

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.07 - RULES REGULATING UNDERGROUND STORAGE TANK SYSTEMS

DOCKET NO. 58-0107-1601

NOTICE OF NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality, Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Chapters 1 and 88, Title 39, Idaho Code.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the meetings at one of the following locations. The public may participate by telephone and web conferencing at any of the meeting locations or with individual connections. Individuals interested in participating by telephone and web conferencing should contact the undersigned by the dates provided in the table below. For those who cannot participate by attending the meetings, information for submitting written comments is provided at the end of this notice.

MEETING SCHEDULE: The negotiated rulemaking meetings will be held as follows. Additional meetings will be scheduled if necessary.

ORIGINATING LOCATION – LIVE MEETING DEQ State Office Conference Center 1410 N. Hilton, Boise, Idaho	
TELEPHONE & WEB CONFERENCE LOCATIONS	
DEQ Coeur d’Alene Regional Office 2110 Ironwood Parkway Coeur d’Alene, Idaho	DEQ Lewiston Regional Office 1118 F Street Lewiston, Idaho
DEQ Twin Falls Regional Office 650 Addison Avenue West, Suite 110 Twin Falls, Idaho	DEQ Pocatello Regional Office 444 Hospital Way #300 Pocatello, Idaho
DEQ Idaho Falls Regional Office 900 N. Skyline, Suite B Idaho Falls, Idaho	
Meeting Date & Times	*Telephone & Web Conferencing Information*
Thursday, April 28, 2016 9:00 a.m. - 12:30 p.m. (MT)	Contact the undersigned by <i>April 15, 2016</i> to make arrangements for participation by telephone and web conferencing
Thursday, May 26, 2016 9:00 a.m. - 12:30 p.m. (MT)	Contact the undersigned by <i>May 13, 2016</i> to make arrangements for participation by telephone and web conferencing

PRELIMINARY DRAFT RULE: The preliminary draft rule can be obtained at www.deq.idaho.gov/58-0107-1601 or by contacting Paula Wilson at Paula.Wilson@deq.idaho.gov, (208)373-0418.

DESCRIPTIVE SUMMARY: This rulemaking has been initiated to adopt into state rules the newly revised federal Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (USTs), 40 CFR Part 280, and to establish a fee structure. The Environmental Protection Agency (EPA) updated 40 CFR Part 280 on October 13, 2015 amending the 1988 federal regulations by increasing emphasis on properly operating and maintaining underground storage tank equipment. In order to retain state program approval/primary enforcement authority that was approved on February 28, 2012, Idaho is required to adopt the newly revised 40 CFR Part 280 and re-submit a state program approval application package by October 13, 2018. Additionally, these new regulations and successive federal grant reductions have made it impossible to maintain the minimum program effort necessary to retain state program approval. DEQ must negotiate a fee structure to ensure there is sufficient funding to maintain an underground storage tank program and retain state program approval. Fees would not exceed one hundred dollars (\$100.00) per tank per year. Collection of UST fees is authorized by Idaho Code § 39-119. Senate Bill 1244 (2016) revised Idaho Code § 39-8802(2)(d) to allow for collection of UST fees under Idaho Code § 39-119.

The revised 40 CFR Part 280 includes the secondary containment and operator training provisions found in the Energy Policy Act of 2005. EPA is giving the states the option to adopt the new provisions or retain their existing secondary containment and operator training rules. DEQ proposes to retain its existing, less stringent, secondary containment and operator training rules (IDAPA 58.01.07.100 and 300) and incorporate the remainder of 40 CFR Part 280 by reference.

In addition, DEQ proposes revisions that would simplify inspections, include a fee structure, remove duplicate definitions now found in 40 CFR Part 280, and include a training requirement overlooked during the 2007 rulemaking.

The text of the rule will be drafted by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Owners and operators of underground storage tanks, cities, counties, bankers, lenders, realtors, petroleum marketers, consultants, representatives of the Idaho Petroleum Storage Tank Fund Board of Trustees, and citizens of the state of Idaho may be interested in participating in this rulemaking.

Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the summer of 2016 and then present the final proposal to the Idaho Board of Environmental Quality for adoption of a pending rule in the fall of 2016. If adopted by the Board, the rule will be reviewed by the 2017 Idaho Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Kristi Lowder at kristi.lowder@deq.idaho.gov or (208)373-0347.

For those who cannot participate by attending the scheduled meetings, written comments may be submitted by mail, fax or email at the address below. Written comments on the preliminary draft rule must be received by May 2, 2016. For information regarding submission of written comments on subsequent drafts of the negotiated rule, to receive copies of submitted written comments, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 6th Day of April, 2016.

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