availability and/or toxicity of a pollutant. Bioassays in site water using resident species are required. (8-24-94)

(4) Water effects ratios as defined by EPA guidance documents. (8-24-94)

(5) Other scientifically defensible procedures such as relevant aquatic field studies, laboratory tests, biological translators, fate and distribution models, risk analyses or available scientific literature. (8-24-94)

(a) Deviations from the above described EPA procedures shall have justifications which are adequately documented and based on sound scientific rationale. (8-24-94)

(b) The data, testing procedures and application factors used to develop site-specific criteria shall reflect the nature of the pollutant (e.g., persistency, bioaccumulation potential, avoidance or attraction responses in fish, etc.), the designated and existing beneficial uses, and the most sensitive resident species of a water body. (8-24-94)

**02. Water Quality Criteria for Specific Waters.** Standards provided in Sections 276 through 298 for specific waters will supersede Sections 210, 250, 251, 252, and 253 when the application of the standards contained in both sections would present a conflict. (5-3-03)



**276. DISSOLVED OXYGEN STANDARDS FOR WATERS DISCHARGED FROM DAMS, RESERVOIRS, AND HYDROELECTRIC FACILITIES.**

Under the terms specified under this section, waters discharged from dams, reservoirs and hydroelectric facilities shall not be subject to the provisions of Subsection 250.02.a. or 250.02.f.i. (4-5-00)

**01. Applicability.** Subsections 276.02, 276.03 and 276.04 shall apply to all waters below dams, reservoirs, and hydroelectric facilities as far downstream as the point of measurement as defined in Subsection 276.05. Downstream of that point of measurement, all discharges to the waters shall be subject to the provisions of Subsections 250.02.a. or 250.02.f.i. (4-5-00)

**02. Dissolved Oxygen Concentrations Below Existing Facilities.** As of the effective date of these regulations, and except as noted in Subsections 276.03 and 276.04, waters below dams, reservoirs, and hydroelectric facilities shall contain the following dissolved oxygen concentrations during the time period indicated:

mg/l Dissolved Oxygen			
Time Period (annually)	30-day Mean	7-Day Mean Minimum	Instantaneous Minimum
June 15 - Oct 15	6.0	4.7	3.5

(7-1-93)

**03. Dissolved Oxygen Concentrations for Modifications of Existing Facilities or for New Facilities.** Modifications of existing facilities or new facilities are subject to the provisions of Subsection 276.02 unless the state has documented the existence of significant fish spawning areas below the facility. If such areas exist, then waters below those facilities shall contain the dissolved oxygen concentrations shown in Subsection 276.02 during the modified time periods indicated for each species below:

Fish Species	Time Period (annually)
Cutthroat trout	July 1 - Oct 15
Kokanee and Chinook Salmon	June 15 - Aug 1
Bull Trout	June 15 - Sept 1

(7-1-93)

**04. Dissolved Oxygen Concentrations Below American Falls Dam.** All waters below American Falls Dam shall contain the following dissolved oxygen concentrations during the time period indicated:

mg/l Dissolved Oxygen			
Time Period (annually)	30-Day Mean	7-Day Mean Minimum	Instantaneous Minimum
May 15 - Oct 15	5.5	4.7	3.5

(7-1-93)

**05. Point of Measurement.** For the purpose of determining compliance with Subsections 276.02, 276.03 and 276.04, the dissolved oxygen shall be measured at a single location in the river downstream from the hydroelectric facilities. Such location shall be as close to the facilities as practical to obtain a representative measurement, but in all cases shall be sufficient distance downstream to allow thorough mixing of re-aerated waters, spilled by-pass waters, and other waters that have passed through the facility. (7-1-93)

**06. Instantaneous Minimum.** Any measurement of dissolved oxygen below the applicable instantaneous minimum will be considered a violation unless that measurement is followed by two (2) consecutive measurements at or above the instantaneous minimum and taken within twenty (20) minutes of the initial measurement (at ten (10) minute intervals). (1-10-86)

**07. Procedures and Conditions for Variances.** The Board may grant a variance, on an individual basis, to the dissolved oxygen standards, the applicable dates of compliance, or both, as listed in Subsections 276.02, 276.03, or 276.04 only if: (7-1-93)

- a.** A written petition requesting a variance is submitted to the Department; (7-1-93)
- b.** The petition includes documentation of site-specific biological studies which demonstrate that no significant fishery impacts will occur as a result of the variance, if granted; and (7-1-93)
- c.** The requested variance will not result in departure from the three point five (3.5) mg/l instantaneous minimum dissolved oxygen requirements of this section. (1-10-86)

**277. (RESERVED)**

**278. LOWER BOISE RIVER SUBBASIN, HUC 17050114 SUBSECTION 140.12.**

**01. Boise River, SW-1 and SW-5 -- Salmonid Spawning and Dissolved Oxygen.** The waters of the Boise River from Veterans State Park to its mouth will have dissolved oxygen concentrations of six (6) mg/l or seventy-five percent (75%) of saturation, whichever is greater, during the spawning period of salmonid fishes inhabiting those waters. (3-15-02)

**02. Boise River, SW-5 and SW-11a -- Copper and Lead Aquatic Life Criteria.** The water-effect ratio (WER) values used in the equations in Subsection 210.02 for calculating copper and lead CMC and CCC values shall be two and five hundred seventy-eight thousandths (2.578) for dissolved copper and two and forty-nine thousandths (2.049) for lead. These site-specific criteria shall apply to the Boise River from the Lander St. wastewater outfall to where the channels of the Boise River become fully mixed downstream of Eagle Island. (5-3-03)

**03. Indian Creek, SW-3a -- Site-Specific Criteria for Water Temperature.** A maximum weekly maximum temperature of thirteen degrees C (13°C) to protect brown trout and rainbow trout spawning and incubation applies from October 15 through June 30. (3-29-12)

**04. Boise River, SW-5 and SW-11a -- Site-Specific Criteria for Water Temperature.** A maximum weekly maximum temperature of thirteen degrees C (13°C) to protect brown trout, mountain whitefish, and rainbow trout spawning and incubation applies from November 1 through May 30. (3-29-12)

**05. Point Source Thermal Treatment Requirement.** With regard to the limitations set forth in Section 401 relating to point source wastewater discharges, only the limitations of Subsections 401.01.a. and 401.01.b. and the temperature limitation relating to natural background conditions shall apply to discharges to any water body within the Lower Boise River Subbasin. (3-29-12)

**279. (RESERVED)**

**280. ROCK CREEK, CEDAR DRAW, DEEP CREEK AND BIG WOOD RIVER - CANAL SYSTEM.**

**01. Rock Creek, Cedar Draw, and Deep Creek.** For the purposes of water quality protection, the following waterways are recognized as used by the Twin Falls Canal Company as spillways, collection and conveyance facilities and such waterways shall also be protected for those uses: Rock Creek from the intersection with the High Line Canal of the Twin Falls Canal System to the mouth; Cedar Draw from the intersection with the High Line Canal of the Twin Falls Canal System to the mouth, Deep Creek from the intersection with the High Line Canal of the Twin Falls Canal system to the mouth, all in Twin Falls County. (7-1-93)

**02 Big Wood River -- Canal System.** For the purposes of water quality protection, the following waterway is also recognized as used by the North Side Canal Company for the purposes of conveying canal water and shall also be protected for that use: Big Wood River from the point of union with the North Side Canal System, located in Section 31, T. 5 S., R. 15 E., Boise Meridian, downstream to the last irrigation diversion of the North Side Canal Company from the Malad River located in Section 25, T. 6 S., R. 13 E., Boise Meridian. (7-1-93)

**281. -- 282. (RESERVED)**

**283. SPOKANE RIVER, SUBSECTION 110.12, HUC 17010305, UNITS P-3 AND P-4, SITE-SPECIFIC CRITERIA FOR AMMONIA.**

The following criteria are to be met dependent upon the temperature, T (degrees C), and pH of the water body: (3-30-01)

**01. Acute Criterion (Criterion Maximum Concentration (CMC)).** The one (1) hour average concentration of total ammonia nitrogen (in mg N/L) is not to exceed, more than once every three (3) years, the value calculated using the following equation:

$$CMC = \frac{0.275}{1 + 10^{7.204 - pH}} + \frac{39.0}{1 + 10^{pH - 7.204}}$$

(3-30-01)

**02. Chronic Criterion (Criterion Continuous Concentration (CCC)).** (3-30-01)

**a.** The thirty (30) day average concentration of total ammonia nitrogen (in mg N/L) is not to exceed, more than once every three (3) years, the value calculated using the following equation:

$$CCC = \left( \frac{0.0577}{1 + 10^{7.688 - pH}} + \frac{2.487}{1 + 10^{pH - 7.688}} \right) \bullet MIN(2.85, 1.45 \cdot 10^{0.028 \cdot (25 - T)})$$

(3-30-01)

**b.** The highest four (4) day average within the thirty (30) day period should not exceed two and five tenths (2.5) times the CCC. (3-30-01)

**284. SOUTH FORK COEUR D'ALENE SUBBASIN, SUBSECTION 110.09, HUC 17010302, AQUATIC LIFE CRITERIA FOR CADMIUM, LEAD AND ZINC.**

The following criteria are to be met dependent upon the hardness, expressed as mg/l of calcium carbonate, of the water. Criterion maximum concentrations (CMC), one (1) hour average concentrations, and criterion continuous concentrations (CCC), four (4) day average concentrations, of the dissolved metals (in µg/l) are not to exceed, more than once every three (3) years, the values calculated using the following equations: (3-15-02)

**01. Cadmium.** (3-15-02)

**a.**  $CMC = 0.973 \times e^{[(1.0166 \times \ln(\text{hardness})) - 3.924]}$  (3-15-02)

**b.**  $CCC = [1.101672 - (\ln(\text{hardness}) \times 0.041838)] \times e^{[(0.7852 \times \ln(\text{hardness})) - 3.490]}$  (3-15-02)

**02. Lead.** (3-15-02)

**a.**  $CMC = e^{[(0.9402 \times \ln(\text{hardness})) + 1.1834]}$  (3-15-02)

**b.**  $CCC = e^{[(0.9402 \times \ln(\text{hardness})) - 0.9875]}$  (3-15-02)

**03. Zinc.** (3-15-02)

**a.**  $CMC = e^{[(0.6624 \times \ln(\text{hardness})) + 2.2235]}$  (3-15-02)

b.  $CCC = e^{[(0.6624 \times \ln(\text{hardness})) + 2.2235]}$  (3-15-02)

**04. Application.** (3-15-02)

a. The maximum hardness allowed for use in the equations in Section 284 shall not be greater than four hundred (400) mg/l even if the actual ambient hardness is greater than four hundred (400) mg/l. (3-15-02)

b. The criteria described in Section 284 apply to all surface waters within the subbasin, except for natural lakes, for which the statewide criteria given in Section 210 apply. (3-25-16)

**285. SNAKE RIVER, SUBSECTION 140.13, HUC 17050115, UNIT SW1; AND SUBSECTION 140.19, HUC 17050201, UNITS SW1, SW2, SW3 AND SW4, SITE-SPECIFIC CRITERIA FOR WATER-COLUMN DISSOLVED OXYGEN.**

A minimum of six and five-tenths (6.5) mg/l of water-column dissolved oxygen shall be met in the Snake River from the Idaho/Oregon border to Hell's Canyon Dam. (3-20-04)

**286. SNAKE RIVER, SUBSECTION 130.01, HUC 17060101, UNIT S1, S2, AND S3; SITE-SPECIFIC CRITERIA FOR WATER TEMPERATURE.**

Weekly maximum temperatures (WMT) are regulated to protect fall chinook spawning and incubation in the Snake River from Hell's Canyon Dam to the confluence with the Salmon River from October 23 through April 15. Because the WMT is a lagged seven (7) day average, the first WMT is not applicable until the seventh day of this time period, or October 29. A WMT is calculated for each day after October 29 based upon the daily maximum temperature for that day and the prior six (6) days. From October 29 through November 6, the WMT must not exceed fourteen point five degrees C (14.5°C). From November 7 through April 15, the WMT must not exceed thirteen degrees C (13°C). (3-29-12)

**Note:** Submitted to EPA on June 8, 2012 (docket 58-0102-1102). This revision modified the existing site-specific temperature criterion to protect fall Chinook spawning below Hell's Canyon Dam by providing for a two week transition in temperatures from October 23 through November 6. Until EPA approves this revision, the previous criterion published in [2005 Idaho Administrative Code](#) continues to apply and is effective for CWA purposes. For more information, go to <http://www.deq.idaho.gov/epa-actions-on-proposed-standards>.

**287. SITE-SPECIFIC AQUATIC LIFE CRITERIA FOR SELENIUM.**

Site-specific water column values (30-day average) are based on dissolved total selenium in water and are derived using a performance-based approach from fish tissue values via either the mechanistic modeling or empirical bioaccumulation factor (BAF) method in [Aquatic Life Ambient Water Quality Criterion for Selenium – Freshwater, EPA-822-R-16-006, Appendix K: Translation of a Selenium Fish Tissue Criterion Element to a Site-Specific Water Column Value \(June 2016\)](#). (3-28-18)

**01. Subsection of Blackfoot Subbasin.** Blackfoot River - confluence of Lanes and Diamond Creeks to Blackfoot Reservoir (unit US-10), and all tributaries thereof. Site-specific egg-ovary, whole-body, and muscle criterion elements for these water bodies are set out in the following table. The lentic and short-term exposure water column criterion elements set out in Subsection 210.01., table footnote **L**, are also applicable to the water bodies identified in this subsection.

<b>Chronic</b>			
Egg-Ovary (mg/kg dw)	Fish Tissue (mg/kg dw)		Water Column (µg/L)
Egg-Ovary	Whole-Body	Muscle	Water Lotic
24.5 <sup>1</sup>	12.5 <sup>2</sup>	12.8 <sup>2</sup>	11.9 <sup>3,4,5</sup>
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter			

1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element.
2. Fish whole-body or muscle tissue supersedes water column element when both fish tissue and water concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole-body or muscle data to determine compliance with this criterion element.
3. Water column values are derived using the empirical BAF method. For comparative purposes only, the example value displayed in this table represents the lotic water column value for Sheep Creek based on the average BAF for Cutthroat Trout among all sampling locations and years.
4. Lotic Water Column Equation=
 
$$\frac{\text{Tissue}_{\text{criterion}}}{\text{BAF}}$$

where Tissue criterion is the fish tissue element (whole-body), and BAF is the bioaccumulation factor derived by dividing site-specific field-collected samples of fish tissue (whole-body) by site-specific field-collected samples of water.
5. Water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. In fishless waters, surface water from the fishless waters and fish tissue from the nearest downstream waters are used for bioaccumulation modeling. Fish tissue supersedes any site-specific water column values when fish are sampled downstream of fishless waters.

(3-28-18)

**02. Subsection of Bear Lake Subbasin.** Georgetown Creek - source to mouth (unit B-22), and all tributaries thereof. Site-specific egg-ovary, whole-body, and muscle criterion elements for these water bodies are set out in the following table. The lentic and short-term water column criterion elements set out in Subsection 210.01., table footnote I., are also applicable to the water bodies identified in this subsection.

<b>Chronic</b>			
<b>Egg-Ovary (mg/kg dw)</b>	<b>Fish Tissue (mg/kg dw)</b>		<b>Water Column (µg/L)</b>
Egg-Ovary	Whole-Body	Muscle	Water Lotic
21.0 <sup>1</sup>	12.5 <sup>2</sup>	12.8 <sup>2</sup>	3.8 <sup>3,4,5</sup>
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter			
<ol style="list-style-type: none"> <li>1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element.</li> <li>2. Fish whole-body or muscle tissue supersedes water column element when both fish tissue and water concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole-body and muscle data to determine compliance with this criterion element.</li> </ol>			

3. Water column values are derived using the empirical BAF method. For comparative purposes only, the example displayed in this table represents the lotic water column value for Georgetown Creek, upstream of the intermittent reach, based on the average BAF for Brook Trout in all sampling locations and years.

4. Lotic Water Column Equation=

$$\frac{\text{Tissue}_{\text{criterion}}}{\text{BAF}}$$

where Tissue criterion is the fish tissue element (whole-body), and BAF is the bioaccumulation factor derived by dividing site-specific field-collected samples of fish tissue (whole-body) by site-specific field-collected samples of water.

5. Water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. In fishless waters, surface water from the fishless waters and fish tissue from the nearest downstream waters are used for bioaccumulation modeling. Fish tissue supersedes any site-specific water column values when fish are sampled downstream of fishless waters.

(3-28-18)

**03. Subsection of Salt Subbasin — Sage Creek.** Sage Creek – source to mouth (unit US-9) including, Hoopes Spring channel downstream of the spring complex, South Fork Sage Creek downstream of the spring complex, Sage Creek downstream of the confluence of Hoopes Spring with Sage Creek to its confluence with Crow Creek, North Fork Sage Creek and tributaries (including Pole Canyon Creek). Site-specific egg-ovary and whole-body criterion elements for these water bodies are set out in the following table. The muscle, lentic water column, and short-term water column criterion elements set out in Subsection 210.01., table footnote **I**, are also applicable to the water bodies identified in this subsection.

Chronic		
Egg-Ovary (mg/kg dw)	Fish Tissue (mg/kg dw)	Water Column (µg/L)
Egg-Ovary	Whole-Body	Water Lotic
20.5 <sup>1</sup>	13.6 <sup>2</sup>	16.7 <sup>3</sup>
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter		
<p>1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element.</p> <p>2. Fish tissue supersedes water column element when both fish tissue (whole-body) and water concentrations are measured. Fish tissue elements are expressed as a single arithmetic average of tissue concentrations from at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole-body data to determine compliance with this criterion element.</p> <p>3. Water column values are derived using the empirical BAF method. Water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. In fishless waters, selenium concentrations in fish from the nearest downstream waters may be used to assess compliance.</p>		

(3-28-18)

**04. Subsection of Salt Subbasin — Crow Creek.** Crow Creek – Downstream of Sage Creek confluence to Wyoming state line (US-8). Site-specific egg-ovary and whole-body criterion elements for these water bodies are set out in the following table. The muscle, lentic water column, and short-term water column criterion elements set out in Subsection 210.01., table footnote **I**, are also applicable to the water bodies identified in this

subsection.

<b>Chronic</b>		
<b>Egg-Ovary (mg/kg dw)</b>	<b>Fish Tissue (mg/kg dw)</b>	<b>Water Column (µg/L)</b>
Egg-Ovary	Whole-Body	Water Lotic
20.5 <sup>1</sup>	12.5 <sup>2</sup>	4.2 <sup>3</sup>
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter		
<p>1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element.</p> <p>2. Fish tissue supersedes water column element when both fish tissue (whole-body) and water concentrations are measured. Fish tissue elements are expressed as a single arithmetic average of tissue concentrations from at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole-body data to determine compliance with this criterion element.</p> <p>3. Water column values are derived using the empirical BAF method. Water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. In fishless waters, selenium concentrations in fish from the nearest downstream waters may be used to assess compliance.</p>		

(3-28-18)

**05. Portions of Idaho.**

(3-28-18)

a. This site-specific criterion applies in the HUC subbasins set out in the following table.

<b>HUC</b>	<b>Subbasin</b>	<b>HUC</b>	<b>Subbasin</b>
16010102	Central Bear	17040208	Portneuf
16010201	Bear Lake	17040209	Lake Walcott
16010202	Middle Bear	17040210	Raft
16010203	Little Bear-Logan	17040211	Goose
16010204	Lower Bear-Malad	17040214	Beaver-Camas
16020309	Curlew Valley	17040215	Medicine Lodge
17010302	South Fork Coeur d Alene	17040216	Birch
17010306	Hangman	17040218	Big Lost
17010308	Little Spokane	17040220	Camas
17040104	Palisades	17040221	Little Wood
17040105	Salt	17050104	Upper Owyhee
17040201	Idaho Falls	17050105	South Fork Owyhee
17040202	Upper Henrys	17050106	East Little Owyhee
17040203	Lower Henrys	17050107	Middle Owyhee
17040204	Teton	17050108	Jordan

HUC	Subbasin	HUC	Subbasin
17040205	Willow	17060109	Rock
17040206	American Falls		
17040207	Blackfoot		

(3-28-18)

**b.** Site-specific egg-ovary, whole-body, and muscle criterion elements for the water bodies identified in Subsection 287.05.a. are set out in the following table. The water column criterion elements set out in Subsection 210.01., table footnote **I.**, are also applicable to the water bodies identified in Subsection 287.05.a.

<b>Chronic</b>		
<b>Egg-Ovary (mg/kg dw)</b>	<b>Fish Tissue (mg/kg dw)</b>	
Egg-Ovary	Whole-Body	Muscle
19.0 <sup>1</sup>	9.5 <sup>2</sup>	13.1 <sup>2</sup>
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter		
<p>1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element.</p> <p>2. Fish whole-body or muscle tissue supersedes water column element when both fish tissue and water concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole-body or muscle data to determine compliance with this criterion element.</p>		

(3-28-18)

*Section 287 is not effective for CWA purposes until the date EPA issues written notification that the revisions adopted under Rule Docket No. 58-0102-1701 have been approved.*

**288. -- 299. (RESERVED)**

**300. GAS SUPERSATURATION.**

**01. Applicability of Gas Supersaturation Standard.** The Director has the following authority: (7-1-93)

**a.** To specify the applicability of the gas supersaturation standard with respect to excess stream flow conditions; and (7-1-93)

**b.** To direct that all known and reasonable measures be taken to assure protection of the fishery resource; and (7-1-93)

**c.** To require that operational procedures or project modifications proposed for compliance for dissolved gas criterion do not contribute to increased mortalities to juvenile migrants or impose serious delays to adult migrant fishes. (7-1-93)



**02. Interstate Agreements.** In making determinations as to the applicability of gas supersaturation standards, the Director can seek and enter into agreements with adjoining state environmental regulatory agencies. (7-1-93)

**03. Gas Supersaturation Control Program.** Owners or operators of proposed water impoundment facilities subject to excessive spilling which can result in supersaturated water conditions must submit to the Department for approval a program for the detection and control of gas supersaturation. The program must include, but is not limited to: (7-1-93)

**a.** Time schedules for construction or installation of supersaturation control features and devices; and (7-1-93)

**b.** When required by the Department, a monitoring and reporting system insuring that supersaturated conditions are detected and reported to the Department. (7-1-93)

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

**350. RULES GOVERNING NONPOINT SOURCE ACTIVITIES.**

**01. Implementation Policy.** (7-1-93)

**a.** Nonpoint sources are the result of activities essential to the economic and social welfare of the state. The a real extent of most nonpoint source activities prevents the practical application of conventional wastewater treatment technologies. Nonpoint source pollution management, including best management practices, is a process for protecting the designated beneficial uses and ambient water quality. Best management practices should be designed, implemented and maintained to provide full protection or maintenance of beneficial uses. Violations of water quality standards which occur in spite of implementation of best management practices will not be subject to enforcement action. However, if subsequent water quality monitoring and surveillance by the Department, based on the criteria listed in Sections 200, 210, 250, 251, 252, and 253, indicate water quality standards are not met due to nonpoint source impacts, even with the use of current best management practices, the practices will be evaluated and modified as necessary by the appropriate agencies in accordance with the provisions of the Administrative Procedure Act. If necessary, injunctive or other judicial relief may be initiated against the operator of a nonpoint source activity in accordance with the Director's authorities provided in Section 39-108, Idaho Code. In certain cases, revision of the water quality standards may be appropriate. (4-5-00)

**b.** As provided in Subsections 350.01.a. and 350.02.a. for nonpoint source activities, failure to meet general or specific water quality criteria, or failure to fully protect a beneficial use, shall not be considered a violation of the water quality standards for the purpose of enforcement. Instead, water quality monitoring and surveillance of nonpoint source activities will be used to evaluate the effectiveness of best management practices in protecting beneficial uses as stated in Subsections 350.01.a. and 350.02.b. (12-31-91)

**02. Limitation to Nonpoint Source Restrictions.** Nonpoint source activities will be subject to the following: (7-1-93)

**a.** Except as provided in Subsections 350.02.b. and 350.02.c., so long as a nonpoint source activity is being conducted in accordance with applicable rules, regulations and best management practices as referenced in Subsection 350.03, or in the absence of referenced applicable best management practices, conducted in a manner that demonstrates a knowledgeable and reasonable effort to minimize resulting adverse water quality impacts, the activity will not be subject to conditions or legal actions based on Subsection 080.01. In all cases, if it is determined by the Director that imminent and substantial danger to the public health or environment is occurring, or may occur as a result of a nonpoint source by itself or in combination with other point or nonpoint source activities, then the Director may seek immediate injunctive relief to stop or prevent that danger as provided in Section 39-108, Idaho Code. (3-29-12)

**b.** If the Director determines through water quality monitoring and surveillance that water quality criteria are not being met, or that beneficial uses are being impaired as a result of a nonpoint source activity by itself or in combination with other point and nonpoint source activities then: (3-3-87)

i. For an activity occurring in a manner not in accordance with approved best management practices, or in a manner which does not demonstrate a knowledgeable and reasonable effort to minimize resulting adverse water quality impacts, the Director may with appropriate inter-Departmental coordination. (3-3-87)

(1) Prepare a compliance schedule as provided in Section 39-116, Idaho Code; and/or (2-2-83)

(2) Institute administrative or civil proceedings including injunctive relief under Section 39-108, Idaho Code. (3-3-87)

ii. For activities conducted in compliance with approved best management practices, or conducted in a manner which demonstrates knowledgeable and reasonable effort to minimize resulting adverse water quality impacts, the Director may, with appropriate inter-Departmental coordination: (3-3-87)

(1) For those activities with approved best management practices as listed in Subsection 350.03 formally request that the responsible agency conduct a timely evaluation and modification of the practices to insure full protection of beneficial uses. (12-31-91)

(2) For all other nonpoint source activities which do not have approved best management practices as listed in Subsection 350.03, develop and recommend to the operator control measures necessary to fully protect the beneficial uses. Such control measures may be implemented on a voluntary basis, or where necessary, through appropriate administrative or civil proceedings. (12-31-91)

(3) If, in a reasonable and timely manner the approved best management practices are not evaluated or modified by the responsible agency, or if the appropriate control measures are not implemented by the operator, then the Director may seek injunctive relief to prevent or stop imminent and substantial danger to the public health or environment as provided in Section 39-108, Idaho Code. (3-3-87)

c. The Director may review for compliance project plans for proposed nonpoint source activities, based on whether or not the proposed activity will fully maintain or protect beneficial uses as listed in Sections 200, 250, 251, 252, and 253. In the absence of relevant criteria in those Sections, the review for compliance will be based on whether or not the proposed activity: (4-5-00)

i. Will comply with approved or specialized best management practices; and (3-3-87)

ii. Provides a monitoring plan which, when implemented, will provide information to the Director adequate to determine the effectiveness of the approved or specialized best management practices in protecting the beneficial uses of water; and (3-3-87)

iii. Provides a process for modifying the approved or site-specific best management practices in order to protect beneficial uses of water. (3-3-87)

d. For projects determined not to comply with those requirements, the plan may be revised and resubmitted for additional review by the Department. Any person aggrieved by a final determination of the Director may, within thirty (30) days, file a written request for a hearing before the Board in accordance with the Idaho Administrative Procedures Act. In all cases, implementation of projects detailed in a plan shall be conducted in a manner which will not result in imminent and substantial danger to the public health or environment. (3-3-87)

**03. Approved Best Management Practices.** The following are approved best management practices for the purpose of Subsection 350.02: (12-31-91)

a. "Rules Pertaining to the Idaho Forest Practices Act," IDAPA 20.02.01, as adopted by Board of Land Commissioners; (12-31-91)

b. Idaho Department of Environmental Quality Rules, IDAPA 58.01.06, "Solid Waste Management Rules and Standards"; (7-1-93)

- c.** Idaho Department of Environmental Quality Rules, IDAPA 58.01.03, “Individual/Subsurface Sewage Disposal Rules”;  
(7-1-93)
- d.** “Stream Channel Alteration Rules,” IDAPA 37.03.07, as adopted by the Board of Water Resources;  
(7-1-93)
- e.** For the Spokane Valley Rathdrum Prairie Aquifer, “Rathdrum Prairie Sewage Disposal Regulations,” as adopted by the Panhandle District Health Department Board of Health and approved by the Idaho Board of Environmental Quality;  
(7-1-93)
- f.** “Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities,” IDAPA 20.03.02, as adopted by the Board of Land Commissioners; and  
(7-1-93)
- g.** “Dredge and Placer Mining Operations in Idaho,” IDAPA 20.03.01, as adopted by the Board of Land Commissioners.  
(7-1-93)
- h.** “Rules Governing Dairy Waste,” IDAPA 02.04.14, as adopted by the Department of Agriculture.  
(3-20-97)

**351. -- 399. (RESERVED)**

**400. RULES GOVERNING POINT SOURCE DISCHARGES.**

- 01. Implementation Policy.** (7-1-93)

  - a.** As provided for in Subsection 080.01, and Sections 200, 210, 250, 251, 252, 253, 275, and 400 for point source discharges, failure to meet general or specific water quality criteria is a violation of the water quality standards.  
(4-5-00)
  - b.** No unauthorized discharge from a point source shall occur to waters of the state. (4-11-06)
- 02. Limitations to Point Source Restrictions.** So long as a point source discharge or wastewater treatment facility is regulated by the terms and conditions of an authorization pursuant to Subsection 080.02, a Board order, decree or compliance schedule, or a valid NPDES permit issued by the EPA, the discharge or facility will not be subject to additional restrictions or conditions based on Subsection 080.01 and Sections 200, 210, 250, 251, 252, and 253.  
(3-29-12)
- 03. Compliance Schedules for Water Quality-Based Effluent Limitations.** Discharge permits for point sources may incorporate compliance schedules which allow a discharger to phase in, over time, compliance with water quality-based effluent limitations when new limitations are in the permit for the first time. (3-15-02)
- 04. Wetlands Used for Wastewater Treatment.** (8-24-94)

  - a.** Waters contained within wetlands intentionally created from non-wetland sites for the purpose of wastewater or stormwater treatment, and operated in compliance with NPDES permit conditions, shall not be subject to the application of general water quality-based or site-specific criteria and standards. (8-24-94)
  - b.** Waters contained within wetlands intentionally created from non-wetland sites for the purpose of treatment of nonpoint sources of pollution, and operated in compliance with best management practices, shall not be subject to the application of general water quality-based or site specific criteria and standards. (8-24-94)
  - c.** Discharges from treatment systems described in Sections 400.04.a. and 400.04.b. to waters of the state are subject to all applicable rules and requirements governing such discharges. (8-24-94)
- 05. Flow Tiered NPDES Permit Limitations.** Discharge permits for point sources discharging to waters exhibiting unidirectional flow may incorporate tiered limitations for conventional and toxic constituents at the

discretion of the department. (8-24-94)

**06. Intake Credits for Water Quality-Based Effluent Limitations.** Discharge permits for point sources may incorporate intake credits for water quality-based effluent limits. These credits are subject to the limitations specified in IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program." (3-25-16)

**401. POINT SOURCE WASTEWATER TREATMENT REQUIREMENTS.**

Unless more stringent limitations are necessary to meet the applicable requirements of Sections 200 through 300, or unless specific exemptions are made pursuant to Subsection 080.02, wastewaters discharged into surface waters of the state must have the following characteristics: (4-11-06)

- 01. Temperature.** The wastewater must not affect the receiving water outside the mixing zone so that: (7-1-93)
  - a.** The temperature of the receiving water or of downstream waters will interfere with designated beneficial uses. (7-1-93)
  - b.** Daily and seasonal temperature cycles characteristic of the water body are not maintained. (7-1-93)
  - c.** If temperature criteria for the designated aquatic life use are exceeded in the receiving waters upstream of the discharge due to natural background conditions, then wastewater must not raise the receiving water temperatures by more than three tenths (0.3) degrees C. (3-29-12)

**Note:** Submitted to EPA as a temporary rule on July 20, 2011, and as a final rule on August 7, 2012 (docket 58-0102-1101). This revision removed the numeric limits on point source induced changes in receiving water temperature. Until EPA approves this revision, the previous treatment requirements published in [2011 Idaho Administrative Code](#) continue to apply and are effective for CWA purposes. For more information, go to <http://www.deq.idaho.gov/epa-actions-on-proposed-standards>.

The previous treatment requirements published in [2011 Idaho Administrative Code](#) are effective for CWA purposes until the date EPA issues written notification that the revisions in Docket Nos. 58-0102-1101 or 58-0102-1803 have been approved.

- c.** If temperature criteria for the designated aquatic life use are exceeded in the receiving waters upstream of the discharge due to natural background conditions, then wastewater must not raise the receiving water temperatures by more than three tenths (0.3) degrees C above the natural background conditions. (4-11-19)

Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1803 have been approved.

- d.** If temperature criteria for the designated aquatic life use are exceeded in the receiving waters upstream of the discharge, then wastewater must not raise the receiving water temperatures by more than three tenths (0.3) degrees C above applicable numeric criteria. (4-11-19)

Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1803 have been approved.

- 02. Turbidity.** The wastewater must not increase the turbidity of the receiving water outside the mixing zone by: (7-1-93)

**a.** More than five (5) NTU (Nephelometric Turbidity Units) over background turbidity, when background turbidity is fifty (50) NTU or less; or (7-1-93)

**b.** More than ten percent (10%) increase in turbidity when background turbidity is more than fifty (50) NTU, not to exceed a maximum increase of twenty-five (25) NTU. (7-1-93)

**402. -- 799. (RESERVED)**

**800. HAZARDOUS AND DELETERIOUS MATERIAL STORAGE.**

Hazardous and deleterious materials must not be stored, disposed of, or accumulated adjacent to or in the immediate vicinity of state waters unless adequate measures and controls are provided to insure that those materials will not enter state waters as a result of high water, precipitation runoff, wind, storage facility failure, accidents in operation, or unauthorized third party activities. (7-1-93)

**01. Criteria to Be Evaluated.** Measures and controls will be judged by the Department on the basis of the following: (7-1-93)

**a.** Potential of a given occurrence; and (7-1-93)

**b.** The potential injury to beneficial uses presented by the nature and quantity of the material and on the physical design of the facility. (7-1-93)

**02. Delineation of Materials.** Such material includes, but is not limited to, trash, rubbish, garbage, oil, gasoline, chemicals, sawdust, and accumulations of manure. (7-1-93)

**801. -- 848. (RESERVED)**

**849. OIL FILLED ELECTRIC EQUIPMENT.**

Releases of Dielectric Oil from oil filled electric equipment are subject to the following requirements: (3-20-97)

**01. Unauthorized Releases.** In the case of an unauthorized release of dielectric oil to state waters or to land such that there is a likelihood that it will enter state waters, the persons in charge must: (3-20-97)

**a.** Stop Continuing Releases. Make every reasonable effort to abate and stop a continuing release. Provided however, that seepage normally associated with oil filled electrical equipment occurring in substations or distribution facilities with restricted access and not causing a threat to waters of the state is not considered a continuing release. (3-20-97)

**b.** Contain Material. Make every reasonable effort to contain released dielectric oil in such a manner that it will not reach surface or ground water of the state. (3-20-97)

**c.** Department Notification Required. Notify the Department or designated agent within forty-eight (48) hours of discovery of any release over twenty-five (25) gallons, or any release causing a threat to waters of the state, from any piece of electrical equipment. (3-20-97)

**d.** Collect, Remove, and Dispose. Collect, remove, and dispose of the released dielectric oil and any contaminated media in a manner approved by the Department. (3-20-97)

**e.** Compliance with Section 852. If collection, removal, and disposal cannot be accomplished within thirty (30) days after discovery of a release, the persons in charge shall comply with Section 852. (3-20-97)

**02. Applicability.** This section applies only to equipment used in the transmission of electricity such as transformers, regulators, reactors, circuit breakers, switch gear and attendant equipment which is filled with mineral insulating oil of a petroleum origin. This section does not pertain to bulk storage of dielectric oil which is not contained in electrical equipment. (3-20-97)

**850. HAZARDOUS MATERIAL SPILLS.**

In the case of an unauthorized release of hazardous materials to state waters or to land such that there is a likelihood that it will enter state waters, the responsible persons in charge must: (7-1-93)

- 01. Stop Continuing Spills.** Make every reasonable effort to abate and stop a continuing spill.(7-1-93)
- 02. Contain Material.** Make every reasonable effort to contain spilled material in such a manner that it will not reach surface or groundwaters of the state. (7-1-93)
- 03. Department Notification Required.** Immediately notify the Department or designated agent of the spills. (7-1-93)
- 04. Collect, Remove and Dispose.** Collect, remove, and dispose of the spilled material in a manner approved by the Department. (7-1-93)

**851. PETROLEUM RELEASE REPORTING, INVESTIGATION, AND CONFIRMATION.**

**01. Reporting of Suspected Releases for All Petroleum Storage Tank Systems.** Owners and operators of petroleum storage tank (PST) systems shall report to the Department within twenty-four (24) hours and follow the procedures in Subsection 851.03 for any of the following conditions: (7-1-93)

**a.** The discovery by owners and operators or others of a petroleum release at the PST site or in the surrounding area other than spills and overfills described in Subsection 851.04, such as the presence of free product or dissolved product in nearby surface water or ground water or vapors in soils, basements, sewer or utility lines. (7-1-93)

**b.** Unusual operating conditions observed by owners and operators such as the erratic behavior of product dispensing equipment, the sudden loss of product from the PST system, or an unexplained presence of water in the PST system, unless system equipment is found to be defective but not leaking, and is immediately repaired or replaced. (7-1-93)

**c.** Monitoring results from a release detection method that indicate a release may have occurred unless: (7-1-93)

**i.** The monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result; or (7-1-93)

**ii.** In the case of inventory control, a second month of data does not confirm the initial result. (7-1-93)

**02. Investigation Due to Off-Site Impacts.** When required by the Department, owners and operators shall follow the procedures in Subsection 851.03 to determine if the PST system is the source of off-site impacts. These impacts include the discovery of petroleum, such as the presence of free product or dissolved product in nearby surface water or ground water or vapors in soils, basements, sewer and utility lines, that has been observed by the Department or brought to its attention by another party. (7-1-93)

**03. Release Investigation and Confirmation Steps.** Unless corrective action is initiated in accordance with Section 852, owners and operators shall immediately investigate and confirm all suspected releases of petroleum within seven (7) days, or another time period specified by the Department, of discovery and using at least one (1) of the following steps or another procedure approved by the Department: (7-1-93)

**a.** Owners and operators shall conduct tightness tests that determine whether a leak exists in any portion of the PST system, including the tank, the attached delivery piping, and any connected tanks and piping. All such portions shall be tested either separately or together or in combinations thereof, as required by the Department. (7-1-93)

**i.** Owners and operators shall repair, replace or upgrade the PST system in accordance with applicable federal, state and local laws, and begin corrective action in accordance with Section 852 if the test results

for the system, tank, or delivery piping indicate that a leak exists. (7-1-93)

ii. Further investigation is not required if the test results for the system, tank, and delivery piping do not indicate that a leak exists and if environmental contamination is not the basis for suspecting a release. (7-1-93)

iii. Owners and operators shall conduct a site check as described in Subsection 851.03.b. if the test results for the system, tank, and delivery piping do not indicate that a leak exists but environmental contamination is the basis for suspecting a release. (7-1-93)

b. Owners and operators shall measure for the presence of a release where contamination is most likely to be present. In selecting sample types, sample locations, and measurement methods, owners and operators shall consider the nature of the petroleum, the type of initial alarm or cause for suspicion, the type of backfill, the depth of ground water, and other factors appropriate for identifying the presence and source of the release. Methods of sample collection and sample analysis are subject to Department approval. (7-1-93)

i. If release has occurred, owners and operators shall begin corrective action in accordance with Section 852. (7-1-93)

ii. If test results for the PST system do not indicate that a release has occurred, further investigation is not required. (7-1-93)

**04. Reporting and Cleanup of Above Ground Spills and Overfills.** Owners and operators shall contain and immediately clean up an above ground spill or overflow of petroleum only after identifying and mitigating any fire, explosion and vapor hazards. (7-1-93)

a. An above ground spill or overflow of petroleum that results in a release that exceeds twenty-five (25) gallons or that causes a sheen on nearby surface water shall be reported to the Department within twenty-four (24) hours and owners and operators shall begin corrective action in accordance with Section 852. (7-1-93)

b. An above ground spill or overflow of petroleum that results in a release that is less than twenty-five (25) gallons and does not cause a sheen on nearby surface water shall be reported to the Department only if cleanup cannot be accomplished within twenty-four (24) hours. (7-1-93)

**852. PETROLEUM RELEASE RESPONSE AND CORRECTIVE ACTION.**

**01. Release Response.** Upon confirmation of a petroleum release in accordance with Section 851 or after a release from the PST system is identified in any other manner, owners and operators shall perform the following initial response actions within twenty-four (24) hours: (7-1-93)

a. Identify and mitigate fire, explosion and vapor hazards; (7-1-93)

b. Take immediate action to prevent any further release of petroleum into the environment; and (7-1-93)

c. Report the release to the Department. (7-1-93)

**02. Initial Abatement Measures.** Unless directed to do otherwise by the Department, owners and operators shall perform the following abatement measures: (7-1-93)

a. Remove as much of the petroleum from the leaking PST system as is necessary to prevent further release to the environment; (7-1-93)

b. Visually inspect any above ground releases or exposed below ground releases and prevent further migration of the released substance into surrounding soils, surface water and ground water; (7-1-93)

c. Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the PST site and entered into subsurface structures such as sewers or basements; (7-1-93)

d. Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement, or corrective action activities. If these remedies include treatment or disposal of soils, the owner and operator shall comply with applicable state and local requirements. (7-1-93)

**03. Initial Site Characterization.** Unless directed to do otherwise by the Department, owners and operators shall assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in Subsection 852.02. This information shall include, but is not necessarily limited to the following: (7-1-93)

a. Data on the nature and estimated quantity of release; (7-1-93)

b. Data from available sources and/or site investigations concerning the following factors: surrounding populations, water quality, use and approximate location of wells potentially affected by the release, subsurface soil condition, locations of subsurface sewers, climatological conditions and land use; and (7-1-93)

c. Data from measurements that assess the site for the presence of petroleum contamination including: (7-1-93)

i. Measurements for the presence of a release where contamination is most likely to be present, unless the presence and source of the release have been confirmed in accordance with the site check required by Subsection 851.03.b. or the closure site assessments required by applicable federal, state, or local laws. Sample types, sample locations and analytical methods are subject to Department approval and shall be based on consideration of the nature of the petroleum, the type of backfill, depth to ground water and other factors appropriate for identifying the presence and source of the release; and (7-1-93)

ii. Measurements to determine the presence of free product. (7-1-93)

d. Within forty-five (45) days of release confirmation, or another time specified by the Department, owners and operators shall submit the information collected in compliance with Subsection 852.03 to the Department in a manner that demonstrates its applicability and technical adequacy to be reviewed as follows: (7-1-93)

i. If the Department determines that the information shows that no further corrective action is required, owners and operators shall be notified accordingly. (7-1-93)

ii. If the Department determines that the information shows petroleum contamination is limited to soils, owners and operators shall treat or dispose of contaminated soils in accordance with Department guidelines, and need not perform any further corrective action. (7-1-93)

iii. If the Department determines that the information shows that any of the conditions in Subsections 852.05.a. through 852.05.c. exist, owners and operators shall comply with the requirements in Subsections 852.04 through 852.07. (7-1-93)

**04. Free Product Removal.** At sites where investigations under Subsection 852.03.c.ii. indicate the presence of free product, owners and operators shall remove free product to the maximum extent practicable as determined by the Department while continuing, as necessary, any actions initiated under Subsections 852.01 through 852.03 or preparing for actions required under Subsections 852.05 and 852.06. In meeting the requirements of Subsection 852.04, owners and operators shall: (7-1-93)

a. Conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated areas by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site, and that properly treats, discharges or disposes of recovery by-products in compliance with applicable local, state and federal regulations; (7-1-93)

b. Use abatement of free product migration as a minimum objective for the design of the free product removal system; (7-1-93)



- c. Handle any flammable products in a safe and competent manner to prevent fires or explosions; and (7-1-93)
  - d. Unless directed to do otherwise by the Department, prepare and submit to the Department for review and approval, within forty-five (45) days after confirming a release, a free product removal report that provides at least the following information: (7-1-93)
    - i. The name of the person(s) responsible for implementing the free product removal measures; (7-1-93)
    - ii. The estimated quantity, type and thickness of free product observed or measured in wells, boreholes, and excavations; (7-1-93)
    - iii. The type of free product recovery system used; (7-1-93)
    - iv. Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located; (7-1-93)
    - v. The type of treatment applied to, and the effluent quality expected from, any discharge; (7-1-93)
    - vi. The steps that have been or are being taken to obtain necessary permits for any discharge; and (7-1-93)
    - vii. The disposition of the recovered free product. (7-1-93)
- 05. Investigations for Soil and Water Cleanup.** If any of the conditions in Subsections 852.05.a. through 852.05.c. exist, and unless directed to do otherwise by the Department, owners and operators shall notify the Department and conduct investigations in accordance with Subsection 852.05.d. of the release, the release site, and the surrounding area possibly affected by the release in order to determine the full extent and location of soils contaminated by the petroleum release and the presence and concentrations of dissolved product contamination in the ground water or surface water: (7-1-93)
- a. There is evidence that ground water or surface water has been affected by the release such as found during release confirmation or previous corrective action measures; (7-1-93)
  - b. Free product is found to need recovery in compliance with Subsection 852.04; (7-1-93)
  - c. There is evidence that contaminated soils may affect nearby ground water, surface water or the public health and have not been treated or disposed of in accordance with Subsection 852.03.d.ii. (7-1-93)
  - d. Unless determined otherwise by the Department, investigations conducted under this Subsection, 852.05, shall include, but are not necessarily limited to the following: (7-1-93)
    - i. The physical and chemical characteristics of the petroleum product including its toxicity, persistence, and potential for migration; (7-1-93)
    - ii. The type and age of the PST system, inventory loss, and type of containment failure; (7-1-93)
    - iii. The hydrogeologic characteristics of the release site and the surrounding area; (7-1-93)
    - iv. The background concentrations of contaminants in soil, surface water and ground water; (7-1-93)
    - v. A site drawing, showing boring and monitoring well locations, nearby structures, under ground utilities, drainage ditches, streams, suspected locations of leakage, direction of ground water flow, and any domestic or irrigation wells within a one-fourth (1/4) mile radius of the site; (7-1-93)

- vi. Information on ownership and use of any well identified pursuant to Subsection 852.05.d.v.; (7-1-93)
- vii. Site borings and well logs and rationale for choosing drilling locations, and a description of methods and equipment used for all water and soil sampling; (7-1-93)
- viii. A description of contaminant stratigraphy with accompanying geologic cross-section drawings; (7-1-93)
- ix. A demonstration and description of the horizontal and vertical extent of contamination, free product thickness, modes and rate of contaminant transport, and concentrations of dissolved constituents in surface water and ground water; (7-1-93)
- x. The potential effects of residual contamination on nearby surface water and ground water; and (7-1-93)
- xi. A discussion of laboratory analytical methods and information pertaining to laboratory certification. (7-1-93)
- e. Owners and operators shall submit the information collected in investigating the release site in compliance with Subsection 852.05 for the Department's review and approval in accordance with a schedule established by the Department as provided in Subsection 852.07. (7-1-93)

**06. Corrective Action Plan.** At any point after reviewing the information submitted in compliance with Subsections 852.01 through 852.05, the Department may require owners and operators to submit additional information or to develop and submit a corrective action plan for responding to contaminated soils, surface water and ground water. If a plan is required, owners and operators shall submit the plan according to a schedule and criteria established by the Department as provided in Subsection 852.07. Alternatively, owners and operators may, after fulfilling the requirements of Subsections 852.01 through 852.05, choose to submit a corrective action plan for responding to contaminated soil, surface water and ground water. In either case, owners and operators are responsible for submitting a plan that provides for adequate protection of human health and the environment as determined by the Department, and shall modify their plan as necessary to meet the Department's standards. (7-1-93)

**a.** The Department will approve the corrective action plan only after ensuring that implementation of the plan will adequately protect human health and the environment. In making this determination, the Department should consider the following factors as appropriate: (7-1-93)

- i. The maximum contaminant levels for drinking water or other health-based levels for water and soil which consider the potential exposure pathway of the petroleum product; (3-18-94)
- ii. The physical and chemical characteristics of the petroleum product including its toxicity, persistence, and potential for migration; (7-1-93)
- iii. The hydrogeologic characteristics of the release site and the surrounding area; (7-1-93)
- iv. The proximity, quality, and current and future uses of nearby surface water and ground water; (7-1-93)
- v. The potential effects of residual contamination on nearby surface water and ground water; and (7-1-93)
- vi. Other information assembled in compliance with Section 851. (7-1-93)

**b.** Upon approval of the corrective action plan or as directed by the Department, owners and operators shall implement the plan including modification to the plan made by the Department. Owners and operators shall monitor, evaluate, and report the results of implementing the plan in accordance with a schedule and criteria established by the Department as provided in Subsection 852.07. (7-1-93)

c. Owners and operators may, in the interest of minimizing environmental contamination and promoting more effective cleanup, begin cleanup of soil, surface water, and ground water before the corrective action plan is approved provided that they: (7-1-93)

i. Notify the Department of their intention to begin cleanup; (7-1-93)

ii. Comply with any conditions imposed by the Department, including halting cleanup or mitigating adverse consequences from cleanup activities; and (7-1-93)

iii. Incorporate these self-initiated cleanup measures in the corrective action plan that is submitted to the Department for approval. (7-1-93)

**07. Compliance.** If the Department determines that any of the conditions in 852.05.a. through 852.05.c. exist, owners and operators shall be given an opportunity to enter into a consent order with the Department. (7-1-93)

a. The Department shall send owners and operators a consent order that sets forth at least the following: (7-1-93)

i. A schedule for owners and operators to submit the information collected in investigating the release site in compliance with Subsection 852.05. (7-1-93)

ii. A schedule for owners and operators to submit, and a criteria for, a corrective action plan in compliance with Subsection 852.06. (7-1-93)

iii. A schedule for the Department to review, modify, and approve the site release investigation and corrective action plan. (7-1-93)

iv. A schedule and criteria for owners and operators to implement a corrective action plan, and monitor, evaluate, and report the results of implementing the corrective action plan. (7-1-93)

b. Owners and operators shall be given thirty (30) days from receipt of the consent order in which to reach an agreement with the Department regarding the terms of the consent order. (7-1-93)

c. If owners and operators cannot reach an agreement with the Department within thirty (30) days, the Department shall establish a schedule and criteria with which owners and operators shall comply in order to meet the requirements of Subsections 852.05 and 852.06. (7-1-93)

**853. -- 999. (RESERVED)**

## 58.01.04 – RULES FOR ADMINISTRATION OF WASTEWATER TREATMENT FACILITY GRANTS

### 000. LEGAL AUTHORITY.

The Idaho Board of Environmental Quality, pursuant to authority granted in Chapters 1 and Chapter 36, Title 39, Idaho Code, adopted the following rules for the administration of a Wastewater Treatment Facility Grants Program in Idaho. (4-2-08)

### 001. TITLE AND SCOPE.

**01. Title.** These rules will be known and cited as Idaho Department of Environmental Quality Rules, IDAPA 58.01.04, “Rules for Administration of Wastewater Treatment Facility Grants.” (5-3-03)

**02. Scope.** The provisions of these rules will establish administrative procedures and requirements for establishing, implementing and administering a state grant program for providing financial assistance to qualifying entities to prepare a wastewater treatment facility planning document. (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. (5-3-03)

### 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.” (4-2-08)

### 004. INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED MATERIAL.

**01. Incorporation by Reference.** These rules do not contain documents incorporated by reference. (4-2-08)

**02. Availability of Referenced Material.** The “Wastewater Facilities Loan Handbook of Procedures” (Handbook) is available at the Idaho Department of Environmental Quality, Water Quality Division Loan Program, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502, [www.deq.idaho.gov](http://www.deq.idaho.gov). (4-2-08)

### 005. CONFIDENTIALITY.

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.” (4-2-08)

### 006. POLICY.

It is the policy of the Idaho Board of Environmental Quality through the Department of Environmental Quality to administer the Wastewater Treatment Facility Grant Program for the purpose of protecting and enhancing the quality and value of the water resources of the state of Idaho by financially assisting in the prevention, control and abatement of water pollution. It is also the intent of the Board to assign a priority rating to those projects which will most significantly improve the quality of the waters of the state and most adequately protect the public health. (5-3-03)

### 007. DEFINITIONS.

For the purpose of the rules contained in this chapter, the following definitions apply: (12-31-91)

**01. Applicant.** Any qualifying entity making application for wastewater treatment facility grant funds. (5-3-03)

**02. Board.** The Idaho Board of Environmental Quality. (4-2-08)

**03. Categorical Exclusion (CE).** Category of actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental information document nor an environmental impact statement is required. (4-2-08)

**04. Collector Sewer.** That portion of the wastewater treatment facility whose primary purpose is to receive sewage from individual residences and other individual public or private structures and which is intended to convey wastewater to an interceptor sewer or a treatment plant. (3-15-85)

**05. Department.** The Idaho Department of Environmental Quality. (1-3-78)

06. **Director.** The Director of the Idaho Department of Environmental Quality or the Director's designee. (4-2-08)
07. **Domestic Wastewater.** Wastewater derived from public or private residences, business buildings or institutions and similar establishments and which contains water and human body wastes, specifically excreta and urine, along with such products designed to come in contact with excreta and urine in the practice of personal hygiene. (3-15-85)
08. **Eligible Costs.** Costs which are necessary for planning, and/or designing wastewater treatment facilities. To be eligible, costs must also be reasonable and not ineligible costs. The determination of eligible costs shall be made by the Department pursuant to Section 041. (4-2-08)
09. **Environmental Impact Statement (EIS).** A document prepared by the applicant when the Department determines that the proposed wastewater project will significantly affect the environment. The major purpose of the EIS will be to describe fully the significant impacts of the project and how these impacts can be either avoided or mitigated. The Environmental Review Procedures contained in Chapter 5 of the Handbook may be used as guidance when preparing the EIS. (4-2-08)
10. **Environmental Information Document (EID).** Any written environmental assessment prepared by the applicant describing the environmental impacts of a proposed wastewater construction project. This document will be of sufficient scope to enable the Department to assess the environmental impacts of the proposed project and ultimately determine if an environmental impact statement (EIS) is warranted. (3-29-12)
11. **Finding of No Significant Impact (FONSI).** A document prepared by the Department presenting the reasons why an action, not otherwise excluded, will not have a significant effect on the human environment and for which an environmental impact statement (EIS) will not be prepared. It shall include the environmental information document or a summary of it and shall note any other environmental documents related to it. (3-29-12)
12. **Grant Recipient.** An applicant who has been awarded a grant. (3-29-12)
13. **Handbook.** "Wastewater Facilities Loan Handbook of Procedures." (5-3-03)
14. **Ineligible Costs.** Costs which are not eligible for funding pursuant to these rules. (3-29-12)
15. **Interceptor Sewer.** That portion of the wastewater treatment facility whose primary purpose is to transport domestic sewage or nondomestic wastewater from collector sewers to a treatment plant. (3-15-85)
16. **National Pollutant Discharge Elimination System.** Point source permitting program established pursuant to Section 402 of the federal Clean Water Act (33 U.S.C. Section 1342). (5-3-03)
17. **Nondomestic Wastewater.** Wastewaters originating primarily from industrial or commercial processes which carry little or no pollutants of human origin. (1-1-82)
18. **Operation and Maintenance Manual.** A guidance and training manual delineating the optimum operation and maintenance of the wastewater treatment facility or its components. (3-29-12)
19. **Person.** An individual, corporation, company, association, partnership, state agency, municipality, or federal agency (and includes officers, employees, and agents of any corporation, company, association, state agency, municipality, or federal agency). (4-2-08)
20. **Planning Document.** A document which describes the condition of a public wastewater system and presents a cost effective and environmentally sound alternative to achieve or maintain regulatory compliance. Engineering reports and facility plans are examples of such planning documents. The planning documents shall be prepared by or under the responsible charge of an Idaho licensed professional engineer and shall bear the imprint of the engineer's seal. Requirements for planning documents prepared using grant funds are provided in Section 030 of these rules and in the Handbook. (3-29-12)

21. **Point Source.** Any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be discharged. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (5-3-03)
22. **Pollutant.** 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 nuisance or render that environment harmful, detrimental, or injurious to public health, safety or welfare or to domestic, commercial, industrial, recreational, aesthetic or other beneficial uses. (3-15-85)
23. **Priority List.** A list of proposed projects rated by severity as described in Section 020. (5-3-03)
24. **Qualifying Entity.** Any county, city, special service district, nonprofit corporation, or other governmental entity, or a combination thereof, having authority to collect, treat or dispose of wastewater. (4-2-08)
25. **Rehabilitation.** The repair or replacement of limited segments of interceptor or collector sewers. (1-3-78)
26. **Reserve Capacity.** That portion of the treatment works that is designed and incorporated in the constructed facilities to handle future sewage flows and loadings. (1-1-82)
27. **Sewer Use Ordinance/Sewer Use Resolution.** An ordinance or resolution which requires new sewers and connections to be properly designed and constructed, prohibits extraneous sources of inflow and prohibits introduction of wastes into the sewer in an amount that endangers the public safety or the physical or operational integrity of the wastewater treatment facility. (4-2-08)
28. **State.** The state of Idaho. (3-15-85)
29. **Suspension.** An action by the Director to suspend a grant contract prior to project completion for a specified cause. Suspended contracts may be reinstated. (10-6-88)
30. **Sustainability.** Sustainability will include efforts for energy and water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement. (3-29-12)
31. **Termination.** An action by the Director to permanently terminate a grant contract prior to project completion for a specific cause. Terminated contracts will not be reinstated. (10-6-88)
32. **Treatment Plant.** That portion of the wastewater treatment facility whose primary purpose is to remove pollutants from domestic and nondomestic wastewater. (3-15-85)
33. **User Charge System.** A system of rates and service charges applicable to specific types of users, including any legal enforcement mechanism as may be required, and which provides sufficient reserves and/or revenues for debt retirement, operation and maintenance, and replacement of the wastewater treatment facility. (4-2-08)
34. **Wastewater.** A combination of the liquid and water-carried wastes from dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any groundwater, surface water and storm water that may be present; liquid and water that is physically, chemically, biologically, or rationally identifiable as containing excreta, urine, pollutants or domestic or commercial wastes; sewage. (3-15-85)
35. **Wastewater Treatment Facility.** Any facility, including land, equipment, furnishings and appurtenances thereof, for the purpose of collecting, treating, neutralizing or stabilizing wastewater and removing pollutants from wastewater including the treatment plant, collectors, interceptors, outfall and outlet sewers, pumping stations, sludge treatment and handling systems and land disposal systems. (10-6-88)

**008. -- 019. (RESERVED)**

**020. PRIORITY RATING SYSTEM.**

Projects are identified for placement on priority lists by surveying eligible entities directly on an annual basis. Information is also received from the Department and consulting engineers. Grant funds are awarded to projects based on priority ratings. Projects are rated by the Department on a standard priority rating form using public health, sustainability, and water quality criteria. (3-29-12)

**01. Purpose.** A priority rating system shall be utilized by the Department to annually allot available funds to water quality projects determined eligible for funding assistance in accordance with these rules. (3-29-12)

**02. Priority Rating.** The priority rating system shall be based on a numerical point system. Priority criteria shall contain the following points: (3-29-12)

**a.** Public health emergency or hazard certified by the Idaho Board of Environmental Quality, the Department, a District Health Department, or by a District Board of Health - one hundred fifty (150) points. (3-29-12)

**b.** Regulatory compliance issues (e.g., noncompliance and resulting legal actions relating to infrastructure deficiencies at a wastewater facility) – up to one hundred (100) points. (3-29-12)

**c.** Watershed restoration (e.g., implementation of best management practices or initiation of construction at wastewater collection and treatment facilities as part of an approved total maximum daily load plan, implementation of nonpoint source management actions in protection of a threatened water, or is part of a special water quality effort) – up to one hundred (100) points. (3-29-12)

**d.** Watershed protection from impacts (e.g., improvement of beneficial use(s) in a given water body, evidence of community support, or recognition of the special status of the affected water body) – up to one hundred (100) points. (3-29-12)

**e.** Preventing impacts to uses (nonpoint source pollution projects) – up to one hundred (100) points. (3-29-12)

**f.** Sustainability efforts (e.g., prospective efforts at energy conservation, water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement) – up to fifty (50) points. (3-29-12)

**g.** Affordability (current system user charges exceed state affordability guidelines) -- ten (10) points. (3-29-12)

**03. Rating Forms.** Rating criteria for Subsection 020.02 is set forth in a rating form that is available in the Handbook. (3-29-12)

**04. Priority List.** A list shall be developed from projects rated according to Subsection 020.02. Such list shall be submitted for public review and comment, and shall thereafter be submitted to the Board for approval. (3-29-12)

**a. Priority Reevaluation.** Whenever significant changes occur, which in the Department’s judgment would affect the basis for or the need for the planning project, a reevaluation of that priority rating will be conducted. (3-29-12)

**b. Priority Target Date.** An eligible applicant whose project is on the approved priority list, and for which funding is available, will be contacted by the Department and a target date for submission of a completed grant application will be established. (3-29-12)

**c. Project Bypass.** A project that does not or will not meet the project target date or a Department

schedule that allows for timely utilization of grant funds may be bypassed, substituting in its place the next highest ranking project(s) that are ready to proceed. An eligible applicant that is bypassed will be notified in writing of the reasons for being bypassed. (3-29-12)

**05. Amendment of Priority List.** The Director may amend the Priority List as set forth in Section 081 of these rules. (3-29-12)

**021. -- 029. (RESERVED)**

**030. PROJECT SCOPE AND FUNDING.**

Grant funds awarded under this program will be used entirely to prepare a wastewater treatment facility planning document. The planning document will identify the cost effective and environmentally sound alternative to achieve or maintain compliance with IDAPA 58.01.16, "Wastewater Rules," and the federal Clean Water Act, 33 U.S.C. Sections 1381 et seq. The planning document must be approved by the Department. (3-29-12)

**01. Planning Document.** (3-29-12)

**a.** A planning document shall include all items required by IDAPA 58.01.16, "Wastewater Rules," Subsection 411.03 or 410.04. Should the grant recipient proceed to construction using federal funds (e.g., a state revolving fund loan), then the items listed in Subsection 030.01.b. of these rules shall be required prior to construction. (3-29-12)

**b.** A planning document that is prepared anticipating the use of federal funds shall include an environmental review that will require the Department approval of both a draft and final planning document. (3-29-12)

**i.** The draft planning document shall include all items required by 58.01.16 "Wastewater Rules," Subsection 411.03 or 410.04, as well as the following: (3-29-12)

- (1) Description of existing conditions for the proposed project area; (4-2-08)
- (2) Description of future conditions for the proposed project area; (4-2-08)
- (3) Development and initial screening of alternatives; and (3-29-12)
- (4) Development of an environmental review specified by the Department as described in Section 042. (3-29-12)

**ii.** The final planning document shall include all items required of the draft planning document as well as the following: (3-29-12)

- (1) Final screening of principal alternatives and plan adoption; (4-2-08)
- (2) Selected plan description and implementation arrangements; (3-25-16)
- (3) Relevant engineering data supporting the final alternative; and (3-25-16)
- (4) Assessment of the cost and effectiveness, to the maximum extent practicable, of efficient water use, reuse, recapture and conservation, and energy conservation, with cost including construction, operation and maintenance, and replacement. (3-25-16)

**iii.** The grant recipient shall provide an opportunity for the public to comment on the draft planning document. The public comment period shall be held after alternatives have been developed and the Department has approved the draft planning document. The grant recipient shall provide written notice of the public comment period and hold at least one (1) public meeting within the jurisdiction of the grant recipient during the public comment period. At the public meeting, the draft planning document shall be presented by the grant recipient with an explanation of the alternatives identified. The cost effective and environmentally sound alternative selected shall



consider public comments received from those affected by the proposed project. After the public meeting and public comment period, the final alternative will be selected and the Environmental Information Document may be prepared. (3-29-12)

c. The draft and final planning document shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. (3-29-12)

d. The draft and final planning documents must be reviewed and approved by the Department. (3-29-12)

e. The planning period shall be twenty (20) years for all facilities except for conveyance systems which may be forty (40) years. (4-2-08)

**02. Limitation on Funding Assistance.** The maximum grant funding provided in a state planning grant award shall not exceed fifty percent (50%) of the total eligible costs for grants awarded. (4-2-08)

**031. -- 039. (RESERVED)**

**040. REVIEW AND EVALUATION OF GRANT APPLICATIONS.**

**01. Submission of Application.** Those eligible systems which received high priority ranking shall be invited to submit an application. The applicant shall submit to the Department, a completed application in a form as prescribed by the Department. (5-3-03)

**02. Application Requirements.** Applications shall contain the following documentation as applicable: (5-3-03)

a. An authorizing resolution passed by a majority of the governing body authorizing an elected official or officer of the qualifying entity to commit funding; and (5-3-03)

b. Contracts for engineering services or other technical services, and the description of costs and tasks set forth therein shall be in sufficient detail for the Department to determine whether the costs associated with the tasks are eligible costs pursuant to Section 041. (5-3-03)

c. Planning Document. Plan of study describing the work tasks to be performed in the planning document, a schedule for completion of the work tasks and an estimate of staff hours and costs to complete the work tasks. (3-29-12)

d. Design: (4-2-08)

i. Planning document; and (3-29-12)

ii. Intermunicipal service agreements between all qualifying entities within the scope of the project, if applicable. (4-2-08)

e. Justification for the engineering firm selected. An engineering firm selected by the applicant must at a minimum: (5-3-03)

i. Be procured through the selection guidelines and procedures prescribed under Section 67-2320, Idaho Code; and (5-3-03)

ii. Be a registered professional engineer currently licensed by the Idaho Board of Professional Engineers and Land Surveyors; and (5-3-03)

iii. Not be debarred or otherwise prevented from providing services under another federal or state financial assistance program; and (5-3-03)

iv. Be covered by professional liability insurance in accordance with Subsection 050.05.d. A certification of liability insurance shall be included in the application. (5-3-03)

f. A description of other costs, not included in the contracts for engineering or other technical services, for which the applicant seeks funding. The description of the costs and tasks for such costs must be in sufficient detail for the Department to determine whether the costs are eligible costs pursuant to Section 041. (5-3-03)

g. A demonstration that the obligation to pay the costs for which funding is requested, is the result or will be the result of the applicant's compliance with applicable competitive bidding requirements and requirements for professional service contracts, including without limitation, the requirements set forth in Sections 67-2801 et seq., 67-2320, 59-1026, and 42-3212, Idaho Code. (4-2-08)

h. A statement regarding how the non-grant portion of the project will be funded. (5-3-03)

**03. Determination of Completeness of Application.** Applications will be reviewed to determine whether they contain all of the information required by Subsection 040.02. (5-3-03)

**04. Notification of Incompleteness of Application.** Written notification if an application is incomplete, including an explanation of missing documentation, will be sent to the applicant. The applicant may provide the missing documentation. (5-3-03)

**05. Reapplication for Grant.** The action of disapproving, recalling or terminating a grant in no way precludes or limits the former applicant from reapplying for another grant when project deficiencies are resolved and project readiness is secured, provided the applicant remains on the approved priority list. (10-6-88)

**041. DETERMINATION OF ELIGIBILITY OF COSTS.**

The Department shall review the application, including any contracts required to be submitted with the application, to determine whether the costs are eligible costs for funding. (5-3-03)

**01. Eligible Costs.** Eligible costs are those determined by the Department to be: (5-3-03)

a. Necessary costs; (3-29-12)

b. Reasonable costs; and (3-29-12)

c. Costs that are not ineligible as described in Subsection 041.05. (4-2-08)

**02. Necessary Costs.** The Department shall determine whether costs are necessary by comparing the tasks for which the costs will be incurred to the scope of the project as described in the plan of study for facility planning, the planning document for design of wastewater treatment facilities, and any other relevant information in the application that describes the scope of the project to be funded. (3-29-12)

**03. Reasonable Costs.** Costs shall be determined by the Department to be reasonable if the obligation to pay the costs is the result of or will be the result of the applicant's compliance with applicable competitive bidding requirements and requirements for professional service contracts, including without limitation, the requirements set forth in Sections 67-2801 et seq., 67-2320, 59-1026, and 42-3212, Idaho Code. (4-2-08)

**04. Examples of Costs That May Be Eligible.** Examples of costs that may be eligible, if determined necessary, reasonable and not ineligible costs include: (5-3-03)

a. Costs of salaries, benefits, and expendable material the qualified entity incurs in the project except ordinary operating expenses such as salaries and expenses of a mayor, city council members or a city attorney; (4-2-08)

b. Contracts for professional and consulting services; (4-2-08)

- c. Planning directly related to the water pollution control projects; (5-3-03)
  - d. Sewer system evaluations; (5-3-03)
  - e. Financial and management capability analysis; (5-3-03)
  - f. Preparation of construction drawings, specifications, estimates, and construction contract documents; (5-3-03)
  - g. Public participation for alternative selection; (5-3-03)
  - h. Development of user charge and financial management systems; (5-3-03)
  - i. Development of sewer use ordinance or resolution; (4-2-08)
  - j. Staffing plans and budget development; (5-3-03)
  - k. Certain direct and other costs as determined eligible by the Department; (5-3-03)
  - l. Costs of complying with the federal Clean Water Act, 33 U.S.C Sections 1251 et seq., loan requirements applied to specific projects; and (4-2-08)
  - m. Site acquisition services which could include legal fees, appraisals and surveys for land associated with the cost-effective alternative in the report and for purchase from a willing seller. (3-29-12)
- 05. Ineligible Project Costs.** Costs which are ineligible for funding include, but are not limited to: (5-3-03)
- a. Basin or area wide planning not directly related to the project; (5-3-03)
  - b. Personal injury compensation or damages arising out of the project; (5-3-03)
  - c. Fines or penalties due to violations of, or failure to comply with, federal, state, or local laws; (5-3-03)
  - d. Costs outside the scope of the approved project; (5-3-03)
  - e. Ordinary operating expenses such as salaries and expenses of a mayor, city council members, city attorney, or district personnel costs and acquiring project funding; and (4-2-08)
  - f. Cost of refinancing existing indebtedness. (5-3-03)
  - g. Costs incurred prior to award of the grant unless specifically approved in writing as eligible pre-award costs by the Department. (3-29-12)
- 06. Notification Regarding Eligible Costs.** Prior to providing a grant offer, the Department shall notify the applicant that certain costs are not eligible for funding and the reasons for the Department's determination. If such costs are included in the engineering contract, the Department shall also provide notification to the engineer. The applicant may provide the Department additional information in response to the notice. (5-3-03)
- 07. Eligible Costs and the Grant Offer.** The grant offer shall reflect those costs determined by the Department to be eligible costs. The grant offer, however, may include estimates of some eligible costs that have not yet been set. Actual eligible costs may differ from such estimated costs set forth in the grant offer. In addition, grant disbursements may be increased or decreased if eligible costs are modified as provided in Section 060. (4-2-08)

**042. ENVIRONMENTAL REVIEW.**

**01. Environmental Documentation.** The grant recipient may complete an environmental review as part of and in conjunction with a planning document. Guidance on how to complete an environmental review may be found in Chapter 5 of the Handbook. If the grant recipient prepares an environmental review, then the Department shall be consulted at an early stage in the preparation of the planning document to determine the required level of environmental review. Based on review of existing information and assessment of environmental impacts, the grant recipient may complete one (1) of the following: (3-29-12)

**a.** Submit a request for Categorical Exclusion (CE) with supporting backup documentation as specified by the Department; (4-2-08)

**b.** Prepare an Environmental Information Document (EID) in a format specified by the Department; (4-2-08)

or

**c.** Prepare an Environmental Impact Statement (EIS) in a format specified by the Department. (4-2-08)

**02. Categorical Exclusion.** If the grant recipient requests a CE, the Department shall review the request and, based upon the supporting documentation, take one (1) of the following actions: (3-29-12)

**a.** Determine if an action is consistent with categories eligible for exclusion whereupon the Department shall issue a notice of CE from further substantive environmental review. Once the CE is granted for the selected alternative, the Department shall publish a notice of CE in a local newspaper, following which the planning document can be approved; or (3-29-12)

**b.** Determine if the action is not consistent with categories eligible for exclusion and that issuance of a CE is not appropriate. If issuance of a CE is not appropriate, the Department shall notify the grant recipient of the need to prepare an EID. (3-29-12)

**03. Environmental Information Document Requirements.** When an EID is required, the grant recipient shall prepare the EID in accordance with the following Department procedures: (3-29-12)

**a.** Various laws and executive orders related to environmentally sensitive resources shall be considered as the EID is prepared. Appropriate state and federal agencies shall be consulted regarding these laws and executive orders. (4-2-08)

**b.** A full range of relevant impacts, both direct and indirect, of the proposed project shall be discussed in the EID, including measures to mitigate adverse impacts, cumulative impacts, and impacts that shall cause irreversible or irretrievable commitment of resources. (4-2-08)

**c.** The Department shall review the draft EID and either request additional information about one (1) or more potential impacts, or draft a “finding of no significant impact” (FONSI). (4-2-08)

**04. Final Finding of No Significant Impact.** The Department shall publish the draft FONSI in a newspaper of general circulation in the geographical area of the proposed project and shall allow a minimum thirty (30) day public comment period. Following the required period of public review and comment, and after any public concerns about project impacts are addressed, the FONSI shall become final. The Department shall assess the effectiveness and feasibility of mitigation measures identified in the FONSI and EID prior to the issuance of the final FONSI and approval of the planning document. (3-29-12)

**05. Environmental Impact Statement (EIS) Requirements.** If an EIS is required, the grant recipient shall: (3-29-12)

**a.** Contact all affected state agencies, and other interested parties, to determine the required scope of the document; (4-2-08)

**b.** Prepare and submit a draft EIS to all interested agencies, and other interested parties, for review and comment; (4-2-08)

c. Conduct a public meeting which may be held in conjunction with a planning document meeting;  
and (3-29-12)

d. Prepare and submit a final EIS incorporating all agency and public input for Department review  
and approval. (4-2-08)

**06. Final EIS.** Upon completion of the EIS by the grant recipient and approval by the Department of all requirements listed in Subsection 042.05, the Department shall issue a record of decision, documenting the mitigative measures which shall be required of the grant recipient. The planning document can be completed once the final EIS has been approved by the Department. (3-29-12)

**07. Use of Environmental Reviews Conducted by Other Agencies.** If an environmental review for the project has been conducted by another state, federal, or local agency, the Department may, at its discretion, issue its own determination by adopting the document and public notification process of the other agency. (4-2-08)

**08. Validity of Review.** Environmental reviews, once completed by the Department, are valid for five (5) years from the date of completion. If a grant application is received for a project with an environmental review which is more than five (5) years old, the Department shall reevaluate the project, environmental conditions, and public comments and shall: (3-29-12)

a. Reaffirm the earlier decision; or (5-3-03)

b. Require supplemental information to the earlier Environmental Impact Statement, Environmental Information Document, or request for Categorical Exclusion. Based upon a review of the updated document, the Department shall issue and distribute a revised notice of Categorical Exclusion, finding of no significant impact, or record of decision. (5-3-03)

**043. -- 049. (RESERVED)**

**050. GRANT OFFER AND ACCEPTANCE.**

**01. Grant Offer.** Grant offers will be delivered to successful applicants by representatives of the Department or by registered mail. (3-15-85)

**02. Acceptance of Grant Offer.** Applicants have sixty (60) days in which to officially accept the grant offer on prescribed forms furnished by the State. The sixty (60) day acceptance period commences from the date indicated on the grant offer notice. If the applicant does not accept the grant offer within the sixty (60) day period the grant funds may be offered to the next project of priority. (4-2-08)

**03. Acceptance Executed as a Contract Agreement.** Upon signature by the Director or the Director's designee as the grantor, and upon signature by the authorized representative of the qualifying entity, as the grant recipient, the grant offer shall become a grant contract agreement. The disbursement of funds pursuant to an agreement is subject to a finding by the Director that the grant recipient has complied with all agreement conditions and has prudently managed the project. The Director may, as a condition of payment, require that a grant recipient vigorously pursue any claims it has against third parties who will be paid in whole or in part, directly or indirectly, with grant funds or transfer its claim against such third parties to the Department. Grant contract agreements shall be interpreted according to the law of grants in aid. No third party shall acquire any rights against the State or its employees from a grant contract agreement. (3-29-12)

**04. Estimate of Reasonable Cost.** Each grant project contract will include the eligible cost of the project. Some eligible costs may be estimated and the grant payments may be increased or decreased as provided in Section 060. (5-3-03)

**05. Terms of Agreement.** The grant offer shall contain terms of agreement as prescribed by the Department including, but not limited to: (3-15-85)

- a. Terms consistent with these rules and consistent with the scope of the grant project; and (3-29-12)
- b. Special clauses as determined necessary by the Department for the successful investigation, design, and management of the project; and (4-2-08)
- c. Terms consistent with applicable state and federal laws pertaining to planning documents, and design; and (3-29-12)
- d. Requirement for the prime engineering firm(s) retained for engineering services to carry professional liability insurance to protect the public from the engineer's negligent acts and errors of omission of a professional nature. The total aggregate of the engineer's professional liability shall be one hundred thousand dollars (\$100,000) or twice the amount of the engineer's fee, whichever is greater. Professional liability insurance must cover all such services rendered for all project steps, whether or not such services or steps are state funded, until the certification of project performance is accepted by the Department. (4-2-08)
- e. The project documents shall be in accordance with the current edition of Idaho Standards for Public Works Construction (ISPWC) unless the grant recipient otherwise has approved and adopted acceptable public works construction standards approved by the Department. (3-29-12)

**051. -- 059. (RESERVED)**

**060. PAYMENTS.**

- 01. Payments for State Grants.** Requests for payment will be submitted to the Department on a form provided by the Department. The Department will pay for those costs that are determined to be eligible. (5-3-03)
- 02. Limitations on Advance Payments.** Advanced payment will not be made on a project unless a written request from the grant recipient for a waiver is approved by the Board. (3-29-12)
- 03. Grant Increases.** Grant amendment increase requests as a result of an increase in eligible project costs will be considered, provided funds are available. Documentation and justification supporting the unavoidable need for a grant increase must be submitted to the Department for approval prior to incurring any costs above the approved eligible cost ceiling. (3-15-85)
- 04. Increases for Bid Underestimates.** Increases for bid underestimates may be considered for grant increase; however, errors of omission or engineering consultant errors will not be considered. (10-6-88)
- 05. Grant Decreases.** If the actual eligible cost is determined to be lower than the estimated eligible cost the grant amount will be reduced proportionately. (3-15-85)
- 06. Final Project Review to Determine Actual Eligible Costs.** The Department may conduct a final project review to determine the actual eligible costs. The financial records of the grant recipient may be reviewed by the Department. (3-29-12)
- 07. Final Payment.** The final payment consisting of five percent (5%) of the total state grant will not be made until the requirements contained in the grant agreement have been satisfied. (3-29-12)

**061. -- 079. (RESERVED)**

**080. SUSPENSION OR TERMINATION OF GRANT.**

- 01. Causes.** The Director may suspend or terminate any grant for failure by the grantee or its agents, including its engineering firm(s), contractor(s) or subcontractor(s) to perform. A grant may be suspended or terminated for good cause including, but not limited to, the following: (5-3-03)
  - a. Commission of fraud, embezzlement, theft, forgery, bribery, misrepresentation, conversion, malpractice, misconduct, malfeasance, misfeasance, falsification or unlawful destruction of records, or receipt of

stolen property, or any form of tortious conduct; or (3-15-85)

**b.** Commission of any crime for which the maximum sentence includes the possibility of one (1) or more years imprisonment or any crime involving or affecting the project; or (3-6-85)

**c.** Violation(s) of any term of agreement of the grant offer or contract agreement; or (3-15-85)

**d.** Any willful or serious failure to perform within the scope of the project; or (4-2-08)

**e.** Debarment of a contractor or subcontractor for good cause by any federal or state agency from working on public work projects funded by that agency. (3-15-85)

**02. Notice.** The Director will notify the grantee in writing and by certified mail of the intent to suspend or terminate the grant. The notice of intent shall state: (3-15-85)

**a.** Specific acts or omissions which form the basis for suspension or termination; and (3-15-85)

**b.** That the grantee may be entitled to appeal the suspension or termination pursuant to IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality.” (3-15-02)

**03. Determination.** A determination will be made by the Board pursuant to IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality.” (3-15-02)

**04. Reinstatement of Suspended Grant.** Upon written request by the grantee and evidence that the causes(s) for suspension no longer exist, the Director may, if funds are available reinstate the grant. (3-15-85)

**05. Reinstatement of Terminated Grant.** No terminated grant shall be reinstated. (3-15-85)

**081. WAIVERS.**

Waivers from the requirements of these rules may be granted by the Department on a case-by-case basis upon full demonstration by the entity requesting the waiver that: (10-6-88)

**01. Public Health Hazard.** A significant public health hazard exists; or (10-6-88)

**02. Groundwater Contamination.** A significant groundwater contamination problem exists; or (10-6-88)

**03. Point Source Pollution.** A significant point source of pollution exists, causing a violation of the Idaho Department of Environmental Quality rules, IDAPA 58.01.02, “Water Quality Standards.” (4-2-08)

**082. -- 999. (RESERVED)**

**58.01.10 – RULES REGULATING THE DISPOSAL OF RADIOACTIVE MATERIALS NOT REGULATED UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED**

**000. LEGAL AUTHORITY.**

The Idaho Legislature has given the Board of Environmental Quality the authority to promulgate these rules pursuant to Section 39-4405, Idaho Code. (3-15-02)

**001. TITLE AND SCOPE.**

**01. Title.** These rules are titled IDAPA 58.01.10, “Rules Regulating the Disposal of Radioactive Materials Not Regulated Under the Atomic Energy Act of 1954, As Amended.” (3-15-02)

**02. Scope.** These rules regulate the disposal of radioactive materials not regulated under the Atomic Energy Act of 1954, As Amended, at facilities permitted and subject to the requirements of the Idaho Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code, and the Idaho Hazardous Waste Facility Siting Act, Chapter 58, Title 39, Idaho Code. These rules do not regulate NORM or TENORM waste from the production of elemental phosphorus or from the production of phosphate fertilizers, which includes the production of wet and purified phosphoric acid. These rules also place restrictions on disposal of certain radioactive materials at municipal solid waste landfills and identify other approved disposal options for radioactive materials. (3-15-02)

**002. WRITTEN INTERPRETATIONS.**

Any written statements pertaining to the interpretation of these rules shall be available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255. (3-15-02)

**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. INCORPORATION BY REFERENCE.**

**01. General.** Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 004.02 shall constitute the full adoption by 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. (3-15-02)

**02. Documents Incorporated by Reference.** The following documents are incorporated by reference into these rules: (3-15-02)

- a. [10 CFR 30.14 through 30.15](#), revised as of January 1, 2014. (4-11-15)
- b. [10 CFR 30.18 through 30.21](#), revised as of January 1, 2014. (4-11-15)
- c. [10 CFR 32.11](#), revised as of January 1, 2014. (4-11-15)
- d. [10 CFR 32.18](#), revised as of January 1, 2014. (4-11-15)
- e. [10 CFR 40.13](#), revised as of January 1, 2014. (4-11-15)

**03. Availability of Referenced Material.** Copies of the documents incorporated by reference into these rules are available at the following locations: (3-15-02)

- a. Department of Environmental Quality, 1410 N. Hilton, Boise ID 83706-1255. (3-15-02)
- b. Idaho State Law Library, 451 W. State Street, P.O. Box 83720, Boise ID 83720-0051. (3-15-02)
- c. U.S. Government Printing Office, [www.ecfr.gov](http://www.ecfr.gov). (4-2-08)

**005. OFFICE – 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. (3-15-02)

**006. -- 009. (RESERVED)**



**010. DEFINITIONS.**

- 01. Accelerator-Produced Radioactive Material.** Any material made radioactive by a particle accelerator. (3-29-12)
- 02. Board.** The Idaho Board of Environmental Quality. (3-15-02)
- 03. Byproduct Material.** Byproduct Material means: (3-15-02)
- a.** Any radioactive material (except special nuclear material) yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or utilizing special nuclear material; and (3-15-02)
- b.** The tailings or waste produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content. (3-15-02)
- c.** Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or any material that: (3-29-12)
- i.** Has been made radioactive by use of a particle accelerator; and (3-29-12)
- ii.** Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and (3-29-12)
- d.** Any discrete source of naturally occurring radioactive material, other than source material, that: (3-29-12)
- i.** The U.S. Nuclear Regulatory Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium- 226 to the public health and safety or the common defense and security; and (3-29-12)
- ii.** Before, on, or after August 8, 2005, is extracted for use in a commercial, medical, or research activity. (3-29-12)
- 04. Department.** The Idaho Department of Environmental Quality. (3-15-02)
- 05. Exempt Quantities and Concentrations of Byproduct Materials.** Radioactive materials defined as exempt byproduct materials by the U.S. Nuclear Regulatory Commission (10 CFR 30.14 through 30.15, 10 CFR 30.18 through 30.21, 10 CFR 32.11 and 10 CFR 32.18). (3-29-12)
- 06. Naturally Occurring Radioactive Material (NORM).** Any material containing natural radionuclides at natural background concentrations, where human intervention has not concentrated the naturally occurring radioactive material or altered its potential for causing human exposure. NORM does not include source, byproduct or special nuclear material licensed by the U.S. Nuclear Regulatory Commission under the Atomic Energy Act of 1954. (3-15-02)
- 07. Operator.** Any person(s) currently responsible, or responsible at the time of disposal, for the overall operation of a hazardous waste treatment, storage or disposal facility or part of a hazardous waste treatment, storage or disposal site. (3-15-02)
- 08. Owner.** Any person(s) who currently owns, or owned at the time of disposal, a hazardous waste treatment, storage or disposal facility or part of a hazardous waste treatment, storage or disposal site. (3-15-02)
- 09. Person.** Any individual, association, partnership, firm, joint stock company, trust, political subdivision, public or private corporation, state or federal government department, agency, or instrumentality, municipality, industry, or any other legal entity which is recognized by law as the subject of rights and duties. (3-15-02)

- 10. Radioactive Material.** Radioactive Material includes: (3-15-02)
- a.** Technologically Enhanced Naturally Occurring Radioactive Material; (3-15-02)
  - b.** Byproduct material authorized for disposal pursuant to 10 CFR 20.2008(b); (3-29-12)
  - c.** Exempt Quantities and Concentrations of Byproduct Materials; (4-2-08)
  - d.** Unimportant Quantities of Source Material; and (4-2-08)
  - e.** Any other byproduct, source material, or special nuclear material or devices or equipment utilizing such material, which has been exempted or released from radiological control or regulation under the Atomic Energy Act of 1954, as amended, to be disposed of in a commercial hazardous waste facility as regulated pursuant to the rules, permit requirements, and acceptance criteria provided for by Chapter 44, Title 39, Idaho Code. (4-11-15)
- 11. Reasonably Maximally Exposed Individual.** That individual or group of individuals who by reason of location has been determined, through the use of environmental transport modeling and dose calculation, to receive the highest total effective dose equivalent from radiation emitted from the site and/or radioactive material transported off-site. (3-15-02)
- 12. Source Material.** Source material means: (3-15-02)
- a.** Uranium or thorium, or any combination thereof, in any physical or chemical form; or (3-15-02)
  - b.** Ores which contain by weight one-twentieth of one percent (0.05%) or more of: (3-15-02)
    - i.** Uranium; (3-15-02)
    - ii.** Thorium; or (3-15-02)
    - iii.** Any combination thereof. (3-15-02)
  - c.** Source material does not include special nuclear material. (3-15-02)
- 13. Special Nuclear Material.** Special Nuclear Material means: (3-15-02)
- a.** Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the U.S. Nuclear Regulatory Commission determines to be special nuclear material. (3-15-02)
  - b.** Any material artificially enriched by any of the material listed in Subsection 010.12.a. (3-15-02)
- 14. Technologically Enhanced Naturally Occurring Radioactive Material (TENORM).** Any naturally occurring radioactive materials not subject to regulation under the Atomic Energy Act whose radionuclide concentrations or potential for human exposure have been increased above levels encountered in the natural state by human activities. TENORM does not include source, byproduct or special nuclear material licensed by the U.S. Nuclear Regulatory Commission under the Atomic Energy Act of 1954. (3-15-02)
- 15. Unimportant Quantities of Source Material.** Radioactive materials defined as unimportant quantities of source materials by the U.S. Nuclear Regulatory Commission (10 CFR 40.13). (3-15-02)

**011. -- 018. (RESERVED)**

**019. NOTIFICATION OF RADIOACTIVE MATERIALS.**

Any person with knowledge of the transfer, or proposed transfer, of radioactive materials for disposal to any location other than a location authorized by Section 020 to receive radioactive materials for disposal shall notify the Department of the transfer as soon as the transfer takes place or as soon as the person learns of the transfer, or proposed transfer, whichever is sooner. (3-20-04)

**020. RADIATION PROTECTION STANDARDS.**

**01. General Protection Standards.** (3-15-02)

**a.** All owners and operators shall conduct operations in a manner consistent with radiation protection standards contained in 10 CFR 20; (3-15-02)

**b.** No owner or operator shall conduct operations, create, use or transfer radioactive materials in a manner such that any member of the public will receive an annual Total Effective Dose Equivalent (TEDE) in excess of one hundred (100) millirem per year (1 milliseivert/year); and (3-15-02)

**c.** No person shall release radioactive materials for unrestricted use in such a manner that the reasonably maximally exposed individual will receive an annual TEDE in excess of fifteen (15) millirem per year (fifteen one-hundredths (0.15) milliseivert/year) excluding natural background. (3-15-02)

**02. Protection of Workers During Operations.** All owners and operators shall conduct operations in a manner consistent with radiation protection standards for occupation workers contained in 10 CFR 20. (3-15-02)

**03. Disposal of Radioactive Material.** No person, owner, or operator shall dispose of radioactive materials by any method other than: (3-15-02)

**a.** At a permitted treatment, storage or disposal facility under the authority of the Idaho Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code, provided that the facility owner or operator complies with each of the following: (3-15-02)

i. Department-approved waste acceptance criteria for radioactive material defined in Section 010; (3-15-02)

ii. A Department-approved closure program that provides reasonable assurance that the radon emanation rate from the closed disposal unit will not exceed twenty (20) picocuries per square meter per second averaged across the entire area of the closed disposal unit and meets the requirements in Subsection 020.01.b.; and (3-15-02)

iii. A Department-approved environmental monitoring program that monitors air, ground water, surface water and soil for radionuclides and ambient radiation levels in the environs of the facility and which demonstrates that no member of the general public is likely to exceed a radiation dose of one hundred (100) millirem (one (1) milliseivert) per year from operations conducted at the site. (3-15-02)

**b.** By transferring wastes for disposal to a facility licensed under requirements for uranium or thorium byproduct materials in either 40 CFR 192 or 10 CFR 40 Appendix A; (3-15-02)

**c.** By transferring wastes for disposal to a disposal facility licensed by the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state; or (3-15-02)

**d.** In accordance with alternate methods authorized by the Department upon application or upon the Department's initiative, consistent with Section 020.01 and all applicable state statutes and regulations. (3-15-02)

**04. Prohibit Disposal at a Municipal Solid Waste Landfill.** No person shall dispose of radioactive material as defined in these rules at a municipal solid waste landfill, except for individual consumer products containing radioactive material. (3-15-02)

**021. -- 029. (RESERVED)**

**030. RECORDS.**

Records of disposal, including manifest, shall be maintained for three (3) years in accordance with 40 CFR 262.40 and 40 CFR 262.23. (3-15-02)

**031. -- 039. (RESERVED)**

**040. VIOLATIONS.**

**01. Failure to Comply.** Failure by any person, owner, or operator to comply with the provisions of these rules shall be deemed a violation of these rules. (3-15-02)

**02. Falsification of Statements and Records.** It shall be a violation of these rules for any person, owner, or operator to knowingly make a false statement, representation, or certification in any document or record developed, maintained, or submitted pursuant to these rules. (3-15-02)

**03. Penalties.** Any person violating any provision of these rules or order issued thereunder shall be liable for civil penalty in accordance with Chapter 44, Title 39, Idaho Code. (3-15-02)

**041. -- 999. (RESERVED)**

## 58.01.16 – WASTEWATER RULES

### 000. LEGAL AUTHORITY.

Under Chapters 1 and 36, Title 39, Idaho Code, the Idaho Legislature has granted the Board of Environmental Quality the authority to promulgate these rules. (4-11-06)

### 001. TITLE AND SCOPE.

01. **Title.** These rules are titled IDAPA 58.01.16, “Wastewater Rules.” (4-11-06)

02. **Scope.** These rules establish the procedures and requirements for the planning, design and operation of wastewater facilities and the discharge of wastewaters and human activities which may adversely affect public health and water quality in the waters of the state. (4-11-06)

### 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. (4-11-06)

### 003. ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality.” (4-11-06)

### 004. INCORPORATION BY REFERENCE.

Sections 401.2.9, 401.3.4 and 401.3.6, 501.3.4, and 505.3.3 of “Idaho Standards for Public Works Construction,” 2007 Edition, are incorporated by reference into these rules. These documents are available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502 or can be purchased for a fee from the Local Highway Technical Assistance Council (LHTAC) at LHTAC, 3330 Grace Street, Boise, ID, 83703, (208) 344-0565. (5-8-09)

### 005. 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 a.m. to 5 p.m. Monday through Friday. (4-11-06)

### 006. 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 Idaho Department of Environmental Quality.” (4-11-06)

### 007. USE OF GUIDANCE IN DESIGN AND REVIEW.

Guidance documents are to be used to assist both designers and reviewers in determining a reasonable way to achieve compliance with the rules. Nothing in these rules makes the use of a particular guidance or guidance document mandatory. If the plans and specifications comply with applicable facility and design standards as set out in these rules, Section 39-118, Idaho Code, requires that the Department not substitute its judgment for that of the design engineer concerning the manner of compliance. If the design engineer needs assistance as to how to comply with a particular rule, the design engineer may use the referenced guidance documents listed in Section 008 for that assistance. However, the design engineer may also use other guidance or provide documentation to substantiate his or her own professional judgment. (5-8-09)

### 008. REFERENCED MATERIAL.

01. **“Recommended Standards for Wastewater Facilities.”** A Report of the Wastewater Committee of the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers. This document is available through Health Education Services at <http://www.healthresearch.org/store>. (3-30-07)

02. **Memorandum of Understanding.** The Memorandum of Understanding between the Idaho Department of Environmental Quality and the Idaho Division of Building Safety Plumbing Bureau provides assistance in determining jurisdiction over water and sewer service lines. Copies of the document are available at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, on the DEQ website at <http://www.deq.idaho.gov>. (3-30-07)

- 03. “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. (3-30-07)
- 04. Water Environment Federation (WEF) Manuals of Practice.** Water Environment Federation, 601 Wythe Street, Alexandria, VA, 22314-1994, 1-800-666-0206, <http://www.wef.org>. (3-30-07)
- 05. American Society of Civil Engineers (ASCE) Manuals and Reports on Engineering Practices.** American Society of Civil Engineers, 1801 Alexander Bell Drive, Reston, VA 20191, 800-548-2723, <http://www.asce.org>. (3-30-07)
- 06. “Design Criteria for Mechanical, Electric, and Fluid System and Component Reliability.”** U.S. EPA (EPA-430-99-74-001), <http://www.epa.gov>. (3-30-07)
- 07. American National Standard Institute/Hydraulic Institute ANSI/HI 9.8, American National Standard for Centrifugal and Vertical Pump Intake Design.** 1819 L Street NW Suite 600, Washington, DC 20036, (202) 293-8020, [www.ansi.org](http://www.ansi.org). (3-30-07)
- 08. The Compressed Gas Association Publication CGA G-3-1995, “Sulfur Dioxide.”** (3-30-07)
- 09. “Wastewater Engineering, Treatment and Reuse,” Metcalf and Eddy.** (3-30-07)
- 10. “Ultraviolet Disinfection Guidelines for Drinking Water and Water Reuse,”** National Water Research Institute/American Water Works Association (AWWA) Research Foundation, 6666 West Quincy Avenue, Denver, CO 80235, (800)926-7337, <http://www.awwa.org>. (3-30-07)
- 11. Pumping Station Design - Third Edition 2006.** Garr M. Jones. Elsevier Publications. (3-30-07)
- 12. Plan and Specification Dispute Resolution Policy.** PM05-2: Plan and Specification Review Dispute Resolution Advisory Panel for Engineering Disputes can be found on the DEQ website at <http://www.deq.idaho.gov>. (3-30-07)
- 13. Nutrient-Pathogen Evaluation Program for On-Site Wastewater Treatment Systems.** Nutrient-Pathogen Evaluation Program for On-Site Wastewater Treatment Systems can be found on the DEQ website at <http://www.deq.idaho.gov>. (3-30-07)
- 14. Guidance for Reclamation and Reuse of Municipal and Industrial Wastewater.** The Guidance for Reclamation and Reuse of Municipal and Industrial Wastewater can be found on the DEQ website at <http://www.deq.idaho.gov>. (3-30-07)
- 009. LAWS AND CODES OUTSIDE OF THESE RULES.**  
Compliance with the following laws and codes are not required by these rules, but may be required by other regulatory entities. (3-30-07)
- 01. International Building Code.** (3-30-07)
- 02. Uniform Plumbing Code.** (3-30-07)
- 03. National Fire Protection Association Code (NFPA).** (3-30-07)
- 04. Requirements of National Institute for Occupational Safety and Health (NIOSH).** (3-30-07)
- 05. Requirements of the Occupational Safety and Health Administration (OSHA).** (3-30-07)
- 06. National Electrical Code.** (3-30-07)

**07. International Fire Code.** (3-30-07)

**010. DEFINITIONS.**

For the purpose of the rules contained in IDAPA 58.01.16, "Wastewater Rules," the following definitions apply: (4-11-06)

**01. Available.** Based on public wastewater system size, complexity, and variation in raw waste, a licensed wastewater operator must be on site, on call, or able to be contacted as needed to initiate the appropriate action for normal or emergency conditions in a timely manner. (4-11-06)

**02. Adequate Emergency Storage Capacity.** The emergency storage capacity of a lift station wet well is the volume of the wet well measured between the high water alarm and the gravity sewer invert into the wet well. The collection system shall not be used in the calculation for emergency storage. For the purpose of this definition, "adequate" is defined as twice the estimated emergency response time multiplied by the peak hour flow to the wet well. The high water alarm shall be placed at an elevation below the wet well invert sufficient to achieve the defined volumetric emergency storage capacity. (5-8-09)

**03. Average Day Flow.** The average day flow is the average of daily volumes to be received for a continuous twelve (12) month period expressed as a volume per unit time. However, the average day flow for design purposes for facilities having critical seasonal high hydraulic loading periods, such as recreational areas or industrial facilities, shall be based on the average day flow during the seasonal period. See also the definition of Wastewater Flows. (5-8-09)

**04. Beneficial Use.** Any of the various uses which may be made of the water of Idaho, including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. The beneficial use is dependent upon actual use, the ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for the purpose of wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use. (4-11-06)

**05. Biochemical Oxygen Demand (BOD).** The measure of the amount of oxygen necessary to satisfy the biochemical oxidation requirements of organic materials at the time the sample is collected; unless otherwise specified, this term will mean the five (5) day BOD incubated at twenty (20) degrees C. (4-11-06)

**06. Blackwaste.** Human body waste, such as excreta or urine. This includes toilet paper and other products used in the practice of personal hygiene. (5-8-09)

**07. Blackwater.** A wastewater whose principal pollutant is blackwaste; a combination of blackwaste and water. (5-8-09)

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

**09. Capacity.** The capabilities required of a wastewater system in order to achieve and maintain compliance with these rules. It is divided into three (3) main elements: (5-8-09)

**a.** Technical capacity means the system has the physical infrastructure to safely collect wastewater and consistently meet discharge standards and treatment requirements, and is able to meet the requirements of routine and emergency operations. It further means the ability of system personnel to adequately operate and maintain the system and to otherwise implement technical knowledge. Training of operator(s) is required, as appropriate, for the system size and complexity. (5-8-09)

**b.** Financial capacity means the financial resources of the wastewater system, including an appropriate budget; rate structure; cash reserves sufficient for current operation and maintenance, future needs and emergency situations; and adequate fiscal controls. (5-8-09)

**c.** Managerial capacity means that the management structure of the wastewater system embodies the aspects of wastewater system operations, including, but not limited to; (5-8-09)

- i. Short and long range planning; (5-8-09)
  - ii. Personnel management; (5-8-09)
  - iii. Fiduciary responsibility; (5-8-09)
  - iv. Emergency response; (5-8-09)
  - v. Customer responsiveness; and (5-8-09)
  - vi. Administrative functions such as billing and consumer awareness. (5-8-09)
- 10. Class A Effluent.** Class A effluent is treated municipal reclaimed wastewater that must be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected. For comprehensive Class A Effluent criteria and permitting requirements refer to IDAPA 58.01.17, "Recycled Water Rules." (3-30-07)
- 11. Class A Effluent Distribution System.** The delivery system for Class A effluent. The distribution system does not include any of the collection or treatment portions of the wastewater facility and is not subject to operator licensing requirements in Section 203 of these rules. (4-11-06)
- 12. Collection System.** That portion of the wastewater system or treatment facility in which wastewater is received from the premises of the discharger and conveyed to the point of treatment through a series of lines, pipes, manholes, pumps/lift stations and other appurtenances. (3-30-07)
- 13. Compliance Schedule or Compliance Agreement Schedule.** A schedule of remedial and preventative measures and sequence of actions leading to compliance with a regulation, statute or rule, enforceable as set forth in Sections 39-116 and 39-116A, Idaho Code, respectively. (5-8-09)
- 14. Department.** The Idaho Department of Environmental Quality. (4-11-06)
- 15. Design Flow.** The critical flow used for steady-state wasteload allocation modeling. (4-11-06)
- 16. Designated Beneficial Use or Designated Use.** Those beneficial uses assigned to identify waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards," Sections 110 through 160, whether or not the uses are being attained. (4-11-06)
- 17. Director.** The Director of the Idaho Department of Environmental Quality or his authorized agent. (4-11-06)
- 18. Discharge.** When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. (4-11-06)
- 19. Disinfection.** A method of reducing the pathogenic or objectionable organisms by means of chemicals or other acceptable means. (4-11-06)
- 20. Disposal Facility.** Any facility used for disposal of any wastewater. Facilities for the disposal of sludge are regulated under Section 650 of these rules. (3-30-07)
- 21. Effluent.** Any treated wastewater discharged from a treatment facility. (5-8-09)
- 22. Environmental Review.** An environmental review document for a specific project includes a description of purpose and need for the project; a description of the affected environment and environmental impacts including, but not limited to, endangered species, historical and archaeological impacts, air impacts, surface and ground water impacts, and noise and visual impacts; a description of the planned mitigation for these impacts; and descriptions of the public process, agencies consulted, referenced documents, and a mailing list of interested parties.



A checklist, which can be used as guidance, can be found on the DEQ website at <http://www.deq.idaho.gov>. This checklist is for Department grant and loan projects, but can be used in part or in whole as a guide. (5-8-09)

23. **EPA.** The United States Environmental Protection Agency. (4-11-06)
24. **Equivalent Dwelling Unit (EDU).** A measure where one (1) unit is equivalent to wastewater generated from one (1) single-family detached housing unit. For example, a business generating three (3) times as much wastewater as an average single-family detached housing unit would be considered three (3) equivalent dwelling units. (5-8-09)
25. **Facility Plan.** The facility plan for a municipal wastewater treatment and disposal facility describes the overall system, including the collection system, the treatment systems, and the disposal systems. It is a comprehensive planning document for the existing infrastructure and includes the plan for the future of the systems, including upgrades and additions. It is usually updated on a regular basis due to anticipated or unanticipated growth patterns, regulatory requirements, or other infrastructure needs. A Facility Plan is sometimes referred to as a master plan or facilities planning study. In general, a Facility Plan is an overall system-wide plan as opposed to a project specific plan. (5-8-09)
26. **Facility and Design Standards.** Facility and design standards are described in Sections 400 through 599 of these rules. Facility and design standards found in Sections 400 through 599 of these rules must be followed in the planning, design, construction, and review of municipal wastewater facilities. (3-30-07)
27. **Geometric Mean.** The geometric mean of “n” quantities is the “nth” root of the product of the quantities. (4-11-06)
28. **Gray Water.** Domestic wastewater that does not contain wastewater from toilets, kitchen sinks, dishwashers, cloth washing machines, and water softeners. (5-8-09)
29. **Ground Water.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (4-11-06)
30. **Industrial Wastewater.** Any waste, together with such water as is present, that is the by-product of industrial processes including, but not limited to, food processing or food washing wastewater. (4-11-06)
31. **Land Application.** A process or activity involving application of wastewater, surface water, or semi-liquid material to the land surface for the purpose of disposal, pollutant removal, or ground water recharge. (4-11-06)
32. **License.** A physical document issued by the Idaho Bureau of Occupational Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code. (4-11-06)
33. **Major Wastewater Collection System Project.** A wastewater collection system project that is not a simple wastewater main extension. (5-8-09)
34. **Material Deviation.** A change from the design plans that significantly alters the type or location of facilities, requires engineering judgment to design, or impacts the public safety or welfare. (4-11-06)
35. **Material Modification.** Material modifications are those that are intended to increase system capacity or to alter the methods or processes employed. Any project that increases the pumping capacity of a system, increases the potential population served by the system or the number of service connections within the system, adds new or alters existing wastewater system components, or affects the wastewater flow of the system is considered to be increasing system capacity or altering the methods or processes employed. Maintenance and repair performed on the system and the replacement of valves, pumps, or other similar items with new items of the same size and type are not considered a material modification. (5-8-09)
36. **Maximum Day Flow.** The design maximum day flow is the largest volume of flow to be received

- during a continuous twenty four (24) hour period expressed as a volume per unit time. See also Wastewater Flows. (5-8-09)
- 37. Maximum Month Flow.** The maximum month flow is the largest volume of flow to be received during any calendar month expressed as a volume per unit time. See also the definition of Wastewater Flows. (5-8-09)
- 38. Mixing Zone.** A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated. (4-11-06)
- 39. Municipal Wastewater.** Unless otherwise specified, sewage and associated solids, whether treated or untreated, together with such water that is present. Also called domestic wastewater. Industrial wastewater may also be present, but is not considered part of the definition. (4-11-06)
- 40. National Pollutant Discharge Elimination System (NPDES).** Point source permitting program established pursuant to Section 402 of the federal Clean Water Act. (4-11-06)
- 41. Natural Background Conditions.** No measurable change in the physical, chemical, biological, or radiological conditions existing in a water body without human sources of pollution within the watershed. (4-11-06)
- 42. Non-Contact Cooling Water.** Water used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat) or finished product. Non-contact cooling water is not considered wastewater. Non-contact cooling water can be land applied as recharge water as discussed in Section 600 based on a Department approval as described in Subsections 600.04 and 600.05. (3-30-07)
- 43. Nuisance.** Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state. (4-11-06)
- 44. Nutrients.** The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. (4-11-06)
- 45. Non-Potable Mains.** The pipelines that collect and convey non-potable discharges from or to multiple service connections. Examples would include sewage collection and interceptor mains, storm sewers, non-potable irrigation mains, and reclaimed wastewater mains. (3-30-07)
- 46. Non-Potable Services.** The pipelines that convey non-potable discharges from individual facilities to a connection with the non-potable main. This term also refers to pipelines that convey non-potable water from a pressurized irrigation system, reclaimed wastewater system, and other non-potable systems to individual consumers. (4-11-06)
- 47. Operating Personnel.** Any person who is employed, retained, or appointed to conduct the tasks associated with the day-to-day operation and maintenance of a public wastewater system. Operating personnel shall include every person making system control or system integrity decisions about water quantity or water quality that may affect public health. (4-11-06)
- 48. Owner.** The person, company, corporation, district, association or other organizational entity that owns the public wastewater system, and who provides, or intends to provide, wastewater service to system users and is ultimately responsible for the public wastewater system operation. (3-30-07)
- 49. Peak Instantaneous Flow.** The design peak instantaneous flow is the instantaneous maximum flow rate to be received. See also the definition of Wastewater Flows. (5-8-09)
- 50. Peak Hour Flow.** The design peak hour flow is the largest volume of flow to be received during a one (1) hour period expressed as a volume per unit time. See also the definition of Wastewater Flows. (5-8-09)

**51. Person.** An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties. (4-11-06)

**52. Point Source.** Any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged to surface waters of the state. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (4-11-06)

**53. Pollutant.** Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities. (4-11-06)

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

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

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

**57. Preliminary Engineering Report.** The preliminary engineering report for the municipal wastewater treatment or disposal facility is the report that addresses specific portions of the systems as they are being contemplated for design. These reports address specific purpose and scope, design requirements, alternative solutions, costs, operation and maintenance requirements, and other requirements as described in Section 411. Preliminary engineering reports are generally project specific as opposed to an overall system-wide plan, such as a facility plan. (5-8-09)

**58. Primary Treatment.** Processes or methods that serve as the first stage treatment of wastewater, intended for removal of suspended and settleable solids by gravity sedimentation; provides no changes in dissolved and colloidal matter in the sewage or wastes flow. (4-11-06)

**59. Private Municipal Wastewater Treatment Plant.** A wastewater facility that treats municipal wastewater and is under private ownership. These systems are typically initially owned, operated, and maintained by a developer with the ownership, operation and maintenance transferring to a homeowners association, or similar entity as lots are sold within the development. (5-8-09)

**60. Public Wastewater System or Wastewater System.** A public wastewater system or wastewater system is any publicly or privately owned collection system or treatment system that generates, collects, treats, or disposes of two thousand five hundred (2,500) or more gallons of wastewater per day. This does not include: (3-29-10)

**a.** Any animal waste system used for agricultural purposes that have been constructed in part or whole by public funds; or (3-29-10)

**b.** Any industrial or other nonmunicipal wastewater system which is covered under Section 401 of these rules. (3-29-10)

**61. Qualified Licensed Professional Engineer (QLPE).** A professional engineer licensed by the state of Idaho; qualified by education or experience in the specific technical fields involved in these rules; and retained or employed by a city, county, quasi-municipal corporation, or regulated public utility for the purposes of plan and specification review. (5-8-09)

- 62. Quasi-Municipal Corporation.** A public entity, other than community government, created or authorized by the legislature to aid the state in, or to take charge of, some public or state work for the general welfare. For the purpose of these rules, this term refers to wastewater or sewer districts. (4-11-06)
- 63. Receiving Waters.** Those waters which receive pollutants from point or nonpoint sources. (4-11-06)
- 64. Recharge.** The process of adding water to the zone of saturation. (4-11-06)
- 65. Recharge Water.** Water that is specifically utilized for the purpose of adding water to the zone of saturation. (4-11-06)
- 66. Redundancy.** Redundancy for wastewater treatment and disposal facilities is generally focused on supplying or installing backup equipment and facilities to make the operation of the systems more reliable. These redundant systems are sometimes required to provide backup for emergencies, taking certain processes off-line, or for treating spikes in wastewater flow or strength. (3-30-07)
- 67. Reliability.** Reliability for wastewater collection and treatment and disposal facilities is usually based on its ability to consistently handle the wastewater flows in the community and to meet the requirements of its permit. This reliability is in part based on the redundancy built into the wastewater infrastructure and proper maintenance of the system. (3-30-07)
- 68. Reasonably Accessible.** The following criteria shall be used to determine whether a project proposing a new private municipal wastewater treatment plant, or a material modification or expansion of an existing private municipal wastewater treatment plant, is reasonably accessible to a public municipal wastewater collection system. (5-8-09)
- a.** For an existing private municipal wastewater treatment plant, reasonably accessible means the public municipal wastewater collection system becomes located within a minimum of one thousand (1,000) feet of any portion of the discharge piping of a private municipal wastewater treatment plant, and the owner of the public municipal wastewater collection system will provide a "will serve" letter. (5-8-09)
- b.** For a proposed project which includes a new private municipal wastewater treatment plant, reasonably accessible means the public municipal wastewater collection system is located within a minimum of one thousand (1,000) feet of any portion of the proposed development or existing development property boundary, and the owner of the public municipal wastewater collection system will provide a "will serve" letter. (5-8-09)
- c.** The Department may determine that a private municipal wastewater treatment plant may be reasonably accessible to the public municipal wastewater collection system at distances greater than those distances specified in Paragraphs a. or b. of this Subsection based on site-specific factors. (5-8-09)
- 69. Responsible Charge (RC).** For purposes of Sections 202 through 204, responsible charge means, active, daily on-site or on-call responsibility for the performance of operations or active, on-going, on-site or on-call direction of employees and assistants. (5-8-09)
- 70. Responsible Charge Operator.** For purposes of Sections 202 through 204, a responsible charge operator is an operator licensed at a class equal to or greater than the classification of the system and who has been designated by the system owner to have direct supervision of and responsibility for the performance of operations of a specified wastewater treatment system(s) or wastewater collection system(s) and the direction of personnel employed or retained at the same system. The responsible charge operator has an active daily on-site or on-call presence at the specified facility. (5-8-09)
- 71. Reuse.** The use of reclaimed wastewater for beneficial uses including, but not limited to, land treatment, irrigation, ground water recharge using surface spreading, seepage ponds, or other unlined surface water features. (3-30-07)

**72. Reviewing Authority.** For those projects requiring preconstruction approval by the Department, the Department is the reviewing authority. For those projects allowing for preconstruction approval by others, pursuant to Subsection 400.03.b. of these rules, the Qualified Licensed Professional Engineer (QLPE) is also the reviewing authority. (5-8-09)

**73. Sanitary Sewer Extension.** As used in Section 400, an extension of an existing wastewater collection system that does not require a lift station or force main and is intended to increase the service area of the wastewater collection system. (4-11-06)

**74. Secondary Treatment.** Processes or methods for the supplemental treatment of wastewater, usually following primary treatment, to affect additional improvement in the quality of the treated wastes by biological means of various types which are designed to remove or modify organic matter. (4-11-06)

**75. Septage.** Septage is a general term for the contents removed from septic tanks, portable vault toilets, privy vaults, wastewater holding tanks, very small wastewater treatment plants, or semi-public facilities (i.e., schools, motels, mobile home parks, campgrounds, small commercial endeavors) receiving wastewater from domestic sources. Non-domestic (industrial) wastes are not included in this definition. This does not include drinking water treatment residuals that may be held in a holding tank. (3-30-07)

**76. Septage Transfer Station.** A place where septage from more than one (1) hauler is accumulated for collection and subsequent removal without processing to a treatment facility. (5-8-09)

**77. Sewage.** The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (4-11-06)

**78. Simple Wastewater Main Extension.** New or replacement wastewater main(s) that require plan and specification review per these rules and that will be connected by gravity, without the use of pumps or lift stations, to existing wastewater collection facilities that have the capacity to carry the additional wastewater flow. (5-8-09)

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

**80. Special Resource Water.** Those specific segments or bodies of water which are recognized as needing intensive protection: (4-11-06)

**a.** To preserve outstanding or unique characteristics; or (4-11-06)

**b.** To maintain current beneficial use. (4-11-06)

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

**82. Substitute Responsible Charge Operator.** A public wastewater operator holding a valid license at a class equal to or greater than the public wastewater system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. (4-11-06)

**83. Surface Water Body.** All surface accumulations of water, natural or artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. This includes, but is not limited to, rivers, streams, canals, ditches, lakes, and ponds. It does not include private waters as defined in Section 42-212, Idaho Code. (4-11-06)

**84. Total Maximum Daily Load (TMDL).** The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and

water quality. (3-30-07)

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

**86. Treatment Facility.** Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment plants; the necessary collecting, intercepting, outfall and outlet sewers; pumping stations integral to such plants or sewers; disposal or reuse facilities; equipment and furnishing thereof; and their appurtenances. For the purpose of these rules, a treatment facility may also be known as a treatment system, a wastewater system, wastewater treatment system, wastewater treatment facility, or wastewater treatment plant. (3-30-07)

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

**88. Very Small Wastewater System.** A public wastewater system that serves five hundred (500) connections or less and includes a collection system with a system size of six (6) points or less on the system classification rating form (Section 202) and is limited to only one (1) of the following wastewater treatment processes: (3-29-10)

**a.** Aerated lagoons; (3-29-10)

**b.** Non-aerated lagoon(s); (3-29-10)

**c.** Primary treatment; or (3-29-10)

**d.** Primary treatment discharging to a large soil absorption system (LSAS). (3-29-10)

**89. 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. (5-8-09)

**90. Wastewater Flows.** The following flows for the design year shall be identified as required and used as a basis for design of sewer systems including sewer mains, lift stations, wastewater treatment plants, treatment units, and other wastewater handling facilities. The definition contained in this Subsection applies where any of the terms defined in Paragraphs a. through e. are used in these rules. (5-8-09)

**a.** Average Day Flow. The average day flow is the average of daily volumes to be received for a continuous twelve (12) month period expressed as a volume per unit time. However, the average day flow for design purposes for facilities having critical seasonal high hydraulic loading periods, such as recreational areas or industrial facilities, shall be based on the average day flow during the seasonal period. (5-8-09)

**b.** Maximum Day Flow. The design maximum day flow is the largest volume of flow to be received during a continuous twenty-four (24) hour period expressed as a volume per unit time. (5-8-09)

**c.** Maximum Month Flow. The maximum month flow is the largest volume of flow to be received during any calendar month expressed as a volume per unit time. (5-8-09)

**d.** Peak Instantaneous Flow. The design peak instantaneous flow is the instantaneous maximum flow rate to be received. (5-8-09)

**e.** Peak Hour Flow. The design peak hour flow is the largest volume of flow to be received during a one (1) hour period expressed as a volume per unit time. (5-8-09)

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

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

**93. Wastewater Pumping Station.** A wastewater facility that collects wastewater from the collection system or the treatment system and pumps it to a higher elevation. Also called lift station or wastewater lift station. (3-30-07)

**94. Wastewater System Operator.** The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public wastewater treatment or collection system in order to safeguard the public health and environment. (4-11-06)

**95. Water Main Extension.** An extension of the distribution system of an existing public water system that does not require a booster pumping station and is intended to increase the service area of the water system. (4-11-06)

**96. Water Pollution.** Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the state, or the discharge of any pollutant into the waters of the state, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. (4-11-06)

**97. Waters and Waters of the State.** All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (4-11-06)

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

**011. -- 200. (RESERVED)**

**201. POINT SOURCE WASTEWATER TREATMENT REQUIREMENTS.**

**01. Appropriate Control Measures.** The Department, through approval or disapproval of plans for wastewater treatment and disposal facilities, the issuance of wastewater discharge permits, orders, compliance schedules, directives or any of the mechanisms at its disposal, will require persons to apply appropriate control measures necessary to achieve and maintain the water quality standards contained in IDAPA 58.01.02, "Water Quality Standards." (4-11-06)

**02. Degree of Treatment.** The degree of wastewater treatment required to restore and maintain the standards of quality will be determined in each instance by the Department, based upon the following: (4-11-06)

- a.** The uses which are made or desired of the receiving water; (4-11-06)
- b.** The volume and nature of flow of the receiving water; (4-11-06)
- c.** The quantity and quality of the wastewater to be treated; and (4-11-06)
- d.** The presence or absence of other sources of water pollution on the same watershed, stream segment or aquifer. (4-11-06)

**03. Operation.** Any person who owns or operates any sewage or other wastewater treatment facility must at all times: (4-11-06)

- a.** Ensure that such facility is operated under competent supervision and with the highest efficiency that can reasonably be expected; and (5-8-09)

- b. Maintain such facility in good repair. (4-11-06)

**04. Treatment Records.** Any person who owns or operates any facility or carries out any operation which results in the discharge of wastewater must furnish to the Department such information concerning quality and quantity of discharged wastewaters and maintain such treatment records as the Department requires to evaluate the effects of any receiving waters. Required information can include, but is not limited to: (4-11-06)

- a. Treated wastewater discharge volumes; and (4-11-06)
- b. Treated wastewater discharge biochemical oxygen demand (BOD); and (4-11-06)
- c. Treated wastewater discharge suspended solid concentration; and (4-11-06)
- d. Discharge pH; and (4-11-06)
- e. Discharge temperatures. (4-11-06)

**05. Falsification of Records.** It is a violation of these rules for any person to falsify or knowingly render inaccurate any treatment record which can be required as provided in these regulations. (4-11-06)

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

**01. Classification Requirement.** All public wastewater systems shall be classified based on indicators of potential health risks. (4-11-06)

a. Classification rating forms developed in accordance with the criteria in Subsection 202.02 must be completed by the public wastewater system owner or designee for every public wastewater treatment system and wastewater collection system no later than July 1, 2008. Public wastewater treatment and wastewater collection system owners or designee shall submit additional classification rating forms at five (5) year intervals or when directed by the Department to submit a revised classification rating form. (3-29-10)

b. The Department shall review system classification rating forms and issue the final system classification. (3-29-10)

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

- a. Complexity, size, volume and variability in raw waste for treatment systems using guidelines established by the Department. (4-11-06)
- b. Complexity or size of collection systems. (4-11-06)
- c. Other criteria deemed necessary to completely classify systems. (4-11-06)

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

**01. System Operator Licensure Requirement.** Owners of all public wastewater systems must place the direct supervision of their wastewater system(s), including each treatment system and each collection system or each very small wastewater system, under the responsible charge of an operator who holds a valid license equal to or greater than the classification of each treatment system and each collection system or each very small wastewater system. An operator in responsible charge of both a wastewater treatment system and a collection system shall hold two (2) licenses, one (1) for wastewater treatment and one (1) for collection, with the exception of a very small wastewater system for which the responsible charge operator may hold a single very small wastewater system license. Owners shall notify the Department in writing of any change of responsible charge or substitute responsible charge operator within thirty (30) days of such change. (3-29-10)

**02. Responsible Charge Operator License Requirement.** An operator in responsible charge of a



public wastewater system in Idaho must hold a valid license equal to or greater than the classification of the wastewater system(s), including each treatment system and each collection system or each very small wastewater system, as determined by the Department. (3-29-10)

**03. Substitute Responsible Charge Operator.** At such times as the responsible charge operator is not available, a substitute responsible charge operator shall be designated to replace the responsible charge operator. (4-11-06)

**04. Wastewater System Operator Licensure.** All other operating personnel at public wastewater systems, including each treatment system and each collection system or each very small wastewater system, must hold a valid license issued by the Idaho Bureau of Occupational Licenses. (3-29-10)

**05. Wastewater System Operator Licensure Exceptions.** (3-29-10)

**a.** Any public wastewater system operating personnel that exclusively operate a Class A Effluent Distribution System of a Class A Municipal Reclaimed Wastewater System permitted in accordance with IDAPA 58.01.17, "Recycled Water Rules," are not subject to operator licensure requirements as outlined in these rules. (3-29-10)

**b.** Any non-pressurized drainfield and associated septic tank and collection system operating personnel are not subject to operator licensure requirements. (3-29-10)

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

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

**204. CONTRACTING FOR SERVICES.**

Public wastewater systems may contract with properly licensed operating personnel to provide responsible charge operators and substitute responsible charge operators. Proof of such contract shall be submitted to the Department prior to the contracted operating personnel performing any services at the public wastewater system. (3-29-10)

**205. -- 259. (RESERVED)**

**260. SUBSURFACE SEWAGE OR WASTE DISPOSAL.**

Subsurface sewage or wastewater disposal facilities must be designed and located so that pollutants cannot be reasonably expected to enter water of the state in concentrations resulting in injury to beneficial uses. See also IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." (4-11-06)

**261. -- 399. (RESERVED)**

**400. REVIEW OF PLANS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES.**

Plans and specifications for municipal wastewater treatment or disposal facilities must comply with the facility and design standards set forth in Sections 410 through 599. If design issues are not addressed by the facility and design standards, then guidance documents, some of which are listed in Section 008, shall be used as guidance in the design and review of plans and specifications for municipal wastewater treatment or disposal facilities. See also Section 007. (3-30-07)

**01. Ownership.** Documentation of the ownership and responsibility for operating the proposed system shall be made available to the Department prior to or concurrent with the submittal of plans and specifications as required in Subsection 400.03. The documentation must show the financial arrangements adequate to demonstrate the ability for construction and operation and maintenance of the system according to these rules. Documentation shall also include the name of the wastewater system; the name, address, and phone number of the wastewater treatment facility; and the name, address, and phone number of the responsible charge operator. (5-8-09)

**02. Connection to Existing System.** If the proposed project is to be connected to an existing wastewater system, a letter from the existing system must be submitted to the Department stating that the existing system will be able to provide services to the proposed project. The Department may require further documentation showing the ability of the existing system to provide service to the new system. This letter must be submitted prior to or concurrent with the submittal of plans and specifications as required in Subsection 400.03. (5-8-09)

**03. Plan and Specification Review.** (4-11-06)

**a.** Except as provided in Subsection 400.03.b., all plans and specifications for the construction of new sewage systems, sewage treatment plants or systems, other municipal wastewater treatment or disposal facilities, or for material modifications to existing sewage treatment plants or systems, municipal wastewater treatment or disposal facilities shall be submitted to the Department for review and approval before construction may begin and all construction shall be in substantial compliance therewith. This does not include plan and specifications for facilities for sludge disposal, but does include plans and specifications for treatment or storage of sludge. If construction does not commence within twelve (12) months of the Department's final approval of plans and specifications, the Department may require resubmittal of all or part of the plans and specifications for review. The Department shall review plans and specifications and endeavor to resolve design issues within forty-two (42) calendar days of submittal such that approval can be granted. If the Department and applicant have not resolved design issues within forty-two (42) calendar days or at any time thereafter, the applicant may file a written demand to the Department for a decision. Upon receipt of such written demand, the Department shall deliver a written decision to the applicant within no more than seven (7) calendar days explaining any reasons for disapproval. The Department shall maintain records of all written demands for decision made pursuant to Subsection 400.03.a. with such records including the final decision rendered and the timeliness thereof. No material deviation shall be made to the approved plans and specifications without the prior approval of the Department. (5-8-09)

**b.** Plans developed for simple wastewater main extensions, when such facilities will be owned and operated by a city, county, quasi-municipal corporation or regulated public utility, shall not require preconstruction approval by the Department, provided that such plans and specifications are reviewed and approved by a QLPE to verify compliance with the requirements of these rules prior to initiation of construction. At the discretion of the city, county, quasi-municipal corporation or regulated public utility, the plans addressed by this subsection may be referred to the Department for review and approval prior to initiation of construction. The Department has the authority to review plans and specifications approved by a QLPE and can require modifications if the plans and specifications do not meet facility and design standards. Any plans and specifications approved pursuant to Subsection 400.03.b. shall be transmitted to the Department at the time construction is authorized and shall be marked or stamped as "Approved for Construction." Along with the plans and specifications, the transmittal must include the items listed in Subsections 400.03.b.i. through 400.03.b.vii. The plans and specifications must be sealed, signed, and dated by the professional engineer in responsible charge of their preparation, and the approval or transmittal letter must be sealed, signed, and dated by the QLPE that is approving the plans and specifications. (5-8-09)

**i.** A statement that the author of the transmittal letter is the QLPE representing the city, county, quasi-municipal corporation or regulated public entity. (5-8-09)

**ii.** A statement that the extension project complies with the current facility plan or preliminary engineering report, or a statement that the sewer system/treatment facility has adequate capacity. (5-8-09)

**iii.** A statement from the city, county, quasi-municipal corporation or regulated public entity or its authorized agent that the wastewater system owner will serve the project. (5-8-09)

**iv.** A statement from the city, county, quasi-municipal corporation or regulated public entity or its authorized agent that the wastewater system owner will own and operate the project after construction is complete. (5-8-09)

**v.** A statement by the QLPE that the plans and specifications are approved for construction. (5-8-09)

**vi.** A statement by the QLPE that the plans and specifications comply with the facility standards within

these rules. (5-8-09)

vii. A statement recommending whether sanitary restrictions can be released or should remain in force. (5-8-09)

c. Subsections 400.03.c.i. through 400.03.c.vi. outline the projects which QLPEs may approve and which QLPEs may not approve. (5-8-09)

i. A QLPE may approve plans and specifications for simple wastewater main extensions that will be able to discharge to an existing wastewater system owned by a city, county, quasi-municipal corporation, or regulated public utility at the time the extension is approved for construction by the QLPE. (5-8-09)

ii. A QLPE may approve plans for simple wastewater main extensions which will discharge to an existing wastewater system owned by a city, county, quasi-municipal corporation, or regulated public utility, but are unable to connect to the system at the time the extension is approved for construction by the QLPE, provided sanitary restrictions remain in force for the proposed extension. (5-8-09)

iii. A QLPE may not approve plans and specifications which include mechanical systems such as lift stations or treatment works. (5-8-09)

iv. A QLPE may not approve plans and specifications for projects which the QLPE was the design engineer or otherwise involved in the design. (5-8-09)

v. A QLPE employed by a city, county, quasi-municipal corporation, or regulated public utility may approve a design that was prepared by a subordinate engineer or an engineer from a separate design group within the city, county, quasi-municipal corporation, or regulated public utility. (5-8-09)

vi. A QLPE who is not employed by a city, county, quasi-municipal corporation, or regulated public utility, but is retained by a city, county, quasi-municipal corporation, or regulated public utility for the purpose of plan and specification review may not approve projects designed by the company with which the QLPE is employed. (5-8-09)

**04. Professional Engineer.** Plans and specifications for construction, alteration or expansion of any sewage system, sewage treatment plant or system, or other municipal wastewater treatment or disposal facility shall be prepared by or under the supervision of an Idaho licensed professional engineer and shall bear the imprint of the engineer's seal. Construction shall be observed by an Idaho licensed professional engineer or a person under the supervision of an Idaho licensed professional engineer. (3-30-07)

**05. Record Plans and Specification.** (5-8-09)

a. Within thirty (30) calendar days of the completion of construction of facilities covered by Subsection 400.03, record plans and specifications based on information provided by the construction contractor and field observations made by the engineer or the engineer's designee depicting the actual construction of facilities performed, must be submitted to the Director by the engineer representing the city, county, quasi-municipal corporation or regulated public utility that owns the project, or by the design engineer or owner-designated substitute engineer if the constructed facilities will not be owned and operated by a city, county, quasi-municipal corporation or regulated public utility. Such submittal by the engineer must confirm material compliance with the approved plans and specifications or disclose material deviations therefrom. If the construction does not materially deviate from the approved plans and specifications, the owner may have a statement to that affect prepared by an Idaho licensed professional engineer and filed with the Department in lieu of submitting a complete and accurate set of record drawings. (5-8-09)

b. Record plans and specifications, or a statement submitted in lieu of record plans and specifications, must be sealed, signed, and dated by the professional engineer in responsible charge of their preparation. (5-8-09)

**06. Compliance With Applicable Standards and Rules.** All plans and specifications submitted to satisfy the requirements of Sections 400 through 599 or approved in compliance with Sections 400 through 599, shall

be in compliance with the requirements of these rules and shall conform in style and quality to regularly accepted engineering standards. The Department shall review plans and specifications to determine compliance with these rules and engineering standards of care. If the plans and specifications comply with these rules and engineering standards of care, the Department shall not substitute its judgment for that of the owner's design engineer concerning the manner of compliance with these rules. (3-30-07)

**07. Waiver of Approval Requirement.** The Department may waive the plan and specification approval for any particular facility or category of facilities which will have no significant impact on the environment or on the public health. (5-8-09)

**08. Requirement to Have Approved Plans and Specifications and Approval Letter On-site During Construction.** It is the responsibility of the owner to maintain one (1) copy of the approved plans and specifications and the approval letter from the reviewing authority on-site during construction at all times. (3-30-07)

**09. Construction Inspection Requirement.** Except as provided in Subsection 400.03.b., no construction shall commence until all of the necessary approvals have been received from the Department. The owner shall provide for the inspection of the construction of a municipal wastewater treatment or disposal facility by an Idaho licensed professional engineer to the extent required to confirm material compliance with the approved plans and to produce accurate record documents as required by Subsection 400.05. (5-8-09)

**401. REVIEW OF PLANS FOR NONMUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES.**

**01. Plan and Specification Approval Required.** The construction, alteration or expansion of any nonmunicipal wastewater treatment or disposal facility must not begin before plans and specifications for the proposed facility have been submitted to and approved by the Department. Deviations may be allowed as provided in Subsection 401.02. The Department does not require review of industrial in-plant processes. (4-11-06)

**02. Deviations from Approved Plans.** No material deviations are to be made from the approved plans and specifications without prior approval of the Department. (3-30-07)

**03. Professional Engineer.** Plans and specifications for construction, alteration or expansion of any nonmunicipal wastewater treatment or disposal facility shall be prepared by or under the supervision of an Idaho licensed professional engineer and shall bear the imprint of the engineer's seal. Construction shall be observed by an Idaho licensed professional engineer or a person under the supervision of an Idaho licensed professional engineer. (5-8-09)

**04. Record Plans and Specifications.** (5-8-09)

**a.** If actual construction deviates from the approved plans and specifications, complete and accurate plans and specifications depicting the actual construction, alteration, or modification performed, shall be submitted to the Department for review and approval within thirty (30) days of completion of construction. If the construction does not materially deviate from the approved plans and specifications, the owner may have a statement to that effect prepared by an Idaho licensed professional engineer and filed with the Department in lieu of submitting a complete and accurate set of record drawings. (5-8-09)

**b.** Record plans and specifications, or a statement submitted in lieu of record plans and specifications, must be sealed, signed, and dated by the professional engineer in responsible charge of their preparation. (5-8-09)

**05. Waiver of Approval Requirement.** The Department can waive the plan and specification approval required in Subsection 401.01 for any particular facility or category of facilities which will have no significant impact on the environment or on the public health. (5-8-09)

**06. Applicability of Standards.** The facility and design standards for municipal wastewater treatment or disposal facilities set out in these rules do not apply to nonmunicipal wastewater treatment or disposal facilities covered under Section 401. (3-30-07)

**402. PLAN AND SPECIFICATION REVIEW DISPUTE RESOLUTION.**

The Department's plan and specification review dispute resolution policy is set out in PM06-4 at <http://www.deq.idaho.gov/laws-rules-etc/deq-policies/>. (3-30-07)

**403. -- 408. (RESERVED).**

**409. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: DEMONSTRATION OF TECHNICAL, FINANCIAL, AND MANAGERIAL CAPACITY.**

No person shall proceed, or cause to proceed, with construction of a new public wastewater system, a new private municipal treatment plant, a new wastewater treatment facility, or a new privately owned wastewater pumping station until it has been demonstrated to the Department that the wastewater system will have adequate technical, financial, and managerial capacity, as defined in Section 010 of these rules. Demonstration of capacity shall be submitted to the Department prior to or concurrent with the submittal of plans and specifications, as required in Section 39-118, Idaho Code, and Subsection 400.03 of these rules. The Department shall issue in writing its approval of the new system capacity demonstration. (5-8-09)

**01. Technical Capacity.** In order to meet this requirement, the public wastewater system shall submit documentation to demonstrate the following: (5-8-09)

- a.** The system meets the relevant design, construction, and operating requirements of these rules; (5-8-09)
- b.** A plan is in place to deal with emergencies; (5-8-09)
- c.** A plan exists for replacement or improvement of infrastructure as necessary; and (5-8-09)
- d.** The system has trained personnel with an understanding of the technical and operational characteristics of the system. (5-8-09)

**02. Financial Capacity.** A demonstration of financial capacity must include, but is not limited to, the following information: (5-8-09)

- a.** Documentation that organizational and financial arrangements are adequate to construct and operate the wastewater system in accordance with these rules. This information can be provided by submitting estimated construction, operation, and maintenance costs, letters of credit, or other access to financial capital through public or private sources and, if available, a certified financial statement; (5-8-09)
- b.** Demonstration of revenue sufficiency, that includes, but is not limited to, billing and collection procedures; a proposed rate structure which demonstrates the availability of operating funds; revenues for depreciation and reserves; and the ability to accrue a capital replacement fund. A preliminary operating budget shall be provided; and (5-8-09)
- c.** Adequate fiscal controls must be demonstrated. (5-8-09)
- d.** For private municipal wastewater treatment plants, a performance bond, maintenance bond, or cash reserve of one (1) year of operation and maintenance costs is required to ensure continuous and adequate operation and maintenance. (5-8-09)

**03. Managerial Capacity.** In order to demonstrate adequate managerial capacity, the owner or operator of a new wastewater system shall submit at least the following information to the Department: (5-8-09)

- a.** Clear documentation of legal ownership and any plans that may exist for transfer of that ownership upon completion of construction or after a period of operation; (5-8-09)
- b.** The name, address, and telephone number of the person who will be accountable for ensuring that the wastewater system is in compliance with these rules; (5-8-09)

- c. The name, address, and telephone number of the responsible charge operator; (5-8-09)
- d. A description of the manner in which the wastewater system will be managed. Information such as by-laws, restrictive covenants, articles of incorporation, or procedures and policy manuals which describe the management organizational structure shall be provided; (5-8-09)
- e. A recommendation of staff qualifications, including training, experience, certification or licensing, and continuing education; (5-8-09)
- f. An explanation of how the wastewater system will establish and maintain effective communications and relationships between the wastewater system management, its customers, professional service providers, and any applicable regulatory agencies; and (5-8-09)
- g. Evidence of planning for future growth, equipment repair and maintenance, and long term replacement of system components. (5-8-09)

**04. Consolidation.** In demonstrating new system capacity, the owner of the proposed new system must investigate the feasibility of obtaining wastewater service from an established public wastewater system. If such service is available, but the owner elects to proceed with an independent system, the owner must explain why this choice is in the public interest in terms of environmental protection, affordability to wastewater users, and protection of public health. (5-8-09)

**410. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: FACILITY PLANS.**

**01. Facility Plans Required.** All new municipal wastewater treatment or disposal facilities, and all existing municipal wastewater treatment or disposal facilities undergoing material modification or expansion, are required to have a current facility plan that shall address all applicable issues specifically required in Sections 410 and 420 through 599 of these rules including, but not limited to, hydraulic capacity, treatment capacity, project financing, and operation and maintenance considerations. The facility plan shall address these issues sufficiently to determine the effects of the project on the overall wastewater infrastructure. Material modification or expansion that requires a facility plan includes upgraded, or rehabilitated municipal wastewater treatment or disposal facilities and major collection, interceptor sewer, pump station projects, and septage transfer station projects. Facility plans must address the entire potential service area of the project. A facility plan may be completed for collection systems only. If such a collection system facility plan is prepared, and flows increase in excess of the design capacity of downstream collection and treatment facilities, the impact of the flow shall be addressed in the facility plan. (5-8-09)

a. Department-reviewed simple wastewater main extension projects. A facility plan is not required if the Department is provided documentation supporting the ability of the wastewater system to provide service for the simple wastewater main extension without adding wastewater pumping stations or treatment capacity to the system and without overloading the existing collection system. Documentation may be in the form of: (5-8-09)

- i. Hydraulic modeling; (5-8-09)
- ii. Usage data and flow calculations; (5-8-09)
- iii. Declining balance reports that demonstrate the system has the capacity to supply the service area of the system served by the extension; or (5-8-09)
- iv. Other documentation acceptable to the Department. (5-8-09)

b. QLPE-Reviewed Simple Wastewater Main Extension Projects. A Department-approved facility plan is not required to be in place prior to the QLPE approving simple wastewater main extensions pursuant to Subsection 400.03.b., provided that the system is in compliance with the facility and design standards in the area served by the extension. If the Department has not approved a facility plan which covers the proposed simple wastewater main extension, then the system owner or the QLPE must include with the transmittal letter

documentation supporting the ability of the system owner to provide service for the simple wastewater main extension without adding wastewater pumping stations or treatment capacity to the system and without overloading the existing collection system. The system owner shall provide this documentation to the QLPE as necessary. Documentation may be in the form of: (5-8-09)

- i. Hydraulic modeling; (5-8-09)
- ii. Usage data and flow calculations; (5-8-09)
- iii. Declining balance reports that demonstrate the system has the capacity to supply the service area of the system served by the extension; or (5-8-09)
- iv. Other documentation acceptable to the Department. (5-8-09)

**02. Submittal to Department.** Facility plans shall be submitted to the Department for review and approval prior to the submission of plans and specifications for a project related to the facility plan. (5-8-09)

**03. Engineer's Seal Required.** Facility plans submitted to the Department shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. (5-8-09)

**04. Facility Plan Contents.** The facility plan shall assemble basic information, present criteria and assumptions, and examine alternative solutions with preliminary layouts and cost estimates. The facility plan is intended to address system wide growth, to identify system deficiencies, and to lay out a plan for system upgrades and expansion. The minimum requirements for a facility plan are located in Subsections 410.04.a. through 410.04.c. If specific items are not applicable to a particular facility plan, then the engineer shall state this in the facility plan and state the reason why it is not applicable. (5-8-09)

**a. New Wastewater System Facility Plan.** The facility plan for a new wastewater system must include sufficient detail to support the requirements of Sections 410 through 520 and address the items listed in Subsections 410.04.a.i. through 410.04.a.vii. of this rule. (5-8-09)

- i. Location. Provide a general description and location of the system including service boundaries. (5-8-09)
- ii. Population. Provide the estimated design population of the system. (5-8-09)
- iii. Wastewater flows. Provide design data for domestic, commercial, and industrial wastewater generation, including average day, maximum day, maximum month, or peak hour flows. (5-8-09)
- iv. Collection. Identify and describe any anticipated or proposed wastewater collection systems. Include specific detail on any anticipated or proposed wastewater pumping stations and on any anticipated or proposed wastewater interceptor or trunk lines. (5-8-09)
- v. Treatment. Identify and describe any anticipated or proposed treatment works. Provide specific detail on the type and level of treatment and the required capacity of the treatment system. (5-8-09)
- vi. Disposal. Identify and describe any anticipated or proposed wastewater disposal system(s). Include specific information on the location and method of disposal and information on any existing disposal permits or estimated timelines to obtain anticipated required permits. (5-8-09)
- vii. Drinking water. Describe the drinking water distribution system with reference to the relationship to existing or proposed wastewater structures which may affect the operation and location of the wastewater system. (5-8-09)

**b. Existing Wastewater System Facility Plan.** The facility plan for an existing wastewater system must include sufficient detail to support the requirements of Sections 410 through 520, address all items in Subsections 410.04.a.i. through 410.04.a.vii., and address all items in Subsections 410.04.b.i. through 410.04.b.viii. (5-8-09)

- i. Provide a hydraulic analysis of the collection system if requested by the Department. Any analysis of an existing collection system shall be properly calibrated. The type and sophistication of the analysis shall be dependent on the type of the system. (5-8-09)
  - ii. Identify and evaluate problems or deficiencies related to the wastewater system. (5-8-09)
  - iii. Identify the design capacity of existing facilities and the current operating flows. (5-8-09)
  - iv. Describe financing options for projects identified in the facility plan. (5-8-09)
  - v. Set forth anticipated charges for users. (5-8-09)
  - vi. Review organizational and staffing requirements. (5-8-09)
  - vii. Offer a project(s) recommendation for client consideration. (5-8-09)
  - viii. Outline official actions and procedures to implement the project. (5-8-09)
- c.** Wastewater System Facility Plan Funded by the State Revolving Fund. If the project is funded by the state revolving fund or a state grant, the facility plan must meet the requirements of Subsections 410.04.a. and 410.04.b., and other requirements that may also apply. See IDAPA 58.01.12 “Rules for Administration of Water Pollution Control Loans,” and IDAPA 58.01.04, “Rules for Administration of Wastewater Treatment Facility Grants.” (5-8-09)
- d.** Facility Plan Guidance. A checklist which can be used for guidance can be found on the DEQ website at <http://www.deq.idaho.gov>. This checklist is for Department grant and loan projects, but may be used in part or in whole as a guide to assist in the development of any facility plan. (5-8-09)

**411. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: PRELIMINARY ENGINEERING REPORTS.**

**01. Preliminary Engineering Reports Required.** Preliminary engineering reports are required for municipal wastewater treatment or disposal facility projects that require plan and specification review and approval pursuant to Subsection 400.03 and shall address all applicable issues specifically required in Sections 411 through 599 of these rules including, but not limited to, purpose, scope, hydraulic capacity, treatment capacity, and operation and maintenance considerations sufficiently to determine the effects of the project on the overall wastewater infrastructure. Preliminary engineering reports must be completed for major wastewater collection system projects, all pump station projects, all treatment plant designs and upgrades, and all septage transfer stations. Preliminary engineering reports are not required for simple wastewater main extensions that are approved in accordance with Subsections 410.01.a. or 410.01.b. (5-8-09)

**02. Submittal to Reviewing Authority.** Preliminary engineering reports shall be submitted to the Department for review and must be approved by the Department prior to the submission of plans and specifications. (5-8-09)

**03. Preliminary Engineering Report Contents.** The preliminary engineering report must include sufficient detail to demonstrate that the proposed project meets applicable criteria. The preliminary engineering report generally addresses project specific issues rather than the overall system-wide plan. The preliminary engineering report shall identify and evaluate wastewater related problems; assemble basic information; present criteria and assumptions; examine alternative solutions with preliminary layouts and cost estimates; offer a conclusion with a proposed project; and outline official actions and procedures to implement the project. The items included in Subsections 411.03.a. through 411.03.c., and other items specifically called for in Sections 426 through 599, shall be addressed in detail in the preliminary engineering report. If specific items are not applicable to a particular design, then the designer shall state this in the preliminary engineering report and state the reason why it is not applicable. Items adequately addressed in the facility plan under which the project is being designed, may be addressed by reference for purposes of the preliminary engineering report. (5-8-09)



**a.** Major Wastewater Collection System Projects. Items applicable to preliminary engineering reports for major wastewater collection system projects are listed in Subsections 411.03.a.i. through 411.03.a.vi. (5-8-09)

i. Coordination with Facility Plan. The preliminary engineering report shall discuss or reference items provided in the Department-approved facility plan. These items include, but are not limited to: (5-8-09)

- (1) Location of project; (5-8-09)
- (2) Population served by project; (5-8-09)
- (3) Existing and proposed wastewater flows; (5-8-09)
- (4) Existing and proposed collection system; (5-8-09)
- (5) Existing and proposed treatment works; (5-8-09)
- (6) Existing and proposed disposal methods; (5-8-09)
- (7) Drinking water system impacts; (5-8-09)
- (8) Hydraulic analysis; and (5-8-09)
- (9) Financing methods. (5-8-09)

ii. Design criteria. The preliminary engineering report shall discuss and present the design criteria applicable to the proposed project. The design criteria includes, but is not limited to: (5-8-09)

- (1) Wastewater flow rates including peak hour flows; (5-8-09)
- (2) Current project fifty (50) year design and build-out conditions; (5-8-09)
- (3) Piping size, material, and installation methods; (5-8-09)
- (4) Depth of bury and slope; (5-8-09)
- (5) Soil and ground water conditions; (5-8-09)
- (6) Corrosion protection; and (5-8-09)
- (7) Odor control. (5-8-09)

iii. Code provisions. The preliminary engineering report shall include a summary of applicable codes and standards that apply to the proposed project. (5-8-09)

iv. Cost estimate. The preliminary engineering report shall provide as applicable estimated construction costs for public works projects or projects funded by public monies. (5-8-09)

v. Construction schedule. The preliminary engineering report shall include the proposed construction schedule. (5-8-09)

vi. Environmental review. The preliminary engineering report shall include an environmental review. See the definition for environmental review in Section 010 for additional information. (5-8-09)

**b.** Wastewater Pump Station Projects. Items applicable to preliminary engineering reports for wastewater pump station projects include all items listed in Subsection 411.03.a. and items listed in Subsections 411.03.b.i. through 411.03.b.iv. (5-8-09)

i. Design criteria. The preliminary engineering report shall discuss and present the design criteria applicable to the proposed project. The design criteria includes, but is not limited to: (5-8-09)

- (1) Wastewater flow rates including average day, maximum day, and peak hour flows; (5-8-09)
- (2) Influent wastewater characteristics, including characteristics during periods of wet weather flows; (5-8-09)
- (3) Size and configuration; and (5-8-09)
- (4) Redundancy provisions. (5-8-09)

ii. Site evaluation and layout. The preliminary engineering report shall describe the proposed site and layout of the wastewater pumping station. This information includes, but is not limited to: (5-8-09)

- (1) Currently proposed facilities; (5-8-09)
- (2) Geotechnical investigation and provisions including buoyancy calculations if required; (5-8-09)
- (3) Flood control provisions; (5-8-09)
- (4) Security; (5-8-09)
- (5) Operations and maintenance assessments; and (5-8-09)
- (6) Odor management plans. (5-8-09)

iii. Instrumentation and control system. The preliminary engineering report shall discuss instrumentation and control that will be provided. This information includes, but is not limited to: (5-8-09)

- (1) System configuration; (5-8-09)
- (2) Operator interface; (5-8-09)
- (3) Process and instrumentation diagrams; and (5-8-09)
- (4) Alarm systems. (5-8-09)

iv. Emergency operation. The preliminary engineering report shall describe how the system will be operated during power outages, equipment failures, or other unforeseen system failures. (5-8-09)

**c.** Wastewater Treatment Plants. Items applicable to preliminary engineering reports for wastewater treatment plant designs and upgrades include all items listed in Subsection 411.03.a., Subsection 411.03.b., and Subsections 411.03.c.i. through 411.03.c.iv. (5-8-09)

i. Design criteria. The preliminary engineering report shall discuss and present the design criteria applicable to the proposed project. The design criteria includes, but is not limited to: (5-8-09)

- (1) Wastewater flow rates including average day, maximum day, maximum month, and peak hour flows; (5-8-09)
- (2) Effluent requirements; (5-8-09)
- (3) Solids production, disposal, or recycling requirements; (5-8-09)
- (4) Process units design criteria, process selection, and support data; (5-8-09)

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- (5) Mass balance calculations for process units including, but not limited to, flow and solids; and (5-8-09)
- (6) Monitoring and reporting requirements. (5-8-09)
- ii. Site evaluation and layout. The preliminary engineering report shall describe the proposed site and layout of the wastewater system. This information includes, but is not limited to: (5-8-09)
- (1) Currently proposed facilities; (5-8-09)
- (2) Facilities for twenty (20) year design conditions; (5-8-09)
- (3) Facilities for build-out conditions; (5-8-09)
- (4) Space for facilities potentially necessary to meet higher levels of treatment; (5-8-09)
- (5) Liquid process facilities and conveyance; (5-8-09)
- (6) Solids process facilities and conveyance; (5-8-09)
- (7) Plant access and on-site roads and walkways; (5-8-09)
- (8) Process piping and utilities; (5-8-09)
- (9) Buffer zones; (5-8-09)
- (10) Landscaping; (5-8-09)
- (11) Administration and operations buildings; (5-8-09)
- (12) Onsite laboratory facilities; and (5-8-09)
- (13) Treatment during construction. (5-8-09)
- iii. Hydraulic profile. The preliminary engineering report shall provide a hydraulic profile for the proposed system. This information includes, but is not limited to: (5-8-09)
- (1) Twenty (20) year design facilities; (5-8-09)
- (2) Provision for higher levels of treatment; (5-8-09)
- (3) Receiving stream one hundred (100) year surface water elevation; and (5-8-09)
- (4) Hydraulics and pipe sizing for build-out conditions. (5-8-09)
- iv. Process units. The preliminary engineering report shall describe in detail the proposed process units and discuss how the proposed units will interface with any existing process units. This information includes, but is not limited to: (5-8-09)
- (1) Current project and twenty (20) year design and build-out conditions; (5-8-09)
- (2) Size and number of units and loading rates; (5-8-09)
- (3) Redundancy provisions; (5-8-09)
- (4) Equipment type, size, performance criteria, and power requirements; (5-8-09)

- (5) Structure, equipment, and piping layout; (5-8-09)
- (6) Special code requirements; (5-8-09)
- (7) Cold temperature operation; and (5-8-09)
- (8) Procedures required for initial start-up of process unit(s), including procedures required for handling initial system flows that are less than minimum flow requirements for the process unit(s). (5-8-09)

**04. Engineer's Seal Required.** Preliminary engineering reports submitted to the Department shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. (5-8-09)

**412. -- 419. (RESERVED)**

**420. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: SUBMISSION OF PLANS AND SUPPORT DOCUMENTS.**

Submissions to the reviewing authority for construction of municipal wastewater treatment or disposal facilities shall include sealed plans and specifications, design criteria, the appropriate construction permit applications, review forms, and permit fee if required. The plans and specifications shall contain sufficient detail to allow for the contracting and construction of the wastewater systems. (4-11-06)

**421. -- 424. (RESERVED)**

**425. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: OPERATION AND MAINTENANCE MANUALS.**

**01. Manual Contents.** An operation and maintenance manual or manuals shall be provided for all wastewater systems. The manual shall include, but is not limited to, the following contents: daily operating instructions, operator safety procedures, location of valves and other key system features, a parts list and parts order form(s), and information for contacting the responsible charge operators. An operational trouble-shooting section shall be supplied to the wastewater works as part of any proprietary unit installed in system facilities. (5-8-09)

**02. Approval Required.** Final operation and maintenance manuals for construction of wastewater systems that include lift stations or treatment works must be submitted to the Department for review and approval prior to start-up of the proposed system unless the system components are already covered in an existing manual. (5-8-09)

**426. -- 429. (RESERVED).**

**430. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES -- DESIGN AND CONSTRUCTION OF WASTEWATER PIPELINES.**

**01. Design Capacity and Design Flow.** In general, sewer capacities shall be designed for the estimated ultimate tributary population, except in considering parts of the systems that can be readily increased in capacity. (4-11-06)

**02. Details of Design and Construction.** (4-11-06)

**a. Minimum Pipe Size.** Minimum pipe size for gravity sewer mains shall be eight (8) inches in diameter. Minimum pipe size for gravity sewer services shall be four (4) inches in diameter. Pipe diameters larger than these minimums shall be based on cleaning capability and hydraulic capacity, and shall conform with the required planning documents. (3-30-07)

**b. Depth.** Wastewater pipelines shall be installed sufficiently deep or specifically designed to prevent freezing and to protect the facilities from surface loading. (4-11-06)

**c.** Buoyancy. Buoyancy of wastewater pipelines shall be considered and flotation of the pipe shall be prevented with appropriate construction where high groundwater conditions are anticipated. (4-11-06)

**d.** Slope. Gravity wastewater pipelines shall be designed to have sufficient slope and velocity to “self clean” or transport constituent solids to the treatment facility. Justification for these slopes shall be included in the preliminary engineering report and shall be based on widely used guidance documents or published friction coefficients and Manning’s formula. (5-8-09)

**i.** If the current or future ownership of the system is by a city, county, quasi-municipal corporation or regulated public utility and the velocities are less than self cleaning, the owner shall, as a condition of the Department’s approval of plans and specifications, provide justification for the lower velocities and commit to, at a minimum, annually service wastewater pipelines to flush, transport, or remove solids from wastewater pipelines. This would include the use of cutting tools for roots, vactor trucks, and any other method required to keep the pipelines clean, intact and flowing. That commitment shall be in the form of a letter from both the owner and the future owner entity stating said commitment, and shall include a discussion of the current and future owners’ capacity to do said flushing. (3-30-07)

**ii.** If the current or future ownership of the system is by a developer that is passing the operation and maintenance on to a homeowner’s association or other similar entity, then the design shall not allow for velocities that are less than self cleaning. (3-30-07)

**e.** Materials. (4-11-06)

**i.** Any generally accepted material for wastewater pipelines will be given consideration. The material selected should be adapted to local conditions, such as: character of industrial wastes, possibility of septicity, soil characteristics, exceptionally heavy external loadings, abrasion, corrosion, and similar problems. (4-11-06)

**ii.** Couplings complying with applicable standard specifications shall be used for joining dissimilar materials. (4-11-06)

**iii.** For new pipe materials for which standards have not been established, the design engineer shall provide complete pipe specifications and installation specifications developed on the basis of criteria adequately documented and certified in writing by the pipe manufacturer to be satisfactory for the specific application. (4-11-06)

**f.** Installation. Installation specifications shall contain appropriate requirements based on the criteria, standards, and requirements established by industry in its technical publications. Reference current edition of the Idaho Standards for Public Works Construction for assistance in designing such specifications. (3-30-07)

**g.** Joints and Infiltration. (4-11-06)

**i.** The installation of joints and the materials used shall be included in the specifications. Wastewater pipeline joints shall be designed to minimize infiltration and to prevent the entrance of roots throughout the life of the system. Reference current edition of the Idaho Standards for Public Works Construction for assistance in designing such specifications. (3-30-07)

**ii.** Service connections to the wastewater pipeline main shall be water tight and not protrude into the wastewater pipelines. If a saddle type connection is used, it shall be a device designed to join with the types of pipe which are to be connected. All materials used to make service connections shall be compatible with each other and with the pipe materials to be joined and shall be corrosion proof. (4-11-06)

**h.** Manholes. Manholes shall be installed at the end of each line; at all changes in grade, size, or alignment; at all intersections. Cleanouts may be used only for special conditions and shall not be substituted for manholes nor installed at the end of laterals greater than one hundred fifty (150) feet in length. (4-11-06)

**i.** Testing. Testing shall conform with Section 501.3.4 of the “Idaho Standards for Public Works Construction,” incorporated by reference into these rules at Section 004. (3-30-07)

- j.** Inverted Siphons. Inverted siphons shall have not less than two (2) barrels or pipes. They shall be provided with necessary appurtenances for maintenance, convenient flushing, and cleaning equipment. Design shall provide sufficient head and appropriate pipe sizes to secure sufficient velocities for design average flows. (3-30-07)
- k.** Wastewater Pipelines in Relation to Surface Water Bodies. The top of all wastewater pipelines entering or crossing surface water bodies shall be at a sufficient depth below the natural bottom of the bed or otherwise designed to protect the wastewater pipeline. (4-11-06)
- i.** Wastewater pipelines located adjacent to surface water bodies shall be located outside of the bed and sufficiently removed therefrom to provide for future possible stream widening and to prevent pollution by siltation during construction. (3-30-07)
- ii.** Structures. Wastewater pipeline outfalls, headwalls, manholes, gate boxes, or other structures shall be designed to address anticipated flood flows of the surface water bodies. (4-11-06)
- iii.** Alignment. Wastewater pipelines crossing surface water bodies should be designed to cross the surface water body as nearly perpendicular to the surface water body flow as possible and shall be free from change in grade. (4-11-06)
- iv.** Materials. Wastewater pipelines entering or crossing surface water bodies shall be constructed of water transmission pressure rated pipe with restrained joints conforming to Section 401.2.9 of the "Idaho Standards for Public Works Construction," incorporated by reference into these rules at Section 004, or other suitable pipe with restrained joints capable of being installed to remain watertight and free from changes in alignment or grade. Material used to back-fill the trench shall be concrete slurry, stone, coarse aggregate, washed gravel, or other materials which will not readily erode, cause siltation, damage pipe during placement, or corrode the pipe. (3-30-07)
- v.** Siltation and Erosion. Construction methods that will minimize siltation and erosion shall be employed. (4-11-06)
- l.** Aerial Crossings. Support shall be provided for all joints in pipes utilized for aerial crossings. Restrained joints or structural casings are required. (4-11-06)
- m.** Cross Connections Prohibited. There shall be no physical connections between a public or private potable water supply system and a wastewater pipeline, or appurtenance thereto, which would permit the passage of any wastewater or polluted water into the potable supply. No water pipe shall pass through or come into contact with any part of a wastewater pipeline manhole. (4-11-06)
- n.** Protection of Water Sources, Supplies. When wastewater pipelines are proposed in the vicinity of any drinking water sources or supplies or other drinking water facilities, requirements of IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," shall be used to confirm acceptable isolation distances. (4-11-06)
- o.** Non-Potable Pipelines in Relation to Potable Water Pipelines. The Department will use the Memorandum of Understanding with the Plumbing Bureau as guidance in determining the relative responsibilities for reviewing service lines. The conditions of Subsections 542.07.a. and 542.07.b. shall apply to all potable services constructed or reconstructed after April 15, 2007 and where the Department or the QLPE is the reviewing authority. (5-8-09)
- i.** Parallel installation requirements. (5-8-09)
- (1) Non-potable mains in relation to potable mains: (5-8-09)
- (a) Greater than ten (10) feet separation: no additional requirements based on separation distance. (5-8-09)
- (b) Ten (10) feet to six (6) feet separation: separate trenches, with potable main above non-potable main, and non-potable main constructed with potable-water class pipe. (4-11-06)

- (c) Less than six (6) feet separation: design engineer to submit data to the Department for review and approval that this installation will protect public health and environment and non-potable main constructed with potable-water class pipe. (3-30-07)
- (d) Non-potable mains are prohibited from being located in the same trench as potable mains. (3-30-07)
- (e) Pressure sewage mains shall be no closer horizontally than ten (10) feet from potable mains. (3-30-07)
- (2) New non-potable services in relation to potable services, new non-potable services in relation to potable mains, and new potable services in relation to non-potable mains. (5-8-09)
- (a) Greater than six (6) feet separation: no additional requirements based on separation distances. (5-8-09)
- (b) Less than six (6) feet separation: design engineer to submit data that this installation will protect public health and the environment and non-potable service constructed with potable water class pipe. (5-8-09)
- (c) New potable services are prohibited from being located in the same trench as non-potable mains or non-potable services. (5-8-09)
- ii. Requirements for potable water mains or services crossing non-potable mains or services. For the purposes of Subsection 430.02.o.ii., the term “pipeline” applies to both mains and services. (5-8-09)
- (1) Eighteen (18) inches or more vertical separation with potable pipeline above non-potable pipeline: non-potable pipeline joint to be as far as possible from the potable water pipeline. (5-8-09)
- (2) Eighteen (18) inches or more vertical separation with potable water pipeline below non-potable pipeline: Non-potable pipeline joint to be as far as possible from the potable water pipeline, and non-potable pipeline must be supported through the crossing to prevent settling. (5-8-09)
- (3) Less than eighteen (18) inches vertical separation: (5-8-09)
- (a) Non-potable pipeline joint to be as far as possible from the potable water pipeline; and either (5-8-09)
- (b) Non-potable pipeline constructed with potable water class pipe for a minimum of ten (10) feet either side of potable pipeline with a single twenty (20) foot section of potable water class pipe centered on the crossing; or (5-8-09)
- (c) Sleeve non-potable or potable pipeline with potable water class pipe for ten (10) feet either side of crossing. Use of hydraulic cementitious materials such as concrete, controlled density fill, and concrete slurry encasement is not allowed as a substitute for sleeving. (5-8-09)
- (d) If the potable pipeline is below non-potable pipeline, the non-potable pipeline must also be supported through the crossing to prevent settling. (5-8-09)
- (4) Pressure sewage mains shall be no closer vertically than eighteen (18) inches from potable mains. (5-8-09)
- iii. Existing potable services in relation to new non-potable mains, existing non-potable services in relation to new potable mains, and existing potable services in relation to new non-potable services shall meet the requirements of Subsection 430.02.o.ii., where practical, based on cost, construction factors, and public health significance. If the Department determines that there are significant health concerns with these services, such as where a large existing service serves an apartment building or a shopping center, then the design shall conform with Subsection 430.02.o.ii. (5-8-09)

431. -- 439. (RESERVED)

**440. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: WASTEWATER PUMPING STATIONS.**

**01. General.** Section 440 regulates both public and private municipal wastewater collection pump stations and does not regulate individual residence pump stations, individual residence grinder pump stations, or individual residence septic tank effluent pump stations. See Section 441 for regulation of those types of pump stations. (3-30-07)

**a. Flooding.** Wastewater pumping station structures and electrical and mechanical equipment shall be protected from physical damage by the one hundred (100) year flood. Wastewater pumping stations shall remain fully operational and accessible during the twenty-five (25) year flood. Regulations of state and federal agencies regarding flood plain obstructions shall be considered. (3-30-07)

**b. Accessibility and Security.** The pumping station shall be accessible by maintenance vehicles during all weather conditions. (3-30-07)

**c. Grit.** The wet well and pump station piping shall be designed to avoid operational problems from the accumulation of grit. (3-30-07)

**d. Safety.** Provisions shall be made to consider the protection of maintenance personnel and visitors from typical and foreseeable hazards in accordance with the engineering standards of care. See also Subsection 450.07. (3-30-07)

**02. Design.** Design of wastewater pumping stations shall meet the applicable requirements of Subsections 440.02.a. through 440.02.i. (3-30-07)

**a. Type.** Wastewater pumping stations in general use fall into four types: wet well/dry well, submersible, suction lift, and screw pump. (3-30-07)

**b. Structures.** (3-30-07)

**i. Separation.** Dry wells shall be completely separated from the wet well. Common walls must be gas tight. (3-30-07)

**ii. Equipment Removal.** Provision shall be made to facilitate removing pumps, motors, and other mechanical and electrical equipment. Individual pump and motor removal must not interfere with the continued operation of remaining pumps. (3-30-07)

**iii. Access and Safety Landings.** (3-30-07)

**(1) Access.** Suitable means of access for maintenance personnel wearing self-contained breathing apparatus shall be provided to dry wells and to wet wells. See also Subsection 450.07. (3-30-07)

**(2) Safety Landings.** Section 009 provides a reference to requirements of the Occupational Safety and Health Administration (OSHA), compliance with which may be required by other law. (3-30-07)

**iv. Buoyancy.** Where high groundwater conditions are anticipated, buoyancy of the wastewater pumping station structures shall be considered and, if necessary, adequate provisions shall be made for protection. (3-30-07)

**v. Construction Materials.** Materials shall be selected that are appropriate under conditions of exposure to hydrogen sulfide and other corrosive gases, greases, oils, and other constituents frequently present in wastewater. This is particularly important in the selection of metals and paints. (3-30-07)



- c. Pumps.** (3-30-07)
- i. Multiple Units.** Multiple pumps shall be provided. Units shall have capacity such that, with any unit out of service, the remaining units will have capacity to handle the design peak hourly flow. (3-30-07)
  - ii. Protection Against Clogging.** Pumps (except screw pumps) handling separate sanitary wastewater from thirty (30) inch or larger diameter sewers shall be protected by bar racks. Appropriate protection from clogging shall also be considered for small pumping stations. (3-30-07)
  - iii. Pump Openings.** Pumps handling unscreened raw wastewater shall be capable of passing spheres of at least three (3) inches in diameter or be a grinder pump. (3-30-07)
  - iv. Priming.** The pump shall be placed so that, under normal operating conditions, it will operate under a positive suction head, except as specified in Subsection 440.03. (3-30-07)
  - v. Electrical Equipment.** Section 009 provides a reference to the requirements of the National Electrical Code, compliance with which may be required by other law. (3-30-07)
  - vi. Intake.** Section 008 provides a reference to the American National Standard Institute/Hydraulic Institute ANSI/HI 9.8, American National Standard for Centrifugal and Vertical Pump Intake Design. (3-30-07)
  - vii. Dry Well Dewatering.** Dry wells shall be equipped with a positive means for dewatering. (3-30-07)
  - viii. Pumping Rates.** The pumps and controls of main pumping stations shall be selected to operate with varying rates. The pump control system design shall take into account, and minimize as needed, downstream impact of pump discharge hydraulic surges. The station design capacity shall be based on peak hourly flow as determined in accordance with Section 411 and shall be adequate to maintain a velocity in the force main sufficient to avoid solids deposition. See Subsection 440.09. (3-30-07)
- d. Controls.** Water level control sensing devices shall be designed to allow for automatic control of pumps. (3-30-07)
- e. Valves.** (3-30-07)
- i. Suction Line.** Suitable shutoff valves shall be placed on the suction lines of dry pit pumps. (3-30-07)
  - ii. Discharge Line.** Suitable shutoff and check valves shall be placed on the discharge line of each pump (except on screw pumps). The check valve shall be located between the shutoff valve and the pump. Check valves shall be suitable for the material being handled and shall be placed on the horizontal portion of the discharge piping except for ball checks, which may be placed in the vertical run. Valves shall be capable of withstanding normal pressure and water hammer. All shutoff and check valves shall be operable from the floor level and accessible for maintenance. Outside levers are recommended on swing check valves. (3-30-07)
- f. Wet Wells.** (3-30-07)
- i.** Section 008 provides a reference to the American National Standard Institute/Hydraulic Institute ANSI/HI 9.8, American National Standard for Centrifugal and Vertical Pump Intake Design as a guidance document. (3-30-07)
  - ii. Air Displacement.** Covered wet wells shall have provisions for air displacement to the atmosphere, such as an inverted “j” tube or other means. (3-30-07)
- g. Safety Ventilation.** Adequate ventilation shall be provided for all pump stations unless access is provided using confined space entry procedures. Where the dry well is below the ground surface, mechanical ventilation is required. If screens or mechanical equipment requiring maintenance or inspection are located in the wet well, permanently installed ventilation is required. There shall be no interconnection between the wet well and dry

well ventilation systems. Section 008 provides a reference to guidance documents; see Subsection 008.11. (3-30-07)

**h.** Flow Measurement. Suitable methods for measuring wastewater flow shall be addressed at all pumping stations. (3-30-07)

**i.** Water Supply. There shall be no physical connection between any potable water supply and a wastewater pumping station which, under any conditions, might cause contamination of the potable water supply. If a potable water supply connection is made to the station, the connection shall comply with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." (3-30-07)

**03. Suction Lift Pump Stations - Special Considerations.** Suction lift pumps shall meet the applicable requirements of Subsection 440.02. (3-30-07)

**a.** Pump Priming and Lift Requirements. Suction lift pumps shall be of the self-priming or vacuum-priming type. Suction lift pump stations using dynamic suction lifts exceeding the limits outlined in Subsections 440.03.b. through 440.03.d. may be approved upon submission of factory certification of pump performance and detailed calculations indicating satisfactory performance under the proposed operating conditions. (3-30-07)

**b.** Self-Priming Pumps. Self-priming pumps shall be capable of rapid priming and re-priming at the "lead pump on" elevation. Such self-priming and re-priming shall be accomplished automatically under design operating conditions. (3-30-07)

**c.** Vacuum-Priming Pumps. Vacuum-priming pump stations shall be equipped with dual vacuum pumps capable of automatically and completely removing air from the suction lift pump. The vacuum pumps shall be adequately protected from damage due to wastewater. The combined total of dynamic suction lift at the "pump off" elevation and required net positive suction head at design operating conditions shall not exceed twenty-two (22) feet. (3-30-07)

**d.** Equipment, Wet Well Access, and Valving Location. The pump equipment compartment shall be above grade or offset and shall be effectively isolated from the wet well to prevent a hazardous and corrosive sewer atmosphere from entering the equipment compartment. Wet well access shall not be through the equipment compartment and shall be at least twenty-four (24) inches in diameter. Gasketed replacement plates shall be provided to cover the opening to the wet well for pump units removed for servicing. Valving shall not be located in the wet well. (3-30-07)

**04. Submersible Pump Stations - Special Considerations.** Submersible pump stations shall meet the applicable requirements of Subsection 440.02, except as modified in Subsection 440.04. (3-30-07)

**a.** Construction. Submersible pumps and motors shall be designed specifically for raw wastewater use, including totally submerged operation during a portion of each pumping cycle. An effective method to detect shaft seal failure or potential seal failure shall be provided. (3-30-07)

**b.** Pump Removal. Submersible pumps shall be readily removable and replaceable without personnel entering or dewatering the wet well, or disconnecting any piping in the wet well. (3-30-07)

**c.** Electrical Equipment. Section 009 provides a reference to the requirements of the National Electrical Code, compliance with which may be required by other law. (3-30-07)

**i.** Power Supply and Control Circuitry. Electrical supply, control, and alarm circuits shall be designed to provide strain relief and to allow disconnection from outside the wet well. Terminals and connectors shall be protected from corrosion by location outside the wet well or through use of watertight seals. (3-30-07)

**ii** Controls. The motor control center shall be located outside the wet well, be readily accessible, and be protected by a conduit seal or other appropriate measures to prevent the atmosphere of the wet well from gaining access to the control center. The seal shall be located so that the motor may be removed and electrically disconnected without disturbing the seal. When such equipment is exposed to weather, it is recommended that it meet the requirements of weatherproof equipment NEMA 3R or 4. (3-30-07)

iii. Power Cord. Pump motor power cords shall be designed for flexibility and serviceability under conditions of extra hard usage. Ground fault interruption protection shall be used to de-energize the circuit in the event of any failure in the electrical integrity of the cable. Power cord terminal fittings shall be corrosion-resistant and constructed in a manner to prevent the entry of moisture into the cable, shall be provided with strain relief appurtenances, and shall be designed to facilitate field connecting. (3-30-07)

d. Valves. Valves required under Subsection 440.02 shall be located in a separate valve chamber. Provisions shall be made to remove or drain accumulated water from the valve chamber. The valve chamber may be dewatered to the wet well through a drain line with a gas and water tight valve. Check valves that are integral to the pump need not be located in a separate valve chamber provided that the valve can be removed from the wet well in accordance with Subsection 440.04. Access shall be provided in accordance with Subsection 440.02. (3-30-07)

**05. Screw Pump Stations - Special Considerations.** Screw pump stations shall meet the applicable requirements of Subsection 440.02. (3-30-07)

a. Covers. Covers or other means of excluding direct sunlight shall be provided as necessary to eliminate adverse effects from temperature changes. (3-30-07)

b. Pump Wells. A positive means of isolating individual screw pump wells shall be provided. (3-30-07)

c. Bearings. Submerged bearings shall be lubricated by an automated system without pump well dewatering. (3-30-07)

**06. Alarm Systems.** Alarm systems with a backup power source shall be provided for pumping stations. The alarm shall be activated in cases of power failure, dry well sump and wet well high water levels, pump failure, unauthorized entry, or other cause of pump station malfunction. Pumping station alarms, including identification of the alarm condition, shall be transmitted to a twenty-four (24) hour response center. Audio-visual alarm systems may be acceptable in some cases in lieu of a transmitting system depending upon location, station holding capacity, and inspection frequency. (3-30-07)

**07. Emergency Operation.** (3-30-07)

a. Objective. The objective of emergency operation is to prevent the unintended discharge of raw or partially treated wastewater to any waters or land surface and to protect public health by preventing back up of wastewater and subsequent discharge to basements, streets, and other public and private property. (3-30-07)

b. Emergency Pumping Capability. Emergency pumping capability is required for all new lift stations constructed after April 15, 2007. Emergency pumping capability is required for all existing lift stations that undergo a material modification or expansion unless overall system reliability can be proven adequate to the Department as shown in Subsections 440.07.b.i. and 440.07.b.ii. or overflow prevention is provided by adequate emergency storage capacity as defined in these rules. If required, emergency pumping capability shall be accomplished by connection of the station to at least two (2) independent utility substations as determined by and stated in a letter from the appropriate power provider, by provision of portable or in-place internal combustion engine equipment which will generate electrical or mechanical energy, or by the provision of portable pumping equipment. Such emergency standby systems shall have sufficient capacity to start up and maintain the total rated running capacity of the station. Regardless of the type of emergency standby system provided, a portable pump connection to the force main with rapid connection capabilities and appropriate valving shall be provided outside the dry well and wet well. (3-30-07)

i. System reliability is considered adequate if power grid outages average three (3) or less per year based on data for the three (3) previous years with no more than six (6) outages in a single year. (3-30-07)

ii. Outage duration averages less than four (4) hours based on data for the three (3) previous years, with not more than one (1) outage during the three (3) previous year period exceeding eight (8) hours. Power loss for at least thirty (30) minutes qualifies as an outage. (3-30-07)

- c. Equipment Requirements. (3-30-07)
- i. General. The following general requirements shall apply to all internal combustion engines used to drive auxiliary pumps, service pumps through special drives, or electrical generating equipment: (3-30-07)
- (1) Engine Protection. The engine must be protected from operating conditions that would result in damage to equipment. Unless continuous manual supervision is planned, protective equipment shall be capable of shutting down the engine and activating an alarm on site and as provided in Subsection 440.06. Protective equipment shall monitor for conditions of low oil pressure and overheating, except that oil pressure monitoring will not be required for engines with splash lubrication. (3-30-07)
- (2) Size. The engine shall have adequate rated power to start and continuously operate under all connected loads. (3-30-07)
- (3) Fuel Type. Reliability and ease of starting, especially during cold weather conditions, shall be addressed in the selection of the type of fuel. (3-30-07)
- (4) Fuel Storage. Fuel storage and piping facilities if provided shall be constructed in accordance with applicable state and federal regulations. (3-30-07)
- (5) Engine Ventilation. The engine shall have adequate ventilation of fuel vapors and exhaust gases. (3-30-07)
- (6) Routine Start-up. All emergency equipment shall be provided with instructions indicating the need for regular starting and running of such units at full loads. (3-30-07)
- (7) Protection of Equipment. Emergency equipment shall be protected from damage at the restoration of regular electrical power. (3-30-07)
- ii. Engine-Driven Pumping Equipment. Where permanently-installed or portable engine-driven pumps are used, the following requirements in addition to general requirements shall apply. (3-30-07)
- (1) Pumping Capacity. Engine-driven pumps shall meet the design pumping requirements unless storage capacity is available for flows in excess of pump capacity. Pumps shall be designed for anticipated operating conditions, including suction lift if applicable. (3-30-07)
- (2) Operation. The engine and pump shall be equipped to provide automatic start-up and operation of pumping equipment unless manual start-up and operation is justified. Provisions shall also be made for manual start-up. Where manual start-up and operation is justified, storage capacity and alarm system must meet the requirements of Subsection 440.07.c.ii(3). (3-30-07)
- (3) Portable Pumping Equipment. Where part or all of the engine-driven pumping equipment is portable, adequate emergency storage capacity with alarm system shall be provided to allow time for detection of pump station failure and transportation and hookup of the portable equipment. (3-30-07)
- iii. Engine-Driven Generating Equipment. Where permanently-installed or portable engine-driven generating equipment is used, the following requirements shall apply in addition to the general requirements of Subsection 440.07. (3-30-07)
- (1) Generating Capacity. (3-30-07)
- (a) Generating unit size shall be adequate to provide power for pump motor starting current and for lighting, ventilation, and other auxiliary equipment necessary for safety and proper operation of the lift station. (3-30-07)
- (b) The operation of only one pump during periods of auxiliary power supply must be justified. Such justification may be made on the basis of the design peak hourly flows relative to single-pump capacity, anticipated

length of power outage, and storage capacity. (3-30-07)

(c) Manual or special sequencing controls shall be provided to start pump motors unless the generating equipment has capacity to start all pumps simultaneously with auxiliary equipment operating. (3-30-07)

(2) Operation. Provisions shall be made for automatic and manual startup and load transfer unless only manual start-up and operation is justified. Automatic transfer switches shall be UL listed and meet NEC requirements. The generator must be protected from operating conditions that would result in damage to equipment. Provisions shall be made to allow the engine to start and stabilize at operating speed before assuming the load. Where manual start-up and transfer is justified, storage capacity and alarm system must meet the requirements of Subsection 440.07.c.iii.(3). (3-30-07)

(3) Portable Generating Equipment. Where portable generating equipment and manual transfer is provided, adequate emergency storage capacity with alarm system shall be provided to allow time for detection of pump station failure and transportation and connection of generating equipment. Special electrical connections and double throw switches shall be provided for connecting portable generating equipment. Manual transfer switches shall be UL listed and meet NEC requirements. (3-30-07)

iv. Independent Utility Substations. Where independent substations are used for emergency power, each separate substation and its associated transmission lines shall be capable of starting and operating the pump station at its rated capacity. (3-30-07)

**08. Instructions and Equipment.** Wastewater pumping stations and portable equipment shall be supplied with a complete set of operational instructions, including emergency procedures, maintenance schedules, tools, and such spare parts as may be necessary. (3-30-07)

**09. Operation and Maintenance.** (3-30-07)

a. An operation and maintenance manual shall be submitted to and approved by the Department as required by Section 425. Adherence to the terms of this approved manual shall be required. The owner shall be responsible for maintaining the wastewater facility in a manner that assures its designed operation. (3-30-07)

b. For private municipal wastewater collection pump stations, documents that detail the technical, managerial, and financial capabilities of the private entity to properly operate and maintain said pump station for the long term shall be submitted to the Department for approval prior to operation. (3-30-07)

**10. Force Mains.** (3-30-07)

a. Velocity and Diameter. At design pumping rates, a cleansing velocity of at least two (2) feet per second shall be maintained. (3-30-07)

b. Air and Vacuum Relief Valve. An air relief valve shall be placed at high points in the force main to prevent air locking. The force main configuration and head conditions shall be evaluated as to the need for and placement of vacuum relief valves. (3-30-07)

c. Termination. The force mains from other than individual grinder pump stations shall enter a receiving manhole. Corrosion protection for the receiving manhole shall be provided. Control of odors at such discharge points shall be evaluated. (3-30-07)

d. Pipe and Design Pressure. Pipe and joints shall be equal to water main strength materials suitable for design conditions. The force main, reaction blocking, thrust restraint, and station piping shall be designed to withstand water hammer pressures and associated cyclic reversal of stresses that are expected with the cycling of wastewater lift stations. The use of surge valves, surge tanks, or other suitable means to protect the force main against severe pressure changes shall be evaluated. (3-30-07)

e. Special Construction. Force main construction near streams or water works structures and at water main crossings shall meet applicable provisions of Section 430. (3-30-07)

- f.** Design Friction Losses. (3-30-07)
- i.** Friction Coefficient. Friction losses through force mains shall be based on the Hazen and Williams formula or other acceptable methods. When the Hazen and Williams formula is used, the friction losses for varying values of “C” shall be evaluated for different types and ages of pipe. (3-30-07)
- ii.** Maximum Power Requirements. When initially installed, force mains will have a significantly higher “C” factor. The effect of the higher “C” factor shall be considered in calculating maximum power requirements and duty cycle time to prevent damage to the motor. The effects of higher discharge rates on selected pumps and downstream facilities shall also be considered. (3-30-07)
- g.** Identification. Where force mains are constructed of material which might cause the force main to be confused with potable water mains, the force main shall be appropriately identified using trench tape saying “raw sewage,” “biohazard,” or other appropriate wording. (3-30-07)
- h.** Leakage Testing. Leakage tests shall be specified including testing methods and leakage limits. Testing shall conform with Sections 401.3.6 and 505.3.3 of the “Idaho Standards for Public Works Construction,” incorporated by reference into these rules at Section 004. (3-30-07)
- i.** Thrust Blocking or Restraint. Thrust blocking or restraint shall conform with Sections 401.3.4 of the “Idaho Standards for Public Works Construction,” incorporated by reference into these rules at Section 004, or specific calculations reviewed and approved by the Department. (3-30-07)
- j.** Maintenance Considerations. Isolation valves shall be used if force mains connect into a common force main. (3-30-07)
- k.** Cover. Force mains shall be covered with sufficient earth or other insulation to prevent freezing or other physical damage. (3-30-07)

**441. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: INDIVIDUAL RESIDENCE WASTEWATER PUMPING STATIONS.**

**01. General.** Section 441 regulates individual residence pump stations, individual residence grinder pump stations, and individual residence septic tank effluent pump stations. However, this rule does not regulate grinder pumps or their vaults that are inside of individual residences or other structures. Certain individual residence wastewater pumping stations may be under the jurisdiction of the Idaho Division of Building Safety, Plumbing Bureau. For further defining and delineating of the Plumbing Bureau’s and the Department’s statutory and regulatory duties and responsibilities with respect to individual residence wastewater pumping stations, see the Memorandum of Understanding referred to in Section 008. (5-8-09)

**a.** Flooding. Wastewater pumping station structures and electrical and mechanical equipment shall be protected from physical damage by the one hundred (100) year flood. Wastewater pumping stations shall remain fully operational and accessible during the twenty-five (25) year flood. Local, state and federal flood plain regulations shall be considered. (3-30-07)

**b.** Accessibility and Security. The pumping station shall be accessible by maintenance vehicles during all weather conditions. (3-30-07)

**02. Design.** Design of wastewater pumping stations shall meet the applicable requirements of Subsections 441.02.a. through 441.02.c. (3-30-07)

**a.** Pumps. (3-30-07)

**i.** Multiple Units. Duplex pumps for individual residence wastewater pump stations are not required. However, for developments having five (5) or more similar facilities, one (1) working spare pump for each size shall be provided and be readily available at all times. (3-30-07)

ii. Pump Openings. Pumps handling raw wastewater shall be capable of passing spheres of at least three (3) inches in diameter or be a grinder pump. (3-30-07)

iii. Priming. The pump shall be placed so that, under normal operating conditions, it will operate under a positive suction head. (3-30-07)

b. Controls. Water level control sensing devices shall be designed to allow for automatic control of pumps. (3-30-07)

c. Valves. Suitable means to facilitate pump removal and to prevent backflow shall be provided. All shutoff and check valves shall be accessible for maintenance. (3-30-07)

**03. Submersible Pump Stations - Special Considerations. (3-30-07)**

a. Construction. Submersible pumps and motors shall be designed specifically for raw wastewater use, including totally submerged operation during a portion of each pumping cycle. An effective method to detect shaft seal failure or potential seal failure shall be provided. (3-30-07)

b. Pump Removal. Submersible pumps shall be readily removable and replaceable without personnel entering or dewatering the wet well, or disconnecting any piping in the wet well. (3-30-07)

c. Electrical Equipment. Section 009 provides a reference to the requirements of the National Electrical Code, compliance with which may be required by other law. (3-30-07)

i. Power Supply and Control Circuitry. Electrical supply, control, and alarm circuits shall be designed to provide strain relief and to allow disconnection from outside the wet well. Terminals and connectors shall be protected from corrosion by location outside the wet well or through use of watertight seals. (3-30-07)

ii. Controls. The motor control center shall be located outside the wet well, be readily accessible, and be protected by a conduit seal or other appropriate measures to prevent the atmosphere of the wet well from gaining access to the control center. The seal shall be located so that the motor may be removed and electrically disconnected without disturbing the seal. When such equipment is exposed to weather, it is recommended that it meet the requirements of weatherproof equipment NEMA 3R or 4. (3-30-07)

iii. Power Cord. Pump motor power cords shall be designed for flexibility and serviceability under conditions of extra hard usage. Ground fault interruption protection shall be used to de-energize the circuit in the event of any failure in the electrical integrity of the cable. Power cord terminal fittings shall be corrosion-resistant and constructed in a manner to prevent the entry of moisture into the cable, shall be provided with strain relief appurtenances, and shall be designed to facilitate field connecting. (3-30-07)

**04. Alarm Systems.** Audio-visual alarm systems with a backup power source shall be provided for pumping stations. The alarm shall be activated in cases of wet well high water levels and shall be visible from the outside of the structure. (5-8-09)

**05. Emergency Operation.** The pumping station must be sized to allow for one (1) day's flow between the high water alarm and the building service invert or the pressure discharge pipe, whichever is closer to the high water alarm. (5-8-09)

**06. Instructions and Equipment.** Wastewater pumping stations shall be supplied with a complete set of operational instructions, including emergency procedures, maintenance schedules, tools, and such spare parts as may be necessary. (3-30-07)

**07. Operation and Maintenance.** An operation and maintenance manual shall be submitted to and approved by the Department as required by Section 425. Adherence to the terms of this approved manual shall be required. The owner shall be responsible for maintaining the wastewater facility in a manner that assures its designed operation. (3-30-07)

- 08. Force Mains.** (3-30-07)
- a.** Velocity and Diameter. At design pumping rates, a cleansing velocity of at least two (2) feet per second shall be maintained. (3-30-07)
- b.** Special Construction. Force main construction near streams or water works structures and at water main crossings shall meet applicable provisions of Section 430. (3-30-07)
- c.** Design Friction Losses. (3-30-07)
- i.** Friction Coefficient. Friction losses through force mains shall be based on the Hazen and Williams formula or other acceptable methods. When the Hazen and Williams formula is used, the friction losses for varying values of “C” shall be evaluated for different types and ages of pipe. (3-30-07)
- ii.** Maximum Power Requirements. When initially installed, force mains will have a significantly higher “C” factor. The effect of the higher “C” factor shall be considered in calculating maximum power requirements and duty cycle time to prevent damage to the motor. The effects of higher discharge rates on selected pumps and downstream facilities shall also be considered. (3-30-07)
- d.** Identification. Where force mains are constructed of material which might cause the force main to be confused with potable water mains, the force main shall be appropriately identified using trench tape saying “raw sewage,” “biohazard,” or other appropriate wording. (3-30-07)
- e.** Leakage Testing. Leakage tests shall be specified including testing methods and leakage limits. Testing shall conform with Sections 401.3.6 and 505.3.3 of the “Idaho Standards for Public Works Construction,” incorporated by reference into these rules at Section 004. (3-30-07)
- f.** Thrust Blocking. Thrust blocking shall conform with Sections 401.3.4 of the “Idaho Standards for Public Works Construction,” incorporated by reference into these rules at Section 004. (3-30-07)
- g.** Maintenance Considerations. Isolation valves shall be used if force mains connect into a common force main. (3-30-07)
- h.** Cover. Force mains shall be covered with sufficient earth or other insulation to prevent freezing or other physical damage. (3-30-07)

**442. – 449. (RESERVED).**

**450. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: WASTEWATER TREATMENT FACILITIES: GENERAL.**

- 01. Plant Location.** (3-30-07)
- a.** General. The preliminary engineering report or facility plan shall include a detailed discussion for new facilities regarding site selection criteria and alternatives considered. See Sections 410 and 411. (5-8-09)
- b.** Flood protection. The treatment plant structures, electrical, and mechanical equipment shall be protected from physical damage by the one hundred (100) year flood. Treatment plants shall be designed to remain fully operational and accessible during the one hundred (100) year flood. This requirement applies to new construction and to existing facilities undergoing major modification. Local, state and federal flood plain regulations shall be considered. (3-30-07)
- c.** Setback distances. Facilities open to the atmosphere such as lagoons, open clarifiers, open aeration basins, and other such facilities shall be placed a minimum of two hundred (200) feet from residential property lines. If such open facilities are adjacent to property zoned as commercial or industrial, a lesser setback will be considered by the Department on a case by case basis. For totally enclosed facilities with noise and odor controls, the minimum



setback shall be fifty (50) feet if approved by the Department. Neighboring property owners may grant long term easements or other types of legal documents tied to the land to allow for similar setbacks from future development or public use. (5-8-09)

**02. Quality of Effluent.** The required degree of wastewater treatment shall be based on the effluent requirements and water quality standards established by the responsible state agency and appropriate federal regulations including discharge permit requirements. Combined sewer overflows are not allowed. (5-8-09)

**03. Design.** (3-30-07)

**a. Type of Treatment.** The preliminary engineering report or facility plan shall include a detailed discussion regarding criteria and alternatives considered in selection of the appropriate type of treatment. See Sections 410 and 411. The plant design shall provide the necessary flexibility to perform satisfactorily within the expected range of waste characteristics and volumes. (5-8-09)

**b. Required Engineering Data for New Process and Application Evaluation.** The policy of the Department is to encourage rather than obstruct the development of any valid methods or equipment for treatment of wastewater. The lack of inclusion in these standards of some types of wastewater treatment processes or equipment should not be construed as precluding their use. The Department may approve other types of wastewater treatment processes and equipment that meet the performance standards set forth in these rules under the condition that the operational reliability and effectiveness of the process or device shall have been demonstrated under similar conditions with a suitably-sized unit operating at its design load conditions, to the extent required. To determine that such new processes and equipment or applications have a reasonable and substantial chance of success, the Department may require the following: (3-30-07)

i. Monitoring observations, including test results and engineering evaluations, demonstrating the efficiency of such processes. (3-30-07)

ii. Detailed description of the test methods. (3-30-07)

iii. Testing, including appropriately-composited samples, under various ranges of strength and flow rates (including diurnal variations) and waste temperatures over a sufficient length of time to demonstrate performance under climatic and other conditions which may be encountered in the area of the proposed installations. (3-30-07)

iv. Other appropriate information. The Department may require that appropriate testing be conducted and evaluations be made under the supervision of a competent process engineer other than those employed by the manufacturer or developer. (3-30-07)

**c. Design period.** The design period shall be clearly identified in the preliminary engineering report or facility plan as required in Sections 410 and 411. (5-8-09)

**d. Design Loads.** (3-30-07)

i. Hydraulic Design. (3-30-07)

(1) **Critical Flow Conditions.** Flow conditions critical to the design of the treatment plant shall be as described in the preliminary engineering report required by Section 411. Initial low flow conditions must be evaluated in the design to minimize operational problems with freezing, septicity, flow measurements and solids dropout. The appropriate design flows must be considered in evaluating unit processes, pumping, piping, etc. (5-8-09)

(2) **Treatment Plant Design Capacity.** The treatment plant design capacity shall be as described in Section 411. The plant design flow selected shall meet the appropriate effluent and water quality standards that are set forth in the discharge or other appropriate permit. For plants subject to high wet weather flows or overflow detention pump-back flows, the design maximum flows that the plant is to treat on a sustained basis shall be specified. (3-30-07)

(3) Flow Equalization. Facilities for the equalization of flows and organic shock load shall be considered at all plants which are critically affected by surge loadings. (3-30-07)

ii. Organic Design. Organic loadings for wastewater treatment plant design shall be based on the information provided in the preliminary engineering report required by Section 411. The effects of septage flow which may be accepted at the plant shall be given consideration and appropriate facilities shall be included in the design. See Section 520. (5-8-09)

iii. Shock Effects. The shock effects of high concentrations and diurnal peaks for short periods of time on the treatment process, particularly for small treatment plants, shall be considered. (3-30-07)

e. Conduits. All piping and channels shall be designed to carry the maximum expected flows. Conduits shall be designed to avoid creation of pockets and corners where solids can accumulate. (3-30-07)

f. Gates or Valves. Suitable gates or valves shall be placed in channels to seal off unused sections which might accumulate solids. The use of shear gates, stop plates or stop planks is permitted where they can be used in place of gate valves or sluice gates. Non-corrodible materials shall be used for control gates and conduits. (3-30-07)

g. Arrangement of Units. Component parts of the plant shall be arranged for appropriate operating and maintenance convenience, flexibility, economy, continuity of maximum effluent quality, and ease of installation of future units. (3-30-07)

h. Flow Division Control. Flow division control facilities shall be provided as necessary to ensure organic and hydraulic loading control to plant process units and shall be designed for easy operator access, change, observation, and maintenance. Appropriate flow measurement facilities shall be incorporated in the flow division control design. (3-30-07)

i. Odor Management. An odor management plan shall be submitted to and approved by the Department as a part of the preliminary engineering report described in Section 411. The Water Environment Federation Guidance referenced in Section 008 of these rules provides guidance for use in developing an odor management plan that is inclusive of the facilities being designed. (5-8-09)

j. Cold Weather. Facilities shall be designed with regard for proper operation and maintenance and protection during cold weather temperatures expected at the specific location. The Water Environment Federation Guidance referenced in Section 008 of these rules provides guidance for use in designing, operating and maintaining facilities in cold weather. (3-30-07)

**04. Plant Details.** (3-30-07)

**a. Unit Bypasses.** (3-30-07)

i. Removal from Service. Properly located and arranged bypass structures and piping shall be provided so that each unit of the plant can be removed from service independently. The bypass design shall facilitate plant operation during unit maintenance and emergency repair so as to minimize deterioration of effluent quality and ensure rapid process recovery upon return to normal operational mode. The actuation of all bypasses shall require manual action by operating personnel. All power-actuated bypasses shall be designed to permit manual operation in the event of power failure. (3-30-07)

ii. Unit Bypass During Construction. Unit bypassing during construction shall be in accordance with the preliminary engineering report required by Section 411. (5-8-09)

b. Unit dewatering, flotation protection, and plugging. Drains or sumps shall be provided to completely dewater each unit to an appropriate point in the process. Due consideration shall be given to the possible need for hydrostatic pressure relief devices to prevent flotation of structures. Pipes subject to plugging shall be provided with means for mechanical cleaning or flushing. (3-30-07)

c. Construction materials. Materials shall be selected that are appropriate under conditions of exposure to hydrogen sulfide and other corrosive gases, greases, oils, and other constituents frequently present in wastewater. This is particularly important in the selection of metals and paints. (3-30-07)

d. Painting. The contents and direction of flow shall be identified on the piping in a contrasting color. (3-30-07)

e. Operating equipment. Tools, accessories, and spare parts necessary for the plant operator's use shall be provided. (3-30-07)

f. Storage and work space facilities. Readily accessible storage and work space facilities shall be provided, and consideration shall be given to provision of a garage for large equipment storage, maintenance, and repair. (3-30-07)

g. Erosion control during construction. Effective site erosion control shall be provided during construction. (3-30-07)

h. Grading and landscaping. Upon completion of the plant, the ground shall be graded and landscaped in accordance with the preliminary engineering report developed in the preliminary engineering report required by Section 411. (5-8-09)

**05. Plant Outfalls.** (3-30-07)

a. Discharge impact control. The outfall shall be designed to discharge to the receiving stream in a manner acceptable to various reviewing authorities including, but not limited to, EPA, the Idaho Department of Environmental Quality, U.S. Army Corp of Engineers, Idaho Department of Water Resources, and local jurisdictions. (3-30-07)

b. Protection and Maintenance. The outfall shall be so constructed and protected against the effects of floodwater, ice, or other hazards as to reasonably ensure its structural stability and freedom from stoppage. Hazards to navigation shall be considered in designing outfalls. (3-30-07)

c. Sampling Provisions. All outfalls shall be designed so that a sample of the effluent can be obtained at a point after the final treatment process and before discharge to or mixing with the receiving waters. (3-30-07)

**06. Essential Facilities.** (3-30-07)

a. Emergency Power Facilities. (3-30-07)

i. General. All wastewater treatment plants shall be provided with an alternate source of electric power or pumping capability to allow continuity of operation during power failures. Refer to Subsection 440.07.c. for design requirements. Methods of providing alternate sources include: (3-30-07)

(1) The connection of at least two (2) independent power sources such as substations. A power line from each substation is required if this method is used. The determination of the independent power sources shall be done by the appropriate power provider and stated in a letter from that provider. (3-30-07)

(2) In-place internal combustion engine equipment which will generate electrical or mechanical energy. (3-30-07)

(3) Portable pumping equipment when only emergency pumping is required. Where part or all of the engine-driven pumping equipment is portable, adequate emergency storage capacity with alarm system shall be provided to allow time for detection of pump station failure and transportation and hookup of the portable equipment. (3-30-07)

ii. Power for Aeration. Standby generating capacity normally is not required for aeration equipment

used in the activated sludge process. In cases where a history of chronic, long-term (four (4) hours or more) power outages have occurred, auxiliary power for minimum aeration of the activated sludge will be required as provided in Subsections 450.06.a.i.(1) or 450.06.a.i.(2). (5-8-09)

iii. Power for Disinfection. Standby generating capacity, as provided in Subsections 450.06.a.i.(1) or 450.06.a.i.(2), is required for disinfection facilities and dechlorination facilities. (3-30-07)

b. Water Supply. Section 009 provides a reference to the Uniform Plumbing Code, compliance with which may be required by other law. (3-30-07)

c. Sanitary Facilities. Section 009 provides a reference to the Uniform Plumbing Code, compliance with which may be required by other law. (3-30-07)

d. Stairways. Stairways shall be installed in lieu of ladders for top access to units requiring routine inspection and maintenance (such as digesters, trickling filters, aeration tanks, clarifiers, tertiary filters, etc.). (3-30-07)

e. Flow Measurement. (3-30-07)

i. Location. Flow measurement devices shall be provided to measure the following flows: (5-8-09)

(1) Plant influent or effluent flow. (3-30-07)

(2) If influent flow is significantly different from effluent flow, both shall be measured or otherwise accounted for by other flow measurement facilities. (3-30-07)

(3) Other flows required to be monitored under the provisions of the discharge permit. (3-30-07)

(4) Other flows such as return activated sludge, waste activated sludge, and recycle required for plant operational control. (3-30-07)

ii. Devices. Indicating, totalizing, and recording flow measurement devices for all influent or effluent flows shall be provided for all plants. Any other flow measurement device may be indicating and totalizing only. All flow measurement equipment must be sized to function to a satisfactory level of accuracy over the full range of flows expected and shall be protected against freezing. (5-8-09)

iii. Hydraulic Conditions. Flow measurement equipment including approach and discharge conduit configuration and critical control elevations shall be designed to ensure the required hydraulic conditions necessary for the measurement accuracy needed for the specific application. (3-30-07)

iv. Calibration and Certification. The flow measurement devices specified in Subsections 450.06.e.i.(1) through 450.06.e.i.(3) shall be calibrated and certified at manufacturer-specified frequencies. (5-8-09)

f. Sampling Equipment. Effluent composite sampling equipment shall be provided at all mechanical plants and at other facilities where necessary to meet discharge permit monitoring requirements. Composite sampling equipment shall also be provided as needed for influent sampling and for monitoring plant operations. The influent sampling point shall be located prior to any process return flows. (3-30-07)

**07. Safety.** (3-30-07)

a. General. Provisions shall be made to consider the protection of maintenance personnel and visitors from typical and foreseeable hazards in accordance with the engineering standards of care. Enclosure of the plant site with a fence and signs designed to discourage the entrance of unauthorized persons and animals is required. (3-30-07)

b. Hazardous Chemical Handling. The materials utilized for storage, piping, valves, pumping,

metering, splash guards, etc., shall be specially selected considering the physical and chemical characteristics of each hazardous or corrosive chemical. (3-30-07)

**08. Laboratory.** (3-30-07)

**a.** All treatment plants shall include a laboratory for making the necessary analytical determinations and operating control tests, except for those plants utilizing only processes not requiring laboratory testing for plant control and where satisfactory off-site laboratory provisions are made to meet the permit monitoring requirements. The laboratory shall have sufficient size, bench space, equipment, and supplies to perform all self-monitoring analytical work required by discharge permits, and to perform the process control tests necessary for good management of each treatment process included in the design. (3-30-07)

**b.** Treatment plant laboratory needs may be divided into the following three (3) general categories: (3-30-07)

**i.** Plants performing only basic operational testing; this typically includes pH, temperature, dissolved oxygen, and chlorine residual. (3-30-07)

**ii.** Plants performing more complex operational and permit laboratory tests including biochemical oxygen demand, suspended solids, and fecal coliform analysis. (3-30-07)

**iii.** Plants performing more complex operational, permit, industrial pretreatment, and multiple plant laboratory testing. (3-30-07)

**c.** Expected minimum laboratory needs for the three (3) plant classifications set out in Subsection 450.08.b. must be addressed in the preliminary engineering report. (5-8-09)

**09. Instructions and Equipment.** Wastewater treatment equipment shall be supplied with a complete set of operational instructions, including emergency procedures, maintenance schedules, tools and such spare parts as may be necessary. (3-30-07)

**10. Operation and Maintenance.** An operation and maintenance manual shall be submitted to and approved by the Department as required by Section 425. Adherence to the terms of this approved manual shall be required. The owner shall be responsible for maintaining the wastewater facility in a manner that assures its designed operation. (3-30-07)

**451. -- 454. (RESERVED)**

**455. PRIVATE MUNICIPAL WASTEWATER TREATMENT PLANTS.**

**01. Scope.** Section 455 includes additional requirements for approval of private municipal wastewater treatment plants. Individual extended treatment package systems for on-site systems are not covered by these rules, but are covered by IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." See Technical Guidance Manual for Individual and Subsurface Sewage Disposal Systems at <http://www.deq.idaho.gov/>. Private municipal wastewater treatment plants may be considered if no other viable alternative is available. (5-8-09)

**02. Preliminary Engineering Report.** A preliminary engineering report as described in Section 411 must be submitted to the Department for review and must be approved by the Department prior to submittal of plans and specifications. The preliminary engineering report for private municipal wastewater treatment plants shall include the information listed in Subsections 455.02.a. and 455.02.b., as well as information specified in Section 411. (5-8-09)

**a.** The preliminary engineering report shall evaluate the following alternatives: (5-8-09)

**i.** Wastewater treatment plants (possibly several technologies). (5-8-09)

**ii.** Self-contained lagoon. (3-30-07)

- iii. Conventional septic tank and drainfield (or alternate drainfield design). (3-30-07)
- iv. Surface water discharge including impact on TMDLs. (3-30-07)
- v. Gravity or pressure sewer into nearby community (see Subsection 455.04.e. for distances to community systems and required hook-up.) (5-8-09)
- vi. Recirculating or intermittent sand filter. (3-30-07)
- vii. Annual operation and maintenance costs. (3-30-07)
- viii. Land application/reuse. (3-30-07)
- b.** The preliminary engineering report must thoroughly analyze the effect of the treatment plant discharge on ground water quality, especially bacteria, viruses, phosphorus and nitrates as compared to the alternatives listed in Subsection 455.02.a. (5-8-09)
- 03. Plan and Specification Approval.** (3-30-07)
  - a.** Plans and specifications for the collection and treatment systems will not be approved until the owner is in receipt of one of the following (whichever is applicable): (3-30-07)
    - i. A draft NPDES permit from EPA for proposed surface water discharges; or (5-8-09)
    - ii. A draft wastewater land application/reuse permit from the Department for proposed land application or reuse of the effluent. See the Guidance for Reclamation and Reuse of Municipal and Industrial Wastewater at <http://www.deq.idaho.gov>. (5-8-09)
  - b.** For a subsurface treatment and dispersal system (SSDS): (5-8-09)
    - i. The plans and specifications for the dispersal system must receive approval from the Department prior to receipt of the SSDS permit from the district health department having jurisdiction; and (5-8-09)
    - ii. The plans and specifications for the collection system will not be approved by the Department until the owner is in receipt of the SSDS permit from the district health department having jurisdiction. (5-8-09)
  - c.** For private municipal wastewater treatment plants storing their treated effluent prior to irrigation or surface water discharge, the following additional items shall be considered by the Department, prior to approving either the treatment systems or the disposal option. These include, but are not limited to, sealing of storage ponds, filtration and disinfection requirements prior to use or discharge, the degree of treatment, and the intended type and area of irrigation. See IDAPA 58.01.17, "Recycled Water Rules." (5-8-09)
- 04. Private Municipal Wastewater Treatment Plants.** (5-8-09)
  - a.** The private municipal wastewater treatment plant shall have at least two (2) full years of operating data on five (5) separate installations in the United States. The data submittal shall include the name, address, and telephone number for a regulatory agency contact person familiar with the performance of each reported installation. (5-8-09)
  - b.** The owner shall provide for a wastewater system operator in responsible charge of the facility. The operator license classification requirement will depend on the classification of the system based on Section 202 and the licensure requirements of Section 203. If the operator is provided by contract, the contract shall be submitted to the Department for review and approval. (5-8-09)
  - c.** A sludge management plan must be submitted to and approved by the Department. The plan must include collection, treatment and disposal of the sludge. Additionally, a signed contract that provides for ultimate

legal disposal of the sludge shall be submitted to the Department prior to plan and specification approval. (3-30-07)

**d.** The private municipal wastewater treatment plant shall be a dual train type (or equivalent/greater) with redundant pumps and blowers from influent works to the disposal site and provide sufficient redundancy to continue processing incoming wastewater at peak flows while any one (1) component or process is out of service. Standby or emergency power shall be provided to fully operate the wastewater treatment plant during a power outage unless the water system would also be out during a power outage. (5-8-09)

**e.** A compliance agreement schedule authorized by Section 39-116A, Idaho Code, shall be required for each private municipal wastewater treatment plant approved unless specifically waived by the Department in writing. If a private municipal wastewater treatment plant installation is only a temporary or interim measure in a long-term plan, a compliance agreement schedule will include a sunset clause with a date for the private municipal wastewater treatment plant to cease operation and will require the plant owner to fund and construct the eventual hookup to the public municipal wastewater collection system when the system becomes reasonably accessible. The compliance agreement schedule shall address such things as operation and maintenance requirements and monitoring, reporting requirements, and other project-specific items as applicable. The owner shall be responsible for complying with the requirements of the compliance agreement schedule. The compliance agreement schedule must be renewed every five (5) years; when ownership of the treatment plant changes; or at the request of the owner(s) or Department, so long as the system is in operation. (5-8-09)

**f.** If the Department determines that a proposed private municipal wastewater treatment plant is reasonably accessible to a public municipal wastewater collection system, the use of the private municipal wastewater treatment plant may be denied. (5-8-09)

**g.** **Minimum Size.** The minimum size of a private municipal wastewater treatment plant allowed under these rules is twenty-five thousand (25,000) gallons per day design capacity based on average day flows. (5-8-09)

**i.** The minimum size requirements do not apply to proposed systems with suitably configured passive wastewater treatment technologies including, but not limited to, facultative lagoons, free water surface wetlands, and vegetated submerged beds. (5-8-09)

**ii.** The Department may approve private municipal wastewater treatment plants smaller than twenty-five thousand (25,000) gallons per day design capacity, based on average day flows, provided the treatment plant will be maintained under original ownership. (5-8-09)

**iii.** For the Department to approve the transfer of ownership of a private municipal wastewater treatment plant smaller than twenty-five thousand (25,000) gallons per day design capacity, based on average day flows, to another entity, the technical, financial, and managerial requirements in Section 409 must be demonstrated by the proposed new owner. (5-8-09)

**05. Private Municipal Wastewater Treatment Plants with Drainfields.** In addition to the applicable requirements of these rules, the subsurface sewage disposal design, construction and operation shall comply with IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." The exception to this is for Class A reclaimed wastewater reuse facilities that discharge to the subsurface. These reuse facilities are regulated by IDAPA 58.01.17, "Recycled Water Rules." (5-8-09)

**456. -- 459. (RESERVED)**

**460. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: SCREENING AND GRIT REMOVAL.**

**01. Screening Devices and Comminutors. (3-30-07)**

**a.** Screening, coarse or fine, or comminutors shall be required for all mechanical plants and shall be addressed for other types of plants. These facilities shall be designed for peak hourly flow. Multiple channels shall be provided and equipped with the necessary gates to isolate flow from any screening unit. Provisions shall also be made

to facilitate dewatering each unit. The channel preceding and following the screen shall be shaped to minimize settling of solids. (3-30-07)

**b.** For mechanical plants with design average flow less than one million gallons per day (1 mgd), and where a single mechanically cleaned screen is used, an auxiliary manually cleaned screen shall be provided. Where two (2) or more mechanically cleaned screens are used, the design shall provide for taking any unit out of service without sacrificing the capability to screen the design peak instantaneous flows. (3-30-07)

**02. Grit Removal Facilities.** Grit removal and handling facilities shall be provided for all mechanical wastewater treatment plants. Consideration shall be given to possible damaging effects on pumps, comminutors, and other preceding equipment, and the need for additional storage capacity in treatment units where grit is likely to accumulate. (3-30-07)

**461. -- 469. (RESERVED)**

**470. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: SETTLING.**

**01. General.** (3-30-07)

**a.** Where settling is being used, a minimum of two (2) units capable of independent operation are desirable and shall be provided in all plants where design average flows exceed one hundred thousand (100,000) gallons/day. Plants not having multiple units shall include other provisions to assure continuity of treatment. (3-30-07)

**b.** The design of settling facilities shall include a minimum of two (2) units with flow splitting. Sizing shall be calculated for both design average and design peak hourly flow conditions, and the larger surface area determined shall be used. (3-30-07)

**c.** The plant design shall allow for isolation of each unit. The plant design shall allow for sludge and scum removal. (3-30-07)

**d.** Baffling shall be designed to control solids carry-over. (3-30-07)

**e.** The minimum side depth for primary settling facilities shall be ten (10) feet. (3-30-07)

**f.** The minimum side depth for secondary settling facilities shall be twelve (12) feet. (3-30-07)

**471. -- 479. (RESERVED)**

**480. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: SLUDGE PROCESSING, STORAGE, AND DISPOSAL.**

**01. Facilities.** Facilities for processing sludge shall be provided for all mechanical wastewater treatment plants. Facilities shall be capable of processing sludge to a form suitable for ultimate disposal. Final disposal or utilization shall be in accordance with applicable permit and federal regulations. (3-30-07)

**02. Design.** Sludge processing, storage and disposal facility design shall comply with the sludge management plan in the Preliminary Engineering Report. (3-30-07)

**03. Multiple Units.** Multiple units capable of independent operation are desirable and shall be provided in all plants where design average flows exceed one hundred thousand (100,000) gallons/day. Plants not having multiple units shall include other provisions to assure continuity of treatment. The plant design shall allow for isolation of each unit. (3-30-07)

**481. -- 489. (RESERVED)**



**490. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: BIOLOGICAL TREATMENT.**

If biological treatment is used, the process shall be determined in the preliminary engineering report. The choice shall be based on influent characteristics and effluent requirements. (5-8-09)

**01. Trickling Filters.** (3-30-07)

**a.** General. Trickling filters shall be preceded by effective settling tanks equipped with scum and grease collecting devices or other suitable pretreatment facilities. (3-30-07)

**b.** Hydraulics. The flow will be uniformly distributed across the surface of the media. The piping system, including dosing equipment and distributor, shall be designed to provide capacity for the design peak hour flow, including recirculation. (5-8-09)

**c.** Media. (3-30-07)

**i.** Quality. The media shall be appropriate for the wastewater and shall be of sufficient strength to support itself under design loading and build up of biomass. (3-30-07)

**ii.** Depth. Trickling filter media shall have a minimum depth of six (6) feet above the underdrains. (3-30-07)

**d.** Underdrainage System. (3-30-07)

**i.** Arrangement. Underdrains shall be provided and the underdrainage system shall cover the entire floor of the filter. Inlet openings into the underdrains shall have an unsubmerged gross combined area equal to at least fifteen (15) percent of the surface area of the filter. (3-30-07)

**ii.** Ventilation. The underdrainage system, effluent channels, and effluent pipe shall be designed to permit free passage of air. (3-30-07)

**e.** Special Features. (3-30-07)

**i.** Maintenance. All distribution devices, underdrains, channels, and pipes shall be installed so that they may be properly maintained, flushed or drained. (3-30-07)

**ii.** Winter Protection. Covers shall be provided to maintain operation and treatment efficiencies when climatic conditions are expected to result in problems due to cold temperatures. (3-30-07)

**iii.** Recirculation. The piping system shall be designed for recirculation as required to achieve the design efficiency. The recirculation rate shall be variable and subject to plant operator control at the range of 0.5:1 up to 4:1 (ratio of recirculation rate versus design average flow). A minimum of two (2) recirculation pumps shall be provided. (3-30-07)

**f.** Rotary Distributor Seals. Mercury seals shall not be permitted. (3-30-07)

**g.** Unit Sizing. Required volumes of filter media shall be based upon pilot testing with the particular wastewater or any of the various empirical design equations that have been verified through actual full scale experience. Such calculations must be submitted to the Department if pilot testing is not utilized. Trickling filter sizing design shall consider peak organic load conditions including the oxygen demands due to solids and process recycle flows. (3-30-07)

**02. Activated Sludge.** (3-30-07)

**a.** Aeration. (3-30-07)

**i.** Capacities and Permissible Loadings. The size of the aeration tank for any particular adaptation of

the process shall be determined by full scale experience, pilot plant studies, or rational calculations based mainly on solids retention time, food to microorganism ratio, and mixed liquor suspended solids levels. Other factors, such as size of treatment plant, diurnal load variations, and degree of treatment required, shall also be considered. In addition, temperature, alkalinity, pH, and reactor dissolved oxygen shall be considered when designing for nitrification. Calculations shall be submitted to the Department in the preliminary engineering report to justify the basis for design of aeration tank capacity. (5-8-09)

ii. Arrangement of Aeration Tanks. (3-30-07)

(1) Dimensions. The dimensions of each aeration tank or return sludge re-aeration tank shall be such as to maintain effective mixing and utilization of air. An exception is that horizontally mixed aeration tanks shall have a depth of not less than five point five (5.5) feet. (3-30-07)

(2) Number of Units. Total aeration tank volume plus redundancy requirements shall be divided among two (2) or more equal units, capable of independent operation. (3-30-07)

(3) Inlets and Outlets. (3-30-07)

(a) Controls. Inlets and outlets for each aeration tank unit shall be designed to control flow to any unit with reasonable accuracy and to maintain reasonably constant liquid level. The properties of the system shall permit the design peak day flow to be treated with any single aeration tank unit out of service. The properties of the system shall permit the design peak hour hydraulic flow to be carried with any single aeration tank unit out of service. (3-30-07)

(b) Conduits. Channels and pipes carrying liquids with solids in suspension shall be designed to be self-cleansing. (3-30-07)

(c) Scum and Foam Control. Aeration tanks shall be designed to include adequate control or removal of scum and foam. (3-30-07)

(4) Freeboard. All aeration tanks should have a freeboard of not less than eighteen (18) inches. (3-30-07)

iii. Aeration Equipment. (3-30-07)

(1) General. Oxygen requirements generally depend on maximum diurnal organic loading, degree of treatment, and level of suspended solids concentration to be maintained in the aeration tank mixed liquor. Aeration equipment shall be capable of maintaining a minimum of two point zero (2.0) mg/L of dissolved oxygen in the mixed liquor at all times and provide thorough mixing of the mixed liquor (for a horizontally mixed aeration tank system, an average velocity of one (1) foot per second must be maintained). In the absence of experimentally determined values, the design oxygen requirements for all activated sludge processes shall be 1.1 lb O<sub>2</sub> per lb of design peak hour BOD<sub>5</sub> applied to the aeration tanks, with the exception of the extended aeration process, for which the value shall be one point five (1.5) to include endogenous respiration requirements. (5-8-09)

(a) Where nitrification is required or will occur, the oxygen requirement for oxidizing ammonia must be added to the above requirement for carbonaceous BOD<sub>5</sub> removal and endogenous respiration requirements. The nitrogenous oxygen demand (NOD) shall be taken as four point six (4.6) times the diurnal peak hour total Kjeldahl nitrogen content of the aeration tank influent. In addition, the oxygen demands due to recycle flows must be considered due to the high concentrations of BOD<sub>5</sub> and total Kjeldahl nitrogen associated with such flows. (5-8-09)

(b) Meet maximum oxygen demand and maintain process performance with the largest unit out of service. Provide for varying the amount of oxygen transferred in proportion to the load demand on the plant. (3-30-07)

(2) Diffused Air Systems. Air requirements including, but not limited to, process air, channel aeration, aerobic digestion, and miscellaneous plant air shall be submitted to the Department in the preliminary engineering

report. Blowers shall be provided in multiple units, so arranged and in such capacities as to meet the maximum air demand with the single largest unit out of service. The design shall also provide for varying the volume of air delivered in proportion to the load demand of the plant. Aeration equipment shall be easily adjustable in increments and shall maintain solids suspension within these limits. (5-8-09)

(3) Mechanical Aeration Systems. (3-30-07)

(a) Oxygen Transfer Performance. The mechanism and drive unit shall be designed for the expected conditions in the aeration tank in terms of the power performance. Certified testing shall be provided to verify mechanical aerator performance. Refer to applicable provisions of Subsection 490.02. In the absence of specific design information, the oxygen requirements shall be calculated for mechanical aeration systems using a transfer rate not to exceed two (2) pounds of oxygen per horsepower per hour in clean water under standard test conditions. Design transfer efficiencies shall be included in the specifications. (3-30-07)

(b) Design Requirements. Motors, gear housing, bearings, grease fittings, etc., shall be easily accessible and protected from inundation and spray as necessary for proper functioning of the unit. (3-30-07)

(c) Winter Protection. Where extended cold weather conditions occur, the aerator mechanism and associated structure shall be protected from freezing due to splashing. Due to high heat loss, subsequent treatment units shall be protected from freezing. (3-30-07)

**b.** Non-Aerated Tanks or Zones. Non-aerated tanks or zones within aeration tanks shall have mixing equipment adequate to fully mix the contents. Provide calculations in the preliminary engineering report for sizing of this equipment. (5-8-09)

**c.** Return Sludge Equipment. (3-30-07)

i. Return Sludge Rate. The return sludge rate of withdrawal from the final settling tank is a function of the concentration of suspended solids in the mixed liquor entering it, the sludge volume index of these solids, and the length of time these solids are retained in the settling tank. The rate of sludge return shall be varied by means of adjustable weirs, variable speed pumps, or timers (small plants) to pump sludge. (3-30-07)

ii. Return Sludge Pumps. If a consolidated return sludge pump facility is used, the maximum return sludge capacity shall be obtained with the largest pump out of service. If individual sludge pumps are used at each settling basin, the pumps shall be designed to facilitate their rapid removal and replacement with a standby unit stored at the treatment plant site. If air lifts are used for returning sludge from each settling tank hopper, no standby unit will be required provided the design of the air lifts facilitate their rapid and easy cleaning and provided other suitable standby measures are made available. Air lifts should be at least three (3) inches in diameter. (3-30-07)

iii. Return Sludge Piping. Discharge piping should be at least four (4) inches in diameter and shall be designed to maintain a velocity of not less than two (2) feet per second when return sludge facilities are operating at normal return sludge rates. Suitable devices for observing, sampling, and controlling return activated sludge flow from each settling tank hopper shall be provided. (3-30-07)

iv. Waste Sludge Facilities. Means for observing, measuring, sampling, and controlling waste activated sludge flow shall be provided. (3-30-07)

**d.** Sequencing Batch Reactors. The fill and draw mode of the activated sludge process commonly termed the Sequencing Batch Reactor may be used in Idaho. The design must be based on experience at other facilities and shall meet the applicable requirements under Sections 450, 470 and 490, except as modified in Subsection 490.02.d.i. through 490.02.d.xi. Continuity and reliability of treatment equal to that of the continuous flow through modes of the activated sludge process shall be provided. (3-30-07)

i. At least two (2) tanks shall be provided. (3-30-07)

ii. The decantable volume and decanter capacity of the sequencing batch reactor system with the largest basin out of service shall be sized to pass at least seventy-five (75) percent of the design maximum day flow

without changing cycle times. A decantable volume of at least four (4) hours with the largest basin out of service based on one hundred (100) percent of the design maximum day flow is permissible. (3-30-07)

iii. System reliability with any single tank unit out of service and the instantaneous delivery of flow shall be evaluated in the design of decanter weirs and approach velocities. (3-30-07)

iv. Reactor design shall provide for scum removal and prevent overflow of settled solids. (3-30-07)

v. An adequate zone of separation between the sludge blanket and the decanter(s) shall be maintained throughout the decant phase. Decanters which draw the treated effluent from near the water surface throughout the decant phase are recommended. (3-30-07)

vi. Solids management to accommodate basin dewatering shall be considered. (3-30-07)

vii. The blowers shall be provided in multiple units, so arranged and in such capacities as to meet the maximum air demand in the oxic portions of the fill/react and react phases of the cycle with the single largest unit out of service. See Subsection 490.02. (3-30-07)

viii. Mechanical mixing independent of aeration shall be provided for all systems where biological phosphorus removal or denitrification is required. (3-30-07)

ix. Flow paced composite sampling equipment and continuous turbidity metering for separately monitoring the effluent quality from each basin may be required by the regulatory agency. All twenty-four (24) hour effluent quality composite samples for compliance reporting or monitoring plant operations shall be flow-paced and include samples collected at the beginning and end of each decant phase. (3-30-07)

x. A programmable logic controller (PLC) shall be provided. Multiple PLCs shall be provided as necessary to assure rapid process recovery or minimize the deterioration of effluent quality from the failure of a single controller. An uninterruptible power supply with electrical surge protection shall be provided for each PLC to retain program memory (i.e., process control program, last-known set points and measured process/equipment status, etc.) through a power loss. A hard-wired backup for manual override shall be provided in addition to automatic process control. Both automatic and manual controls shall allow independent operation of each tank. In addition, a fail-safe control allowing at least twenty (20) minutes of settling between the react and decant phases shall be provided. The fail-safe control shall not be adjusted by the operator. (3-30-07)

xi. A sufficient quantity of spare parts shall be on hand. Consideration shall be given to parts with a low mean time between failure such as electrical relays and solid state electronics. (5-8-09)

**03. Other Biological Systems.** (3-30-07)

a. General. Biological treatment processes not included in these rules shall be considered in accordance with Subsection 450.03. (3-30-07)

b. Membrane Bioreactors. Details for Membrane Bioreactor (MBR) plants shall be submitted and approved in the preliminary engineering report. In addition to the requirements of Section 411, details shall include plant layout, calculations for hydraulic capacity and air required, membrane technology considered and membrane type and model selected, results from similar type MBR plants already in operation, and anticipated sludge production. (5-8-09)

**491. -- 492. (RESERVED)**

**493. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: WASTEWATER LAGOONS.**

**01. General.** (3-30-07)

a. These rules pertain to all new and existing municipal wastewater lagoons, including discharging or

non-discharging lagoons, municipal wastewater treatment lagoons, municipal wastewater storage lagoons, and any other municipal wastewater lagoons that, if leaking, have the potential to degrade waters of the state. Lagoons are also sometimes referred to as ponds. Section 493 does not apply to industrial lagoons or mining tailings ponds, single-family dwellings utilizing a single lagoon, two (2) cell infiltrative system, those animal waste lagoons excluded from review under Section 39-118, Idaho Code, or storm water ponds. (3-30-07)

**b.** Lagoons utilized for equalization, percolation, evaporation, and sludge storage do not have to meet the requirements set forth in Subsections 493.05 through 493.10, but must comply with all other applicable subsections. (3-30-07)

**02. Seepage Testing Requirements.** (5-8-09)

**a.** Existing Lagoons. All existing lagoons covered under these rules shall be seepage tested by an Idaho licensed professional engineer, an Idaho licensed professional geologist, or by individuals under their supervision by April 15, 2012 unless otherwise specified in a current permit issued by the Director. (5-8-09)

**b.** New Lagoons. As part of the construction process, all new lagoons must be seepage tested by an Idaho licensed professional engineer, an Idaho licensed professional geologist, or by individuals under their supervision prior to being put into service. (5-8-09)

**c.** Subsequent Tests. All lagoons covered under these rules must be seepage tested by an Idaho licensed professional engineer, an Idaho licensed professional geologist, or by individuals under their supervision every ten (10) years after the initial testing. (5-8-09)

**d.** Testing Due to Change of Conditions to Liner. Prior to being returned to service, lagoons must be seepage tested if a change of condition to the liner occurs that may affect its permeability, including but not limited to liner repair below the high water line, liner replacement, lagoon dewatering of soil-lined lagoons which results in desiccation of the soil liner, seal installation, or earthwork affecting liner integrity. A seepage test may be required after solids removal. Prior to performing activities that may affect liner permeability, the system owner must contact the Department in writing to determine if a seepage test will be required prior to returning the lagoon to service. (5-8-09)

**e.** Procedures for Performing a Seepage Test. The procedure for performing a seepage test or alternative analysis must be approved by the Department, and the test results must be submitted to the Department. If an existing lagoon has passed a seepage test before April 15, 2012 and submitted the results to the Department, the owner of that lagoon has ten (10) years from the date of the testing to comply with this requirement. (5-8-09)

**03. Allowable Seepage Rates.** (3-30-07)

**a.** Design Standard. Lagoons shall be designed for a maximum leakage rate of five hundred (500) gallons per acre per day. (3-30-07)

**b.** Operating Standard. The leakage rate for lagoons constructed after April 15, 2007 shall be no more than zero point one hundred twenty-five (0.125) inches (1/8 inch) per day, which is approximately thirty-four hundred (3400) gallons per acre per day. The leakage rate for existing lagoons constructed prior to April 15, 2007 shall be no more than zero point twenty-five (0.25) inches (1/4 inch) per day. (3-30-07)

**c.** For lagoons located over sensitive aquifers or near 303d listed stream segments, the leakage rate shall be no more than zero point one hundred twenty-five (0.125) inches (one-eighth (1/8) inch) per day, which is approximately thirty-four hundred (3400) gallons per acre per day. The operating standard may be considerably lower based on a ground water investigation considering fate and transport of contaminants to determine the effect of the seepage on the aquifer or stream segment and the best capability of measurement at the time of the investigation. (5-8-09)

**04. Requirements for Lagoons Leaking Above the Allowable Amount.** If a lagoon is found to be leaking at a rate higher than that allowed under Subsection 493.03.b., the owner of the lagoon, in accordance with a schedule negotiated with and approved by the Director, is required to: (3-30-07)

- a. Repair the leak and retest for compliance; (3-30-07)
  - b. Re-line the lagoon and retest for compliance; (3-30-07)
  - c. Drain the lagoon in an approved manner and stop using the lagoon; or (3-30-07)
  - d. Determine the impact of the leaking lagoon on the environment based on ground water sampling and modeling. The procedure for performing ground water sampling and monitoring must be approved by the Department. Any impact must comply with IDAPA 58.01.11, "Ground Water Quality Rule," and IDAPA 58.01.02, "Water Quality Standards." If the impact does not comply with IDAPA 58.01.11, "Ground Water Quality Rule," and IDAPA 58.01.02, "Water Quality Standards," the owner of the lagoon must follow one (1) of the steps set out in Subsections 493.04.a. through 493.04.c. (5-8-09)
- 05. Location.** (3-30-07)
- a. Wastewater treatment lagoons shall be placed a minimum of two hundred (200) feet from residential property lines. In all cases, the design location shall consider odors, nuisances, etc. This distance is to the toe of the exterior slope of the dike or to the top of the cut for a lagoon placed into a hillside. More restrictive planning and zoning or other local requirements shall apply. (3-30-07)
  - b. Ground Water Separation. A minimum separation of two (2) feet between the bottom of the pond and the maximum ground water elevation shall be maintained. (3-30-07)
  - c. Bedrock Separation. A minimum separation of two (2) feet between the pond bottom and any bedrock formation shall be maintained. (3-30-07)
- 06. Basis of Design.** (3-30-07)
- a. Design variables such as climatic conditions, odor, pond depth, multiple units, detention time, and additional treatment units must be considered with respect to applicable standards for BOD<sub>5</sub>, total suspended solids (TSS), fecal coliform, dissolved oxygen (DO), pH, and other effluent requirements and limits. (3-30-07)
  - b. The preliminary engineering report shall include all design criteria for the development of the pond design. (5-8-09)
  - c. The reaction rate coefficient for domestic wastewater which includes some industrial wastes, other wastes, and partially treated wastewater must be determined experimentally for various conditions which might be encountered in the lagoons or actual data from lagoons in similar climates. Conversion of the reaction rate coefficient at other temperatures shall be made based on experimental data. (3-30-07)
  - d. Oxygen requirements generally will depend on the design average BOD<sub>5</sub> loading, the degree of treatment, and the concentration of suspended solids to be maintained. If needed, aeration equipment shall be capable of maintaining a minimum dissolved oxygen level of two (2) mg/L in the ponds at all times. Suitable protection from weather shall be provided for electrical controls. Aerated cells shall be followed by a polishing cell with a detention time of a minimum of twenty-four (24) hours. (3-30-07)
  - e. See Subsection 490.02 for details on aeration equipment. (3-30-07)
- 07. Industrial Wastes as a Part of the Municipal Wastewater.** (3-30-07)
- a. Consideration shall be given to the type and effects of industrial wastes on the treatment process. (3-30-07)
  - b. Industrial wastes shall not be discharged to ponds without assessment of the effects such substances may have upon the treatment process or discharge requirements in accordance with state and federal laws. (3-30-07)

- 08. Number of Cells Required.** (3-30-07)
- a.** A wastewater treatment pond system shall consist of a minimum of three (3) cells designed to facilitate both series and parallel operations. Two (2) cell systems may be utilized in very small installations of less than fifty thousand (50,000) gallons per day. (3-30-07)
- b.** All systems shall be designed with piping flexibility to permit isolation of any cell without affecting the transfer and discharge capabilities of the total system. (3-30-07)
- 09. Pond Construction Details.** (3-30-07)
- a. Embankments and Dikes.** (3-30-07)
- i. Material.** Dikes shall be constructed of relatively impervious soil and compacted to at least ninety-five (95) percent Standard Proctor Density to form a stable structure. Vegetation and other unsuitable materials shall be removed from the area where the embankment is to be placed. (3-30-07)
- ii. Top Width.** The minimum dike width shall be ten (10) feet to permit access for maintenance vehicles. (3-30-07)
- iii. Maximum Slopes.** Inner and outer dike slopes shall not be steeper than one (1) vertical to three (3) horizontal (1:3). (3-30-07)
- iv. Minimum Slopes.** Inner slopes should not be flatter than one (1) vertical to four (4) horizontal (1:4). Flatter slopes can be specified for larger installations because of wave action but have the disadvantage of added shallow areas being conducive to emergent vegetation. Outer slopes shall be sufficient to prevent surface runoff from entering the ponds. (3-30-07)
- v. Freeboard.** Minimum freeboard shall be three (3) feet, except that for small systems of less than fifty thousand (50,000) gallons per day, two (2) feet may be acceptable. (3-30-07)
- vi. Design Depth.** The minimum operating depth shall be sufficient to prevent growth of aquatic plants and damage to the dikes, bottom, control structures, aeration equipment, and other appurtenances. In no case shall pond depths be less than two (2) feet. (3-30-07)
- b. Pond Bottom.** (3-30-07)
- i. Soil.** Soil used in constructing the pond bottom (not including the seal) and dike cores shall be relatively incompressible and tight and compacted to at least ninety-five (95) percent Standard Proctor Density. (3-30-07)
- ii. Seal.** Ponds shall be sealed such that seepage loss through the seal complies with Subsection 493.03. Results of a testing program which substantiates the adequacy of the proposed seal must be incorporated into or accompany the preliminary engineering report. (5-8-09)
- c. Miscellaneous.** (3-30-07)
- i. Fencing.** The pond area shall be enclosed with an adequate fence to prevent entering of livestock and discourage trespassing. This requirement does not apply to pond areas which store or impound Class A municipal reclaimed effluent. (5-8-09)
- ii. Access.** An all-weather access road shall be provided to the pond site to allow year-round maintenance of the facility. (3-30-07)
- iii. Warning Signs.** Appropriate permanent signs shall be provided along the fence around the pond to designate the nature of the facility and advise against trespassing. At least one (1) sign shall be provided on each side of the site and one (1) for every five hundred (500) feet of its perimeter. (3-30-07)

iv. Flow Measurement. Flow measurement requirements are provided in Subsection 450.06.e. Effective weather protection shall be provided for the recording equipment. (3-30-07)

v. Ground Water Monitoring. A ground water monitoring plan shall be submitted to the Department for review and approval as a part of the preliminary engineering report. An approved system of wells or lysimeters shall be required around the perimeter of the pond site to facilitate ground water monitoring. (5-8-09)

**10. Closure.** The owner shall notify the Department at least six (6) months prior to permanently removing any wastewater lagoon facility from service, including any treatment or storage pond. Prior to commencing closure activities, the facility shall: (3-30-07)

a. Participate in a pre-closure on-site meeting with the Department; (3-30-07)

b. Develop a site closure plan that identifies specific closure, site characterization, or cleanup tasks with scheduled task completion dates in accordance with agreements made at the pre-site closure meeting; and (3-30-07)

c. Submit the completed site closure plan to the Department for review and approval within forty-five (45) days of the pre-site closure meeting. The facility must complete the Department approved site closure plan. (3-30-07)

**494. -- 499. (RESERVED)**

**500. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: DISINFECTION.**

**01. General.** Disinfection of the effluent shall be provided as necessary to meet applicable standards. The design of new municipal wastewater treatment facilities, or municipal wastewater treatment facilities undergoing material modifications, shall consider meeting both the bacterial standards and the disinfectant residual limit in the effluent. The disinfection process shall be selected after due consideration of waste characteristics, type of treatment process provided prior to disinfection, waste flow rates, pH of waste, disinfectant demand rates, current technology application, cost of equipment and chemicals, power cost, and maintenance requirements as determined in the preliminary engineering report. Where a disinfection process other than chlorination, ultraviolet disinfection, or ozone is proposed, supporting data from pilot plant installations or similar full scale installations shall be required as a basis for the design of the system. (5-8-09)

**02. Determining the Necessity For Disinfection of Sewage Wastewater Treatment Plant Effluent.** (3-30-07)

a. Disinfection of municipal wastewater treatment facility effluent shall be required when: (3-30-07)

i. Required by an NPDES permit; or (3-30-07)

ii. The effluent is discharged to a land application/reuse facility and is required to meet the disinfection requirements found in IDAPA 58.01.17, "Recycled Water Rules." (3-30-07)

iii. The effluent discharged to a land application/reuse facility, where ground water contamination has exceeded the bacterial limit found in IDAPA 58.01.11, "Ground Water Quality Rules," and it has been determined by the Department that disinfection is required. (3-30-07)

b. The need for disinfection of sewage wastewater treatment plant effluent where treatment consists of lagoons with at least thirty (30) day retention time shall be evaluated on a case by case basis. (3-30-07)

**03. Chlorine Disinfection.** (3-30-07)

a. Type. Chlorine is available for disinfection in gas, liquid (hypochlorite solution), and pellet



(hypochlorite tablet) form. The type of chlorine should be carefully evaluated during the facility planning or preliminary engineering process. The use of chlorine gas or liquid will be most dependent on the size of the facility and the chlorine dose required. Large quantities of chlorine, such as are contained in ton cylinders and tank cars, can present a considerable hazard to plant personnel and to the surrounding area should such containers develop leaks. Both monetary cost and the potential public exposure to chlorine shall be considered when making the final determination. (3-30-07)

**b.** Dosage. For disinfection, the capacity shall be adequate to produce an effluent that will meet the applicable bacterial limits specified by the regulatory agency for that installation. Required disinfection capacity will vary, depending on the uses and points of application of the disinfection chemical. The chlorination system shall be designed on a rational basis and calculations justifying the equipment sizing and number of units shall be submitted for the whole operating range of flow rates for the type of control to be used. System design considerations shall include the controlling wastewater flow meter (sensitivity and location), telemetering equipment, and chlorination controls. (3-30-07)

**c.** Piping and Connections. Piping systems shall be as simple as practicable, specifically selected and manufactured to be suitable for chlorine service, with consideration for minimizing number of joints. Piping should be well supported and protected against temperature extremes. Venting of excess gas shall be provided. Special considerations shall be given to piping and fixture selection for hypochlorite and chlorine use. Section 008 provides a reference to guidance documents; see Subsections 008.01, 008.04 and 008.05. (3-30-07)

**d.** Standby Equipment and Spare Parts. Standby equipment of sufficient capacity should be available to replace the largest unit during shutdowns. Spare parts shall be available for all disinfection equipment to replace parts which are subject to wear and breakage. (3-30-07)

**e.** Housing. (3-30-07)

**i.** Feed and Storage Rooms. Gas chlorination equipment and chlorine cylinders shall be housed in a building. If this building is used for other purposes, a gas-tight room shall separate this equipment from any other portion of the building. Floor drains from the chlorine room shall not be connected to floor drains from other rooms. Doors to this room shall open only to the outside of the building and shall be equipped with panic hardware. Rooms shall permit easy access to all equipment. Section 009 provides a reference to requirements of other regulatory entities, compliance with which may be required by other law. (3-30-07)

**ii.** Ventilation. Section 009 provides a reference to the requirements of the National Electric Code, compliance with which may be required by other law. (3-30-07)

**iii.** Electrical Controls. Section 009 provides a reference to the requirements of the National Electric Code, compliance with which may be required by other law. (3-30-07)

**iv.** Protective and Respiratory Gear. Respiratory air-pac protection equipment shall be available where chlorine gas is handled, and shall be stored at a convenient location, but not inside any room where chlorine is used or stored. Instructions for using the equipment shall be posted. Section 008 provides a reference to guidance documents; see Subsections 008.01, 008.04 and 008.05. (3-30-07)

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

**a.** Types. (3-30-07)

**i.** Dechlorination of wastewater effluent may be necessary to reduce the toxicity due to chlorine residuals. The most common dechlorination chemicals are sulfur compounds, particularly sulfur dioxide gas or aqueous solutions of sulfite or bisulfite. Pellet dechlorination systems are also available for small facilities. (3-30-07)

**ii.** The type of dechlorination system should be carefully selected considering criteria including the following: type of chemical storage required, amount of chemical needed, ease of operation, compatibility with existing equipment, and safety. (3-30-07)

**b.** Dosage. The dosage of dechlorination chemical depends on the residual chlorine in the effluent, the final residual chlorine limit, and the particular form of the dechlorinating chemical used. (3-30-07)

**c.** Standby Equipment and Spare Parts. The same requirements apply as for chlorination systems. See Subsection 500.04.d. (3-30-07)

**d.** Housing Requirements/Feed and Storage Rooms. The requirements for housing SO<sub>2</sub> gas equipment shall follow the same guidelines as used for chlorine gas. Refer to Subsection 500.04.e. for specific details. When using solutions of the dechlorinating compounds, the solutions may be stored in a room that meets the safety and handling requirements set forth in Subsection 450.07. The mixing, storage, and solution delivery areas must be designed to contain or route solution spillage or leakage away from traffic areas to an appropriate containment unit. (3-30-07)

**e.** Protective and Respiratory Gear. The respiratory air-pac protection equipment is the same as for chlorine. See Subsection 500.04.e. (Refer to The Compressed Gas Association Publication CGA G-3-1995, "Sulfur Dioxide.") (3-30-07)

**05. Ultraviolet (UV) Radiation.** (3-30-07)

**a.** The following documents are recommended to be used as references for UV system sizing and facility design: (3-30-07)

i. "Wastewater Engineering, Treatment and Reuse," Metcalf and Eddy, referenced in Section 008. (3-30-07)

ii. For reuse applications, "Ultraviolet Disinfection Guidelines for Drinking Water and Water Reuse," National Water Research Institute/AWWA Research Foundation, referenced in Section 008. (3-30-07)

**b.** For UV systems to be installed at any existing wastewater treatment facility, collection of one (1) year's worth of UV transmittance (UVT) data (four (4) times per day) prior to predesign is encouraged, especially for facilities larger than five million gallons per day (5 mgd) (design peak hour flow), and facilities that have industries that vary discharge throughout the year. (5-8-09)

**c.** The preliminary engineering report for all UV disinfection facilities shall include the following: (5-8-09)

i. A minimum of two (2) open channels (or justification for using a smaller system). (3-30-07)

ii. A minimum of two (2) banks of UV lamps per channel (or justification for using a smaller system). (3-30-07)

iii. Description of the redundancy provided. (3-30-07)

iv. Description of the upstream flow splitting device (which splits flow to the two (2) or more UV channels). (3-30-07)

v. Description of water level control device. (3-30-07)

vi. Description of method used to take a channel off-line for maintenance, and method to dewater a channel. (3-30-07)

vii. Type of UV system technology (low-pressure low-intensity, low-pressure high-intensity, medium pressure, etc.), with consideration given to power consumption. (3-30-07)

viii. Summary of UVT data and collimated beam data. (5-8-09)

ix. Description of HVAC system requirements to ensure adequate UV system performance during

- summer peak temperature period. (3-30-07)
- x. Description of maintenance requirements including removal (cleaning) of biofilms from the channel walls upstream and downstream of the UV system. (3-30-07)
- xi. General description of alarming and controls. (3-30-07)
- xii. Description of procedure used for UV system sizing. (3-30-07)
- xiii. Design criteria: (3-30-07)
- (1) Design UVT. (3-30-07)
- (2) TSS. (3-30-07)
- (3) Design water temperature range. (3-30-07)
- (4) Dose. (3-30-07)
- (5) End of lamp life factor. (3-30-07)
- (6) Fouling factor. (3-30-07)
- (7) Quartz sleeve transmittance factor. (3-30-07)
- (8) Design peak hour flow. (5-8-09)
- (9) Existing minimum flow. (3-30-07)
- (10) Number of channels. (3-30-07)
- (11) Disinfection requirements (coliform concentration). (3-30-07)
- (12) Maximum head-loss from upstream of the first bank to downstream of the last bank of lamps (lamp spacing divided by two (2)). (3-30-07)
- d.** Use of bioassay method of UV system sizing is encouraged if all manufacturers under consideration have existing bioassays performed using identical protocol, and the bioassay was performed under conditions similar to the design application. Use of the bioassay method of UV system sizing is discouraged if the conditions of Subsection 500.05.d. cannot be met. (3-30-07)
- e.** Closed chamber units will be reviewed on a case by case basis in accordance with Subsection 450.03.b. (3-30-07)
- 06. Ozone.** Ozone systems for disinfection shall be evaluated on a case-by-case basis. Design of these systems shall be based upon experience at similar full scale installations or thoroughly documented prototype testing with the particular wastewater. (5-8-09)

**501. -- 509. (RESERVED)**

**510. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: SUPPLEMENTAL TREATMENT PROCESSES.**

**01. Chemical Treatment.** Many chemicals in various forms can be applied in wastewater treatment to aid in nutrient removal, pH adjustment, enhanced clarification, and sludge conditioning. Chemicals must be evaluated for each specific treatment process and must be compatible with other liquids, solids and air treatment processes. Laboratory tests such as jar tests or pilot-scale studies on actual process wastewater shall be used to select appropriate

chemicals and dosage ranges. (3-30-07)

**a.** Phosphorus removal. Chemical phosphorus removal from wastewater involves the addition of metal salts (aluminum or iron) or lime to wastewater to form insoluble phosphate precipitates, removal of the precipitate from the wastewater, and disposal of the precipitate with the settled sludge. Many process options are available, and the designer shall select the chemical to insolubilize the phosphorus, estimate the dosage requirements, and select the point of chemical addition. (3-30-07)

**b.** Nitrogen Removal. Several chemical processes have been used for nitrogen removal. The three (3) major processes include breakpoint chlorination, selective ion exchange, and air stripping. Although these processes are technically feasible ways of removing nitrogen, the Department does not anticipate widespread use of chemicals for nitrogen removal, and justification to do so shall be demonstrated in the Preliminary Engineering Report. (3-30-07)

**c.** pH Adjustment. A common chemical process used in wastewater treatment is pH adjustment. Several methods are available to neutralize or adjust low pH wastewater. The methods used shall be mixing acid wastes with lime slurries, or adding the proper amount of concentrated caustic soda (NaOH) or soda ash (Na<sub>2</sub>CO<sub>3</sub>) as determined in the Preliminary Engineering Report. (3-30-07)

**d.** Enhanced Primary Clarification. When settling aids are used during the primary clarification process to enhance solids removal in the primary treatment process, the additional solids volume shall be accounted for in pumping, solids handling, stabilization, and disposal processes. The coagulant shall be added and mixed before the sedimentation process. Flocculants, if used, shall be added after the coagulant. The design shall provide for chemical addition points at several locations to give process personnel the opportunity to adjust for optimum performance. (3-30-07)

**02. Filtration for Tertiary Treatment.** Details for plants with tertiary treatment utilizing filtration shall be submitted and approved in the Preliminary Engineering Report. (3-30-07)

**a.** Membranes. In addition to requirements of Section 411, details shall include plant layout, calculations for hydraulic capacity and air required, membrane technology considered and membrane type and model selected, results from similar type filtration plants already in operation, and anticipated sludge production. (3-30-07)

**b.** Media. In addition to requirements of Section 411, details shall include plant layout, calculations for hydraulic capacity, media considered and media type selected, results from similar type filtration plants already in operation, and anticipated sludge production. (3-30-07)

**c.** Cloth. In addition to requirements of Section 411, details shall include plant layout, calculations for hydraulic capacity, technology considered and type and model selected, results from similar type filtration plants already in operation, and anticipated sludge production. (3-30-07)

**d.** Reverse Osmosis. In addition to requirements of Section 411, details shall include plant layout, calculations for hydraulic capacity required, technology considered and type and model selected, results from similar type filtration plants already in operation, and anticipated sludge production. (3-30-07)

**511. -- 518. (RESERVED)**

**519. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES -- SEPTAGE TRANSFER STATIONS.**

Prior to construction of a new septage transfer station or upon material modification of an approved existing station, the owner of the station must satisfy the following requirements. (5-8-09)

**01. Design.** Septage holding tanks, transfer/storage tanks, and transfer hoses for either type of tank shall meet the applicable requirements of Subsections 519.01.a. through 519.01.c. (5-8-09)

**a.** All tanks shall be watertight, not open to the air, and provided with containment structures to prevent the discharge of septage spills to the surrounding environment. (5-8-09)

**b.** All piping, transfer hoses, valves, and connections shall be watertight, accessible, and capable of being cleaned, repaired, and replaced. (5-8-09)

**c.** All inlet and outlet connections shall be constructed and maintained such that septage will not leak, spill, or overflow the holding tank. (5-8-09)

**d.** No septage holding or transfer/storage tank shall be permitted within the one hundred (100) year flood plain as defined and delineated by the flood insurance rate maps published by the Federal Emergency Management Agency. (5-8-09)

**e.** Odor controls shall be provided to mitigate nuisance odor discharge during transfer. Odor control may be attained by employing appropriate setback distances to neighboring facilities, using appropriate air scrubbing technologies in conjunction with an enclosed transfer station or other suitably engineered configuration that provides assurances of minimal odor nuisances. (5-8-09)

**f.** The property is owned by the individual(s) operating the septage transfer station, or the property owner has granted permission to so use the property. (5-8-09)

**g.** Septage transfer stations shall provide total containment for the entire volume of the holding tanks and transfer/storage tanks in the event of spilled septage. (5-8-09)

**h.** Truck washing facilities shall be constructed to retain all wash water on site. (5-8-09)

**02. Plans and Specifications.** In addition to the requirements of Section 400, plans and specifications for septage transfer stations must include the requirements of Subsections 519.02.a. through 519.02.f. (5-8-09)

**a.** A map which identifies the proposed septage holding or transfer/storage tank location. (5-8-09)

**b.** The footprint of the proposed activity area. (5-8-09)

**c.** All access roads and access control measures. (5-8-09)

**d.** All roads, property boundary lines, and structures within two hundred (200) feet of the septage holding or transfer/storage tank location; any structures on the property; and any easements or rights-of-way which exist on the property. (5-8-09)

**e.** Surrounding land use within two hundred (200) feet of the footprint of the proposed activity area on which the septage holding or transfer/storage tank is proposed to be located. (5-8-09)

**f.** A spill response plan, describing spill response equipment and disinfection and containment capability at the septage transfer station, shall be submitted to and approved by the Department. (5-8-09)

**03. Record Keeping.** Every owner of a septage transfer station shall maintain the following records for a minimum of five (5) years. (5-8-09)

**a.** For each load of septage received: (5-8-09)

**i.** The date received or picked up; (5-8-09)

**ii.** The name and address of the client(s) from whom the septage was received; and (5-8-09)

**iii.** The volume of the septage received, in gallons; and (5-8-09)

**b.** Records indicating the final disposal destination(s) for septage removed from the transfer/storage tank. (5-8-09)

**520. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: HANDLING AND TREATMENT OF SEPTAGE AT A WASTEWATER TREATMENT PLANT.**

**01. General.** Septage disposal at a wastewater treatment plant is at the discretion of the owner of the wastewater treatment plant, unless other conditions apply. One method of septage disposal is the discharge to a municipal wastewater treatment plant. All plants require special design considerations prior to the acceptance of septage. Prior to acceptance of septage at a wastewater treatment plant, the plan for doing so must be addressed in the Facility Plan. (3-30-07)

**02. Characteristics.** Tables No. 1 and No. 2 (Tables 3-4 and 3-8 from the U.S. EPA Handbook entitled "Septage Treatment and Disposal" 1984, EPA-625/6-84-009) give a comparison of some of the common parameters for septage and municipal wastewater. These tables are located at the end of Appendix A-3 of the Recommended Standards for Wastewater Facilities. See Section 008 of these rules. (3-30-07)

**03. Considerations.** It is essential that an adequate engineering evaluation of the existing plant and the anticipated septage loading be conducted prior to receiving septage at the plant. The wastewater treatment plant owner shall be contacted to obtain the appropriate approvals prior to the acceptance of septage. For proposed plant expansion and upgrading, the Preliminary Engineering Report and Facility Plan shall include anticipated septage loading in addressing treatment plant sizing and process selection. (3-30-07)

**521. -- 599. (RESERVED)**

**600. LAND APPLICATION OF WASTEWATER(S) OR RECHARGE WATERS.**

Land application of wastewater or recharge waters is subject to the following requirements: (4-11-06)

**01. Land Application/Reuse Permit.** Idaho Department of Environmental Quality Rules, IDAPA 58.01.17, "Recycled Water Rules," require a permit prior to land application/reuse of certain types of wastewater. (3-30-07)

**02. Applied Waters Restricted to Premises.** Wastewater(s) or recharge waters applied to the land surface must be restricted to the premises of the application site. Wastewater discharges to surface water that require a permit under the Clean Water Act must be authorized by the U.S. Environmental Protection Agency. (4-11-06)

**03. Hazard or Nuisance Prohibited.** Wastewaters must not create a public health hazard or a nuisance condition. (4-11-06)

**04. Monitoring.** Provision must be made for monitoring the quality of the ground water in proximity of the application site. The ground water monitoring program is subject to approval by the Department. All data and reports resulting from the ground water monitoring program must be submitted to the Department upon request. The minimum frequency of monitoring and data submittal will be determined by the Department and in general will be dependent upon: (4-11-06)

**a.** The nature and volume of wastewater material or recharge water; (4-11-06)

**b.** The frequency and duration of application; and (4-11-06)

**c.** The characteristics of the soil mantle on and lithology underlying the application site. (4-11-06)

**05. Basis for Evaluation.** The evaluation for an approval to irrigate, either by sprinkling or flooding or surface spreading of wastewater material or by burying wastewater material or recharge water in the upper soil horizon as a method of treatment, must include, but will not necessarily be limited to, consideration of the following items: (4-11-06)

**a.** The type and quantity of wastewater(s) proposed for land application. In general, the wastewater(s) organic constituents are to be biologically degradable and inorganic constituents must be utilized by vegetation or those organisms normally present in the soil. Other wastewater(s) or recharge waters will be considered provided it

can be shown that land application will not adversely affect beneficial uses of waters of the state. (4-11-06)

**b.** The nature of the soils and geologic formations underlying the application site. The entity proposing the activity must provide reasonable assurance that the soils and site geology will provide the required level of treatment and will not allow movement of pollutants into the underlying ground water. (4-11-06)

**c.** The ability of the soil and vegetative cover on the application site to remove the pollutants contained in the applied waters through the combined processes of consumptive use and biological and chemical inactivation. (4-11-06)

**601. -- 649. (RESERVED)**

**650. SLUDGE USAGE.**

**01. Disposal Plans Required.** Sludge can be utilized as soil augmentation only in conformance with: (4-11-06)

**a.** A Department approved sludge disposal plan; or (4-11-06)

**b.** Procedures and in a manner approved by the Department on a site-by-site basis. (4-11-06)

**02. Basis for Evaluation.** Sludge disposal plans and sludge utilization proposals will be evaluated by the Department in regard to their protection of water quality and public health. (4-11-06)

**03. Elements of Plans and Proposals.** Plans and proposals must at a minimum provide: (4-11-06)

**a.** That only stabilized sludge will be used. (4-11-06)

**b.** The criteria utilized for site selection, including: (4-11-06)

**i.** Soil description; (4-11-06)

**ii.** Geological features; (4-11-06)

**iii.** Groundwater characteristics; (4-11-06)

**iv.** Surrounding land use; (4-11-06)

**v.** Topography; and (4-11-06)

**vi.** Climate. (4-11-06)

**c.** A description of the application process. (4-11-06)

**d.** A statement detailing procedures to prevent application which could result in a reduction of soil productivity or in the percolation of excess nutrients. (4-11-06)

**e.** Identification of potential adverse health effects in regard to the sludge and its proposed use. (4-11-06)

**f.** Delineation of methods or procedures to be used to alleviate or eliminate adverse health effects. (4-11-06)

**04. Reference to Federal Regulations.** See Code of Federal Regulations, 40 CFR, Part 503, Standards for the Use or Disposal of Sewage Sludge. (3-30-07)

**651. -- 659. (RESERVED)**

**660. WAIVERS.**

Waivers from the requirements of these rules may be granted by the Director on a case-by-case basis upon full demonstration by the person requesting the waiver(s) that such activities for which the waivers are granted will have no significant impact on the environment or on the public health. (5-8-09)

**661. -- 999. (RESERVED)**



**58.01.21 – RULES GOVERNING THE PROTECTION AND DISCLOSURE OF RECORDS IN THE POSSESSION OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY**

**000. LEGAL AUTHORITY.**

The Idaho Legislature has given the Board of Environmental Quality the authority to promulgate these rules pursuant to Sections 74-114(8), 39-105, and 39-107, Idaho Code. (4-5-00)

**001. TITLE AND SCOPE.**

**01. Title.** These rules are titled IDAPA 58.01.21, “Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality.” (4-5-00)

**02. Scope.** These rules adopt measures governing the disclosure and protection of records in the possession of the Idaho Department of Environmental Quality, in accordance with Section 74-114, Idaho Code. These rules affect members of the public submitting records to the Department of Environmental Quality as well as members of the public seeking access to Department of Environmental Quality records. (4-5-00)

**002. WRITTEN POLICIES AND GUIDANCE.**

As described in Section 67-5201(19)(b)(iv), Idaho Code, the Idaho Department of Environmental Quality may have written policies or guidance pertaining to the interpretation and implementation of these rules and the underlying statutes. Such written statements can be inspected and copied at cost at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. (4-5-00)

**003. APPEALS.**

Persons may be entitled to appeal agency actions under these rules pursuant to Sections 74-114(6)(b) or 74-115, Idaho Code, or the IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality.” (3-15-02)

**004. -- 009. (RESERVED)**

**010. DEFINITIONS AND ABBREVIATIONS.**

**01. Air Pollution Emission Data.** The definition set forth in 40 CFR 2.301(a)(2), revised as of July 1, 1998, as follows with reference to any source of emission of any substance into the air: (4-5-00)

**a.** Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (4-5-00)

**b.** Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source; and (4-5-00)

**c.** A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source). (4-5-00)

**d.** Notwithstanding Subsections 010.01.a., 010.01.b., and 010.01.c., the following information shall be considered to be emission data only to the extent necessary to allow DEQ to disclose publicly that a source is (or is not) in compliance with an applicable standard or limitation, or to allow DEQ to demonstrate the feasibility, practicability, or attainability (or lack thereof) of an existing or proposed standard or limitation: (4-5-00)

**i.** Information concerning research, or the results of research, on any project, method, device, or installation (or any component thereof) which was produced, developed, installed, and used only for research purposes; and (4-5-00)

**ii.** Information concerning any product, method, device, or installation (or any component thereof) designed and intended to be marketed or used commercially but not yet so marketed or used. (4-5-00)

**e.** For purposes of the definition of emission data, standard or limitation means any emission standard or limitation established or publicly proposed pursuant to the CAA or any program administered by DEQ under

- authority delegated to the state of Idaho under the CAA. (4-5-00)
- 02. CAA. The Federal Clean Air Act, 42 U.S.C. Sections 7401, et seq. (4-5-00)
  - 03. CFR. The United States Code of Federal Regulations. (4-5-00)
  - 04. DEQ. The Idaho Department of Environmental Quality. (4-5-00)
  - 05. EPA. The United States Environmental Protection Agency. (4-5-00)
  - 06. RCRA. The federal Resource Conservation and Recovery Act, 42 U.S.C., Sections 6901, et seq. (4-5-00)
  - 07. **Trade Secret.** The definition set forth in Section 74-114(2), Idaho Code, which is information, including a formula, pattern, compilation, program, computer program, device, method, technique, or process, that: (4-5-00)
    - a. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (4-5-00)
    - b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. (4-5-00)
    - c. The definition of trade secret includes commercial or financial information the disclosure of which could cause substantial competitive harm to the person from whom the record was obtained. (4-5-00)
  - 08. **Trade Secret Claim.** Notice by a person submitting a record to DEQ that a record or a portion of a record is claimed to be a trade secret subject to protection from public disclosure by DEQ. (4-5-00)

**011. RECORDS SUBJECT TO DISCLOSURE.**

- 01. **Trade Secrets Subject to Disclosure.** Upon receipt of a request pursuant to Chapter 1, Title 74, Idaho Code, or to comply with public notice, comment or hearing requirements established in state statutes or rules implementing programs delegated or authorized to the state of Idaho under the CAA or RCRA, and after DEQ has followed the procedures set forth in Section 74-114(6), Idaho Code, for information subject to a trade secret claim, DEQ shall disclose: (4-5-00)
  - a. Air pollution emission data required to be submitted to or obtained by DEQ pursuant the CAA or any program administered by DEQ under authority delegated to the state of Idaho under the CAA; (4-5-00)
  - b. The contents of any Title V operating permit; and (4-5-00)
  - c. The name and address of any applicant or permittee for hazardous waste treatment, storage, or disposal facility permit pursuant to Chapter 44, Title 39, Idaho Code. (4-5-00)
- 02. **Other Program Records.** All DEQ records not listed in Subsection 011.01 and required to be submitted to DEQ, or which DEQ could compel the submission of, under the state statutes and rules implementing programs delegated or authorized to the state of Idaho under the CAA or RCRA, shall be made available for public inspection and copying except to the extent to which such records are a trade secret in which case the record shall be kept confidential according to the procedures set forth in Section 74-114, Idaho Code, and these rules. (4-5-00)

**012. NOTICE OF TRADE SECRET CLAIM.**

- 01. **Notice to Be Included in Submittals.** (4-5-00)
  - a. It shall be the responsibility of any person providing a record to DEQ to give notice of the existence

of a trade secret claim on each page or other portion of information at the time of submittal by the placement of a stamped, typed, or other notation employing such language as “trade secret,” “proprietary,” or “confidential.” Such person shall have the burden of demonstrating that the information is a trade secret subject to protection from disclosure by DEQ. (4-5-00)

**b.** To expedite any subsequent trade secret determinations, persons making a claim are encouraged to include supporting information substantiating a trade secret claim with the original submittal. (4-5-00)

**02. Portions of Records.** If a portion of a record or a portion of a page is non-confidential and the other portion is subject to a trade secret claim, the two (2) portions shall be clearly identified by the person making the claim at the time of submittal. Information for which a trade secret claim is made is encouraged to be submitted separately if feasible and if such segregation would facilitate identification and handling by DEQ. (4-5-00)

**03. Absence of Trade Secret Claim.** (4-5-00)

**a.** If no trade secret claim accompanies a record received by DEQ, the record is subject to disclosure to the public by DEQ in accordance with applicable state law and policy without further notice to the person making the submittal. (4-5-00)

**b.** If a person has not asserted a trade secret claim for a record for which it might be expected to assert a trade secret claim, DEQ may inquire whether the person asserts a trade secret claim covering the information. (4-5-00)

**04. Subsequent Trade Secret Claim.** If a trade secret claim covering a record or portion of a record is made after the information is initially submitted to DEQ, DEQ will make such efforts as are practicable in light of prior disclosure, to associate the late trade secret claim with the previously submitted record. (4-5-00)

**05. Handling of Records.** DEQ records, or portions of records, for which a trade secret claim has been asserted shall be treated as being entitled to confidential treatment until there has been a determination in accordance with the procedures set out in Section 74-114(6), Idaho Code, that the information is not entitled to confidential treatment. (4-5-00)

**013. NOTIFICATION TO PERSON REQUESTING DISCLOSURE.**

At the time that DEQ provides a request for substantiation to a person making a trade secret claim, DEQ may furnish a notice to the person whose request for release of the record is pending that the information requested may be entitled to protection from public disclosure under these rules and Section 74-114, Idaho Code, that further inquiry by DEQ is required, that the person making the request will be notified when a final confidentiality determination is made, and the approximate time frame within which the determination will occur. (4-5-00)

**014. REQUEST FOR SUBSTANTIATION.**

**01. Timing of Determination.** Even though no request for disclosure of the record has been received, DEQ may at any time request substantiation of a trade secret claim. (4-5-00)

**02. Preliminary Determination.** If request is received by DEQ from a member of the public seeking disclosure of information subject to a trade secret claim or if DEQ determines that information subject to a trade secret claim may be disclosed pursuant to public notice, comment or hearing, and the DEQ Director determines such information may be subject to disclosure, DEQ shall send a written request for substantiation to the person making the claim pursuant to Section 74-114(6), Idaho Code. The request shall inform the person that a public records request is pending or that a public notice, comment or hearing is pending. (4-5-00)

**03. Contents of Request for Substantiation.** The written request for substantiation shall invite the person making the trade secret claim to comment on the following points: (4-5-00)

**a.** The specific portions of the record, including portions of each page, which are alleged to be entitled to confidential treatment; (4-5-00)

- b.** Measures taken by the person making the claim to guard against nonconsensual disclosure of the information to others, and the means by which such measures will be continued in the future; (4-5-00)
- c.** The extent to which the information has been consensually disclosed to others and the precautions taken in connection therewith; (4-5-00)
- d.** Pertinent confidentiality determinations, if any, by EPA or other state and federal agencies; (4-5-00)
- e.** Any relevant facts which would support the claim that the information meets the definition of “trade secret” set out in Section 010 above; and (4-5-00)
- f.** If appropriate, the reason that the information is not required to be disclosed by state or federal statute including Section 74-114(1), Idaho Code. (4-5-00)

**04. Submittal of Substantiation Response.** A response to a request for substantiation of a trade secret claim shall be submitted to DEQ by the person claiming the trade secret protection within ten (10) working days after receipt of the request for substantiation or the information subject to the claim shall be disclosed without further notice. (4-5-00)

**05. Confidentiality of Substantiation Response.** A response to a request for substantiation of a trade secret claim may itself contain information subject to protection from public disclosure. (4-5-00)

**015. FINAL DETERMINATION OF TRADE SECRET CLAIM.**

**01. Final Determination.** Within three (3) working days after receipt of the business’s timely response to a request for substantiation, the DEQ Director shall make a final determination concerning whether the information is protected from public disclosure pursuant to Section 74-114, Idaho Code, and shall notify the person requesting the information and the person asserting the trade secret claim of the determination. (4-5-00)

**02. Criteria for Determination.** In making a final determination whether a record or portion of a record is a trade secret, the DEQ Director shall consider whether: (4-5-00)

- a.** A trade secret claim has been asserted which has not expired by its terms, nor been waived or withdrawn; (4-5-00)
- b.** The person has satisfactorily shown that reasonable measures to protect the confidentiality of the information have been taken, and that such measures will continue to be taken; (4-5-00)
- c.** The information is not, and has not been, reasonably obtainable without the business’s consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding); (4-5-00)
- d.** A state or federal statute does not specifically require disclosure of the information; and (4-5-00)
- e.** The person has satisfactorily shown that the information meets the definition of “trade secret” set out in Section 010 above. (4-5-00)

**016. DISCLOSURE OF RECORDS TO CERTAIN PERSONS UNDER A CONTINUING CLAIM.**

**01. Situations for a Continuing Claim.** DEQ may disclose a record which is a trade secret or which is subject to a trade secret claim under a continuing claim in accordance with Section 74-114(4), Idaho Code, as follows: (4-5-00)

- a.** To any officer, employee, or authorized representative of the state or the United States as necessary to carry out the provisions of state or federal law, or when relevant to any proceeding thereunder; (4-5-00)

**b.** As determined necessary by the DEQ Director to protect the public health and safety from imminent and substantial endangerment; and (4-5-00)

**c.** As required by state or federal law including for discovery in the normal course of judicial or administrative adjudicatory proceedings, subject to the law and rules of evidence and of discovery governing such proceedings. (4-5-00)

**02. Notice of a Continuing Claim. (4-5-00)**

**a.** DEQ shall give notice of a continuing trade secret claim by noting its existence in a cover letter, or by other effective means if a cover letter is impractical, at the time the record is disclosed. (4-5-00)

**b.** DEQ shall notify the person receiving the information subject to a continuing trade secret claim that DEQ's disclosure does not waive the claim nor authorize any further disclosure by the person receiving the record. (4-5-00)

**c.** DEQ shall disclose a record under Subsections 016.01.a. and 016.01.b. only if the person receiving the record agrees in writing to exercise all means legally available to protect the relevant record or portion of the record from further disclosure. (4-5-00)

**03. Record of Disclosures.** DEQ shall adopt a procedure to maintain a record of any disclosures of records or portion of records subject to a continuing trade secret claim. (4-5-00)

**017. SAFEGUARDING OF TRADE SECRET INFORMATION.**

**01. Prohibition on Disclosure.** No DEQ officer or employee may disclose any information subject to a trade secret claim except as specifically mandated by statute. (4-5-00)

**02. Dissemination Within DEQ.** Access to information subject to a trade secret claim by DEQ employees, contractors, or other representatives shall be limited to access required to carry out the person's duties on behalf of DEQ. (4-5-00)

**03. Segregation of Information.** Any information subject to a trade secret claim and received by DEQ after the effective date of these rules shall be placed in a clearly marked, confidential section of the relevant file. (4-5-00)

**04. Training.** DEQ shall train all new employees, and periodically train existing employees, in the proper filing, tracking and physical handling of records subject to a trade secret claim, and in the procedures established by these rules, Section 74-114, Idaho Code, and any relevant policies adopted by DEQ. Training shall be as frequent and extensive as deemed necessary by the DEQ Director. (4-5-00)

**018. -- 999. (RESERVED)**

**58.01.22 – RULES FOR ADMINISTRATION OF PLANNING GRANTS  
FOR DRINKING WATER FACILITIES**

**000. LEGAL AUTHORITY.**

The Idaho State Board of Environmental Quality, pursuant to authority granted in Chapters 1 and 36, Title 39, Idaho Code, adopted the following rules for the administration of a Drinking Water Planning Grant Program in Idaho. (5-3-03)

**001. TITLE AND SCOPE.**

**01. Title.** These rules will be known and cited as Rules of the Idaho Department of Environmental Quality, IDAPA 58.01.22, “Rules for Administration of Planning Grants for Drinking Water Facilities.” (3-30-01)

**02. Scope.** The provisions of these rules will establish administrative procedures and requirements for establishing, implementing and administering a state grant program providing financial assistance to qualifying entities to prepare a drinking water facility planning document. (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. (3-30-01)

**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.” (5-3-03)

**004. INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED MATERIAL.**

**01. Incorporation by Reference.** These rules do not contain documents incorporated by reference. (4-2-08)

**02. Availability of Referenced Material.** The “Drinking Water Loan Handbook of Procedures” (Handbook) is available at the Idaho Department of Environmental Quality, Water Quality Division Loan Program, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502, [www.deq.idaho.gov](http://www.deq.idaho.gov). (4-2-08)

**005. CONFIDENTIALITY.**

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.” (5-3-03)

**006. POLICY.**

It is the policy of the Idaho Board of Environmental Quality, through the Idaho Department of Environmental Quality, to administer the Drinking Water Grant Program. The Drinking Water Grant Program provides assistance to eligible public drinking water systems for the planning of facilities to help ensure safe and adequate supplies of drinking water. It is also the intent of the Idaho Board of Environmental Quality to assign a priority rating to those projects which shall facilitate the compliance of any eligible public drinking water system with national primary drinking water regulations applicable to the system, IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems,” and the Safe Drinking Water Act, 42 U.S.C. Sections 300f et seq. (4-2-08)

**007. SYSTEM ELIGIBILITY.**

**01. Eligible Systems.** Community water systems and nonprofit noncommunity water systems. (3-30-01)

**02. Systems Not Eligible.** The following public drinking water systems will not be considered eligible for project planning grants: (3-30-01)

**a.** Systems that do not have the financial capability to pay their non-grant share of a planning project. (3-30-01)

**b.** Systems delinquent in payment of the annual state drinking water fee assessment. (3-30-01)

**008. -- 009. (RESERVED)**

**010. DEFINITIONS.**

For the purpose of the rules contained in this chapter, the following definitions apply: (3-30-01)

- 01. Applicant.** Any qualifying entity making application for drinking water planning grant funds. (3-30-01)
- 02. Board.** The Idaho Board of Environmental Quality. (4-2-08)
- 03. Categorical Exclusion (CE).** Category of actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental information document nor an environmental impact statement is required. (4-2-08)
- 04. Community Water System.** A public drinking water system that: (3-30-01)

  - a.** Serves at least fifteen (15) service connections used by year round residents of the area served by the system; or (3-30-01)
  - b.** Regularly serves at least twenty-five (25) year-round residents. (3-30-01)
- 05. Contaminant.** Any physical, chemical, biological, or radiological substance or matter in water. (3-30-01)
- 06. Department.** The Idaho Department of Environmental Quality. (3-30-01)
- 07. Director.** The Director of the Idaho Department of Environmental Quality or the Director's designee. (4-2-08)
- 08. Distribution System.** Any combination of pipes, tanks, pumps, and other equipment which delivers water from the source(s), treatment facility(ies), or a combination of source(s) and treatment facility(ies) to the consumer. Chlorination may be considered as a function of a distribution system. (3-29-12)
- 09. Eligible Costs.** Costs which are necessary for planning public drinking water systems. To be eligible, costs must also be reasonable and not ineligible costs. The determination of eligible costs shall be made by the Department pursuant to Section 032. (5-3-03)
- 10. Environmental Impact Statement (EIS).** A document prepared by the applicant when the Department determines that the proposed drinking water project will significantly affect the environment. The major purpose of the EIS will be to describe fully the significant impacts of the project and how these impacts can be either avoided or mitigated. The Environmental Review Procedures contained in Chapter 5 of the Handbook may be used as guidance when preparing the EIS. (4-2-08)
- 11. Environmental Information Document (EID).** Any written environmental assessment prepared by the applicant describing the environmental impacts of a proposed drinking water construction project. This document will be of sufficient scope to enable the Department to assess the environmental impacts of the proposed project and ultimately determine if an environmental impact statement (EIS) is warranted. (3-29-12)
- 12. Financial Capability.** The ability to raise and manage funds to provide the necessary resources for proper operation. (3-30-01)
- 13. Finding of No Significant Impact (FONSI).** A document prepared by the Department presenting the reasons why an action, not otherwise excluded, will not have a significant effect on the human environment and for which an environmental impact statement (EIS) will not be prepared. It shall include the environmental information document or a summary of it and shall note any other environmental documents related to it. (3-29-12)
- 14. Grant Recipient.** An applicant who has been awarded a grant. (3-29-12)

15. **Handbook.** “Drinking Water Loan Handbook of Procedures.” (4-2-08)
16. **Ineligible Costs.** Costs which are not eligible for funding pursuant to these rules. (3-29-12)
17. **Maximum Contaminant Level (MCL).** The maximum permissible level of a contaminant in water which is delivered to any user of a public drinking water system. (3-30-01)
18. **Managerial Capability.** The capabilities of the qualified entity to support the proper financial management and technical operation of the system. (3-30-01)
19. **Noncommunity Water System.** A public water system that is not a community water system. (5-3-03)
20. **Nonprofit Noncommunity Water System.** A public drinking water system that is not a community water system and is governed by Section 501 of the Internal Revenue Code and includes, but is not limited to, state agencies, municipalities and nonprofit organizations such as churches and schools. (5-3-03)
21. **Nontransient Noncommunity Water System.** A public drinking water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. (4-2-08)
22. **Person.** An individual, corporation, company, association, partnership, state agency, municipality, or federal agency (and includes officers, employees, and agents of any corporation, company, association, state agency, municipality, or federal agency). (5-3-03)
23. **Planning Document.** A document which describes the condition of a public drinking water system and presents a cost effective and environmentally sound alternative to achieve or maintain regulatory compliance. Engineering reports and facility plans are examples of such planning documents. The planning documents shall be prepared by or under the responsible charge of an Idaho licensed professional engineer and shall bear the imprint of the engineer’s seal. Requirements for planning documents prepared using grant funds are provided in Section 030 of these rules and in the Handbook. (3-29-12)
24. **Priority List.** A list of proposed projects rated by severity of a risk to public health, the necessity to ensure compliance with, IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems,” and the Safe Drinking Water Act, 42 U.S.C., Sections 300f et seq., population affected, the need on a household basis for protection of Idaho’s public drinking water supplies, and as otherwise described in Section 020. (4-2-08)
25. **Public Drinking Water System/Public Water System/Water System.** A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any “special irrigation district.” A public water system is either a “community water system” or a “noncommunity water system.” (4-2-08)
26. **Qualifying Entity.** Any county, city, special service district, nonprofit or investor-owned corporation, or other governmental entity, or a combination thereof, which owns or operates a public drinking water system or irrigation system. (4-2-08)
27. **Rehabilitation.** The repair or replacement of segments of drinking water facilities. (3-30-01)
28. **Reserve Capacity.** That portion of the system in the planned facilities to handle future drinking water demand. (3-30-01)
29. **State.** The state of Idaho. (3-30-01)



**30. Suspension.** An action by the Director to suspend a grant contract prior to project completion for a specified cause. Suspended contracts may be reinstated. (3-30-01)

**31. Sustainability.** Sustainability will include efforts for energy and water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement. (3-29-12)

**32. Technical Capability.** The ability of the public drinking water system to comply with existing and expected drinking water rules. (3-30-01)

**33. Termination.** An action by the Director to permanently terminate a grant contract prior to project completion for a specific cause. Terminated contracts will not be reinstated. (3-30-01)

**34. Water Treatment Plant.** That portion of the public drinking water system whose primary purpose is to remove contaminants. (3-30-01)

**011. -- 019. (RESERVED)**

**020. PRIORITY RATING SYSTEM.**

Projects are identified for placement on priority lists by surveying eligible entities directly on an annual basis. Information is also received from the Department and consulting engineers. Grant funds are awarded to projects based on priority ratings. Projects are rated by the Department on a standard priority rating form using public health, sustainability, and water quality criteria and condition of the existing system. (3-29-12)

**01. Purpose.** A priority rating system shall be utilized by the Department to annually allot available funds to projects determined eligible for funding assistance in accordance with these rules. (4-2-08)

**02. Priority Rating.** The priority rating system shall be based on a numerical point system. Priority criteria shall contain the following points: (3-29-12)

**a. Public Health Hazard.** Any condition which creates, or may create, a danger to the consumer's health, which may include any one (1) or more of the following, may be awarded a maximum of one hundred (100) points: (3-29-12)

i. Documented unresolved violations of the primary drinking water standards including maximum contaminant levels, action levels, and treatment techniques (to include maximum contaminant levels for acute and chronic contaminants); (3-29-12)

ii. Documented unresolved violations of pressure requirements; (3-29-12)

iii. Documented reduction in source capacity that impacts the system's ability to reliably serve water; or (3-29-12)

iv. Documented significant deficiencies (e.g., documented in a sanitary survey) in the physical system that is causing the system to not be able to reliably serve safe drinking water. (3-29-12)

**b. General Conditions of Existing Facilities.** Points shall be given based on deficiencies (which would not constitute a public health hazard) for pumping, treating, storing, and delivering drinking water - up to sixty (60) points. (3-29-12)

**c. Sustainability Efforts** (e.g., prospective efforts at energy conservation, water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement) - up to fifty (50) points. (3-29-12)

**d. Consent Order, Compliance Agreement Schedule, or Court Order.** Points shall be given if the system is operating under and in compliance with a Consent Order, Compliance Agreement Schedule, or Court Order

and the proposed construction project will address the Consent Order, Compliance Agreement Schedule, or Court Order - up to thirty (30) points. (3-29-12)

**e.** Incentives. Bonus points shall be awarded to systems that promote source water protection, conservation, economy, proper operation maintenance, and monitoring - up to ten (10) points. (3-29-12)

**f.** Affordability. Points shall be given when current system user charges exceed state affordability guidelines - ten (10) points. (3-30-01)

**03. Rating Forms.** Rating criteria for Subsection 020.02 is set forth in a rating form that is available in the Handbook. (3-29-12)

**04. Priority List.** A list shall be developed from projects rated according to the priority rating system. Such list shall be submitted for public review and comment, and shall thereafter be submitted to the Board for approval and adoption. (3-29-12)

**a. Priority Reevaluation.** Whenever significant changes occur, which in the Department's judgment would affect the design parameters or treatment requirements by either increasing or decreasing the need for or scope of any project, a reevaluation of that priority rating will be conducted. (3-30-01)

**b. Priority Target Date.** An eligible applicant whose project is on the approved priority list, and for which funding is available, will be contacted by the Department and a target date for submission of a completed grant application will be established. (3-29-12)

**c. Project Bypass.** A project that does not or will not meet the project target date or a Department schedule that allows for timely utilization of grant funds may be bypassed, substituting in its place the next highest ranking project that is ready to proceed. An eligible applicant that is bypassed will be notified in writing of the reasons for being bypassed. (3-29-12)

**05. Amendment of Priority List.** The Director may amend the Priority List as set forth in Section 080 of these rules. (3-29-12)

**021. -- 029. (RESERVED)**

**030. PROJECT SCOPE AND FUNDING.**

Grant funds awarded under this program will be used entirely to prepare a drinking water facility planning document. The planning document will identify the cost effective and environmentally sound alternative to achieve or maintain compliance with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," and the Safe Drinking Water Act, 42 U.S.C. Sections 300f et seq. The planning document must be approved by the Department. (3-29-12)

**01. Planning Document.** (3-29-12)

**a.** A planning document shall include all items required by IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 503.03 or 502.04. Should the grant recipient proceed to construction using federal funds (e.g., a state revolving fund loan), then the items listed in Subsection 030.01.b. of these rules shall be required prior to construction. (3-29-12)

**b.** A planning document that is prepared anticipating the use of federal funds shall include an environmental review that will require the Department approval of both a draft and final planning document. (3-29-12)

**i.** The draft planning document shall include all items required by IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 502.04 or 503.03, as well as the following: (3-29-12)

(1) Description of existing conditions for the proposed project area; (3-30-01)

(2) Description of future conditions for the proposed project area; (3-30-01)

- (3) Development and initial screening of alternatives; (3-30-01)
- (4) Development of an environmental review specified by the Department as described in Section 040. (3-29-12)
- ii. The final planning document shall include all items required of the draft planning document as well as the following: (3-29-12)
  - (1) Final screening of principal alternatives and plan adoption; (3-30-01)
  - (2) Selected plan description and implementation arrangements; and (3-29-12)
  - (3) Relevant engineering data supporting the final alternative. (3-29-12)
- iii. The grant recipient shall provide an opportunity for the public to comment on the draft planning document. The public comment period shall be held after alternatives have been developed and the Department has approved the draft planning document. The grant recipient shall provide written notice of the public comment period and hold at least one (1) public meeting within the jurisdiction of the grant recipient during the public comment period. At the public meeting, the draft planning document shall be presented by the grant recipient with an explanation of the alternatives identified. The cost effective and environmentally sound alternative selected shall consider public comments received from those affected by the proposed project. After the public meeting and public comment period, the final alternative will be selected and the Environmental Information Document may be prepared. (3-29-12)
- c. The draft and final planning document shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. (3-29-12)
- d. The draft and final planning documents must be reviewed and approved by the Department. (3-29-12)
- e. The planning period shall be twenty (20) years for all facilities except for distribution and transmission systems which may be forty (40) years. (4-2-08)

**02. Limitation on Funding Assistance.** The maximum grant funding provided in a state planning grant award shall not exceed fifty percent (50%) of the total eligible costs for grants awarded. (3-30-01)

**031. REVIEW AND EVALUATION OF GRANT APPLICATIONS.**

**01. Submission of Application.** Those eligible systems which received high priority ranking shall be invited to submit an application. The applicant shall submit to the Department, a completed application in a form prescribed by the Department. (3-30-01)

**02. Application Requirements.** Applications shall contain the following documentation, as applicable: (5-3-03)

**a.** An authorizing resolution passed by a majority of the governing body authorizing an elected official or officer of the qualifying entity to commit funding; and (5-3-03)

**b.** Contracts for engineering services or other technical services and the description of costs and tasks set forth therein shall be in sufficient detail for the Department to determine whether the costs associated with the tasks are eligible costs pursuant to Section 032; and (3-29-12)

**c.** A plan of study describing the work tasks to be performed in the planning document, a schedule for completion of the work tasks and an estimate of staff hours and costs to complete the work tasks; and (3-29-12)

**d.** Justification for the engineering firm selected. An engineering firm selected by the applicant must

at a minimum: (5-3-03)

i. Be procured through the selection guidelines and procedures prescribed under Section 67-2320, Idaho Code; and (5-3-03)

ii. Be a registered professional engineer currently licensed by the Idaho Board of Professional Engineers and Land Surveyors; and (5-3-03)

iii. Not be debarred or otherwise prevented from providing services under another federal or state financial assistance program; and (5-3-03)

iv. Be covered by professional liability insurance in accordance with Subsection 050.05.d. A certification of liability insurance shall be included in the application; and (5-3-03)

e. A description of other costs, not included in the contracts for engineering or other technical services, for which the applicant seeks funding. The description of the costs and tasks for such costs must be in sufficient detail for the Department to determine whether the costs are eligible costs pursuant to Section 032; and (3-29-12)

f. A demonstration that the obligation to pay the costs for which funding is requested, is the result or will be the result of the applicant's compliance with applicable competitive bidding requirements and requirements for professional service contracts, including without limitation, the requirements set forth in Sections 67-2801 et seq., 67-2320, 59-1026, and 42-3212, Idaho Code; and (4-2-08)

g. A statement regarding how the non-grant portion of the project will be funded; and (5-3-03)

h. For incorporated nonprofit applicants only, Articles of Incorporation and/or Bylaws showing nonprofit and incorporated status according to Chapter 3, Title 30, Idaho Code. (3-30-01)

**03. Determination of Completeness of Application.** Applications will be reviewed to determine whether they contain all of the information required by Subsection 031.02. (3-29-12)

**04. Notification Regarding Incompleteness of Application.** Written notification if an application is incomplete, including an explanation of missing documentation, will be sent to the applicant. The applicant may provide the missing documentation. (5-3-03)

**05. Reapplication for Grant.** The action of disapproving, recalling, or terminating a grant in no way precludes or limits the former applicant from reapplying for another grant when the project deficiencies are resolved and project readiness is secured. (5-3-03)

**032. DETERMINATION OF ELIGIBILITY OF COSTS.**

The Department shall review the application, including any contracts required to be submitted with the application, to determine whether the costs are eligible costs for funding. (5-3-03)

**01. Eligible Costs.** Eligible costs are those determined by the Department to be: (5-3-03)

a. Necessary costs; (3-29-12)

b. Reasonable costs; and (3-29-12)

c. Costs that are not ineligible as described in Subsection 032.05. (3-29-12)

**02. Necessary Costs.** The Department shall determine whether costs are necessary by comparing the tasks for which the costs will be incurred to the scope of the project as described in the plan of study for the planning document. (3-29-12)

**03. Reasonable Costs.** Costs shall be determined by the Department to be reasonable if the obligation

to pay the costs is the result of or will be the result of the applicant's compliance with applicable competitive bidding requirements and requirements for professional service contracts, including without limitation, the requirements set forth in Sections 67-2801 et seq., 67-2320, 59-1026, and 42-3212, Idaho Code. (4-2-08)

**04. Examples of Costs That May Be Eligible.** Examples of costs that may be eligible, if determined necessary, reasonable and not ineligible costs include: (5-3-03)

**a.** Costs of salaries, benefits, and expendable material the qualified entity incurs in the project except ordinary expenses such as salaries and expenses of a mayor; city council members; board; or a city, district or board attorney; (4-2-08)

**b.** Professional and consulting services utilizing a lump-sum contract, specifying costs of individual tasks. (5-3-03)

**c.** Engineering costs pursuant to a lump-sum contract, specifying costs of individual tasks, directly related to the planning of public drinking water treatment, storage and distribution facilities including but not limited to the preparation of a planning document and environmental review report; (3-29-12)

**d.** Financial, technical and management capability analysis; (5-3-03)

**e.** Public participation for alternative selection; (5-3-03)

**f.** Certain direct and other costs as determined eligible by the Department; and (5-3-03)

**g.** Site acquisition services which could include legal fees, appraisals and surveys for land associated with the cost-effective alternative in the report and for purchase from a willing seller. (3-29-12)

**05. Ineligible Project Costs.** Costs which are ineligible for funding include, but are not limited to: (5-3-03)

**a.** Basin or area wide planning not directly related to the project; (5-3-03)

**b.** Personal injury compensation or damages arising out of the project; (5-3-03)

**c.** Fines or penalties due to violations of, or failure to comply with, federal, state, or local laws; (5-3-03)

**d.** Costs outside the scope of the approved project; (5-3-03)

**e.** Ordinary operating expenses such as salaries and expenses of a mayor, city council members, city attorney, district or association personnel costs, and acquiring project funding; (4-2-08)

**f.** Preparation of a grant application; (5-3-03)

**g.** All costs related to assessment, defense and settlement of disputes; (5-3-03)

**h.** Costs of supplying required permits or waivers; (5-3-03)

**i.** Costs incurred prior to award of the grant unless specifically approved in writing as eligible pre-award costs by the Department; (5-3-03)

**j.** Engineering costs incurred prior to approval of the engineering contract or those costs in excess of the contract ceiling unless preapproval has been given in writing by the Department; and (5-3-03)

**06. Notification Regarding Ineligible Costs.** Prior to providing a grant offer, the Department shall notify the applicant that certain costs are not eligible for funding and the reasons for the Department's determination. If such costs are included in the engineering contract, the Department shall also provide notification to the engineer.

The applicant may provide the Department additional information in response to the notice. (5-3-03)

**07. Eligible Costs and the Grant Offer.** The grant offer shall reflect those costs determined by the Department to be eligible costs. The grant offer, however, may include estimates of some eligible costs that have not yet been set. Actual eligible costs may differ from such estimated costs set forth in the grant offer. In addition, grant disbursements may be increased or decreased if eligible costs are modified. (4-2-08)

**033. -- 039. (RESERVED)**

**040. ENVIRONMENTAL REVIEW.**

**01. Environmental Documentation.** The grant recipient may complete an environmental review as part of and in conjunction with a planning document. Guidance on how to complete an environmental review may be found in Chapter 5 of the Handbook. If the grant recipient prepares an environmental review, then the Department shall be consulted at an early stage in the preparation of the planning document to determine the required level of environmental review. Based on review of existing information and assessment of environmental impacts, the grant recipient may complete one (1) of the following: (3-29-12)

**a.** Submit a request for Categorical Exclusion (CE) with supporting backup documentation as specified by the Department; (4-2-08)

**b.** Prepare an Environmental Information Document (EID) in a format specified by the Department; (4-2-08)

or

**c.** Prepare an Environmental Impact Statement (EIS) in a format specified by the Department. (4-2-08)

**02. Categorical Exclusions.** If the grant recipient requests a CE, the Department shall review the request and, based upon the supporting documentation, take one (1) of the following actions: (3-29-12)

**a.** Determine if an action is consistent with categories eligible for exclusion whereupon the Department shall issue a notice of CE from further substantive environmental review. Once the CE is granted for the selected alternative, the Department will publish a notice of CE in a local newspaper, following which the planning document can be approved; or (3-29-12)

**b.** Determine if an action is not consistent with categories eligible for exclusion and that issuance of a CE is not appropriate. If issuance of a CE is not appropriate, the Department shall notify the grant recipient of the need to prepare an EID. (3-29-12)

**03. Environmental Information Document Requirements.** When an EID is required, the grant recipient shall prepare the EID in accordance with the following Department procedures: (3-29-12)

**a.** Various laws and executive orders related to environmentally sensitive resources shall be considered as the EID is prepared. Appropriate state and federal agencies shall be consulted regarding these laws and executive orders. (4-2-08)

**b.** A full range of relevant impacts, both direct and indirect, of the proposed project shall be discussed in the EID, including measures to mitigate adverse impacts, cumulative impacts, and impacts that shall cause irreversible or irretrievable commitment of resources. (4-2-08)

**c.** The Department shall review the draft EID and either request additional information about one (1) or more potential impacts, or shall draft a “finding of no significant impact” (FONSI). (4-2-08)

**04. Final Finding of No Significant Impact.** The Department shall publish the draft FONSI in a newspaper of general circulation in the geographical area of the proposed project and shall allow a minimum thirty (30) day public comment period. Following the required period of public review and comment, and after any public concerns about project impacts are addressed, the FONSI shall become final. The Department shall assess the

effectiveness and feasibility of the mitigation measures identified in the FONSI and EID prior to the issuance of the final FONSI and approval of the planning document. (3-29-12)

**05. Environmental Impact Statement (EIS) Requirements.** If an EIS is required, the grant recipient shall: (3-29-12)

**a.** Contact all affected state agencies, and other interested parties, to determine the required scope of the document; (4-2-08)

**b.** Prepare and submit a draft EIS to all interested agencies, and other interested parties, for review and comment; (4-2-08)

**c.** Conduct a public meeting which may be held in conjunction with a planning document meeting; and (3-29-12)

**d.** Prepare and submit a final EIS incorporating all agency and public input for Department review and approval. (4-2-08)

**06. Final EIS.** Upon completion of the EIS by the grant recipient and approval by the Department of all requirements listed in Subsection 040.05, the Department shall issue a record of decision, documenting the mitigative measures which shall be required of the grant recipient. The planning document can be completed once the final EIS has been approved by the Department. (3-29-12)

**07. Use of Environmental Reviews Conducted by Other Agencies.** If an environmental review for the project has been conducted by another state, federal, or local agency, the Department may, at its discretion, issue its own determination by adopting the document and public notification process of the other agency. (4-2-08)

**08. Validity of Review.** Environmental reviews, once completed by the Department, are valid for five (5) years from the date of completion. If a grant application is received for a project with an environmental review which is more than five (5) years old, the Department shall reevaluate the project, environmental conditions, and public comments and shall: (3-29-12)

**a.** Reaffirm the earlier decision; or (3-30-01)

**b.** Require supplemental information to the earlier Environmental Impact Statement, Environmental Information Document, or request for Categorical Exclusion. Based upon a review of the updated document, the Department shall issue and distribute a revised notice of Categorical Exclusion, finding of no significant impact, or record of decision. (3-30-01)

**041. -- 049. (RESERVED)**

**050. GRANT OFFER AND ACCEPTANCE.**

**01. Grant Offer.** Grant offers will be delivered by certified mail to applicants who received high priority ranking, were invited to submit an application, and provided a complete application. (3-30-01)

**02. Acceptance of Grant Offer.** Applicants have sixty (60) days in which to officially accept the grant offer on prescribed forms furnished by the State. The sixty (60) day acceptance period commences from the date indicated on the grant offer notice. If the applicant does not accept the grant offer within the sixty (60) day period, the grant funds may be offered to the next project of priority. (3-30-01)

**03. Acceptance Executed as a Contract Agreement.** Upon signature by the Director or the Director's designee as the grantor, and upon signature by the authorized representative of the qualifying entity, as the grant recipient, the grant offer shall become a grant contract agreement. The disbursement of funds pursuant to an agreement is subject to a finding by the Director that the grant recipient has complied with all agreement conditions and has prudently managed the project. The Director may, as a condition of payment, require that a grant recipient vigorously pursue any claims it has against third parties who will be paid in whole or in part, directly or indirectly,

with grant funds or transfer its claim against such third parties to the Department. Grant contract agreements shall be interpreted according to the law of grants in aid. No third party shall acquire any rights against the State or its employees from a grant contract agreement. (3-29-12)

**04. Estimate of Reasonable Cost.** Each grant project contract will include the eligible cost of conducting the planning study. Some eligible costs may be estimated and payments may be increased or decreased as provided in Section 060. (3-30-03)

**05. Terms of Agreement.** The grant offer shall contain terms of agreement as prescribed by the Department including, but not limited to special conditions as determined necessary by the Department for the successful planning of the project. (3-30-01)

**a.** Terms consistent with these rules and consistent with the scope of the grant project; and (3-29-12)

**b.** Special clauses as determined necessary by the Department for the successful investigation and management of the project; and (5-3-03)

**c.** Terms consistent with applicable state and federal laws pertaining to planning documents; and (3-29-12)

**d.** Requirement for the prime engineering firm(s) retained for engineering services to carry professional liability insurance to protect the public from the engineer's negligent acts and errors of omission of a professional nature. The total aggregate of the engineer's professional liability shall be one hundred thousand dollars (\$100,000) or twice the amount of the engineer's fee, whichever is greater. Professional liability insurance must cover all such services rendered for all project steps, whether or not such services or steps are state funded, until the certification of project performance is accepted by the Department. (4-2-08)

**051. -- 059. (RESERVED)**

**060. PAYMENTS.**

**01. Eligibility Determination.** Grant funds will only be provided for eligible costs as defined at Section 010 and determined in accordance with Section 032. (3-29-12)

**02. Payments for State Grants.** Requests for payment shall be submitted to the Department on a form provided by the Department. The Department shall pay for those costs that are determined to be eligible. (3-30-01)

**03. Grant Increases.** Grant amendment increase requests as a result of an increase in eligible project costs will be considered, provided funds are available. Documentation and justification supporting the unavoidable need for a grant increase must be submitted to the Department for approval prior to incurring any costs above the approved eligible cost ceiling. (3-30-01)

**04. Grant Decreases.** If the actual eligible cost is determined to be lower than the estimated eligible cost the grant amount will be reduced proportionately. (3-30-01)

**05. Final Project Review to Determine Actual Eligible Costs.** The Department may conduct a final project review to determine the actual eligible costs. The financial records of the grant recipient may be reviewed by the Department. (3-29-12)

**06. Final Payment.** The final payment consisting of five percent (5%) of the total state grant will not be made until the requirements contained in the grant agreement have been satisfied. (3-29-12)

**061. -- 069. (RESERVED)**

**070. SUSPENSION OR TERMINATION OF GRANT.**

**01. Causes.** The Director may suspend or terminate any grant for failure by the grantee or its agents,



including his engineering firm(s), contractor(s) or subcontractor(s) to perform. A grant may be suspended or terminated for good cause including, but not limited to, the following: (3-30-01)

**a.** Commission of fraud, embezzlement, theft, forgery, bribery, misrepresentation, conversion, malpractice, misconduct, malfeasance, misfeasance, falsification or unlawful destruction of records, or receipt of stolen property, or any form of tortious conduct; or (3-30-01)

**b.** Commission of any crime for which the maximum sentence includes the possibility of one (1) or more years imprisonment or any crime involving or affecting the project; or (3-30-01)

**c.** Violation(s) of any term of agreement of the grant offer or contract agreement; or (3-30-01)

**d.** Any willful or serious failure to perform within the scope of the project; or (4-2-08)

**e.** Debarment of an engineering firm, contractor or subcontractor for good cause by any federal or state agency from working on public work projects funded by that agency. (3-30-01)

**02. Notice.** The Director will notify the grantee in writing and by certified mail of the intent to suspend or terminate the grant. The notice of intent shall state: (3-30-01)

**a.** Specific acts or omissions which form the basis for suspension or termination; and (3-30-01)

**b.** That the grantee may be entitled to appeal the suspension or termination pursuant to IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality.” (3-15-02)

**03. Determination.** A determination will be made by the Board pursuant to IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality.” (3-15-02)

**04. Reinstatement of Suspended Grant.** Upon written request by the grantee and evidence that the cause(s) for suspension no longer exist, the Director may, if funds are available reinstate the grant. (3-30-01)

**05. Reinstatement of Terminated Grant.** No terminated grant shall be reinstated. (3-30-01)

**071. -- 079. (RESERVED)**

**080. WAIVERS.**

Waivers from the requirements of these rules may be granted by the Department on a case-by-case basis upon full demonstration that a significant public health emergency exists. (3-30-01)

**081. -- 999. (RESERVED)**

**58.01.23 – RULES OF ADMINISTRATIVE PROCEDURE  
BEFORE THE BOARD OF ENVIRONMENTAL QUALITY**

**000. LEGAL AUTHORITY.**

Under Sections 39-105, 39-107 and 67-5206, Idaho Code, the Idaho Legislature has granted the Board of Environmental Quality the authority to promulgate these rules. (3-15-02)

**001. TITLE, SCOPE, AND APPLICABILITY.**

**01. Title.** These rules are titled IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality.” (3-15-02)

**02. Scope.** These rules establish general standards for contested case proceedings, petitions for rulemaking, and declaratory ruling proceedings as required by law. ( )

**03. Applicability of Contested Case Provisions.** Section 39-107, Idaho Code, provides the opportunity to initiate a contested case proceeding. It provides that any person aggrieved by an action or inaction of the Department shall be afforded an opportunity for a fair hearing upon a request therefore in writing pursuant to Chapter 52, Title 67, Idaho Code. These rules govern such proceedings, except that: ( )

**a.** Idaho Pollutant Discharge Elimination System permit decisions are governed by IDAPA 58.01.25, “Rules Regulating the Idaho Pollutant Discharge Elimination System Program,” Section 204; and ( )

**b.** Personnel grievances and employment related actions are governed by IDAPA 15.04.01, “Rules of the Division of Human Resources and Personnel Commission,” and the DEQ Personnel Policies and Procedures Manual. ( )

**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. (3-15-02)

**003. ADMINISTRATIVE PROCEDURES.**

These rules govern administrative procedures before the Board of Environmental Quality. (3-15-02)

**004. INCORPORATION BY REFERENCE.**

IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General (2018 Idaho Administrative Code),” Sections 500, 501, 800 through 815, and 830 through 860, are incorporated into these rules by reference. ( )

**005. CONFIDENTIALITY OF RECORDS.**

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 3, Title 9, 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. APPLICABILITY OF RULES OF ADMINISTRATIVE PROCEDURE OF THE ATTORNEY GENERAL.**

The Environmental Protection and Health Act, Title 39, Chapter 1, Idaho Code, provides specific authority for the Board to adopt contested case rules that are consistent with the rules adopted by the Attorney General under Section 67-5206(4), Idaho Code. To the extent possible given the statutory authority of, and the programs administered by, the Department, the contested case provisions in these rules are consistent with the provisions of IDAPA 04.11.01, “Idaho Rules of Administrative Procedures of the Attorney General” (Attorney General Rules). The majority of the Attorney General Rules are adopted within these rules. Sections 500, 501, 800 through 815, and 830 through 860 of the Attorney General Rules are incorporated by reference into these rules at Section 004. Certain provisions of the Attorney General Rules are not adopted or are modified to reflect administrative practice before the Board and the Environmental Protection and Health Act. ( )

**007. RULES OF GENERAL PROCEDURE AND DEFINITIONS.**

Sections 007 through 013 establish provisions and definitions applicable to all proceedings governed by these rules. (3-15-02)

**008. FILING AND SERVICE OF DOCUMENTS.**

**01. Filing of Documents.** (3-15-02)

**a.** All documents concerning actions governed by these rules shall be filed with the hearing coordinator at the following address: Hearing Coordinator, Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706. Documents may also be filed by fax or may be filed electronically. The hearing coordinator's fax number and email address for filing electronically are available at [www.deq.idaho.gov/petitions-for-review](http://www.deq.idaho.gov/petitions-for-review). The documents are deemed to be filed on the date received by the hearing coordinator. Upon receipt of the filed document, the hearing coordinator will provide confirmation to the originating party. ( )

**b.** Upon receipt of a petition initiating a contested case, rulemaking, or declaratory ruling, the hearing coordinator shall serve the petition upon the Department. In any proceeding involving a permit, the hearing coordinator shall serve upon the permit applicant or permit holder the petition and a notice informing the permit applicant or permit holder that they have twenty-one (21) days after the date of service of the petition to intervene in the proceeding and that they may be bound by any decision rendered in the proceeding. (3-15-02)

**02. Service of Documents.** From the time a party files its petition initiating a contested case, rulemaking or, declaratory ruling, that party must serve and all other parties must serve all future documents intended to be part of the agency record upon all other parties or representatives designated pursuant to Section 044, unless otherwise directed by order or notice or by the presiding officer. The presiding officer may order parties to serve past documents filed in the case upon those representatives. The parties may serve courtesy copies upon the presiding officer. (3-15-02)

**009. OFFICE – 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. (3-15-02)

**010. DEFINITIONS AND ABBREVIATIONS.**

**01. Aggrieved Person or Person Aggrieved.** Any person or entity with legal standing to challenge an action or inaction of the Department, including but not limited to permit holders and applicants for permits challenging Department permitting actions. (3-15-02)

**02. Board.** The Idaho Board of Environmental Quality. (3-15-02)

**03. Contested Case.** A proceeding resulting in an order, in which the legal rights, duties, licenses, privileges, immunities, or other legal interests of one (1) or more specific persons are required by law to be determined by the Board after an opportunity for a hearing. Contested case does not include rulemaking or Personnel grievances and employment related actions. (4-6-05)

**04. Declaratory Ruling.** An interpretation by the Board, rendered pursuant to Section 67- 5232, Idaho Code, as to the applicability of any statute, order, or rule of the Board to a person's circumstances. (3-15-02)

**05. Department or DEQ.** The Idaho Department of Environmental Quality. (3-15-02)

**06. Director.** The Director of the Department of Environmental Quality. (3-15-02)

**07. Hearing Coordinator.** The Person who coordinates, schedules, issues notices, and administers actions governed by these rules on behalf of the presiding officer. The hearing coordinator assigns a permanent docket number to each action for purposes of identification and acts as custodian of records for all information and documentation involving actions governed by these rules. Hearing coordinator contact information is available at [www.deq.idaho.gov/petitions-for-review](http://www.deq.idaho.gov/petitions-for-review). ( )

**08. Hearing Officer.** A Person appointed or designated by the Board, who presides over actions

governed by these rules and who may act as the presiding officer. The hearing officer cannot be an employee of the Department. (3-15-02)

**09. Idaho Administrative Bulletin.** The Idaho Administrative Bulletin established in Chapter 52, Title 67, Idaho Code. (3-15-02)

**10. Order.** An agency action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific persons. (3-15-02)

**11. Party.** Each person or agency named or admitted as a party. A party to a contested case shall be one (1) of the following: (3-15-02)

**a. Petitioner.** Any person aggrieved by an action or inaction of the Department who files, in accordance with these rules and Section 39-107, Idaho Code, a written petition for a determination of or appeal of his rights, duties, licenses or interests and any person who files a petition for a declaratory ruling or petition to initiate rulemaking. (3-15-02)

**b. Respondent.** Any person who responds to a petition filed in accordance with these rules. (3-15-02)

**c. Intervenor.** Any person, other than the petitioner or respondent, who is permitted to participate as a party pursuant to Sections 350 through 354. (3-15-02)

**12. Person.** Any individual, partnership, corporation, association, governmental subdivision, department, agency or instrumentality, or public and private organization or entity of any character. (3-15-02)

**13. Petition.** Pleadings initiating a contested case, rulemaking, or declaratory ruling, or to intervene filed in accordance with these rules. (3-15-02)

**14. Pleadings.** All documents filed by any party in a contested case proceeding. (3-15-02)

**15. Presiding Officer(s).** One (1) or more members of the Board or a duly appointed hearing officer. When more than one (1) officer sits at hearing, they may all jointly be presiding officers or may designate one (1) of them to be the presiding officer. (3-15-02)

**011. LIBERAL CONSTRUCTION.**

The rules in this chapter will be liberally construed to secure just, speedy and economical determination of all issues presented to the agency. Unless required by statute, or otherwise expressly provided in these rules or order of the presiding officer, the Idaho Rules of Civil Procedure and the Idaho Rules of Evidence do not apply to contested case proceedings conducted before the agency. (3-15-02)

**012. IDENTIFICATION OF PLEADINGS.**

Parties' pleadings addressing or pertaining to a given proceeding should be written under that proceeding's case caption and case number, if applicable. (3-15-02)

**013. COMPUTATION OF TIME.**

In computing any period of time prescribed or allowed by these rules or by order of the presiding officer, the date of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday nor a holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and holidays are excluded in the computation. (3-15-02)

**014. -- 042. (RESERVED)**

**043. RULES GOVERNING DECLARATORY RULING AND CONTESTED CASE PROCEEDINGS.**

Sections 043 through 048 establish provisions governing declaratory ruling and contested case proceedings. (3-15-02)

**044. INITIAL PLEADING BY PARTY -- LISTING OF REPRESENTATIVES.**

The initial pleading of each party to a contested case and declaratory ruling must name the party's representative(s) for service and state the representative's(s') address(es) for purposes of receipt of all official documents. No more than two (2) representatives for service of documents may be listed in an initial pleading. Service of documents on the named representative(s) is valid service upon the party for all purposes in that proceeding. If no person is explicitly named as the party's representative, the person signing the pleading will be considered the party's representative. If an initial pleading is signed by more than one (1) person without identifying the representative(s) for service of documents, the presiding officer may select the person(s) upon whom documents are to be served. If two (2) or more parties or persons file identical or substantially like initial pleadings, the presiding officer may limit the number of parties or persons required to be served with official documents in order to expedite the proceeding and reasonably manage the burden of service upon the parties. (3-15-02)

**045. REPRESENTATION OF PARTIES.**

**01. Appearances and Representation.** Unless otherwise authorized or required by law, appearances and representation of parties or other persons at contested case or declaratory ruling proceedings must be as follows: (3-15-02)

**a.** Natural Person. A natural person may represent himself or herself or be represented by an attorney or, if the person lacks full legal capacity to act for himself or herself, then by a legal guardian or guardian ad litem or representative of an estate. (3-15-02)

**b.** A general partnership may be represented by a partner or an attorney. (3-15-02)

**c.** A corporation, or any other business entity other than a general partnership, shall be represented by an attorney. (3-15-02)

**d.** A municipal corporation, local government agency, unincorporated association or nonprofit organization shall be represented by an attorney. (3-15-02)

**e.** A state, federal or tribal governmental entity or agency shall be represented by an attorney. (3-15-02)

**02. Representation.** The representatives of parties at a hearing, and no other persons or parties, are entitled to examine witnesses and make or argue motions. (3-15-02)

**046. (RESERVED)**

**047. PUBLIC NOTICE OF PETITION FOR CONTESTED CASE AND DECLARATORY RULING.**

Within fourteen (14) days of the date a petition for contested case or declaratory ruling is filed with the Board, the Board shall give reasonable notice to the public. The methods for giving notice shall include, at a minimum, the following: (3-20-04)

**01. Publication.** Publishing a one-time legal notice in the newspaper of general circulation in the county in which the petitioner resides or in which the facility or other subject of the petition is located. The legal notice shall describe the nature of the action initiated by the filing of the petition and shall include the date the petition was filed, the date by which petitions to intervene must be filed, and a method by which interested persons can obtain a copy of the petition. (3-20-04)

**02. Mail.** Mailing a copy of the legal notice prepared in accordance with Subsection 047.01 to persons on any mailing list developed by the Department relating to the subject matter of the petition for contested case or declaratory ruling. (3-20-04)

**048. SUBSTITUTION OF REPRESENTATIVE -- WITHDRAWAL OF REPRESENTATIVE.**

A party's representative may be changed and a new representative may be substituted by notice to all parties so long as the proceedings are not unreasonably delayed. The presiding officer may permit substitution of representatives at

the hearing in the presiding officer's discretion. Persons representing a party who wish to withdraw their representation of a party in a proceeding must immediately file a motion to withdraw representation and serve that motion on the party represented and all other parties. (3-15-02)

**049. RULES GOVERNING DECLARATORY RULING PROCEEDINGS.**

Sections 049 through 052 establish provisions governing declaratory ruling proceedings. (3-15-02)

**050. FORM AND CONTENTS OF PETITION FOR DECLARATORY RULINGS.**

Any person petitioning for a declaratory ruling on the applicability of a statute, rule or order administered by the Department must comply with this rule. (3-15-02)

**01. Form.** The petition shall: (3-15-02)

**a.** Identify the petitioner and state the petitioner's interest in the matter; (3-15-02)

**b.** State the declaratory ruling that the petitioner seeks; and (3-15-02)

**c.** Indicate the statute, order, rule, or other controlling law, and the factual allegations upon which the petitioner relies to support the petition. (3-15-02)

**02. Legal Assertions.** Legal assertions in the petition may be accompanied by citations of cases and/or statutory provisions. (3-15-02)

**03. Filing.** The petitioner shall file the original and two (2) copies of the petition with the hearing coordinator in accordance with Section 008. (3-20-04)

**051. (RESERVED)**

**052. PETITIONS FOR DECLARATORY RULINGS TO BE DECIDED BY ORDER.**

**01. Final Agency Action.** The Board's decision on a petition for declaratory ruling on the applicability of any statute, rule or order administered by the Department is a declaratory ruling and a final agency action within the meaning of Section 67-5255, Idaho Code. (3-15-02)

**02. Content.** The Board's order issuing the declaratory ruling shall contain or must be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (3-15-02)

**a.** This is a final agency action issuing a declaratory ruling. (3-15-02)

**b.** Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any person aggrieved by this declaratory ruling may appeal to district court by filing a petition for judicial review in the District Court in the county in which: (4-7-11)

**i.** A hearing was held; (3-15-02)

**ii.** The declaratory ruling was issued; (3-15-02)

**iii.** The party seeking review resides, or operates its principal place of business in Idaho; or (4-7-11)

**iv.** The real property or personal property that was the subject of the declaratory ruling is located. (3-15-02)

**c.** The petition for judicial review must be filed within twenty-eight (28) days of the service date of the declaratory ruling. See Section 67-5273, Idaho Code. (4-7-11)

**053. -- 098. (RESERVED)**

**099. RULES GOVERNING CONTESTED CASE PROCEEDINGS.**

Sections 099 through 791 establish provisions governing contested case proceedings. (3-15-02)

**100. TIME PERIOD FOR FILING PETITION TO INITIATE CONTESTED CASE.**

The individual program rules for time limitations within which certain actions must be taken or documents filed shall be followed. In the event there is no provision in the Idaho Code or other specific rule, an aggrieved person shall have thirty-five (35) days from the date of the action or inaction of the Department to file a petition initiating a contested case. (3-15-02)

**101. DEPARTMENT ACTION NOT STAYED.**

An action or inaction of the Department, or any portion thereof, which is the subject of a proceeding governed by these rules, is not stayed unless, upon a motion filed by a party, it is so ordered by the presiding officer. This section does not apply to Department action governed by Section 67-5254(1), Idaho Code. The stay may be ordered upon appropriate terms. (3-20-04)

**102. PETITIONER HAS BURDEN OF PROOF.**

Unless otherwise provided by statute, the petitioner in a contested case has the burden of proving by a preponderance of the evidence, the allegations in the petition. (3-15-02)

**103. DISMISSAL OF INACTIVE CONTESTED CASES.**

In the absence of a showing of good cause for retention, any contested case in which no action has been taken for a period of six (6) months shall be dismissed. At least fourteen (14) days prior to such dismissal, the notice of the pending dismissal shall be served on all parties by mailing the notice to the last known addresses most likely to give notice to the parties. (3-15-02)

**104. -- 206. (RESERVED)**

**207. CONDUCT REQUIRED.**

Representatives of parties and parties appearing in a proceeding must conduct themselves in an ethical and courteous manner. (3-15-02)

**208. TAKING OF APPEARANCES -- PARTICIPATION BY DEPARTMENT STAFF.**

The presiding officer at a formal hearing or prehearing conference will take appearances to identify the representatives of all parties or other persons. In all proceedings in which the department staff will participate, or any report or recommendation of the department staff will be considered or used in reaching a decision, at the timely request of any party the department staff must appear at any hearing and be available for cross-examination. (3-15-02)

**209. RESERVED.**

**210. PLEADINGS IN CONTESTED CASES LISTED -- MISCELLANEOUS.**

Pleadings in contested cases may include petitions, responses, motions, and objections. Affidavits may also be filed. A party's initial pleading in any proceeding must comply with Section 044. All pleadings filed during the proceeding must be filed in accordance with Sections 008 and 300 through 302. A party may adopt or join in any other party's pleading. Two (2) or more separately stated grounds, claims or answers concerning the same subject matter may be included in one (1) pleading. (3-15-02)

**211. PETITIONS TO INITIATE CONTESTED CASE -- DEFINED -- FORM AND CONTENTS.**

**01. Defined.** The pleading initiating a contested case is called a "petition." (3-15-02)

**02. Form and Contents.** The form and contents of a petition initiating contested cases shall: (3-15-02)

**a.** Fully state the facts upon which it is based, including the specific alleged action or inaction of the Department; (3-15-02)

- based;
- b.** Refer to the particular provisions of statute, rule, order or other controlling law upon which it is based; (3-15-02)
  - c.** State the relief sought; and (3-15-02)
  - d.** State the name of the person petitioned against (the respondent), if any. (3-15-02)
  - e.** State the basis for the petitioner’s legal standing to initiate the contested case. (3-15-02)
- 03. Filing.** The petitioner shall file the original and two (2) copies of the petition with the hearing coordinator in accordance with Section 008. (3-20-04)

**212. RESPONSES IN CONTESTED CASES -- DEFINED -- FORM AND CONTENTS.**

- 01. Defined.** The pleading filed by the respondent in response to the petition initiating the contested case is called a “response.” (3-15-02)
- shall:
- 02. Form and Contents.** The form and contents of a response to a petition initiating a contested case shall:
    - a.** Separately admit or deny to each factual averment in the petition; (3-15-02)
    - b.** Separately admit or deny the applicability of each legal authority asserted in the petition; (3-15-02)
    - c.** Fully state any additional facts necessary to decision of the contested case; (3-15-02)
    - d.** Refer to any additional provisions of statute, rule, order or other controlling law upon which it is based; and (3-15-02)
    - e.** State the relief sought. (3-15-02)
- 03. Filing and Service.** Responses to petitions must be filed and served on all parties of record within twenty-one (21) days after service of the petition, unless an order or stipulation modifies the time within which a response may be made, or a motion to dismiss is filed within twenty-one (21) days. When a response is not timely filed under this rule, the presiding officer may enter a default order pursuant to Sections 700 through 702. (3-20-04)

**213. MOTIONS -- DEFINED -- FORM AND CONTENTS.**

- 01. Defined.** All pleadings requesting the Board or presiding officer to take any action in a contested case, except petitions, are called “motions.” Motions include, but are not limited to, those allowed by the Idaho Rules of Civil Procedure. (3-15-02)
- 02. Procedure on Prehearing Motions.** The presiding officer may consider and decide prehearing motions with or without oral argument or hearing. If oral argument or hearing on a motion is requested and denied, the presiding officer must state the grounds for denying the request. Unless otherwise provided by the presiding officer, motions for summary judgment shall be governed by the Idaho Rules of Civil Procedure, including the form, standard for determining, procedure and time frames for filing and responding. For any other motion, unless otherwise provided by the presiding officer, when a motion has been filed, all parties seeking similar substantive or procedural relief must join in the motion or file a similar motion within seven (7) days after receiving the original motion. The party(ies) responding to the motion(s) will have fourteen (14) days to respond. The presiding officer may allow an opportunity for the movant to file a reply brief. (3-15-02)

**214. -- 299. (RESERVED)**

**300. FORM OF PLEADINGS.**

- 01. Pleadings.** All pleadings, except those on agency forms, submitted by a party and intended to be





Persons not petitioners or respondents to a proceeding who claim a direct and substantial interest in the proceeding may petition for an order from the presiding officer granting intervention to become a party. (3-15-02)

**351. FORM AND CONTENTS OF PETITIONS TO INTERVENE.**

Petitions to intervene must comply with Sections 008, 044, and 300. The petition must set forth the name and address of the potential intervenor, state the direct and substantial interest of the potential intervenor in the proceeding, and state briefly why the intervention would not unduly broaden the issues and cause delay or prejudice to the parties. If affirmative relief is sought, the petition must state the relief sought and the basis for granting it. (3-20-04)

**352. TIMELY FILING OF PETITIONS TO INTERVENE.**

**01. General.** Petitions to intervene must be filed within fourteen (14) days of publication of the notice of filing of the petition initiating a contested case or declaratory ruling as provided in Section 047 unless a different time is provided by order or notice. (3-20-04)

**02. Proceedings Involving a Permit.** In any proceeding involving a permit, petitions to intervene by the permit applicant or permit holder must be filed within twenty-one (21) days after service of the initiating petition as provided in Subsection 008.01.b. (3-15-02)

**03. Petitions Not Timely Filed.** Petitions not timely filed must state a substantial reason for delay. The presiding officer may deny or conditionally grant petitions to intervene that are not timely filed for failure to state good cause for untimely filing, to prevent disruption, prejudice to existing parties or undue broadening of the issues, or for other reasons. Intervenors are bound by orders and notices entered earlier in the proceeding. (3-15-02)

**353. OBJECTIONS TO PETITIONS TO INTERVENE.**

Any party opposing a petition to intervene, must file the objection within seven (7) days after receipt of the petition to intervene and serve the objection upon all parties of record and upon the person petitioning to intervene. Responses shall be filed within seven (7) days after service of the objection. (4-7-11)

**354. GRANTING PETITIONS TO INTERVENE.**

**01, General.** If a petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding, does not unduly broaden the issues, and will not cause delay or prejudice to the parties, the presiding officer may grant intervention, subject to reasonable conditions. In addition, upon timely filing of a petition in accordance with Subsection 352.02, a permit applicant or permit holder may intervene as a matter of right in any contested case in which the permit is contested. (4-7-11)

**02. Intervenor Response.** Within fourteen (14) days of the service date of the order granting the petition to intervene, the intervenor shall file a response to the petition initiating the contested case. The response shall be in the form and content set out in Subsection 212.02. (4-7-11)

**355. REVIEW OF ORDERS GRANTING OR DENYING INTERVENTION.**

Any party may petition the Board to review an order granting or denying intervention. Petitions for review shall be filed within fourteen (14) days of the service date of the order. Responses shall be filed within fourteen (14) days after service of the petition for review. The Board may schedule oral argument in the matter before issuing a decision. (4-7-11)

**356. -- 409. (RESERVED)**

**410. BOARD MEMBERS AS PRESIDING OFFICERS, APPOINTMENT OF HEARING OFFICERS -- NOTICE.**

One (1) or more members of the Board may act as the presiding officer in a contested case. The Board may appoint a hearing officer to act as the presiding officer on behalf of the Board. Hearing officers may be (but need not be) attorneys. Hearing officers who are not attorneys should ordinarily be persons with technical expertise or experience in issues before the Board. The hearing coordinator shall administer the appointment of the hearing officer. Notice of appointment of a hearing officer and notice of those Board members who will act as presiding officers shall be served on all parties. (3-15-02)

**411. (RESERVED)**

**412. DISQUALIFICATION OF OFFICERS HEARING CONTESTED CASES.**

Presiding officers, including hearing officers appointed by the Board, may be disqualified as provided in Section 67-5252, Idaho Code. (3-15-02)

**413. SCOPE OF AUTHORITY OF PRESIDING OFFICERS.**

Unless the Board otherwise provides, presiding officers have the following authority: (3-15-02)

**01. Authority to Schedule Cases.** Authority to schedule cases, including authority to issue notices of prehearing conference and of hearing, as appropriate; (3-15-02)

**02. Authority to Schedule and Compel Discovery.** Authority to schedule, limit or compel discovery and to require advance filing of expert testimony; (3-15-02)

**03. Authority to Preside at Hearings.** Authority to preside at and conduct hearings, accept evidence into the record, rule upon objections to evidence, and otherwise oversee the orderly presentations of the parties at hearing; and (3-15-02)

**04. Authority to Issue a Written Decision.** Authority to issue a written decision, including a narrative of the proceedings before the presiding officer and findings of fact, conclusions of law, and preliminary or recommended orders. (3-15-02)

**414. (RESERVED)**

**415. CHALLENGES TO STATUTES.**

A presiding officer in a contested case has no authority to declare a statute unconstitutional. However, when a court of competent jurisdiction whose decisions are binding precedent in the state of Idaho has declared a statute or rule unconstitutional and the presiding officer finds that the same state statute or rule or a substantively identical state statute or rule that would otherwise apply has been challenged in the proceeding before the presiding officer, then the presiding officer shall decide the proceeding in accordance with the precedent of the court. (3-15-02)

**416. REVIEW OF RULES.**

When an order is issued by the Board in a contested case, the order may consider and decide whether a rule is within the Board's substantive rulemaking authority. The Board may also review whether a rule has been promulgated according to proper procedure, if noncompliance with procedural requirements is raised within the time limits set forth in Section 67-5231, Idaho Code. The Board may delegate to a presiding officer the authority to recommend a decision on issues of whether a rule is within the Board's substantive rulemaking authority or whether the rule has been promulgated according to proper procedure or may retain all such authority itself. (3-15-02)

**417. EX PARTE COMMUNICATIONS.**

Unless required for the disposition of a matter specifically authorized by statute to be done ex parte, a presiding officer serving in a contested case shall not communicate, directly or indirectly, regarding any substantive issue in the contested case with any party, except upon notice and opportunity for all parties to participate in the communication. The presiding officer may communicate ex parte with a party concerning procedural matters (e.g., scheduling). When a presiding officer becomes aware of a written ex parte communication regarding any substantive issue from a party or representative of a party during a contested case, the presiding officer shall place a copy of the communication in the file for the case and order the party providing the written communication to serve a copy of the written communication upon all parties of record. Written communications from a party showing service upon all other parties are not ex parte communications. (3-15-02)

**418. -- 509. (RESERVED)**

**510. PREHEARING CONFERENCE.**

**01. Prehearing Conference.** As soon as reasonably possible after the Department files its response to

the petition for contested case, the presiding officer shall, upon written or other sufficient notice to all parties, hold a prehearing conference for the following purposes: (3-15-02)

- a. To determine deadlines for the information exchange required by Section 540, other discovery if allowed and prehearing motions. The presiding officer shall attempt to set deadlines and a schedule that results in a preliminary or recommended order within one hundred eighty (180) days of the date the petition is filed. (3-15-02)
- b. To determine limits, if any, on other discovery if allowed, including without limitation, limits on the number of depositions or discovery requests and the areas of inquiry. (3-15-02)
- c. To formulate or simplify the issues; (3-15-02)
- d. To obtain admissions or stipulations of fact and of documents; (3-15-02)
- e. To arrange for exchange of proposed exhibits or prepared expert testimony; (3-15-02)
- f. To limit the number of witnesses; (3-15-02)
- g. To determine the procedure at the hearing; and (3-15-02)
- h. To determine any other matters which may expedite the orderly conduct and disposition of the proceeding. (3-15-02)

**02. Additional Prehearing Conferences.** Additional prehearing conferences may be held, to address any of the issues listed in Subsection 510.01, at the request of any party or at the presiding officer's own initiative, if the presiding officer determines additional prehearing conferences would be useful. (3-15-02)

**511. RECORD OF CONFERENCE.**

Prehearing conferences may be held formally (on the record) or informally (off the record). Agreements by the parties to the conference may be put on the record during formal conferences and shall be reduced to writing and filed with the hearing coordinator after formal or informal conferences. (3-15-02)

**512. ORDERS RESULTING FROM PREHEARING CONFERENCE.**

The presiding officer shall issue a prehearing order or notice based upon the results of the agreements reached at or rulings made at a prehearing conference. A prehearing order will control the course of subsequent proceedings unless modified by the presiding officer for good cause. (3-15-02)

**513. -- 528. (RESERVED)**

**529. EXHIBIT NUMBERS.**

The presiding officer assigns exhibit numbers to each party. (3-15-02)

**530. -- 539. (RESERVED)**

**540. EXCHANGE OF INFORMATION, OTHER DISCOVERY.**

**01. Information Exchange.** In accordance with the prehearing order issued by the presiding officer pursuant to Section 512, each party shall file and serve on all other parties an information exchange document. Documents and exhibits identified in the information exchange document shall be exchanged by the parties in accordance with the prehearing order but, unless otherwise determined by the presiding officer, need not be filed. The information exchange document shall include the following: (3-15-02)

- a. The names of any experts or other witnesses intended to be called at the hearing, together with a brief narrative summary of their expected testimony, or a statement that no witnesses will be called; and (3-15-02)
- b. A description of all documents and exhibits intended to be introduced into evidence at the hearing; and (3-15-02)

c. An identification of any expert reports and prepared testimony; and (3-15-02)

d. A list of all persons with specific knowledge regarding disputed issues of material fact asserted in the petition or the response to the petition. (3-15-02)

**02. Additional Discovery.** Discovery in addition to the information exchange provided for in Subsection 540.01 may be allowed by the presiding officer in the prehearing order or in response to a motion by any party. In determining whether to allow additional discovery, the presiding officer shall consider the following: (3-15-02)

a. Whether the discovery will unreasonably delay the proceeding or unreasonably burden other persons or parties; (3-15-02)

b. Whether the information sought is most reasonably obtained from the party or person to whom it is directed and that party or person has refused to provide the information voluntarily; (3-15-02)

c. Whether the information sought has significant probative value on a disputed issue of material fact relevant to the contested case. (3-15-02)

**03. Scope of Additional Discovery Allowed.** If additional discovery is allowed, unless otherwise expressly provided in these rules or order of the presiding officer, the scope and methods of discovery are governed by the Idaho Rules of Civil Procedure. (3-15-02)

**04. Supplementation of Information Exchange and Discovery.** A party who has made an information exchange or who has exchanged information in response to a request for information or a discovery order, shall promptly supplement or correct the exchange when the party learns that the information exchanged or response provided is incomplete, inaccurate or outdated, and the additional or corrected information has not otherwise been disclosed to the other party. (3-15-02)

**541. SUBPOENAS.**

Pursuant to Section 39-107(3), Idaho Code, the presiding officer shall have the power to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony. The presiding officer may, if a witness refuses to attend or testify, or to produce any papers required by such subpoenas, report to the district court in and for the county in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witnesses, or the production of said papers, that the witness has been properly summoned, and that the witness has failed and refused to attend or produce the papers required by this subpoena before the presiding officer, or has refused to answer questions propounded to him in the course of said proceedings, and ask an order of said court compelling the witness to attend and testify and produce said papers before the presiding officer. The court, upon the petition of the presiding officer, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten (10) days from the date of the order, and then and there shall show cause why he has not attended and testified or produced said papers before the presiding officer. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the presiding officer and regularly served, the court shall thereupon order that said witness appear before the presiding officer at the time and place fixed in said order, and testify or produce the required papers. Upon failure to obey said order, said witness shall be dealt with for contempt of court. (3-15-02)

**542. FILING AND SERVICE OF DISCOVERY-RELATED DOCUMENTS.**

Discovery requests and responses thereto shall not be filed with the hearing coordinator. The party serving discovery requests or responses thereto shall file with the hearing coordinator a notice of when the discovery requests or responses were served and upon whom. (3-15-02)

**543. DEPOSITIONS, PREPARED TESTIMONY AND EXHIBITS.**

Unless otherwise specified in an order pursuant to Section 512, all parties shall serve on all other parties any depositions, prepared expert testimony and/or exhibits to be presented at hearing not later than seven (7) days prior to the hearing. Assigned exhibits numbers should be used in all prepared testimony. (3-15-02)

**544. SANCTIONS FOR FAILURE TO OBEY ORDER COMPELLING DISCOVERY.**

The presiding officer may impose all sanctions recognized by statute or rules for failure to comply with an order compelling discovery. (3-15-02)

**545. PROTECTIVE ORDERS.**

**01. General Authority.** The presiding officer may issue protective orders limiting access to information generated or requested during settlement negotiations, discovery, or hearing, including but not limited to orders to protect a party or person from annoyance, embarrassment, oppression or undue burden or expense, orders to avoid an unreasonable delay in the proceedings, or orders to limit discovery of information that has no significant probative value on a disputed issue of material fact relevant to the contested case. (3-15-02)

**02. Trade Secrets and Other Confidential Information.** Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the presiding officer may issue an order to protect trade secrets that are to be held confidential as provided in Section 9-342A, Idaho Code, or other confidential research, development or commercial information. The order may include, but need not be limited to, requirements that the trade secrets or other confidential information not be disclosed or be disclosed only in a designated way. The presiding officer's decision regarding a motion for such a protective order is an interlocutory or intermediate agency action that may be immediately reviewable in district court under Section 790 of these rules and Section 67-5271, Idaho Code. (3-15-02)

**03. In Camera Review.** The presiding officer may review information that is the subject of a motion for a protective order without the presence of parties or persons to whom access to the information has been requested to be limited. (3-15-02)

**546. -- 549. (RESERVED)**

**550. NOTICE OF HEARING.**

**01. Form and Content.** All parties in a contested case proceeding shall receive notice that shall include: (3-15-02)

**a.** A statement of the time, place and nature of the hearing; (3-15-02)

**b.** A statement of the legal authority under which the hearing is to be held; (3-15-02)

**c.** A short and plain statement of the matters asserted or the issues involved; and (3-15-02)

**d.** A statement that the hearing will be conducted in a facility meeting the accessibility requirements of the Americans with Disabilities Act and that assistance can be provided upon request to the hearing coordinator at least seven (7) days before the date set for hearing. (3-15-02)

**02. Time for Service.** The Notice of Hearing shall be served on all parties at least fourteen (14) days before the date set for hearing, unless the presiding officer finds by order that it is necessary or appropriate that the hearing be held earlier. (3-15-02)

**551. HOW HEARINGS HELD.**

Hearings may be held in person or by telephone or television or other electronic means if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place. (3-15-02)

**552. LOCATION OF HEARINGS AND ADA REQUIREMENTS.**

All hearings concerning actions governed by these rules shall be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act, shall be open to the public, and shall be held in a location reasonably convenient to all parties to the proceeding. The location shall be arranged by the hearing coordinator. (3-15-02)

**553. CONFERENCE AT HEARING.**

In any proceeding the presiding officer may convene the parties before the hearing or recess the hearing to discuss formulation or simplification of the issues, admissions of fact or identification of documents to avoid unnecessary proof, exchanges of documents, exhibits or prepared testimony, limitation of witnesses, establishment of order of procedure, and other matters that may expedite orderly conduct of the hearing. The presiding officer shall state the results of the conference on the record. (3-15-02)

**554. PRELIMINARY PROCEDURE AT HEARING.**

Before taking evidence, the presiding officer will call the hearing to order, take appearances of parties, and act upon any pending motions or petitions. The presiding officer may allow opening statements as necessary or appropriate to explain a party's presentation. (3-15-02)

**555. CONSOLIDATION OF PROCEEDINGS.**

The presiding officer may consolidate two (2) or more proceedings for hearing upon finding that they present issues that are related and that the rights of the parties will not be prejudiced. In consolidated hearings, the presiding officer determines the order of the proceeding. (3-15-02)

**556. STIPULATIONS.**

Parties may stipulate among themselves to any fact at issue in a contested case by written statement filed with the presiding officer or presented at hearing or by oral statement at hearing. A stipulation binds all parties agreeing to it only according to its terms. The presiding officer may regard a stipulation as evidence or may require proof by evidence of the facts stipulated. The presiding officer is not bound to adopt a stipulation of the parties, but may do so. If the presiding officer rejects a stipulation, it will do so before issuing a final order, and it will provide an additional opportunity for the parties to present evidence and arguments on the subject matter of the rejected stipulation. (3-15-02)

**557. ORDER OF PROCEDURE.**

The presiding officer may determine the order of presentation of witnesses and examination of witnesses. Unless otherwise determined by the presiding officer, the petitioner shall present its case first, followed by the respondent's case. (3-15-02)

**558. TESTIMONY UNDER OATH.**

All testimony presented at hearings will be given under oath or affirmation. (3-15-02)

**559. PARTIES AND PERSONS WITH SIMILAR INTERESTS.**

If two (2) or more parties or persons have substantially like interests or positions, to expedite the proceeding and avoid duplication, the presiding officer may limit the number of them who testify, examine witnesses, or make and argue motions and objections. (3-15-02)

**560. CONTINUANCE OF HEARING.**

The presiding officer may continue proceedings for further hearing for good cause shown. (3-15-02)

**561. ORAL ARGUMENT.**

The presiding officer may set and hear oral argument on any matter in the contested case on reasonable notice according to the circumstances. (3-15-02)

**562. BRIEFS -- MEMORANDA -- PROPOSED ORDERS OF THE PARTIES -- STATEMENTS OF POSITION.**

In any contested case, any party may ask to file briefs, memoranda, proposed orders or statements of position, and the presiding officer may request briefs, proposed orders, or statements of position. (3-15-02)

**563. -- 599. (RESERVED)**

**600. RULES OF EVIDENCE -- EVALUATION OF EVIDENCE.**

The presiding officer at hearing is not bound by the Idaho Rules of Evidence. No informality in any proceeding or in the manner of taking testimony invalidates any order. The presiding officer, with or without objection, may exclude evidence that is irrelevant, unduly repetitious, inadmissible on constitutional or statutory grounds, or on the basis of

any evidentiary privilege provided by statute or recognized in the courts of Idaho. All other evidence may be admitted. The Department's experience, technical competence and specialized knowledge may be used in evaluation of evidence. (3-15-02)

**601. DOCUMENTARY EVIDENCE.**

Documentary evidence may be received in the form of copies or excerpts. Upon request, parties shall be given an opportunity to compare the copy with the original if available. To be admissible, document copies must be authentic. (3-15-02)

**602. OFFICIAL NOTICE -- DEPARTMENT STAFF MEMORANDA.**

Official notice may be taken of any facts that could be judicially noticed in the courts of Idaho and generally recognized technical or scientific facts within the Department's specialized knowledge. Parties shall be notified of the specific facts or material noticed and the source thereof, including any staff memoranda and data. Notice should be provided either before or during the hearing, and must be provided before the issuance of any order that is based in whole or in part on facts or material noticed. Parties must be afforded a timely and meaningful opportunity to contest and rebut the facts or material so noticed. When the presiding officer proposes to notice staff memoranda or reports, a responsible staff member shall be made available for cross-examination if any party so requests. (3-15-02)

**603. DEPOSITIONS.**

Depositions may be offered into evidence. (3-15-02)

**604. OBJECTIONS -- OFFERS OF PROOF.**

Grounds for objection to the admission or exclusion of evidence must be stated briefly at the time the evidence is offered. An offer of proof for the record consists of a statement of the substance of the excluded evidence. When a party objects to the admission of evidence, the presiding officer will rule on the objection. (3-15-02)

**605. PREPARED TESTIMONY.**

The presiding officer may order a witness's prepared testimony previously distributed to all parties to be included in the record of hearing as if read. Admissibility of prepared testimony is subject to Section 600. Upon request of any party, the witness shall be available for cross-examination on the prepared testimony. (3-15-02)

**606. EXHIBITS.**

Unless already provided before the hearing in accordance with these rules, a copy of each documentary exhibit must be furnished to each party present and to the presiding officer. Copies must be of good quality. Exhibits offered at hearing are subject to appropriate and timely objection. Exhibits to which no objection is made are automatically admitted into evidence unless otherwise excluded by the presiding officer under Section 600. (3-15-02)

**607. -- 609. (RESERVED)**

**610. CONFIDENTIALITY OF SETTLEMENT NEGOTIATIONS.**

Evidence of furnishing, offering, or promising to furnish, or accepting, offering, or promising to accept, a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for, invalidity of, or amount of the claim or any other claim. Evidence of conduct or statements made in compromise negotiations is likewise not admissible. This section does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations. This section does not require exclusion if the evidence is offered for another purpose, such as proving bias or prejudice of a witness or negating a contention of undue delay. Compromise negotiations encompass mediation. (3-15-02)

**611. SUGGESTION FOR OR INQUIRY ABOUT SETTLEMENTS.**

Through notice or order or on the record at prehearing conference or hearing, the presiding officer may inquire of the parties in any proceeding whether settlement negotiations are in progress or are contemplated or may invite settlement of an entire proceeding or certain issues. (3-15-02)

**612. CONSIDERATION OF SETTLEMENTS.**

When one (1) or more parties to a proceeding is not a party to the settlement or when the settlement presents issues of significant implication for other persons, the settlement agreement shall be presented to the presiding officer for



approval. The presiding officer may hold an evidentiary hearing to consider the reasonableness of the settlement and whether acceptance of the settlement is consistent with the Board's charge under the law. (3-15-02)

**613. BURDENS OF PROOF REGARDING SETTLEMENTS.**

Proponents of a proposed settlement carry the burden of showing that the settlement is in accordance with the law. The presiding officer may require the development of an appropriate record in support of or opposition to a proposed settlement as a condition of accepting or rejecting the settlement. (3-15-02)

**614. SETTLEMENT NOT BINDING.**

The presiding officer is not bound by settlement agreements that are not unanimously accepted by all parties or that have significant implications for persons not parties. In these instances, the presiding officer will independently review any proposed settlement to determine whether the settlement is in accordance with the law. (3-15-02)

**615. -- 649. (RESERVED)**

**650. RECORD FOR DECISION.**

**01. Official Record.** The Board shall maintain an official record for each contested case and (unless a statute provides otherwise) base its decision in a contested case on the official record for the case. (3-15-02)

**02. Contents of Record.** The record for a contested case shall include: (3-15-02)

- a.** All notices of proceedings; (3-15-02)
- b.** All petitions, responses, motions, and objections filed in the proceeding; (3-15-02)
- c.** All intermediate or interlocutory rulings of the presiding officer; (3-15-02)
- d.** All evidence received or considered (including all transcripts or recordings of hearings and all exhibits offered or identified at hearing); (3-15-02)
- e.** All offers of proof, however made; (3-15-02)
- f.** All briefs, memoranda, proposed orders of the parties or of the presiding officers, statements of position, statements of support, and exceptions filed by parties; (3-15-02)
- g.** All evidentiary rulings on testimony, exhibits, or offers of proof; (3-15-02)
- h.** All staff memoranda or data submitted in connection with the consideration of the proceeding; (3-15-02)
- i.** A statement of matters officially noticed; and (3-15-02)
- j.** All preliminary orders and final orders. (3-15-02)

**651. RECORDING OF HEARINGS.**

All hearings shall be recorded by a certified court reporter and transcribed at the Department's expense. Any party may have a copy of the transcript prepared at its own expense. (3-15-02)

**652. -- 699. (RESERVED)**

**700. NOTICE OF PROPOSED DEFAULT ORDER.**

If a party fails to appear at the time and place set for hearing or fails to timely file a response as set out in Section 212, the presiding officer may serve upon all parties a notice of proposed default order. The notice shall include a statement of the grounds for the proposed order. (3-15-02)

**701. FOURTEEN DAYS TO RESPOND TO PROPOSED DEFAULT ORDER.**

Within fourteen (14) days after service of the notice of proposed default order, the party against whom it was issued may file a written petition requesting the proposed order to be vacated. The petition shall state the grounds relied upon. (3-15-02)

**702. DEFAULT ORDER.**

The presiding officer shall either issue or vacate the default order promptly after the expiration of the time within which the party may file a petition as provided in Section 701. If the presiding officer issues a default order, the officer shall conduct any further proceedings necessary to complete the adjudication without the participation of the party in default and shall determine all issues in the adjudication, including those affecting the defaulting party. (3-15-02)

**703. -- 709. (RESERVED)**

**710. INTERLOCUTORY ORDERS.**

Interlocutory orders are orders that do not decide all previously undecided issues presented in a proceeding, except the presiding officer may by order decide some of the issues presented in a proceeding and provide in that order that its decision on those issues is final and subject to review, but is not final on other issues. Unless an order contains or is accompanied by a document containing one (1) of the statements set forth in Sections 730 or 740 or a statement substantially similar, the order is interlocutory. The following orders are always interlocutory: orders joining, consolidating or separating issues, proceedings or parties; orders granting or denying intervention (an order regarding intervention, however, may be reviewed by the Board as provided in Section 355); orders scheduling prehearing conferences, discovery, hearing, oral arguments or deadlines for written submissions; and orders limiting, compelling or refusing to compel discovery. (3-20-04)

**711. RECONSIDERATION OF INTERLOCUTORY ORDERS.**

Any party may file a motion for reconsideration of an interlocutory order within fourteen (14) days after service of the order. The presiding officer issuing an interlocutory order may rescind, alter or amend any interlocutory order on the presiding officer's own motion, but will not on the presiding officer's own motion review any interlocutory order affecting any party's substantive rights without giving all parties notice and an opportunity for written comment. (3-20-04)

**712. -- 719. (RESERVED)**

**720. RECOMMENDED ORDERS.**

**01. Definition.** Recommended orders are orders issued by the presiding officer that will become a final order of the Board only after review by the Board pursuant to Section 67-5244, Idaho Code. (3-15-02)

**02. Content.** Every recommended order must include a schedule for review of the order by the Board and must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (4-7-11)

**a.** This is a recommended order of the presiding officer. It will not become final without action of the Board. (3-15-02)

**b.** The Board shall allow all parties an opportunity to file briefs in support or taking exceptions to the recommended order and may schedule oral argument in the matter before issuing a final order. The hearing coordinator shall issue a notice setting out the briefing schedule and date and time for oral argument. The Board will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived or extended by the parties or for good cause shown. The Board may hold additional hearings or may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. (4-7-11)

**03. No Motions for Reconsideration.** Motions for reconsideration of any recommended order shall not be considered. (3-15-02)

**721. -- 729. (RESERVED)**

**730. PRELIMINARY ORDERS.**

**01. Definition.** Preliminary orders are orders issued by the presiding officer that will become a final order of the Board unless reviewed by the Board pursuant to Section 67-5245, Idaho Code. (3-15-02)

**02. Content.** Every preliminary order must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (3-15-02)

**a.** This is a preliminary order of the presiding officer. It can and will become final without further action of the Board unless any party appeals to the Board by filing with the hearing coordinator a petition for review of the preliminary order; (4-7-11)

**b.** Within fourteen (14) days of the service date of this preliminary order, any party may take exceptions to any part of this preliminary order by filing with the hearing coordinator a petition for review of the preliminary order. Otherwise, this preliminary order will become a final order of the Board. The basis for review must be stated in the petition. The Board may review the preliminary order on its own motion. (4-7-11)

**c.** If any party files a petition for review of the preliminary order, the Board shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. The hearing coordinator shall issue a notice setting out the briefing schedule and date and time for oral argument. The Board will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived or extended by the parties or for good cause shown. The Board may hold additional hearings or may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. (4-7-11)

**d.** Pursuant to Sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition for judicial review in the district court of the county in which: (4-7-11)

i. A hearing was held, (3-15-02)

ii. The final agency action was taken, (3-15-02)

iii. The party seeking review of the order resides, or operates its principal place of business in Idaho, or (3-15-02)

iv. The real property or personal property that was the subject of the agency action is located. (3-15-02)

**e.** The petition for judicial review must be filed within twenty-eight (28) days of this preliminary order becoming final. See Section 67-5273, Idaho Code. The filing of a petition for judicial review in district court does not itself stay the effectiveness or enforcement of the order under review. (4-7-11)

**03. No Motions for Reconsideration.** Motions for reconsideration of any preliminary order shall not be considered. (3-15-02)

**731. -- 739. (RESERVED)**

**740. FINAL ORDERS.**

**01. Definition.** Final orders are preliminary orders that have become final under Section 730 pursuant to Section 67-5245, Idaho Code, or orders issued by the Board pursuant to Section 67-5246, Idaho Code. An order shall be considered a final order pursuant to Section 67-5246, Idaho Code, if issued after a decision by the number of Board members necessary to constitute a quorum. Emergency orders issued under Section 67-5247, Idaho Code, shall be designated as final orders if the Board will not issue further orders or conduct further proceedings in the matter.

(3-15-02)

**02. Content.** Every final order issued by the Board must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (3-15-02)

**a.** This is a final order of the Board. (3-15-02)

**b.** Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition for judicial review in the district court of the county in which: (4-7-11)

**i.** A hearing was held; (3-15-02)

**ii.** The final agency action was taken; (3-15-02)

**iii.** The party seeking review of the order resides, or operates its principal place of business in Idaho; or (3-15-02)

**iv.** The real property or personal property that was the subject of the agency action is located. (3-15-02)

**c.** The petition for judicial review must be filed within twenty-eight (28) days of the service date of this final order. See Section 67-5273, Idaho Code. The filing of a petition for judicial review in district court does not itself stay the effectiveness or enforcement of the order under review. (4-7-11)

**03. No Motions for Reconsideration.** Motions for reconsideration of any final order shall not be considered. (3-15-02)

**741. -- 749. (RESERVED)**

**750. ORDER NOT DESIGNATED.**

If an order is not designated as recommended, preliminary or final at its issuance, but is designated as recommended, preliminary or final after its issuance, its effective date for purposes of judicial review is the service date of the order of designation. If a party believes that an order not designated as a recommended order, preliminary order or final order according to the terms of these rules should be designated as a recommended order, preliminary order or final order, the party may move to designate the order as recommended, preliminary or final, as appropriate. (4-7-11)

**751. -- 779. (RESERVED)**

**780. STAY OF ORDERS.**

The filing of the petition for review does not itself stay the effectiveness or enforcement of the Board action. The Board may grant, or the reviewing court may order, a stay upon appropriate terms. (3-15-02)

**781. -- 789. (RESERVED)**

**790. RIGHT OF JUDICIAL REVIEW.**

Pursuant to Section 67-5270, Idaho Code, any person aggrieved by a final order of the Board in a contested case is entitled to judicial review. Pursuant to Section 67-5271, Idaho Code, a person is not entitled to judicial review of an agency action in district court until that person has exhausted all administrative remedies available with the Board, but a preliminary, procedural, or intermediate agency action or ruling is immediately reviewable in district court if administrative review of the final agency action would not provide an adequate remedy. (4-7-11)

**791. PETITION FOR JUDICIAL REVIEW.**

**01. Filing and Service.** The petition for judicial review must be filed with the hearing coordinator as set out in Section 008 and with the district court and served on all parties. Pursuant to Section 39-107(6), Idaho Code, the petition for judicial review shall also be served upon the Chairman of the Board, the Director of the Department,

and upon the Attorney General of the State of Idaho. Pursuant to Section 67-5272, Idaho Code, petitions for judicial review may be filed in the District Court of the county in which: (4-7-11)

- a. The hearing was held; (3-15-02)
- b. The final agency action was taken; (3-15-02)
- c. The party seeking review of the agency action resides; or (3-15-02)
- d. The real property or personal property that was the subject of the agency action is located. (3-15-02)

**02. Filing Deadline.** Pursuant to Section 67-5273, Idaho Code, a petition for judicial review of a final order in a contested case must be filed within twenty-eight (28) days of the service date of the final order. (3-15-02)

**792. -- 798. (RESERVED)**

**799. RULES GOVERNING PROCEEDINGS ON PETITIONS TO INITIATE RULEMAKING.**  
Sections 799 through 802 establish provisions governing proceedings on petitions to initiate rulemaking. (3-15-02)

**800. FORM AND CONTENTS OF PETITION TO INITIATE RULEMAKING.**  
This rule addresses petitions to initiate rulemaking as described by Section 67-5230, Idaho Code. (3-15-02)

- 01. Requirement.** Any person petitioning for initiation of rulemaking must comply with this rule. (3-15-02)
- 02. Form and Contents.** The form and contents of a petition to initiate rulemaking shall: (3-20-04)
  - a. Identify the petitioner and state the petitioner’s interest(s) in the matter; (3-15-02)
  - b. Describe the nature of the rule or amendment to the rule urged to be promulgated and the petitioner’s suggested rule or amendment; and (3-15-02)
  - c. Indicate the statute, order, rule, or other controlling law, and the factual allegations upon which the petitioner relies to support the proposed rulemaking. Legal assertions in the petition may be accompanied by citations of cases and/or statutory provisions. (3-15-02)
- 03. Filing.** The petitioner shall file the original and two (2) copies of the petition with the hearing coordinator in accordance with Section 008. (3-20-04)

**801. BOARD RESPONSE TO PETITION.**

- 01. Action of Board.** The Board shall have until the first regularly scheduled meeting that takes place fourteen (14) or more days after submission of the petition to initiate rulemaking proceedings in accordance with Sections 67-5220 through 67-5225, Idaho Code, and these rules or deny the petition in writing, stating its reasons for the denial. (3-15-02)
- 02. Denial.** If the petition is denied, the written denial shall state: (3-15-02)
  - a. The Board has denied your petition to initiate rulemaking. This denial is a final agency action within the meaning of Section 67-5230, Idaho Code. (3-15-02)
  - b. Pursuant to Section 67-5270, Idaho Code, any person aggrieved by this final agency action may seek review of the denial to initiate rulemaking by filing a petition for judicial review in the District Court of the county in which: (4-7-11)
    - i. The hearing was held; (3-15-02)

- ii. This final agency action was taken; (3-15-02)
  - iii. The party seeking review resides, or operates its principal place of business in Idaho; or (3-15-02)
  - iv. The real property or personal property that was the subject of the denial of the petition for rulemaking is located. (3-15-02)
- c. The petition for judicial review must be filed within twenty-eight (28) days of the service date of this denial of the petition to initiate rulemaking. (4-7-11)

**802. NOTICE OF INTENT TO INITIATE RULEMAKING CONSTITUTES ACTION ON PETITION.**  
The Board may initiate rulemaking proceedings in response to a petition to initiate rulemaking by issuing a notice of intent to promulgate rules in accordance with Section 67-5220, Idaho Code, on the subject matter of the petition if it wishes to obtain further comment whether a rule should be proposed or what rule should be proposed. Publication of a notice of intent to promulgate rules satisfies the Board's obligations to take action on the petition and is not a denial of a petition to initiate rulemaking. (3-15-02)

**803. -- 999. (RESERVED)**

## 58.01.24 – STANDARDS AND PROCEDURES FOR APPLICATION OF RISK BASED CORRECTIVE ACTION AT PETROLEUM RELEASE SITES

### 000. LEGAL AUTHORITY.

Chapters 1, 36, 44, 72 and 74, Title 39, Idaho Code grant authority to the Board of Environmental Quality to adopt rules and administer programs to protect public health and the environment, including the protection of surface water, ground water, and drinking water quality. (5-8-09)

### 001. TITLE, SCOPE AND APPLICABILITY.

**01. Title.** These rules are titled IDAPA 58.01.24, “Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites.” (5-8-09)

**02. Scope.** These rules establish standards and procedures to determine whether and what risk based corrective action measures should be applied to property subject to assessment and cleanup requirements under IDAPA 58.01.02, Sections 851 and 852, “Water Quality Standards,” and associated definitions; IDAPA 58.01.11, Subsection 400.05, “Ground Water Quality Rule;” or when assessment and cleanup requirements are incorporated into compliance documents entered into per Chapter 1, Title 39, Idaho Code. Compliance with these rules shall not relieve persons from the obligation to comply with other applicable state or federal laws. These rules do not apply to previously closed sites. The Department will not require any additional evaluation of petroleum sites previously granted closure unless there is a new petroleum release. (5-8-09)

### 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. (5-8-09)

### 003. ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality.” (5-8-09)

### 004. INCORPORATION BY REFERENCE.

These rules do not contain documents incorporated by reference. (5-8-09)

### 005. AVAILABILITY OF REFERENCED MATERIAL.

Documents and data bases referenced within these rules are available at the following locations: (5-8-09)

**01. Idaho Risk Evaluation Manual for Petroleum Releases.** Idaho Risk Evaluation Manual for Petroleum Releases and subsequent editions, <http://www.deq.idaho.gov>. (3-29-12)

**02. U.S. EPA RAGS.** U.S. EPA RAGS, Volume 1, <http://www.epa.gov/oswer/riskassessment/policy.htm#5>. (5-8-09)

**03. U.S. EPA Exposure Factors Handbook.** U.S. EPA Exposure Factors Handbook, <http://www.epa.gov/ncea/pdfs/efh/front.pdf>. (5-8-09)

**04. Idaho Source Water Assessment Plan.** Idaho Source Water Assessment Plan, <http://www.deq.idaho.gov>. (5-8-09)

**05. EPA Regional Screening Tables.** EPA Regional Screening Tables, [http://www.epa.gov/reg3hwmd/risk/human/rb-concentration\\_table/index.htm](http://www.epa.gov/reg3hwmd/risk/human/rb-concentration_table/index.htm). (3-29-12)

### 006. OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.

The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, (208) 373-0502, [www.deq.idaho.gov](http://www.deq.idaho.gov). The office hours are 8 a.m. to 5 p.m. Monday through Friday. (5-8-09)

### 007. 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 Idaho Department of Environmental Quality.” (5-8-09)

### 008. TABLES.

**01. Chemicals of Interest for Various Petroleum Products.** The table of chemicals of interest for various petroleum products is available in Section 800 of these rules. (4-11-19)

**02. Screening Level Concentrations for Soil, Ground Water, and Soil Vapor.** The table of screening level concentrations for soil, ground water, and soil vapor is available in the [Idaho Risk Evaluation Manual for Petroleum Releases](http://www.deq.idaho.gov) at [www.deq.idaho.gov](http://www.deq.idaho.gov). (4-11-19)

**03. Default Toxicity Values for Risk Evaluation.** The table of default toxicity values for risk evaluation is available in the [Idaho Risk Evaluation Manual for Petroleum Releases](http://www.deq.idaho.gov) at [www.deq.idaho.gov](http://www.deq.idaho.gov). (4-11-19)

**009. ACRONYMS.**

**01. EPA.** The United States Environmental Protection Agency. (5-8-09)

**02. PST.** Petroleum Storage Tank System. (5-8-09)

**03. RAGS.** Risk Assessment Guidance for Superfund. (5-8-09)

**04. UECA.** Uniform Environmental Covenant Act. See definition in Section 010. (5-8-09)

**010. DEFINITIONS.**

For the purpose of the rules contained in IDAPA 58.01.24, “Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites,” the following definitions apply: (5-8-09)

**01. Acceptable Target Hazard Index.** The summation of the hazard quotients of all chemicals and routes of exposure to which a receptor is exposed and equal to a value of one (1). If the initial value exceeds one (1), further evaluation, including individual organs, can be completed. (5-8-09)

**02. Acceptable Target Hazard Quotient.** A hazard quotient of 1 for a specified receptor when applied to individual chemicals. (5-8-09)

**03. Acceptable Target Risk Level.** Acceptable risk level for human exposure to carcinogens. For exposure to individual carcinogens a lifetime excess cancer risk of less than or equal to one per one million (1 E-6) for a receptor at a reasonable maximum exposure. For combined exposure to all carcinogens and routes of exposure, a lifetime excess cancer risk of less than or equal to one per one hundred thousand (1 E-5) for a receptor at a reasonable maximum exposure. (5-8-09)

**04. Activity and Use Limitations.** Restrictions or obligations, with respect to real property, created by an environmental covenant. Activity and use limitations may include, but are not limited to, land use controls, activity and use restrictions, environmental monitoring requirements, and site access and security measures. Also known as institutional controls. (5-8-09)

**05. Background.** Media specific concentration of a chemical that is consistently present in the environment in the vicinity of a site which is the result of human activities unrelated to release(s) from that site under investigation. (5-8-09)

**06. Board.** The Idaho Board of Environmental Quality. (5-8-09)

**07. Corrective Action Plan.** A document, subject to approval by the Department, which describes the actions and measures that will be implemented to ensure that adequate protection of human health and the environment is achieved and maintained. A corrective action plan also describes the applicable remediation standards. Also may be known as a risk management plan or a remediation workplan. (5-8-09)

**08. Delineated Source Water Protection Area.** The physical area around a public drinking water supply well or surface water intake identified in an approved Department source water assessment that contributes water to a well (the zone of contribution). The size and shape of the delineated source water area depend on the



delineation method and site specific factors. The area may be mapped as a one thousand (1000) ft. fixed radius around the well (transient public water systems) or divided into three (3), six (6), and ten (10) year time of travel zones (e.g. zones indicating the number of years necessary for a particle of water to reach a well or surface water intake). For the purposes of these rules, where ground water time of travel zones have been delineated, the three (3) year time of travel zone shall apply. Where surface water systems have been delineated, this area includes a five hundred (500) ft. buffer around a lake or reservoir, or a five hundred (500) ft. buffer along the four (4) hour upstream time of travel of streams. See the Idaho Source Water Assessment Plan. (5-8-09)

**09. Department.** The Idaho Department of Environmental Quality. (5-8-09)

**10. Environmental Covenant.** As defined in the Uniform Environmental Covenant Act (UECA), Chapter 30, Title 55, Idaho Code, an environmental covenant is a servitude arising under an environmental response project that imposes activity and use limitations. (5-8-09)

**11. Exposure Point Concentration.** The average concentration of a chemical to which receptors are exposed over a specified duration within a specified geographical area. The exposure point concentration is typically a conservative estimate of the mean. Also referred to as the representative concentration. (5-8-09)

**12. Hazard Quotient.** The ratio of a dose of a single chemical over a specified time period to a reference dose for that chemical derived for a similar exposure period. (5-8-09)

**13. Method Detection Limit.** The minimum concentration of a substance that can be reported with ninety-nine percent (99%) confidence is greater than zero. Method detection limits can be operator, method, laboratory, and matrix specific. (5-8-09)

**14. Operator.** Any person presently or who was at any time during a release in control of, or responsible for, the daily operation of the petroleum storage tank (PST) system. (5-8-09)

**15. Owner.** Any person who owns or owned a PST system any time during a release and the current owner of the property where the PST system is or was located. (5-8-09)

**16. Person.** An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body, or any legal entity which is recognized by law as the subject of rights and duties. (5-8-09)

**17. Petroleum.** Crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (sixty (60) degrees Fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute). This includes petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, and lubricants. (5-8-09)

**18. Petroleum Storage Tank (PST) System.** Any one (1) or combination of storage tanks or other containers, including pipes connected thereto, dispensing equipment, and other connected ancillary equipment, and stationary or mobile equipment, that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. (5-8-09)

**19. Practical Quantitation Limit.** The lowest concentration of a chemical that can be reliably quantified among laboratories within specified limits of precision and accuracy for a specific laboratory analytical method during routine laboratory operating conditions. Specified limits of precision and accuracy are the criteria listed in the calibration specifications or quality control specifications of an analytical method. Practical quantitation limits can be operator, method, laboratory, and matrix specific. (5-8-09)

**20. Reasonable Maximum Exposure.** The highest exposure that can be reasonably expected to occur for a human or other living organism at a site under current and potential future site use. (5-8-09)

**21. Reference Dose.** For chronic or long-term exposures an estimate of a daily exposure level to a

chemical for the human population, including sensitive subpopulations, that is likely to be without an appreciable risk of deleterious noncarcinogenic effects during a lifetime, expressed in units of milligrams per kilogram body weight per day. (5-8-09)

**22. Release.** Any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a PST into soil, ground water, or surface water. (5-8-09)

**23. Remediation Standard.** A media specific concentration which, when attained, is considered to provide adequate protection of human health and the environment. (5-8-09)

**24. Residential Use.** Residential use means land uses which include residential or sensitive populations. (5-8-09)

**25. Risk Based Concentration.** The residual media specific concentration of a chemical that is determined to be protective of human health and the environment under specified exposure conditions. (5-8-09)

**26. Risk Evaluation.** The process used to determine the probability of an adverse effect due to the presence of a chemical. A risk evaluation includes development of a site conceptual model, identification of the chemicals present in environmental media, assessment of exposure and exposure pathways, assessment of the toxicity of the chemicals present, characterization of human risks, and characterization of impacts or risks to the environment. (5-8-09)

**27. Screening Level.** A media specific concentration which, based on specified levels of risk or hazard, exposure pathways and routes of exposure, expected land use, and exposure factors, can be used to assess the need for additional investigation or corrective action. (5-8-09)

**28. Slope Factor.** A plausible upper-bound estimate of the probability of an individual developing cancer as a result of a lifetime of exposure to a particular level of a potential carcinogen. It is expressed as the probability of a response per unit intake of a chemical over a lifetime. (5-8-09)

**29. Uniform Environmental Covenant Act (UECA).** UECA is found in Chapter 30, Title 55, Idaho Code. UECA provides a statutory mechanism for creating, modifying, enforcing and terminating environmental covenants. (5-8-09)

**011. -- 099. (RESERVED)**

**100. CHEMICALS EVALUATED AT PETROLEUM RELEASE SITES.**

**01. General Applicability.** For petroleum sites governed by Sections 851 and 852 of IDAPA 58.01.02, "Water Quality Standards," the chemicals listed in Section 800, table of chemicals of interest for various petroleum products, will be evaluated based on the specific petroleum product or products known or suspected to have been released. (4-11-19)

**02. Additional Chemicals.** Evaluation of non-petroleum chemicals in addition to those in Section 800, table of chemicals of interest for various petroleum products, may be required by the Department when there is a reasonable basis based on site-specific information. A reasonable basis shall be demonstrated by the Department when it can show documentation of releases or suspected releases of other non-petroleum chemicals. (4-11-19)

**101. -- 199. (RESERVED)**

**200. RISK EVALUATION PROCESS.**

The following risk evaluation process shall be used for petroleum releases in accordance with the Petroleum Release Response and Corrective Action Rules described in IDAPA 58.01.02, "Water Quality Standards," Section 852. (5-8-09)

**01. Screening Evaluation.** The screening evaluation may be performed at any time during the release response and corrective action process described in IDAPA 58.01.02, "Water Quality Standards," Section 852. The

screening evaluation shall include, at a minimum: (5-8-09)

- a. Collection of media-specific (soil, surface water, ground water) data; and (5-8-09)
- b. Identification of maximum soil, ground water, and soil vapor petroleum chemical concentrations for the chemicals identified in Section 800, table of chemicals of interest for various petroleum products, as appropriate for the petroleum product or products released. (4-11-19)
- c. Comparison of the maximum media-specific petroleum contaminant concentrations to the screening levels identified in the table of screening level concentrations for soil, ground water, and soil vapor in the [Idaho Risk Evaluation Manual for Petroleum Releases](#). If the maximum media-specific petroleum contaminant concentrations at a site do not exceed the screening levels, the owner and/or operator may petition for site closure, subject to other Department regulatory obligations. If the maximum media-specific concentrations at a site exceed the screening levels, the owner and/or operator shall proceed to: (4-11-19)
  - i. Adopt the screening levels as cleanup levels and develop a corrective action plan to achieve those levels pursuant to Subsection 200.03; or (5-8-09)
  - ii. Perform a site specific risk evaluation pursuant to Section 300. The Department may require the collection of additional site-specific data prior to the approval of the risk evaluation. (5-8-09)

**02. Results of Risk Evaluation.** If the results of the approved risk evaluation do not exceed the acceptable target risk level, acceptable target hazard quotient, or acceptable target hazard index specified in Section 300, the owner and/or operator may petition for site closure, subject to other Department regulatory obligations. If the results of the approved risk evaluation indicates exceedance of the acceptable target risk level, acceptable target hazard quotient, or acceptable target hazard index specified in Section 300, the risk evaluation shall: (5-8-09)

- a. Be modified by collection of additional site-specific data, or review of chemical toxicological information, and resubmitted to the Department for review and approval; or (5-8-09)
- b. Provide the basis for the development of risk based concentrations, establishment of remediation standards as described in Section 400, and development of a corrective action plan. (5-8-09)

**03. Development and Implementation of Corrective Action Plan.** A Corrective Action plan required as a result of the risk evaluation process described in Section 200 shall include, but not be limited to, the following information, as applicable: (5-8-09)

- a. Description of remediation standards, points of exposure, and points of compliance where remediation standards shall be achieved; (5-8-09)
- b. Description of remedial strategy and actions that will be taken to achieve the remediation standards; (5-8-09)
- c. Current and reasonably anticipated future land use and use of on-site and immediately adjacent off-site ground water, and surface water; (5-8-09)
- d. Activity and use limitations, if any, that will be required as part of the remedial strategy; (5-8-09)
- e. Proposed environmental covenants, developed to implement activity and use limitations, in accordance with Section 600; (5-8-09)
- f. Estimated timeline for completion; and (5-8-09)
- g. Monitoring Plan to monitor effectiveness of remedial actions. (5-8-09)
- h. Description of practical quantitation limits as they apply. (5-8-09)

- i. Description of background concentrations as they apply. (5-8-09)

**04. Department Review and Approval of Risk Evaluation or Corrective Action Plan.** Within thirty (30) days of receipt of the risk evaluation or corrective action plan, the Department shall provide in writing either approval, approval with modifications, or rejection of the risk evaluation or corrective action plan. If the Department rejects the risk evaluation or corrective action plan, it shall notify the owner and/or operator in writing specifying the reasons for the rejection. If the Department needs additional time to review the documents, it will provide written notice to the owner and/or operator that additional time to review is necessary and will include an estimated time for review. Extension for review time shall not exceed one hundred eighty (180) days without a reasonable basis and written notice to the owner and/or operator. (5-8-09)

**201. -- 299. (RESERVED)**

**300. SITE SPECIFIC RISK EVALUATION REQUIREMENTS.**

**01. General Requirements.** The general requirements for human health risk evaluations shall include, at a minimum: (5-8-09)

**a.** A conceptual site model which describes contaminant sources; release mechanisms; the magnitude, spatial extent, and temporal trends of petroleum contamination in all affected media; transport routes; current and reasonably likely future land use and human receptors; and relevant exposure scenarios. (5-8-09)

**b.** Toxicity Information derived from appropriate sources including, but not limited to, those listed in Subsection 300.01.e. (4-11-19)

**c.** Data quality objectives and sampling approaches based on the conceptual site model that support the risk evaluation and risk management process. (5-8-09)

**d.** Estimated exposure point concentrations for a reasonable maximum exposure based on a conservative estimate of the mean of concentrations of chemicals that would be contacted by an exposed receptor. (5-8-09)

**e.** Exposure analysis including identification of contaminants of concern, potentially exposed populations, pathways and routes of exposure, exposure point concentrations and their derivation, and a quantitative estimate of reasonable maximum exposure for both current and reasonably likely future land and water use scenarios. Appropriate reference sources of reasonable maximum exposure factor information may include, but are not limited to: (5-8-09)

- i. U.S. EPA RAGS, Volume 1; (5-8-09)
- ii. U.S. EPA Exposure Factors Handbook; (5-8-09)
- iii. [Idaho Risk Evaluation Manual for Petroleum Releases](#); and (3-29-12)
- iv. Other referenced technical publications. (5-8-09)

**f.** Risk characterization presenting the quantitative human health risks and a qualitative and quantitative assessment of uncertainty for each portion of the risk evaluation. (5-8-09)

**g.** Risk evaluations may include the use of transport and fate models, subject to Department approval of the model and the data to be used for the parameters specified in the model. (5-8-09)

**02. Specific Requirements.** Human health risk evaluations shall, at a minimum: (5-8-09)

- a.** Utilize an acceptable target risk level as defined in Section 010; (5-8-09)
- b.** Utilize an acceptable target hazard index as defined in Section 010; (5-8-09)

- c. Utilize an acceptable target hazard quotient as defined in Section 010; (5-8-09)
- d. Evaluate the potential for exposure from: (5-8-09)
  - i. Ground water ingestion; (5-8-09)
  - ii. Direct contact with contaminated soils resulting from soil ingestion, dermal contact, and inhalation of particulates and vapors; (5-8-09)
  - iii. Indoor inhalation of volatile chemicals via volatilization of chemicals from soil, ground water, or free phase product; (5-8-09)
  - iv. Ingestion, inhalation, or dermal exposure to ground water and/or surface water which has been impacted by contaminants that have leached from the soils; and (5-8-09)
  - v. Other complete or potentially complete routes of exposure; (5-8-09)
- e. Evaluate the potential for exposure to: (5-8-09)
  - i. Adult and child residential receptors; (5-8-09)
  - ii. Adult construction and utility workers; (5-8-09)
  - iii. Aquatic life; (5-8-09)
  - iv. Recreational receptors; and (5-8-09)
  - v. Other relevant potentially exposed receptors; (5-8-09)
- f. Evaluate the potential for use of impacted ground water for ingestion based on: (5-8-09)
  - i. The current and historical use of the ground water for drinking water or irrigation; (5-8-09)
  - ii. The location and approved use of existing ground water wells in a one half (½) mile radius from the contaminated site at the release point; (5-8-09)
  - iii. The degree of hydraulic connectivity between the impacted ground water and other ground water bearing zones or surface water; and (5-8-09)
  - iv. The location of delineated source water protection areas for public drinking water systems. (5-8-09)

**301. -- 399. (RESERVED)**

**400. ESTABLISHMENT OF REMEDIATION STANDARDS.**

If, as a result of the assessment and risk evaluation completed as described in Section 300, it is determined that corrective action is required, remediation standards shall be established. The remediation standards established in these rules shall be no more stringent than applicable or relevant and appropriate federal and state standards and are consistent with Section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. Section 9621) and Section 39-107D(2), Idaho Code, taking into consideration site specific conditions. These standards, and any activity use limitations proposed for the site, shall be established as part of a corrective action plan approved in writing by the Department. The standards may consist of the following. (5-8-09)

**01. Screening Levels.** The petroleum contaminant concentrations in soil, ground water, and soil vapor in the table of screening level concentrations for soil, ground water, and soil vapor in the [Idaho Risk Evaluation Manual for Petroleum Releases](#). (4-11-19)

**02. Risk Based Levels.** Site-specific, media-specific petroleum contaminant concentrations established in accordance with the risk evaluation procedures and requirements described in Section 300. (5-8-09)

**03. Generic Health Standards.** An established state or federal generic numerical health standard which achieves an appropriate health-based level so that any substantial present or probable future risk to human health or the environment is eliminated or reduced to protective levels based upon present and reasonably anticipated future uses of the site. (5-8-09)

**04. Other.** Remediation standards may be a combination of standards found in Subsections 400.01 through 400.03. (5-8-09)

**401. -- 499. (RESERVED)**

**500. FACTORS WHEN PRACTICAL QUANTITATION LIMITS ARE GREATER THAN SCREENING LEVELS AND CLEANUP LEVELS.**

Practical quantitation limits may be greater than screening levels or risk based concentrations for certain chemicals. In such cases the following factors may be used in allowing practical quantitation limits as remediation standards: (5-8-09)

**01. Analytical Method.** The published or expected practical quantitation limit for a specific chemical and method, and the availability of other methods which may enable lower practical quantitation limits to be achieved. (5-8-09)

**02. Method Detection Limit.** The magnitude of the difference between the stated practical quantitation limit and the method detection limit. (5-8-09)

**03. Sampling Procedures.** The availability of alternative sampling procedures which may enable lower practical quantitation limits to be achieved. (5-8-09)

**04. Estimated Risk Levels.** The estimated risk levels when site concentrations are assumed to be at the practical quantitation limit. (5-8-09)

**05. Other.** Site specific factors other than those listed above. (5-8-09)

**501. -- 599. (RESERVED)**

**600. ACTIVITY AND USE LIMITATIONS.**

**01. Purpose.** The provisions of the Uniform Environmental Covenants Act (UECA), Chapter 30, Title 55, Idaho Code, may be utilized to create restrictions and/or obligations regarding activity and use to protect the integrity of a cleanup action and assure the continued protection of human health and the environment. Activity and use limitations shall be proposed as elements of a corrective action plan in at least the following circumstances: (5-8-09)

**a.** Where onsite current or proposed land use is not residential and maximum residual site concentrations are greater than screening levels for residential use; (5-8-09)

**b.** Where onsite current or proposed land use is not residential and the risk or hazard calculated for residential receptors through an approved risk evaluation is unacceptable; (5-8-09)

**c.** Where off-site ground water concentrations exceed residential use screening levels or risk based concentrations; or (5-8-09)

**d.** When the Department determines, based upon the proposed corrective action plan, that such activity and use limitations are required to assure the continued protection of human health and the environment or the integrity of the cleanup action. (5-8-09)

**02. Documentation of Controls.** Activity and use limitations, approved by the Department, shall be described in an environmental covenant executed pursuant to the UECA and shall be incorporated into a corrective action plan. (5-8-09)

**03. Removal of Activity and Use Limitations.** Activity and use limitations may be removed from a site in accordance with Sections 55-3009 and 55-3010, Idaho Code, of UECA. (5-8-09)

**601. -- 699. (RESERVED)**

**700. DEVELOPMENT OF GUIDANCE MANUAL.**

The Department will prepare a risk evaluation manual for petroleum releases which will be used as guidance for implementation of these rules. The Department will, through public notice, invite the Board of Trustees established in Section 41-4904, Idaho Code, and members of the public, including the regulated community, to participate in the process to provide input to the Department in developing this manual. If the Department identifies the need for future substantive revisions of the risk evaluation manual for petroleum releases, the Department will follow the same public notice process as described above. (5-8-09)

**701. -- 799. (RESERVED)**

**800. TABLE.**

Chemicals of Interest for Various Petroleum Products:

<b>CHEMICALS OF INTEREST FOR VARIOUS PETROLEUM PRODUCTS</b>				
<b>Chemical</b>	<b>Gasoline/ JP-4/ AVGAs</b>	<b>Diesel/ Fuel Oil No. 2/ Kerosene</b>	<b>Fuel Oil No.4</b>	<b>Jet Fuels (Jet A, JP-5, JP-8)</b>
Benzene	X	X		X
Toluene	X	X		X
Ethyl benzene	X	X		X
Xylenes (mixed)	X	X		X
Ethylene Dibromide (EDB)	X <sup>1</sup>			
1,2 Dichloroethane (EDC)	X <sup>1</sup>			
Methyl Tert-Butyl Ether (MTBE)	X			
Acenaphthene		X	X	X
Anthracene		X	X	X
Benzo(a)pyrene		X	X	X
Benzo(b)fluoranthene		X	X	X
Benzo(k)fluoranthene		X	X	X
Benz(a)anthracene		X	X	X
Chrysene		X	X	X
Fluorene		X	X	X
Fluoranthene		X	X	X
Naphthalene	X	X	X	X

<b>CHEMICALS OF INTEREST FOR VARIOUS PETROLEUM PRODUCTS</b>				
<b>Chemical</b>	<b>Gasoline/ JP-4/ AVGas</b>	<b>Diesel/ Fuel Oil No. 2/ Kerosene</b>	<b>Fuel Oil No.4</b>	<b>Jet Fuels (Jet A, JP-5, JP-8)</b>
Pyrene		X	X	X
X <sup>1</sup> Leaded Regular Only				

(4-11-19)

**801. -- 999. (RESERVED)**



# IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

## 58.01.02 – WATER QUALITY STANDARDS

DOCKET NO. 58-0102-1901

### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the Idaho Board of Environmental Quality (Board) and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Sixty-fifth Idaho Legislature unless prior to that date the rule is rejected in whole or in part by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under docket no. 58-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

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

A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 4, 2019, Vol. 19-9, pages 590 through 609. DEQ received no public comments, and the rule has been adopted as initially proposed. More information regarding this rule docket is available at [www.deq.idaho.gov/58-0102-1901](http://www.deq.idaho.gov/58-0102-1901).

**FISCAL IMPACT STATEMENT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the adoption of this pending rule, contact the undersigned.

Dated this 14th day of November, 2019.

Paula J. Wilson  
Department of Environmental Quality  
1410 N. Hilton Street  
Boise, Idaho 83706  
Phone: (208) 373-0418  
Fax No.: (208) 373-0481  
[paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This rulemaking action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 20, 2019. If no such written request is received, a public hearing pursuant to Section 67-5222(2), Idaho Code, will not be held. The public will have the opportunity to provide oral comments on the proposed rule during the meeting of the Idaho Board of Environmental Quality (Board) scheduled for November 13 and 14, 2019.

**DESCRIPTIVE SUMMARY:** The purpose of this rulemaking is to revise Subsection 287.03 for consistency with recent EPA review and action regarding site-specific selenium criterion effective for Clean Water Act purposes.

Under Docket No. 58-0102-1701, the state of Idaho promulgated new and revised selenium criteria for aquatic life. The rule was adopted by the Idaho Board of Environmental Quality in 2017, approved by the Idaho Legislature in 2018, and submitted to EPA for review on August 24, 2018. On July 9, 2019, EPA approved the final rule except for application of Subsection 287.03 to certain water bodies. Specifically, EPA disapproved the application of the site-specific criterion in Subsection 287.03 to North Fork Sage Creek, Pole Canyon Creek, and their tributaries. Until EPA approves the application of any new site-specific selenium criterion to North Fork Sage and Pole Canyon Creeks, and their tributaries, the criterion at Subsection 287.05 is the effective selenium criterion for Clean Water Act purposes in North Fork Sage Creek, Pole Canyon Creek, and their tributaries.

Docket No. 58-0102-1701 was promulgated so that the existing rule, effective for Clean Water Act purposes, would remain in the Idaho Administrative Code until EPA approved the rule revisions. Notations explaining the effectiveness of the rule sections were also included. This proposed rule deletes the text and notations that are now obsolete due to EPA's review and action of Docket No. 58-0102-1701.

Idahoans that recreate in, drink from, or fish Idaho's surface waters, and any who discharge pollutants to those same waters, may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board in November 2019 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2020 legislative session if adopted by the Board and approved by the Legislature.

**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.

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking. This is an administrative revision necessary for consistency with recent EPA review and action regarding site-specific selenium criterion.

**IDAHO CODE SECTION 39-107D STATEMENT:** This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

**FISCAL IMPACT STATEMENT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year when the pending rule will become effective: Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this rulemaking, contact the undersigned.

**SUBMISSION OF WRITTEN COMMENTS:** Anyone may submit written comments by mail, fax or email at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before October 4, 2019.

Dated this 4th day of September, 2019.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0102-1901**

**210. NUMERIC CRITERIA FOR TOXIC SUBSTANCES FOR WATERS DESIGNATED FOR AQUATIC LIFE, RECREATION, OR DOMESTIC WATER SUPPLY USE.**

**01. Criteria for Toxic Substances.** The criteria of Section 210 apply to surface waters of the state as provided in Tables 1 and 2. (3-28-18)

**a.** Table 1 contains criteria set for protection of aquatic life. Criteria for metals (arsenic through zinc) are expressed as dissolved fraction unless otherwise noted. For purposes of these criteria, dissolved fraction means that which passes through a forty-five hundredths (0.45) micron filter. (3-28-18)

Table 1. Criteria for Protection of Aquatic Life					
Compound	<sup>a</sup> CAS Number	<sup>b</sup> CMC (µg/L)		<sup>b</sup> CCC (µg/L)	
Inorganic Compounds/Metals					
Arsenic	7440382	340	c	150	c
Cadmium	7440439	1.3	f	0.6	f
Chromium III	16065831	570	f	74	f
Chromium VI	18540299	16	c	11	c
Copper	7440508	12.3	k	7.6	k
Lead	7439921	65	f	2.5	f
Mercury	7439976		e		e
<p><b>Note:</b> In 2005, Idaho adopted EPA's recommended methylmercury fish tissue criterion for protection of human health (docket 58-0102-0302). The decision was made to remove the old tissue-based aquatic life criteria and rely on the fish tissue criterion to provide protection for aquatic life as well as human health. Thus, current Idaho water quality standards do not have mercury water column criteria for the protection of aquatic life. While EPA approved Idaho's adoption of the fish tissue criterion in September 2005, it had withheld judgment on Idaho's removal of aquatic life criteria. On December 12, 2008, EPA disapproved Idaho's removal of the old aquatic life criteria. The water column criteria for total recoverable mercury published in 2004 Idaho Administrative Code continue to apply and are effective for CWA purposes. For more information go to <a href="http://www.deq.idaho.gov/epa-actions-on-proposed-standards">http://www.deq.idaho.gov/epa-actions-on-proposed-standards</a>.</p>					

Table 1. Criteria for Protection of Aquatic Life					
Compound	<sup>a</sup> CAS Number	<sup>b</sup> CMC (µg/L)		<sup>b</sup> CCC (µg/L)	
Nickel	7440020	470	f	52	f
Selenium	7782492	m		l	
Silver	7440224	3.4	f		
Zinc	7440666	120	f	120	f
Inorganic Compounds/Non-Metals					
Chlorine		19	h	11	h
Cyanide	57125	22	g	5.2	g
Organic Compounds					
Acrolein	107028	$\frac{--^1}{3^2}$		$\frac{--^1}{3^2}$	
<sup>1</sup> Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.					
<sup>2</sup> Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.					
Aldrin	39002	3			
gamma-BHC (Lindane)	58899	2		0.08	
Carbaryl	63252	$\frac{--^1}{2.1^2}$		$\frac{--^1}{2.1^2}$	
<sup>1</sup> Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.					
<sup>2</sup> Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.					
Chlordane	57749	2.4		0.0043	
4,4'-DDT	50293	1.1		0.001	
Diazinon	333415	$\frac{--^1}{0.17^2}$		$\frac{--^1}{0.17^2}$	
<sup>1</sup> Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.					
<sup>2</sup> Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.					
Dieldrin	60571	2.5		0.0019	
alpha-Endosulfan	959988	0.22		0.056	
beta-Endosulfan	33213659	0.22		0.056	

Table 1. Criteria for Protection of Aquatic Life					
Compound	<sup>a</sup> CAS Number	<sup>b</sup> CMC (µg/L)		<sup>b</sup> CCC (µg/L)	
Endrin	72208	0.18		0.0023	
Heptachlor	76448	0.52		0.0038	
Heptachlor Epoxide	1024573	0.52		0.0038	
Pentachlorophenol	87865	20	i	13	i
Polychlorinated Biphenyls PCBs	j			0.014	j
Toxaphene	8001352	0.73		0.0002	
<b>Footnotes for Table 1. Criteria for Protection of Aquatic Life</b>					
<b>a.</b> Chemical Abstracts Service (CAS) registry numbers which provide a unique identification for each chemical.					
<b>b.</b> See definitions of Acute Criteria (CMC) and Chronic Criteria (CCC), Section 010 of these rules.					
<b>c.</b> Criteria for these metals are expressed as a function of the water effect ratio, WER, as defined in Subsection 210.03.c.iii. CMC = CMC column value X WER. CCC = CCC column value X WER.					
<b>d.</b> Criterion expressed as total recoverable (unfiltered) concentrations.					
<b>e.</b> No aquatic life criterion is adopted for inorganic mercury. However, the narrative criteria for toxics in Section 200 of these rules applies. The Department believes application of the human health criterion for methylmercury will be protective of aquatic life in most situations.					
<b>f.</b> Aquatic life criteria for these metals are a function of total hardness (mg/L as calcium carbonate), the pollutant's water effect ratio (WER) as defined in Subsection 210.03.c.iii. and multiplied by an appropriate dissolved conversion factor as defined in Subsection 210.02. For comparative purposes only, the example values displayed in this table are shown as dissolved metal and correspond to a total hardness of one hundred (100) mg/L and a water effect ratio of one (1.0).					
<b>g.</b> Criteria are expressed as weak acid dissociable (WAD) cyanide.					
<b>h.</b> Total chlorine residual concentrations.					
<b>i.</b> Aquatic life criteria for pentachlorophenol are expressed as a function of pH, and are calculated as follows. Values displayed above in the table correspond to a pH of seven and eight tenths (7.8). CMC = $\exp(1.005(\text{pH})-4.830)$ CCC = $\exp(1.005(\text{pH})-5.290)$					
<b>j.</b> PCBs are a class of chemicals which include Aroclors, 1242, 1254, 1221, 1232, 1248, 1260, and 1016, CAS numbers 53469219, 11097691, 11104282, 11141165, 12672296, 11096825 and 12674112 respectively. The aquatic life criteria apply to this set of PCBs.					
<b>k.</b> Aquatic life criteria for copper shall be derived in accordance with Subsection 210.03.c.v. For comparative purposes only, the example values displayed in this table correspond to the Biotic Ligand Model output based on the following inputs: temperature = 14.9°C, pH = 8.16, dissolved organic carbon = 1.4 mg/L, humic acid fraction = 10%, calcium = 44.6 mg/L, magnesium = 11.0 mg/L, sodium = 11.7 mg/L, potassium = 2.12 mg/L, sulfate = 46.2 mg/L, chloride = 12.7 mg/L, alkalinity = 123 mg/L CaCO <sub>3</sub> , and sulfide = $1.00 \times 10^{-8}$ mg/L.					
<b>l. Chronic</b>				<b>Short-term</b>	
<b>Egg-Ovary (mg/kg dw)</b>	<b>Fish Tissue (mg/kg dw)</b>	<b>Water Column (µg/L)</b>		<b>Water Column (µg/L)</b>	

Table 1. Criteria for Protection of Aquatic Life					
Compound	<sup>a</sup> CAS Number	<sup>b</sup> CMC (µg/L)		<sup>b</sup> CCC (µg/L)	
		Muscle	Water Lentic	Water Lotic	Water
Egg-Ovary	Whole-Body				
15.1 <sup>1</sup>	8.5 <sup>2</sup>	11.3 <sup>2</sup>	1.5 (30 day average) <sup>3</sup>	3.1 (30 day average) <sup>3</sup>	Intermittent Exposure Equation <sup>3,4</sup>
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter					
<p>1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element.</p> <p>2. Fish whole-body or muscle tissue supersedes water column element when both fish tissue and water concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole body or muscle data to determine compliance with this criterion element.</p> <p>3. Water column values are based on dissolved total selenium in water and are derived from fish tissue values via bioaccumulation modeling. Water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. In fishless waters, selenium concentrations in fish from the nearest downstream waters may be used to assess compliance using methods provided in <a href="#">Aquatic Life Ambient Water Quality Criterion for Selenium – Freshwater, EPA-822-R-16-006, Appendix K: Translation of a Selenium Fish Tissue Criterion Element to a Site-Specific Water Column Value (June 2016)</a>.</p> <p>4. Intermittent Exposure Equation=</p> $\frac{WQC - C_{bkgrnd}(1 - f_{int})}{f_{int}}$ <p>where WQC is the applicable water column element, for either lentic or lotic waters; <math>C_{bkgrnd}</math> is the average background selenium concentration, and <math>f_{int}</math> is the fraction of any 30-day period during which elevated selenium concentrations occur, with <math>f_{int}</math> assigned a value <math>\geq 0.033</math> (corresponding to one day).</p> <p>m. There is no specific acute criterion for aquatic life; however, the aquatic life criterion is based on chronic effects of the selenium on aquatic life and is expected to adequately protect against acute effects.</p>					

(3-28-18)

b. Table 2 contains criteria set for protection of human health. The Water & Fish criteria apply to waters designated for domestic water supply use. The Fish Only criteria apply to waters designated for primary or secondary contact recreation use. (3-28-18)

Table 2. Criteria for Protection of Human Health (based on consumption of:)					
Compound	<sup>a</sup> CAS Number	Carcinogen?	Water & Fish (µg/L)	Fish Only (µg/L)	
Inorganic Compounds/Metals					
Antimony	7440360		5.2	b	190
				b	b

Table 2. Criteria for Protection of Human Health (based on consumption of:)

Compound	<sup>a</sup> CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
Arsenic	7440382	Y	10	cdj	10	cdj
<p><b>Note:</b> In 2008, Idaho adopted 10 µg/L as its CWA arsenic criterion for both exposure through fish consumption only and exposure through drinking water+fish consumption, choosing the SDWA MCL due to concerns about background levels that exceed EPA's 304(a) criteria (docket 58-0102-0801). EPA approved this action in 2010. In June 2015, Northwest Environmental Advocates challenged EPA's 2010 approval. Court remanded action back to EPA. On September 15, 2016, EPA disapproved Idaho's adoption of 10 µg/L. Neither EPA nor the state of Idaho has promulgated replacement criteria. For more information, go to <a href="http://www.deq.idaho.gov/epa-actions-on-proposed-standards">http://www.deq.idaho.gov/epa-actions-on-proposed-standards</a>.</p>						
Beryllium	7440417			e		e
Cadmium	7440439			e		e
Chromium III	16065831			e		e
Chromium VI	18540299			e		e
Copper	7440508		1300	j		
Lead	7439921			e		e
Methylmercury	22967926				0.3mg/kg	i
Nickel	7440020		58	b	100	b
Selenium	7782492		29	b	250	b
Thallium	7440280		0.017	b	0.023	b
Zinc	7440666		870	b	1,500	b
<b>Inorganic Compounds/Non-Metals</b>						
Cyanide	57125		3.9	b	140	b
Asbestos	1332214		7,000,000 Fibers/L	j		
<b>Organic Compounds</b>						
Acenaphthene	83329		26	b	28	b
Acenaphthylene	208968			e		e
Acrolein	107028		3.2	b	120	b
Acrylonitrile	107131	Y	0.60	bf	22	bf
Aldrin	309002	Y	2.5E-06	bf	2.5E-06	bf
Anthracene	120127		110	b	120	b
alpha-BHC	319846	Y	0.0012	bf	0.0013	bf
beta-BHC	319857	Y	0.036	bf	0.045	bf
gamma-BHC (Lindane)	58899		1.4	b	1.4	b
delta-BHC	319868			e		e

Table 2. Criteria for Protection of Human Health (based on consumption of:)						
Compound	<sup>a</sup> CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
Benzene	71432		3.0	bf	28	b
Benzidine	92875	Y	0.0014	bf	0.033	bf
Benzo(a)Anthracene	56553	Y	0.0042	bf	0.0042	bf
Benzo(b)Fluoranthene	205992	Y	0.0042	bf	0.0042	bf
Benzo(k)Fluoranthene	207089	Y	0.042	bf	0.042	bf
Benzo(ghi)Perylene	191242			e		e
Benzo(a)Pyrene	50328	Y	0.00042	bf	0.00042	bf
Bis(2-Chloroethoxy) Methane	111911			e		e
Bis(2-Chloroethyl) Ether	111444	Y	0.29	bf	6.8	bf
Bis(2-Chloroisopropyl) Ether	108601		220	b	1,200	b
Bis(Chloromethyl) Ether	542881	Y	0.0015	bf	0.055	bf
Bis(2-Ethylhexyl) Phthalate	117817	Y	1.2	bf	1.2	bf
Bromoform	75252	Y	62	bf	380	bf
4-Bromophenyl Phenyl Ether	101553			e		e
Butylbenzyl Phthalate	85687		0.33	b	0.33	b
Carbon Tetrachloride	56235	Y	3.6	bf	15	bf
Chlorobenzene	108907		89	b	270	b
Chlordane	57749	Y	0.0010	bf	0.0010	bf
Chlorodibromomethane	124481	Y	7.4	bf	67	bf
Chloroethane	75003			e		e
2-Chloroethylvinyl Ether	110758			e		e
Chloroform	67663		61	b	730	b
2-Chloronaphthalene	91587		330	b	380	b
2-Chlorophenol	95578		30	b	260	b
Chlorophenoxy Herbicide (2,4-D)	94757		1,000	b	3,900	b
Chlorophenoxy Herbicide (2,4,5-TP) [Silvex]	93721		82	b	130	b
4-Chlorophenyl Phenyl Ether	7005723			e		e



Table 2. Criteria for Protection of Human Health (based on consumption of:)

Compound	<sup>a</sup> CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
Chrysene	218019	Y	0.42	bf	0.42	bf
4,4'-DDD	72548	Y	0.00042	bf	0.00042	bf
4,4'-DDE	72559	Y	5.5E-05	bf	5.5E-05	bf
4,4'-DDT	50293	Y	9.8E-05	bf	9.8E-05	bf
Di-n-Butyl Phthalate	84742		8.2	b	8.3	b
Di-n-Octyl Phthalate	117840			e		e
Dibenzo (a,h) Anthracene	53703	Y	0.00042	bf	0.00042	bf
1,2-Dichlorobenzene	95501		700	b	1,100	b
1,3-Dichlorobenzene	541731		3.5	b	4.8	b
1,4-Dichlorobenzene	106467		180	b	300	b
3,3'-Dichlorobenzidine	91941	Y	0.29	bf	0.48	bf
Dichlorobromomethane	75274	Y	8.8	bf	86	bf
1,1-Dichloroethane	75343			e		e
1,2-Dichloroethane	107062	Y	96	bf	2,000	bf
1,1-Dichloroethylene	75354		310	b	5,200	b
2,4-Dichlorophenol	120832		9.6	b	19	b
1,2-Dichloropropane	78875	Y	8.5	bf	98	bf
1,3-Dichloropropene	542756	Y	2.5	bf	38	bf
Dieldrin	60571	Y	4.2E-06	bf	4.2E-06	bf
Diethyl Phthalate	84662		200	b	210	b
2,4-Dimethylphenol	105679		110	b	820	b
Dimethyl Phthalate	131113		600	b	600	b
Dinitrophenols	25550587		13	b	320	b
2,4-Dinitrophenol	51285		12	b	110	b
2,4-Dinitrotoluene	121142	Y	0.46	bf	5.5	bf
2,6-Dinitrotoluene	606202			e		e
1,2-Diphenylhydrazine	122667	Y	0.25	bf	0.65	bf
2, 3, 7, 8-TCDD Dioxin	1746016	Y	1.8E-08	bf	1.9E-08	bf
alpha-Endosulfan	959988		7.0	b	8.5	b
beta-Endosulfan	33213659		11	b	14	b
Endosulfan Sulfate	1031078		9.9	b	13	b
Endrin	72208		0.011	b	0.011	b

Table 2. Criteria for Protection of Human Health (based on consumption of:)

Compound	<sup>a</sup> CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
Endrin Aldehyde	7421934		0.38	b	0.40	b
Ethylbenzene	100414		32	b	41	b
Fluoranthene	206440		6.3	b	6.4	b
Fluorene	86737		21	b	22	b
Heptachlor	76448	Y	2.0E-05	bf	2.0E-05	bf
Heptachlor Epoxide	1024573	Y	0.00010	bf	0.00010	bf
Hexachlorobenzene	118741	Y	0.00026	bf	0.00026	bf
Hexachlorobutadiene	87683	Y	0.031	bf	0.031	bf
Hexachlorocyclohexane (HCH)-Technical	608731	Y	0.027	bf	0.032	bf
Hexachloro- cyclopentadiene	77474		1.3	b	1.3	b
Hexachloroethane	67721		0.23	b	0.24	b
Ideno (1,2,3-cd) Pyrene	193395	Y	0.0042	bf	0.0042	bf
Isophorone	78591	Y	330	bf	6,000	bf
Methoxychlor	72435		0.0054	b	0.0055	b
Methyl Bromide	74839		130	b	3,700	b
Methyl Chloride	74873			e		e
3-Methyl-4-Chlorophenol	59507		350	b	750	b
2-Methyl-4,6-Dinitrophenol	534521		1.6	b	8.6	b
Methylene Chloride	75092		38	b	960	b
Naphthalene	91203			e		e
Nitrobenzene	98953		12	b	180	b
2-Nitrophenol	88755			e		e
4-Nitrophenol	100027			e		e
N-Nitrosodimethylamine	62759	Y	0.0065	bf	9.1	bf
N-Nitrosodi-n-Propylamine	621647	Y	0.046	bf	1.5	bf
N-Nitrosodiphenylamine	86306	Y	3.14	bf	18	bf
Pentachlorobenzene	608935		0.035	b	0.036	b
Pentachlorophenol	87865	Y	0.11	bf	0.12	bf
Phenanthrene	85018			e		e
Phenol	108952		3,800	b	85,000	b

Table 2. Criteria for Protection of Human Health (based on consumption of:)

Compound	<sup>a</sup> CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
Polychlorinated Biphenyls PCBs	g	Y	0.00019	bfh	0.00019	bfh
Pyrene	129000		8.1	b	8.4	b
1,2,4,5-Tetrachlorobenzene	95943		0.0093	b	0.0094	b
1,1,2,2-Tetrachloroethane	79345	Y	1.4	bf	8.6	bf
Tetrachloroethylene	127184		15	b	23	b
Toluene	108883		47	b	170	b
Toxaphene	8001352	Y	0.0023	bf	0.0023	bf
1,2-Trans-Dichloroethylene	156605		120	b	1,200	b
1,2,4-Trichlorobenzene	120821		0.24	b	0.24	b
1,1,1-Trichloroethane	71556		11,000	b	56,000	b
1,1,2-Trichloroethane	79005	Y	4.9	bf	29	bf
Trichloroethylene	79016		2.6	b	11	b
2,4,5-Trichlorophenol	95954		140	b	190	b
2,4,6-Trichlorophenol	88062		1.5	b	2.0	b
Vinyl Chloride	75014	Y	0.21	bf	5.0	bf

**Footnotes for Table 2. Criteria for Protection of Human Health**

- a.** Chemical Abstracts Service (CAS) registry numbers which provide a unique identification for each chemical.
- b.** This criterion is based on input values to human health criteria calculation specified in [Idaho's Technical Support Document \(TSD\) for Human Health Criteria Calculations - 2015](#). Criteria for non-carcinogens are calculated using the formula:

Table 2. Criteria for Protection of Human Health (based on consumption of:)				
Compound	<sup>a</sup> CAS Number	Carcinogen?	Water & Fish (µg/L)	Fish Only (µg/L)
$AWQC = RfD * RSC * \left( \frac{BW}{DI + (FI * BAF)} \right)$ <p>and criteria for carcinogens are calculated using the formula:</p> $AWQC = RSD * \left( \frac{BW}{DI + (FI * BAF)} \right)$ <p>Where:                      AWQC = Ambient water quality criterion (mg/L)                      BW = Human Body Weight (kg), 80 is used in these criteria                      DI = Drinking Water Intake, (L/day), 2.4 is used in these criteria                      FI = Fish Intake, (kg/day), 0.0665 is used in these criteria                      BAF = Bioaccumulation Factor, L/kg, chemical specific value, see TSD                      RfD = Reference dose (mg/kg-day), chemical specific value, see TSD  <math display="block">RSD = \frac{\text{Target Incremental Cancer Risk}}{\text{Cancer Potency Factor}} \text{ (mg/kg-day), chemical specific value, see TSD}</math>                     RSC = Relative Source Contribution, chemical specific value, see TSD</p>				
c. Inorganic forms only.				
d. Criterion expressed as total recoverable (unfiltered) concentrations.				
e. No numeric human health criteria has been established for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the narrative criteria for toxics from Section 200 of these rules.				
f. EPA guidance allows states to choose from a range of 10 <sup>-4</sup> to 10 <sup>-6</sup> for the incremental increase in cancer risk used in human health criteria calculation. Idaho has chosen to base this criterion on carcinogenicity of 10 <sup>-5</sup> risk.				
g. PCBs are a class of chemicals which include Aroclors, 1242, 1254, 1221, 1232, 1248, 1260, and 1016, CAS numbers 53469219, 11097691, 11104282, 11141165, 12672296, 11096825 and 12674112 respectively. The aquatic life criteria apply to this set of PCBs.				
h. This criterion applies to total PCBs, (e.g. the sum of all congener, isomer, or Aroclor analyses).				

Table 2. Criteria for Protection of Human Health (based on consumption of:)

Compound	<sup>a</sup> CAS Number	Carcinogen?	Water & Fish (µg/L)	Fish Only (µg/L)
<p>i. This fish tissue residue criterion (TRC) for methylmercury is based on a human health reference dose (RfD) of 0.0001 mg/kg body weight-day; a relative source contribution (RSC) estimated to be 27% of the RfD; a human body weight (BW) of 70 kg (for adults); and a total fish consumption rate of 0.0175 kg/day for the general population, summed from trophic level (TL) breakdown of TL2 = 0.0038 kg fish/day + TL3 = 0.0080 kg fish/day + TL4 = 0.0057 kg fish/day. This is a criterion that is protective of the general population. A site-specific criterion or a criterion for a particular subpopulation may be calculated by using local or regional data, rather than the above default values, in the formula: <math>TRC = [BW \times \{RfD - (RSC \times RfD)\}] / \sum TL</math>. In waters inhabited by species listed as threatened or endangered under the Endangered Species Act or designated as their critical habitat, the Department will apply the human health fish tissue residue criterion for methylmercury to the highest trophic level available for sampling and analysis.</p>				
<p>j. This criterion is based on the drinking water Maximum Containment Level (MCL).</p>				

(3-28-18)

**02. Factors for Calculating Hardness Dependent Metals Criteria.** Hardness dependent metals criteria are calculated using values from the following table in the equations: (5-3-03)

a.  $CMC = WER \exp \{mA[\ln(\text{hardness})] + bA\}$  X Acute Conversion Factor. (5-3-03)

b.  $CCC = WER \exp \{mc[\ln(\text{hardness})] + bc\}$  X Chronic Conversion Factor.

Metal	mA	bA	mc	bc	aAcute Conversion Factor	aChronic Conversion Factor
Arsenic	b	b	b	b	1.0	1.0
Cadmium	0.8367	-3.560	0.6247	-3.344	0.944 see footnote a	0.909
Chromium (III)	0.819	3.7256	0.8190	0.6848	0.316	0.860
Chromium (VI)	b	b	b	b	0.982	0.962
Lead	1.273	-1.460	1.273	-4.705	0.791	0.791
Mercury	b	b	b	b	0.85	0.85
Nickel	0.846	2.255	0.8460	0.0584	0.998	0.997
Silver	1.72	-6.52	c	c	0.85	c
Zinc	0.8473	0.884	0.8473	0.884	0.978	0.986

Note to table: The term “exp” represents the base e exponential function.  
 Footnotes to table:

**a.** Conversion factors (CF) are from “Stephan, C. E. 1995. Derivation of conversion factors for the calculation of dissolved freshwater aquatic life criteria for metals. U.S. Environmental Protection Agency, Environmental Research Laboratory – Duluth.” The conversion factors for cadmium and lead are hardness-dependent and can be calculated for any hardness (see limitations in Subsection 210.03.b.i.) using the following equations. For comparative purposes, the conversion factors for a total hardness of one hundred (100) mg/L are shown in the table. The conversion factor shall not exceed one (1).

Cadmium  
 Acute:  $CF = 1.136672 - [(\ln \text{hardness})(0.041838)]$  NOTE: The cadmium acute criterion equation was derived from dissolved metals toxicity data and thus requires no conversion; this conversion factor may be used to back calculate an equivalent total recoverable concentration.

Chronic:  $CF = 1.101672 - [(\ln \text{hardness})(0.041838)]$

Lead (Acute and Chronic):  $CF = 1.46203 - [(\ln \text{hardness})(0.145712)]$

**b.** Not applicable

**c.** No chronic criteria are available for silver.

(3-28-18)

**03. Applicability.** The criteria established in Section 210 are subject to the general rules of applicability in the same way and to the same extent as are the other numeric chemical criteria when applied to the same use classifications. Mixing zones may be applied to toxic substance criteria subject to the limitations set forth in Section 060 and set out below. (3-25-16)

**a.** For all waters for which the Department has determined mixing zones to be applicable, the toxic substance criteria apply at the boundary of the mixing zone(s) and beyond. Absent an authorized mixing zone, the toxic substance criteria apply throughout the waterbody including at the end of any discharge pipe, canal or other discharge point. (3-25-16)

**b.** Low flow design conditions. Water quality-based effluent limits and mixing zones for toxic substances shall be based on the following low flows in perennial receiving streams. Numeric chemical criteria may be exceeded in perennial streams outside any applicable mixing zone only when flows are less than these values:

Aquatic Life		Human Health	
CMC (“acute” criteria)	1Q10 or 1B3	Non-carcinogens	Harmonic mean flow
CCC (“chronic” criteria)	7Q10 or 4B3	Carcinogens	Harmonic mean flow

(3-25-16)

i. Where “1Q10” is the lowest one-day flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

ii. Where “1B3” is biologically based and indicates an allowable exceedance of once every three (3) years. It may be determined by EPA’s computerized method (DFLOW model); (5-3-03)

iii. Where “7Q10” is the lowest average seven (7) consecutive day low flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

iv. Where “4B3” is biologically based and indicates an allowable exceedance for four (4) consecutive days once every three (3) years. It may be determined by EPA’s computerized method (DFLOW model); (5-3-03)

v. Where the harmonic mean flow is a long term mean flow value calculated by dividing the number

of daily flows analyzed by the sum of the reciprocals of those daily flows. (5-3-03)

c. Application of aquatic life metals criteria. (3-25-16)

i. For metals other than cadmium, for purposes of calculating hardness dependent aquatic life criteria from the equations in Subsection 210.02, the minimum hardness allowed for use in those equations shall not be less than twenty-five (25) mg/l, as calcium carbonate, even if the actual ambient hardness is less than twenty-five (25) mg/l as calcium carbonate. For cadmium, the minimum hardness for use in those equations shall not be less than ten (10) mg/l, as calcium carbonate. The maximum hardness allowed for use in those equations shall not be greater than four hundred (400) mg/l, as calcium carbonate, except as specified in Subsections 210.03.c.ii. and 210.03.c.iii., even if the actual ambient hardness is greater than four hundred (400) mg/l as calcium carbonate. (3-29-10)

ii. The hardness values used for calculating aquatic life criteria for metals at design discharge conditions shall be representative of the ambient hardnesses for a receiving water that occur at the design discharge conditions given in Subsection 210.03.b. (5-3-03)

iii. Except as otherwise noted, the aquatic life criteria for metals (arsenic through zinc in Table 1 in Subsection 210.01) are expressed as dissolved metal concentrations. Unless otherwise specified by the Department, dissolved concentrations are considered to be concentrations recovered from a sample which has passed through a forty-five hundredths (0.45) micron filter. For the purposes of calculating aquatic life criteria for metals from the equations in footnotes c. and f. in Table 1 in Subsection 210.01, the water effect ratio is computed as a specific pollutant's acute or chronic toxicity values measured in water from the site covered by the standard, divided by the respective acute or chronic toxicity value in laboratory dilution water. The water-effect ratio shall be assigned a value of one (1.0), except where the Department assigns a different value that protects the designated uses of the water body from the toxic effects of the pollutant, and is derived from suitable tests on sampled water representative of conditions in the affected water body, consistent with the design discharge conditions established in Subsection 210.03.b. For purposes of calculating water effects ratios, the term acute toxicity value is the toxicity test results, such as the concentration lethal one-half (1/2) of the test organisms (i.e., LC50) after ninety-six (96) hours of exposure (e.g., fish toxicity tests) or the effect concentration to one-half of the test organisms, (i.e., EC50) after forty-eight (48) hours of exposure (e.g., daphnia toxicity tests). For purposes of calculating water effects ratios, the term chronic value is the result from appropriate hypothesis testing or regression analysis of measurements of growth, reproduction, or survival from life cycle, partial life cycle, or early life stage tests. The determination of acute and chronic values shall be according to current standard protocols (e.g., those published by the American Society for Testing and Materials (ASTM)) or other comparable methods. For calculation of criteria using site-specific values for both the hardness and the water effect ratio, the hardness used in the equations in Subsection 210.02 shall be as required in Subsection 210.03.c.ii. Water hardness shall be calculated from the measured calcium and magnesium ions present, and the ratio of calcium to magnesium shall be approximately the same in laboratory toxicity testing water as in the site water, or be similar to average ratios of laboratory waters used to derive the criteria. (3-28-18)

iv. Implementation Guidance for the Idaho Mercury Water Quality Criteria. (4-6-05)

(1) The “[Implementation Guidance for the Idaho Mercury Water Quality Criteria](#)” describes in detail suggested methods for discharge related monitoring requirements, calculation of reasonable potential to exceed (RPTE) water quality criteria in determining need for mercury effluent limits, and use of fish tissue mercury data in calculating mercury load reductions. This guidance, or its updates, will provide assistance to the Department and the public when implementing the methylmercury criterion. The “[Implementation Guidance for the Idaho Mercury Water Quality Criteria](#)” also provides basic background information on mercury in the environment, the novelty of a fish tissue criterion for water quality, the connection between human health and aquatic life protection, and the relation of environmental programs outside of Clean Water Act programs to reducing mercury contamination of the environment. The “[Implementation Guidance for the Idaho Mercury Water Quality Criteria](#)” is available at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706, and on the DEQ website at [www.deq.idaho.gov](http://www.deq.idaho.gov). (4-6-05)

(2) The implementation of a fish tissue criterion in NPDES permits and TMDLs requires a non-traditional approach, as the basic criterion is not a concentration in water. In applying the methylmercury fish tissue criterion in the context of NPDES effluent limits and TMDL load reductions, the Department will assume change in fish tissue concentrations of methylmercury are proportional to change in water body loading of total mercury.

Reasonable potential to exceed (RPTE) the fish tissue criterion for existing NPDES sources will be based on measured fish tissue concentrations potentially affected by the discharge exceeding a specified threshold value, based on uncertainty due to measurement variability. This threshold value is also used for TMDL decisions. Because measured fish tissue concentrations do not reflect the effect of proposed new or increased discharge of mercury, RPTE in these cases will be based upon an estimated fish tissue methylmercury concentration, using projected changes in waterbody loading of total mercury and a proportional response in fish tissue mercury. For the above purposes, mercury will be measured in the skinless filets of sport fish using techniques capable of detecting tissue concentrations down to point zero five (0.05) mg/kg. Total mercury analysis may be used, but will be assumed to be all methylmercury for purposes of implementing the criterion. (4-6-05)

- v. Copper Criteria for Aquatic Life. (3-28-18)
    - (1) Aquatic life criteria for copper shall be derived using: (3-28-18)
      - (a) Biotic Ligand Model (BLM) software that calculates criteria consistent with the “[Aquatic Life Ambient Freshwater Quality Criteria – Copper](#)”: EPA-822-R-07-001 (February 2007); or (3-28-18)
      - (b) An estimate derived from BLM outputs that is based on a scientifically sound method and protective of the designated aquatic life use. (3-28-18)
    - (2) To calculate copper criteria using the BLM, the following parameters from each site shall be used: temperature, pH, dissolved organic carbon (DOC), calcium, magnesium, sodium, potassium, sulfate, chloride, and alkalinity. The BLM inputs for humic acid (HA) as a proportion of DOC and sulfide shall be based on either measured values or the following default values: 10% HA as a proportion of DOC,  $1.00 \times 10^{-8}$  mg/L sulfide. Measured values shall supersede any estimate or default input. (3-28-18)
    - (3) BLM input measurements shall be planned to capture the most bioavailable conditions for copper. (3-28-18)
    - (4) A criterion derived under Subsection 210.03.c.v.(1)(a) shall supersede any criterion derived under Subsection 210.03.c.v.(1)(b). Acceptable BLM software includes the “[US EPA WQC Calculation](#)” for copper in [BLM Version 3.1.2.37](#) (October 2015). (3-28-18)
    - (5) Implementation Guidance for the Idaho Copper Criteria for Aquatic Life. The “[Implementation Guidance for the Idaho Copper Criteria for Aquatic Life: Using the Biotic Ligand Model](#)” describes in detail methods for implementing the aquatic life criteria for copper using the BLM. This guidance, or its updates, will provide assistance to the Department and the public for determining minimum data requirements for BLM inputs and how to estimate criteria when data are incomplete or unavailable. The “[Implementation Guidance for the Idaho Copper Criteria for Aquatic Life: Using the Biotic Ligand Model](#)” is available at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706, and on the DEQ website at [www.deq.idaho.gov](http://www.deq.idaho.gov). (3-28-18)
  - d. Application of toxics criteria. (3-25-16)
    - i. Frequency and duration for aquatic life toxics criteria. CMC column criteria in Table 1 in Subsection 210.01 are concentrations not to be exceeded for a one-hour average more than once in three (3) years unless otherwise specified. CCC column criteria in Table 1 in Subsection 210.01 are concentrations not to be exceeded for a four-day average more than once in three (3) years unless otherwise specified. (3-28-18)
    - ii. Frequency and duration for human health toxics criteria. Criteria in Table 2 in Subsection 210.01 are not to be exceeded based on an annual harmonic mean. (3-28-18)
- 04. National Pollutant Discharge Elimination System Permitting.** For the purposes of NPDES permitting, interpretation and implementation of metals criteria listed in Subsection 210.02 should be governed by the following standards, that are hereby incorporated by reference, in addition to other scientifically defensible methods deemed appropriate by the Department; provided, however, any identified conversion factors within these documents are not incorporated by reference. Metals criteria conversion factors are identified in Subsection 210.02 of this rule. (5-3-03)



- a. “Guidance Document on Dissolved Criteria -- Expression of Aquatic Life Criteria,” EPA, October 1993, <http://www.deq.idaho.gov/media/827413-epa-guidance-dissolved-criteria-1093.pdf>. (4-5-00)
  - b. “Guidance Document on Dynamic Modeling and Translators,” EPA, August 1993, <http://www.deq.idaho.gov/media/827417-epa-guidance-dynamic-modeling-translators-0893.pdf>. (4-5-00)
  - c. “Guidance Document on Clean Analytical Techniques and Monitoring,” EPA, October 1993, <http://www.deq.idaho.gov/media/827421-epa-guidance-analytical-techniques-1093.pdf>. (4-5-00)
  - d. “Interim Guidance on Determination and Use of Water-Effect Ratios for Metals,” EPA, February 1994, <http://www.deq.idaho.gov/media/827409-epa-guidance-water-effect-ratios-for-metals-0294.pdf>. (4-5-00)
  - e. “Technical Support Document for Water Quality-Based Toxics Control.” EPA, March 1991. <http://www.deq.idaho.gov/media/60177101/58-0102-1201-epa-technical-support-document-1991.pdf>. (3-25-16)
- 05. Development of Toxic Substance Criteria.** (4-5-00)
- a. Aquatic Life Communities Criteria. Numeric criteria for the protection of aquatic life uses not identified in these rules for toxic substances, may be derived by the Department from the following information: (4-5-00)
    - i. Site-specific criteria developed pursuant to Section 275; (4-5-00)
    - ii. Effluent biomonitoring, toxicity testing and whole-effluent toxicity determinations; (4-5-00)
    - iii. The most recent recommended criteria defined in EPA's ECOTOX database. When using EPA recommended criteria to derive water quality criteria to protect aquatic life uses, the lowest observed effect concentrations (LOECs) shall be considered; or (3-25-16)
    - iv. Scientific studies including, but not limited to, instream benthic assessment or rapid bioassessment. (4-5-00)
  - b. Human Health Criteria. (4-5-00)
    - i. When numeric criteria for the protection of human health are not identified in these rules for toxic substances, quantifiable criteria may be derived by the Department using best available science on toxicity thresholds (i.e. reference dose or cancer slope factor), such as defined in EPA's Integrated Risk Information System (IRIS) or other peer-reviewed source acceptable to the Department. (3-25-16)
    - ii. When using toxicity thresholds to derive water quality criteria to protect human health, a fish consumption rate representative of the population to be protected, a mean adult body weight, an adult 90th percentile water ingestion rate, a trophic level weighted BAF or BCF, and a hazard quotient of one (1) for non-carcinogens or a cancer risk level of  $10^{-5}$  for carcinogens shall be utilized. (3-25-16)

**(BREAK IN CONTINUITY OF SECTIONS)**

**287. SITE-SPECIFIC AQUATIC LIFE CRITERIA FOR SELENIUM.**

Site-specific water column values (30-day average) are based on dissolved total selenium in water and are derived using a performance-based approach from fish tissue values via either the mechanistic modeling or empirical bioaccumulation factor (BAF) method in [Aquatic Life Ambient Water Quality Criterion for Selenium – Freshwater, EPA-822-R-16-006, Appendix K: Translation of a Selenium Fish Tissue Criterion Element to a Site-Specific Water Column Value \(June 2016\)](#). (3-28-18)

- 01. Subsection of Blackfoot Subbasin.** Blackfoot River - confluence of Lanes and Diamond Creeks to

Blackfoot Reservoir (unit US-10), and all tributaries thereof. Site-specific egg-ovary, whole-body, and muscle criterion elements for these water bodies are set out in the following table. The lentic and short-term exposure water column criterion elements set out in Subsection 210.01., table footnote **I.**, are also applicable to the water bodies identified in this subsection.

<b>Chronic</b>			
<b>Egg-Ovary (mg/kg dw)</b>	<b>Fish Tissue (mg/kg dw)</b>		<b>Water Column (µg/L)</b>
<b>Egg-Ovary</b>	<b>Whole-Body</b>	<b>Muscle</b>	<b>Water Lotic</b>
24.5 <sup>1</sup>	12.5 <sup>2</sup>	12.8 <sup>2</sup>	11.9 <sup>3,4,5</sup>
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter			
<p>1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element.</p> <p>2. Fish whole-body or muscle tissue supersedes water column element when both fish tissue and water concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole-body or muscle data to determine compliance with this criterion element.</p> <p>3. Water column values are derived using the empirical BAF method. For comparative purposes only, the example value displayed in this table represents the lotic water column value for Sheep Creek based on the average BAF for Cutthroat Trout among all sampling locations and years.</p> <p>4. Lotic Water Column Equation=</p> $\frac{\text{Tissue}_{\text{criterion}}}{\text{BAF}}$ <p>where Tissue criterion is the fish tissue element (whole-body), and BAF is the bioaccumulation factor derived by dividing site-specific field-collected samples of fish tissue (whole-body) by site-specific field-collected samples of water.</p> <p>5. Water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. In fishless waters, surface water from the fishless waters and fish tissue from the nearest downstream waters are used for bioaccumulation modeling. Fish tissue supersedes any site-specific water column values when fish are sampled downstream of fishless waters.</p>			

(3-28-18)

**02. Subsection of Bear Lake Subbasin.** Georgetown Creek - source to mouth (unit B-22), and all tributaries thereof. Site-specific egg-ovary, whole-body, and muscle criterion elements for these water bodies are set out in the following table. The lentic and short-term water column criterion elements set out in Subsection 210.01., table footnote **I.**, are also applicable to the water bodies identified in this subsection.

<b>Chronic</b>			
<b>Egg-Ovary (mg/kg dw)</b>	<b>Fish Tissue (mg/kg dw)</b>		<b>Water Column (µg/L)</b>
<b>Egg-Ovary</b>	<b>Whole-Body</b>	<b>Muscle</b>	<b>Water Lotic</b>
21.0 <sup>1</sup>	12.5 <sup>2</sup>	12.8 <sup>2</sup>	3.8 <sup>3,4,5</sup>
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter			

1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element.
2. Fish whole-body or muscle tissue supersedes water column element when both fish tissue and water concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole-body and muscle data to determine compliance with this criterion element.
3. Water column values are derived using the empirical BAF method. For comparative purposes only, the example displayed in this table represents the lotic water column value for Georgetown Creek, upstream of the intermittent reach, based on the average BAF for Brook Trout in all sampling locations and years.
4. Lotic Water Column Equation=
 
$$\frac{\text{Tissue}_{\text{criterion}}}{\text{BAF}}$$

where Tissue criterion is the fish tissue element (whole-body), and BAF is the bioaccumulation factor derived by dividing site-specific field-collected samples of fish tissue (whole-body) by site-specific field-collected samples of water.
5. Water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. In fishless waters, surface water from the fishless waters and fish tissue from the nearest downstream waters are used for bioaccumulation modeling. Fish tissue supersedes any site-specific water column values when fish are sampled downstream of fishless waters.

(3-28-18)

**03. Subsection of Salt Subbasin — Sage Creek.** Sage Creek – source to mouth (unit US-9) including, Hoopes Spring channel downstream of the spring complex, South Fork Sage Creek downstream of the spring complex, Sage Creek downstream of the confluence of Hoopes Spring with Sage Creek to its confluence with Crow Creek, and tributaries; excluding North Fork Sage Creek, Pole Canyon Creek, and their tributaries. Site-specific egg-ovary and whole-body criterion elements for these water bodies are set out in the following table. The muscle, lentic water column, and short-term water column criterion elements set out in Subsection 210.01., table footnote I., are also applicable to the water bodies identified in this subsection.

Chronic		
Egg-Ovary (mg/kg dw)	Fish Tissue (mg/kg dw)	Water Column (µg/L)
Egg-Ovary	Whole-Body	Water Lotic
20.5 <sup>1</sup>	13.6 <sup>2</sup>	16.7 <sup>3</sup>

mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter

1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element.
2. Fish tissue supersedes water column element when both fish tissue (whole-body) and water concentrations are measured. Fish tissue elements are expressed as a single arithmetic average of tissue concentrations from at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole-body data to determine compliance with this criterion element.

3. Water column values are derived using the empirical BAF method. Water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. In fishless waters, selenium concentrations in fish from the nearest downstream waters may be used to assess compliance.

( )

**04. Subsection of Salt Subbasin — Crow Creek.** Crow Creek – Downstream of Sage Creek confluence to Wyoming state line (US-8). Site-specific egg-ovary and whole-body criterion elements for these water bodies are set out in the following table. The muscle, lentic water column, and short-term water column criterion elements set out in Subsection 210.01., table footnote I., are also applicable to the water bodies identified in this subsection.

<b>Chronic</b>		
<b>Egg-Ovary (mg/kg dw)</b>	<b>Fish Tissue (mg/kg dw)</b>	<b>Water Column (µg/L)</b>
Egg-Ovary	Whole-Body	Water Lotic
20.5 <sup>1</sup>	12.5 <sup>2</sup>	4.2 <sup>3</sup>
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter		
<p>1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element.</p> <p>2. Fish tissue supersedes water column element when both fish tissue (whole-body) and water concentrations are measured. Fish tissue elements are expressed as a single arithmetic average of tissue concentrations from at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole-body data to determine compliance with this criterion element.</p> <p>3. Water column values are derived using the empirical BAF method. Water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. In fishless waters, selenium concentrations in fish from the nearest downstream waters may be used to assess compliance.</p>		

(3-28-18)

**05. Portions of Idaho.**

(3-28-18)

a. This site-specific criterion applies in the HUC subbasins set out in the following table.

<b>HUC</b>	<b>Subbasin</b>	<b>HUC</b>	<b>Subbasin</b>
16010102	Central Bear	17040208	Portneuf
16010201	Bear Lake	17040209	Lake Walcott
16010202	Middle Bear	17040210	Raft
16010203	Little Bear-Logan	17040211	Goose
16010204	Lower Bear-Malad	17040214	Beaver-Camas
16020309	Curlew Valley	17040215	Medicine Lodge
17010302	South Fork Coeur d Alene	17040216	Birch
17010306	Hangman	17040218	Big Lost

HUC	Subbasin	HUC	Subbasin
17010308	Little Spokane	17040220	Camas
17040104	Palisades	17040221	Little Wood
17040105	Salt	17050104	Upper Owyhee
17040201	Idaho Falls	17050105	South Fork Owyhee
17040202	Upper Henrys	17050106	East Little Owyhee
17040203	Lower Henrys	17050107	Middle Owyhee
17040204	Teton	17050108	Jordan
17040205	Willow	17060109	Rock
17040206	American Falls		
17040207	Blackfoot		

(3-28-18)

b. Site-specific egg-ovary, whole-body, and muscle criterion elements for the water bodies identified in Subsection 287.05.a. are set out in the following table. The water column criterion elements set out in Subsection 210.01., table footnote I., are also applicable to the water bodies identified in Subsection 287.05.a.

<b>Chronic</b>		
<b>Egg-Ovary (mg/kg dw)</b>	<b>Fish Tissue (mg/kg dw)</b>	
Egg-Ovary	Whole-Body	Muscle
19.0 <sup>1</sup>	9.5 <sup>2</sup>	13.1 <sup>2</sup>
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter		
<p>1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element.</p> <p>2. Fish whole-body or muscle tissue supersedes water column element when both fish tissue and water concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole-body or muscle data to determine compliance with this criterion element.</p>		

(3-28-18)

## IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.03 – INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES

DOCKET NO. 58-0103-1902

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Chapters 1 and 36, Title 39, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter under IDAPA 58 rules of the Department of Environmental Quality:

IDAPA 58.01.03, Individual/Subsurface Sewage Disposal Rules

This rulemaking also includes revisions in response to [Executive Order No. 2019-02](#), Red Tape Reduction Act, issued by Governor Little on January 21, 2019. DEQ proposes to combine IDAPA 58.01.15, Rules Governing the Cleaning of Septic Tanks, with IDAPA 58.01.03, Individual/Subsurface Sewage Disposal Rules, by moving IDAPA 58.01.15, Sections 003 and 004, into IDAPA 58.01.03 as new sections 050 and 051. When IDAPA 58.01.03 and IDAPA 58.01.15 were adopted as temporary rules in May 2019 and then published in the Idaho Administrative Bulletin, it was DEQ's intent to follow up with publication of two separate proposed rules. However, upon review of its administrative rules, DEQ determined that the two rule chapters could be consolidated into a single chapter.

Temporary rule IDAPA 58.01.15 will expire upon conclusion of the 2020 legislative session.

The proposed rule was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol. 19-9, pages 610 through 637](#). DEQ received no public comments, and the rule has been adopted as initially proposed. The proposed rule includes non-substantive clerical revisions made by the Administrative Rules Coordinator using his authority under Idaho Code § 67-5202. "The coordinator shall have the authority to make clerical revisions or to correct manifest typographical or grammatical errors to both proposed and existing rules that do not alter the sense, meaning or effect of such rules." Idaho Code § 67-5202(2). The revisions are consistent with [Executive Order No. 2019-02](#), and did not alter the sense, meaning or effect of the rules (i.e., elimination of restrictive words such as "shall").

More information regarding this rule docket is available at [www.deq.idaho.gov/58-0103-1902](http://www.deq.idaho.gov/58-0103-1902).

**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.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact the undersigned.

Dated this 14th day of November, 2019.

Paula J. Wilson, Department of Environmental Quality  
1410 N. Hilton Street, Boise, Idaho 83706  
Phone: (208) 373-0418/ Fax No.: (208) 373-0481  
[paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized pursuant Chapters 1 and 36, Title 39, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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

This rulemaking also includes revisions made to IDAPA 58.01.03 in response to [Executive Order No. 2019-02, Red Tape Reduction Act](#), issued by Governor Little on January 21, 2019. Upon review of its administrative rules, DEQ determined that two rule chapters could be consolidated into a single chapter. DEQ proposes to combine IDAPA 58.01.15, Rules Governing the Cleaning of Septic Tanks, with IDAPA 58.01.03, Individual/Subsurface Sewage Disposal Rules, by moving IDAPA 58.01.15, Sections 003 and 004, into IDAPA 58.01.03 as new Sections 050 and 051.

IDAPA 58.01.03 and IDAPA 58.01.15 were adopted by the Idaho Board of Environmental Quality in May 2019, effective June 30, 2019, and published in the Idaho Administrative Bulletin, July 3, 2019, [Vol. 19-7](#). After consideration of public comments on this proposed rule, DEQ intends to present the final proposal to the Idaho Board of Environmental Quality (Board) in November 2019 for adoption of a pending rule. The rule is expected to be final and effective upon adjournment of the 2020 legislative session if adopted by the Board and approved by the Legislature. Temporary rule IDAPA 58.01.15 will expire at that time.

More information regarding this rule docket is available at [www.deq.idaho.gov/58-0103-1902](http://www.deq.idaho.gov/58-0103-1902).

**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.

**IDAHO CODE SECTION 39-107D STATEMENT:** IDAPA 58.01.03, Individual/Subsurface Sewage Disposal Rules, regulate activities not regulated by the federal government. The following is a summary of additional information required by Sections 39-107D(2) through (4), Idaho Code, supporting the adoption of these rules. These rules regulate the installation of cottage site sewage treatment facilities and the issuance of pollution source permits and septic tank pumping permits under Title 39, Chapters 1 and 36, Idaho Code. Title 39, Chapter 1, Idaho Code, also 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.

IDAPA 58.01.15, Rules Governing the Cleaning of Septic Tanks, adopted in 1960, are added to the Individual/Subsurface Sewage Disposal Rules as new Sections 050 and 051. The Rules Governing the Cleaning of Septic Tanks are not based on a specific science or standard; rather, they are in place to ensure disposal of excrement from the cleaning of septic tanks is discharged to a public sewer; discharged to a sewage treatment plant; or buried under earth, or dried in, a location and by a method approved by the Department.

The Individual/Subsurface Sewage Disposal Rules were originally approved in 1985 following standard practices in place at the time. In 1989 the Idaho Legislature rejected the 1985 rules and instructed the Board of Health & Welfare to promulgate the rules that were in effect prior to 1985. The legislative intent accompanying House Concurrent Resolution 53 stated that the Idaho Legislature did not object to the adoption of the 1985 rules provided that the rules allow the use of seepage pits on a case-by-case basis within the boundaries of the district seven health department. The Department of Health and Welfare proceeded with an emergency rule in 1989-90 that re-instated the 1985 rules regarding subsurface sewage disposal with the addition of Subsection 008.11, Seepage Pit.

With the exception of the specific sections called out in the table below, the majority of the Individual/Subsurface Sewage Disposal Rules have been in place and relatively unchanged since 1985. With the creation of the Department of Environmental Quality, some sections of the rules were updated to reflect that change. There were no substantive changes to the standards or criteria reflected in those changes. Rules updated in 2017 provided a Section 107D statement during the negotiated rulemaking and are therefore not discussed in this statement. Rules updated in 2002 were specific to the administrative provisions regarding appeals of the agency decision and confidentiality of records. These updates are not based on scientific data, nor do they relate to the protection of human health or the environment, and therefore are not subject to the Section 107D requirements.

<b>Rule Section</b>	<b>Date Updated</b>
58.01.03.003.30	July 1, 2017
58.01.03.006.01 – 06	July 1, 2017
58.01.03.006.09 – 10	July 1, 2017
58.01.03.009.03 – 04	July 1, 2017
58.01.03.996 – 997	March 15, 2002

The following summary of Sections 107D(2) and (3) will focus on the decisions made in 1985 to promulgate changes to the Individual/Subsurface Sewage Disposal Rules with regard to best available science and information and decisions made to protect human health and the environment. DEQ believes this is the only approach to fulfilling this requirement at this time, as current science and data would likely lead to changes to the rule that should be



addressed appropriately through negotiated rulemaking specific to the topic and not the general re-authorization of the rules that this proposed rule is addressing.

*Section 107D(2)(a), Idaho Code. To the degree that a department action is based on science, in proposing any rule or portions of any rule subject to this section, the department shall utilize the best available peer reviewed science and supporting studies conducted in accordance with sound and objective scientific practices.*

Standards and performance criteria for construction, installation, and operation of individual sewage disposal systems were proposed as modifications to the 1979 rules by members of interested parties and the Division of Environmental Quality, a division within the Department of Health and Welfare. These standards and criteria were derivations of industry accepted practices and standards in use at the time of promulgation. As such, these standards and criteria were reviewed and accepted by Idaho's regulated community and the Board of Health and Welfare.

The US EPA published in 1980 a Design Manual: Onsite Wastewater Treatment and Disposal Systems (USEPA 1980). These standards were considered and used along with other available studies including Manual of Septic – Tank Practices (US Department of Health, Education, and Welfare 1969).

*Section 107D(2)(b), Idaho Code. To the degree that a department action is based on science, in proposing any rule or portions of any rule subject to this section, the department shall utilize data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justifies use of the data.*

Data was not collected or analyzed as part of the rulemaking process.

*Section 107D(3)(a), Idaho Code. Identification of each population or receptor addressed by an estimate of public health effects or environmental effects.*

Onsite septic systems treat domestic sewage through use of subsurface infiltration and have the potential to adversely impact beneficial uses in both surface and ground waters. These systems are recognized as potentially viable, low-cost, long-term approaches to wastewater treatment if they are planned, designed, installed, operated, and maintained properly.

*Section 107D(3)(b) through (e), Idaho Code. Identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk, of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty, and studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effect or environmental effects and the methodology used to reconcile inconsistencies in the data.*

The proposed rules include standards intended to protect human health and the environment. The standards, however, are for the design, construction, and installation of individual subsurface sewage disposal systems, for example, requirements for wastewater flow into a system and appropriate sizing of the system. The rules are not based on any express estimate or analysis of risk to public health or the environment. Instead, the standards are based on guidelines set forth in documents readily available at the time of initial promulgation including Design Manual: Onsite Wastewater Treatment and Disposal Systems (USEPA 1980) and Manual of Septic – Tank Practices (US Department of Health, Education, and Welfare 1969). These standards are generally accepted and used by engineers and state regulators.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact the undersigned. Anyone may submit written comments regarding the proposed rulemaking by mail, fax, or email. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 4th day of September, 2019.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0103-1902**

**58.01.03 – INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES  
AND RULES FOR CLEANING OF SEPTIC TANKS**

**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 and Rules for Cleaning of Septic Tanks.” ( )

**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. **These rules also establish general requirements for the handling, transportation and disposal of septic tank wastes and for obtaining a septic tank pumping permit.** ( )

**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:

<b>MINIMUM CAPACITY PER DWELLING UNIT</b>	
<b>Number of Bedrooms</b>	<b>Minimum Liquid Capacity (Gallons)</b>
1 or 2	900
3 or 4	1,000

For each bedroom over four (4) add two hundred fifty (250) gallons.

(10-1-90)

- b. Tanks serving all other flows. Septic tank capacity shall be equal to two (2) times the average daily flow as determined from Subsection 007.08. The minimum tank capacity shall be seven hundred and fifty (750) gallons.

(12-31-91)

**08. Wastewater Flows from Various Establishments in Gallons per Day.**

<b>ESTABLISHMENTS</b>	
Single Family Dwelling and Mobile Homes, 3 bedroom. Add/subtract 50 gallons/bedroom	250/Unit
<b>MULTIPLE RESIDENTIAL</b>	
Hotel: With Private Baths Without Private Baths	60/Bedspace 40/Bedspace
Motel: With Kitchenette	40/Bedspace 60/Bedspace
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
<b>INSTITUTIONAL</b>	
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

<b>ESTABLISHMENTS</b>	
Day School: Without Showers With Showers With Cafeteria, add Staff-Resident Nonresident	20/Student 25/Student 3/Student 40/Staff 20/Staff
<b>FOOD SERVICE</b>	
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
<b>COMMERCIAL AND INDUSTRIAL</b>	
Bowling Alley	125/Lane
Laundry - Self Service	50/Wash
Public Transportation Terminal	5/Fare
Service Station	10/Vehicle
Car Wash: 1st Bay Additional Bays	50/Vehicle 1000 500 each
Shopping Center (No food/laundry)	1/Pkg.Sp.
Theaters (including Concession Stand): Auditorium Drive-in	5/Seat 10/Space
Offices	20/Employee
Factories: No Showers With Showers Add for Cafeteria	25/Employee 35/Employee 5/Employee
Stores	2/Employee
<b>SEASONAL AND RECREATIONAL</b>	
Fairground (Peak Daily Attend)	1/Person
Stadium	2/Seat
Swimming Pool: Toilet & Shower Wastes	10/Person

<b>ESTABLISHMENTS</b>	
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



Design Soil Group	Soil Textural Classification	USDA Field Test Textural Classification	
<b>A</b>	Medium Sand	35-60 Mesh	Sand
	Fine Sand	65-140 Mesh	Sand
	Loamy Sand		Sand
<b>B</b>	Very Fine Sand	140-270 Mesh	Sand
	Sandy Loam		Sandy Loam
	Very Fine Loamy Sand		Sandy Loam
	Loam		
	Silt Loam		Silt Loam
<b>C</b>	Silt		Silt Loam
	Clay Loam		Clay Loam
	Sandy Clay Loam		Clay Loam
	Silty Clay Loam		Clay Loam
<b>Unsuitable</b>	Sandy Clay		Clay
	Silty Clay		Clay
	Clay		Clay
	Clay soils with high shrink/swell potential		Clay
	Organic mucks		
	Claypan, Duripan,		
	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.

<b>EFFECTIVE SOIL DEPTHS TABLE</b>			
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

<b>SUBSURFACE DISPOSAL FACILITY TABLE</b>	
<b>Item</b>	<b>All Soil Groups</b>
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:

<b>TABLE -- EFFECTIVE SOIL DEPTHS</b>			
<b>Site Conditions</b>	<b>Design</b>	<b>Soil</b>	<b>Group</b>
<b>Limiting Layer</b>	<b>A</b>	<b>B</b>	<b>C</b>
Impermeable Layer	8	8	8
Fractured Bedrock, Fissured Bedrock or Extremely Permeable Material	12	8	6
Normal High Groundwater Level	12	8	6
Seasonal High Groundwater Level	2	2	2

(5-7-93)

d. **Separation Distances.** The disposal area absorption module must be located so that the following separation distances given, in feet, are maintained or exceeded as outlined in the following table:

<b>TABLE -- SEPARATION DISTANCES</b>			
<b>Feature of Interest</b>	<b>Design</b>	<b>Soil</b>	<b>Group</b>
	<b>A</b>	<b>B</b>	<b>C</b>
<b>All Domestic Water Supplies</b>			
Sewage Volume - 2,500-5,000 GPD	250	200	150
Sewage Volume - 5,000-10,000 GPD	300	250	200
<b>Property Lines</b>			
Sewage Volume - 2,500-5,000 GPD	50	50	50
Sewage Volume - 5,000-10,000 GPD	75	75	75
<b>Building Foundations - Basements</b>			
Sewage Volume - 2,500-5,000 GPD	50	50	50
Sewage Volume - 5,000-10,000 GPD	75	75	75
<b>Downslope Cut or Scarp</b>			
Impermeable Layer - Below Base	100	50	50
Separation Distance - Between Modules	12	12	12

(5-7-93)

e. No large soil absorption system shall be installed above a downslope scarp or cut unless it can be demonstrated that the installation will not result in effluent surfacing at the cut or scarp. (5-7-93)

f. A minimum of two (2) disposal systems will be installed, each sized to accept the daily design flow,

and a replacement area equal to the size of one (1) disposal system will be reserved. (5-7-93)

**g.** The vertical and horizontal hydraulic limits of the receiving soils shall be established and flows shall not exceed such limits so as to avoid hydraulically overloading any absorption module and replacement area. (5-7-93)

**h.** The distribution system must be pressurized with a duplex dosing system. (5-7-93)

**i.** A geotextile filter fabric shall cover the aggregate. (5-7-93)

**j.** An in-line effluent filter between an extended treatment system or lagoon system and the large soil absorption area shall be installed. (5-7-93)

**k.** Observation pipes shall be installed to the bottom of the drainrock throughout the drainfield. (5-7-93)

**l.** Pneumatic tired machinery travel over the excavated infiltrative surface is prohibited. (5-7-93)

**m.** The drainfield disposal area shall be constructed to allow for surface drainage and to prevent ponding of surface water. Before the system is put into operation the absorption module disposal area shall be seeded with typical lawn grasses and/or other appropriate shallow rooted vegetation. (5-7-93)

**05. Large Septic Tanks.** Large Septic Tanks shall be constructed according to Section 007, except as outlined in this Subsection: (5-7-93)

**a.** Length to width ratios shall be maintained at least at a three to one (3:1) ratio. (5-7-93)

**b.** Tank inlet shall allow for even distribution of the influent across the width of the tank. (5-7-93)

**c.** The width to liquid depth ratio shall be between one to one (1:1) and two and one-quarter to one (2.25:1). (5-7-93)

**06. Monitoring and Reporting.** Before an installation permit is issued, a monitoring and reporting plan shall be approved by the Director and shall contain the following minimum criteria: (5-7-93)

**a.** Monthly recording and inspection for ponding in all observation pipes. (5-7-93)

**b.** Monthly recording of influent flows based on lapse time meter and/or event meter of the dosing system. (5-7-93)

**c.** Monthly recording of groundwater elevation measurements at all monitoring wells if high seasonal groundwater is within fifteen (15) feet of the ground surface. (5-7-93)

**d.** Semi-annual groundwater monitoring at all monitoring wells. (5-7-93)

**e.** Monitoring shall conform to the requirements of all federal, state, and local rules and regulations. (5-7-93)

**f.** An annual "Large Soil Absorption System Report" shall be filed with the Director no later than January 31 of each year for the last twelve (12) month period and shall include section on operation, maintenance and monthly and annual monitoring data. (5-7-93)

**07. Operation and Maintenance.** Before an installation permit is issued, an operation and maintenance plan shall be approved by the Director and shall contain the following minimum criteria: (5-7-93)

**a.** Annual or more frequent rotation of the disposal systems, and whenever ponding is noted. (5-7-93)

**b.** A detailed operation and maintenance manual, fully describing and locating all elements of the



system and outlining maintenance procedures needed for operation of the system and who will be responsible for system maintenance, shall be submitted to the Director prior to system use. (5-7-93)

c. A maintenance entity shall be specified to provide continued operation and maintenance. Approval of the entity shall be made by the Director prior to issuance of an installation permit. (5-7-93)

**014. -- 049. (RESERVED)**

**050. CLEANING OF SEPTIC TANKS – 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)

**051. CLEANING OF SEPTIC TANKS – 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 051.01.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)

**052. -- 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

## 58.01.17 – RECYCLED WATER RULES

DOCKET NO. 58-0117-1901

### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Chapter 1, Title 39, Idaho Code.

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

This pending rule adopts the following existing and previously approved and codified chapter under IDAPA 58 rules of the Department of Environmental Quality:

IDAPA 58.01.17, Recycled Water Rules

The proposed rule was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol. 19-9, pages 675 through 702](#). DEQ received no public comments, and the rule has been adopted as initially proposed.

More information regarding this rule docket is available at [www.deq.idaho.gov/58-0117-1901](http://www.deq.idaho.gov/58-0117-1901).

**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.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the adoption of this pending rule, contact the undersigned.

Dated this 14th day of November, 2019.

Paula J. Wilson  
Department of Environmental Quality  
1410 N. Hilton Street  
Boise, Idaho 83706  
Phone: (208) 373-0418  
Fax No.: (208) 373-0481  
[paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized pursuant Chapter 1, Title 39, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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

A temporary rule was adopted by the Idaho Board of Environmental Quality in May 2019, effective June 30, 2019, and published in the Idaho Administrative Bulletin, July 3, 2019, **Vol. 19-7, pages 547–574**. More information regarding this rule docket is available at [www.deq.idaho.gov/58-0117-1901](http://www.deq.idaho.gov/58-0117-1901).

**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 proposed rules attached hereto.

**IDAHO CODE SECTION 39-107D STATEMENT:** IDAPA 58.01.17, Recycled Water Rules, ensure that the land application of recycled water does not harm public health or the environment or violate the Department’s Water Quality Standards, IDAPA 58.01.02, or the Ground Water Quality Rule, IDAPA 58.01.11. The federal government does not specifically address recycled water land application. The statutory authority for these rules is contained in Idaho Code §§ 39-115 and 118. Idaho Code § 39-115 provides the Director with the authority to issue pollution source permits in compliance with rules. Idaho Code § 39-118 requires all plans and specifications and record plans “for the construction of new sewage systems, sewage treatment plants or systems” to “be submitted to and approved by the director before construction may begin, and all construction shall be in substantial compliance therewith.” Idaho Code § 39-105(2) requires the Director to “formulate and recommend to the board rules as may be necessary to deal with problems related to water pollution... and licensure and certification requirements pertinent thereto.” Idaho Code § 39-102(3)(a) states: “It is the policy of the state to prevent contamination of ground water from any source to the maximum extent practical.”

The majority of the substantive provisions of these rules was adopted after 2003, thus, if they were based on science or included a standard necessary to protect human health and the environment, they have already been approved as meeting Idaho Code § 39-107D(2) and (3) requirements. The remaining provisions are not specific science-based requirements or standards. Rather, they are (1) procedural requirements that are primarily necessary for

the Department to properly process reuse permits, or (2) construction-related requirements to ensure land application does not harm public health or the environment or violate Water Quality Standards or the Ground Water Quality Rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact the undersigned. Anyone may submit written comments regarding the proposed rulemaking by mail, fax, or email. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 4th day of September, 2019

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0117-1901**

**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](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	
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.	

TABLE 1 - CLASSIFICATION TABLE					
Classification	Class A	Class B	Class C	Class D	Class E
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	
pH  Daily grab samples or continuous monitoring		Between 6.0 and 9.0	

(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
<b>Uses relating to Irrigation and buffers</b>					
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
Residential landscape	Yes	No	No	No	No
<b>Uses at Industrial, Commercial, or Construction Sites</b>					
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

TABLE 3 - RECYCLED WATER USES					
Recycled Water Uses	Class A	Class B	Class C	Class D	Class E
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
<b>Ground Water Recharge</b>					
Ground water recharge through surface spreading, seepage ponds or other unlined surface water features, such as landscape impoundments	Yes	No	No	No	No
<b>Subsurface Distribution</b>					
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](http://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)**