

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.25 – RULES REGULATING THE IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM PROGRAM

DOCKET NO. 58-0125-1701

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 Sections 39-105, 39-107, and 39-175C, Idaho Code.

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

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

ORIGINATING LOCATION -- LIVE MEETING

**DEQ State Office
Conference Rooms A and B
1410 N. Hilton, Boise, Idaho**

**Thursday, May 25, 2017
9:00 am to 12:30 pm (MDT)**

TELEPHONE AND 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, Ste. 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**

Contact the undersigned by **May 18, 2017 to make arrangements for
participation by telephone and web conferencing**

The meeting locations will be accessible to persons with disabilities, and language translators will be made available upon request. Requests for these accommodations must be made no later than five (5) days prior to the

meeting date. For arrangements, contact the undersigned.

PRELIMINARY DRAFT RULE: By May 10, 2017, the preliminary draft rule can be obtained at www.deq.idaho.gov/58-0125-1701 or by contacting Paula Wilson at paula.wilson@deq.idaho.gov, (208) 373-0418.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to ensure that the Rules Regulating the Idaho Pollutant Discharge Elimination System Program (IPDES), IDAPA 58.01.25, remain consistent with federal regulations. This IPDES rulemaking will negotiate changes to the current rules to provide a smoother transition for the regulated community when DEQ becomes the permitting authority. The federal regulations incorporated by reference will be updated with the July 1, 2017 Code of Federal Regulation (CFR) effective date. The July 1, 2017 CFR is a codification of federal regulations published in the Federal Register as of July 1, 2017. Because this rulemaking has been initiated prior to July 1, 2017, applicable federal regulations published in the Federal Register and codified between now and July 1, 2017 may be identified as necessary for incorporation by reference before the conclusion of this rulemaking.

In addition to updating the incorporated by reference date, this rulemaking proposes changes to the IPDES rules based on the following federal rulemakings.

In December 2015, EPA's rule on electronic reporting (aka eReporting Rule) became effective for NPDES permitting authorities. This rule requires commensurate changes to portions of the IPDES rules with regard to updating electronic reporting requirements for the state and for facilities permitted under the program. DEQ is proposing to update those portions of the IPDES rules affected by this federal rulemaking by including the electronic reporting requirements found in 40 CFR Part 127.

On January 9, 2017, EPA's small Municipal Separate Storm Sewer System (MS4) remand rule became effective. Changes to these regulations are in response to the remand from the US Court of Appeals for the Ninth Circuit. These changes allow for the state to select an approach for permitting these discharges and establishing the method for permittees to meet the maximum extent practicable standards established by the Clean Water Act.

Additional changes to the federal regulations that Idaho must comply with include updates to effluent limitation guidelines for steam electric generating point sources, oil and gas point sources, and approved test methods for analysis of parameters in effluent discharges. The IPDES rules will also be updated to delete references to the vessel general permit. The agency will not be taking over responsibility for this element of the NPDES program. No state has implemented the vessel general permit portion of the NPDES program. These permits primarily regulate commercial vessels in the Snake River and large lakes.

DEQ also proposes to include nonsubstantive revisions to make typographical corrections, provide clarity, and maintain consistency with state and federal law.

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. Major and minor municipal dischargers; industrial dischargers; facilities, organizations and individuals seeking coverage under a general permit; facilities that have or will have a pretreatment permit to a wastewater facility; and other groups interested in point source discharges to Idaho's surface waters 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 2017 and then present the final proposal to the Idaho Board of Environmental Quality (Board) in the fall of 2017 for adoption of a pending rule. If adopted by the Board, the rule will be reviewed by the 2018 Idaho 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:

Incorporating the federal regulations by reference benefits the agency and simplifies the overall rule chapter by incorporating those sections of the federal regulations that must be adhered to in the course of developing an IPDES program. The alternative to incorporating the federal regulations by reference is to restate the federal regulations in the IPDES rules. Incorporation by reference saves the agency the administrative costs associated with maintaining rules. Incorporation by reference is estimated to reduce the number of rule pages by 1,219 and results in an

administrative rule publication cost savings of \$61,000 annually.

In compliance with Idaho Code 67-5223(4), DEQ prepared a brief synopsis detailing the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference is available at www.deq.idaho.gov/58-0125-1701 or by contacting the undersigned.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Mary Anne Nelson at mary.anne.nelson@deq.idaho.gov or (208) 373-0291.

For those who cannot participate by attending the scheduled meeting, 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 June 2, 2017. 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 3rd day of May, 2017

Paula J. Wilson
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