

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

**58.01.25 - RULES REGULATING IDAHO POLLUTANT DISCHARGE
ELIMINATION SYTEM PROGRAM**

DOCKET NO. 58-0125-1401 (NEW CHAPTER)

NOTICE OF NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality, Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Sections 39-105, 39-107, and 39-175C., Idaho Code.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the meetings at one of the following locations. The meeting locations will be connected by telephone and web conferencing. Information for submitting written comments is provided at the end of this notice.

MEETING SCHEDULE: The negotiated rulemaking meeting will be held as follows. Additional meetings will be scheduled as necessary. For information regarding individual participation by telephone and web conferencing or scheduling of additional meetings, contact the undersigned. Individuals interested in participating by telephone and web conferencing should contact the undersigned by the date provided in the table below.

ORIGINATING LOCATION -- LIVE MEETING

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

Tuesday, Dec 2, 2014

9 a.m. to 12:30 p.m. Mountain Time

*To make arrangements for individual participation
by telephone and web conferencing, contact Paula Wilson at
paula.wilson@deq.idaho.gov, (208) 373-0418, by November 21, 2014*

TELEPHONE AND WEB CONFERENCE LOCATIONS

**DEQ Pocatello Regional Office
444 Hospital Way #300
Pocatello, Idaho**

**DEQ Coeur d'Alene Regional Office
2110 Ironwood Parkway
Coeur d'Alene, Idaho**

**DEQ Lewiston Regional Office
1118 F Street
Lewiston, Idaho**

**DEQ Idaho Falls Regional Office
900 N. Skyline, Suite B
Idaho Falls, Idaho**

**DEQ Twin Falls Regional Office
650 Addison Avenue West, Suite 110
Twin Falls, Idaho**

PRELIMINARY DRAFT: DEQ did not draft a preliminary draft rule for public review prior to the first meeting. The first meeting has been scheduled for the purpose of presenting information specific to the development of an Idaho Pollutant Discharge Elimination System (IPDES) program and application for authorization of an IPDES program, legislation likely needed to support the program, DEQ's strategy for completing the application by the September 2016 deadline, and setting a path forward for the negotiations. The website for this rule docket is located at www.deq.idaho.gov/58-0125-1401.

DESCRIPTIVE SUMMARY: This rulemaking has been initiated to implement Idaho Code § 39-175C, which directed DEQ to seek approval of a National Pollutant Discharge Elimination System (NPDES) program. In order to gain approval of the program, DEQ must have rules in place that meet the requirements of the Clean Water Act and 40 CFR 123. These rules will establish procedures for the writing and issuing of IPDES permits, permit application and appeals, fee structures, developing general permits, and other required components of an NPDES program. These rules will be promulgated under a new DEQ rule chapter, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program," IDAPA 58.01.25.

DEQ proposes that some of the proposed rule language may be incorporated by reference from 40 CFR 122, 124, 125 and 133 with respect to required NPDES program components such as technology based effluent limits, transfer and termination of permits, confidentiality, and other components identified as being applicable to state programs. Incorporating the federal regulations by reference will benefit the agency and simplify the overall rule chapter by incorporating those sections of the federal regulation that must be adhered to in the course of developing an IPDES program. This reduces the overall costs of the rule and will allow the agency to adhere to the legally mandated deadline of submitting a complete application to EPA by September of 2016. The alternative to incorporating the federal regulations by reference is to restate the federal regulations in the new IPDES rules. This approach allows for the regulated public to have the entire rule set in one location rather than having to search out 40 CFR chapters. The downside is additional rulemaking pages and the associated annual rule administrative costs.

DEQ proposes to negotiate certain elements of the IPDES program including the permit application process, the appeals process, the fee structure, and compliance enforcement with IPDES permits.

The text of the rule will be drafted by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Major and minor municipal discharges; industrial dischargers; facilities, organizations and individuals seeking coverage under a general permit; facilities that currently have or will have a pretreatment permit to a wastewater facility; and other groups interested in point source discharges to Idaho's surface waters may be interested in participating in this rulemaking. Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment.

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

SUBMISSION OF WRITTEN COMMENTS: DEQ is not seeking written comments at this time. Throughout this negotiated rulemaking process, DEQ will provide opportunities to submit written comments on various issues and draft rule language. Those comments may be submitted by mail, fax or e-mail to the undersigned at the address provided below.

Dated this 15th day of October, 2014.

Paula J. Wilson, Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706-1255
Tel: (208) 373-0418
Fax: (208) 373-0481
paula.wilson@deq.idaho.gov