

PENDING RULES COMMITTEE RULES REVIEW BOOK

**Submitted for Review Before
House Environment, Energy
& Technology Committee
68th Idaho Legislature
First Regular Session – 2025**



Prepared by:

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

January 2025

HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE

ADMINISTRATIVE RULES REVIEW

Table of Contents

2025 Legislative Session

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 – Rules for the Control of Air Pollution in Idaho
Docket No. 58-0101-24013

58.01.02 – Water Quality Standards
Docket No. 58-0102-240129

**58.01.03 – Individual/Subsurface Sewage Disposal Rules
and Rules for Cleaning of Septic Tanks**
Docket No. 58-0103-2301 (ZBR Chapter Rewrite).....37

58.01.05 – Rules and Standards for Hazardous Waste
Docket No. 58-0105-240171

58.01.08 – Idaho Rules for Public Drinking Water Systems
Docket No. 58-0108-240174

**58.01.10 – Rules Regulating the Disposal of Radioactive Materials Not Regulated Under
the Atomic Energy Act of 1954, as Amended**
Docket No. 58-0110-2301 (ZBR Chapter Rewrite).....88

**58.01.14 – Rules Governing Fees for Environmental Operating Permits, Licenses,
and Inspection Services**
Docket No. 58-0114-2401 (ZBR Chapter Rewrite, Fee Rule)96

**58.01.22 – Rules for Administration of Planning Grants for Drinking Water
and Wastewater Facilities**
Docket No. 58-0122-2401 (ZBR Chapter Rewrite).....105

58.01.23 – Contested Case Rules and Rules for Protection and Disclosure of Records
Docket No. 58-0123-2401123

**58.01.24 – Standards and Procedures for Application of Risk Based Corrective Action
at Petroleum Release Sites**
Docket No. 58-0124-2401 (ZBR Chapter Rewrite).....132

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-2401

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

EFFECTIVE DATE: This rule has been adopted by the Idaho Board of Environmental Quality (Board) and is now pending review by the 2025 Idaho State Legislature for final approval. Pursuant to Section 67-5224(2)(c), Idaho Code, this pending rule must be approved by concurrent resolution of the Legislature. Pursuant to Section 67-5291(2), Idaho Code, all temporary, pending, and final rules of any nature may be approved or rejected by a concurrent resolution of the Legislature. The concurrent resolution shall state the effective date of the approval or rejection. If approved by concurrent resolution, the rules will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

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 and 39-107, Idaho Code. This rulemaking updates federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of Idaho's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act. It also updates citations to other federal regulations necessary to retain state primacy of Clean Air Act (CAA) programs.

DESCRIPTIVE SUMMARY: This rulemaking was initiated to update federal regulations incorporated by reference. This rulemaking also removes obsolete text and brings back definitions that were inadvertently struck during previous rulemaking with the intention of moving to other rule sections. 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, 2024, [Vol. 24-9, pages 605 through 629](#). After consideration of public comments, the rule has been adopted as initially proposed. The board meeting documents are available at <https://www.deq.idaho.gov/air-quality-docket-no-58-0101-2401/>.

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 questions concerning the rulemaking, contact the undersigned.

Dated this 4th day of December, 2024.

Diane Cutler
Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Phone: (208)373-0165
Diane.Cutler@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 by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of Idaho’s Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho’s delegation agreement with EPA under Section 112(l) of the Clean Air Act. It also updates citations to other federal regulations necessary to retain state primacy of Clean Air Act (CAA) programs.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, a public hearing has been scheduled and will be held as follows:

Tuesday, October 8, 2024, 4:00 p.m. MT

ATTEND IN PERSON OR VIA MICROSOFT TEAMS

**DEQ State Office
Conference Center
1410 N. Hilton
Boise, ID 83706**

**The Teams meeting link is available at:
<https://www.deq.idaho.gov/air-quality-docket-no-58-0101-2401/>**

The meeting location will be accessible to persons with disabilities, and language translators will be made available upon request. Requests must be made no later than five (5) business days prior to the meeting date. For arrangements, contact the undersigned.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to ensure that the state rules remain consistent with federal regulations. The Rules for the Control of Air Pollution in Idaho, IDAPA 58.01.01, are updated annually to maintain consistency with federal regulations implementing the CAA. This proposed rule updates federal regulations incorporated by reference with the July 1, 2024 Code of Federal Regulations (CFR) effective date. The July 1, 2024 CFR is a codification of federal regulations published in the Federal Register as of July 1, 2024.

This rulemaking removes the Section 332 provisions for “Emergency as an Affirmative Defense Regarding Excess Emissions.” On July 12, 2023, the EPA removed the emergency affirmative defense provisions from the CAA operating permit program regulations. DEQ is removing this section from our rules to comply with this action.

This rulemaking also adds the four following clarifying definitions: “Toxic Air Pollutant Non-carcinogenic Increments” added to Section 585, “Toxic Air Pollutant Carcinogenic Increments” added to Section 586, “CAS” added to Sections 585 and 586 Notes, and “Open Burning” added to Section 600. During negotiated rulemaking for Docket No. 58-0101-2101, these definitions were struck from Section 006 with the intention of moving them to Sections 585, 586, and 600. While the other definitions were moved to their respective sections, these definitions were inadvertently overlooked. DEQ is now adding these definitions as originally intended.

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. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2025 Idaho State Legislature, the rule will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution. DEQ will submit the final rule to EPA.

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:

Adoption of federal regulations is necessary for EPA approval of Idaho's Title V Operating Permit Program and state primacy of Clean Air Act programs. Incorporation by reference allows DEQ to keep its rules up to date with federal regulation changes and simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rule.

In compliance with Idaho Code 67-5223(4), DEQ prepared a brief synopsis detailing the substantive differences between the previously incorporated material and the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference can be obtained at <https://www.deq.idaho.gov/air-quality-docket-no-58-0101-2401/>.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking and because DEQ has no discretion with respect to adopting federal regulations that are necessary for EPA approval of Idaho's Title V Operating Permit Program and state primacy of Clean Air Act programs. Whenever possible, DEQ incorporates federal regulations by reference to ensure that the state rules are consistent with federal regulations.

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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Aislinn Johns at Aislinn.johns@deq.idaho.gov or (208) 373-0185.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before October 8, 2024. Submit comments to:

Aislinn Johns
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Aislinn.johns@deq.idaho.gov

Dated this 4th day of September, 2024.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0101-2401

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

107. INCORPORATIONS BY REFERENCE.

01. **Requirements for Preparation, Adoption, and Submittal of Implementation Plans.** 40 CFR Part 51 revised as of July 1, ~~2023~~2024. All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, are excluded from incorporation except 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules. (7-1-24)()
02. **National Primary and Secondary Ambient Air Quality Standards.** 40 CFR Part 50, revised as of July 1, ~~2023~~2024. (7-1-24)()
03. **Approval and Promulgation of Implementation Plans.** 40 CFR Part 52, Subparts A and N and Appendices D and E, revised as of July 1, ~~2023~~2024. (7-1-24)()
04. **Ambient Air Monitoring Reference and Equivalent Methods.** 40 CFR Part 53, revised as of July 1, ~~2023~~2024. (7-1-24)()
05. **Ambient Air Quality Surveillance.** 40 CFR Part 58, revised as of July 1, ~~2023~~2024. (7-1-24)()
06. **Standards of Performance for New Stationary Sources.** 40 CFR Part 60, revised as of July 1, ~~2023~~2024. (7-1-24)()
07. **National Emission Standards for Hazardous Air Pollutants.** 40 CFR Part 61, revised as of July 1, ~~2023~~2024. (7-1-24)()
08. **Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or Before December 1, 2008.** 40 CFR Part 62, Subpart HHH, revised as of July 1, ~~2023~~2024. (7-1-24)()
09. **Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014.** 40 CFR Part 62, Subpart OOO, revised as of July 1, ~~2023~~2024. (7-1-24)()
10. **National Emission Standards for Hazardous Air Pollutants for Source Categories.** 40 CFR Part 63, revised as of July 1, ~~2023~~2024. (7-1-24)()
11. **Compliance Assurance Monitoring.** 40 CFR Part 64, revised as of July 1, ~~2023~~2024. (7-1-24)()
12. **State Operating Permit Programs.** 40 CFR Part 70, revised as of July 1, ~~2023~~2024. (7-1-24)()
13. **Permits.** 40 CFR Part 72, revised as of July 1, ~~2023~~2024. (7-1-24)()
14. **Sulfur Dioxide Allowance System.** 40 CFR Part 73, revised as of July 1, ~~2023~~2024. (7-1-24)()
15. **Protection of Stratospheric Ozone.** 40 CFR Part 82, revised as of July 1, ~~2023~~2024. (7-1-24)()
16. **Clean Air Act.** 42 U.S.C. Sections 7401 through 7671g (1997). (7-1-24)

(BREAK IN CONTINUITY OF SECTIONS)

~~332. EMERGENCY AS AN AFFIRMATIVE DEFENSE REGARDING EXCESS EMISSIONS.~~

~~01. General. An emergency, defined as any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit due to unavoidable increases in emissions attributable to the emergency, constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitation if the conditions of Subsection 332.02 are met. An emergency will not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (3-28-23)~~

~~02. Demonstration of Emergency. The affirmative defense of emergency must be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that: (3-28-23)~~

~~a. An emergency occurred and that the permittee can identify the cause(s) of the emergency; (3-28-23)~~

~~b. The permitted facility was at the time being properly operated; (3-28-23)~~

~~c. During the period of the emergency, the permittee took all reasonable steps, as determined by the Department, to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and (3-28-23)~~

~~d. The permittee submitted written notice of the emergency to the Department within two (2) working days of the time when emission limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken. Compliance with this section satisfies the written reporting requirements under Section 135 and Subsection 322.15.g. (3-28-23)~~

~~03. Burden of Proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof. (3-28-23)~~

~~04. Applicability. Section 332 is in addition to any emergency or upset provision contained in any applicable requirement. (3-28-23)~~

~~333.2. -- 334. (RESERVED)~~

(BREAK IN CONTINUITY OF SECTIONS)

585. TOXIC AIR POLLUTANTS NON-CARCINOGENIC INCREMENTS.

01. Toxic Air Pollutant Non-carcinogenic Increments. Those ambient air quality increments based on occupational exposure limits for airborne toxic chemicals expressed in terms of a screening emission level or an acceptable ambient concentration for a non-carcinogenic toxic air pollutant. ()

02. Non-carcinogens Table. The screening emissions levels (EL) and acceptable ambient concentrations (AAC) for non-carcinogens are as provided in the following table. The AAC in this section are twenty-four (24) hour averages. (3-28-23)()

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
60-35-5	Acetamide (NY)	--	0.002	0.0003

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
64-19-7	Acetic acid	25	1.67	1.25
108-24-7	Acetic anhydride	20	1.33	1
67-64-1	Acetone	1780	119	89
75-05-8	Acetonitrile	67	4.47	3.35
540-59-0	Acetylene dichloride, See 1,2-Dichloroethylene			
79-27-6	Acetylene tetrabromide	15	1	.75
107-02-8	Acrolein	0.25	0.017	0.0125
79-10-7	Acrylic acid	30	2	1.5
107-18-6	Allyl alcohol	5	0.333	.25
106-92-3	Allyl glycidyl ether	22	1.47	1.1
2179-59-1	Allyl propyl disulfide	12	0.8	0.6
7429-90-5	Aluminum Including:			
NA	Metal & Oxide	10	0.667	0.5
NA	Pyro powders	5	0.333	0.25
NA	Soluble salts	2	0.133	0.10
NA	Alkyls not otherwise classified	2	0.133	0.10
141-43-5	2-Aminoethanol, See Ethanolamine			
504-29-0	2-Aminopyridine	2	0.133	0.10
7664-41-7	Ammonia	18	1.2	0.9
12125-02-9	Ammonium chloride fume	10	0.667	0.5
3825-26-1	Ammonium perfluor-octanoate	0.1	0.007	0.05
7773-06-0	Ammonium sulfamate	10	0.667	0.5
628-63-7	n-Amyl acetate	530	35.3	26.5
626-38-0	Sec-Amyl acetate	665	44.3	33.25
7440-36-0	Antimony & compounds, as Sb (handling & use)	0.5	0.033	0.025
86-88-4	ANTU	0.3	0.02	0.015
7784-42-1	Arsine	0.2	0.013	0.01
86-50-0	Azinphos-methyl	0.2	0.013	0.01
7440-39-3	Barium, soluble compounds, as Ba	0.5	0.033	0.025
17804-35-2	Benomyl	10	0.67	0.5
7106-51-4	p-Benzoquinone, See Quinone			
94-36-0	Benzoyl peroxide	5	0.333	0.25
92-52-4	Biphenyl	1.5	0.1	0.075
1304-82-1	Bismuth telluride undoped	10	0.667	0.05

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
NA	Bismuth telluride if selenium doped	5	0.333	0.25
1303-96-4	Borates, tetra odium salts - Including:			
NA	Anhydrous	1	0.067	0.05
NA	Decahydrate	5	0.333	0.25
NA	Pentahydrate	1	0.067	0.05
1303-86-2	Boron oxide	10	0.667	0.5
10294-33-4	Boron tribromide	10	0.667	0.5
7637-07-2	Boron trifluoride	3	0.2	0.25
314-40-9	Bromacil	10	0.667	0.5
7726-95-6	Bromine	0.7	0.047	0.035
7789-30-2	Bromine penta-fluoride	0.7	0.047	0.035
75-25-2	Bromoform	5	0.333	0.25
109-79-5	Butanethiol, see Butyl mercaptan			
78-93-3	2-Butanone, see Methyl ethyl ketone			
112-07-2	2-butoxyethyl acetate	---	8.33	1.25
111-76-2	2-Butoxyethanol (EGBG)	120	8	6
123-86-4	n-Butyl acetate	710	47.3	35.5
105-46-4	sec-Butyl acetate	950	63.3	47.5
540-88-5	tert-Butyl acetate	950	63.3	47.5
141-32-2	Butyl acrylate	55	3.67	2.75
71-36-3	n-Butyl alcohol	150	10	7.5
78-92-2	Sec-Butyl alcohol	305	20.3	15.25
75-65-0	tert-Butyl alcohol	300	20	15
109-73-9	Butylamine	15	1	.75
124-17-4	Butyl carbitol acetate (ID)	---	0.846	.625
1189-85-1	tert-Butyl chromate, as CrO3	0.1	0.007	.005
2426-08-6	n-Butyl glycidyl ether	135	9	6.75
138-22-7	n-Butyl lactate	25	1.67	1.25
109-79-5	Butyl mercaptan	1.8	0.12	0.09
89-72-5	o-sec-Butylphenol	30	2	1.5
98-51-1	p-tert-Butyltoluene	60	4	3
1317-65-3	Calcium carbonate	10	0.667	0.5
156-62-7	Calcium cyanamide	0.5	0.033	0.025
1305-62-0	Calcium hydroxide	5	0.333	0.25

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
1305-78-8	Calcium oxide	2	0.133	0.1
1344-95-2	Calcium silicate (synthetic)	10	0.667	0.5
13397-24-5	Calcium sulfate	10	0.667	0.5
76-22-2	Camphor, synthetic	12	0.8	0.6
105-60-2	Caprolactam - Including:			
	Dust	1	0.067	0.05
	Vapor	20	1.33	1.0
1333-86-4	Carbon black	3.5	0.23	0.175
2425-06-1	Captafol	0.1	0.007	0.005
133-06-2	Captan	5	0.333	0.25
463-58-1	Carbonyl sulfide	0.4	0.027	0.02
63-25-2	Carbaryl	5	0.333	0.25
1563-66-2	Carbofuran	0.1	0.007	0.005
75-15-0	Carbon disulfide	30	2	1.5
558-13-4	Carbon tetrabromide	1.4	0.093	0.07
75-44-5	Carbonyl chloride, See Phosgene			
353-50-4	Carbonyl fluoride	5	0.333	0.25
120-80-9	Catechol	20	1.33	1.0
21351-79-1	Cesium hydroxide	2	0.133	0.10
133-90-4	Chloramben (PL)	---	887	133
8001-35-2	Chlorinated camphene	0.5	0.0333	0.025
31242-93-0	Chlorinated diphenyl oxide	0.5	0.033	0.025
7782-50-5	Chlorine	3	0.2	0.15
10049-04-4	Chlorine dioxide	0.3	0.02	0.015
7790-91-2	Chlorine trifluoride (CL)	0.38	0.025	0.002
107-20-0	Chloroacetaldehyde	0.32	0.021	0.015
78-95-5	Chloroacetone	0.38	0.0253	0.019
532-27-4	a-Chloroacetophenone	0.32	0.021	0.016
79-04-9	Chloroacetyl chloride	0.2	0.013	0.01
108-90-7	Chlorobenzene	350	23.3	17.5
510-15-6	Chlorobenzilate (PL1)	---	0.047	0.035
2698-41-1	O-Chlorobenzylidene malonitrile (CL)	0.4	0.0027	0.03
126-99-8	2-Chloro-1,3-butadiene, see B-Chloroprene			
107-07-3	2-Chloroethanol, see Ethylene chlorohydrin			

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
600-25-9	1-Chloro-1-nitro propane	10	0.667	0.5
95-57-8	2-Chlorophenol (and all isomers) (ID)	---	0.033	0.025
76-06-2	Chloropicrin	0.7	0.047	0.037
126-99-8	B-chloroprene	36	2.4	1.8
2039-87-4	o-Chlorostyrene	285	19	14.25
95-49-8	o-Chlorotoluene	250	16.7	12.5
1929-82-4	2-Chloro-6-(tri-chloromethyl) pyridine, see Nitrapyrin			
2921-88-2	Chlorpyrifos	0.2	0.013	0.01
7440-47-3	Chromium metal - Including:	0.5	0.033	0.025
7440-47-3	Chromium (II) compounds, as Cr	0.5	0.033	0.025
16065-83-1	Chromium (III) compounds, as Cr	0.5	0.033	0.025
2971-90-6	Clopidol	10	0.667	0.5
NA	Coal dust (<5% silica)	2	0.133	0.1
10210-68-1	Cobalt carbonyl as Co	0.1	0.007	0.005
16842-03-8	Cobalt hydrocarbonyl as Co	0.1	0.007	0.005
7440-48-4	Cobalt metal, dust, and fume	0.05	0.0033	0.0025
7440-50-8	Copper:			
7440-50-8	Fume	0.2	0.013	0.01
7440-50-8	Dusts & mists, as Cu	1	0.067	0.05
95-48-7	o-Cresol	22	1.47	1.1
108-39-4	m-Cresol	22	1.47	1.1
106-44-5	p-Cresol	22	1.47	1.1
1319-77-3	Cresols/Cresylic Acid (isomers and mixtures)	22	1.47	1.1
123-73-9	Crotonaldehyde	5.7	0.38	0.285
299-86-5	Cruformate	5	0.333	0.25
98-82-8	Cumene	245	16.3	12.25
420-04-2	Cyanamide	2	0.133	0.1
592-01-8	Cyanide and compounds as CN	5	0.333	0.25
110-82-7	Cyclohexane	1050	70	52.5
108-93-0	Cyclohexanol	200	13.3	10
108-94-1	Cyclohexanone	100	6.67	5
110-83-8	Cyclohexene	1015	67.7	50.75
108-91-8	Cyclohexylamine	41	2.73	2.05
121-82-4	Cyclonite	1.5	0.1	0.075

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
542-92-7	Cyclopentadiene	200	13.3	10
287-92-3	Cyclopentane	1720	114.667	86
94-75-7	2,4-D	10	0.667	0.5
17702-41-9	Decaborane	0.3	0.02	0.015
8065-48-3	Demeton	0.1	0.007	0.005
123-42-2	Diacetone alcohol	240	16	12
39393-37-8	Dialkyl phthalate (ID)	---	16.4	2.46
107-15-3	1,2-Diaminoethane, See Ethylenediamine			
333-41-5	Diazinon	0.1	0.007	0.005
334-88-3	Diazomethane	0.34	0.023	0.017
19287-45-7	Diborane	0.1	0.007	0.005
102-81-8	2-N-Dibutylamino ethanol	14	0.933	0.7
2528-36-1	Dibutyl phenyl phosphate	3.5	0.233	0.175
107-66-4	Dibutyl phosphate	8.6	0.573	0.43
84-74-2	Dibutyl phthalate	5	0.333	0.25
7572-29-4	Dichloroacetylene	0.39	0.0026	0.0195
95-50-1	o-Dichlorobenzene	300	20	15
106-46-7	1,4-Dichlorobenzene	450	30	22.5
118-52-5	1,3-Dichloro-5, 5-dimethyl hydantoin	0.2	0.013	0.025
75-34-3	Dichloroethane	405	27	20.25
540-59-0	1,2-Dichloroethylene	790	52.7	39.5
111-44-4	Dichloroethyl ether	30	2	1.5
75-43-4	Dichlorofluoromethane	40	2.67	2
594-72-9	1, 1-Dichloro-1-nitroethane	10	0.667	0.5
78-87-5	1,2-Dichloropropane, see Propylene dichloride			
75-99-0	2,2-Dichloropropionic acid	6	0.4	0.3
62-73-7	Dichlorvos	1	0.067	0.05
141-66-2	Dicrotophos	0.25	0.017	0.125
77-73-6	Dicyclopentadiene	30	2	1.5
102-54-5	Dicyclopentadienyl iron	10	0.667	0.5
111-42-2	Diethanolamine	15	1	0.75
109-89-7	Diethylamine	30	2	1.5
100-37-8	2-Diethylamino-ethanol	50	3.33	2.5
111-40-0	Diethylene triamine	4	0.267	0.2

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
60-29-7	Diethyl ether	1200	80	60
96-22-0	Diethyl Ketone	705	47	35.25
84-66-2	Diethyl phthalate	5	0.333	0.25
2238-07-5	Diglycidyl ether (DGE)	0.53	0.035	0.0265
123-31-9	Dihydroxybenzene, see Hydroquinone			
108-83-8	Diisobutyl ketone	145	9.67	7.25
108-18-9	Diisopropylamine	20	1.33	1
127-19-5	Dimethyl acetamide	35	2.33	1.75
124-40-3	Dimethylamine	9.2	0.613	0.46
60-11-7	Dimethyl aminoazo-benzene (NY)	---	0.002	0.0003
1300-73-8	Dimethylamino-benzene, see Xylidine			
121-69-7	Dimethylaniline (N,N-Dimethylaniline)	25	1.67	1.25
1330-20-7	Dimethylbenzene, see Xylene			
300-76-5	Dimethyl-1,2-dibromo-2-dichloroethyl phosphate, see Naled			
68-12-2	Dimethylformamide	30	2	1.5
108-83-8	2,6-Dimethyl-4-heptanone, see Diisobutyl ketone			
131-11-3	Dimethylphthalate	5	0.333	0.25
148-01-6	Dinitolmide	5	0.333	0.25
528-29-0	Dinitrobenzene	1	0.067	0.05
99-65-0	m (or) 1,3-Dinitrobenzene	1	0.067	0.05
100-25-4	p (or) 1,4-Dinitrobenzene	1	0.067	0.05
534-52-1	Dinitro-o-cresol	0.2	0.013	0.01
148-01-6	3,5-Dinitro-o-toluamide, see Dinitolmide			
117-84-0	N-Dioctyl Phthalate	5	0.333	0.25
78-34-2	Dioxathion	0.2	0.013	0.01
92-52-4	Diphenyl, see Biphenyl			
122-39-4	Diphenylamine	10	0.667	0.5
	Diphenyl methane diisocyanate, see Methylene-diphenyl diisocyanate			
34590-94-8	Dipropylene glycol methyl ether	600	40	30
123-19-3	Dipropyl ketone	235	15.7	11.75
85-00-7	Diquat	0.5	0.033	0.01
97-77-8	Disulfiram	2	0.133	0.1

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
298-04-4	Disulfoton	0.1	0.007	0.005
128-37-0	2,6-Ditert. butyl-p-cresol	10	0.667	0.5
330-54-1	Diuron	10	0.667	0.5
108-57-6	Divinyl benzene	50	3.33	2.5
1302-74-5	Emery (corundum) total dust (> 1% silica)	10	0.667	0.5
115-29-7	Endosulfan	0.1	0.007	0.005
72-20-8	Endrin	0.1	0.007	0.005
13838-16-9	Enflurane	566	37.7	28.3
1395-21-7	Enzymes, see Subtilisins			
2104-64-5	EPN (Ethoxy-4-Nitro-phenoxy phenylphosphine)	0.5	0.033	0.025
106-88-7	1,2-Epoxybutane (MI)	---	0.8	0.6
75-56-9	1,2-Epoxypropane, see Propylene oxide			
556-52-5	2,3-Epoxy-1-propanol, see Glycidol			
75-08-1	Ethanethiol, see Ethyl mercaptan			
141-43-5	Ethanolamine	8	0.533	0.4
563-12-2	Ethion	0.4	0.027	0.02
110-80-5	2-Ethoxyethanol	19	1.27	0.95
111-15-9	2-Ethoxyethyl acetate (EGEEA)	27	1.8	1.35
141-78-6	Ethyl acetate	1400	93.3	70
64-17-5	Ethyl alcohol	1880	125	94
75-04-7	Ethylamine	18	1.2	0.9
541-85-5	Ethyl amyl ketone	130	8.67	6.5
100-41-4	Ethyl benzene	435	29	21.75
74-96-4	Ethyl bromide	22	1.47	1.1
106-35-4	Ethyl butyl ketone	230	15.3	11.5
51-79-6	Ethyl carbamate (Urethane) (WA)	---	0.002	0.0015
75-00-3	Ethyl chloride	2640	176	132
107-07-3	Ethylene chlorohydrin	3	0.2	0.15
107-15-3	Ethylenediamine	25	1.67	1.25
107-06-2	Ethylene dichloride	40	2.667	2
107-21-1	Ethylene glycol vapor (CL)	127	0.846	6.35
628-96-6	Ethylene glycol denigrate	0.31	0.021	0.016
110-49-6	Ethylene glycol methyl ether acetate, see 2-Methoxyethyl acetate			

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
96-45-7	Ethylene thiourea (PL2)	---	0.047	0.035
109-94-4	Ethyl formate	300	20	15
16219-75-3	Ethylidene norbornene (CL)	25	0.167	1.25
75-08-1	Ethyl mercaptan	1	0.067	0.05
100-74-3	N-Ethylmorpholine	23	1.53	1.15
78-10-4	Ethyl silicate	85	5.67	4.25
22224-92-6	Fenamiphos	0.1	0.007	0.005
115-90-2	Fensulfothion	0.1	0.007	0.005
55-38-9	Fenthion	0.2	0.013	0.01
14484-64-1	Ferbam	10	0.667	0.5
12604-58-9	Ferrovandium dust	1	0.067	0.05
NA	Fibrous glass dust	10	0.667	0.5
NA	Fine Mineral Fibers - Including: mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less. (ID)	--	0.661	0.5
NA	Fluorides, as F	2.5	0.167	0.125
7782-41-4	Fluorine	2	0.133	0.1
944-22-9	Fonofos	0.1	0.007	0.005
75-12-7	Formamide	30	2	1.5
64-18-6	Formic acid	9.4	0.627	0.47
98-01-1	Furfural	8	0.533	0.4
98-00-0	Furfuryl alcohol	40	2.67	2
7782-65-2	Germanium tetrahydride	0.6	0.04	0.03
NA	Glass, Fibrous or dust, see Fibrous glass dust			
111-30-8	Glutaraldehyde (CL)	0.82	0.0047	0.041
556-52-5	Glycidol	75	5	3.75
110-80-5	Glycol monoethyl ether, see 2-Ethoxyethanol			
7440-58-6	Hafnium	0.5	0.033	0.025
110-43-0	2-Heptanone, see Methyl n-amyl ketone			
106-35-4	3-Heptanone, see Ethyl butyl ketone			
151-67-7	Halothane	404	26.9	20.2
142-82-5	Heptane (n-Heptane)	1640	109	82
77-47-4	Hexachlorocyclopentadiene	0.1	0.007	0.005
1335-87-1	Hexachloronaphthalene	0.2	0.013	0.010

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
684-16-2	Hexafluoroacetone	0.7	0.047	0.035
822-06-0	Hexamethylene diisocyanate	0.03	0.002	0.0015
680-31-9	Hexamethylphosphoramide (WA)	---	0.002	0.0015
110-54-3	Hexane (n-Hexane)	180	12	9
591-78-6	2-Hexanone, see Methyl n-butyl ketone			
108-10-1	Hexone, see Methyl isobutyl ketone			
108-84-9	sec-Hexyl acetate	300	20	15
107-41-5	Hexylene glycol (CL)	121	0.806	6.05
37275-59-5	Hydrogenated terphenyls	5	0.333	0.25
10035-10-6	Hydrogen bromide (CL)	10	0.0667	0.5
7647-01-0	Hydrogen chloride (CL)	7.5	0.05	0.375
7722-84-1	Hydrogen peroxide	1.5	0.1	0.075
7783-06-4	Hydrogen sulfide	14	0.933	0.7
123-31-9	Hydroquinone	2	0.133	0.1
123-42-2	4-Hydroxy-4-Methyl-2-pentanone, see Diacetone alcohol			
999-61-1	2 -Hydroxypropyl acrylate	3	0.2	0.15
95-13-6	Indene	45	3	2.25
7440-74-6	Indium & compounds as In	0.1	0.007	0.005
7553-56-2	Iodine (CL)	0.1	0.0067	0.005
75-47-8	Iodoform	10	0.667	0.5
1309-37-1	Iron oxide fume (Fe ₂ O ₃) as Fe	5	0.333	0.25
13463-40-6	Iron pentacarbonyl as Fe	0.8	0.053	0.04
7439-89-6	Iron salts, soluble, as Fe	1	0.067	0.05
123-92-2	Isoamyl acetate	525	35	26.25
123-51-3	Isoamyl alcohol	360	24	18
110-19-0	Isobutyl acetate	700	46.7	35
78-83-1	Isobutyl alcohol	150	10	6
26952-21-6	Isooctyl alcohol	270	18	13.5
78-59-1	Isophorone	28	1.867	1.4
4098-71-9	Isophorone diisocyanate	0.09	0.006	0.0045
109-59-1	Isopropoxyethanol	105	7	5.25
108-21-4	Isopropyl Acetate	1040	69.3	52
67-63-0	Isopropyl alcohol	980	65.3	49
75-31-0	Isopropylamine	12	0.8	0.6

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
643-28-7	N-Isopropylaniline	10	0.667	0.5
108-20-3	Isopropyl ether	1040	69.3	52
4016-14-2	Isopropyl glycidyl ether (IGE)	240	16	12
1332-58-7	Kaolin (respirable dust)	2	0.133	0.1
463-51-4	Ketene	0.9	0.06	0.045
7580-67-8	Lithium hydride	0.025	0.002	0.00125
546-93-0	Magnesite	10	0.667	0.5
1309-48-4	Magnesium oxide fume	10	0.667	0.5
121-75-5	Malathion	10	0.667	0.5
108-31-6	Maleic anhydride	1	0.067	0.05
7439-96-5	Manganese as Mn Including:			
7439-96-5	Dust & compounds	5	0.333	0.25
7439-96-5	Fume	1	0.067	0.05
101-68-8	MDI, see Methylene diphenyl isocyanate			
NA	Mercaptans not otherwise listed (ID)	---	0.033	0.025
141-79-7	Mesityl oxide	60	4	3
79-41-4	Methacrylic acid	70	4.67	3.5
74-93-1	Methanethiol, see Methyl mercaptan			
67-56-1	Methanol	260	17.3	13
16752-77-5	Methomyl	2.5	0.17	0.125
72-43-5	Methoxychlor	10	0.667	0.5
109-86-4	2-Methoxyethanol	16	1.07	0.8
110-49-6	2-Methoxyethyl acetate	24	1.6	1.2
150-76-5	4-Methoxyphenol	5	0.333	0.25
108-65-6	1-methoxy-2-propyl acetate (ID)	n/a	24	3.6
79-20-9	Methyl acetate	610	40.7	30.5
74-99-7	Methyl acetylene	1640	109	82
NA	Methyl acetylene-propadiene mix (MAPP)	1640	109	82
96-33-3	Methyl acrylate	35	2.33	1.75
126-98-7	Methylacrylonitrile	3	0.2	0.15
74-89-5	Methylamine	12	0.8	0.6
108-11-2	Methyl emyl alcohol, see Methyl isobutyl carbinol			
110-43-0	Methyl n-amyl ketone	235	15.7	11.75
100-61-8	N-Methyl aniline	2	0.133	0.1

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
74-83-9	Methyl bromide	19	1.27	0.95
591-78-6	Methyl n-butyl ketone	20	1.33	1
74-87-3	Methyl chloride	103	6.867	5.15
71-55-6	Methyl chloroform	1910	127	95.5
137-05-3	Methyl 2-cyano-acrylate	8	0.533	0.4
25639-42-3	Methylcyclohexanol	235	15.7	11.75
583-60-8	o-Methylcyclohexanone	230	15.3	11.5
8022-00-2	Methyl demeton	0.5	0.033	0.01
101-68-8	Methylenediphenyl diisocyanate (MDI)	0.05	0.003	0.0025
5124-30-1	Methylene bis (4-cyclohexyl isocyanate)	0.11	0.007	0.0055
78-93-3	Methyl ethyl ketone (MEK)	590	39.3	29.5
1338-23-4	Methyl ethyl ketone peroxide (CL)	1.5	0.01	0.0075
107-31-3	Methyl formate	246	16.4	12.3
541-85-5	5-Methyl-3-heptanone, see Ethyl amyl ketone			
110-12-3	Methyl isoamyl ketone	240	16	12
108-11-2	Methyl isobutyl carbinol	104	6.93	5.2
108-10-1	Methyl isobutyl ketone	205	13.7	10.25
624-83-9	Methyl isocyanate	0.05	0.003	0.0025
563-80-4	Methyl isopropyl ketone	705	47	35.25
74-93-1	Methyl mercaptan	0.5	0.033	0.025
80-62-6	Methyl methacrylate	410	27.3	20.5
298-00-0	Methyl parathion	0.2	0.013	0.01
107-87-9	Methyl propyl ketone	700	46.7	35
681-84-5	Methyl silicate	6	0.4	0.3
98-83-9	a-Methyl styrene	240	16	10.20
109-87-5	Methylal (dimethoxymethane)	3110	207	155.5
108-87-2	Methylcyclohexane	1610	107	80.5
21087-64-9	Metribuzin	5	0.333	0.25
7786-34-7	Mevinphos	0.1	0.007	0.005
12001-26-2	Mica (Respirable dust)	3	0.2	0.15
NA	Mineral Wool Fiber (no asbestos)	10	0.667	0.5
7439-98-7	Molybdenum as Mo - Including:			
NA	Soluble compounds	5	0.333	0.25
NA	Insoluble compounds	10	0.667	0.5

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
108-90-7	Monochlorobenzene, see Chlorobenzene			
6923-22-4	Monocrotophos	0.25	0.017	0.0125
110-91-8	Morpholine	70	4.67	0.35
300-76-5	Naled	3	0.2	0.15
91-20-3	Naphthalene	50	3.33	2.5
54-11-5	Nicotine	0.5	0.033	0.025
1929-82-4	Nitrapyrin	10	0.667	0.5
7697-37-2	Nitric acid	5	0.333	0.25
100-01-6	p-Nitroaniline	3	0.2	0.15
98-95-3	Nitrobenzene	5	0.333	0.25
100-00-5	p-Nitrochlorobenzene	3	0.2	0.15
79-24-3	Nitroethane	310	20.7	15.5
7783-54-2	Nitrogen trifluoride	29	1.93	1.45
55-63-0	Nitroglycerin	0.46	0.031	0.023
75-52-5	Nitromethane	50	3.333	2.5
108-03-2	1-Nitropropane	90	6	4.5
99-08-1	m (or) 3-Nitrotoluene	11	0.733	0.55
88-72-2	o (or) 2-Nitrotoluene	11	0.733	0.55
99-99-0	p (or) 4-Nitrotoluene	11	0.733	0.55
76-06-2	Nitrotrichloromethane, see Chloropicrin			
10024-97-2	Nitrous oxide	90	6	4.5
111-84-2	Nonane	1050	70	52.5
2234-13-1	Octachloronaphthalene	0.1	0.007	0.005
111-65-9	Octane	1400	93.3	70
NA	Oil mist, mineral	5	0.333	0.25
20816-12-0	Osmium tetroxide as Os	0.002	0.0001	0.0001
144-62-7	Oxalic acid	1	0.067	0.05
7783-41-7	Oxygen difluoride (CL)	0.11	0.0007	0.0005
8002-74-2	Paraffin wax fume	2	0.133	0.1
4685-14-7	Paraquat	0.1	0.007	0.007
NA	Paraquat, all Compounds	0.1	0.007	0.005
56-38-2	Parathion	0.1	0.007	0.005
19624-22-7	Pentaborane	0.01	0.001	0.0005
1321-64-8	Pentachloronaphthalene	0.5	0.033	0.025

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
82-68-8	Pentachloronitrobenzene	0.5	0.0333	0.025
87-86-5	Pentachlorophenol	0.5	0.033	0.025
109-66-0	Pentane	1770	118	88.5
107-87-9	2-Pentanone, see Methyl propyl ketone			
594-42-3	Perchloromethyl mercaptan	0.8	0.053	0.04
7616-94-6	Perchloryl Fluoride	13	0.867	0.65
93763-70-3	Perlite	10	0.667	0.5
532-27-4	Phenacyl chloride, see a-Chloroacetophenone			
108-95-2	Phenol	19	1.27	0.95
92-84-2	Phenothiazine	5	0.333	0.25
108-45-2	m-Phenylenediamine	0.1	0.0067	0.005
106-50-3	p-Phenylenediamine	0.1	0.007	0.005
101-84-8	Phenyl ether, vapor	7	0.467	0.035
122-60-1	Phenyl glycidyl ether (PGE)	6	0.4	0.3
108-98-5	Phenyl mercaptan	2	0.133	0.1
638-21-1	Phenylphosphine (CL)	0.25	0.0017	0.00125
298-02-2	Phorate	0.05	0.003	0.001
7786-34-7	Phosdrin, see Mevinphos			
75-44-5	Phosgene	0.4	0.027	0.02
7803-51-2	Phosphine	0.4	0.027	0.02
7664-38-2	Phosphoric acid	1	0.067	0.05
7723-14-0	Phosphorus	0.1	0.007	0.005
10025-87-3	Phosphorus oxychloride	0.6	0.04	0.030
10026-13-8	Phosphorus penta-chloride	1	0.067	0.05
1313-80-3	Phosphorus penta-sulfide	1	0.067	0.05
1314-56-3	Phosphorus pentoxide (ID)	--	0.067	0.05
7719-12-2	Phosphorus trichloride	1.5	0.1	0.075
85-44-9	Phthalic anhydride	6	0.4	0.3
626-17-5	m-Phthalodinitrile	5	0.333	0.25
1918-02-1	Picloram	10	0.667	0.5
88-89-1	Picric acid	0.1	0.006	0.005
83-26-1	Pindone	0.1	0.007	0.005
142-64-3	Piperazine dihydro-chloride	5	0.333	0.25
83-26-1	2-Pivaloyl-l,3-indandione, see Pindone			

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
7440-06-4	Platinum - Including:			
7440-06-4	Metal	1	0.067	0.05
NA	Soluble salts, as Pt	0.002	0.0001	0.0001
65997-15-1	Portland cement	10	0.667	0.5
1310-58-3	Potassium hydroxide	2	0.133	0.1
107-19-7	Propargyl alcohol	2.3	0.153	0.115
123-38-6	Propionaldehyde (LA)	0.43	0.0287	0.0215
79-09-4	Propionic acid	30	2	1.5
114-26-1	Propoxur (Baygon)	0.5	0.033	0.025
109-60-4	n-Propyl acetate	840	56	42
71-23-8	Propyl alcohol	500	33.3	25
78-87-5	Propylene dichloride	347	23.133	17.35
6423-43-4	Propylene glycol dinitrate	0.34	0.023	0.017
107-98-2	Propylene glycol monomethyl ether	360	24	18
75-56-9	Propylene oxide	48	3.2	2.4
627-13-4	n-Propyl nitrate	105	7	5.25
8003-34-7	Pyrethrum	5	0.333	0.25
110-86-1	Pyridine	15	1	0.75
120-80-9	Pyrocatechol, see Catechol			
106-51-4	Quinone	0.4	0.027	0.02
121-84-4	RDX, see Cyclonite			
NA	Refractory Ceramic Fibers (see entry for specific content of emissions, ex: silica)			
108-46-3	Resorcinol	45	3	2.25
7440-16-6	Rhodium - Including:			
7440-16-6	Metal	1	0.067	0.05
NA	Insoluble compounds, as Rh	1	0.067	0.05
NA	Soluble compounds, as Rh	0.01	0.001	0.0005
299-84-3	Ronnel	10	0.667	0.5
83-79-4	Rotenone (commercial)	5	0.333	0.25
8030-30-6	Rubber solvent (Naphtha)	1590	106	79.5
14167-18-1	Salcoine as CO	0.1	0.007	0.005
7782-49-2	Selenium	0.2	0.013	0.010

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
NA	Selenium and compounds as Se	0.2	0.013	0.01
136-78-7	Sesone	10	0.667	0.5
7803-62-5	Silane, see silicon tetrahydride			
NA	Silica - amorphous - Including:			
61790-53-2	Diatomaceous earth (uncalcined)	10	0.667	0.5
112926-00-8	Precipitated silica	10	0.667	0.5
112926-00-8	Silica gel	10	0.667	0.5
NA	Silica, crystalline - Including:			
14464-46-1	Cristobalite	0.05	0.0033	0.0025
14808-60-7	quartz	0.1	0.0067	0.005
60676-86-0	silica, fused	0.1	0.0067	0.005
15468-32-3	tridymite	0.05	0.0033	0.0025
1317-95-9	Tripoli	0.1	0.0067	0.005
7440-21-3	Silicon	10	0.667	0.5
409-21-2	Silicon carbide	10	0.667	0.5
7803-62-5	Silicon tetrahydride	7	0.467	0.35
7440-22-4	Silver - Including			
7440-22-4	Metal	0.1	0.007	0.005
7440-22-4	Soluble compounds, as Ag	0.01	0.001	0.005
26628-22-8	Sodium azide (CL)	0.3	0.002	0.0015
7631-90-5	Sodium bisulfite	5	0.333	0.25
136-78-7	Sodium 2,4-dichloro-phenoxyethyl sulfate, see Sesone			
62-74-8	Sodium fluoroacetate	0.05	0.003	0.0025
1310-73-2	Sodium hydroxide	2	0.133	0.1
7681-57-4	Sodium metabisulfite	5	0.333	0.25
NA	Stearates (not including toxic metals)	10	0.667	0.5
7803-52-3	Stibine	0.5	0.033	0.025
8052-41-3	Stoddard solvent	525	35	26.25
57-24-9	Strychnine	0.15	0.01	0.0075
60-41-3	Strychnine sulfate as strichnine	0.15	0.01	0.01
100-42-5	Styrene monomer (ID)	--	6.67	1
1395-21-7	Subtilisins (Proteolytic enzymes as 100% pure crystalline enzyme)	0.00006	4.0E-07	3.0E-7
3689-24-5	Sulfotep	0.2	0.013	0.01

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
7664-93-9	Sulfuric acid	1	0.067	0.05
10025-67-9	Sulfur monochloride (CL)	6	0.04	0.03
5714-22-7	Sulfur pentafluoride (CL)	0.1	0.0007	0.0005
7783-60-0	Sulfur tetrafluoride (CL)	0.4	0.0027	0.002
2699-79-8	Sulfuryl fluoride	20	1.33	1
35400-43-2	Sulprofos	1	0.067	0.05
8065-48-3	Systox, see Demeton			
93-76-5	2,4,5-Trichlorophen-oxyacetic acid (2,4,5,-T)	10	0.667	0.05
7440-25-7	Tantalum	5	0.333	0.25
3689-24-5	TEDP, see Sulfotep			
13494-80-9	Tellurium & Compounds as Te	0.1	0.007	0.005
7783-80-4	Tellurium hexafluoride as Te	0.2	0.013	0.01
3383-96-8	Temephos	10	0.667	0.5
107-49-3	TEPP (Tetraethyl-pyrophosphate)	0.05	0.003	0.0025
26140-60-3	Terphenyls	4.7	0.313	0.235
1335-88-2	Tetrachloronaphthalene	2	0.133	0.10
78-00-2	Tetraethyl Lead	0.1	0.007	0.005
597-64-8	Tetraethyltin as organic tin	0.1	0.007	0.005
109-99-9	Tetrahydrofuran	590	39.3	29.5
75-74-1	Tetramethyl lead, as Pb	0.15	0.01	0.0075
3333-52-6	Tetramethyl succinonitrile	3	0.2	0.15
509-14-8	Tetranitromethane	8	0.533	0.4
7722-88-5	Tetrasodium pyrophosphate	5	0.333	0.25
479-45-8	Tetryl	1.5	0.1	0.075
7440-28-0	Thallium, soluble Compounds, as Tl	0.1	0.007	0.005
96-69-5	4,4-Thiobis (6 tert, butyl-m-cresol)	10	0.667	0.5
68-11-1	Thioglycolic acid	4	0.267	0.2
7719-09-7	Thionyl chloride (CL)	4.9	0.0327	0.245
137-26-8	Thiram	5	0.333	0.25
7440-31-5	Tin - Including:			
7440-31-5	Metal	2	0.133	0.1
NA	Oxide & inorganic compounds, except SnH ₄ , as Sn	2	0.133	0.1
NA	Organic compounds as Sn	0.1	0.007	0.005
108-88-3	Toluene (toluol)	375	25	18.75

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
584-84-9	Toluene-2,4-di-isocyanate (TDI)	0.04	0.003	0.002
10-41-54	p-Toluenesulfonic acid (ID)	n/a	0.067	0.05
126-73-8	Tributyl phosphate	2.2	0.147	0.11
76-03-9	Trichloroacetic acid	7	0.467	0.35
120-82-1	1,2,4-Trichlorobenzene (CL)	37	2.47	1.85
79-01-6	Trichloroethylene	269	17.93	13.45
1321-65-9	Trichloronaphthalene	5	0.333	0.25
76-06-2	Trichloronitromethane, See Chloropicrin			
95-95-4	2,4,5-Trichlorophenol (MA)	---	---	0.0016
96-18-4	1,2,3-Trichloropropane	60	4	3
121-44-8	Triethylamine	4.1	0.27	0.2
1582-09-8	Trifluralin (PL3)	---	7.7	1.15
552-30-7	Trimellitic anhydride	0.04	0.003	0.002
75-50-3	Trimethylamine	12	0.8	0.6
25551-13-7	Trimethyl benzene (mixed and individual isomers)	123	8.2	6.15
540-84-1	2,2,4-Trimethyl-pentane	350	23.3	17.5
121-45-9	Trimethyl phosphite	10	0.667	0.5
479-45-8	2,4,6-Trinitrophenyl-methylnitramine, see Tetryl			
78-30-8	Triorthocresyl phosphate	0.1	0.007	0.005
603-34-9	Triphenyl amine	5	0.333	0.25
115-86-6	Triphenyl phosphate	3	0.2	0.15
7440-33-7	Tungsten - Including:			
NA	Insoluble compounds	5	0.333	0.25
NA	Soluble compounds	1	0.067	0.05
8006-64-2	Turpentine	560	37.3	28
7440-61-1	Uranium (natural) Soluble & insoluble compounds as U	0.2	0.013	0.01
110-62-3	n-Valeraldehyde	175	11.7	8.75
1314-62-1	Vanadium, as V2O5 Respirable Dust & fume	0.05	0.003	0.0025
108-05-4	Vinyl acetate	35	2.3	1.75
25013-15-4	Vinyl toluene	240	16	12
8032-32-4	VM & P Naphtha	1370	91.3	68.5
81-81-2	Warfarin	0.1	0.007	0.005
1330-20-7	Xylene (o-, m-, p-isomers)	435	29	21.75

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
1477-55-0	m-Xylene a, a-diamine (CL)	0.1	0.0007	0.0005
1300-73-8	Xylidine	2.5	1.67	0.125
7440-65-5	Yttrium (Metal and compounds as Y)	1	0.067	0.05
7440-66-6	Zinc metal (ID)	--	0.667	0.5
7646-85-7	Zinc chloride fume	1	0.067	0.05
1314-13-2	Zinc oxide fume	5	0.333	0.05
1314-13-2	Zinc oxide dust	10	0.667	0.5
7440-67-7	Zirconium compounds as Zr	5	0.333	0.25

Note: **ACGIH:** American Conference of Government Industrial Hygienists; **CAS:** Chemical Abstract Service; **CL:** Derived from ACGIH ceiling Limit UF = 10; **ID:** Idaho ~~Division~~ Department of Environmental Quality. Not OEL based; **LA:** From LA Dept. of Environmental Quality. Not OEL based eight (8) hour TWA; **MA:** From MA Dept. of Environmental Protection, Div. of Air Quality Control. Not OEL based, annual averaging time, no UF; **MI:** From MI Dept. of Natural Resources, Air Quality Div. Based on toxicological data, annual averaging time, no UF; **NY:** From New York Dept. of Conservation, Div. of Air Quality. Not OEL based, annual averaging. time no UF; **OEL:** Reference Occupational Exposure Level; **PL:** From Phil. Dept. of Air Management Services. Not OEL based, annual averaging time no UF; **PL1:** From Phil. Dept. of Air Management Services. Unspecified OEL based, annual averaging time, UF=10; **PL2:** From Phil. Dept. of Air Management Services. Not OEL based annual averaging. time, UF=10; **PL3:** From Phil. Dept. of Air Management Services. Not OEL based, annual averaging. time, UF=1000.; **TWA:** Time Weighted Average; **UF:** Uncertainty Factor; **WA:** From Washington Dept. of Ecology, Air Programs. Acceptable Source Impact Level based. (3-28-23)()

586. TOXIC AIR POLLUTANTS CARCINOGENIC INCREMENTS.

01. Toxic Air Pollutant Carcinogenic Increments. Those ambient air quality increments based on the probability of developing excess cancers over a seventy (70) year lifetime exposure to one microgram per cubic meter (1 ug/m3) of a given carcinogen and expressed in terms of a screening emission level or an acceptable ambient concentration for a carcinogenic toxic air pollutant. ()

02. Carcinogen Table. The screening emissions levels (EL) and acceptable ambient concentrations (AACC) for carcinogens are as provided in the following table. The AACC in this section are annual averages. (3-28-23)()

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
75-07-0	Acetaldehyde	2.2E-06	3.0E-03	4.5E-01
79-06-1	Acrylamide	1.3E-03	5.1E-06	7.7E-04
107-13-1	Acrylonitrile	6.8E-05	9.8E-05	1.5E-02
309-00-2	Aldrin	4.9E-03	1.3E-06	2.0E-04
62-53-3	Aniline	7.4E-06	9.0E-04	1.4E-01
140-57-8	Aramite	7.1E-06	9.3E-04	1.4E-01
NA	Aroclor, all (PCB) (ID)	---	6.6E-05	1.0E-02
7440-38-2	Arsenic compounds	4.3E-03	1.5E-06	2.3E-04

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
1332-21-4	Asbestos (Fibers /M.L.)	2.3E-01	N/A	4.0E-06
71-43-2	Benzene	8.3E-06	8.0E-04	1.2E-01
92-87-5	Benzidine	6.7E-02	9.9E-08	1.5E-05
50-32-8	Benzo(a)pyrene	3.3E-03	2.0E-06	3.0E-04
7440-41-7	Beryllium & compounds	2.4E-04	2.8E-05	4.2E-03
106-99-0	1,3-Butadiene	2.8E-04	2.4E-05	3.6E-03
111-44-4	Bis (2-chloroethyl) ether	3.3E-04	2.0E-05	3.0E-03
542-88-1	Bis (chloromethyl) ether	6.2E-02	1.0E-07	1.6E-05
108-60-1	Bis (2-chloro-1-methyl- ethyl) ether	2.0E-05	3.3E-04	5.0E-02
117-81-7	Bis (2-ethylhexyl) phthalate	2.4E-07	2.8E-02	4.2E+00
7440-43-9	Cadmium and compounds	1.8E-03	3.7E-06	5.6E-04
56-23-5	Carbon tetrachloride	1.5E-05	4.4E-04	6.7E-02
57-74-9	Chlordane	3.7E-04	1.8E-04	2.7E-03
67-66-3	Chloroform	2.3E-05	2.8E-04	4.3E-02
18540-29-9	Chromium (VI) & compounds as Cr+6	1.2E-02	5.6E-07	8.3E-05
NA	Coal Tar Volitiles as benzene			
NA	Coke oven emissions	6.2E-04	1.1E-05	1.6E-03
8001-58-9	Creosote (ID) See coal tar volatiles as benzene extractables			
50-29-3	DDT (Dichlorodi phenyltrichloroethane)	9.7E-05	6.8E-05	1.0E-02
96-12-8	1,2-Dibromo-3-chloropropane	6.3E-03	1.0E-06	1.6E-04
75-34-3	1,1 dichloroethane	2.6E-05	2.5E-04	3.8E-02
107-06-2	1,2 dichloroethane	2.6E-05	2.5E-04	3.8E-02
75-35-4	1,1 dichloroethylene	5.0E-05	1.3E-04	2.0E-02
75-09-2	Dichloromethane (Methylenechloride)	4.1E-06	1.6E-03	2.4E-01
542-75-6	1,3 dichloropropene	4.0E-06	1.7E-03	2.5E-01
764-41-0	1,4-Dichloro-2-butene	2.6E-03	2.5E-06	3.8E-04
60-57-1	Dieldrin	4.6E-03	1.4E-06	2.1E-04
56-53-1	Diethylstilbestrol	1.4E-01	4.7E-08	7.1E-06
123-91-1	1,4 dioxane	1.4E-06	4.8E-03	7.1E-01

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
	Dioxin and Furans (2,3,7,8,TCDD & mixtures) Dioxin and Furan emissions are considered as one TAP and expressed as an equivalent emission of 2,3,7,8, TCDD based on the relative potency of the isomers in accordance with US EPA guidelines. U.S. EPA, (2010) Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2,3,7,8-Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds. Risk Assessment Forum, Washington, DC. EPA/600/R-10/005.			
122-66-7	1,2-Diphenylhydrazine	2.2E-04	3.0E-05	4.5E-03
106-89-8	Epichlorohydrin	1.2E-06	5.6E-03	8.3E-01
106-93-4	Ethylene dibromide	2.2E-04	3.0E-05	4.5E-03
75-21-8	Ethylene oxide	1.0E-04	6.7E-05	1.0E-02
50-00-0	Formaldehyde	1.3E-05	5.1E-04	7.7E-02
76-44-8	Heptachlor	1.3E-03	5.1E-06	7.7E-04
1024-57-3	Heptachlor Epoxide	2.6E-03	2.5E-06	3.5E-04
118-74-1	Hexachlorobenzene	4.9E-04	1.3E-05	2.0E-03
87-68-3	Hexachlorobutadiene	2.0E-05	3.3E-04	5.0E-02
	Hexachlorocyclo-hexane, Technical	5.1E-04	1.3E-05	1.9E-03
319-84-6	Hexachlorocyclohexane (Lindane) Alpha (BHC)	1.8E-03	3.7E-06	5.6E-04
319-85-7	Hexachlorocyclohexane (Lindane) Beta (BHC)	5.3E-04	1.3E-05	1.8E-03
58-89-9	Hexachlorocyclohexane (Lindane) Gamma (BHC)	3.8E-04	1.7E-05	2.6E-03
67-72-1	Hexachloroethane	4.0E-06	1.7E-03	2.5E-01
302-01-2	Hydrazine	2.9E-03	2.3E-06	3.4E-04
10034-93-2	Hydrazine Sulfate	2.9E-03	2.2E-06	3.5E-04
56-49-5	3-methylcholanthrene	2.7E-03	2.5E-06	3.7E-04
75-09-2	Methylene Chloride	4.1E-06	1.6E-03	2.4E-01
74-87-3	Methyl chloride	3.6E-06	1.9E-03	2.8E-01
101-14-4	4,4-Methylene bis(2-Chloroaniline)	4.7E-05	1.4E-04	2.1E-02
60-34-4	Methyl hydrazine	3.1E-04	2.2E-05	3.2E-03
7440-02-0	Nickel	2.4E-04	2.7E-05	4.2E-03
12035-72-2	Nickel Subsulfide	4.8E-04	1.4E-05	2.1E-02
7440-02-0	Nickel Refinery Dust	2.4E-04	2.8E-05	4.2E-02
79-46-9	2-Nitropropane	2.7E-02	2.5E-07	3.7E-05
55-18-5	N-Nitrosodiethylamine (diethylnitrosoamine) (DEN)	4.3E-02	1.5E-07	2.3E-05
62-75-9	N-Nitrosodimethylamine	1.4E-02	4.8E-07	7.1E-05
924-16-3	N-Nitrosodi-n-butylamine	1.6E-03	4.1E-06	6.3E-04
930-55-2	N-Nitrosopyrrolidine	6.1E-04	1.1E-05	1.6E-03

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
684-93-5	N-Nitroso-N-methylurea (NMU)	3.5E-01	1.9E-08	2.9E-06
82-68-8	Pentachloronitrobenzene	7.3E-05	9.1E-05	1.4E-02
127-18-4	Perchloroethylene (see tetrachloroethylene)			
NA	Polyaromatic Hydrocarbons (except 7-PAH group)	7.3E-05	9.1E-05	1.4E-02
	(Polycyclic Organic Matter or 7-PAH group) For emissions of the 7-PAH group, the following PAHs are considered together as one TAP, equivalent in potency to benzo(a)pyrene: benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenzo(a,h)anthracene, chrysene, indeno(1,2,3-cd)pyrene, benzo(a)pyrene. (WA)			
23950-58-5	Promanide	4.6E-06	1.5E-03	2.2E-01
50-55-5	Reserpine	3.0E-03	2.2E-06	3.3E-04
1746-01-6	2,3,7,8,-Tetrachlorodibenzo-p-dioxin (2,3,7,8, -TCDD)	4.5.E+01	1.5E-10	2.2E-08
NA	Soots and Tars (ID) See coal tar volatiles as benzene extractables.			
79-34-5	1,1,2,2,Tetrachloro-ethane	5.8E-05	1.1E-05	1.7E-02
127-18-4	Tetrachloroethylene	4.8E-07	1.3E-02	2.1E+00
79-00-5	1,1,2 - trichloroethane	1.6E-05	4.2E-04	6.2E-02
62-56-6	Thiourea	5.5E-04	1.2E-05	1.8E-03
8001-35-2	Toxaphene	3.2E-04	2.0E-05	3.0E-03
79-01-6	Trichloroethylene	1.3E-06	5.1E-04	7.7E-01
88-06-2	2,4,6 - Trichlorophenol	5.7E-06	1.2E-03	1.8E-01
75-01-4	Vinyl chloride	7.1E-06	9.4E-04	1.4E-01

Note: **CAS:** Chemical Abstract Service; **ID:** Idaho ~~Division~~ Department of Environmental Quality. Not OEL based; **URF:** Unit Risk Factor from EPA. **WA:** From Washington Dept. of Ecology, Air Programs. Acceptable Source Impact Level based. (3-28-23)()

(BREAK IN CONTINUITY OF SECTIONS)

600. RULES FOR CONTROL OF OPEN BURNING.

01. General. Sections 600 through 624 establish rules to protect human health and the environment from air pollutants resulting from open burning as well as to reduce the visibility impairment in mandatory Class I Federal Areas in accordance with the regional haze long-term strategy referenced at Section 667. (3-28-23)()

02. Open Burning. Burning of matter where the products of combustion are emitted directly into the ambient air without passing through a stack, duct or chimney. ()

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 – WATER QUALITY STANDARDS

DOCKET NO. 58-0102-2401

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 2025 Idaho State Legislature for final approval. Pursuant to Section 67-5224(2)(c), Idaho Code, this pending rule must be approved by concurrent resolution of the Legislature. Pursuant to Section 67-5291(2), Idaho Code, all temporary, pending, and final rules of any nature may be approved or rejected by a concurrent resolution of the Legislature. The concurrent resolution shall state the effective date of the approval or rejection. If approved by concurrent resolution, the rules will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

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 Chapter 36, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: This rulemaking was initiated to remove Sections 851, Petroleum Release Reporting, Investigation, and Confirmation, and 852, Petroleum Release Response and Corrective Action, from IDAPA 58.01.02, and move to IDAPA 58.01.24, Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites. This is a companion rulemaking to Docket No. 58-0124-2401. A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 7, 2024, [Vol. 24-8, pages 194 through 200](#). DEQ received no public comments, and the rule has been adopted as initially proposed. The board meeting documents are available at Water Quality: [Docket No. 58-0102-2401](#) | Idaho Department of Environmental Quality.

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 questions concerning the rulemaking, contact the undersigned.

Dated this 4th day of December, 2024.

Diane Cutler
Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Phone: (208)373-0165
Diane.Cutler@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 action is authorized by Sections 39-105, 39-107, and Chapter 36, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. 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 August 23, 2024. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: This rulemaking has been initiated to remove Sections 851, Petroleum Release Reporting, Investigation, and Confirmation, and 852, Petroleum Release Response and Corrective Action, from IDAPA 58.01.02, Water Quality Standards, and move to IDAPA 58.01.24, Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites (Docket No. 58-0124-2401). Sections 851 and 852 address petroleum releases and storage tanks, which are not water quality standard regulations as described in Section 1314(a) of the Clean Water Act and are better suited for placement in IDAPA 58.01.24. Docket No. 58-0102-2401 is a companion rulemaking to Docket No. 58-0124-2401 for the purpose of moving sections 851 and 852 from one chapter to the other.

The proposed rule text is in legislative format. Language the agency proposes to remove is struck out. It is these deletions to which public comment should be addressed. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2025 Idaho State Legislature, the rule will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

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: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking, and the transfer of Sections 851 and 852 to IDAPA 58.01.24 was negotiated under Docket No. 58-0124-2401.

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: Not applicable.

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact Elizabeth Spelsberg at elizabeth.spelsberg@deq.idaho.gov or (208) 373-0158. The webpage for this docket is available at <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/water-quality-docket-no-58-0102-2401/>.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before September 6, 2024. Submit written comments to:

Elizabeth Spelsberg
Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706
elizabeth.spelsberg@deq.idaho.gov

Dated this 7th day of August, 2024.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0102-2401

58.01.02 – WATER QUALITY STANDARDS

~~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: (3-31-22)

~~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. (3-31-22)~~

~~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. (3-31-22)~~

~~e. Monitoring results from a release detection method that indicate a release may have occurred unless: (3-31-22)~~

~~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 (3-31-22)~~

~~ii. In the case of inventory control, a second month of data does not confirm the initial result. (3-31-22)~~

~~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. (3-31-22)

~~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: (3-31-22)

~~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. (3-31-22)~~

~~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. (3-31-22)~~

~~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. (3-31-22)~~

~~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. (3-31-22)~~

~~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. (3-31-22)~~

~~i. If release has occurred, owners and operators shall begin corrective action in accordance with Section 852. (3-31-22)~~

~~ii. If test results for the PST system do not indicate that a release has occurred, further investigation is not required. (3-31-22)~~

~~**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. (3-31-22)~~

~~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. (3-31-22)~~

~~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. (3-31-22)~~

~~**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: (3-31-22)~~

~~a. Identify and mitigate fire, explosion and vapor hazards; (3-31-22)~~

~~b. Take immediate action to prevent any further release of petroleum into the environment; and (3-31-22)~~

~~c. Report the release to the Department. (3-31-22)~~

~~**02. Initial Abatement Measures.** Unless directed to do otherwise by the Department, owners and operators shall perform the following abatement measures: (3-31-22)~~

~~a. Remove as much of the petroleum from the leaking PST system as is necessary to prevent further release to the environment; (3-31-22)~~

~~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; (3-31-22)~~

~~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; (3-31-22)~~

~~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. (3-31-22)~~

~~**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: (3-31-22)~~

~~**a.** Data on the nature and estimated quantity of release; (3-31-22)~~

~~**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 (3-31-22)~~

~~**e.** Data from measurements that assess the site for the presence of petroleum contamination including: (3-31-22)~~

~~**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 (3-31-22)~~

~~**ii.** Measurements to determine the presence of free product. (3-31-22)~~

~~**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: (3-31-22)~~

~~**i.** If the Department determines that the information shows that no further corrective action is required, owners and operators shall be notified accordingly. (3-31-22)~~

~~**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. (3-31-22)~~

~~**iii.** If the Department determines that the information shows that any of the conditions in Subsections 852.05.a. through 852.05.e. exist, owners and operators shall comply with the requirements in Subsections 852.04 through 852.07. (3-31-22)~~

~~**04. Free Product Removal.** At sites where investigations under Subsection 852.03.e.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: (3-31-22)~~

~~**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; (3-31-22)~~

~~**b.** Use abatement of free product migration as a minimum objective for the design of the free product removal system; (3-31-22)~~

~~**e.** Handle any flammable products in a safe and competent manner to prevent fires or explosions; and (3-31-22)~~

~~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: (3-31-22)~~

- ~~i. The name of the person(s) responsible for implementing the free product removal measures; (3-31-22)~~
- ~~ii. The estimated quantity, type and thickness of free product observed or measured in wells, boreholes, and excavations; (3-31-22)~~
- ~~iii. The type of free product recovery system used; (3-31-22)~~
- ~~iv. Whether any discharge will take place on site or off site during the recovery operation and where this discharge will be located; (3-31-22)~~
- ~~v. The type of treatment applied to, and the effluent quality expected from, any discharge; (3-31-22)~~
- ~~vi. The steps that have been or are being taken to obtain necessary permits for any discharge; and (3-31-22)~~
- ~~vii. The disposition of the recovered free product. (3-31-22)~~

~~**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: (3-31-22)~~

~~**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; (3-31-22)~~

~~**b.** Free product is found to need recovery in compliance with Subsection 852.04; (3-31-22)~~

~~**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. (3-31-22)~~

~~**d.** Unless determined otherwise by the Department, investigations conducted under this Subsection, 852.05, shall include, but are not necessarily limited to the following: (3-31-22)~~

~~i. The physical and chemical characteristics of the petroleum product including its toxicity, persistence, and potential for migration; (3-31-22)~~

~~ii. The type and age of the PST system, inventory loss, and type of containment failure; (3-31-22)~~

~~iii. The hydrogeologic characteristics of the release site and the surrounding area; (3-31-22)~~

~~iv. The background concentrations of contaminants in soil, surface water and ground water; (3-31-22)~~

~~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; (3-31-22)~~

~~vi. Information on ownership and use of any well identified pursuant to Subsection 852.05.d.v.; (3-31-22)~~

- ~~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; (3-31-22)~~
- ~~viii. A description of contaminant stratigraphy with accompanying geologic cross-section drawings; (3-31-22)~~
- ~~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; (3-31-22)~~
- ~~x. The potential effects of residual contamination on nearby surface water and ground water; and (3-31-22)~~
- ~~xi. A discussion of laboratory analytical methods and information pertaining to laboratory certification. (3-31-22)~~
- ~~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. (3-31-22)~~
- ~~**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. (3-31-22)~~
 - ~~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: (3-31-22)~~
 - ~~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; (3-31-22)~~
 - ~~ii. The physical and chemical characteristics of the petroleum product including its toxicity, persistence, and potential for migration; (3-31-22)~~
 - ~~iii. The hydrogeologic characteristics of the release site and the surrounding area; (3-31-22)~~
 - ~~iv. The proximity, quality, and current and future uses of nearby surface water and ground water; (3-31-22)~~
 - ~~v. The potential effects of residual contamination on nearby surface water and ground water; and (3-31-22)~~
 - ~~vi. Other information assembled in compliance with Section 851. (3-31-22)~~
 - ~~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. (3-31-22)~~
 - ~~e. 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:~~ (3-31-22)

- ~~i. Notify the Department of their intention to begin cleanup;~~ (3-31-22)
- ~~ii. Comply with any conditions imposed by the Department, including halting cleanup or mitigating adverse consequences from cleanup activities; and~~ (3-31-22)
- ~~iii. Incorporate these self initiated cleanup measures in the corrective action plan that is submitted to the Department for approval.~~ (3-31-22)

~~**07. Compliance.** If the Department determines that any of the conditions in 852.05.a. through 852.05.e. exist, owners and operators shall be given an opportunity to enter into a consent order with the Department.~~ (3-31-22)

~~**a.** The Department shall send owners and operators a consent order that sets forth at least the following:~~ (3-31-22)

- ~~i. A schedule for owners and operators to submit the information collected in investigating the release site in compliance with Subsection 852.05.~~ (3-31-22)
- ~~ii. A schedule for owners and operators to submit, and a criteria for, a corrective action plan in compliance with Subsection 852.06.~~ (3-31-22)
- ~~iii. A schedule for the Department to review, modify, and approve the site release investigation and corrective action plan.~~ (3-31-22)
- ~~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.~~ (3-31-22)

~~**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.~~ (3-31-22)

~~**e.** 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.~~ (3-31-22)

~~853~~**1. -- 999. (RESERVED)**

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.03 – INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES AND RULES FOR CLEANING OF SEPTIC TANKS

DOCKET NO. 58-0103-2301 (ZBR CHAPTER REWRITE)

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 2025 Idaho State Legislature for final approval. Pursuant to Section 67-5224(2)(c), Idaho Code, this pending rule must be approved by concurrent resolution of the Legislature. Pursuant to Section 67-5291(2), Idaho Code, all temporary, pending, and final rules of any nature may be approved or rejected by a concurrent resolution of the Legislature. The concurrent resolution shall state the effective date of the approval or rejection. If approved by concurrent resolution, the rules will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

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 Chapters 1 and 36, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: This rulemaking was initiated in compliance with [Executive Order No. 2020-01, Zero-Based Regulation \(EO 2020-01\)](#), issued by Governor Little on January 16, 2020. A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, June 5, 2024, [Vol. 24-6, pages 99 through 131](#). After consideration of public comments, the proposed rule has been revised at Subsection 013.04.j., a revision to fix a typographical error was made at Subsection 007.08.a. and editorial revisions were made in Sections 004-007, 010, 013, and 050. The remainder of the rule has been adopted as initially proposed. The board meeting documents are available at <https://www.deq.idaho.gov/individual-subsurface-sewage-disposal-docket-no-58-0103-2301/>.

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 questions concerning the rulemaking, contact the undersigned.

Dated this 4th day of December, 2024.

Diane Cutler
Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Phone: (208)373-0165
Diane.Cutler@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 action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. 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 June 19, 2024. If no such written request is received, a public hearing will not be held. Two public meetings were held during the negotiated rulemaking process.

DESCRIPTIVE SUMMARY: DEQ initiated this rulemaking in compliance with [Executive Order No. 2020-01](#), Zero-Based Regulation (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at https://adminrules.idaho.gov/forms_menu.html. This is one of the DEQ rule chapters up for review in 2024. The goal of the rulemaking is to perform a critical and comprehensive review of the entire chapter in an attempt to reduce overall regulatory burden, streamline various provisions, and increase clarity and ease of use.

Major proposed changes to the rule include removing and replacing definitions, revising and simplifying septic tank approvals, removing specific requirements for large septic tanks, reducing setbacks to surface water, combining the cleaning of septic tanks sections into one section, simplifying the permitting process for service providers, and identifying certain provisions of the Technical Guidance Manual for Individual and Subsurface Sewage Disposal Systems to be moved into the 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. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2025 Idaho State Legislature, the rule will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

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 resulting from this rulemaking: Not applicable.

NEGOTIATED RULEMAKING: Negotiated rulemaking was conducted pursuant to Section 67-5220, Idaho Code. On September 6, 2023, the Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking was published in the Idaho Administrative Bulletin. At the conclusion of the negotiated rulemaking process, DEQ submitted the draft rule to the Division of Financial Management for review. DEQ formatted the draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at <https://www.deq.idaho.gov/individual-subsurface-sewage-disposal-docket-no-58-0103-2301/>.

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: Not applicable.

IDAHO CODE SECTION 39-107D STATEMENT: This rule regulates an activity not regulated by the federal government. Chapters 1 and 36, Title 39, Idaho Code, grant authority to the Board to adopt rules and standards to protect the environment and health of the state of Idaho for the installation of cottage site sewage treatment facilities and for the issuance of pollution source permits.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Peter Adams at peter.adams@deq.idaho.gov or (208)954-1438.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before June 26, 2024. Submit written comments to:

Peter Adams
Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706
peter.adams@deq.idaho.gov

Dated this 5th day of June, 2024

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 58-0103-2301

Italicized red text that is *double underscored* indicates amendments to the proposed text as adopted in the pending rule.

**58.01.03 – INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES
AND RULES FOR CLEANING OF SEPTIC TANKS**

000. 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.~~ (3-31-22)()

001. ~~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.~~" (3-31-22)

02. ~~Scope~~. ~~The provisions of~~ these rules: ()

a. ~~establish limitations~~ *Establish limits* on the construction and use of individual and subsurface sewage disposal systems; ()

b. ~~and~~ *Establish the* requirements for obtaining an installation permit and ~~an installer's~~ registration permits *for installers, service providers, and pumpers*; ()

c. ~~These rules~~ *Apply* to every individual and every subsurface blackwaste and wastewater treatment

system in Idaho: ~~and~~ ()

~~d.~~ ~~These rules also e~~ Establish general requirements for ~~the~~ handling, transportation, and disposal of septic tank wastes ~~and for obtaining a septic tank pumping permit.~~ (3-31-22)()

~~032.~~ **Conflict of Rules, Standards, and Ordinances.** ~~In any case w~~ Where a provision of these rules ~~is found to be in~~ conflicts with a provision of any state or local zoning, building, fire, safety, or health regulation, standard, or ordinance, the provision that, in the ~~Director's~~ judgment ~~of the Director~~, establishes the higher standard for ~~the promotion and protection of~~ promoting and protecting the health and safety of the people, ~~shall~~ prevail. (3-31-22)()

~~043.~~ **Responsibilities.** (3-31-22)

a. Every owner of real property is jointly and individually responsible for: (3-31-22)

i. Storing, treating, and disposing of blackwaste and wastewater generated on that property. (3-31-22)

ii. Connecting all plumbing fixtures on ~~that the~~ property that discharge wastewaters to an approved wastewater system or facility. (3-31-22)()

iii. Obtaining necessary permits and approvals for ~~installation of~~ installing individual or subsurface blackwaste and wastewater disposal systems. (3-31-22)()

iv. ~~Abandonment of~~ Abandoning an individual or subsurface sewage disposal system. (3-31-22)()

b. Each engineer, building contractor, individual or subsurface disposal system installer, excavator, plumber, supplier, and ~~every other any~~ person, who ~~for compensation shall~~ designs, constructs, abandons, or provides any system or ~~part thereof~~ component, is jointly and individually responsible for compliance with ~~each of these all~~ rules ~~that are~~ relevant to that service or product. (3-31-22)()

002. REFERENCED MATERIAL.

01. **NSF International.** The NSF International (NSF) NSF/ANSI 40: Residential Onsite Systems and NSF/ANSI 245: Nitrogen Reduction are referenced ~~in these rules.~~ ~~The NSF/ANSI 40 and NSF/ANSI 245~~ and are available at www.nsf.org/services/by-industry/water-wastewater/onsite-wastewater. (3-31-22)()

02. **Technical Guidance Manual for Individual Subsurface Sewage Disposal Systems (TGM).** The TGM is referenced ~~in these rules~~ and available at ~~the Idaho~~ Department of Environmental Quality, ~~Surface and Wastewater Division~~, 1410 N. Hilton St., Boise, ID 83706, ~~<https://www.deq.idaho.gov>~~. (3-31-22)()

003. DEFINITIONS.

~~For the purposes of these rules, the following definitions apply~~ The meanings for the terms "department," "director," and "waters" are in Section 39-103, Idaho Code. (3-31-22)()

01. **Abandoned System.** A system ~~which has ceased to~~ that no longer receives blackwaste or wastewater due to diversion ~~of those wastes~~ to another treatment system or due to termination of waste flow for more than two (2) years. (3-31-22)()

02. **Absorption Bed.** A drainfield excavation exceeding six (6) feet in width. ()

03. **Alternative System.** Any system other than a standard system for which the Department has issued design guidelines or ~~which~~ the Director ~~judges to be~~ determines is a simple modification of a standard system. (3-31-22)()

a. A basic alternative system is any capping fill system, extra drainrock trench, gravelless trench system, steep-slope system, or other system specified in the TGM. ()

~~b.~~ A complex alternative system is any evapotranspiration system, ETPS, lagoon system, LSAS, pressure distribution system, PWTP system, intermittent sand filter, sand mound, or other system specified in the TGM. ()

~~03. Authorized or Approved.~~ The state of being sanctioned or acceptable to the Director as stated in a written document. (3-31-22)

~~04. Bedroom.~~ A habitable room within a dwelling that meets state or local building code requirements applicable to bedrooms and includes methods of ingress and egress. The local building authority may designate any additional room as a bedroom. ()

~~045. Blackwaste.~~ Human body waste, specifically excreta or urine. This includes toilet paper and other products used in the practice of personal hygiene. ~~As defined in IDAPA 58.01.16, Wastewater Rules.~~ (3-31-22)()

~~056. Blackwater.~~ A wastewater whose principal pollutant is blackwaste; a combination of blackwaste and water. ~~As defined in IDAPA 58.01.16, Wastewater Rules.~~ (3-31-22)()

~~06. Board.~~ Idaho State Board Of Environmental Quality. (3-31-22)

~~07. Building Sewer.~~ The extension of the building drain beginning five (5) feet outside the inner face of the building wall. (3-31-22)

~~08. Central System.~~ Any system ~~which that~~ receives blackwaste or wastewater in volumes exceeding twenty-five hundred (2,500) gallons per day; any system ~~which that~~ receives blackwaste or wastewater from more than two (2) dwelling units or more than two (2) buildings under separate ownership. (3-31-22)()

~~09. Construct.~~ To make, form, excavate, alter, expand, repair, or install a system, ~~and, their derivations.~~ (3-31-22)()

~~10. Director.~~ The Director of the Idaho Department of Environmental Quality or the Director's designee or authorized agent. (3-31-22)

~~10. Drainfield.~~ A system of aggregate-filled trenches, gravelless chamber systems, drip systems, absorption beds, or other approved subsurface dispersal methods that distribute wastewater effluent into the soil. Also known as a "leachfield" or "soil absorption system." ()

~~11. Dwelling Unit.~~ A single unit with complete independent living facilities for one (1) or more persons, including permanent improvements for living, sleeping, eating, cooking, and sanitation. ()

~~12. Existing System.~~ Any system ~~which was~~ installed ~~prior to~~ before the effective date of these rules. (3-31-22)()

~~123. Expand.~~ To enlarge any nonfailing system. (3-31-22)

~~134. Extended Treatment Package System (ETPS).~~ An advanced subsurface package sewage A wastewater treatment product that requires electricity and provides secondary wastewater treatment and/ or tertiary wastewater treatment to septic tank effluent for systems receiving less than twenty-five hundred (2,500) gallons per day. (3-31-22)()

~~145. Failing System.~~ Any system ~~which that~~ exhibits one (1) or more of the following characteristics: (3-31-22)()

a. ~~The system d~~ Does not meet the intent ~~of these rules as~~ stated in Subsection 004.01. (3-31-22)()

b. ~~The system f~~ Fails to accept blackwaste and wastewater; ~~or~~ (3-31-22)()

- c. ~~The system d~~ischarges blackwaste or wastewater into the waters ~~of the State~~ or onto the ground surface. (3-31-22)()
- 16. Gray Water.** As defined in IDAPA 58.01.16, Wastewater Rules. ()
- 157. Ground-Water.** ~~Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil~~ As defined in IDAPA 58.01.11, Ground Water Quality Rule. (3-31-22)()
- 168. High Groundwater Level -- Normal, Seasonal.** High ground-water level may be established by the ~~presence of low chroma mottles soil characteristics~~, actual ground-water monitoring, or historic records. (3-31-22)()
- a. ~~The n~~Normal high groundwater level is the highest elevation of ground-water that is maintained or exceeded ~~for a continuous ly period of for~~ six (6) weeks a year. (3-31-22)()
- b. The seasonal high groundwater level is the highest elevation of ground-water that is maintained or exceeded ~~for a continuous ly period of for~~ one (1) week a year. (3-31-22)()
- 17. 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.~~ (3-31-22)
- 189. Individual System.** Any standard, alternative, or subsurface disposal system ~~which that~~ is not a central system. (3-31-22)()
- ~~19~~**20. Install.** To excavate or ~~to~~ put in place a system or ~~a~~ component of a system. (3-31-22)()
- 201. 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. (3-31-22)()
- 242. Large Soil Absorption System (LSAS).** ~~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 that~~ receive less than two thousand five hundred (2,500) gallons per day. (3-31-22)()
- 223. Limiting Layer.** A ~~characteristic~~ subsurface layer or material ~~which will that~~ severely limits 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. (3-31-22)()
- 234. Manufactured Medium Sand.** Sand that meets the following gradation requirements:

Manufactured medium sand allowable particle size percent composition.	
Sieve Size	Passing (%)
4	95–100
8	80–100
16	50–85
30	25–60
50	10–30
100	2–10
200	<2

(3-31-22)

- 25. Minimum Tank Capacity.** The minimum required total liquid capacity of the septic tank facility. ()
- 24. 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. (3-31-22)
- 256. New System.** A system ~~which that~~ is or might be ~~authorized or~~ approved on or after the effective date of these rules. (3-31-22)()
- 267. Nondischarging System.** Any system ~~which is~~ designed and constructed to prevent ~~the~~ subsurface discharge of blackwaste or wastewater. (3-31-22)()
- 27. Permit.** An individual or subsurface system installation permit or installer's registration permit. (3-31-22)
- 28. 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 As defined in IDAPA 58.01.16, Wastewater Rules. (3-31-22)()
- 29. Proprietary Wastewater System Technology.** A manufactured product through which effluent flows and may be stored before infiltration. (3-31-22)
- 3029. Proprietary Wastewater Treatment System Product (PWTP).** A subsurface sewage treatment system that incorporates proprietary wastewater system technology to provide additional treatment to a septic tank effluent system A manufactured product that provides passive treatment to septic tank effluent for systems receiving less than twenty-five hundred (2,500) gallons per day. (3-31-22)()
- 31. 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. (3-31-22)
- 320. Repair.** To remake, reform, replace, or enlarge a failing system, or any component thereof as is necessary to restore proper operation. (3-31-22)()
- 331. Scarp.** The side of a hill, canyon, ditch, river bank, roadcut, or other geological feature characterized by a slope of forty-five (45) degrees (100% slope) or more from the horizontal. (3-31-22)()
- 32. Septic Tank.** A watertight, covered receptacle designed and constructed to receive wastewater discharge, separate solids from liquid, digest organic matter, store digested solids through a period of detention, and allow clarified liquids to discharge for final disposal. ()
- 33. Septic Tank Facility.** A septic tank or series of septic tanks preceding a subsurface disposal system. Tanks or compartments used for housing pretreatment products or used as dosing chambers are not considered part of the septic tank facility. ()
- 34. Septage.** As defined in IDAPA 58.01.16, Wastewater Rules. ()
- 345. 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. (3-31-22)
- 356. Sewage.** Sewage has the same meaning as wastewater As defined in IDAPA 58.01.16, Wastewater Rules. (3-31-22)()
- 36. Soil Texture.** The relative proportion of sand, silt, and clay particles in a mass of soil. (3-31-22)

37. **Standard System.** ~~Any system recognized by the Board through the adoption of design and construction regulations~~ An effluent sewer, one (1) or more aggregate filled trenches, and a gravity flow wastewater distribution system. (3-31-22)()

38. **Subsurface Disposal System.** Any system with a point of discharge beneath the earth's surface. (3-31-22)()

39. **Surface Water - Intermittent, Permanent, Temporary.** (3-31-22)

a. Any waters ~~of the State which flow or are contained in natural or man made depressions in the earth's surface. This includes, including~~ but ~~is~~ not limited to, lakes, streams, canals, and ditches. (3-31-22)()

b. An ~~i~~ntermittent surface water exists continuously for ~~a period of~~ more than two (2) months but not more than six (6) months a year. (3-31-22)()

c. A ~~p~~ermanent surface water exists continuously for ~~a period of~~ more than six (6) months a year. (3-31-22)()

d. A ~~t~~emporary surface water exists continuously for ~~a period of~~ less than two (2) months a year. (3-31-22)()

40. **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. (3-31-22)()

41. **Trench.** A drainfield excavation six (6) feet or less in width. ()

42. **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~~ As defined in IDAPA 58.01.16, Wastewater Rules. (3-31-22)()

42. **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.~~ (3-31-22)

43. **Water Table.** ~~The surface of an aquifer.~~ (3-31-22)

004. GENERAL REQUIREMENTS.

01. **Intent of Rules.** The Idaho Board of Environmental Quality, ~~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 ensure 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: (3-31-22)()

a. Are not accessible to insects, rodents, or other wild or domestic animals; (3-31-22)

b. Are not accessible to individuals; (3-31-22)

c. Do not ~~give rise to~~ create a public nuisance due to odor or unsightly appearance; (3-31-22)()

d. Do not injure or interfere with existing or potential beneficial uses of the waters ~~of the State; and~~ (3-31-22)()

e. Do not have an adverse impact on public health or the environment. ()

02. Compliance with Intent ~~Required~~. The Director ~~shall will~~ not authorize or approve any system if, in the ~~opinion of the~~ Director's opinion, the system will not ~~be (is does not) in compliance comply~~ with the intent of these rules. (3-31-22)()

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, or other substances detrimental to the system's performance or to groundwater quality cannot be discharged into any system unless that discharge is approved by the Director. (3-31-22)()

04. Increased Flows. Unless authorized by the Director, ~~no person shall it is unlawful for any person to~~ provide for or connect additional blackwaste or wastewater sources to any system if the resulting flow or volume would exceed the approved design flow of the system. (3-31-22)()

05. Failing System. The owner of any failing system ~~shall must~~ obtain a permit and ~~cause repair~~ the failing system's repair: (3-31-22)()

a. As soon as practical after the owner becomes aware of its failure; or (3-31-22)

b. As directed ~~in~~ with proper notice from the Director. (3-31-22)()

06. Subsurface Disposal System Replacement Area. An area of land ~~which is~~ suitable ~~in all respects~~ for the complete replacement of a new subsurface disposal system disposal field ~~shall must~~ be reserved as a replacement area. This area ~~will must~~ be kept vacant, free of vehicular traffic, and free of any soil modification ~~which that~~ would negatively affect its use as a replacement disposal field construction site. (3-31-22)()

07. Technical Guidance Committee (TGC). The Director ~~shall~~ appoints a TGC composed of three (3) representatives from the seven (7) Hhealth 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~~ are three (3) year terms. (3-31-22)()

08. TGC Duties ~~of the TGC~~. The TGC ~~shall~~ maintains the TGM ~~to be~~ used in the design, construction, alteration, operation, and maintenance of conventional systems, their components, and alternatives. The TGC ~~shall~~ reviews variances requests and commercially manufactured wastewater treatment components and systems at the request of the Director and provides recommendations. (3-31-22)()

09. TGM. The TGM maintained by the TGC ~~shall~~ provides 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. (3-31-22)()

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 installed in accordance with the TGC's recommendations ~~of the TGC~~ and is approved by the Director as ~~set forth~~ stated in Section 009. (3-31-22)()

005. PERMIT AND PERMIT APPLICATION.

01. Permit Required. Except as specified in Subsection 005.02 ~~it shall be unlawful for any no~~ person ~~to cause or to perform the modification~~ may modify, repair or expand or ~~construction of~~ install any individual or subsurface sewage disposal system within the state of Idaho unless there is a valid installation permit authorizing that activity. (3-31-22)()

02. Exceptions to Permit Requirement Permit Exceptions. The activities listed in this subsection may be lawfully performed in the absence of a valid installation permit. ~~They are, however,~~ but are subject to all other relevant rules and regulations. (3-31-22)()

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. (3-31-22)()

b. Individual and subsurface disposal systems may be repaired when needed ~~as a result of~~ due to clogged or broken solid piping or ~~of~~ malfunctions in an electrical or mechanical system. ~~Such repair~~ Repairs may not expand the system unless authorized by the Director. (3-31-22)()

03. **Permit Application.** The owner of the system or ~~the owner's~~ their authorized representative ~~shall make must submit the~~ application to the Director ~~in writing and in a manner or form prescribed by the Director in an approved form.~~ (3-31-22)()

04. ~~Contents of Application~~ Application Contents. ~~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: (3-31-22)()

- a. ~~The n~~ Name and address of the owner of the system and of the applicant, if different; (3-31-22)()
- b. ~~The l~~ Legal description of the parcel of land; (3-31-22)()
- c. ~~The t~~ Type of establishment served; (3-31-22)()
- d. ~~The m~~ Maximum number of persons served, number of bedrooms, or other appropriate measure of wastewater flow; (3-31-22)()
- e. ~~The t~~ Type of system; (3-31-22)()
- f. ~~The e~~ Construction activity (new construction, enlargement, repair); (3-31-22)()
- g. ~~A s~~ Scaled or dimensioned plot plan including, if needed, adjacent properties illustrating: (3-31-22)()
 - i. ~~The l~~ Location and size of all existing and proposed wastewater systems including disposal field replacement areas; (3-31-22)()
 - ii. ~~The l~~ Location of all existing water supply system features; (3-31-22)()
 - iii. ~~The l~~ Location of all surface waters; (3-31-22)()
 - iv. ~~The l~~ Location of scarps, cuts, and rock outcrops; (3-31-22)()
 - v. Land elevations, ~~surface contours, and ground slopes~~ between features of interest; (3-31-22)()
 - vi. Property lines, easements, and rights-of-way; and (3-31-22)
 - vii. Location and size of buildings and structures. (3-31-22)
- h. ~~The p~~ Plans and specifications of the proposed system ~~which include~~ including: (3-31-22)()
 - i. Diagrams of all system facilities ~~which are to be~~ made or fabricated at the site; (3-31-22)()
 - ii. ~~The m~~ Manufacturer's name and identification of any component approved ~~pursuant to~~ under Sections 007 and 009; and (3-31-22)()
 - iii. List of materials. (3-31-22)

- i. ~~Site evaluation report that includes but is not limited to a S~~soil description and profile, and groundwater data, ~~percolation or permeability test results and/or a site evaluation report;~~ (3-31-22)()
- j. ~~The n~~Nature and quantity of blackwaste and wastewater ~~which~~ the system ~~is to~~ will receive, including the basis for that estimate; (3-31-22)()
- k. Proposed operation, maintenance, and monitoring procedures to ~~insure~~ ensure the system's performance and failure detection; (3-31-22)()
- l. Copies of legal documents relating to access and to responsibilities for operation, maintenance, and monitoring; (3-31-22)
- m. ~~A s~~Statement from the local zoning or building authority indicating ~~that~~ the proposed system would not be contrary to local ordinances; (3-31-22)()
- n. ~~The s~~Signature of the owner of the ~~proposed~~ system and, if different, of the applicant; and (3-31-22)()
- 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. (3-31-22)()
05. ~~Basis for~~ Permit Application Denial. The Director may deny a permit application if in the Director's judgment: (3-31-22)()
- a. The application is incomplete, inaccurate, or misleading; (3-31-22)
- b. The system as proposed is not in compliance with applicable rules and regulations; (3-31-22)
- ~~e.~~ ~~The system as proposed would, when put into use, be considered a failing system;~~ (3-31-22)
- ~~d.~~ ~~The design and description of a public system was not made by a professional engineer;~~ (3-31-22)
- ~~ec.~~ ~~The P~~ublic or central wastewater treatment facilities are reasonably accessible. (3-31-22)()
06. Notice of Denial. Upon denial of an application the Director ~~shall~~ will notify the applicant of the reason for denial. (3-31-22)()
07. ~~Permit Issuance of Permit.~~ When, in the ~~Director's~~ opinion ~~of the Director~~ the system as proposed will ~~be in conformance~~ conform with applicable rules ~~and regulations~~, the Director ~~shall~~ will issue an "Individual and Subsurface System Installation Permit"; (3-31-22)()
08. ~~Valid Application and Permit Valid for One Year.~~ Unless otherwise stated on the application or permit, it ~~shall~~ will become invalid if the authorized construction or activity is not completed and approved within ~~one two~~ (~~±~~2) years of the date of issuance. (3-31-22)()
09. Permit Renewal. At the ~~Director's~~ discretion ~~of the Director~~, a permit may be renewed ~~one (1) or more times~~ upon request by the applicant or owner ~~provided that if~~ the request is received by the Director ~~prior to~~ before the permit's date of expiration. (3-31-22)()
10. ~~Immediate Effect of the Permit Effect.~~ A valid permit authorizes the construction of an individual or subsurface ~~disposal~~ 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 or~~ conditions is prohibited unless it is approved in advance by the Director. (3-31-22)()
- ~~11. Cottage Site Facility Certification.~~ A valid permit shall constitute certification and approval for the purposes of Section 39-3637, Idaho Code. (3-31-22)

~~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. (3-31-22)

~~131. 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~~ issuing the permit and be contained in the permit application. These conditions may relate to a specific date, dwelling density, ~~completion of a~~ municipal system completion or other circumstances ~~relative to the~~ regarding availability of central sewerage system services. (3-31-22)()

~~142. Operation, Maintenance, and Monitoring.~~ (3-31-22)()

a. 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 installation permit. (3-31-22)()

b. All operation, maintenance, and monitoring requirements of installation permits including effluent sampling ~~shall~~ must be perpetual unless: (3-31-22)()

i. The system is not installed; (3-31-22)

ii. The system is removed, abandoned, or replaced; or (3-31-22)

iii. The permit is amended or revoked by the Director. (3-31-22)

c. If a system ~~gains approval~~ is approved as described by the TGM, sampling requirements may be removed. (3-31-22)()

~~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.~~ (3-31-22)

~~163. Permit Fee.~~ All applications ~~shall~~ must 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". (3-31-22)()

~~006. INSTALLER'S REGISTRATION PERMIT AND SERVICE PROVIDER CERTIFICATION~~ REGISTRATION PERMITS FOR INSTALLERS AND SERVICE PROVIDERS.

~~01. Permit and Certification Required.~~ Every installer and service provider ~~shall~~ must 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~~ permit are available. (3-31-22)()

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. (3-31-22)()

b. A complex ~~alternative~~ system installer's ~~registration~~ permit is required to install evapotranspiration systems, ETSPs, lagoon systems, ~~large soil absorption systems~~ LSASs, pressure distribution systems, ~~proprietary wastewater treatment~~ PWTP systems, intermittent sand filters, sand mounds, or other alternative systems ~~as may be specified by the Director in the TGM.~~ (3-31-22)()

c. A service provider ~~certification permit~~ is required to perform operation, maintenance, or monitoring of ETSPs and any other Director-identified complex ~~alternative~~ systems. (3-31-22)()

02. **Examination.** The initial issuance of the installer's ~~permit and or~~ service provider's ~~certification~~ shall ~~permit will~~ be based on ~~the completion of~~ completing 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 examinations ~~shall be~~ are separate ~~exams~~. (3-31-22)()

03. **Permits ~~and~~ Certifications Required Annually.** ~~Registration permits and service provider certifications~~ Installer and service provider permits 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 will~~ 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. (3-31-22)()

04. **Contents of Application Contents.** (3-31-22)()

a. Applications for installer ~~permits~~ and service provider ~~certifications shall~~ permits must: (3-31-22)()

i. Be in writing; (3-31-22)()

ii. Be signed by the applicant or ~~by~~ an officer or authorized agent of a corporation; (3-31-22)()

iii. Contain the name and address of the applicant; and (3-31-22)

iv. Indicate whether the permit is ~~to be~~ for; (3-31-22)()

(1) Installation of standard and basic alternative systems; (3-31-22)

(2) Installation of standard, basic and complex alternative systems; or (3-31-22)

(3) ~~Installation of standard, basic and complex alternative systems and certification as a~~ service provider; and (3-31-22)()

v. Contain the expiration date of the bond required by Subsection 006.05. (3-31-22)

b. Additionally, for applicants seeking ~~certification as~~ a service provider permit, the application ~~shall also must~~ contain documentation of manufacturer specific training, ~~as required by~~ described in Subsection 006.06.a. (3-31-22)()

05. **Bond Required.** At the time of application, all applicants, ~~including those~~ seeking a basic or complex installer's permit, or a service provider ~~certification, shall permit must~~ 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 must~~: ()

a. Be in a form approved by the Director; ()

b. Be in the sum of ten thousand dollars (\$10,000) for a basic installer's or service provider's permit, or thirty thousand dollars (\$30,000) for a complex installer's permit; ()

c. ~~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;~~ and ()

d. ~~The bond shall be approved by the Director and must guarantee~~ 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~~ installer's or service provider's permit, or both. ()

06. Damages. Any person who suffers damage ~~as the result of from~~ negligent or wrongful acts of the installer or service provider or by the installer's 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 will~~, in addition to other legal remedies, have a right of action on the bond for all damages not exceeding ~~five ten~~ five ten thousand dollars (\$510,000) for standard and basic alternative systems or operation, maintenance, and monitoring by certified service providers or ~~fifteen thirty~~ fifteen thirty thousand dollars (\$1530,000) 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 must~~ not exceed the sum of ~~five ten~~ five ten thousand dollars (\$510,000) for standard and basic alternative systems or operations, maintenance, and monitoring by certified service providers or ~~fifteen thirty~~ fifteen thirty thousand dollars (\$1530,000) for complex alternative systems ~~or required operation, maintenance, or monitoring by certified service providers~~. (3-31-22)()

067. Service Provider Responsibilities. All ~~certified permitted~~ service providers who ~~provide operation, maintenance, or monitoring for~~ operate, maintain, or monitor any ~~complex alternative~~ system are responsible for compliance with ~~each of these all~~ rules ~~that are~~ relevant to those services. Additionally, each ~~certified~~ service provider ~~shall must~~: (3-31-22)()

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~~ operate, maintain, or monitor. Proper documentation includes a certificate or letter of training completion provided by the manufacturer and an expiration date of the manufacturer's certification. If a system manufacturer is no longer in business, that manufacturer-specific training is not required; (3-31-22)()

b. Maintain a comprehensive list of real property owners who contracted with the certified service provider, including the current real property owner name, service property address, real property owner contact address, and ~~subsurface sewage disposal installation~~ permit number. This list ~~shall must~~ be provided to the Director as part of the annual operation, maintenance, and monitoring reports for individual real property owners; (3-31-22)()

c. Notify the system owner in writing of any improper system function that cannot be remedied during ~~the time of~~ operation, maintenance, and monitoring services; and (3-31-22)()

d. Submit all operation, maintenance, and monitoring records in ~~the form of~~ an annual report for each individual real property owner for whom the service provider agrees to fulfill the real property owner's operation, maintenance, or monitoring responsibilities required in Subsection 009.03. The annual reports ~~are to must~~ be provided to the Director by the timeframe specified in the TGM for the specific ~~complex~~ alternative system for which operation, maintenance, or monitoring is required. (3-31-22)()

078. Exemption. An installer's permit ~~shall not be~~ is not required for: (3-31-22)()

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 (3-31-22)()

b. Owners installing their own standard or basic alternative systems as described in the TGM. (3-31-22)()

089. Application Fee. All applications ~~shall must~~ 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." (3-31-22)()

~~09. **Grounds for Revocation.** Failure to comply with these rules shall be grounds for revocation of the permit or the certification, or both. (3-31-22)~~

~~10. **Transfer from Non-Profit Operation and Maintenance Entity to Certified Service Provider.** (3-31-22)~~

~~a. Real property owners who want to install ETPSs 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 ETPS installation permits. (3-31-22)~~

~~b. Beginning July 1, 2017, real property owners who had ETPSs installed are not required to be members of non-profit operation and maintenance entities. To meet the operation, maintenance, and monitoring requirements of their ETPSs, real property owners shall retain a certified service provider for their existing ETPSs. (3-31-22)~~

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. (3-31-22)

02. Design. A professional engineer licensed by the state of Idaho must submit all septic tank designs to the Department for approval. If any design submitted for approval does not meet all requirements in Section 007, the engineer must demonstrate that any deviation is determined by sound engineering practice and meets the intent of the rules. ()

023. 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. (3-31-22)()

034. Concrete Septic Tanks. New concrete septic tanks will at a minimum meet the following requirements: (3-31-22)

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. (3-31-22)

b. ~~The C~~concrete lids or covers must be at least three (3) inches thick and adequately reinforced. (3-31-22)()

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). (3-31-22)

d. ~~The W~~wall sections poured separately must have interlocking joints on joining edge. (3-31-22)()

e. All concrete outlet baffles must be finished with an asphalt or other protective coating. (3-31-22)

045. Horizontal Dimension Limit. No interior horizontal dimension of a septic tank or compartment may be less than two (2) feet. (3-31-22)

056. Liquid Depth. The liquid depth ~~shall~~ must be at least two and one-half (2 1/2) feet ~~but not greater than five (5) feet.~~ (3-31-22)()

067. 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~~ must indicate the tank's inlet and outlet. (3-31-22)()

078. Minimum Tank Capacities. (3-31-22)

a. Tanks serving ~~one (1) or two (2)~~ single dwelling units: The minimum tank capacity is one thousand (1,000) gallons. For each bedroom over four (4) in a dwelling unit, add two hundred fifty (250) gallons.

MINIMUM CAPACITY PER DWELLING UNIT	
Number of Bedrooms	Minimum Liquid Capacity (Gallons)
1 or 2	900
3 or 4	1,000

For each bedroom over four (4) add two hundred fifty (250) gallons. (3-31-22) ()

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) per structure is one thousand (1,000) gallons or a volume equal to at least two (2) times the maximum daily flow, whichever is greater. (3-31-22) ()

089. Wastewater Flows from Various Establishments in Gallons per Day.

ESTABLISHMENTS	
DWELLING UNIT	
Single Family Dwelling, and Apartment , Mobile Homes, 3 bedroom. Add/subtract 50 gallons <u>per day</u> /bedroom	250/Unit
MULTIPLE RESIDENTIAL	
Hotel/ Motel : With Private Baths Without Private Baths	60/Bedspace 40/Bedspace
<u>Overnight Accommodation:</u> <u>Central Toilet</u> <u>Central Toilet & Shower</u>	<u>25/Person</u> <u>35/Person</u>
<u>Motel:</u> <u>With Kitchenette</u>	<u>40/Bedspace</u> <u>60/Bedspace</u>
<u>Boarding House:</u> <u>Add for each nonresident</u>	<u>150/Bedspace</u> <u>25</u>
Rooming House/Bunk House Staff Resident Nonresident	40/Resident 40/Staff 15/Staff
<u>Apartments</u>	<u>250/Unit</u>
INSTITUTIONAL	
<u>Assembly Hall/Meeting House</u>	<u>2/Seat</u>
Church/ <u>Assembly Hall/Meeting House</u> : With Kitchen	3/Seat 7/Seat
Hospital: Kitchen only Laundry only	250/Bedspace 25/Bedspace 40/Bedspace

ESTABLISHMENTS	
Nursing Home/Rest Home	125/Bedspace
Day School: Without Showers With Showers With Cafeteria, add Staff-Resident Nonresident	20/Student 25/Student 3/Student 40/Staff 20/Staff
FOOD SERVICE	
Conventional Service: Toilet & Kitchen Wastes Kitchen Wastes	13/Meal 3.3/Meal
Take Out or Single Service	2/Meal
Dining Hall: Toilet & Kitchen Wastes Kitchen Wastes	8/Meal 3.3/Meal
Drinking Establishment	2/Person
Food Service Employee	15/Employee
COMMERCIAL AND INDUSTRIAL	
Bowling Alley	125/Lane
Laundry - Self Service	50/Wash
Public Transportation Terminal	5/Fare
Service Station	10/Vehicle
Car Wash: 1st Bay Additional Bays	50/Vehicle 1000 500 each
Shopping Center (No food/laundry)	1/Pkg.Sp.
Theaters (including Concession Stand): Auditorium Drive-in	5/Seat 10/Space
Offices	20/Employee
Factories: No Showers With Showers Add for Cafeteria	25/Employee 35/Employee 5/Employee
Stores	2/Employee
SEASONAL AND RECREATIONAL	
Fairground (Peak Daily Attend)	1/Person
Stadium	2/Seat
Swimming Pool: Toilet & Shower Wastes	10/Person

ESTABLISHMENTS	
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
Seasonal/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

(3-31-22)()

~~09~~**10.** **Total Volume.** The total volume of a septic tank ~~will~~ **must** be one hundred fifteen percent (115%) of its liquid capacity. (3-31-22)()

~~10~~**1.** **Inlets.** (3-31-22)

a. The inlet into the tank ~~will~~ **must** be at least four (4) inches in diameter and enter the tank three (3) inches above the liquid level. (3-31-22)()

b. The inlet of the septic tank and each compartment ~~will~~ **must** be submerged by means of a vented tee or baffle. (3-31-22)()

c. Vented tees or baffles ~~will~~ **must** extend above the liquid level seven (7) inches or more but not closer than one (1) inch to the ~~top~~ **lid** of the tank. (3-31-22)()

d. Tees ~~should~~ **must** not extend horizontally into the tank beyond two (2) times the diameter of the inlet. (3-31-22)()

~~11~~**2.** **Outlets.** (3-31-22)

a. The outlet of the tank ~~will~~ **must** be at least four (4) inches in diameter. (3-31-22)()

b. The outlet of the septic tank and each compartment ~~will~~ **must** be submerged by ~~means of~~ a vented

tee or baffle. (3-31-22)()

c. Vented tees and baffles ~~will~~ must extend above the liquid level seven (7) inches or more ~~above the liquid level~~ but not closer than one (1) inch to the inside ~~top lid~~ of the tank. (3-31-22)()

d. Tees and baffles ~~will~~ must 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.~~ (3-31-22)()

e. Tees and baffles ~~should~~ must not extend horizontally into the tank beyond two (2) times the diameter of the outlet. (3-31-22)()

123. 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.~~ (3-31-22)()

134. Manholes. Manholes must extend to the finished grade. Access to each septic tank or compartment shall must be provided by a manhole twenty (20) inches in minimum dimension or a removable cover of equivalent size. Each manhole cover ~~will~~ must be provided with a corrosion resistant strap or handle to facilitate removal. (3-31-22)()

145. 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. (3-31-22)()

156. Split Flows. The wastewater from a single building sewer or sewer line ~~may~~ must not be divided and discharged into more than one (1) septic tank or compartment. (3-31-22)()

167. Multiple Tank or Compartment Capacity. Multiple ~~septic tanks~~ or compartmented septic tanks connected in series may be used ~~so long as if~~ 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 at least~~ one-half (1/2) ~~but no more than two-thirds (2/3)~~ of the total liquid capacity of the septic tank facility. (3-31-22)()

178. 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 10
Dwelling Foundation or Building		5
Property Line		5
Seasonal High Water Level (Vertically from Top of Tank)		2

(3-31-22)()

~~189.~~ ~~Installation of Manufactured Tanks~~ **Installation**. If written installation instructions are provided by the manufacturer of a septic tank, the installer must follow 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~~. (3-31-22)()

~~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. (3-31-22)

~~20.~~ ~~Sectional Tanks~~. Sectional tanks will be joined in a manner that will insure that the tank is watertight. (3-31-22)

~~240.~~ **Inlet and Outlet Piping**. Unless otherwise specified in the installation permit, piping material to and from a septic tank or dosing chamber, ~~to points three (3) feet beyond the tank excavation shall~~ and to the drainfield must be ~~of a material~~ approved by the Director. ~~The following materials are required:~~ and specified as follows. (3-31-22)()

a. ABS schedule forty (40) piping or material of equal or greater strength ~~piping shall be used to span the excavations for the septic tank and dosing chamber~~. (3-31-22)()

b. ASTM D-3034 or equivalent plastic pipe may be used to span the septic tank and dosing chamber if the excavation is compacted with fill material. (3-31-22)()

i. ~~The fill material must be granular, clean and compacted to ninety percent (90%) standard proctor density~~. (3-31-22)

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~~. (3-31-22)

~~221.~~ **Effluent Pipe Separation Distances**. Effluent pipes ~~shall not be installed closer than fifty (50) feet from a well~~ have the same separation distance requirements as septic tanks unless otherwise approved by the Director. (3-31-22)()

~~232.~~ **Septic Tank Abandonment**. ~~Responsibility of properly abandoning a septic tank shall remain with the property owner~~ is responsible for septic tank abandonment and must use the following procedures. ~~Septic tanks shall be abandoned in accordance with the following:~~ (3-31-22)()

a. ~~Disconnection of~~ Disconnect the inlet and outlet piping; (3-31-22)()

b. ~~Pumping of~~ Pump the scum and septage with approved disposal; and (3-31-22)()

c. ~~Filling~~ the septic tank with earthen materials; ~~or,~~ physically destroy the septic tank, or remove the septic tank from the ground. (3-31-22)()

~~d.~~ ~~Physically destroying the septic tank or removing the septic tank from the ground~~. (3-31-22)

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.~~ (3-31-22)

~~021.~~ **Site Suitability**. The area ~~in which~~ where a standard drainfield ~~is to~~ will be constructed must meet the following conditions ~~stated in this subsection~~: (3-31-22)()

a. ~~Slope~~. The natural slope of the site will not exceed twenty percent (20%). (3-31-22)()

b. ~~Soil types~~. Suitable soil types ~~must~~ will be present at depths corresponding with the sidewalls of the

proposed drainfield and at depths ~~which will be~~ between the bottom of the proposed drainfield and any limiting ~~soil~~ layer (effective soil depth).

Design Soil Group	Soil Textural Classification	USDA Field Test Textural Classification	
Unsuitable	Gravel	10 Mesh	
	Coarse Sand	10-35 Mesh	Sand
A	Medium Sand	35-60 Mesh	Sand
	Fine Sand	65-140 Mesh	Sand
	Loamy Sand		Sand
B	Very Fine Sand	140-270 Mesh	Sand
	Sandy Loam		Sandy Loam
	Very Fine Loamy Sand		Sandy Loam
	Loam		
C	Silt Loam		Silt Loam
	Silt		Silt Loam
	Clay Loam		Clay Loam
	Sandy Clay Loam		Clay Loam
	Silty Clay Loam		Clay Loam
Unsuitable	Sandy Clay		Clay
	Silty Clay		Clay
	Clay		Clay
	Clay soils with high shrink/swell potential		Clay
	Organic mucks		
	Claypan, Duripan, Hardpan		

(3-31-22)()

c. ~~Effective Soil Depths~~ Effective soil depths, in feet, below the bottom of the drainfield must be equal to or greater than those values listed in the following table.

EFFECTIVE SOIL DEPTHS TABLE			
Site Conditions	Design	Soil	Group
Limiting Layer	A	B	C
Impermeable Layer	4	4	4
Fractured Bedrock, Fissured Bedrock or Extremely Permeable Material	6	4	3
Normal High Groundwater Level	6	4	3
Seasonal High Groundwater Level	1	1	1

(3-31-22)()

d. ~~Separation Distances.~~ The drainfield must be located so ~~that~~ the separation distances ~~given be are~~ maintained or exceeded according to the following ~~T~~table:

Feature of Interest	Soil Types All	A	B	C
Public Water Supply	100			
All wells and Other Domestic Water Supplies including Springs and Suction Lines	100			
Water Distribution Lines: Pressure (not double-encased) Suction (double-encased)	25 100			
Permanent or Intermittent Surface Water other than Irrigation Canals & Ditches		300 200	200 125	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			

(3-31-22)()

032. Subsurface Disposal Facility Sizing. The size of a subsurface disposal system ~~will be is~~ determined by the following procedures: (3-31-22)()

a. Daily flow estimates ~~should be are~~ determined in the same manner as ~~are~~ flow estimates for septic tank sizing in Subsection 007.08. (3-31-22)()

b. ~~The~~ Total required absorption area is obtained by dividing the estimated maximum daily flow by a value below or as specified in the TGM.

Design Soil Group	A	B	C
Absorption Area - Gallons/Square Foot/Day	1.0	0.5	0.2

(3-31-22)()

c. ~~Required Area. The size of a~~ 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. (3-31-22)()

043. Standard Subsurface Disposal Facility Specifications. ~~The following table presents a~~ Additional design specifications for new subsurface sewage disposal facilities.

STANDARD SUBSURFACE DISPOSAL FACILITY TABLE SPECIFICATIONS	
Item	All Soil Groups
Length of Individual Distribution Laterals	100 Feet Maximum
Grade of Distribution Laterals and Trench Bottoms	Level
Width of Trenches	1 Foot Minimum 6 Feet Maximum
Depth of Trenches	2 Feet Minimum 4 Feet Maximum
Total Square Feet of Trench	1,500 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

(3-31-22)()

054. Wastewater Distribution. Systems ~~shall~~ **must** be installed to maintain equal or serial effluent distribution. (3-31-22)()

065. Excavation. Trenches ~~will~~ **must** not be excavated during the period of high soil moisture content when that moisture promotes smearing and ~~soil~~ **soil** compaction ~~of the soil~~. (3-31-22)()

076. Soil Barrier. The aggregate ~~will~~ **must** be covered throughout with ~~untreated building paper,~~ a synthetic filter fabric (geotextile), ~~a three (3) inch layer of straw~~ or other acceptable permeable material. (3-31-22)()

087. Aggregate. The trench aggregate ~~shall~~ **must** be crushed rock, gravel, or other acceptable, durable and inert material ~~which that~~ is; free of fines; and has an effective diameter from one-half (1/2) to two and one-half (2 1/2) inches. (3-31-22)()

098. Impermeable Surface Barrier. ~~No~~ **A** treatment area trench or replacement area ~~shall~~ **may not** be: ()

a. Compacted. ()

b. Covered by an impermeable surface barrier, such as tar paper, asphalt or tarmac; or ()

c. Used for parking or driving on, or in any way compacted and ~~shall~~ **must** be adequately protected from such activities. (3-31-22)()

109. 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. (3-31-22)()

a. General Requirements. Except as specified in this section, rules ~~and regulations~~ applicable to a standard subsurface disposal system ~~are applicable~~ **apply** to an absorption bed facility. (3-31-22)()

~~b.~~ ~~Slope Limitation.~~ Sites with slopes in excess of eight percent (8%) are not suitable for absorption bed facilities. (3-31-22)()

~~c.~~ ~~Vehicular Traffic.~~ Rubber-tired vehicles must not be driven on the bottom surface of any bed excavation. (3-31-22)

~~d.c.~~ ~~Distribution Lateral Spacing.~~ Distribution laterals within a bed ~~must be spaced on not~~ may not be spaced on greater than six (6) feet centers, ~~nor may and~~ any sidewall may not be more than three (3) feet from a distribution lateral. (3-31-22)()

10. Vehicle and Machinery Traffic. Rubber-tired vehicles and machinery may not be driven on the bottom surface of any excavation or on the top of any drainfield. ()

~~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. (3-31-22)

~~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. (3-31-22)

~~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.~~ (3-31-22)

121. Failing Subsurface Sewage Disposal System. If the Director determines ~~that the public's health is at risk from a failed septic system~~ a system is failing and ~~that the~~ replacement of ~~a failing subsurface sewage disposal system~~ the system cannot meet the current rules ~~and regulations, then~~ the replacement system must meet the intent of the rules ~~and regulations~~ by ~~utilizing~~ using a ~~standard subsurface sewage disposal design or alternative~~ system design ~~as~~ specified by the Director. (3-31-22)()

009. OTHER COMPONENTS.

01. Design Approval Required. Commercially manufactured wastewater treatment components and systems must not be used in ~~the construction of~~ constructing a subsurface sewage system unless ~~their~~ the design is approved by the Director ~~through the recommendation of the TGC as directed in Section 004.~~ The Department ~~has~~ developed recommended standards and guidance for these systems in the TGM. Approval may be limited to those locations or conditions ~~for which~~ where achievement of standards has been demonstrated. Commercially manufactured wastewater treatment components and systems may include but are not limited to: (3-31-22)()

a. ETPSs (e.g., aerobic treatment systems); (3-31-22)

~~b.~~ ~~Proprietary wastewater treatment systems (e.g., proprietary wastewater system technology with specified sand);~~ (3-31-22)

~~eb.~~ ~~Proprietary wastewater system technology (e.g., gravelless distribution products)~~ PWTPs; and (3-31-22)()

~~dc.~~ Proprietary non-discharging systems (e.g., individual wastewater incinerators, composting toilets, or vault toilets). (3-31-22)

02. Plan and Specification Submittal. Plans and specifications for all commercially manufactured wastewater treatment components and systems ~~will~~ must be submitted to the Director for approval. Plans and specifications ~~will~~ must include detailed construction drawings; capacities; structural calculations; lists of materials; ~~evidence of stability and durability~~; performance standards; manufacturers' installation, operation, and maintenance instructions; ~~an~~ installation inspection checklist; ~~a list of all prior approvals from other states including any review or compliance related issues~~; and ~~any~~ other relevant information ~~as~~ requested by the Director.

(3-31-22)(____)

a. Manufacturers seeking approval for ETPSs or PWTs that reduce total suspended solids (TSS) and carbonaceous biological oxygen demand 5-day (CBOD5) when used with residential strength wastewater must submit NSF/ANSI 40 approvals, reports, and associated data or equivalent third-party standards. (____)

b. Manufacturers seeking approval for ETPSs or PWTs that reduce total nitrogen (TN) must submit NSF/ANSI 245 approvals, reports, and associated data or equivalent third-party standards. (____)

03. ETPSs. (3-31-22)(____)

a. In addition to the items ~~listed~~ in Subsection 009.02, ETPS plan and specification submittals must include: (3-31-22)(____)

i. A plan for training and certifying system installers and service providers under Section 006; (3-31-22)

ii. ~~An operation and maintenance~~ **A** manual ~~which contains~~ **containing** all operation and maintenance specified by the design engineer or manufacturer and the Department; and (3-31-22)(____)

iii. A quality assurance project plan ~~which documents~~ **documenting** how sampling will occur if ~~sampling is~~ required by the Director for product approval and continued monitoring. (3-31-22)(____)

~~**b.** Manufacturers seeking approval of these systems for reducing total suspended solids (TSS) and carbonaceous biological oxygen demand 5-day (CBOD5) when used with residential strength wastewater must submit NSF/ANSI 40: Residential Onsite Systems approvals, reports, and associated data or equivalent third party standards. (3-31-22)~~

~~**e.** Manufacturers seeking approval for reduction of total nitrogen (TN) must submit NSF/ANSI 245: Nitrogen Reduction approvals, reports, and associated data or equivalent third party standards. (3-31-22)~~

~~**db.** Design and installation of these systems must meet the following: (3-31-22)~~

~~**i.** The effluent is discharged to a drainfield meeting the requirements of a standard drainfield as directed in Section 008 or a Director-approved alternative. (3-31-22)~~

~~**ii.** Separation between the bottom of the trench or bed to limiting layers protects ground water quality if the distance deviates from the table in Subsection 008.02.e. (3-31-22)~~

~~**iii.** The distribution laterals within the trench or bed meet the requirements of Section 008 or a Director approved alternative. (3-31-22)~~

~~**iv.** Tank access lids are to grade or above with a sealed riser and fitted with a secured lid for monitoring and maintenance. (3-31-22)~~

~~**vii.** If vertical separation distances are reduced from the distances defined in the table in Subsection 008.021.c., **the reduced separation must protect groundwater quality and** a sampling port ~~has to~~ **must** be installed to provide ~~a~~ **access to** representative samples of the effluent from the system. (3-31-22)(____)~~

~~**ec.** Within thirty (30) days of completing installation of an ETPS, the property owner ~~shall~~ **must** provide certification to the health district from a representative approved by the manufacturer that the system has been installed and will operate in accordance with the manufacturer's recommendations. The health district ~~shall~~ **must** not finalize the ~~subsurface sewage disposal~~ **installation** permit until the certification of proper installation and operation is received and includes information on the manufacturer, product, model number, and serial number of the ETPS installed. (3-31-22)(____)~~

~~**fd.** Property owners with an ETPS installed on their property must have all operation, maintenance,~~

and monitoring requirements specified in the permit completed by June 30th of each year by a certified service provider in accordance with Section 006, including effluent monitoring if required by the permit. The certified service provider who completed operation, maintenance, and monitoring for the system as specified in the TGM must submit an annual report to the Director by July 31st of each calendar year demonstrating ~~that~~ the system is working as designed. (3-31-22)()

~~ge.~~ Permit requirements for ETSPs transfer with ownership changes. Before transferring ownership of a property with an ETSP, the system owner must notify all transferees of the ETSP operation, maintenance, and monitoring requirements. ~~Within thirty (30) days of transferring ownership of a property with an ETSP, the transferee must notify the health district of the new owner of the property.~~ (3-31-22)()

04. ~~Proprietary Wastewater Treatment Systems~~ PWTPs. (3-31-22)()

~~a.~~ Manufacturers seeking approval for these systems for reducing total suspended solids (TSS) and carbonaceous biological oxygen demand 5-day (CBOD5) when used with residential strength wastewater must submit NSF/ANSI 40- Residential Onsite Systems approvals, reports, and associated data or equivalent third party standards. (3-31-22)

~~b.~~ Manufacturers seeking approval for reduction of total nitrogen (TN) must submit NSF/ANSI 245: Nitrogen Reduction approvals, reports, and associated data or equivalent third party standards. (3-31-22)

~~ea.~~ Proprietary wastewater sSystem media utilized used with a proprietary wastewater treatment system PWTP must: (3-31-22)()

i. Be constructed or manufactured from materials that are non-decaying and non-deteriorating and do not leach unacceptable chemicals when exposed to sewage and the subsurface soil environment; (3-31-22)

ii. Support the distribution pipe and provide suitable effluent distribution and infiltration rate to the absorption area at the soil interface; and (3-31-22)

iii. Maintain the integrity of the trench or bed. The material used, by its nature and manufacturer-prescribed installation procedure, ~~needs to~~ must withstand the physical forces of the soil sidewalls, soil backfill, and weight of equipment used in the backfilling. (3-31-22)()

~~db.~~ Design and installation of these systems must meet the following: (3-31-22)

~~i.~~ The effluent is discharged to a drainfield that meets the required effective soil depth for standard drainfields as directed in Section 008. (3-31-22)

~~ii.~~ Separation between the bottom of the manufactured medium sand component of the proprietary wastewater treatment system to limiting layers protects ground water quality if the distance deviates from the table in Subsection 008.02.e. (3-31-22)

~~iii.~~ The distribution laterals within the trench or bed meet the requirements of Section 008 or a Director approved alternative. (3-31-22)

~~iv.~~ Drainfields sized is based on the requirements of a standard drainfield or the manufacturer's recommended minimum sizing requirement or the maximum daily flow of effluent divided by the hydraulic application rate for the applicable soil design subgroup, whichever is greater; and (3-31-22)()

~~v.~~ Pressure distribution, when used with a proprietary wastewater treatment product, is designed by an Idaho licensed professional engineer. (3-31-22)

~~ec.~~ A proprietary wastewater treatment system A system using a PWTP may be required to follow the same operation, maintenance, monitoring, and reporting requirements described in Subsection 009.03.f.d. due to ~~factors such as~~ product complexity and ~~or~~ site-specific constituent reduction requirements. (3-31-22)()

~~f.d.~~ Permit requirements for these systems transfer with ownership changes. Before transferring ownership of a property with this system, the system owner must notify all transferees of the system operation, maintenance, and monitoring requirements. ~~Within thirty (30) days of transferring ownership of a property with the system, the transferee must notify the health district of the new owner of the property.~~ (3-31-22)()

05. ~~Effect of Design Approval~~ Effect. The Director may condition a design approval by specifying circumstances under which the component must be installed, used, operated, maintained, or monitored. (3-31-22)()

a. The Director ~~shall~~ will specify the complex alternative systems that must undergo professionally managed operation, maintenance, service, or effluent testing. (3-31-22)()

b. Manufacturers ~~shall~~ will provide training to a reasonable number of service providers to perform required operation, maintenance, or monitoring as specified by the Director. (3-31-22)()

c. Manufacturers may enter into agreements with certified service providers trained in their technology but ~~shall~~ must not limit ~~the~~ service providers from ~~being trained~~ training in the technology of other manufacturers. (3-31-22)()

06. ~~Notice of Design Disapproval~~ Notice. If the Director ~~is satisfied that~~ determines the component described in the submittal ~~may not be in compliance~~ does not comply 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 and notify the~~ manufacturer or distributor submitting the design ~~for approval will be notified,~~ in writing, of the disapproval and the reason for that action. (3-31-22)()

07. ~~Amendments or Revocations~~. The Director may amend or revoke any permit or system approved by the Department if: (3-31-22)

a. Approval was based on false or misleading information; (3-31-22)

b. The material, technology, or design no longer achieves performance standards for which it was approved or does not meet the intent of the rules; or (3-31-22)

c. The manufacturer is not meeting the requirements of these rules or conditions of the approval. (3-31-22)

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 the allowance: (3-31-22)()

a. ~~The allowance will~~ Does not affect adjacent property owners or the public at large; (3-31-22)()

b. ~~The allowance will~~ Does not violate the ~~conditions of Subsection 004.01; and~~ intent of the rules. (3-31-22)()

c. ~~The allowance will~~ Does not ~~be in~~ conflict with any other rule, regulation, standard, or ordinance; and (3-31-22)()

d. ~~The allowance~~ Changes 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~~ TGM. (3-31-22)()

02. ~~Variance 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~~ A petition for rule variance must be filed with the Director and include the following detailed statements describing: (3-31-22)()

a. ~~A concise statement of the~~ 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; (3-31-22)()

b. ~~A concise statement of why the~~ The reason petitioner believes that compliance with the provision from which variance is sought would impose an arbitrary or unreasonable hardship, and a list of the injury ~~that the grant of the~~ variance would impose on the public; and (3-31-22)()

c. ~~A clear statement of the~~ The precise extent of the relief sought. (3-31-22)()

03. **Public Notice.** ~~At the time of~~ When filing a petition, evidence ~~shall~~ must also be submitted ~~that showing:~~ (3-31-22)()

~~a. A notice has appeared in the local newspaper advising the public of the request for variance;~~ (3-31-22)

~~b. A all property owners within three hundred (300) feet of the affected site have been were notified fifteen (15) days before filing the petition; and~~ (3-31-22)()

~~e. Such notices to the public have been made fifteen (15) days prior to the filing of the petition.~~ (3-31-22)

04. **Objections to Petition** Objections. 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 the~~ objection ~~shall~~ must be provided by the Department to the petitioner. (3-31-22)()

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~~ will, within sixty (60) days after the filing of the petition, make a decision ~~as to the disposition of~~ regarding the petition. ~~The decision, a copy of which shall be served on the petitioner, shall include~~ The Department will provide the decision to the petitioner, including: (3-31-22)()

a. A description of the efforts made by the Director to investigate the facts as alleged and to ~~ascertain obtain and summarize~~ the views of persons who might be affected, ~~and a summary of the views so ascertained;~~ (3-31-22)()

b. A statement of the degree to which, if at all, the Director disagrees with the facts as alleged in the petition; ~~and~~ (3-31-22)()

c. Allegations of any other facts believed relevant to the disposition of the petition; ~~and~~. (3-31-22)()

~~d. The Director's decision.~~ (3-31-22)

06. **Limitations on Decision.** No technical allowance or variance ~~shall~~ will be granted unless: (3-31-22)()

a. Adequate proof is shown by the petitioner that compliance would impose an arbitrary or unreasonable hardship; (3-31-22)

b. The technical allowance or variance rendered is consistent with the recommendations of the ~~Technical Guidance Committee~~ TGC or the ~~Technical Guidance Manual~~ TGM in use at the time of the petition; and (3-31-22)()

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~~ violate the intent of the rules. (3-31-22)()

011. INSPECTIONS.

01. **One or More Inspections** ~~Required. Such~~ The Director will require inspections ~~as are~~ necessary to determine compliance with any ~~requirement or~~ provision of these rules ~~shall be required by the Director.~~ (3-31-22)()

02. **Duty to Uncover.** The permittee ~~shall~~ must, 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 a~~ system under construction or covered or concealed in violation of these rules. (3-31-22)()

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~~ must notify the Director at least forty-eight (48) hours in advance, excluding weekends and holidays, ~~before the time preparation will be completed.~~ (3-31-22)()

04. **Substantiating Receipts and Delivery Slips.** ~~The permittee shall u~~ Upon request by the Director's request, the permittee must 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~~ constructing any system. (3-31-22)()

05. **Finalizing a Permit.** No system may receive wastewater until the Director conducts a final installation inspection and completes as-built drawings and specifications depicting the actual installation. The Director will provide a copy of the final as-built drawing to the owner within thirty (30) days after completing the final inspection. ()

012. VIOLATIONS AND PENALTIES.

01. **Failure to Comply.** All individual and subsurface sewage disposal systems ~~shall~~ must 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~~ is a violation of these rules. (3-31-22)()

02. **System Operation.** No person ~~shall~~ may discharge pollutants into the ~~underground water of the~~ state of Idaho waters through an individual or subsurface sewage disposal system unless in accordance with the provisions of these rules. (3-31-22)()

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.~~ (3-31-22)

03. **Amendments or Revocations.** At any time, the Director may amend or revoke any installation or registration permit or the approval of any system component approved by the Department if: ()

a. Approval was based on false or misleading information; ()

b. The material, technology, or system no longer achieves performance standards for which it was approved, does not meet the conditions of approval, or does not meet the intent of the rules; or ()

c. The permitted installer, service provider, or pumper is not in compliance with or has violated the provisions of these rules ()

04. **Notice.** Except in emergencies, the Department will issue a written notice of intent to revoke to the permittee before final revocation. Revocation becomes final within thirty-five (35) days of the permittee receiving notice unless, within that time, the permittee requests an administrative hearing in writing. The hearing is conducted according to IDAPA 58.01.23, Contested Case Rules and Rules for Protection and Disclosure of Records. ()

013. ~~LARGE SOIL ABSORPTION SYSTEM DESIGN AND CONSTRUCTION~~ LSAS.

01. Site Investigation. A site investigation ~~for a large soil absorption system conducted~~ 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 determining whether the LSAS effluent will adversely impact the waters must be submitted to the Director for review and approval. (3-31-22)()

02. Installation Permit Plans. Installation permit application plans, ~~as outlined in Subsection 005-04,~~ for ~~an large soil absorption system~~ LSAS submitted for approval ~~shall must~~ include provisions for inspections by the design engineer, designee, or Director of the work during construction ~~by the design engineer or his designee and/or by the Director.~~ (3-31-22)()

03. Module Size. The maximum size of any subsurface sewage disposal module ~~shall must~~ be ten thousand (10,000) gallons per day. Developments with greater than ten thousand (10,000) gallons per day flow ~~shall must~~ divide the system into absorption modules designed for ten thousand (10,000) gallons per day or less. (3-31-22)()

04. Standard ~~Large Soil Absorption System~~ LSAS Design Specifications. (3-31-22)()

a. All design elements and applications rates ~~shall be arrived at by~~ must be developed using sound engineering practice and ~~shall be~~ provided by a professional engineer licensed by the state of Idaho ~~and specializing in environmental or sanitary engineering.~~ (3-31-22)()

b. All design and installation requirements for standard systems apply to LSASs unless otherwise specified in this section. ()

bc. Within thirty (30) days of completing system installation ~~completion,~~ the design engineer ~~shall must~~ provide either as-built plans or a certificate that the system ~~has been~~ was installed in substantial compliance with the installation permit application plans. (3-31-22)()

ed. Effective Soil Depths. Effective soil depths, in feet, below the bottom of the absorption module to the site conditions must be equal to or greater than the following table:

TABLE — EFFECTIVE SOIL DEPTHS			
Site Conditions <u>Limiting Layer</u>	Design	Soil	Group
<u>Limiting Layer</u>	A	B	C
Impermeable Layer	8	8	8
Fractured Bedrock, Fissured Bedrock or Extremely Permeable Material	12	8	6
Normal High Groundwater Level	12	8	6
Seasonal High Groundwater Level	2	2	2

(3-31-22)()

de. Separation Distances. The disposal area absorption module must be located so ~~that the following~~ separation distances ~~given provided in the following table,~~ in feet, are maintained or exceeded ~~as outlined in the following table:~~

TABLE -- SEPARATION DISTANCES			
Feature of Interest	Design	Soil	Group
	A	B	C
All Domestic Water Supplies			
Sewage Volume - 2,500-5,000 GPD	250	200	150
Sewage Volume - 5,000-10,000 GPD	300	250	200
Property Lines			
Sewage Volume - 2,500-5,000 GPD	50	50	50
Sewage Volume - 5,000-10,000 GPD	75	75	75
Building Foundations - Basements			
Sewage Volume - 2,500-5,000 GPD	50	50	50
Sewage Volume - 5,000-10,000 GPD	75	75	75
Downslope Cut or Scarp			
Impermeable Layer - Below Base	100	50	50
Separation Distance - Between Modules	12	12	12

(3-31-22)()

~~ef.~~ 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 unless approved by the Director. (3-31-22)()

~~fg.~~ A minimum of two (2) disposal systems will must be installed, each sized to accept the daily design flow, and a replacement area equal to the size of one (1) disposal system will must be reserved. (3-31-22)()

~~gh.~~ The vertical and horizontal hydraulic limits of the receiving soils shall must be established and flows shall must not exceed such limits so as to avoid hydraulically overloading any absorption module and replacement area. (3-31-22)()

~~hi.~~ The distribution system must be pressurized with a duplex dosing system. (3-31-22)

~~i.~~ A geotextile filter fabric shall cover the aggregate. (3-31-22)

~~j.~~ An in-line effluent filter between an extended treatment system or lagoon system and the large soil absorption area shall must be installed. (3-31-22)()

~~k.~~ Observation pipes shall must be installed to the bottom of the drainrock aggregate throughout the drainfield. (3-31-22)()

~~l.~~ Pneumatic tired machinery travel over the excavated infiltrative surface is prohibited. (3-31-22)

~~m.~~ The drainfield disposal area shall must be constructed to allow for surface drainage and to prevent ponding of surface water erosion. 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. (3-31-22)()

~~05.~~ Large Septic Tanks. Large Septic Tanks shall be constructed according to Section 007, except as

~~outlined in this Subsection:~~ (3-31-22)

- ~~a. Length to width ratios shall be maintained at least at a three to one (3:1) ratio. (3-31-22)~~
- ~~b. Tank inlet shall allow for even distribution of the influent across the width of the tank. (3-31-22)~~
- ~~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). (3-31-22)~~

065. Monitoring and Reporting. Before an installation permit is issued, the Director will approve a monitoring and reporting plan ~~shall be approved by the Director and shall~~ that contains the following minimum criteria: (3-31-22)()

- a. Monthly recording and inspection for ponding in all observation pipes. (3-31-22)
- b. Monthly recording of influent flows based on lapse time meter ~~and/~~ or event meter of the dosing system. (3-31-22)()
- c. Monthly recording of groundwater elevation measurements at all monitoring wells if high seasonal groundwater is within fifteen (15) feet of the ground surface. (3-31-22)
- d. Semi-annual groundwater monitoring at all monitoring wells. (3-31-22)
- ~~e. Monitoring shall conform to the requirements of all federal, state, and local rules and regulations. (3-31-22)~~

~~f. An annual "Large Soil Absorption System Report LSAS" shall report including operation, maintenance, and monthly and annual monitoring data, must~~ 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.~~ (3-31-22)()

076. Operation and Maintenance. Before an installation permit is issued, an operation and maintenance plan ~~shall~~ must be approved by the Director and ~~shall~~ contain the following minimum criteria: (3-31-22)()

- a. Annual or more frequent rotation of the disposal systems, and whenever ponding is noted. (3-31-22)
- 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~~ is responsible for system maintenance, ~~shall~~ must be submitted to the Director ~~prior to~~ before system use. (3-31-22)()
- c. A maintenance entity ~~shall~~ must 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 according to the operator requirements in IDAPA 58.01.16, Wastewater Rules, and approved by the Director before issuance of an installation permit. The entity may assume the responsibilities of a service provider if a service provider is required. (3-31-22)()

014. -- 049. (RESERVED)

050. ~~CLEANING OF SEPTIC TANKS~~ — GENERAL REQUIREMENTS CLEANING.

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~~ for pumping or cleaning septic tanks and ~~or~~ transporting or disposing of human excrement, ~~shall~~ must conform with the following ~~requirements~~ provisions. (3-31-22)()

01. Watertight Equipment to Be Watertight. The tank or transporting equipment ~~shall~~ must be watertight and ~~so~~ constructed ~~as~~ to prevent spilling or leaking while being loaded, transported, ~~and~~ or unloaded.

(3-31-22)()

02. ~~Cleanable Equipment to Be Cleanable~~. The tank or transporting equipment ~~shall~~ must be constructed ~~in such a manner so~~ 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. (3-31-22)()

03. ~~Disposal Methods~~. Disposal of ~~excrement septage~~ from septic tanks ~~shall be by~~ must apply the following methods ~~only~~: (3-31-22)()

- a. ~~Discharging~~ Discharge to a public sewer; (3-31-22)()
- b. ~~Discharging~~ Discharge to a sewage treatment plant; or (3-31-22)()
- e. ~~Burying under earth in a location and by a method approved by the Department of Environmental Quality;~~ (3-31-22)
- dc. ~~Drying i~~ In a location and by a method approved by the Department ~~of Environmental Quality~~. (3-31-22)()

051. ~~CLEANING OF SEPTIC TANKS PERMIT REQUIREMENTS.~~

04. ~~Permit Application Contents.~~ ()

- a. All persons operating septic tank pumping equipment ~~shall~~ must: ()
- i. ~~Obtain a permit from the Idaho Department of Environmental Quality for the operation of~~ Director to operate such equipment; ()
- ii. ~~Permits shall be renewed~~ Renew permit annually; and ()
- iii. ~~Applications~~ Apply for permit renewal ~~of permits shall be made on or~~ before March 1 of each year. (3-31-22)()

01. ~~Permit Application Contents~~. Applications for permits shall ~~submit the following information on~~ forms prepared by the Department: (3-31-22)

b. ~~The application must be submitted on forms approved by the Director and include:~~ ()

- ai. Number of tank trucks operated by owner; (3-31-22)
- bii. Vehicle license number of each tank truck; (3-31-22)
- eiii. Name and address of owner and or operator of equipment; (3-31-22)()
- dii. Name and address of business, if different from Subsection 051.01.c.; (3-31-22)
- ey. Methods of disposal to be used in all areas of operation; (3-31-22)
- fvi. Location of all disposal sites used by applicant; and (3-31-22)()
- gvii. ~~A~~ Complete basis of charges made for payment of the work performed. (3-31-22)()

025. ~~Permit Fee~~. All applications ~~shall~~ must 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."~~ (3-31-22)()

036. ~~Vehicle Number to Be Displayed~~. For each permit issued, a number ~~will be~~ is assigned to the

owner ~~and~~/or operator of the tank truck or trucks. ~~The assigned number shall~~ **that must** be displayed at all times on the door of the vehicle or vehicles in a **legible** manner ~~easily legible~~. (3-31-22)()

~~**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.~~ (3-31-22)

~~0521.~~ -- 995. (RESERVED)

996. ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Contested Case Rules and Rules for Protection and Disclosure of Records". (3-31-22)

~~**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."~~ (3-31-22)

~~9987.~~ -- 999. (RESERVED)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.05 – RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-2401

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

EFFECTIVE DATE: This rule has been adopted by the Idaho Board of Environmental Quality (Board) and is now pending review by the 2025 Idaho State Legislature for final approval. Pursuant to Section 67-5224(2)(c), Idaho Code, this pending rule must be approved by concurrent resolution of the Legislature. Pursuant to Section 67-5291(2), Idaho Code, all temporary, pending, and final rules of any nature may be approved or rejected by a concurrent resolution of the Legislature. The concurrent resolution shall state the effective date of the approval or rejection. If approved by concurrent resolution, the rules will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

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 Chapters 1, 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e)(1) and Section 39-4404, Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

DESCRIPTIVE SUMMARY: This rulemaking was initiated to update federal regulations incorporated by reference. A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 7, 2024, [Vol. 24-8, pages 201 through 203](#). DEQ received no public comments, and the rule has been adopted as initially proposed. The board meeting documents are available at Hazardous Waste: [Docket No. 58-0105-2401](#) | Idaho Department of Environmental Quality.

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 questions concerning the rulemaking, contact the undersigned.

Dated this 4th day of December, 2024.

Diane Cutler
Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Phone: (208)373-0165
Diane.Cutler@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 action is authorized by Chapters 1, 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e)(1) and Section 39-4404, Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. 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 August 21, 2024. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: The purpose of this rulemaking is to ensure that the state rules remain consistent with federal regulations. Idaho's Rules and Standards for Hazardous Waste, IDAPA 58.01.05, are updated annually to maintain consistency with the federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). This proposed rule updates federal regulations incorporated by reference with the July 1, 2024 Code of Federal Regulations (CFR) effective date. The July 1, 2024 CFR is a codification of federal regulations published in the Federal Register as of July 1, 2024.

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. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2025 Idaho Legislature, the rule will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

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.

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:

Adoption of federal regulations is necessary to maintain program primacy, allows DEQ to keep its rules up to date with federal regulation changes, and simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rule.

In compliance with Idaho Code 67-5223(4), DEQ prepared a brief synopsis detailing the substantive differences between the previously incorporated material and 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 <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/hazardous-waste-docket-no-58-0105-2401>.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible pursuant to Section 67-5220, Idaho Code, due to the simple nature of this rulemaking and because DEQ has no discretion with respect to adopting EPA's federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). Whenever possible, DEQ incorporates federal regulations by reference to ensure that the state rules are consistent with federal regulations.

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact Albert Crawshaw at albert.crawshaw@deq.idaho.gov or (208) 373-0554.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before August 28, 2024. Submit written comments to:

Albert Crawshaw
Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706
albert.crawshaw@deq.idaho.gov

Dated this 7th day of August, 2024.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0105-2401

58.01.05 – RULES AND STANDARDS FOR HAZARDOUS WASTE

000. LEGAL AUTHORITY.

~~Under Chapters 1, 44 and 58, Title 39, Idaho Code, the Idaho Legislature has granted the Board of Environmental Quality the authority to promulgate these rules.~~ (3-24-22)()

001. TITLE.

~~These rules are titled IDAPA 58.01.05, “Rules and Standards for Hazardous Waste.”~~ (3-24-22)

001. (RESERVED)

002. INCORPORATION BY REFERENCE ~~OF FEDERAL REGULATIONS.~~

01. Federal Regulations Incorporated by Reference. ~~Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, 40 CFR Parts 124, 260 - 268, 270, 273, 278, and 279 constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 2024, including any notes and appendices therein, unless expressly provided otherwise in are incorporated by reference into~~ these rules. (4-6-23)()

02. Exceptions. Nothing in 40 CFR Parts 260 - 268, 270, 273, 278, 279 or Part 124 as pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, the National Pollution Discharge Elimination System (NPDES) under the Clean Water Act or Prevention of Significant Deterioration Program (PSD) under the Clean Air Act is adopted or included by reference herein. (3-24-22)

~~02. Availability of Referenced Material.~~ ~~The federal regulations adopted by reference throughout these rules are maintained at the following locations:~~ (3-24-22)

- ~~a. U.S. Government Printing Office, <https://www.ecfr.gov/current/title-40>;~~ (4-6-23)
- ~~b. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051, (208) 334-3316;~~ (3-24-22)
- ~~c. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502.~~ (3-24-22)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 – IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-2401

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

EFFECTIVE DATE: This rule has been adopted by the Idaho Board of Environmental Quality (Board) and is now pending review by the 2025 Idaho State Legislature for final approval. Pursuant to Section 67-5224(2)(c), Idaho Code, this pending rule must be approved by concurrent resolution of the Legislature. Pursuant to Section 67-5291(2), Idaho Code, all temporary, pending, and final rules of any nature may be approved or rejected by a concurrent resolution of the Legislature. The concurrent resolution shall state the effective date of the approval or rejection. If approved by concurrent resolution, the rules will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

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 Chapter 1, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: This rulemaking was initiated to incorporate by reference the National Primary Drinking Water Regulation for per- and polyfluoroalkyl substances (PFAS). 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, 2024, Vol. 24-9, pages 630 through 642. DEQ received no public comments, and the rule has been adopted as initially proposed. The board meeting documents are available at <https://www.deq.idaho.gov/drinking-water-docket-no-58-0108-2401/>.

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 questions concerning the rulemaking, contact the undersigned.

Dated this 4th day of December, 2024.

Diane Cutler
Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Phone: (208)373-0165
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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 action is authorized by Chapter 1, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. 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, 2024. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The Environmental Protection Agency (EPA) issued an adaptive and flexible National Primary Drinking Water Regulation (NPDWR) under the Safe Drinking Water Act (SDWA) to manage risks of per- and polyfluoroalkyl substances (PFAS) in drinking water. [89 FR 32532](#) (effective June 25, 2024). The purpose of this rulemaking is to incorporate by reference the NPDWR for PFAS into IDAPA 58.01.08, Idaho Rules for Public Drinking Water Systems. The proposed rule updates federal regulations incorporated by reference with the July 1, 2024 Code of Federal Regulations (CFR) effective date. The July 1, 2024 CFR is a codification of federal regulations published in the Federal Register as of July 1, 2024.

The final NPDWR for PFAS establishes Maximum Contaminant Level Goals (MCLGs) and enforceable Maximum Contaminant Levels (MCLs) for six PFAS compounds: perfluorooctanoic acid (PFOA), perfluorooctane sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), perfluorononanoic acid (PFNA), hexafluoropropylene oxide dimer acid (HFPO-DA, commonly known as GenX Chemicals), and perfluorobutane sulfonic acid (PFBS).

EPA's final rule represents data-driven drinking water standards that are based on the best available science and meet the requirements of SDWA. For the six PFAS, EPA considered PFAS health effects information, evidence supporting dose-additive health concerns from co-occurring PFAS, as well as national and state data for the levels of multiple PFAS in finished drinking water.

The state of Idaho has two years to obtain primacy of this rule from EPA, otherwise EPA will remain the regulatory authority for this rule over Idaho's approximately 2,000 public water systems. This proposed rule will provide the Department of Environmental Quality regulatory authority for this final rule, which is required to support a primacy package.

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. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2025 Idaho Legislature, the rule will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

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:

Adoption of federal regulations is necessary to maintain state program primacy, allows DEQ to keep its rules up to date with federal regulation changes, and simplifies compliance for the regulated community. Incorporation by reference ensures that Idaho's rules will be neither more nor less stringent than the federal rule. Information for obtaining a copy of the federal regulations is included in the rule.

In compliance with Idaho Code 67-5223(4), DEQ prepared a brief synopsis detailing the substantive differences between the previously incorporated material and 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 <https://www.deq.idaho.gov/drinking-water-docket-no-58-0108-2401/>

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: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible pursuant to Section 67-5220, Idaho Code, due to the simple nature of this rulemaking and because DEQ has no discretion with respect to adopting federal regulations that are necessary to maintain state program primacy.

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact Tyler Fortunati at tyler.fortunati@deq.idaho.gov or (208) 373-0410.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before October 4, 2024. Submit written comments to:

Tyler Fortunati
Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706
Tyler.fortunati@deq.idaho.gov

Dated this 4th day of September, 2024.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0108-2401

58.01.08 – IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

002. INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED MATERIALS.

01. Incorporation by Reference. (7-1-24)

a. [40 CFR Part 141](#), revised as of July 1, 2023~~4~~ (excluding annual monitoring provisions in 40 CFR 141.854(a)(4),(d),(e),(f) and (h), and the Aircraft Drinking Water Rule in Subpart X); and [40 CFR Part 143](#), revised as of July 1, 2023~~4~~. (7-1-24)()

b. American Water Works Association (AWWA) Standards, effective December 2022, available for a fee from AWWA, <https://www.awwa.org/Publications/Standards/Standards-List> or available to be viewed through the Department's state office. (7-1-24)

02. Availability of Specific Referenced Material. Copies of specific documents referenced within these rules are available at the following locations: (7-1-24)

a. Recommended Standards for Water Works – Policies for the Review and Approval of Plans and Specifications for Public Water Supplies: a report of the Water Supply Committee of the Great Lakes -- Upper

Mississippi River Board of State and Provincial Public Health and Environmental Managers, most current edition, <https://www.health.state.mn.us/communities/environment/water/tenstates/standards.html>. (7-1-24)

b. Manual of Individual and Non-Public Water Supply Systems (EPA 570/9-91-004), published by the U.S. Environmental Protection Agency, <https://nepis.epa.gov>. (7-1-24)

c. NSF/ANSI Standard 53-2020, Drinking Water Treatment Units -- Health Effects, available from the National Sanitation Foundation, <https://www.techstreet.com/nsf/> (or) https://www.techstreet.com/nsf/standards/nsf-ansi-53-2020?product_id=2212861. (7-1-24)

d. NSF/ANSI Standard 55-2020, Ultraviolet Microbiological Water Treatment Systems, available from the National Sanitation Foundation, <https://www.techstreet.com/nsf/> (or) https://www.techstreet.com/nsf/standards/nsf-ansi-55-2020?product_id=2229644. (7-1-24)

e. NSF/ANSI Standard 58-2020, Reverse Osmosis Drinking Water Treatment Systems, available from the National Sanitation Foundation, <https://www.techstreet.com/nsf/> (or) https://www.techstreet.com/nsf/standards/nsf-ansi-58-2020?product_id=2206515. (7-1-24)

f. NSF/ANSI/CAN Standard 60-2021, Drinking Water Treatment Chemicals -- Health Effects, available from the National Sanitation Foundation, <https://www.techstreet.com/nsf/> (or) https://www.techstreet.com/nsf/standards/nsf-ansi-can-60-2021?product_id=2239369. (7-1-24)

g. ANSI/NSF Standard 61-2021, Drinking Water System Components -- Health Effects, available from the National Sanitation Foundation, <https://www.techstreet.com/nsf/> (or) https://www.techstreet.com/nsf/standards/nsf-ansi-can-61-2021?product_id=2240016. (7-1-24)

h. Manual of Cross-Connection Control, Current Edition, Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California, <https://www.uscfoundationstore.com/Manual-of-Cross-Connection-Control-Tenth-Edition-P44.aspx>. (7-1-24)

i. Manual of design for Slow Sand Filtration (1991), published by AWWA Research Foundation <https://www.directtextbook.com/isbn/0898675510>. (7-1-24)

j. Slow Sand Filtration (1991), published by the American Society of Civil Engineers American Society of Civil Engineers, <https://www.amazon.com/Slow-Sand-Filtration-Gary-Logsdon/dp/0872628477>. (7-1-24)

k. Slow Sand Filtration and Diatomaceous Earth Filtration for Small Water Systems, DOH Pub #331-204 (4/03), Washington State Department of Health, Division of Environmental Health, Office of Drinking Water, <https://www.scribd.com/document/163696548/331-204-pdf>. (7-1-24)

l. Recommended Operations and Optimization Goals, Slow Sand Filtration, DOH Pub #331-601 (6/21), Washington State Department of Health, Division of Environmental Health, Office of Drinking Water, <https://www.doh.wa.gov/Portals/1/Documents/Pubs/331-601.pdf>. (7-1-24)

m. Water System Design Manual, DOH Pub #331-123 (Rev. 6-20), Washington State Department of Health, Division of Environmental Health, Office of Drinking Water, <https://www.doh.wa.gov/CommunityandEnvironment/DrinkingWater/WaterSystemDesignandPlanning/SystemDesign>. (7-1-24)

n. Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources (March 1991 Edition), U.S. Environmental Protection Agency, <http://water.epa.gov/lawsregs/rulesregs/sdwa/swtr/upload/guidsws.pdf>. (7-1-24)

o. Standard Methods for the Examination of Water and Wastewater, a joint publication of the American Public Health Association, the Water Environment Federation, and the American Water Works Association, www.standardmethods.org. (7-1-24)

p. "Idaho Standards for Public Works Construction," Local Highway Technical Assistance Council,

<https://lhtac.org/resources/ispwc>.

(7-1-24)

q. Memorandum of Understanding between the Idaho Department of Environmental Quality and the Idaho Division of Building Safety Plumbing Bureau, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, www.deq.idaho.gov. (7-1-24)

r. Implementation Guidance for the Long Term 2 Enhanced Surface Water Treatment Rule, Idaho Department of Environmental Quality, <https://www2.deq.idaho.gov/admin/LEIA/api/document/download/6040>. (7-1-24)

s. Implementation Guidance for the Stage 2 Disinfectants and Disinfection Byproducts Rule, Idaho Department of Environmental Quality, <https://www2.deq.idaho.gov/admin/LEIA/api/document/download/4790>. (7-1-24)

t. Implementation Guidance for the Drinking Water Program-Ground Water Rule, Idaho Department of Environmental Quality, <https://www2.deq.idaho.gov/admin/LEIA/api/document/download/4778>. (7-1-24)

u. AWWA Recommended Practice for Backflow Prevention and Cross-Connection Control (M14), current edition available from the AWWA, <https://engage.awwa.org/PersonifyEbusiness/Store/Product-Details/productId/46494412>. (7-1-24)

v. Membrane Filtration Guidance Manual (EPA 815-R-06-009) published by the U.S. Environmental Protection Agency, https://sswm.info/sites/default/files/reference_attachments/EPA%202005%20Membrane%20Filtration%20Guidance%20Manual.pdf. (7-1-24)

w. Ultraviolet Disinfection Guidance Manual for the Final Long Term 2 Enhanced Surface water Treatment Rule (EPA 815-R-06-007) published by the U.S. Environmental Protection Agency, <https://www.epa.gov/dwreginfo/long-term-2-enhanced-surface-water-treatment-rule-documents>. (7-1-24)

x. Improving Clearwell Design for CT Compliance, Report #90756, available from the Water Research Foundation, <https://www.waterrf.org/research/projects/improving-clearwell-design-ct-compliance>. (7-1-24)

y. Surface Water Treatment Rule Compliance Guidance, dated January 10, 1996, Idaho Department of Environmental Quality, <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/guidance/>. (7-1-24)

z. Uniform Plumbing Code, available through the Idaho Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642; and at the Division of Building Safety, <http://dbs.idaho.gov>. (7-1-24)

aa. Optimizing Water Treatment Plant Performance Using the Composite Correction Program (EPA/625/6-91/027) published by the U.S. Environmental Protection Agency, https://cfpub.epa.gov/si/si_public_record_report.cfm?Lab=NRMRL&direntryid=23902. (7-1-24)

03. Precedence. In the event of conflict or inconsistency between the language in these rules and that found in any document incorporated by reference, these rules prevail. (7-1-24)

(BREAK IN CONTINUITY OF SECTIONS)

005. DISAPPROVAL DESIGNATION.

The Department may assign a disapproved designation to a PWS when: (7-1-24)

01. Defects. There are design or construction defects, significant deficiencies, or health hazards; or (7-1-24)

02. Operating Procedures. Operating procedures constitute a health hazard; (7-1-24)

- 03. Quality.** Violations of chemical, microbiological, ~~or~~ radiological, or per- and polyfluoroalkyl substances maximum contaminant levels or action levels of these rules; (7-1-24)()
- 04. Monitoring.** Violations of monitoring requirements as specified in these rules; (7-1-24)
- 05. Unapproved Source.** An unapproved source of drinking water is used or the PWS is interconnected with a disapproved water system; or (7-1-24)
- 06. Non-Payment of Annual Fee Assessment.** The annual drinking water system fee assessment is not paid as set forth in Section 010. (7-1-24)

(BREAK IN CONTINUITY OF SECTIONS)

050. MAXIMUM CONTAMINANT LEVELS AND MAXIMUM RESIDUAL DISINFECTANT LEVELS.

- 01. Maximum Contaminant Levels for Inorganic Contaminants.** 40 CFR 141.11 and 141.62 are incorporated by reference. (7-1-24)
- 02. Maximum Contaminant Levels for Organic Contaminants.** 40 CFR 141.61 is incorporated by reference. (7-1-24)
- 03. Maximum Contaminant Levels for Turbidity.** 40 CFR 141.13 is incorporated by reference. (7-1-24)
- 04. Maximum Contaminant Levels for Radionuclides.** 40 CFR 141.66 is incorporated by reference. (7-1-24)
- 05. Maximum Contaminant Levels for Microbiological Contaminants.** 40 CFR 141.63 is incorporated by reference. (7-1-24)
- 06. Maximum Contaminant Levels for Disinfection Byproducts.** 40 CFR 141.64 is incorporated by reference. (7-1-24)
- 07. Maximum Residual Disinfectant Levels.** 40 CFR 141.65 is incorporated by reference. (7-1-24)
- 08. Maximum Contaminant Levels for Per- and Polyfluoroalkyl Substances (PFAS).** 40 CFR 141.61(c)(2) is incorporated by reference. ()

051. -- 099. (RESERVED)

100. MONITORING AND ANALYTICAL REQUIREMENTS.

- 40 CFR Part 141, Subpart C, is incorporated by reference. (7-1-24)
- 01. Total Coliform Sampling and Analytical Requirements.** The Total Coliform Rule, 40 CFR 141.21, is incorporated by reference. The Revised Total Coliform Rule, 40 CFR Part 141, Subpart Y, is incorporated by reference, excluding the annual monitoring provisions in 40 CFR 141.854 (a)(4), (d), (e), (f) and (h). (7-1-24)
- 02. Turbidity Sampling and Analytical Requirements.** 40 CFR 141.22 is incorporated by reference. (7-1-24)
- 03. Inorganic Chemical Sampling and Analytical Requirements.** 40 CFR 141.23 is incorporated by reference. (7-1-24)
- 04. Organic Chemicals, Sampling and Analytical Requirements.** 40 CFR 141.24 is incorporated by reference. (7-1-24)

- 05. Analytical Methods for Radioactivity.** 40 CFR 141.25 is incorporated by reference. (7-1-24)
- 06. Monitoring Frequency and Compliance Requirements for Radioactivity in Community Water Systems.** 40CFR 141.26 is incorporated by reference. (7-1-24)
- 07. Alternate Analytical Techniques.** 40 CFR 141.27 is incorporated by reference. (7-1-24)
- 08. Approved Laboratories.** 40 CFR 141.28 and 141.852(b) are incorporated by reference. All analyses conducted pursuant to these rules, except those listed below, must be performed in laboratories certified or granted reciprocity by the Idaho Department of Health and Welfare, Bureau of Laboratories, as provided in IDAPA 16.02.13, "Rules Governing Certification of Idaho Water Quality Laboratories." The following analyses may be performed by any person acceptable to the Department: (7-1-24)
- a.** pH; (7-1-24)
 - b.** Turbidity (Nephelometric method only); (7-1-24)
 - c.** Daily analysis for fluoride; (7-1-24)
 - d.** Temperature; (7-1-24)
 - e.** Disinfectant residuals, except ozone, will be analyzed using the Indigo Method or an acceptable automated method pursuant to Subsection 300.05.d.; (7-1-24)
 - f.** Alkalinity; (7-1-24)
 - g.** Calcium; (7-1-24)
 - h.** Conductivity; (7-1-24)
 - i.** Silica; and (7-1-24)
 - j.** Orthophosphate. (7-1-24)
- 09. Monitoring of Consecutive Water Systems.** 40 CFR 141.29 is incorporated by reference. (7-1-24)
- 10. Disinfection Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors.** 40 CFR Part 141, Subpart L, is incorporated by reference. (7-1-24)
- 11. Monitoring.** The department may alter the monitoring requirements specified in these rules if the department determines that such alteration is necessary to adequately assess the level of contamination. (7-1-24)
- 12. Special Monitoring for Sodium.** 40 CFR 141.41 is incorporated by reference. (7-1-24)
- 13. Special Monitoring for Corrosivity Characteristics.** 40 CFR 141.42 is incorporated by reference. (7-1-24)
- 14. Monitoring & Analytical Requirements for Per- and Polyfluoroalkyl Substances (PFAS).** 40 CFR 141.901 and 141.902 are incorporated by reference. ()
- 101. -- 149. (RESERVED)**
- 150. REPORTING, PUBLIC NOTIFICATION, RECORDKEEPING.**
- 01. Reporting Requirements.** 40 CFR 141.31 is incorporated by reference.

- (7-1-24)
- 02. Public Notification of Drinking Water Violations.** 40 CFR Part 141, Subpart Q is incorporated by reference. (7-1-24)
- 03. Record Maintenance.** 40 CFR 141.33 is incorporated by reference. (7-1-24)
- 04. Reporting for Unregulated Contaminant Monitoring Results.** 40 CFR 141.35 is incorporated by reference. (7-1-24)
- 05. Reporting and Record Keeping Requirements for the Interim Enhanced Surface Water Treatment Rule.** 40 CFR 141.175 is incorporated by reference. (7-1-24)
- 06. Reporting and Record Keeping Requirements for the Disinfectants and Disinfectant Byproducts Rule.** 40 CFR 141.134 is incorporated by reference. (7-1-24)
- 07. Reporting and Record Keeping Requirements for the Revised Total Coliform Rule.** 40 CFR 141.861 is incorporated by reference. (7-1-24)
- 08. Public Notification.** The Department may require the owner of a PWS that has been disapproved to notify the public. The manner, content, and timing of this notification will be determined by the Department. This is in addition to any provisions set forth in Section 150 that may also apply. (7-1-24)
- 09. Public Notification for Low System Pressure.** (7-1-24)
- a.** During unplanned or emergency situations, when water pressure within the system is known to have fallen below twenty (20) psi, the water supplier must notify the Department, provide public notice to the affected customers within twenty-four (24) hours, and disinfect or flush the system as appropriate. When sampling and corrective procedures have been conducted and after determination by the Department that the water is safe, the water supplier may re-notify the affected customers that the water is safe for consumption. The water supplier must notify the affected customers if the water is not safe for consumption. (7-1-24)
- b.** During planned maintenance or repair situations, when water pressure within the system is expected to fall below twenty (20) psi, the water supplier must provide public notice to the affected customers prior to the planned maintenance or repair activity and notify customers that the water is safe for consumption. (7-1-24)
- 10. Reporting and Record Keeping Requirements for Per- and Polyfluoroalkyl Substances (PFAS).** 40 CFR 141.904 is incorporated by reference. ()

(BREAK IN CONTINUITY OF SECTIONS)

351. CONTROL OF PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS). 40 CFR 141 Subpart Z is incorporated by reference. ()

351.2. -- 399. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

510. SITING AND CONSTRUCTION OF WELLS.

Written approval by the Department is required before water from any new or reconstructed well may be served to the public. Any supplier of water for a PWS served by one (1) or more wells must ensure that the following requirements are met: (7-1-24)

01. Site Approval. Prior to drilling, the site of a PWS well must be approved in writing by the Department. A well site evaluation report must be submitted prior to or concurrent with the PER for the well. The well site evaluation must take into account the proposed size, depth, and location of the well. The evaluation may include, but is not limited to the following types of information: (7-1-24)

- a. An evaluation of the quality of anticipated groundwater. (7-1-24)
- b. Identification of the known aquifers and the extent of each aquifer, based on the stratigraphy, sedimentation, and geologic structure beneath the proposed well site. (7-1-24)
- c. An estimate of hydrologic and geologic properties of each aquifer and confining layers. (7-1-24)
- d. Prediction of the sources of water to be extracted by the well and the drawdown of existing wells, springs, and surface water bodies that may be caused by pumping the proposed well. This prediction may be based on analytical or numerical models as determined by the Idaho Department of Water Resources permitting process. (7-1-24)
- e. Demonstration of the extent of the capture zone of the well, based on the well’s design discharge and on aquifer geology, using estimates of hydraulic conductivity and storativity. (7-1-24)
- f. Description of potential sources of contamination including, but not limited to, sewers and sewage treatment/disposal facilities, highways, railroads, landfills, outcroppings of consolidated water-bearing formations, chemical facilities, waste disposal wells, and agricultural uses within five hundred (500) feet of the well site. (7-1-24)

02. Location. In vulnerable settings, the Department may require engineering or hydrologic analysis to determine if the required setback distance is adequate to prevent contamination. Each well must be staked by the design engineer or licensed professional geologist prior to drilling and meet the following minimum distances:

Minimum Distances from a Public Water System Well	
Frost free hydrant	5 feet
Property line	50 feet
Gravity wastewater line	50 feet
Any potential source of contamination	50 feet
Pressure wastewater line	100 feet
Class A Municipal Reclaimed Wastewater Pressure distribution line	50 feet
Individual home septic tank	100 feet
Individual home disposal field	100 feet
Individual home seepage pit	100 feet
Privies	100 feet
Livestock	50 feet
Drainfield - standard subsurface disposal module	100 feet
Absorption module - large soil absorption system	150 - 300 feet, see IDAPA 58.01.03
Canals, streams, ditches, lakes, ponds and tanks used to store non-potable substances	50 feet

Minimum Distances from a Public Water System Well	
Storm water facilities disposing storm water originating off the well lot	50 feet
Municipal or industrial wastewater treatment plant	500 feet
Reclamation and reuse of municipal and industrial wastewater sites	See IDAPA 58.01.17
Biosolids application site	1,000 feet

(7-1-24)

03. Construction Standards. In addition to meeting the requirements of these rules, all wells must be constructed in accordance with IDAPA 37.03.09, “Well Construction Standards Rules,” and related rules and laws administered by the Idaho Department of Water Resources. All wells must comply with the drilling permit requirements of Section 42-235, Idaho Code. (7-1-24)

- a. Casing for steel pipe must meet the following requirements:

STEEL PIPE					
SIZE	DIAMETER (inches)		THICKNESS (inches)	WEIGHT PER FOOT (pounds)	
	External	Internal		Plain Ends (calculated)	With Threads and Couplings (nominal)
6 (id)	6.625	6.065	0.280	18.97	19.18
8	8.625	7.981	0.322	28.55	29.35
10	10.750	10.020	0.365	40.48	41.85
12	12.750	12.000	0.375	49.56	51.15
14 (od)	14.000	13.250	0.375	54.57	57.00
16	16.000	15.250	0.375	62.58	
18	18.000	17.250	0.375	70.59	
20	20.000	19.250	0.500	78.60	
22	22.000	21.000	0.500	114.81	
24	24.000	23.000	0.500	125.49	
26	26.000	25.000	0.500	136.17	
28	28.000	27.000	0.500	146.85	
30	30.000	29.000	0.500	157.53	
32	32.000	31.000	0.500	168.21	
34	34.000	33.000	0.500	178.89	
36	36.000	35.000	0.500	189.57	

* id = inside diameter

* od = outside diameter

(7-1-24)

b. The use of plastic well casing for PWS wells may be considered on a case-by-case basis. Plastic casing must meet or exceed ASTM Standard F480, current edition, and ANSI/NSF Standard 61. Plastic casing must also meet the following requirements: (7-1-24)

i. Have a minimum wall thickness equivalent to standard dimension ratio 21. However, diameters of 8 inches or greater or deep wells may require greater thickness to meet collapse strength requirements; (7-1-24)

ii. Must not be used at sites where permeation by hydrocarbons or degradation may occur; (7-1-24)

iii. Must be assembled using coupling or solvent welded joints. All coupling and solvents must meet ANSI/NSF Standard 14, ASTM F480, or similar requirements; and (7-1-24)

iv. Must not be driven. (7-1-24)

c. PWS wells must have no less than fifty-eight (58) feet of annular seal of not less than one and one-half (1 ½) inches thickness as measured from land surface to the bottom of the seal unless: (7-1-24)

i. It can be demonstrated to the Department's satisfaction that there is a confining layer at lesser depth that is capable of preventing unwanted water from reaching the intake zone of the well; or (7-1-24)

ii. The best and most practical aquifer at a particular site is less than fifty-eight (58) feet deep; or; (7-1-24)

iii. The Department specifies a different annular seal depth based on local hydrologic conditions. (7-1-24)

d. Specifications must include allowable tolerances for plumbness and alignment in accordance with AWWA Standards, incorporated by reference into these rules at Subsection 002.01, or as otherwise approved by the Department. If the well fails to meet these requirements, it may be accepted by the Department if it does not interfere with the installation or operation of the pump or uniform placement of grout. (7-1-24)

e. Geological data must be collected at each pronounced change in formation and ~~shall be~~ recorded in the driller's log. Supplemental data includes, but is not limited to, accurate geographical location such as latitude and longitude or GIS coordinates, and other information on accurate records of drillhole diameters and depths, assembled order of size and length of casing, screens and liners, grouting depths, formations penetrated, and water levels. (7-1-24)()

f. The owner of each well must retain all records pertaining to each well until the well has been properly abandoned. (7-1-24)

g. Wells with intake screens must: (7-1-24)

i. Be constructed of materials resistant to damage by chemical action of groundwater or cleaning operations. (7-1-24)

ii. Have openings based on sieve analysis of formation, of gravel pack materials, or both. (7-1-24)

iii. Have sufficient length and diameter to provide adequate specific capacity and aperture entrance velocity not to exceed point one (0.1) feet per second, or as otherwise approved by the Department. (7-1-24)

iv. Be installed so that the pumping water level remains above the screen under all operating conditions, or otherwise approved by the Department. Where a bottom plate or sump is utilized, it must be of the same material as the screen, or as otherwise approved by the Department. Where a washdown assembly, tailpipe or sump is used below the screen, it may be made of a different material than the screen. (7-1-24)

h. Permanent well casing must be surrounded by a minimum of one and one-half (1 ½) inches of grout to the depth required by Subsection 510.03.b., or by the Rules of the Idaho Department of Water Resources, whichever is greater. All casing identified in plans and specifications as temporary casing must be removed prior to well completion. (7-1-24)

i. Neat cement grout consisting of cement that conforms to AWWA Standard A-100, and water, with not more than six (6) gallons of water per ninety-four (94) pounds of cement, must be used for one and one-half (1 ½) inch annular space. Additives may be used to increase fluidity and are subject to approval by the Department and the Idaho Department of Water Resources on a case-by-case basis. (7-1-24)

ii. Bentonite grout must have a solids content not less than twenty-five (25) percent by weight when mixed with water and be specifically manufactured for use in sealing of well casing. Bentonite grout ~~shall~~ **must** not contain weighting agents to increase solids content. ~~Bentonite grout must~~ **and** not be used above the water table. All bentonite grout must be installed by positive displacement from the bottom up through a tremmie or float shoe. (7-1-24)()

iii. Where a dry annular space is to be sealed, a minimum of two (2) inches on all sides of the casing will be required to place bentonite to depths not greater than one hundred (100) feet, using #8 mesh granular bentonite. All dry pour granular bentonite must be tagged at appropriate intervals to verify placement. If a bridge occurs, a tremmie pipe must be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips must be of sufficient size to accommodate proper placement for the existing subsurface conditions. (7-1-24)

iv. Dry granular bentonite used in wells where a dry annular space is to be sealed with depths greater than one hundred (100) feet will require an annulus of at least three (3) inches on all sides of the casing, or as approved by the Department and the Idaho Department of Water Resources. If a bridge occurs, a tremmie pipe must be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips must be of sufficient size to accommodate proper placement for the existing subsurface conditions. (7-1-24)

v. All chip bentonite seals installed through water must only be used in annular spaces of at least four (4) inches on all sides of the casing. If a bridge occurs, a tremmie pipe must be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips must be of sufficient size to accommodate proper placement for the existing subsurface conditions. Chip bentonite seals installed through water must be: (7-1-24)

(1) Installed in accordance with manufacturer's specifications; or (7-1-24)

(2) Installed by pouring chips over a one-quarter (1/4) inch mesh screen for three-eighths (3/8) inch chips to remove fines to prevent bridging at the water table; or (7-1-24)

(3) Installed using coated pellets to retard hydration if approved by the Department and the Idaho Department of Water Resources. (7-1-24)

vi. Concrete may be approved on a case-by-case basis by the Department and the Idaho Department of Water Resources. Upon such approval, the approved method must use a six (6) sack minus one-half (1/2) inch Portland cement concrete and must be installed by positive displacement from the bottom up through a tremmie pipe. (7-1-24)

04. Disinfection. All tools, bits, pipe, and other materials to be inserted in the borehole must be cleaned and disinfected in accordance with the Well Construction Standards and permitting requirements of the Idaho Department of Water Resources. This applies to new well construction and repair of existing wells. (7-1-24)

05. Well Completion Report. Upon completion of a well, and prior to its use as a drinking water source, the following information and data must be submitted by the PWS to the Department. The well completion report must be submitted to the Department prior to or concurrent with the submittal of the preliminary engineering report for well house construction/modification. The well completion report must bear the imprint of an Idaho licensed professional engineer's or an Idaho licensed professional geologist's seal that is both signed and dated by the engineer or geologist: (7-1-24)

- a. A copy of all well logs; (7-1-24)
 - b. Results of test pumping, as specified in Subsection 510.06; (7-1-24)
 - c. As constructed plans showing at least the following: (7-1-24)
 - i. Annular seal, including depth and sealant material used and method of application; (7-1-24)
 - ii. Casing perforations, results of sieve analysis used in designing screens installed in sand or gravel aquifers, gravel packs; and (7-1-24)
 - iii. Recommended pump location. (7-1-24)
 - d. Other information as may be specified by the Department. (7-1-24)
 - e. Sampling results for iron, manganese, corrosivity, and other secondary contaminants specified by the Department. Other monitoring requirements are specified in Subsections 510.05.e.i. through 510.05.e.iii. (7-1-24)
 - i. Community systems must submit results of analysis for total coliform, inorganic ~~chemical contaminants,~~ and organic chemicals ~~contaminants,~~ and radionuclide contaminants, and Per- and Polyfluoroalkyl Substances (PFAS) contaminants set forth in Subsections 050.01, 050.02, 050.05, 100.01, 100.03, 100.04, 100.05, ~~and 100.06,~~ and 100.14, unless analysis is waived pursuant to Subsection 100.07. (7-1-24)()
 - ii. Non-transient Non-community systems must submit results of analysis for total coliform, ~~and inorganic and organic chemical contaminants,~~ and Per- and Polyfluoroalkyl Substances (PFAS) contaminants listed in Subsections 050.01, 050.02, 100.01, 100.03, 100.04, and 100.14 unless analysis is waived pursuant to Subsection 100.07. (7-1-24)()
 - iii. Transient Non-community systems must submit results of a total coliform, nitrite, and nitrate analysis listed in Subsections 050.01, 100.01 and 100.03. (7-1-24)
- 06. Test Pumping.** Upon completion of a groundwater source, test pumping must be conducted in accordance with the following procedures to meet the specified requirements: (7-1-24)
- a. The well must be test pumped at the desired yield (design capacity) of the well for at least twenty-four (24) consecutive hours after the drawdown trend has stabilized, as determined by the supervising engineer or geologist. Alternatively, the well may be pumped at a rate of one hundred fifty percent (150%) of the desired yield for at least six (6) continuous hours after the drawdown trend has stabilized, as determined by the supervising engineer or geologist. The field pumping equipment must be capable of maintaining a constant rate of discharge during the test. Discharge water must be piped an adequate distance to prevent recharge of the well during the test. If the well fails the test protocol, design of the PWS must be re-evaluated and submitted to the Department for approval. (7-1-24)
 - b. Upon completion of well development, the well must be tested for sand production. Fifteen (15) minutes after the start of the test pumping (at or above the design production rate), the sand content of a new well may not be more than five (5) parts per million. Sand production must be measured by a centrifugal sand sampler or other means acceptable to the Department. If sand production exceeds five (5) ppm, the well must be screened gravel packed, or re-developed. (7-1-24)
 - c. The following data must be provided: (7-1-24)
 - i. Static water level and stabilized drawdown; (7-1-24)
 - ii. Well yield in ~~gpm~~ gallons per minute and duration of the pump test, including a discussion of any discrepancy between the desired yield and the yield observed during the test; (7-1-24)()

- iii. Water level in the well recorded at regular intervals during pumping; (7-1-24)
- iv. Profile of water level recovery from the pumping level projected to the original static water level. (7-1-24)
- v. Depth at which the test pump was positioned in the well; (7-1-24)
- vi. Test pump capacity and head characteristics; (7-1-24)
- vii. Sand production data. (7-1-24)
- viii. Results of analysis based on the drawdown and recovery test pertaining to aquifer properties, long term yield, and boundary conditions affecting drawdown. (7-1-24)

d. The Department may allow the use of other pump test protocols that are generally accepted by engineering firms with specialized experience in well construction, by the well drilling industry, or as described in national standards (such as ANSI/AWWA A100), as long as the minimum data specified in Subsection 510.06.c. are provided. The Department welcomes more extensive data about the well, such as step-drawdown evaluations used in determining well capacity for test pumping purposes, zone of influence calculations, and any other information that may be of use in source protection activities or in routine PWS operations. (7-1-24)

e. Where aquifer yield, sustainability, or water quality are questionable, the Department, at its discretion, may require additional site-specific investigations that include test well construction, long-term pumping tests, or other means to demonstrate that the aquifer yield is sufficient to meet the long-term water requirements of the project. (7-1-24)

07. Conversion of Non-Public Water System Wells for Public Water System Use. Any existing well constructed for use other than as a PWS source may be considered for use as a PWS source on a case-by-case basis. The owner of such a well must demonstrate to the Department's satisfaction that the well site conforms to the requirements of Subsections 510.01, 510.02, and Section 512, the well is constructed in a manner that is protective of public health, and that both the quantity and quality of water produced by the well meet PWS standards set forth in these rules. (7-1-24)

08. Monitoring Wells. If monitoring (observation) wells are used and are intended to remain in service after completion of the water supply well, the observation wells must be constructed in accordance with the requirements for permanent wells and be protected at the upper terminal to preclude entrance of foreign materials in accordance with the "Well Construction Standard Rules," IDAPA 37.03.09. (7-1-24)

09. Well Abandonment. Well decommissioning (abandonment) must be performed in accordance with Department of Water Resources requirements set forth in IDAPA 37.03.09, "Well Construction Standard Rules. (7-1-24)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.10 – RULES REGULATING THE DISPOSAL OF RADIOACTIVE MATERIALS NOT REGULATED UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

DOCKET NO. 58-0110-2301 (ZBR CHAPTER REWRITE)

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 2025 Idaho State Legislature for final approval. Pursuant to Section 67-5224(2)(c), Idaho Code, this pending rule must be approved by concurrent resolution of the Legislature. Pursuant to Section 67-5291(2), Idaho Code, all temporary, pending, and final rules of any nature may be approved or rejected by a concurrent resolution of the Legislature. The concurrent resolution shall state the effective date of the approval or rejection. If approved by concurrent resolution, the rules will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

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 39-4405, Idaho Code.

DESCRIPTIVE SUMMARY: This rulemaking was initiated in compliance with [Executive Order No. 2020-01, Zero-Based Regulation \(EO 2020-01\)](#), issued by Governor Little on January 16, 2020. This rulemaking also includes review of the list of federal regulations incorporated by reference and adjustments based on that review. A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 7, 2024, Vol. 24-8, pages 204 through 210. DEQ received no public comments, and the rule has been adopted as initially proposed. The board meeting documents are available at <https://www.deq.idaho.gov/disposal-radioactive-materials-docket-no-58-0110-2301/>.

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 questions concerning the rulemaking, contact the undersigned.

Dated this 4th day of December, 2024.

Diane Cutler
Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Phone: (208)373-0165
Diane.Cutler@deq.idaho.gov

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized by Sections 39-105, 39-107, and 39-4405, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. 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 August 21, 2024. If no such written request is received, a public hearing will not be held. Three public meetings were held during the negotiated rulemaking process.

DESCRIPTIVE SUMMARY: DEQ initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-Based Regulation](#) (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at https://adminrules.idaho.gov/forms_menu.html. This is one of the DEQ rule chapters up for review in 2024. The goal of the rulemaking is to perform a critical and comprehensive review of the entire chapter in an attempt to reduce overall regulatory burden, streamline various provisions, and increase clarity and ease of use.

During the negotiated rulemaking process, DEQ reviewed the list of federal regulations incorporated by reference in Section 004. Based on that review, DEQ made the following adjustments:

1. 10 CFR 30.14 – 30.15, 30.18 – 30.21, 32.11, and 32.18 were identified for deletion from Section 004. These sections are referenced in Section 010, Definitions, but not intended to be incorporated by reference.
2. 10 CFR Part 20, Standards for Protection Against Radiation, was identified as a regulation meant to be incorporated by reference (with the exclusion of Subparts K, M, O, and 10 CFR Sections 20.1001, 20.1002, and 20.1006 through 20.1009) and added to Section 004. 40 CFR Part 20 is referenced in Section 020, Radiation Protection Standards, but had not been incorporated by reference in previous rulemakings.
3. The “revised as of date” of 10 CFR 40.13, Unimportant Quantities of Source Material, has been updated to January 1, 2024, even though 10 CFR 40.13 has not been revised since incorporated by reference into IDAPA 58.01.10 when promulgated in 2001. The purpose of this update is to simplify compliance by making the CFR citation more accessible.

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. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2025 Idaho State Legislature, the rule will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

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: Negotiated rulemaking was conducted pursuant to Section 67-5220, Idaho Code. On September 6, 2023, the Notice of Intent to Promulgate Rules Zero-Based Regulation (ZBR) Negotiated Rulemaking was published in the Idaho Administrative Bulletin. At the conclusion of the negotiated rulemaking process, DEQ submitted the draft rule to the Division of Financial Management for review. DEQ formatted the draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at <https://www.deq.idaho.gov/disposal-radioactive-materials-docket-no-58-0110-2301/>.

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:

1. Incorporation by reference allows DEQ to keep its rules up to date with federal regulations, includes terms and definitions used by the Nuclear Regulatory Commission, and simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rule.
2. 10 CFR Part 20, Standards for Protection Against Radiation, was identified during negotiated rulemaking as a regulation meant to be incorporated by reference (with the exclusion of Subparts K, M, O, and 10 CFR Sections 20.1001, 20.1002, and 20.1006 through 20.1009) and added to Section 004. 40 CFR Part 20 is referenced in Section 020, Radiation Protection Standards, but had not been incorporated by reference in previous rulemakings.
3. For 10 CFR 40.13, Unimportant Quantities of Source Material, the “revised as of date” has been updated to January 1, 2024, even though 10 CFR 40.13 has not been revised since incorporated by reference into IDAPA 58.01.10 when promulgated in 2001. The purpose of this update is to simplify compliance by making the CFR citation more accessible.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule regulates an activity not regulated by the federal government and has previously been approved as meeting the requirements of Section 39-107D, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact Albert Crawshaw at albert.crawshaw@deq.idaho.gov or (208) 373-0554.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before August 28, 2024. Submit written comments to:

Albert Crawshaw
Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706
albert.crawshaw@deq.idaho.gov

Dated this 7th day of August, 2024.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 58-0110-2301

**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 Sections [39-105](#), [39-107](#), and [39-4405](#), Idaho Code. (3-31-22)()~~

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.” (3-31-22)~~

~~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 that~~ 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. (3-31-22)()

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. (3-31-22)~~

002. (RESERVED)

003. ADMINISTRATIVE APPEALS.

~~Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 58.01.23, “Contested Case Rules and Rules for Protection and Disclosure of Records.” (3-31-22)~~

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. (3-31-22)

~~02. Documents Incorporated by Reference.~~ The following documents are incorporated by reference into these rules: (3-31-22)

- ~~a. 10 CFR 30.14 through 30.15, revised as of January 1, 2014. (3-31-22)~~
- ~~b. 10 CFR 30.18 through 30.21, revised as of January 1, 2014. (3-31-22)~~
- ~~c. 10 CFR 32.11, revised as of January 1, 2014. (3-31-22)~~
- ~~d. 10 CFR 32.18, revised as of January 1, 2014. (3-31-22)~~

~~01. Standards for Protection Against Radiation.~~ 10 CFR Part 20, revised as of January 1, 2024, are incorporated by reference into these rules with the following exclusions: Subparts K, M, O, and 10 CFR Sections 20.1001, 20.1002, and 20.1006 through 20.1009. ()

~~e02. Unimportant Quantities of Source Material.~~ 10 CFR 40.13, revised as of January 1, 2014²⁴. (3-31-22)()

~~03. Availability of Referenced Material.~~ Copies of the documents incorporated by reference into these rules are available at the following locations: (3-31-22)

- ~~a. Department of Environmental Quality, 1410 N. Hilton, Boise ID 83706-1255. (3-31-22)~~
- ~~b. Idaho State Law Library, 451 W. State Street, P.O. Box 83720, Boise ID 83720-0051. (3-31-22)~~
- ~~c. U.S. Government Printing Office, www.ecfr.gov. (3-31-22)~~

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.~~

~~(3-31-22)~~

~~0065.~~ -- 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions found in Section 39-4403, Idaho Code, terms in this chapter have the following definitions. ()

01. Accelerator-Produced Radioactive Material. Any material made radioactive by a particle accelerator. (3-31-22)

~~02. Board.~~ The Idaho Board of Environmental Quality. (3-31-22)

~~032. Byproduct Material.~~ Byproduct Material means: (3-31-22)()

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.~~ (3-31-22)()

b. The tailings or waste produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute "byproduct material" within this definition. (3-31-22)()

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: (3-31-22)

i. Has been made radioactive by use of a particle accelerator; and (3-31-22)

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 (3-31-22)

d. Any discrete source of naturally occurring radioactive material, other than source material, that: (3-31-22)

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 (3-31-22)

ii. Before, on, or after August 8, 2005, is extracted for use in a commercial, medical, or research activity. (3-31-22)

~~04. Department.~~ The Idaho Department of Environmental Quality. (3-31-22)

~~053. 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). (3-31-22)

~~04. Licensee.~~ When used in the context of 10 CFR and these rules, the definition is Operator or Owner. ()

~~065. 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. Materials which contain any of the primordial radionuclides or radioactive elements as they occur in

~~nature, such as radium, uranium, thorium, potassium, and their radioactive decay products.~~ (3-31-22)()

~~076.~~ **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. (3-31-22)

~~087.~~ **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. (3-31-22)

~~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.~~ (3-31-22)

~~108.~~ **Radioactive Material.** Radioactive Material includes: (3-31-22)

a. Technologically Enhanced Naturally Occurring Radioactive Material; (3-31-22)

b. Byproduct material authorized for disposal pursuant to 10 CFR 20.2008(b); (3-31-22)

c. Exempt Quantities and Concentrations of Byproduct Materials; (3-31-22)

d. Unimportant Quantities of Source Material, not including the natural uranium and thorium concentrations of rocks or soils; and (3-31-22)()

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. (3-31-22)

~~109.~~ **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. (3-31-22)

~~120.~~ **Source Material.** ~~Source material means:~~ (3-31-22)()

a. Uranium or thorium, or any combination thereof, in any physical or chemical form; or (3-31-22)

b. Ores which contain by weight one-twentieth of one percent (0.05%) or more of: (3-31-22)

i. Uranium; (3-31-22)

ii. Thorium; or (3-31-22)

iii. Any combination thereof. (3-31-22)

c. Source material does not include special nuclear material. (3-31-22)

~~131.~~ **Special Nuclear Material.** ~~Special Nuclear Material means:~~ (3-31-22)()

a. Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material ~~which~~ that the U.S. Nuclear Regulatory Commission determines to be special nuclear material. (3-31-22)()

b. Any material artificially enriched by any of the material listed in Subsection 010.12.a. (3-31-22)

142. 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.~~ Naturally occurring radioactive material whose radionuclide concentrations are increased by or as a result of past or present human practices.

(3-31-22)()

13. Total Effective Dose Equivalent (TEDE). The sum of the effective dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).

()

154. Unimportant Quantities of Source Material. ~~Radioactive materials defined as a~~ Unimportant quantities of source materials defined by the U.S. Nuclear Regulatory Commission (10 CFR 40.13).

(3-31-22)()

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~~ must 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.

(3-31-22)()

020. RADIATION PROTECTION STANDARDS.

01. General Protection Standards.

(3-31-22)

a. All owners and operators ~~shall~~ must conduct operations in a manner consistent with radiation protection standards contained in 10 CFR Part 20;

(3-31-22)()

b. No owner or operator ~~shall~~ may 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

(3-31-22)()

c. No person ~~shall~~ may 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.

(3-31-22)()

02. Protection of Workers During Operations. All owners and operators ~~shall~~ must conduct operations in a manner consistent with radiation protection standards for occupation workers contained in 10 CFR Part 20.

(3-31-22)()

03. Disposal of Radioactive Material. No person, owner, or operator ~~shall~~ may dispose of radioactive materials by any method other than:

(3-31-22)()

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:

(3-31-22)()

i. Department-approved waste acceptance criteria for radioactive material ~~defined in Section 010;~~

(3-31-22)()

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

(3-31-22)

iii. A Department-approved environmental monitoring program that monitors air, ground-water, surface water, and soil for radionuclides and ambient radiation levels ~~in~~ at the environs boundary 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. (3-31-22)()

~~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; (3-31-22)

~~e.~~ 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 (3-31-22)

~~db.~~ 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. (3-31-22)

04. Prohibit Disposal at a Municipal Solid Waste Landfill. No person ~~shall~~ may dispose of radioactive material ~~as defined in these rules~~ at a municipal solid waste landfill, except for individual consumer products containing radioactive material or as authorized under Subsection 020.03.b. (3-31-22)()

021. -- 029. (RESERVED)

030. RECORDS.

Records of disposal, ~~including such as a~~ manifest or bill of landing, ~~shall~~ must be maintained for three (3) years ~~in accordance with 40 CFR 262.40 and 40 CFR 262.23.~~ (3-31-22)()

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~~ will be deemed a violation of these rules. (3-31-22)()

02. Falsification of Statements and Records. It ~~shall be~~ is 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. (3-31-22)()

03. Penalties. Any person violating any provision of these rules or order issued thereunder ~~shall~~ may be liable for civil penalty in accordance with Chapter 44, Title 39, Idaho Code. (3-31-22)()

041. -- 999. (RESERVED)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.14 – RULES GOVERNING FEES FOR ENVIRONMENTAL OPERATING PERMITS, LICENSES, AND INSPECTION SERVICES

DOCKET NO. 58-0114-2401 (ZBR CHAPTER REWRITE, FEE RULE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo and Cost/Benefit Analysis \(CBA\)](#)

EFFECTIVE DATE: This rule has been adopted by the Idaho Board of Environmental Quality (Board) and is now pending review by the 2025 Idaho State Legislature for final approval. Pursuant to Section 67-5224(2)(d), Idaho Code, this pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. Pursuant to Section 67-5291(2), Idaho Code, all temporary, pending, and final rules of any nature may be approved or rejected by a concurrent resolution of the Legislature. The concurrent resolution shall state the effective date of the approval or rejection. If approved by concurrent resolution, the rules will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

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, 39-119, and 39-175C, Idaho Code.

DESCRIPTIVE SUMMARY: This rulemaking was initiated in compliance with [Executive Order No. 2020-01, Zero-Based Regulation \(EO 2020-01\)](#), issued by Governor Little on January 16, 2020. This rulemaking also proposes the consolidation of environmental fees into one chapter. Phase one is consolidation of fees applicable to wastewater treatment facilities. 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, 2024, [Vol. 24-9, pages 643 through 651](#). DEQ received no public comments, and the rule has been adopted as initially proposed. The board meeting documents are available at: <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/environmental-fees-docket-no-58-0114-2401/>.

FEE SUMMARY: This rule consolidates environmental fees into one chapter in an effort to streamline access to fee schedules and to provide a single stop for the regulated community to view applicable fees and includes: 1) moving the IPDES permit fee schedule language currently in Section 110 of 58.01.25, Idaho Pollutant Discharge Elimination System Rules, to 58.01.14, Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services; 2) fees associated with DEQ's recycled water program; and 3) an update that lists subsurface sewage disposal permit fees intended as minimums for specific permit types. The fees are authorized by Idaho Code §§ 39-119 and 39-175C.

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 questions concerning the rulemaking, contact the undersigned.

Dated this 4th day of December, 2024.

Diane Cutler
Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Phone: (208)373-0165
Diane.Cutler@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 action is authorized by Sections 39-105, 39-107, 39-119, and 39-175C, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. 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, 2024. If no such written request is received, a public hearing will not be held. Three public meetings were held during the negotiated rulemaking process.

DESCRIPTIVE SUMMARY: DEQ initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-Based Regulation \(EO 2020-01\)](#), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at https://adminrules.idaho.gov/forms_menu.html. This is one of the DEQ rule chapters up for review in 2024. The goal of the rulemaking is to perform a critical and comprehensive review of the entire chapter in an attempt to reduce overall regulatory burden, streamline various provisions, and increase clarity and ease of use.

In this rulemaking, DEQ proposes the consolidation of environmental fees into one chapter in an effort to streamline access to fee schedules and to provide a single stop for the regulated community to view applicable fees. Phase one is consolidation of fees applicable to wastewater treatment facilities and includes the following proposals.

New Section 170, IPDES and Reuse Permit Fee Schedule: This proposal moves the IPDES permit fee schedule language currently in Section 110 of 58.01.25, Idaho Pollutant Discharge Elimination System Rules, to 58.01.14, Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services. Section 170 also includes a proposal for fees associated with DEQ's recycled water program. DEQ evaluated the current number of recycled water permits and the workload associated with providing permits and compliance assistance for these facilities and determined that a minor fee is necessary to offset the costs to the state associated with this effort. During negotiated rulemaking, DEQ presented three different fee schedule scenarios and requested stakeholder input. After consideration of meeting discussions and comments received, DEQ included the fixed annual cost scenario which takes into account the specific counts of each facility type, aiming to distribute the financial burden equitably while ensuring sufficient funding for program operations and development.

Update Section 110, Subsurface Sewage Disposal: This proposal lists fees intended as minimums for specific permit types - Subsurface Sewage Disposal System Permits, Subsurface Sewage Disposal System Pumper Permits, and Subsurface Sewage Disposal System Installer's Registration Permits.

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. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2025 Idaho State Legislature, the rule will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

FEE SUMMARY: This proposed rule consolidates environmental fees into one chapter in an effort to streamline access to fee schedules and to provide a single stop for the regulated community to view applicable fees and includes: 1) moving the IPDES permit fee schedule language currently in Section 110 of 58.01.25, Idaho Pollutant Discharge Elimination System Rules, to 58.01.14, Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services; 2) fees associated with DEQ's recycled water program; and 3) an update that lists subsurface sewage disposal permit fees intended as minimums for specific permit types. The fees are authorized by Idaho Code §§ 39-119 and 39-175C.

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 resulting from this rulemaking: Not applicable.

NEGOTIATED RULEMAKING: Negotiated rulemaking was conducted pursuant to Section 67-5220, Idaho Code. On April 3, 2024, the Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking was published in the Idaho Administrative Bulletin. At the conclusion of the negotiated rulemaking process, DEQ submitted the draft rule to the Division of Financial Management for review. DEQ formatted the draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/environmental-fees-docket-no-58-0114-2401/>.

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: Not applicable.

IDAHO CODE SECTION 39-107D STATEMENT: This rulemaking is administrative in nature and proposes to update long-standing administrative rules. The portion of the rule relating to IPDES permit fees does not regulate activities not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations. The remaining portions of the proposed rule regulate activities not regulated by the federal government.

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

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before October 4, 2024. Submit written comments to:

Mary Anne Nelson
Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706
mary.anne.nelson@deq.idaho.gov

Dated this 4th day of September, 2024

THE FOLLOWING IS THE TEXT OF ZBR FEE DOCKET NO. 58-0114-2401

58.01.14 – RULES GOVERNING FEES FOR ENVIRONMENTAL OPERATING PERMITS, LICENSES, AND INSPECTION SERVICES

000. LEGAL AUTHORITY.

~~Pursuant to Sections 39-105, 39-107, and 39-119, and 39-175C, Idaho Code, the Board of Environmental Quality is authorized to promulgate rules establishing reasonable fees to be charged and collected for any service rendered by the Department of Environmental Quality.~~ (3-24-22)(____)

001. TITLE AND SCOPE.

~~01. Title. The rules are titled IDAPA 58.01.14, “Rules Governing Fees for Environmental Operating~~

~~Permits, Licenses, and Inspection Services.”~~

~~(3-24-22)~~

~~02. Scope.~~ These rules establish reasonable fees for environmental operating permits, licenses, inspection services and waiver application processing rendered by the Department of Environmental Quality or its designees. ~~(3-24-22)()~~

~~002. WRITTEN INTERPRETATIONS.~~

~~In accordance with Section 67-5201(19)(b)(iv), any written statements pertaining to the interpretation of these rules will be available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255.~~

~~(3-24-22)~~

~~003. ADMINISTRATIVE APPEALS.~~

~~Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 58.01.23, “Contested Case Rules and Rules for Protection and Disclosure of Records.”~~

~~(3-24-22)~~

~~004. INCORPORATION BY REFERENCE.~~

~~These rules do not contain documents incorporated by reference.~~

~~(3-24-22)~~

~~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 a.m. to 5 p.m. Monday through Friday.~~

~~(3-24-22)~~

~~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, and IDAPA 58.01.21, “Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality.”~~

~~(3-24-22)~~

~~007. DEFINITIONS.~~

~~01. Board.~~ The Idaho Board of Environmental Quality.

~~(3-24-22)~~

~~02. De minimis. A type of reuse permit issued to small-scale or low-risk recycled water reuse activities that are deemed to pose minimal risk to public health or the environment in the associated permit staff analysis. De minimis permits typically involve limited analysis, monitoring, and reporting obligations due to low-risk of activity.~~

~~()~~

~~023. Department.~~ The Idaho Department of Environmental Quality or its designee.

~~(3-24-22)~~

~~04. Equivalent Dwelling Unit (EDU). A measure where one (1) EDU is equivalent to wastewater generated from one (1) single-family residence. For assessing fees associated with publicly or privately owned domestic sewage treatment, the number of EDUs is calculated as the population served divided by the average household size as defined in the most recent US Census Bureau data (for that municipality, county, or average number of persons per household for the state of Idaho). For fees associated with industrial wastewater treatment owned by a municipality, EDUs are calculated according to the definition of EDU in IDAPA 58.01.16, “Wastewater Rules.”~~

~~()~~

~~05. Major Facility.~~

~~()~~

~~a. A publicly or privately owned treatment works with a design flow equal to or greater than one million gallons per day (1 MGD), or serves a population of ten thousand (10,000) or more, or causes significant water quality impacts; or~~

~~()~~

~~b. A non-municipal facility that equals or exceeds the eighty (80) point accumulation described in the Score Summary of the NPDES Non-municipal Permit Rating Work Sheet (June 27, 1990) or the Department equivalent.~~

~~()~~

~~03. Director. The Director of the Idaho Department of Environmental Quality or his designee. (3-24-22)~~

0084. -- 099. (RESERVED)

100. ENVIRONMENTAL FEES.

~~The fees specified in Sections 101 through 199 shall be charged for the following environmental services rendered by the Department or its designees. Fees for services rendered by designees that are equivalent or greater than the fees listed in Sections 101 through 199 may be adopted by the district health departments or local government those designees and are intended to cover the cost of maintaining an adequate permitting program. Fees should be formulated consistent with these rules.~~ The fees are to be paid by the party receiving the services to the Department or designee performing the service, in the time, place and manner specified by the performing entity.

(3-24-22)()

101. -- 109. (RESERVED)

110. ~~INDIVIDUAL AND SUBSURFACE SEWAGE DISPOSAL SYSTEM PERMIT.~~

~~Fees listed here are intended as minimum fees for specific permit types. Designees may adopt different fees through their governing board, must have their fee schedules published online in an easy to find and searchable manner, and should use the following criteria. For those services rendered in the process of issuing installation permits for individual and subsurface sewage disposal systems (see IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks"), the following fees apply:~~

(3-24-22)()

~~01. Subsurface Sewage Disposal System Permit. Base the fee calculation on: ()~~

~~01a. Individual Households or Buildings. For individual households or buildings, if the individual and subsurface sewage disposal system is a new installation or a replacement or expansion of an existing system, the fee shall be ninety dollars (\$90). The proposed daily wastewater flow: (3-24-22)()~~

(3-24-22)()

~~02b. Multiple Households or Buildings. For individual and subsurface sewage disposal systems serving more than one (1) household or building in any combination, the fee shall be ninety dollars (\$90) plus ten dollars (\$10) per each household or per each two hundred fifty (250) gallons of flow from buildings. The number of proposed systems: (3-24-22)()~~

(3-24-22)()

~~c. The number of structures to be connected to the proposed system: ()~~

~~d. The county where the proposed system is located: ()~~

~~e. Whether the proposed system is a standard, basic alternative, or complex alternative design; or ()~~

~~f. Whether the proposed system is a new, expansion of an existing system, or a repair or replacement, of a failing system. ()~~

~~02. Subsurface Sewage Disposal System Pumper Permit. The fee is an annual fee and determined based on: ()~~

~~a. The amount of pumping vehicles per owner or business in service each year; and ()~~

~~b. The county where the business is located. ()~~

~~03. Subsurface Sewage Disposal System Installer's Registration Permit. The fee is an annual fee and calculated based on: ()~~

~~a. Whether the applicant will install standard, basic alternative, or complex alternative systems; and ()~~

- b.** The county where the business is located. ()
- 04.** Fees. Minimum fees for services rendered include but are not limited to the following:

Item	Fee
Sewage Disposal Permit: Basic or Complex System	\$400
Sewage Disposal Permit: Large Soil Absorption System or Central System	\$1,000
Sewage Disposal Permit: Tank Only	\$300
Sewage Disposal Permit Renewal	\$40
Installers Registration or Service Provider Certification:	
Basic (annual)	\$50
Complex (annual)	\$100
Pumper Truck License (annual)	\$40
Pumper Additional Truck Fee (per truck annually)	\$20

()

~~111. — 114.~~ (RESERVED)

~~115. INDIVIDUAL AND SUBSURFACE SEWAGE DISPOSAL SYSTEM PUMPER PERMIT.~~

For those services rendered in the process of issuing permits to persons operating individual and subsurface sewage disposal system pumping equipment (see IDAPA 58.01.03, “Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks”), the fee shall be forty dollars (\$40) plus ten dollars (\$10) for each tank truck or tank per annum. (3-24-22)

~~116. — 119.~~ (RESERVED)

~~120. SUBSURFACE SEWAGE DISPOSAL SYSTEM INSTALLER'S REGISTRATION PERMIT.~~

For those services rendered in the process of issuing Installer's Registration Permits (see IDAPA 58.01.03, “Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks”), the fee shall be fifty dollars (\$50) per annum for a standard and basic alternative system installer's registration permit and one hundred dollars (\$100) per annum for a standard, basic and complex alternative system installer's registration permit. (3-24-22)

~~121. — 124.~~ (RESERVED)

~~150. PARCEL SURVEY.~~

For those services rendered in evaluating existing water supply or sewage disposal systems when such evaluation is a condition for the sale of real property, the fee ~~shall be~~ is sixty dollars (\$60) excluding laboratory services. (3-24-22)()

~~151. -- 159.~~ (RESERVED)

~~160. SANITARY RESTRICTION ADMINISTRATION.~~

For those services rendered in the administration of sanitary restrictions, ~~pursuant to Section 50-1326, Idaho Code,~~ the following fees apply: (3-24-22)()

- 01.** Subdivisions or Plats Proposing Individual and Subsurface Sewage Disposal System

Discharge to Subsurface. ~~For subdivisions or plats for which sewage treatment and disposal systems are designed to discharge to the subsurface, t~~ The fee shall be is one hundred dollars (\$100) plus twenty dollars (\$20) per lot. (3-24-22)()

02. Subdivisions or Plats Proposing Other Than Individual and Subsurface Sewage Disposal System Discharge to Subsurface. ~~For subdivisions or plats for which sewage treatment and disposal systems are not designed to discharge to the subsurface, t~~ The fee shall be is twenty-five dollars (\$25). (3-24-22)()

161. -- ~~899~~169. (RESERVED)

170. IPDES AND REUSE PERMIT FEE SCHEDULE.

01. IPDES Fee Schedule. ()

a. Publicly and privately owned treatment works, and other dischargers designated by the Department (IDAPA 58.01.25.105.11.a.), must pay an annual fee based on the number of EDUs. The fee is \$1.74 per EDU. EDUs and the appropriate annual fee will be calculated according to the definition of EDUs in IDAPA 58.01.14.003 by the following: ()

- i. The Department calculates facility EDUs; or ()
- ii. Existing facilities may annually report to the Department the number of EDUs served; or ()
- iii. New facilities may report to the Department the number of EDUs to be served, based on the facility planning design as part of the IPDES permit application. ()

b. Other permitted IPDES dischargers must pay an annual fee, an application fee, or both according to:

<u>Permit Type</u>	<u>Application</u>	<u>Annual</u>
<u>Non-POTW Individual Permits</u>	=	=
<u>Major</u>	\$0	\$13,000
<u>Minor</u>	\$0	\$4,000
<u>Storm Water General Permits</u>	=	=
<u>Construction (CGP)</u>	=	=
<u>1-10 acres¹</u>	\$200	\$0
<u>>10-50 acres</u>	\$400	\$75
<u>>50-100 acres</u>	\$750	\$100
<u>>100-500 acres</u>	\$1,000	\$400
<u>>500 acres</u>	\$1,250	\$400
<u>Low Erosivity Waiver (CGP)</u>	\$125	\$0
<u>Industrial (MSGP) Permits</u>	\$1,500	\$1,000
<u>Cert. of No Exposure (MSGP)</u>	\$250	\$100
<u>Other General Permits</u>	\$0	\$0

¹This includes notices of intent for construction that will disturb one or more acres of land or will disturb less than one acre of land but are part of a common plan of development or sale that will ultimately disturb one or more acres of land. ()

02. Reuse Permit Fee Schedule. ()

a. Permitted municipal reuse facilities must pay an annual fee according to population from the most recent 10-year US Census Bureau data:

Type	Fee
De minimis ^a	\$500
Industrial ^a	\$3,000
Municipal Over 15,000 people	\$3,000
Municipal Between 1,000 and 15,000 people	\$1,000
Municipal Under 1,000 people	\$500
Private Domestic or Other ^a	\$750

^a De minimis, industrial, and private domestic or other recycled water reuse permits are assessed a flat fee not based on US Census Bureau data. ()

b. Reuse general permits will be charged a flat fee of \$100 for processing applications. ()

03. Fee Assessment. ()

a. An annual fee assessment will be generated for each permitted facility for which an annual fee is required under Subsection 170.01 and 170.02. Annual fees will be determined based on the twelve (12) months between October 1 and September 30 each year. ()

b. Application Fees and Annual Fees. ()

i. Application fees, as identified in Subsection 170.01.b., are assessed upon application submittal for coverage under an individual permit or notice of intent for coverage or waiver under a general permit. ()

ii. Owners or operators of multi-year storm water facilities or construction projects are subject to annual fees that will be assessed in the year (October through September) following the receipt of the application or notice of intent for coverage. ()

c. Assessment of annual fees will consider the number of months a permittee was covered under either a general or an individual permit in a year (October through September of each year). If the permittee was covered for less than a full twelve (12) months, the assessed fee will be pro-rated to account for less than a full year's coverage under the permit. ()

d. Permittees with both an IPDES and reuse permit will have the reuse permit fee waived. ()

04. Billing. For permitted facilities subject to an annual fee, the annual fee will be assessed, and the Department will send a statement on or before October 1 of each year. The Department will also assess and send annual fee statements when permit coverage is terminated. ()

05. Payment. ()

a. Payment of the annual fee is due on December 31, unless it is a Saturday, Sunday, or legal holiday, in which event the payment is due on the successive business day. Payment of annual fees for terminated permit

coverage is due at the time of termination. ()

b. Payment of the application fee is due with the application for an individual permit or notice of intent for coverage under a general permit. The Department will not authorize permit coverage until the application fee is paid. ()

c. A publicly owned treatment works (POTW) may request, in writing, monthly or quarterly installment payments upon receipt of the billing statement. The Department will approve or deny the request and inform the POTW within ten (10) business days. ()

06. Delinquent Unpaid Fees. A permittee covered under a general or individual permit will be delinquent in payment if the Department does not receive the assessed annual fee by January 1; or if the permittee opted to pay monthly or quarterly, its monthly or quarterly installment is not received by the Department by the last day of the month the payment is due. ()

07. Suspension of Services and Disapproval Designation. Permittees delinquent in payment of fees assessed under Subsections 170.01 and 170.02: ()

a. After ninety (90) days, the Department will suspend all technical services it provided. The permittee will receive a warning letter identifying administrative enforcement actions the Department may pursue if the permittee does not comply with the terms of the permit. ()

b. After one hundred and eighty (180) days, the Department will consider the permittee in non-compliance with permit conditions and these rules, and subject to provisions described in IDAPA 58.01.25.500 (Enforcement) and Section 39-108, Idaho Code. ()

08. Reinstatement of Suspended Services and Approval Status. Permittees for which delinquency of fee payment under Subsection 170.07 resulted in the suspension of technical services, determination of non-compliance of permit condition, or both, the continuation of technical services, determination of compliance based on payment of fee, or both, will occur upon payment of delinquent annual fee assessments. ()

09. Enforcement Action. Nothing in Section 170 waives the Department's right to undertake a non-fee-related enforcement action at any time, including seeking penalties, as provided in Sections 39-108, 39-109, and 39-117, Idaho Code. ()

10. Responsibility to Comply. Subsection 170.07 does not relieve a permittee from its obligation to comply with the state and federal statutes, rules, regulations, permits, or orders. ()

171. -- 899. (RESERVED)

900. WAIVER OF FEES.

Upon written application to the ~~Director of the~~ Department of Environmental Quality, a waiver of a specific fee may be granted to an applicant who is required by these rules to pay such a fee. (3-24-22)()

01. Determination of Good Cause. Good cause for such a waiver must be shown before it ~~shall~~ will be granted by the ~~Director~~ Department. Good cause may include hardship or extenuating circumstances, as determined by the ~~Director~~ Department. (3-24-22)()

02. Duration of Waiver. If the fee sought to be waived becomes due periodically, the fee may be waived for a designated period of time. (3-24-22)

03. Limitations. Granting of a waiver ~~shall~~ will not be considered as precedent or be given any force or effect in any other proceeding. (3-24-22)()

901. -- 999. (RESERVED)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.22 – RULES FOR ADMINISTRATION OF PLANNING GRANTS FOR DRINKING WATER AND WASTEWATER FACILITIES

DOCKET NO. 58-0122-2401 (ZBR CHAPTER REWRITE)

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 2025 Idaho State Legislature for final approval. Pursuant to Section 67-5224(2)(c), Idaho Code, this pending rule must be approved by concurrent resolution of the Legislature. Pursuant to Section 67-5291(2), Idaho Code, all temporary, pending, and final rules of any nature may be approved or rejected by a concurrent resolution of the Legislature. The concurrent resolution shall state the effective date of the approval or rejection. If approved by concurrent resolution, the rules will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

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 Chapters 1 and 36, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: This rulemaking was initiated in compliance with [Executive Order No. 2020-01, Zero-Based Regulation \(EO 2020-01\)](#), issued by Governor Little on January 16, 2020. 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, 2024, [Vol. 24-9, pages 652 through 668](#). After consideration of public comments, the proposed rule has been revised at Subsections 031.02.e., 032.03, and 040.06, with additional editorial revisions in Section 050 and 080. The remainder of the rule has been adopted as initially proposed. The board meeting documents are available at Drinking Water and Wastewater Grants: [Docket No. 58-0122-2401](#) | Idaho Department of Environmental Quality.

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 questions concerning the rulemaking, contact the undersigned.

Dated this 4th day of December, 2024.

Diane Cutler
Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Phone: (208)373-0165
Diane.Cutler@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 action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. 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 18, 2024. If no such written request is received, a public hearing will not be held. Two public scoping meets were held before the negotiated rulemaking process and three public meetings were held during the negotiated rulemaking process.

DESCRIPTIVE SUMMARY: DEQ initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-Based Regulation \(EO 2020-01\)](#), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at https://adminrules.idaho.gov/forms_menu.htm. This is one of the DEQ rule chapters up for review in 2024. The goal of the rulemaking is to perform a critical and comprehensive review of the entire chapter in an attempt to reduce overall regulatory burden, streamline various provisions, and increase clarity and ease of use.

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. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2025 Idaho State Legislature, the rule will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

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: Negotiated rulemaking was conducted pursuant to Section 67-5220, Idaho Code. On April 3, 2024, the Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking was published in the Idaho Administrative Bulletin. At the conclusion of the negotiated rulemaking process, DEQ submitted the draft rule to the Division of Financial Management for review. DEQ formatted the draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at <https://www.deq.idaho.gov/drinking-water-and-wastewater-grants-docket-no-58-0122-2401/>.

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: Not applicable

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule is an amendment to a long-standing rule that regulates an activity not regulated by the federal government and has previously been approved as meeting the requirements of Section 39-107D, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact MaryAnna Peavey at maryanna.peavey@deq.idaho.gov, (208) 373-0122.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before September 25, 2024. Submit written comments to:

MaryAnna Peavey
Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706
maryanna.peavey@deq.idaho.gov

Dated this 4th day of September, 2024.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 58-0122-2401

Italicized red text that is *double underscored* indicates amendments to the proposed text as adopted in the pending rule.

58.01.22 – RULES FOR ADMINISTRATION OF PLANNING GRANTS
FOR DRINKING WATER AND WASTEWATER 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 Drinking Water and Wastewater Planning Grant Programs in Idaho.~~ (3-31-22)()

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 and Wastewater Facilities.”~~ (3-31-22)

~~02. Scope. The provisions of these rules will establish administrative procedures and requirements for establishing, implementing, and administering a state planning grant program providing financial assistance to qualifying entities to prepare a drinking water or wastewater facility planning document.~~ (3-31-22)()

002. (RESERVED)

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, “Contested Case Rules and Rules for Protection and Disclosure of Records.” (3-31-22)

004. ~~INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED MATERIAL.~~

~~01. Incorporation by Reference. These rules do not contain documents incorporated by reference.~~ (3-31-22)

~~02. Availability of Referenced Material. The “Customer Handbook Grants and Loans Program” (Handbook) is available at the Idaho Department of Environmental Quality, Water Quality Division Loan Program Drinking Water Protection and Finance Division, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502, or www.deq.idaho.gov http://www.deq.idaho.gov/SRF.~~ (3-31-22)()

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." (3-31-22)

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 and Wastewater Grant Programs. The Drinking Water and Wastewater Grant Programs provide assistance to eligible public drinking water and wastewater systems for the planning of facilities to help ensure safe and adequate supplies of drinking water and appropriate processing and disposal of wastewater. It is the intent of the Idaho Board of Environmental Quality to assign a priority rating to those projects to 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., and to administer the Wastewater Treatment Facility Grant Program to protect and enhance 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 in accordance with IDAPA 58.01.16, Wastewater Rules.~~ (3-31-22)

007. SYSTEM ELIGIBILITY.

01. Eligible Drinking Water Systems. Community water systems and nonprofit noncommunity water systems. (3-31-22)

02. Eligible Wastewater Systems. 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. (3-31-22)

03. Systems Not Eligible. The following systems will not be considered eligible for project planning grants: (3-31-22)

a. Systems that do not have the financial capability to pay their non-grant share of a planning project. (3-31-22)

b. Systems delinquent in payment of the annual state drinking water fee, Idaho Pollutant Discharge Elimination System (IPDES) permit assessments or state revolving fund loan repayments. (3-31-22)

008~~5~~. -- 009. (RESERVED)

010. DEFINITIONS.

~~For the purpose of the rules contained in this chapter, the following definitions apply:~~The terms "board," "department," "director," "person," and "state" have the meaning provided for those terms in Section 39-103, Idaho Code. (3-31-22)()

01. Applicant. Any qualifying entity making application for planning grant funds. (3-31-22)

02. Board. ~~The Idaho Board of Environmental Quality.~~ (3-31-22)

03.2. 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. (3-31-22)

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 intercepter sewer or a treatment plant.~~ (3-31-22)

05.3. Community Water System. As defined in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." (3-31-22)()

- ~~a.~~ Serves at least fifteen (15) service connections used by year round residents of the area served by the system; or (3-31-22)
- ~~b.~~ Regularly serves at least twenty five (25) year round residents. (3-31-22)
- ~~06.~~ **Contaminant.** Any physical, chemical, biological, or radiological substance or matter in water. (3-31-22)
- ~~07.~~ **Department.** The Idaho Department of Environmental Quality. (3-31-22)
- ~~08.~~ **Director.** The Director of the Idaho Department of Environmental Quality or the Director's designee. (3-31-22)
- ~~09.~~ **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. (3-31-22)
- ~~10.~~ **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. (3-31-22)
- ~~1404.~~ **Eligible Costs.** Costs which are necessary for planning. To be eligible, costs must also be reasonable and not ineligible costs. The determination of eligible costs ~~shall~~ will be made by the Department pursuant to Section 032. (3-31-22)()
- ~~1405.~~ **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 the Handbook may be used as guidance when preparing the EIS. (3-31-22)
- ~~1406.~~ **Environmental Information Document (EID).** Any written environmental assessment prepared by the applicant describing the environmental impacts of a proposed drinking water or 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.~~ (3-31-22)()
- ~~1407.~~ **Financial Capability.** The ability to raise and manage funds to provide the necessary resources for proper operation of the system. (3-31-22)
- ~~1408.~~ **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~~ will include the environmental ~~information document~~ assessment or a summary of it and will note any other environmental documents related to it. (3-31-22)()
- ~~1609.~~ **Grant Recipient.** An applicant who has been awarded a grant. (3-31-22)
- ~~17.~~ **Handbook.** "Customer Handbook Grants and Loans Program". (3-31-22)
- ~~180.~~ **Idaho Pollutant Discharge Elimination System (IPDES).** Point source permitting program established pursuant to Section 402 of the federal Clean Water Act (33 U.S.C. Section 1342). (3-31-22)()
- ~~191.~~ **Ineligible Costs.** Costs which are not eligible for funding pursuant to these rules. (3-31-22)

- ~~20. **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. (3-31-22)~~
- ~~21. **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. (3-31-22)~~
- ~~22. **Managerial Capability.** The capabilities of the qualified entity to support the proper financial management and technical operation of the system. (3-31-22)~~
- ~~23~~**12. Noncommunity Water System.** A public water system that is not a community water system. As defined in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." (3-31-22)()
- ~~24. **Nondomestic Wastewater.** Wastewaters originating primarily from industrial or commercial processes which carry little or no pollutants of human origin. (3-31-22)~~
- ~~25~~**13. 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. (3-31-22)
- ~~26. **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. (3-31-22)~~
- ~~27. **Operation and Maintenance Manual.** A guidance and training manual delineating the optimum operation and maintenance of the facility or its components. (3-31-22)~~
- ~~28. **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). (3-31-22)~~
- ~~29~~**14. Planning Document.** A document which describes the condition of a public drinking water or 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~~ **must** be prepared by or under the responsible charge of an Idaho licensed professional engineer and 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.~~ (3-31-22)()
- ~~30~~**15. 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. (3-31-22)
- ~~31. **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. (3-31-22)~~
- ~~32~~**16. Priority List.** A ranked list of proposed projects ~~as described in Section 020.~~ (3-31-22)()
- ~~33~~**17. 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.” As defined in IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems.”~~
(3-31-22)()

3418. 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, irrigation system, or wastewater system. (3-31-22)

~~35. Rehabilitation.~~ The repair or replacement of segments of drinking water facilities. (3-31-22)

~~36. Reserve Capacity.~~ That portion of the system in the planned facilities to handle future drinking water demand. (3-31-22)

~~37. 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. (3-31-22)

~~38. State.~~ The state of Idaho. (3-31-22)

319. Suspension. An action by the Director to suspend a grant contract prior to project completion for a specified cause. Suspended contracts may be reinstated. (3-31-22)

420. 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. (3-31-22)

~~41. Technical Capability.~~ The ability of the public drinking water or wastewater system to comply with existing and expected rules. (3-31-22)

421. 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. (3-31-22)

~~43. 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. (3-31-22)

~~442. 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. As defined in IDAPA 58.01.16, “Wastewater Rules.”
(3-31-22)()

~~4523. 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 or otherwise provide direct water quality benefits. This includes the treatment plant, collectors, interceptors, outfall and outlet sewers, pumping stations, sludge treatment and handling systems and land disposal systems. (3-31-22)()

~~46. Water Treatment Plant.~~ That portion of the public drinking water system whose primary purpose is to remove contaminants. (3-31-22)

011. -- 0198. (RESERVED)

019. ELIGIBILITY.

01. Eligible Drinking Water Systems. Community water systems and nonprofit noncommunity water systems. ()

02. Eligible Wastewater Systems. Counties, cities, special service districts, other governmental entities, and nonprofit corporations with authority to collect, treat, or dispose of wastewater or otherwise provide direct water quality benefits. ()

03. Systems Not Eligible. The following systems will not be considered eligible for project planning grants: ()

a. Systems that do not have the financial capability to pay their non-grant share of a planning project; and ()

b. Systems delinquent in payment of the annual state drinking water fee, IPDES permit assessments, or state revolving fund loan repayments. ()

020. PRIORITY RATING SYSTEM.

~~Projects are identified for placement on priority lists by surveying eligible entities directly on an annual basis. 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.~~ (3-31-22)

01. Purpose. A priority rating system ~~shall~~ will be utilized by the Department to annually allot available funds to projects determined eligible for funding assistance in accordance with these rules. (3-31-22)()

02. Priority Rating for Drinking Water Systems. The priority rating system ~~shall~~ will be based on a numerical point system. Priority criteria ~~shall~~ will contain the following points: (3-31-22)()

a. Public Health Hazard. Any documented 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: (3-31-22)()

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 contaminates); (3-31-22)()

ii. ~~Documented~~ Unresolved violations of pressure requirements; (3-31-22)()

iii. ~~Documented~~ Reduction in source capacity that impacts the system's ability to reliably serve water; (3-31-22)()

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. (3-31-22)()

v. ~~Documented~~ Unregulated contaminants that have been shown to be a hazard to public health. (3-31-22)()

b. General Conditions of Existing Facilities. Points ~~shall~~ will be given based on deficiencies (which ~~would~~ may not constitute a public health hazard) for pumping, treating, storing, and delivering drinking water - up to sixty (60) points. (3-31-22)()

c. Sustainability ~~E~~fforts (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. (3-31-22)()

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.~~ Regulatory compliance issues (e.g., noncompliance and resulting legal actions relating to infrastructure deficiencies of the public drinking water system) - up to thirty (30) points. (3-31-22)()

e. Incentives. Bonus points ~~shall~~ will be awarded to systems that promote source water protection, conservation, ~~economy~~, proper operation and maintenance, and monitoring - up to ten (10) points. (3-31-22)()

f. Affordability. Points ~~shall~~ will be given when current system user charges exceed state affordability guidelines ~~-ten (10) up to fifty (50) points.~~ (3-31-22)()

03. Priority Rating for Wastewater Systems. The priority rating system ~~shall~~ will be based on a numerical point system. Priority criteria ~~shall~~ will contain the following points. (3-31-22)()

~~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.~~ (3-31-22)

ba. Regulatory compliance issues (e.g., noncompliance and resulting legal actions relating to infrastructure deficiencies at a wastewater facility) – up to one hundred (100) points. (3-31-22)

eb. 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. (3-31-22)

ec. 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. (3-31-22)

ed. Preventing impacts to uses (nonpoint source pollution projects) – up to one hundred (100) points. (3-31-22)

fc. 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. (3-31-22)

gf. Affordability (current system user charges exceed state affordability guidelines) ~~-ten up to fifty~~ (4050) points. (3-31-22)()

04. Rating Forms. ~~Rating criteria for Subsections 020.02 and 020.03 is set forth in a rating form that is available at www.deq.idaho.gov.~~ (3-31-22)

054. Priority List. A list ~~shall~~ will be developed from projects rated according to the priority rating system, submitted for public review and comment, and submitted to the Board for approval and adoption. (3-31-22)()

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. (3-31-22)()

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. (3-31-22)()

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~~ priority target date for submission of a completed application 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. (3-31-22)()

065. Amendment of Priority List. The ~~Director~~ Department may amend the ~~P~~priority ~~L~~list as set forth in Section 080 ~~of these rules~~. (3-31-22)()

021. -- 029. (RESERVED)

030. PROJECT SCOPE AND FUNDING.

Grant funds awarded under this program will be used entirely to prepare a planning document to 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.; 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. (3-31-22)()

01. Planning Document. (3-31-22)

a. A planning document ~~shall~~ must include all items ~~required by listed in~~ IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 503.03 or 502.04 or IDAPA 58.01.16, "Wastewater Rules," Subsection 411.03 or 410.04, and project specific efforts committed to in the Letter of Interest submitted for the project. A planning document checklist can be found in the Handbook. ~~Should If~~ the grant recipient proceeds to construction using federal funds (e.g., a state revolving fund loan), then the items listed in Subsection 030.01.b. ~~of these rules~~ will be ~~required~~ necessary prior to construction. (3-31-22)()

b. A planning document that is prepared anticipating the use of federal funds ~~shall~~ must include an environmental review ~~that~~ and will require the Department approval of both a technical draft and final planning document. (3-31-22)()

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; or 58.01.16, "Wastewater Rules," Subsection 411.03 or 410.04~~ In addition to the provisions of Subsection 030.01.a., the technical draft planning document must include: (3-31-22)()

- (1) Description of existing conditions for the proposed project area; (3-31-22)
- (2) Description of future conditions for the proposed project area; (3-31-22)
- (3) Development and initial screening of alternatives; and (3-31-22)()
- (4) Development of an environmental review specified by the Department as described in Section 040. (3-31-22)

ii. The grant recipient must provide an opportunity for the public to comment on the technical draft planning document after alternatives have been developed and the Department has approved the technical draft planning document. In addition, the recipient must: ()

(1) Provide documentation of the public notice, comment period, and at least one (1) public meeting within the jurisdiction of the grant recipient was held during the public comment period; ()

(2) Present the technical draft planning document with an explanation of the alternatives identified; ()

(3) Consider public comments received from those affected by the proposed project in evaluating and selecting the cost effective and environmentally sound alternative; ()

(4) Identify the selected alternative after the public meeting and comment period; and ()

(5) Prepare the environmental documentation. ()

~~ii~~ ~~iii~~. The final planning document ~~shall~~ must include all items required of the technical draft planning document as well as the following: (3-31-22)()

(1) Final ~~screening~~ evaluation of ~~principal~~ alternatives ~~and plan adoption~~ including documentation of public comment period and results; (3-31-22)()

(2) S~~Description of the selected~~ alternative, ~~plan description and adoption, and~~ implementation arrangements; ~~and~~ (3-31-22)()

(3) Relevant engineering data supporting the ~~final~~ selected alternative; ~~and~~ (3-31-22)()

(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. (3-31-22)

~~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 grant recipient shall present the draft planning document 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. (3-31-22)

c. The technical draft and final planning document ~~shall~~ must bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. (3-31-22)()

d. The technical draft and final planning documents must be reviewed and approved by the Department. (3-31-22)()

e. The planning period ~~shall~~ must be twenty (20) years for all facilities except for distribution and transmission systems which may be forty (40) years. Build-out conditions must also be considered for collection systems. (3-31-22)()

02. Limitation on Funding Assistance. The maximum grant funding provided in a state planning grant award ~~shall~~ will not exceed fifty percent (50%) of the total eligible costs for grants awarded. (3-31-22)()

03. Professional Services. The engineering firm retained to prepare the planning document must be selected based on qualifications in accordance with Section 67-2320, Idaho Code, and at a minimum is: ()

a. A registered professional engineer currently licensed by the Idaho Board of Professional Engineers and Land Surveyors; ()

b. Not debarred or otherwise prevented from providing services under another federal or state financial assistance program; and ()

c. Covered by professional liability insurance in accordance with Subsection 050.05.d. ()

031. REVIEW AND EVALUATION OF GRANT APPLICATIONS.

01. Submission of Application. Those eligible systems which received high priority ranking ~~shall~~ will be invited to ~~submit an application~~ apply. The applicant ~~shall~~ must submit to the Department, by the priority target date, a completed application ~~in~~ on a form prescribed by the Department. (3-31-22)()

02. Application—Requirements Contents. Applications ~~shall~~ must contain the following documentation, as applicable: (3-31-22)()

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~~ (3-31-22)(____)

b. Contracts for engineering services or other technical services and the description of costs and tasks set forth therein ~~shall~~ must be in sufficient detail for the Department to determine whether the costs associated with the tasks are eligible costs pursuant to Section 032; ~~and~~ (3-31-22)(____)

c. A ~~plan of study~~ scope of work 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~~ (3-31-22)(____)

~~d. Justification for the engineering firm selected. An engineering firm selected by the applicant must at a minimum:~~ (3-31-22)

~~i. Be a registered professional engineer currently licensed by the Idaho Board of Professional Engineers and Land Surveyors; and~~ (3-31-22)

~~ii. Not be debarred or otherwise prevented from providing services under another federal or state financial assistance program; and~~ (3-31-22)

~~iii. 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~~ (3-31-22)

~~ed.~~ 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~~ (3-31-22)(____)

~~fe.~~ 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 requirements for public works procurement competitive bidding requirements and requirements for professional service contracts, including without limitation, the requirements provisions set forth in Sections 67-2801 et seq., 67-2320, 59-1026, and 42-3212, Idaho Code; ~~and~~ (3-31-22)(____)

~~gf.~~ A statement regarding how the non-grant portion of the project will be funded; and (3-31-22)

~~hg.~~ For incorporated nonprofit applicants only, Articles of Incorporation and ~~or~~ Bylaws showing nonprofit and incorporated status according to Chapter 3, Title 30, Idaho Code. (3-31-22)(____)

03. Determination of Completeness of Application. Applications will be reviewed to determine whether they contain all of the information ~~required by~~ listed in Subsection 031.02. (3-31-22)(____)

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. (3-31-22)

05. Reapplication for Grant. The action of disapproving, recalling, or terminating a grant in no way precludes or limits ~~the former~~ an applicant from reapplying for another grant when the project deficiencies are resolved and project readiness is secured. (3-31-22)(____)

032. DETERMINATION OF ELIGIBILITY OF COSTS.

The Department will review the application, including ~~any~~ necessary contracts ~~required~~ to be submitted with the application, to determine whether the costs are eligible costs for funding. (3-31-22)(____)

01. Eligible Costs. Eligible costs are those determined by the Department to be: (3-31-22)

a. Necessary costs; (3-31-22)

- b. Reasonable costs; and (3-31-22)
- c. Costs that are not ineligible as described in Subsection 032.05. (3-31-22)
- 02. Necessary Costs.** The Department will 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~~ scope of work for the planning document. (3-31-22)()
- 03. Reasonable Costs.** Costs will 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 requirements for public works procurement ~~competitive bidding requirements~~ and ~~requirements for~~ professional service contracts, including without limitation, the requirements provisions set forth in Sections 67-2801 et seq., 67-2320, 59-1026, and 42-3212, Idaho Code. (3-31-22)()
- 04. Examples of Costs That May Be Eligible.** Examples of costs that may be eligible, if determined necessary, and reasonable ~~and not ineligible costs include:~~ (3-31-22)()
- 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; (3-31-22)
- b. Professional and consulting services, specifying costs of individual tasks. (3-31-22)
- c. Engineering costs specifying costs of individual tasks, directly related to the planning of facilities including but not limited to the preparation of a planning document and environmental review ~~report;~~ (3-31-22)()
- d. Financial, technical and management capability analysis; (3-31-22)
- e. Public participation for alternative selection; (3-31-22)
- f. Certain direct and other costs as determined eligible by the Department; and (3-31-22)
- g. Legal costs necessary to allow for the completion of the ~~facility plan~~ planning document. (3-31-22)()
- 05. Ineligible Project Costs.** ~~Examples of~~ Examples of costs which are ineligible for funding include, but are not limited to: (3-31-22)()
- a. Planning not directly related to the project; (3-31-22)
- b. Personal injury compensation or damages arising out of the project; (3-31-22)
- c. Fines or penalties due to violations of, or failure to comply with, federal, state, or local laws; (3-31-22)
- d. Costs outside the scope of the approved project; (3-31-22)
- 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; (3-31-22)
- f. Preparation of a grant application; (3-31-22)
- g. All costs related to assessment, defense and settlement of disputes, ~~unless such costs are integral to the completion of the project;~~ (3-31-22)()

- h. Costs of supplying ~~required~~ permits or waivers; and (3-31-22)()
- i. Costs incurred prior to award of the grant unless specifically approved in writing as eligible pre-award costs by the Department ~~in advance of incurring costs~~. (3-31-22)()

06. Notification Regarding Ineligible Costs. Prior to providing a grant offer, the Department will 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 will also provide notification to the engineer.~~ The applicant may provide the Department ~~with~~ additional information in response to the notice. (3-31-22)()

07. Eligible Costs and the Grant Offer. The grant offer will 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. (3-31-22)()

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 the Handbook. If the grant recipient prepares an environmental review, then the Department will be consulted at an early stage in the preparation of the planning document to determine the ~~required necessary~~ level of environmental review. Based on review of existing information and assessment of environmental impacts, the grant recipient may complete at least one (1) of the following: (3-31-22)()

- a. ~~Submit a request for~~ Categorical Exclusion (CE) with supporting backup documentation as specified by the Department; (3-31-22)()
 - b. ~~Prepare an~~ Environmental Information Document (EID) in a format specified by the Department; (3-31-22)()
- or
- c. ~~Prepare an~~ Environmental Impact Statement (EIS) in a format specified by the Department. (3-31-22)()

02. ~~Categorical Exclusions~~ CE. ~~If the grant recipient requests a CE, the~~ Department will ~~review the request and, based upon the supporting documentation,~~ take one (1) of the following actions: (3-31-22)()

- a. Determine if an action is consistent with categories eligible for exclusion whereupon the Department will issue a notice of CE from further substantive environmental review. Once the CE is granted for the selected alternative(s), the Department will publish a notice of CE in a local newspaper; ~~following which the planning document can be approved;~~ or (3-31-22)()
- 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 will notify the grant recipient of the need to prepare an EID. (3-31-22)

03. ~~Environmental Information Document Requirements~~ EID. When an EID is required, the grant recipient ~~shall must~~ prepare the EID in accordance with the following Department procedures: (3-31-22)()

- a. Various laws and executive orders related to environmentally sensitive resources ~~shall must~~ be considered as the EID is prepared. Appropriate state and federal agencies ~~shall must~~ be consulted regarding these laws and executive orders. (3-31-22)()
- b. A full range of relevant impacts, both direct and indirect, of the proposed project ~~shall must~~ be discussed in the EID, including measures to mitigate adverse impacts, cumulative impacts, and impacts that ~~shall will~~ cause irreversible or irretrievable commitment of resources. (3-31-22)()

c. The Department will review the draft EID and either request additional information about one (1) or more potential impacts, or will draft a “finding of no significant impact” (FONSI). (3-31-22)

04. ~~Final Finding of No Significant Impact~~**FONSI**. The Department will publish the draft FONSI in a newspaper of general circulation in the geographical area of the proposed project and ~~shall will~~ 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 will~~ become final. The Department will 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. (3-31-22)()

05. ~~Environmental Impact Statement (EIS) Requirements~~. If an EIS is required, the grant recipient ~~shall must~~: (3-31-22)()

a. Contact all affected state agencies, and other interested parties, to determine the ~~required~~ scope of the document; (3-31-22)()

b. Prepare and submit a draft EIS to all interested agencies, and other interested parties, for review and comment; (3-31-22)

c. Conduct a public meeting which may be held in conjunction with a planning document meeting; and (3-31-22)

d. Prepare and submit a final EIS incorporating all agency and public input for Department review and approval. (3-31-22)

06. **Final EIS**. Upon completion of the EIS by the grant recipient and approval by the Department of all ~~requirements provisions~~ listed in Subsection 040.05, the Department will issue a record of decision, documenting the mitigative measures to be required of the grant recipient. The planning document ~~can may~~ be completed once the final EIS has been approved by the Department. (3-31-22)()

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. (3-31-22)

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 will reevaluate the project, environmental conditions, and public comments and will: (3-31-22)

a. Reaffirm the earlier decision; or (3-31-22)

b. ~~Require~~**Request** supplemental information to the earlier ~~Environmental Impact Statement, Environmental Information Document, or request for Categorical Exclusion~~ **EIS, EID, or request for CE**. Based upon a review of the updated document, the Department will issue and distribute a revised notice of ~~Categorical Exclusion, finding of no significant impact, CE, FONSI~~, or record of decision. (3-31-22)()

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~~ **apply**, and provided a complete application. (3-31-22)()

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. (3-31-22)

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 will become a grant contract agreement. The disbursement of funds pursuant to an agreement is subject to a finding by the ~~Director~~ Department that the grant recipient has complied with all agreement conditions and has prudently managed the project. The ~~Director~~ Department 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 will~~ be interpreted according to the law of grants in aid. No third party ~~shall may~~ acquire any rights against the State or its employees from a grant contract agreement. (3-31-22)()

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. (3-31-22)()

05. Terms of Agreement. The grant offer ~~shall will~~ contain terms of agreement ~~as prescribed by the Department including, but not limited to and~~ special conditions as determined ~~necessary~~ by the Department for the successful planning of the project, including but not limited to:- (3-31-22)()

a. Terms consistent with these rules and consistent with the scope of the grant project; ~~and~~ (3-31-22)()

b. Special clauses as determined necessary by the Department for the successful investigation and management of the project; ~~and~~ (3-31-22)()

c. Terms consistent with applicable state provisions pertaining to planning documents; and (3-31-22)()

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 must~~ 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. (3-31-22)()

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. (3-31-22)

02. Payments for State Grants. Requests for payment ~~shall must~~ 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. (3-31-22)()

03. Grant Increases. Grant amendment increase requests as a result of an increase in eligible project costs ~~will may~~ 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. (3-31-22)()

04. Grant Decreases. If the actual eligible cost is determined to be lower than the estimated eligible cost the grant amount ~~will may~~ be reduced proportionately. (3-31-22)()

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. (3-31-22)

06. Final Payment. The final payment consisting of five percent (5%) of the total state grant will not be made until the ~~requirements contained~~ provisions in the grant agreement have been satisfied. (3-31-22)()

061. -- 069. (RESERVED)

070. SUSPENSION OR TERMINATION OF GRANT.

01. Causes. The Director may suspend or terminate any grant for failure by the ~~grantee~~ grant recipient 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: (3-31-22)()

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 (3-31-22)

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 (3-31-22)

c. Violation(s) of any term of agreement of the grant offer or contract agreement; or (3-31-22)

d. Any willful or serious failure to perform within the scope of the project; or (3-31-22)

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. (3-31-22)

02. Notice. The Director will notify the ~~grantee~~ recipient in writing and by certified mail of the intent to suspend or terminate the grant. The notice of intent ~~shall~~ will state: (3-31-22)()

a. Specific acts or omissions which form the basis for suspension or termination; and (3-31-22)

b. That the ~~grantee~~ recipient may be entitled to appeal the suspension or termination pursuant to IDAPA 58.01.23, ~~“Contested Case Rules and Rules for Protection and Disclosure of Records.”~~ Section 003. (3-31-22)()

~~**03. Determination.** A determination will be made by the Board pursuant to IDAPA 58.01.23, “Contested Case Rules and Rules for Protection and Disclosure of Records.”~~ (3-31-22)

~~**043. Reinstatement of Suspended Grant.** Upon written request by the ~~grantee~~ recipient and evidence that the cause(s) for suspension no longer exist, the Director may, if funds are available, reinstate the grant.~~ (3-31-22)()

~~**054. Reinstatement of Terminated Grant.** No terminated grant ~~shall~~ will be reinstated.~~ (3-31-22)()

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 hazard exists.~~ The Department may amend the priority list or grant a waiver from the provisions of these rules on a case-by-case basis upon full demonstration that the following conditions exist. (3-31-22)()

01. Public Health Protection. The requirement is not necessary for the protection of public health and the environment and does not affect the priority ranking status of the project. ()

02. Affordability Criteria Exceeded. The project will exceed affordability criteria adopted by the Department in the event the waiver is not granted. ()

081. -- 999. (RESERVED)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.23 – CONTESTED CASE RULES AND RULES FOR PROTECTION AND DISCLOSURE OF RECORDS

DOCKET NO. 58-0123-2401

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 2025 Idaho State Legislature for final approval. Pursuant to Section 67-5224(2)(c), Idaho Code, this pending rule must be approved by concurrent resolution of the Legislature. Pursuant to Section 67-5291(2), Idaho Code, all temporary, pending, and final rules of any nature may be approved or rejected by a concurrent resolution of the Legislature. The concurrent resolution shall state the effective date of the approval or rejection. If approved by concurrent resolution, the rules will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution. These rules were adopted by the Idaho Board of Environmental Quality in June 2024 as temporary rules and are currently effective.

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 74-114(8), Idaho Code.

DESCRIPTIVE SUMMARY: This rulemaking was initiated to update IDAPA 58.01.23 for consistency with IDAPA 62.01.01, Idaho Rules of Administrative Procedure, recently adopted by the Office of Administrative Hearings. A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, July 3, 2024, [Vol. 24-7, pages 277 through 284](#). DEQ received no public comments, and the rule has been adopted as initially proposed. The board meeting documents are available at <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/contested-cases-docket-no-58-0123-2401/>.

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 questions concerning the rulemaking, contact the undersigned.

Dated this 4th day of December, 2024.

Diane Cutler
Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Phone: (208)373-0165
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**THE FOLLOWING NOTICE PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The temporary rule is effective July 1, 2024.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226(1), Idaho Code, notice is hereby given that this agency has adopted a temporary rule and has initiated proposed rulemaking. This action is authorized by Sections 39-105, 39-107, and 74-114(8), Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. 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 July 17, 2024. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: This rulemaking updates IDAPA 58.01.23, Contested Case Rules and Rules for Protection and Disclosure of Records (DEQ rules), for consistency with IDAPA 62.01.01, Idaho Rules of Administrative Procedure, recently adopted by the Office of Administrative Hearings (OAH rules) pursuant to Idaho Code § 67-5280. The OAH rules were adopted as pending rules and submitted to the 2024 Idaho State Legislature for review and approved with an effective date of July 1, 2024.

Pursuant to Idaho Code § 67-5206(3), IDAPA 04.11.01, Idaho Rules of Administrative Procedure of the Attorney General (Attorney General rules), are no longer in full force and effect as of July 1, 2024, due to the promulgation of the OAH rules. The DEQ rules refer to the Attorney General rules and contain procedures that are now covered by OAH; therefore, it is necessary to update the DEQ rules. At its June 2024 Board meeting, the Idaho Board of Environmental Quality (Board) adopted temporary rules that are consistent with the OAH rules.

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. If a pending rule is adopted by the Board and approved by concurrent resolution of the 2025 Idaho State Legislature, the final rule will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is necessary for compliance with the deadline in amendments to governing law. IDAPA 62.01.01, Idaho Rules of Administrative Procedure (OAH rules), were adopted pursuant to Idaho Code § 67-5280 with an effective date of July 1, 2024. Temporary adoption of this rule docket ensures that the DEQ administrative procedural rules remain consistent with Idaho law.

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 resulting from this rulemaking: 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 rulemaking updates the DEQ rules for consistency with the OAH rules.

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: Not applicable.

IDAHO CODE SECTION 39-107D STATEMENT: This rule regulates an activity not regulated by the federal government. The federal government does not regulate administrative procedures for the state of Idaho. Section 39-107, Idaho Code, grants authority to the Board to adopt rules that are necessary to carry out the purposes of the Environmental Protection and Health Act, Chapter 1, Title 39, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact the undersigned. The web page for this docket is available at <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/contested-cases-docket-no-58-0123-2401/>.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before July 24, 2024. Submit written comments to the undersigned.

Dated this 3rd day of July, 2024.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0123-2401

58.01.23 – CONTESTED CASE RULES AND RULES FOR PROTECTION AND DISCLOSURE OF RECORDS

000. LEGAL AUTHORITY.

~~Under Sections 39-105, 39-107, 67-5206, and 74-114(8), Idaho Code, the Idaho Legislature has granted the Board of Environmental Quality the authority to promulgate these rules.~~ (3-31-22)()

001. ~~TITLE AND SCOPE AND APPLICABILITY.~~

~~01. Title. These rules are titled IDAPA 58.01.23, “Contested Case Rules and Rules for Protection and Disclosure of Records.”~~ (3-31-22)

~~02. Scope. These rules establish general standards for contested case proceedings and procedures to safeguard trade secrets.~~ (3-31-22)

002. ~~RULES FOR CONTESTED CASES.~~

~~01. Purpose. The purpose of Sections 002 through 730 is to provide procedures for contested cases as required under Idaho Code § 39-107.~~ (3-31-22)

~~02. Applicability. Any person aggrieved by an action or inaction of the Department may file a petition to initiate a contested case pursuant to Chapter 52, Title 67, Idaho Code. These rules govern such and outline substantive, non-procedural requirements prior to and during any contested case proceedings, except that 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.~~ (3-31-22)()

002. ~~INFORMATION FOR FILING PETITION TO INITIATE CONTESTED CASE.~~

~~Hearing coordinator contact and information for filing a petition to initiate a contested case is available at: <http://deq.idaho.gov/public-information/laws-guidance-and-orders/petitions-for-review-and-precedential-orders/>.~~ ()

003. IDAHO RULES OF ADMINISTRATIVE PROCEDURE ~~OF THE ATTORNEY GENERAL.~~

For purposes of contested case procedures, other than specifically provided for in these rules, refer to IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General,” which include, but are not limited to, the following sections: [IDAPA 62.01.01, Idaho Rules of Administrative Procedure.](#) (3-31-22)()

~~01. Liberal Construction. Section 052;~~ (3-31-22)

- ~~02. Computation of Time. Section 056; (3-31-22)~~
- ~~03. Substitution, Withdrawal of Representative. Section 205; (3-31-22)~~
- ~~04. Defective, Insufficient or Late Pleadings. Section 304; (3-31-22)~~
- ~~05. Amendment, Withdrawal Pleadings. Section 305; (3-31-22)~~
- ~~06. Intervention. Sections 350, 351 and 354; (3-31-22)~~
- ~~07. Disqualification of Hearing Officers. Section 412; (3-31-22)~~
- ~~08. Scope of Authority of Hearing Officers. Section 413; (3-31-22)~~
- ~~09. Ex Parte Communications. Section 417; (3-31-22)~~
- ~~10. Prehearing Conference. Sections 510—514; (3-31-22)~~
- ~~11. Discovery Related Prehearing Procedures. Sections 520—532; (3-31-22)~~
- ~~12. Hearings. Sections 550—566; (3-31-22)~~
- ~~13. Evidence. Sections 600—606; (3-31-22)~~
- ~~14. Settlements. Sections 610—614; (3-31-22)~~
- ~~15. Record of Decision. Sections 650—651; (3-31-22)~~
- ~~16. Defaults. Sections 700—702; (3-31-22)~~
- ~~17. Interlocutory Orders. Sections 710—711; (3-31-22)~~
- ~~18. Final Orders. Section 740; (3-31-22)~~
- ~~19. Orders Not Designated. Section 750; (3-31-22)~~
- ~~20. Modification of Orders. Section 760; (3-31-22)~~
- ~~21. Clarification of Orders. Section 770; and (3-31-22)~~
- ~~22. Stay of Orders. Section 780. (3-31-22)~~
- 004. (RESERVED)**
- 005. DEFINITIONS.**
The terms “board,” “department,” and “director” have the meaning provided for those terms in [Section 39-103, Idaho Code](#). The terms “contested case,” “order,” “party,” and “person” have the meaning provided for those terms in [Section 67-5201, Idaho Code](#). (3-31-22)
- 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. (3-31-22)
- 02. Petition.** The pleading initiating a contested case. (3-31-22)
- ~~**03. Pleadings.** Documents filed in a contested case. (3-31-22)~~

~~04. Presiding Officer(s). One (1) member of the board or a duly appointed hearing officer. (3-31-22)~~

~~006. -- 00741. (RESERVED)~~

~~008. FILING AND SERVICE OF DOCUMENTS.~~

~~01. Filing of Documents. (3-31-22)~~

~~a. All documents must be filed with the hearing coordinator and may be filed by email, U.S. mail, hand delivery, or fax. The hearing coordinator assigns case docket numbers, maintains case records, and issues notices on behalf of the Board. Information for filing documents is available at <http://deq.idaho.gov/public-information/laws-guidance-and-orders/petitions-for-review-and-precedential-orders/>. (3-31-22)~~

~~b. Upon receipt of a petition initiating a contested case, the hearing coordinator will: (3-31-22)~~

~~i. Provide confirmation of filing date to the originating party; (3-31-22)~~

~~ii. Serve the petition upon the Department; and (3-31-22)~~

~~iii. In any proceeding involving a permit, 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. (3-31-22)~~

~~02. Service of Documents. From the time a party files its petition, that party 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 040 of these rules 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 will serve courtesy copies upon the presiding officer. (3-31-22)~~

~~009.—019. (RESERVED)~~

~~020. FORM OF PLEADINGS.~~

~~A pleading template for documents to be filed in a contested case is available at <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/petitions-for-review-and-precedential-orders/>. (3-31-22)~~

~~021. PROOF OF SERVICE.~~

~~Every document meeting the conditions for service set out in Subsection 008.02 of these rules must be accompanied by proof of service. A certificate of service template is available at <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/petitions-for-review-and-precedential-orders/>. (3-31-22)~~

~~022.—039. (RESERVED)~~

~~040. INITIAL PLEADING BY PARTY—LISTING OF REPRESENTATIVES.~~

~~The initial pleading of each party 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 to be served with official documents in order to expedite the proceeding and reasonably manage the burden of service upon the parties. (3-31-22)~~

~~041. REPRESENTATION OF PARTIES.~~

~~The representatives of the parties, and no other persons, are entitled to examine witnesses at a hearing or to make or argue motions. Unless otherwise authorized by law:~~ (3-31-22)

~~**01. 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;~~ (3-31-22)

~~**02. General Partnership.** A general partnership may be represented by a partner or an attorney; and~~ (3-31-22)

~~**03. Represented by Attorney.** The following must be represented by an attorney:~~ (3-31-22)

~~**a.** A corporation, or any other business entity other than a general partnership;~~ (3-31-22)

~~**b.** A municipal corporation, local government agency, unincorporated association or nonprofit organization; and~~ (3-31-22)

~~**e.** A state, federal or tribal governmental entity or agency~~ (3-31-22)

042. PUBLIC NOTICE OF PETITION.

Within fourteen (14) days of the date a petition is filed with the Board, the Board will give reasonable notice to the public. The methods for giving notice will include, at a minimum, the following: (3-31-22)

01. Publication. Publish 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 and post the petition on the agency's website at <http://deq.idaho.gov/public-information/laws-guidance-and-orders/petitions-for-review-and-precedential-orders/>. The legal notice will describe the nature of the action initiated by the filing of the petition and will include the date the petition was filed, ~~the deadline for filing petitions to intervene,~~ and a method by which interested persons may obtain a copy of the petition; and (3-31-22)()

02. Mail. Deliver via email, or First Class U.S. mail if email address is not available, a copy of the legal notice prepared in accordance with Subsection 042.01 of these rules to persons on any mailing list developed by the Department relating to the subject matter of the petition. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

~~**062. PETITIONER HAS BURDEN OF PROOF.**~~

~~Unless otherwise provided by statute, the petitioner has the burden of proving by a preponderance of the evidence, the allegations in the petition.~~ (3-31-22)

~~**063. DISMISSAL OF INACTIVE CASES.**~~

~~In the absence of a showing of good cause for retention, any case in which no action has been taken for a period of six (6) months will be dismissed. At least fourteen (14) days prior to such dismissal, the notice of the pending dismissal will be served on all parties by mailing the notice to the last known addresses most likely to give notice to the parties.~~ (3-31-22)

~~064~~**2.** -- 159. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

~~**161. RESPONSE.**~~

~~The response must:~~ (3-31-22)

- ~~01. **Content.** (3-31-22)~~
- ~~a. Separately admit or deny to each factual averment in the petition; (3-31-22)~~
- ~~b. Separately admit or deny the applicability of each legal authority asserted in the petition; (3-31-22)~~
- ~~c. Fully state any additional facts necessary to the decision of the contested case; (3-31-22)~~
- ~~d. Refer to any additional provisions of statute, rule, order or other controlling law upon which it is based. Legal assertions will be accompanied by citations of cases and statutory provisions; and (3-31-22)~~
- ~~e. State the relief sought; and (3-31-22)~~
- ~~02. **Filing.** Be filed 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 IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Sections 700 through 702. (3-31-22)~~

162. MOTIONS.

~~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. (3-31-22)~~

~~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 will state the grounds for denying the request. Unless otherwise provided by the presiding officer, motions for summary judgment are 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. (3-31-22)~~

~~163~~1. -- 351. (RESERVED)

352. ~~TIMELY FILING OF PETITIONS TO INTERVENE~~ - **PROCEEDINGS INVOLVING A PERMIT.**

~~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 as provided in Section 042 of these rules unless a different time is provided by order or notice. (3-31-22)~~

~~02. **Proceedings Involving a Permit.** A permit applicant or permit holder may intervene as a matter of right in any contested case in which the permit is contested. 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.iii. of these rules~~ upon the permit applicant or permit holder. (3-31-22)()~~

~~03. **Petitions Not Timely Filed.** The presiding officer may deny or conditionally grant a petition to intervene if the petition is not timely filed and does not state good cause for untimely filing, or if granting the petition unconditionally would cause disruption, prejudice to existing parties or undue broadening of the issues, or for other reasons. Intervenor are bound by orders and notices entered earlier in the proceeding. (3-31-22)~~

353. GRANTING PETITIONS TO INTERVENE.

~~01. **General.** If a timely 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 of these rules, a permit applicant or permit holder may intervene as a matter of right in any contested case in which the permit is contested. (3-31-22)~~

~~**02. Intervenor Response.** Within fourteen (14) days of the service date of the order granting the petition to intervene, the intervenor must file a response to the petition initiating the contested case and include the content in Subsection 161.01 of these rules. (3-31-22)~~

~~**354.—409. (RESERVED)**~~

~~**410. BOARD MEMBERS AS PRESIDING OFFICERS, APPOINTMENT OF HEARING OFFICERS.**~~

~~One (1) member of the Board may act as the presiding officer. The Board may appoint a hearing officer to act as the presiding officer on behalf of the Board. The hearing coordinator will administer the appointment of the hearing officer. Notice of appointment of a hearing officer or notice of a Board member who will act as presiding officer will be served on all parties. (3-31-22)~~

~~**411.—719. (RESERVED)**~~

~~**720. RECOMMENDED ORDERS.**~~

~~**01. Board Reviews.** A recommended order is an order issued by the presiding officer that will become a final order only after review by the Board pursuant to Section 67-5244, Idaho Code. A recommended order that becomes a final order is a final agency action and may be subject to judicial review pursuant to Section 39-107(6), Idaho Code. (3-31-22)~~

~~**02. Content.** Every recommended order will include a schedule for Board review and contain the following paragraphs: (3-31-22)~~

~~**a.** This is a recommended order of the presiding officer and will not become final without action of the Board.; and (3-31-22)~~

~~**b.** The Board will 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 will 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. (3-31-22)~~

~~**721.—729. (RESERVED)**~~

~~**730. PRELIMINARY ORDERS.**~~

~~**01. Board May Review.** A preliminary order is an order issued by the presiding officer that will become a final order unless reviewed by the Board pursuant to Section 67-5245, Idaho Code. A preliminary order that becomes a final order is a final agency action and may be subject to judicial review pursuant to Section 39-107(6), Idaho Code. (3-31-22)~~

~~**02. Content.** Every preliminary order will contain the following paragraphs: (3-31-22)~~

~~**a.** This is a preliminary order of the presiding officer and will become final without further action of the Board unless any party appeals to the Board by filing a petition for review of the preliminary order; and (3-31-22)~~

~~**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 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.~~

~~(3-31-22)~~

~~**03. Review of Preliminary Orders.** If any party files a petition for review of the preliminary order, the Board will 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 will 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. (3-31-22)~~

~~731~~**353.** -- 899. (RESERVED)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.24 – STANDARDS AND PROCEDURES FOR APPLICATION OF RISK BASED CORRECTIVE ACTION AT PETROLEUM RELEASE SITES

DOCKET NO. 58-0124-2401 (ZBR CHAPTER REWRITE)

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 2025 Idaho State Legislature for final approval. Pursuant to Section 67-5224(2)(c), Idaho Code, this pending rule must be approved by concurrent resolution of the Legislature. Pursuant to Section 67-5291(2), Idaho Code, all temporary, pending, and final rules of any nature may be approved or rejected by a concurrent resolution of the Legislature. The concurrent resolution shall state the effective date of the approval or rejection. If approved by concurrent resolution, the rules will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

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 Chapters 1, 36, 44, 72, and 74, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: This rulemaking was initiated in compliance with [Executive Order No. 2020-01, Zero-Based Regulation \(EO 2020-01\)](#), issued by Governor Little on January 16, 2020. This rulemaking also moves Sections 851 and 852 from IDAPA 58.01.02, Water Quality Standards, under companion Docket No. 58-0102-2401, to IDAPA 58.01.24. A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 7, 2024, [Vol. 24-8, pages 211 through 228](#). DEQ received no public comments, and the rule has been adopted as initially proposed. The board meeting documents are available at Petroleum Release Corrective Action: [Docket No. 58-0124-2401](#) | Idaho Department of Environmental Quality.

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 questions concerning the rulemaking, contact the undersigned.

Dated this 4th day of December, 2024.

Diane Cutler
Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Phone: (208)373-0165
Diane.Cutler@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 action is authorized by Section 39-107(7), and Chapters 1, 36, 44, 72, and 74, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. 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 August 21, 2024. If no such written request is received, a public hearing will not be held. Two public scoping meets were held before the negotiated rulemaking process and three public meetings were held during the negotiated rulemaking process.

DESCRIPTIVE SUMMARY: DEQ initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-Based Regulation](#) (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at https://adminrules.idaho.gov/forms_menu.html. This is one of the DEQ rule chapters up for review in 2024. The goal of the rulemaking is to perform a critical and comprehensive review of the entire chapter in an attempt to reduce overall regulatory burden, streamline various provisions, increase clarity and ease of use, and maintain state program approval.

This proposed rule includes retiring DEQ's risk evaluation software in exchange for the Environmental Protection Agency's (EPA) risk evaluation process using EPA's Regional Screening Level Calculator and Vapor Intrusion Screening Level Calculator. It also includes updates consistent with the adopted Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (40 CFR Part 280) required for state program approval.

In addition, this proposed rule includes moving Sections 851, Petroleum Release Reporting, Investigation, and Confirmation, and 852, Petroleum Release Response and Corrective Action, from IDAPA 58.01.02, Water Quality Standards, to new sections IDAPA 58.01.24.060 and 061 and moving IDAPA 58.01.24.200.03 to new 58.01.24.061.01.b. As these sections were moved from one rule chapter or section to another, unnecessary restrictive words were removed. DEQ initiated companion rulemaking docket 58-0102-2401 for the purpose of deleting Sections 851 and 852 from IDAPA 58.01.02.

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. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2025 Idaho State Legislature, the rule will become effective on July 1, 2025, unless otherwise specified in the concurrent resolution.

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: Negotiated rulemaking was conducted pursuant to Section 67-5220, Idaho Code. On March 6, 2024, the Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking was published in the Idaho Administrative Bulletin. At the conclusion of the negotiated rulemaking process, DEQ submitted the draft rule to the Division of Financial Management for review. DEQ formatted the draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at <https://www.deq.idaho.gov/petroleum-release-corrective-action-docket-no-58-0124-2401/>.

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: Not applicable.

IDAHO CODE SECTION 39-107D STATEMENT: There is no federal law or regulation that is comparable to the Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites. Therefore, this rule is not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which “proposes to regulate an activity not regulated by the federal government.” This rule does not propose to regulate an activity not regulated by the federal government. However, the proposed rule does make revisions to a process currently in the rule that is not specifically delineated or required by the federal government. DEQ previously addressed Sections 39-107D(3) and (4), Idaho Code, when this rule chapter was first promulgated in 2009 under Docket No. 58-0124-0801.

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

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before August 28, 2024. Submit written comments to:

Kristi Lowder
Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706
kristi.lowder@deq.idaho.gov

Dated this 7th day of August, 2024.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 58-0124-2401

~~58.01.24 – STANDARDS AND PROCEDURES FOR APPLICATION OF RISK BASED-CORRECTIVE ACTION AT PETROLEUM RELEASE SITES~~ RULES FOR PETROLEUM RELEASE CORRECTIVE ACTION

000. LEGAL AUTHORITY.

~~Section 39-107(7), and~~ 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.~~ (3-31-22)(____)

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.” (3-31-22)

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 petroleum release response, assessment, and corrective action ~~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 releases. The Department will not require any additional evaluation of petroleum sites previously granted closure unless there is a new petroleum release.~~

~~(3-31-22)()~~

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.~~ (3-31-22)

003. ADMINISTRATIVE PROVISIONS.

~~Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Contested Case Rules and Rules for Protection and Disclosure of Records."~~ (3-31-22)

004. INCORPORATION BY REFERENCE.

~~These rules do not contain documents incorporated by reference.~~ (3-31-22)

005. AVAILABILITY OF REFERENCED MATERIAL.

~~Documents and data bases referenced within these rules are available at the following locations:~~ (3-31-22)

~~01. Idaho Risk Evaluation Manual for Petroleum Releases. Idaho Risk Evaluation Manual for Petroleum Releases and subsequent editions, <http://www.deq.idaho.gov>.~~ (3-31-22)

~~02. U.S. EPA RAGS. U.S. EPA RAGS, Volume 1, <http://www.epa.gov/oswer/riskassessment/policy.htm#5>.~~ (3-31-22)

~~03. U.S. EPA Exposure Factors Handbook. U.S. EPA Exposure Factors Handbook, <http://www.epa.gov/ncea/pdfs/efh/front.pdf>.~~ (3-31-22)

~~04. Idaho Source Water Assessment Plan. Idaho Source Water Assessment Plan, <http://www.deq.idaho.gov>.~~ (3-31-22)

~~05. EPA Regional Screening Tables. EPA Regional Screening Tables, <http://www.epa.gov/reg3hwmd/risk/human/rb-concentration-table/index.htm>.~~ (3-31-22)

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. The office hours are 8 a.m. to 5 p.m. Monday through Friday.~~ (3-31-22)

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."~~ (3-31-22)

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.~~ (3-31-22)

~~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 at www.deq.idaho.gov.~~ (3-31-22)

~~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 at www.deq.idaho.gov.~~

(3-31-22)

009. ACRONYMS.

- 01.** ~~EPA.~~ The United States Environmental Protection Agency. (3-31-22)
- 02.** ~~PST.~~ Petroleum Storage Tank System. (3-31-22)
- 03.** ~~RAGS.~~ Risk Assessment Guidance for Superfund. (3-31-22)
- 04.** ~~UECA.~~ Uniform Environmental Covenant Act. See definition in Section 010. (3-31-22)

003. -- 009. (RESERVED)

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: The terms "department," "person," and "waters" have the same meaning provided for those terms in Section 39-103, Idaho Code. The term "environmental covenant" has the same meaning provided for that term in Section 55-3002, Idaho Code. The terms "petroleum" and "release" have the same meaning provided for those terms in Section 39-7203, Idaho Code.~~

(3-31-22)()

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. (3-31-22)

02. Acceptable Target 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.~~ A hazard quotient of one (1) for a specified receptor when applied to individual chemicals. A hazard quotient of 0.1 (zero point one) for a specified receptor when multiple chemicals and/or exposure routes are present. (3-31-22)()

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. (3-31-22)

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. (3-31-22)

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. (3-31-22)

06. ~~Board.~~ The Idaho Board of Environmental Quality. (3-31-22)

07.6. Corrective Action Plan (CAP). A document, subject to approval by the Department, ~~which that~~ describes: ()

a. ~~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;~~ and ()

b. ~~describes~~ The applicable remediation standards. ~~Also may~~ May also be known as a risk management plan or a remediation workplan. (3-31-22)()

087. 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. (3-31-22)()

~~09. Department. The Idaho Department of Environmental Quality. (3-31-22)~~

~~08. Dissolved Product. Petroleum product constituents found in solution with water. ()~~

~~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. (3-31-22)~~

~~109. 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. (3-31-22)~~

~~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. (3-31-22)~~

130. 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. (3-31-22)

141. 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. (3-31-22)

152. 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. (3-31-22)

~~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. (3-31-22)~~

~~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. (3-31-22)~~

183. 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. (3-31-22)

194. 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. (3-31-22)

~~2015.~~ **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. (3-31-22)

~~2416.~~ **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. (3-31-22)

~~22.~~ **Release.** Any ~~spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a PST into soil, ground water, or surface water.~~ (3-31-22)

~~2317.~~ **Remediation Standard.** A media specific concentration ~~which that~~, when attained, is considered to provide adequate protection of human health and the environment. (3-31-22)()

~~2418.~~ **Residential Use.** Residential use means land uses ~~which that~~ include residential or sensitive populations. (3-31-22)()

~~2519.~~ **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. (3-31-22)

~~260.~~ **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 ~~site~~ 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. (3-31-22)()

~~271.~~ **Screening Level.** A media specific concentration ~~which that~~, 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. (3-31-22)()

~~282.~~ **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. (3-31-22)

~~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. (3-31-22)

011. -- ~~09959.~~ (RESERVED)

060. PETROLEUM RELEASE REPORTING, INVESTIGATION, AND CONFIRMATION.

01. Reporting of Suspected Releases. Owners and operators of petroleum storage tank (PST) systems must report to the Department within twenty-four (24) hours and follow the procedures in Subsection 060.03 for any of the following conditions. ()

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 060.04, such as the presence of free product or dissolved product in nearby surface water or groundwater or vapors in soils, basements, sewer or utility lines. ()

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, liquid in the interstitial space of secondarily contained systems, 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. ()

c. Monitoring results, including investigation of an alarm, from a release detection method that indicate a release may have occurred unless the monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result. ()

02. Investigation Due to Off-Site Impacts. When required by the Department, owners and operators must follow the procedures in Subsection 060.03 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 groundwater or vapors in soils, basements, sewer, and utility lines. ()

03. Release Investigation and Confirmation Steps. Unless corrective action is initiated in accordance with Section 061, owners and operators must 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: ()

a. Conduct tightness tests or, as appropriate, secondary containment testing that determine whether a leak exists in any portion of the PST system, including the tank, the attached delivery piping, a breach of either wall of the secondary containment, and any connected tanks and piping. All such portions can be tested either separately or together or in combinations thereof. ()

i. Repair, replace or upgrade the PST system in accordance with applicable federal, state and local laws, and begin corrective action in accordance with Section 061 if the test results for the system, tank, or delivery piping indicate that a leak exists. ()

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. ()

iii. Conduct a site check as described in Subsection 060.03.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. ()

b. 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 must consider the nature of the petroleum, the type of initial alarm or cause for suspicion, the type of backfill, the depth of groundwater, and other factors appropriate for identifying the presence and source of the release. Methods of sample collection and sample analysis are subject to these rules and Department approval. ()

i. If a release has occurred, begin corrective action in accordance with Section 061. ()

ii. If test results for the PST system do not indicate that a release has occurred, further investigation is not required. ()

04. Reporting and Cleanup of Above Ground Releases. Owners and operators shall contain and immediately clean up an above ground release of petroleum only after identifying and mitigating any fire, explosion, and vapor hazards. ()

a. A release that exceeds twenty-five (25) gallons or that causes a sheen on nearby surface water must be reported to the Department within twenty-four (24) hours and begin corrective action in accordance with Section 061. ()

b. A release that is less than twenty-five (25) gallons and does not cause a sheen on nearby surface water must be reported to the Department only if cleanup cannot be accomplished within twenty-four (24) hours. ()

061. PETROLEUM RELEASE RESPONSE AND CORRECTIVE ACTION.

01. Release Response. Upon confirmation of a petroleum release in accordance with Section 060 or after a release from the PST system is identified in any other manner, owners and operators must perform the

following initial response actions within twenty-four (24) hours: ()

a. Identify and mitigate fire, explosion and vapor hazards; ()

b. Take immediate action to prevent any further release of petroleum into the environment; and ()

c. Report the release to the Department. ()

02. **Initial Abatement Measures.** Unless directed to do otherwise by the Department, owners and operators must perform the following abatement measures: ()

a. Remove as much of the petroleum from the leaking PST system as is necessary to prevent further release to the environment; ()

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 groundwater; ()

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; and ()

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 must comply with applicable state and local requirements. ()

03. **Initial Site Characterization.** Unless directed to do otherwise by the Department, owners and operators must 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 061.02. This information includes, but is not necessarily limited to the following data: ()

a. On the nature and estimated quantity of release; ()

b. From available sources and 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 ()

c. From measurements that assess the site for the presence of petroleum contamination including measurements: ()

i. 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 described in Subsection 060.03.b. or the closure site assessments required by applicable federal, state, or local laws. Sample types, sample locations and analytical methods are subject to these rules and Department approval and will be based on consideration of the nature of the petroleum, the type of backfill, depth to groundwater, and other factors appropriate for identifying the presence and source of the release; and ()

ii. To determine the presence of free product. ()

d. Within forty-five (45) days of release confirmation, or another time specified by the Department, owners and operators must submit the information collected in compliance with Subsection 061.03 to the Department in a manner that demonstrates its applicability and technical adequacy to be reviewed as follows, if the Department determines that the information shows: ()

i. That no further corrective action is required, owners and operators will be notified accordingly; ()

ii. Contamination is limited to soils, owners and operators must treat or dispose of contaminated soils in accordance with Department guidelines, and need not perform any further corrective action; ()

iii. That any of the conditions in Subsections 061.05.a. through 061.05.c. exist, owners and operators must comply with the provisions in Subsections 061.04 through 061.07. ()

04. Free Product Removal. At sites where investigations under Subsection 061.03.c.ii. indicate the presence of free product, owners and operators must remove free product to the maximum extent practicable as determined by the Department while continuing, as necessary, any actions initiated under Subsections 061.01 through 061.03 or preparing for actions under Subsections 061.05 and 061.06. In meeting the provisions of Subsection 061.04, owners and operators must: ()

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; ()

b. Use abatement of free product migration as a minimum objective for the design of the free product removal system; ()

c. Handle any flammable products in a safe and competent manner to prevent fires or explosions; and ()

d. Unless directed to do otherwise by the Department, 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: ()

i. The name of the person(s) responsible for implementing the free product removal measures;()

ii. The estimated quantity, type and thickness of free product observed or measured in wells, boreholes, and excavations; ()

iii. The type of free product recovery system used; ()

iv. Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located; ()

v. The type of treatment applied to, and the effluent quality expected from, any discharge; ()

vi. The steps that have been or are being taken to obtain necessary permits for any discharge; and ()

vii. The disposition of the recovered free product. ()

05. Investigations for Soil and Water Cleanup. If any of the conditions in Subsections 061.05.a. through 061.05.c. exist, and unless directed to do otherwise by the Department, owners and operators must notify the Department and conduct investigations in accordance with Subsection 061.05.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 groundwater or surface water: ()

a. There is evidence that groundwater or surface water has been affected by the release such as found during release confirmation or previous corrective action measures; ()

b. Free product is found to need recovery in compliance with Subsection 061.04; ()

c. There is evidence that contaminated soils may affect nearby groundwater, surface water or the

public health and have not been treated or disposed of in accordance with Subsection 061.03.d.ii. ()

d. Unless determined otherwise by the Department, investigations conducted under Subsection 061.05 are subject to these rules and include, but are not limited to: ()

i. The physical and chemical characteristics of the petroleum product including its toxicity, persistence, and potential for migration; ()

ii. The type and age of the PST system, inventory loss, and type of containment failure; ()

iii. The hydrogeologic characteristics of the release site and the surrounding area; ()

iv. The background concentrations of contaminants in soil, surface water and groundwater; ()

v. A site drawing, showing boring and monitoring well locations, nearby structures, underground utilities, drainage ditches, streams, suspected locations of leakage, direction of groundwater flow, and any domestic or irrigation wells within a one half (1/2) mile radius of the site; ()

vi. Information on ownership and use of any well identified pursuant to Subsection 061.05.d.v.; ()

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; ()

viii. A description of contaminant stratigraphy with accompanying geologic cross-section drawings; ()

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 groundwater; ()

x. The potential effects of residual contamination on nearby surface water and groundwater; and ()

xi. A discussion of laboratory analytical methods and information pertaining to laboratory certification. ()

e. Owners and operators must submit the information collected in investigating the release site in compliance with Subsection 061.05 for the Department's review and approval in accordance with a schedule established by the Department as provided in Subsection 061.07. ()

06. CAP. At any point after reviewing the information submitted in compliance with Subsections 061.01 through 061.05, the Department may require owners and operators to submit additional information or to develop and submit a CAP for responding to contaminated soils, surface water and groundwater. If a CAP is required, owners and operators must submit the CAP according to a consent order or a schedule and criteria established by the Department as provided in Subsection 061.07. ()

a. The Department will approve the CAP only after ensuring that implementation of the plan will adequately protect human health and the environment. In making this determination, the Department will consider the following factors as appropriate: ()

i. The maximum contaminant levels for drinking water or other health-based levels for water and soil that consider the potential exposure pathway of the petroleum product; ()

ii. The physical and chemical characteristics of the petroleum product including its toxicity, persistence, and potential for migration; ()

- iii. The hydrogeologic characteristics of the release site and the surrounding area; ()
- iv. The proximity, quality, and current and future uses of nearby surface water and groundwater; ()
- v. The potential effects of residual contamination on nearby surface water and groundwater; and ()
- vi. Other information assembled in compliance with Section 060. ()
- b.** The CAP must include, but not be limited to, the following information as applicable: ()
 - i. Description of remediation standards, points of exposure, and points of compliance where remediation standards will be achieved; ()
 - ii. Description of remedial strategy and actions that will be taken to achieve the remediation standards; ()
 - iii. Current and reasonably anticipated future land use and use of on-site and immediately adjacent off-site groundwater and surface water; ()
 - iv. Activity and use limitations, if any, that will be required as part of the remedial strategy; ()
 - v. Proposed environmental covenants, developed to implement activity and use limitations, in accordance with Section 600; ()
 - vi. Estimated timeline for completion; ()
 - vii. Monitoring Plan to monitor effectiveness of remedial actions; ()
 - viii. Description of practical quantitation limits as they apply; and ()
 - ix. Description of background concentrations as they apply. ()
- c.** Upon approval of the CAP pursuant to Subsection 200.04 or as directed by the Department, owners and operators must: ()
 - i. Implement the plan including modification to the plan made by the Department; and ()
 - ii. Monitor, evaluate, and report the results of implementing the CAP in accordance with a consent order or a schedule and criteria established by the Department as provided in Subsection 061.07. ()
- d.** Owners and operators may begin cleanup of soil, surface water, and groundwater before the CAP is approved provided that they: ()
 - i. Notify the Department of their intention to begin cleanup; ()
 - ii. Comply with any conditions imposed by the Department, including halting cleanup or mitigating adverse consequences from cleanup activities; and ()
 - iii. Incorporate the self-initiated cleanup measures in the CAP submitted to the Department for approval. ()
- 07. Compliance.** If the Department determines that any of the conditions in 061.05.a. through 061.05.c. exist, owners and operators will be given an opportunity to enter into a consent order with the Department. ()

- a.** The Department will send owners and operators a consent order that sets forth at least the following schedules: ()
- i.** For owners and operators to submit the information collected in investigating the release site in compliance with Subsection 061.05; ()
- ii.** For owners and operators to submit, and criteria for, a CAP in compliance with Subsection 061.06; ()
- iii.** For the Department to review, modify, and approve the site release investigation and CAP; and ()
- iv.** For owners and operators to implement a CAP, and monitor, evaluate, and report the results of implementing the CAP. ()
- b.** Owners and operators will 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. ()
- c.** If owners and operators cannot reach an agreement with the Department within thirty (30) days, the Department will establish a schedule and criteria which owners and operators must comply in order to meet the provisions of Subsections 061.05 and 061.06. ()

062. -- 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. (3-31-22)()

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~~ will be demonstrated by the Department when it can show documentation of releases or suspected releases of other non-petroleum chemicals. (3-31-22)()

101. -- 199. (RESERVED)

200. RISK EVALUATION PROCESS.

~~The following risk evaluation process shall must 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 EPA's RSL Calculator (<https://epa-prgs.ornl.gov/cgi-bin/chemicals/cslsearch>) and VISL Calculator (<https://epa-visl.ornl.gov/cgi-bin/vislsearch>), or other approved methods, may be used for screening and risk evaluations.~~ (3-31-22)()

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 and must~~ include, at a minimum: (3-31-22)()

- a.** Collection of media-specific (soil, surface water, ground-water, soil vapor) data; and (3-31-22)()
- 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; and (3-31-22)()

c. Comparison of the maximum media-specific petroleum contaminant concentrations to the EPA regional 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 (<https://www.epa.gov/risk/regional-screening-levels-rsls-generic-tables>). 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~~ must proceed to: (3-31-22)()

i. Adopt the screening levels as cleanup levels remediation standards and develop a corrective action plan CAP to achieve those levels pursuant to Subsection ~~200-03_061.06.b.~~; or (3-31-22)()

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. (3-31-22)()

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~~ must: (3-31-22)()

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 (3-31-22)

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 CAP. (3-31-22)()

~~**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:~~ (3-31-22)

~~a. Description of remediation standards, points of exposure, and points of compliance where remediation standards shall be achieved;~~ (3-31-22)

~~b. Description of remedial strategy and actions that will be taken to achieve the remediation standards;~~ (3-31-22)

~~c. Current and reasonably anticipated future land use and use of on-site and immediately adjacent off-site ground water, and surface water;~~ (3-31-22)

~~d. Activity and use limitations, if any, that will be required as part of the remedial strategy;~~ (3-31-22)

~~e. Proposed environmental covenants, developed to implement activity and use limitations, in accordance with Section 600;~~ (3-31-22)

~~f. Estimated timeline for completion; and~~ (3-31-22)

~~g. Monitoring Plan to monitor effectiveness of remedial actions.~~ (3-31-22)

~~h. Description of practical quantitation limits as they apply.~~ (3-31-22)

~~i. Description of background concentrations as they apply.~~ (3-31-22)

043. Department Review and Approval of Risk Evaluation or Corrective Action Plan CAP. Within thirty (30) days of receipt of the risk evaluation or corrective action plan CAP, the Department ~~shall~~ will provide in writing either approval, approval with modifications, or rejection of the risk evaluation or corrective action plan CAP. If the Department rejects the risk evaluation or corrective action plan CAP, it ~~shall~~ will 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 will~~ not exceed one hundred eighty (180) days without a reasonable basis and written notice to the owner and/or operator. (3-31-22)()

201. -- 299. (RESERVED)

300. SITE-SPECIFIC RISK EVALUATION REQUIREMENTS.

01. **General Requirements.** The general requirements for human health risk evaluations ~~shall~~ **must** include, at a minimum: (3-31-22)()

a. A conceptual site model ~~which that~~ 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. (3-31-22)()

b. Toxicity information derived from appropriate sources including, but not limited to, those listed in Subsection 300.01.e. (3-31-22)()

c. Data quality objectives and sampling approaches based on the conceptual site model that support the risk evaluation and risk management process. (3-31-22)

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. (3-31-22)

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: The EPA RSL and VISL calculators are appropriate sources of reasonable maximum exposure factor information. Alternative sources must be reasonably justified.~~ (3-31-22)()

i. U.S. EPA RAGS, Volume I; (3-31-22)

ii. U.S. EPA Exposure Factors Handbook; (3-31-22)

iii. Idaho Risk Evaluation Manual for Petroleum Releases; and (3-31-22)

iv. ~~Other referenced technical publications.~~ (3-31-22)

f. Risk characterization presenting the quantitative human health risks and a qualitative and quantitative assessment of uncertainty for each portion of the risk evaluation. (3-31-22)

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. (3-31-22)

02. **Specific Requirements.** Human health risk evaluations ~~shall~~ **must**, at a minimum: (3-31-22)()

a. Utilize an acceptable target risk level as defined in Section 010; (3-31-22)

b. Utilize an acceptable target hazard index as defined in Section 010; (3-31-22)

c. Utilize an acceptable target hazard quotient as defined in Section 010; (3-31-22)

d. Evaluate the potential for exposure from: (3-31-22)

- i. Ground-water ingestion; (3-31-22)()
- ii. Direct contact with contaminated soils resulting from soil ingestion, dermal contact, and inhalation of particulates and vapors; (3-31-22)
- iii. Indoor inhalation of volatile chemicals via ~~volatilization~~ volatilization of chemicals from soil, ground-water, or free phase product; (3-31-22)()
- iv. Ingestion, inhalation, or dermal exposure to ground-water and/or surface water ~~which that~~ has been impacted by contaminants that have leached from the soils; and (3-31-22)()
- v. Other complete or potentially complete routes of exposure; (3-31-22)
- e. Evaluate the potential for exposure to: (3-31-22)
 - i. Adult and child residential receptors; (3-31-22)
 - ii. Adult construction and utility workers; (3-31-22)
 - iii. Aquatic life; (3-31-22)
 - iv. Recreational receptors; and (3-31-22)
 - v. Other relevant potentially exposed receptors; (3-31-22)
- f. Evaluate the potential for use of impacted ground-water for ingestion based on: (3-31-22)()
 - i. The current and historical use of the ground-water for drinking water or irrigation; (3-31-22)()
 - 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; (3-31-22)()
 - iii. The degree of hydraulic connectivity between the impacted ground-water and other ground-water bearing zones or surface water; and (3-31-22)()
 - iv. The location of delineated source water protection areas for public drinking water systems. (3-31-22)

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~~ must be established. The remediation standards established in these rules ~~shall~~ must 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~~ must be established as part of a ~~corrective action plan~~ CAP approved in writing by the Department. The standards may consist of the following or combinations of the following. (3-31-22)()

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~~ EPA RSLs Tables. (3-31-22)()

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. (3-31-22)()

03. Generic Health Standards. An established state or federal generic numerical health standard ~~which that~~ 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. (3-31-22)(____)

~~**04. Other.** Remediation standards may be a combination of standards found in Subsections 400.01 through 400.03. (3-31-22)~~

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, or others, may be used in allowing practical quantitation limits as remediation standards: (3-31-22)(____)

01. Analytical Method. The published or expected practical quantitation limit for a specific chemical and method, and the availability of other methods ~~which that~~ may enable lower practical quantitation limits to be achieved. (3-31-22)(____)

02. Method Detection Limit. The magnitude of the difference between the stated practical quantitation limit and the method detection limit. (3-31-22)

03. Sampling Procedures. The availability of alternative sampling procedures ~~which that~~ may enable lower practical quantitation limits to be achieved. (3-31-22)(____)

04. Estimated Risk Levels. The estimated risk levels when site concentrations are assumed to be at the practical quantitation limit. (3-31-22)

~~**05. Other.** Site specific factors other than those listed above. (3-31-22)~~

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 may~~ be proposed as elements of a ~~corrective action plan CAP~~ in at least the following circumstances: (3-31-22)(____)

a. Where onsite current or proposed land use is not residential and maximum residual site concentrations are greater than screening levels for residential use; (3-31-22)

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; (3-31-22)

c. Where off-site ground-water concentrations exceed residential use screening levels or risk-based concentrations; or (3-31-22)(____)

d. When the Department determines, based upon the proposed ~~corrective action plan CAP~~, 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. (3-31-22)(____)

02. Documentation of Controls. Activity and use limitations, approved by the Department, ~~shall must~~ be described in an environmental covenant executed pursuant to the UECA and ~~shall must~~ be incorporated into a

~~corrective action plan CAP. (3-31-22)()~~

~~**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. (3-31-22)~~

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. If any material revisions to the risk evaluation manual for petroleum releases are required, 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 making such revisions. Material revisions are those changes that result in, or could result in, a different interpretation or use of any provision of the guidance manual. (3-31-22)()~~

701. -- 799. (RESERVED)

800. TABLE.

Chemicals of Interest for Various Petroleum Products:

CHEMICALS OF INTEREST FOR VARIOUS PETROLEUM PRODUCTS				
Chemical	Gasoline/ JP-4/ AVG v gas	Diesel/ Fuel Oil No. 2/ Kerosene	Fuel Oil No.4	Jet Fuels (Jet A, JP-5, JP-8)
Benzene	X	X		X
Toluene	X	X		X
Ethyl benzene	X	X		X
Xylenes (mixed)	X	X		X
Ethylene Dibromide^{1,2} Dibromoethane (EDB) ¹	X ⁺			
1,2 Dichloroethane (EDC) ¹	X ⁺			
Methyl Tert-Butyl Ether (MTBE)	X			
Acenaphthene ²		X	X	X
Anthracene ²		X	X	X
Benzo(a)pyrene ²		X	X	X
Benzo(b)fluoranthene ²		X	X	X
Benzo(k)fluoranthene ²		X	X	X
Benz(a)anthracene		X	X	X
Chrysene ²		X	X	X
Fluorene ²		X	X	X
Fluoranthene ²		X	X	X

CHEMICALS OF INTEREST FOR VARIOUS PETROLEUM PRODUCTS				
Chemical	Gasoline/ JP-4/ AVGgas	Diesel/ Fuel Oil No. 2/ Kerosene	Fuel Oil No.4	Jet Fuels (Jet A, JP-5, JP-8)
Naphthalene	X	X	X	X
Pyrene ²		X	X	X
¹ Leaded-Regular-O only ² <u>Vapor intrusion is not applicable because there is no inhalation toxicity information and/or the chemical is not sufficiently volatile and toxic to pose an inhalation risk from a soil or groundwater source.</u>				

(3-31-22)()

801. -- 999. (RESERVED)