ATTORNEY GENERAL'S STATEMENT

I hereby certify, pursuant to Section 402(b) of the Federal Water Pollution Control Act, as amended (33 U.S.C. section 1342(b)), that the laws of the State of Idaho provide adequate authority to carry out the program set forth in the Idaho Pollutant Discharge Elimination System Program Description submitted to the Environmental Protection Agency with this Attorney General's Statement, and adequate authority to meet the requirements for State program approval as set forth in Section 402(b) and 40 CFR part 123. The specific rules and statutes, all lawfully adopted and fully effective—and judicial decisions that demonstrate adequate authority—are set forth in the attached spreadsheet. I am authorized to sign this Attorney General's Statement for the State of Idaho.

August 1, 2012

Date

Mark Cecchini-Beaver
Deputy Attorney General

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The following description of Idaho's authority is intended to present the various requirements from the Clean Water Act and Title 40 Code of Federal Regulations pertaining to the NPDES program and the associated Idaho Code or Idaho Administrative Procedures. This table is being provided to help clarify precisely where Idaho's authority to carry out the NPDES program exists.

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Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.4 122.4 outlines the circumstances in which a permit may not be issued.	IDAPA 58.01.25.103 includes all applicable sections of 122.4.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.5(a) and (b). 122.5(a) and (b) set forth the effect of a permit.	IDAPA 58.01.25.100 includes all applicable provisions of 122.5(a) and (b) and (c).	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.7(b) and (c).	IDAPA 58.01.25.002 addresses all applicable provisions of 122.7(b) and (c), including that permit applications, information required to be submitted by the application forms, and effluent data are available to the public.	Idaho Code section 74-114(1) is part of Idaho's public records law, and provides that the information listed in 122.7 is available to the public.
122.7(b) and (c) provide for the treatment of confidential information.		Nutrient management plans (NMPs) required to be developed under the Idaho State Department of Agriculture CAFO programs are exempt from disclosure. Idaho Code section 22-4909A. (Beef Cattle Environmental Control Act); Idaho Code section 37-606A(2) (Dairy Environmental Control Act). However, NMPs developed in connection with the IPDES program are available to the public. Idaho Code section 74-114 and IDAPA 58.01.25.002 provide that permit applications, information required to be submitted by the application forms and effluent data are available to the public. NMPs are a required part of IPDES permit applications for CAFOs. In addition, NMPs are considered effluent data which is also required by state law to be available to the public. The Dairy Environmental Control Act also recognizes that NMPs required under the IPDES program are available to the public. Idaho Code section

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
		37-606A(2) (NMPS are exempt from disclosure “unless such plan is a required component of an NPDES permit.”). Therefore, if a CAFO owner or operator applies for coverage under a general or individual IPDES permit, the NMP is, as required by federal law, available to the public for inspection and copying. NMP's and the compliance information for unpermitted facilities are required by Idaho Code § 37-606A (dairies) and § 22-4909A (beef CAFO) to be maintained by the facility on site. IDEQ has authority to inspect unpermitted facilities per Idaho Code § 39-108 and may request during the course of such inspection to review the NMP and the NMP compliance information.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.21(a)-(b), (c)(2), (e)-(k), (m)-(p), (q) and (r).	The requirements in the referenced CFR sections are found in 58.01.25.102 (Obligation to Obtain a Permit); 105 (Application Requirements for an Individual Permit); and 106 (Individual Permit Application Review). In addition, 122.21(r) is incorporated by reference in section 003.02.a.	Idaho Code section 39-175(A) through 175(C) provides authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.
122.21(a)-(b), (c)(2), (e)-(k), (m)-(p), (q) and (r). These CFR sections include permit application requirements, both general requirements and requirements for specific categories of dischargers.		

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.22. 40 CFR 122.22 includes signature requirements.	IDAPA 58.01.25.090 includes all applicable requirements of 122.22.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR 123.25(a) All State programs must have legal authority to implement each of the following provisions: 40 CFR 122.23. 40 CFR 122.23 includes requirements for CAFOs.	40 CFR 122.23 has been incorporated by reference at IDAPA 58.01.25.003.02.b. In addition, the CAFO requirements in 40 CFR 122.42 are included in IDAPA 58.01.25.301.05.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program. While DEQ is the Idaho agency authorized to issue permits and otherwise implement the IPDES program requirements for CAFOs in Idaho, there are existing state programs that regulate CAFOs. (In fact, at this time, there are no CAFOs that have opted for coverage under the federal CAFO general permit and so state law provides the primary source of regulation for such facilities.) In addition to the IPDES program authority, DEQ is authorized by Idaho Code section 39-104A to issue permits for swine facilities having a one-time animal unit capacity of 2,000 or more animal units. Pursuant to this authority, DEQ has adopted rules for such facilities. IDAPA 58.01.09. The Idaho State Department of Agriculture (ISDA) regulates CAFOs through the Beef Environmental Control Act (Idaho Code section 22-4901 *et seq.*), the Dairy Environmental Control Act (Idaho Code

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
		section 37-601 *et seq.*) and the Poultry Environmental Act, Idaho Code section 25-4001. The ISDA programs require approval of plans for the design and construction of facilities and the approval of nutrient management plans. The ISDA programs also provide that a discharge of wastewater (some of the Acts include in addition to or instead the discharge of other material, e.g., livestock manure or dairy byproducts) to state surface waters is a violation of state law. *See* e.g., Idaho Code section 37-608 and Idaho Code section 22-4908. DEQ's IPDES program authorities overlap with ISDA's existing state CAFO programs. For example, a discharge of wastewater or dairy byproducts to state surface water may be a violation of ISDA's program requirements and the IPDES program requirements. This overlap is recognized and dealt with by the state legislature in several ways. First, the Idaho legislature has expressly recognized that nothing in the ISDA authorities "shall affect the authority of the department of environmental quality to administer and enforce an Idaho NPDES program for… [CAFOs—either beef cattle feeding operations or dairy farms], including without limitation, the authority to issue permits, access records, conduct

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
		inspections and take enforcement actions, as set forth in chapter 1, title 39, Idaho code, and the rules adopted pursuant thereto. The provisions of this Chapter [ISDA authorities] do not alter the requirements, liabilities and authorities with respect to or established by an Idaho NPDES program." Idaho Code section 22-4903(2); Idaho Code section 37-603 (3) (bracketed language added). Second, the Idaho legislature has provided that the ISDA programs should be consistent and coordinated with the DEQ IPDES program authorities and that the two agencies shall, as appropriate, establish an agreement to implement the IPDES program with respect to CAFOs in Idaho. Idaho Code section 22-4903(3); Idaho Code section 37-603(4); Idaho Code section 39-175(C)(5). Pursuant to this authority, DEQ and ISDA have entered into a MOU that recognizes DEQ as the sole authority with respect to implementing the IPDES program, and under which ISDA agrees to inspect CAFOs on behalf of DEQ. The MOU also provides that DEQ retains all enforcement authority for any violations of the IPDES program requirements and that the agencies shall coordinate and consult with respect to enforcement for actions that

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
		violate both IPDES program requirements and the requirements of the ISDA programs. In sum, DEQ has the statutory and regulatory authority to implement the NPDES CAFO requirements.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.24. 40 CFR 122.24 includes requirements for concentrated aquatic animal production facilities.	40 CFR 122.24 is incorporated by reference at IDAPA 58.01.25.003.02.c.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.25. 40 CFR 122.25 includes requirements for aquaculture projects.	40 CFR 122.25 is incorporated by reference at IDAPA 58.01.25.003.02.d.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.26.	40 CFR 122.26(a) through (b) and (e) through (g) are incorporated by reference at IDAPA 58.01.25.003.02.e. In addition, the requirements in 122.26(c) and 122.26(d) are included in IDAPA 58.01.25.105.18 and 19.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.
40 CFR 122.26 includes requirements for storm water discharges.		

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.27. 40 CFR 122.27 includes requirements for silvicultural activities.	40 CFR 122.27 is incorporated by reference at IDAPA 58.01.25.003.02.f.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.28. 40 CFR 122.28 relates to general permits.	IDAPA 58.01.25.130 (General Permits) includes all applicable requirements of 40 CFR 122.28.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.41(a)(1) and (b) through (n). 40 CFR 122.41 includes conditions applicable to all permits.	IDAPA 58.01.25.300 (Conditions Applicable to all Permits) contains all applicable requirements in 40 CFR 122.41.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.42. 40 CFR 122.42 includes conditions applicable to specified categories of permits.	IDAPA 58.01.25.301 (Permit Conditions For Specific Categories) include all applicable requirements of 40 CFR 122.42.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.43. 40 CFR 122.43 relates to establishing permit conditions.	IDAPA 58.01.25.302 (Establishing Permit Conditions) contains all applicable requirements of 40 CFR 122.43.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.44. 40 CFR 122.44 relates to establishing NPDES permit conditions.	IDAPA 58.01.25.302 (Establishing Permit Conditions) contains all applicable requirements of 40 CFR 122.44(a) through (s), excluding (i). The requirements in 40 CFR 122.44(i) are contained in IDAPA 58.01.25.304 (Monitoring and Reporting Requirements).	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.45. 40 CFR 122.45 includes requirements for calculating permit conditions.	IDAPA 58.01.25.303 (Calculating Permit Provisions) includes all applicable requirements in 40 CFR 122.45.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.46.	IDAPA 58.01.25.101 (Duration) includes all applicable requirements of 40 CFR 122.46.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.
40 CFR 122.46 includes requirements for the duration of permits.		

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.47(a). 40 CFR 122.47(a) includes requirements for schedules of compliance.	IDAPA 58.01.25.305 (Compliance Schedules) includes all applicable requirements of 40 CFR 122.47(a).	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.48. 40 CFR 122.48 includes monitoring requirements.	IDAPA 58.01.25.304 (Monitoring and Reporting Requirements) includes all applicable requirements of 40 CFR 122.48.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.50. 40 CFR 122.50 includes requirements for disposal into wells.	IDAPA 58.01.25.303.09 includes all applicable requirements of 40 CFR 122.50.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.61. 40 CFR 122.61 includes requirements for the transfer of permits.	IDAPA 58.01.25.202 (Transfer of IPDES Permits) includes all applicable requirements of 40 CFR 122.61.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.62. 40 CFR 122.62 includes requirements for permit modification.	IDAPA 58.01.25.201 (Modification, or Revocation and Reissuance of IPDES Permits) includes all applicable requirements of 40 CFR 122.62.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 122.64. 40 CFR 122.64 includes requirements for permit termination.	IDAPA 58.01.25.203 (Termination of IPDES Permits) includes all applicable requirements of 40 CFR 122.64.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 124.3(a).	IDAPA 58.01.25.090 (Signature Requirements), 58.01.25.102 (Obligation to Obtain an IPDES Permit) and 58.01.25.106.01 (Individual Permit Application Review) include all applicable requirements of 40 CFR 124.3(a).	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.
40 CFR 124.3(a) includes permit application requirements.		

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 124.5(a), (c), (d), and (f).	IDAPA 58.01.25.201 (Modification, or Revocation and Reissuance of IPDES Permits) and IDAPA 58.01.25.203.01 and .02 (Termination of IPDES Permits) include all applicable requirements of 40 CFR 124.5(a), (c), (d) and (f).	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.
40 CFR 124.5(a), (c), (d) and (f) includes permit modification, revocation and reissuance or termination requirements.		

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 124.6(a), (c), (d), and (e).	IDAPA 58.01.25.107(Decision Process) and IDAPA 58.01.25.108 (Draft Permit and Fact Sheet) include all applicable requirements of 40 CFR 124.6(a), (c), (d) and (e).	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.
40 CFR 124.6(a), (c), (d) and (e) includes draft permit requirements.		

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 124.8. 40 CFR 124.8 includes fact sheet requirements.	IDAPA 58.01.25.108 (Draft Permit and Fact Sheet) include all applicable requirements of 40 CFR 124.8.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 124.10(a)(1)(ii)(iii) and (v), (b), (c), (d) and (e). 40 CFR 124.10(a)(1)(ii), (iii) and (v), (b), (c), (d) and (e) includes public notice requirements.	IDAPA 58.01.25.109 (Public Notice and Comment) include all applicable requirements of 40 CFR 124. 10(a)(1)(ii), (iii) and (v), (b), (c), (d) and (e).	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 124.11. 40 CFR 124.11 includes requirements for public comments and requests for hearings.	IDAPA 58.01.25.109 (Public Notice and Comment) include all applicable requirements of 40 CFR 124. 11.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 124.12(a). 40 CFR 124.12 relates to public hearings	IDAPA 58.01.25.109 (Public Notice and Comment) include all applicable requirements of 40 CFR 124.12(a). 40 CFR 124.12(a) requires a "public hearing" in certain circumstances. Public hearing is not defined in the NPDES regulations. However, 40 CFR 25.5 provides the minimum requirements for public hearings under the CWA. The IPDES rules at IDAPA 58.01.25.109 reference "public meetings" instead of public hearing as used in the federal regulations. Nevertheless, the IPDES rules include all the requirements applicable to public hearings. The principle requirements for public hearings are to hold a hearing whenever there is significant public interest in the permit, notice of the hearing and the requirement for a complete record of the hearing. 40 CFR 124.12(a) and 40 CFR 25.5(b) and (f). The IPDES rules	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
	provide an opportunity for the public to request a public meeting (109.02.a) a requirement that DEQ hold a public meeting whenever DEQ finds, on the basis of requests, a significant degree of public interest in the permit and the discretion for DEQ to hold a meeting for other good reasons (109.01.i) and notice of the meeting (109.01).The IPDES rules do not expressly require a complete record of the meeting. However, other provisions mandate a record be developed. First, any party who participates in a public meeting on a permit is allowed to file an appeal (IDAPA 58.01.25.204.01.a). So, there must be a record of those who attend a public meeting. Second, the issues on appeal of a permit are confined to those raised during the public comment process, which includes the public meeting. (IDAPA 58.01.25.204.01.c). Therefore, there must be a record of the issues raised	

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
	during the public meeting. Third, the administrative record for the final permit is required to include the record of, and any written material submitted as part of, any public meetings. (IDAPA 58.01.25.600.02.bii.) Thus, a record must be made of the public meeting to meet the administrative record requirements.	

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 124.17(a) and (c). 40 CFR 124.17(a) and (c) includes requirements for response to comments.	IDAPA 58.01.25.109 (Public Notice and Comment) include all applicable requirements of 40 CFR 124.17(a) and (c).	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 124.56. 40 CFR 124.56 includes requirements for fact sheets.	IDAPA 58.01.25.108 (Draft Permit and Fact Sheet) include all applicable requirements of 40 CFR 124.56.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 124.57(a).	IDAPA 58.01.25.109 (Public Notice and Comment) includes all applicable requirements of 40 CFR 124.57(a).	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.
40 CFR 124.57(a) includes requirements for public notice regarding 316(a) requests.		

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 124.59. 40 CFR 124.59 includes requirements relating to comments from government agencies.	IDAPA 58.01.25.109 (Public Notice and Comment) include all applicable requirements of 40 CFR 124.59.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 124.62.	IDAPA 58.01.25.310 (Variances) include all applicable requirements of 40 CFR 124.62.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.
40 CFR 124.62 includes requirements for decisions on variances.		

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: Subparts A, B, D, H, I, J and N of 40 CFR 125. 40 CFR 125 includes NPDES criteria and standards.	All applicable provisions of Subparts A, B, D, H, I, J and N of 40 CFR 125 are incorporated by reference at IDAPA 58.01.25.003.02.n, o, p, q, r and s.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 40 CFR 129, 133 and subchapter N.	40 CFR 129 and 133 are incorporated by reference at IDAPA 58.01.25.003.02.t and u. Subchapter N is incorporated by reference at IDAPA 58.01.25.003.02.w through y.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.
40 CFR 129 relates to toxic pollutant effluent standards and prohibitions, 133 relates to secondary treatment. Subchapter N includes pretreatment requirements and effluent limitations and guidelines.		

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 40 CFR 122.30.	40 CFR 122.30 is incorporated by reference at IDAPA 58.01.25.003.02.h.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.
40 CFR 122.30 includes storm water requirements.		

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 40 CFR 122.32.	40 CFR 122.32 is incorporated by reference at IDAPA 58.01.25.003.02.h.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.
40 CFR 122.32 includes storm water requirements.		

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 40 CFR 122.33.	40 CFR 122.33 is incorporated by reference at IDAPA 58.01.25.003.02.h.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.
40 CFR 122.33 includes storm water requirements.		

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 40 CFR 122.34.	40 CFR 122.34 is incorporated by reference at IDAPA 58.01.25.003.02.h.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.
40 CFR 122.34 includes storm water requirements.		

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 40 CFR 122.35.	40 CFR 122.35 is incorporated by reference at IDAPA 58.01.25.003.02.h.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.
40 CFR 122.35 includes storm water requirements.		

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: 40 CFR 122.36. 40 CFR 122.36 includes storm water requirements.	40 CFR 122.36 is incorporated by reference at IDAPA 58.01.25.003.02.h.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(a) All State programs must have legal authority to implement each of the following provisions: for receipt of electronic copies: 40 CFR Part 3.	IDAPA 58.01.25.090.05, IDAPA 58.01.25.105.01, IDAPA 58.01.25.130.02, and IDAPA 58.01.25.600.03, provide that DEQ may require any signed, certified, or authorized information required under IDAPA 58.01.25 "Rules Regulating the IPDES Program" to be submitted electronically, with an electronic signature approved by the DEQ.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program. In addition, Idaho Code section 28-50-101 *et seq.*, provides the legal authority necessary to implement the electronic reporting component of an authorized program and to enforce the program using electronic documents collected, in accordance with 40 CFR 3.2000. Upon authorization from EPA to implement the state IPDES program, DEQ will submit an application to the EPA for approval of an electronic reporting program, in accordance with 40 CFR 3.1000(b)(1).
40 CFR Part 3 includes electronic copy requirements.		

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(b). State NPDES programs shall have an approved continuing planning process.	The Idaho Water Quality Standards, IDAPA 58.01.02.050.03, provides for the development of the continuing planning process.	Idaho Code sections 39-105 and 107, and Idaho Code sections 39-3601 through 3623 provide authority for DEQ to adopt and implement Water Quality Standards and other water quality programs, including the continuing planning process.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR § 123.25(c) State NPDES programs shall ensure that any board or body which approves all or portions of permits shall not include as a member any person who receives, or has during the previous 2 years received, a significant portion of income directly or indirectly from permit holders or applicants for a permit.	IDAPA 58.01.25.204.20 prohibits any hearing officer hearing a NPDES permitting decision appeal from having a conflict of interest as provided in 40 CFR 123.25(c).	Idaho Code Section 39-175D(3) provides that no person, including the director of DEQ and hearing officers, who shares authority to approve all or portions of IPDES permits either in the first instance, as modified or reissued, or on appeal, shall have a conflict of interest as defined in 40 CFR 123.25(c).

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR 123.26(a)-(e) provide requirements for compliance evaluation programs. Subsection (c) provides that the State program Director or officers must have authority to enter any site or premises subject to regulation or in which records relevant to program operation are kept in order to copy any records, inspect, monitor or otherwise investigate compliance with the State program including compliance with permit conditions and other program requirements. States whose law requires a search warrant before entry conform with this requirement.	IDAPA 58.01.25.105.05 contains a broad requirement for permit applicants to provide any information necessary for DEQ to make permit decisions. Moreover, DEQ has express discretionary authority to modify or revoke and reissue permits at "the Department's initiative" (58.01.25.201.01.a.) upon receipt of "any pertinent information" (58.01.25.201.02.). Such pertinent information includes "material and substantial alterations [to the facility or activity]" (58.01.25.201.02.c.i.) or any "new information" (58.01.25.201.02.c.ii.). This at least matches—if not exceeds—EPA's § 308(a) authority as well as the requirements of state program authority regarding permit conditions and modifications under 40 CFR §§ 122.42-44, 62, 64, or any other relevant item enumerated in § 123.25. Once permitted, IDAPA	Idaho Code section 39-175E(1) provides that all investigation, inspection, and enforcement authorities and requirements set forth in the Environmental Protection and Health Act (Idaho Code sections 39-101 through 39-130) shall be available to DEQ and shall apply with respect to the IPDES program. This includes Idaho Code section 39-105(2), which grants the Director broad authority to establish *any* rules necessary to deal with problems generally related to water pollution. In addition, Idaho Code section 39-108(1) provides the Director with broad authority to investigate alleged violations by unpermitted sources. Per Idaho Code section 39-108(1)-(2), this investigatory authority includes broad powers to conduct a program of surveillance, entry, and regular or periodic inspection, as well as to enter at all reasonable times upon any private or public property, upon presentation of appropriate credentials, for the purpose of inspecting or investigation to ascertain possible violations of DEQ rules, permits, requirements or orders. These authorities are operative to the fullest extent allowed by U.S. and Idaho constitutional search and seizure law.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
	58.01.25.300.09 provides that all permits shall include a provision under which the permittee shall provide DEQ's inspectors, or authorized representatives, including authorized contractors acting as representatives of DEQ, upon presentation of credentials and other documents as may be required by law, access to enter upon the premises where a regulated facility or activity is located or conducted, or where records must be kept; access to any records that must be kept under the permit and to copy such records; inspect any facilities equipment, practices or operations, and sample or monitor at reasonable times for purposes of assuring permit compliance or as otherwise authorized by the CWA.	These grants authority—both individually and collectively—establish clear and robust authority for IPDES to identify unpermitted discharges, require and issue permits to control them, and pursue necessary enforcement actions (as outlined with more specificity in other responses *supra* and *infra*).

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR 123.27(a)(1) provides that States must have the authority to restrain immediately and effectively any person by order or by suit in State court from engaging in any unauthorized activity which is endangering or causing damage to public health or the environment.	IDAPA 58.01.25.500.01 provides that any person who violates any provision in the IPDES rules shall be subject to administrative, civil, or criminal enforcement and those remedies authorized in the Environmental Protection and Health Act. This includes, but is not limited to, enforcement of the obligation to obtain an IPDES permit, IDAPA 58.01.25.102, and the duty to comply with all permit conditions, IDAPA 58.01.25.300.01.	Idaho Code section 39-175E(1) provides that all investigation, inspection and enforcement authorities and requirements set forth in the Environmental Protection and Health Act, Idaho Code sections 39-101 through 39-130, shall be available to DEQ and shall apply with respect to the IPDES program. Idaho Code section 39-108(8) authorizes DEQ, in circumstances of emergency creating conditions of imminent and substantial danger to the public health or environment, to institute a civil action for an immediate injunction to halt any discharge, emission or other activity in violation of DEQ rules, permits and orders. Idaho Code section 39-109 provides that it shall be the duty of the attorney general to institute and prosecute civil enforcement actions or injunctive actions as provided in Idaho Code section 39-108. In addition, though the Idaho Constitution grants general criminal jurisdiction to County Prosecutors, Idaho Code 39-109 specifically provides primary prosecutorial authority to the Attorney General for violations of the Environmental Protection and Health Act. The section also allows for collaborative with County prosecutors, up to

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
		and including delegation, but does not mandate delegation. The Office of the Attorney General (OAG) has a Memorandum of Understanding with the Association of County Prosecutors delineating the types of criminal prosecutions that will be generally handled by the OAG and those that will be handled by the Counties. The current MOU does not address violations of IPDES regulations. During the next update of the MOU, the OAG will include provisions indicating that criminal IPDES violations will be prosecuted by the OAG. In the interim the MOU has provisions that advise that before filing charges in a county; the OAG will consult with the County Prosecutor and obtain designation as a special deputy county prosecutor prior to bringing the enforcement case. The OAG has never been in a situation where it could not bring an environmental criminal case in the county.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR 123.27(a)(2) provides that States must have authority to sue in courts of competent jurisdiction to enjoin any threatened or continuing violation of any program requirement, including permit conditions, without the necessity of a prior revocation of the permit.	IDAPA 58.01.25.500.01 provides that any person who violates any provision in the IPDES rules shall be subject to administrative, civil or criminal enforcement and those remedies authorized in the Environmental Protection and Health Act.	Idaho Code section 39-175E(1) provides that all investigation, inspection and enforcement authorities and requirements set forth in the Environmental Protection and Health Act, Idaho Code sections 39-101 through 39-130, shall be available to DEQ and shall apply with respect to the IPDES program. Idaho Code section 39-108(3)(b) provides authority for DEQ to initiate a civil enforcement action through the attorney general as provided in Idaho Code section 39-109 to compel compliance with any rule, permit or order and for any relief or remedies authorized in the EPHA. Idaho Code section 39-115(2)(a) provides the authority to DEQ to sue to enjoin any threatened or continuing violation of pollution source permits or conditions thereof without the necessity of a prior revocation of the permit.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR 123.27(a)(3)(i) provides that States must have authority to assess or sue to recover in court civil penalties for violation of any NPDES permit condition; any NPDES filing requirement; any duty to allow or carry out inspection, entry or monitoring activities; or any regulation or orders issued by the Director. Such penalties shall be assessable in at least the amount of $5,000 a day for each violation.	IDAPA 58.01.25.500.01 provides that any person who violates any permit condition, filing or reporting requirement, duty to allow or carry out inspections, entry or monitoring requirements or any other provision in the IPDES rules shall be subject to administrative, civil or criminal enforcement and those remedies authorized in the Environmental Protection and Health Act, Idaho Code Sections 39-101 *et seq*.	Idaho Code section 39-175E(1) provides that all investigation, inspection and enforcement authorities and requirements set forth in the Environmental Protection and Health Act, Idaho Code sections 39-101 through 39-130, shall be available to DEQ and shall apply with respect to the IPDES program. Idaho Code section 39-108 provides authority for DEQ to initiate an administrative enforcement action and a civil enforcement action through the attorney general as provided in Idaho Code section 39-109. Idaho Code section 39-108(5)(a)(ii) provides authority for DEQ to recover civil penalties for any violation of any rule, permit or order related to the IPDES program in an amount not to exceed $10,000 per violation or $5,000 for each day of a continuing violation, whichever is greater.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR 123.27(a)(3)(ii)provides that States must have authority to assess or sue to recover in court criminal fines against any person who willfully or negligently violates any applicable standards or limitations; any NPDES permit condition: or any NPDES filing requirement. These fines shall be assessable in at least the amount of $10,000 a day for each violation.	IDAPA 58.01.25.500.01 provides that any person who violates any permit condition, filing or reporting requirement, duty to allow or carry out inspections, entry or monitoring requirements or any other provision in the IPDES rules shall be subject to administrative, civil or criminal enforcement and those remedies authorized in the Environmental Protection and Health Act, Idaho Code Sections 39-101 *et seq.*	Idaho Code section 39-175E(1) provides that all investigation, inspection and enforcement authorities and requirements set forth in the Environmental Protection and Health Act, Idaho Code sections 39-101 through 39-130, shall be available to DEQ and shall apply with respect to the IPDES program. Idaho Code section 39-109 authorizes DEQ, through the Attorney General's office, to prosecute criminal actions or proceedings. Idaho Code section 39-117 provides that any person who willfully or negligently violates any IPDES standard or limitation, permit condition or filing requirement shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than $10,000 per violation or for each day of a continuing violation.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR 123.27(a)(3)(iii) provides that States must have authority to assess or sue to recover in court criminal fines against any person who knowingly makes any false statement, representation or certification in any NPDES form, in any notice or report required by an NPDES permit, or who knowingly renders in accurate any monitoring device or method required to be maintained. These fines shall be recoverable in at least the amount of $5,000 for each instance of violation.	IDAPA 58.01.25.500.02 provides that it is a violation of the IPDES rules for any person to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under an IPDES permit. IDAPA 58.01.25.500.03 provides it is a violation of the IPDES rules for any person to knowingly make any false statement, representation, or certification in any record or other document submitted or required to be maintained under an IPDES permit, including monitoring reports or reports of compliance or non-compliance.	Idaho Code section 39-175E(1) provides that all investigation, inspection and enforcement authorities and requirements set forth in the Environmental Protection and Health Act, Idaho Code sections 39-101 through 39-130, shall be available to DEQ and shall apply with respect to the IPDES program. Idaho Code section 39-109 authorizes DEQ, through the Attorney General's office, to prosecute criminal actions or proceedings. Idaho Code section 39-117 provides that any person who knowingly makes any false statement, representation or certification in any IPDES form, in any notice or report required by an IPDES permit, or who knowingly renders inaccurate any monitoring device or method required to be maintained shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $5,000 per violation or for each day of a continuing violation. A misdemeanor violation of the IPDES program requirements as set forth in Idaho code section 38-117 is punishable by imprisonment in a county jail not exceeding six (6) months. Idaho Code section 18-113.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR 123.27(b)(1) provides that the maximum civil penalty or criminal fine shall be assessable for each instance of violation and if the violation is continuous, shall be assessable up to the maximum amount for each day of violation.	IDAPA 58.01.25.500.01 provides that any person who violates any permit condition, filing or reporting requirement, duty to allow or carry out inspections, entry or monitoring requirements or any other provision in the IPDES rules shall be subject to administrative, civil or criminal enforcement and those remedies authorized in the Environmental Protection and Health Act, Idaho Code Sections 39-101 *et seq.*	Idaho Code section 39-175E(1) provides that all investigation, inspection and enforcement authorities and requirements set forth in the Environmental Protection and Health Act, Idaho Code sections 39-101 through 39-130, shall be available to DEQ and shall apply with respect to the IPDES program. The civil and criminal penalty authorities cited in the above sections provide for both per violation and per day penalties and fines at the maximum dollar amount.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR 123.27(b)(2) provides that the burden of proof and degree of knowledge or intent required under State law for establishing civil and criminal violations shall be no greater than the burden of proof or degree of knowledge or intent EPA must provide when it brings an action under the appropriate Act.		Idaho Code sections 39-175E and 39-108 provide civil liability for violations of the IPDES rules, permits, requirements or orders. There is no mental state requirement in order to establish civil liability, which according to the notes in 40 CFR 123.27, is consistent with federal law. Idaho Code section 39-117(3) provides that any person who willfully or negligently violates any IPDES standard or limitation, permit condition or filing requirement shall be guilty of a misdemeanor. Idaho Code section 18-114 provides that in a crime there must exist an act and intent or criminal negligence. Criminal negligence has been interpreted by the Idaho courts to mean gross negligence or something more than simple or ordinary negligence. Haxforth v. State, 117 Idaho 189, 786 P.2d 580 (1990); State v. McMahan, 57 Idaho 240, 65 P.2d 156 (1937); State v. Hintz, 61 Idaho 411, 102 P.2d 639 (1940). The note to 40 CFR 123.27(a)(3) provides that states which provide criminal remedies based on gross negligence satisfy federal requirements. Therefore, DEQ's authorities are consistent with the federal CWA regulations as explained in the notes thereto.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR 123.27(c) provides that civil penalties must be appropriate to the violation.	IDAPA 58.01.25.500.01 provides that any person who violates any permit condition, filing or reporting requirement, duty to allow or carry out inspections, entry or monitoring requirements or any other provision in the IPDES rules shall be subject to administrative, civil or criminal enforcement and those remedies authorized in the Environmental Protection and Health Act, Idaho Code Sections 39-101 *et seq*.	Idaho Code section 39-175E(1) provides that all investigation, inspection and enforcement authorities and requirements set forth in the Environmental Protection and Health Act, Idaho Code sections 39-101 through 39-130, shall be available to DEQ and shall apply with respect to the IPDES program. Idaho Code section 39-108 provides DEQ the discretion to assess penalties up to maximums that are consistent with the requirements in 40 CFR 123.27. Under this authority, DEQ can assess and collect penalties appropriate to the violation.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR 123.27(d) provides that any State administering a program shall provide for public participation in the State enforcement process by providing either…(2) assurance that the State agency will investigate and provide written responses to all citizen complaints submitted pursuant to the procedures specified in 123.26(b)(4); and not oppose intervention by any citizen when permissive intervention may be authorized by statute, rule, or regulation; and publish notice of and provide at least 30 days for public comment on any proposed settlement of a State enforcement action.		Idaho Code 39-108(9) makes compliance with 40 CFR 123.27(d)(2) mandatory for DEQ. Idaho Code section 39-108(9) provides that in any administrative or civil enforcement proceeding for violation of any IPDES program rule, permit, requirement, or order, DEQ shall comply with the public participation requirements set forth in 40 CFR 123.27(d)(2). In order to comply, DEQ will investigate citizen complaints consistent with 40 CFR 123.26(b)(4) and shall provide written response to the complainant in the form of email when available consistent with §123.27(d)(2)(i) in circumstances where e-mail is not available, DEQ will mail a copy of its inspection follow up to the complainant; Public notices of settlements will be posted to DEQ's website and in the major newspaper within the permittee's DEQ region. The public notice will provide 30 days for the receipt of public comment, and information on how to submit comments.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR 123.28 provides that state law must provide authority to issue permits to control the disposal of pollutants into wells. A state program approved under section 1422 of Safe Drinking Water Act (SDWA) satisfies this requirement.	The Idaho Department of Water Resources (IDWR) operates an EPA approved injection well program under the SDWA. The Rules are at IDAPA 37.03.03.	The IDWR injection well program is authorized by Idaho Code sections 42-3913, 42-3914 and 42-3915.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR 123.29 provides that State programs shall provide that no permit shall be issued when the EPA Regional Administrator has objected in writing under 40 CFR 123.44.	IDAPA 58.01.25.103.02 provides that DEQ will not issue a permit when DEQ has received written objection from the EPA Regional Administrator under 40 CFR 123.44 until the objections are resolved according to the process identified in the MOA between EPA and DEQ.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR 123.30 requires that States shall provide an opportunity for judicial review in State Court of the final approval or denial of permits that is sufficient to provide for, encourage, and assist public participation in the permitting process. A State will not meet this standard if it narrowly restricts the class of persons who may challenge the approval or denial of permits (for example, if only the permittee can obtain judicial review, if persons must demonstrate injury to a pecuniary interest in order to obtain judicial review, or if persons must have a property interest in close proximity to a discharge or surface waters in order to obtain judicial review.)	IDAPA 58.01.25.204 provides that any person aggrieved by a final IPDES permit decision may appeal that decision by filing a petition for review that is heard by a hearing officer appointed by the Director of DEQ. IDAPA 58.01.25.204.01 provides that persons aggrieved include the permit holder or applicant and any person or entity who filed comments or who participated in the public meeting on the draft permit. In addition, any person who has a direct and substantial interest in the outcome of the Petition for Review may intervene. IDAPA 58.25.204.26 provides that any person aggrieved by a final order issued by the hearing officer that affirms DEQ's permitting decision has a right to judicial review. Such an appeal is to State District Court, and the appeal is governed by Idaho Code sections 67-5270 through 67-5279	Idaho Code section 39-175D(4) provides that any person aggrieved by a final determination of the hearing officer may secure judicial review by filing a petition for review as prescribed under the IPDES rules and the provisions of chapter 52, title 67, Idaho Code. A person aggrieved is not limited to only permittees, and is not limited to those with a pecuniary interest or a property interest in close proximity to a discharge or surface waters. The administrative appeal includes any person who participated in the public permitting process, by submitting comments or attending a public meeting. Moreover, "aggrieved person" has been interpreted by the Idaho Supreme Court to include any person where the decision operates "directly and injuriously upon his personal, pecuniary, or property rights." Application of Fernan Lake Vill., 80 Idaho 412, 415, 331 P.2d 278, 279 (1958); Ashton Urban Renewal Agency v. Ashton Memorial, 155 Idaho 309, 311 P.3d 730 (2013). The Idaho Supreme Court has also held that a person need not have an injury to a pecuniary interest to have standing to challenge an agency action in court. Wasden v. State Board of Land Commissioners, 153 Idaho 190, 280 P.3d 693 (2012) ("Standing does not require proof of a pecuniary loss or injury.").

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
40 CFR 123.35 provides that States must develop a process, as well as criteria, to designate small MS4s other than those described in 123.32(a)(1) as regulated small MS4s. In making the designations of small MS4s, the State must develop criteria to evaluate whether a storm water discharge results in or has the potential to result in exceedances of Water Quality Standards or other significant water quality impacts and must designate any small MS4 that contributes substantially to the pollutant loadings of a physically interconnected municipal separate storm sewer that is regulated by the NPDES storm water program. 40 CFR 123.35 also provides that States must issue permits consistent with 122.32 through 122.35.	The requirements of 40 CFR 123.35 regarding the designation of small MS4s are included in IDAPA 58.01.25.102.04 (Obligation to Obtain an IPDES Permit). In addition, the requirements of 40 CFR 123.35 regarding compliance with 122.32 through 122.35 are included by incorporation by reference of 122.32 through 122.37 in IDAPA 58.01.25.003.02.h.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
CWA Section 402(b)(1)(A) provides that a State NPDES program must have adequate authority to issue permits which apply, and insure compliance with, any applicable requirements of sections 301, 302, 306, 307, and 403 of the CWA.	As set forth above, DEQ has included all the permitting requirements set forth in 40 CFR 123.25. These permitting requirements insure that there is adequate authority to issue permits which apply, and insure compliance with applicable requirements of sections 301, 302, 306, 307 and 403 of the CWA.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
CWA Section 402(b)(1)(B) provides that a State NPDES program must have adequate authority to issue permits which are for fixed terms not exceeding five years.	IDAPA 58.01.25.101 (Duration of Permits) provides that permits shall be issued for a fixed duration not to exceed five years.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
CWA Section 402(b)(1)(C) provides that a State NPDES program must have adequate authority to issue permits which can be terminated or modified for cause including but not limited to: (i) violation of any condition of the permit; (ii) obtaining a permit by misrepresentation; or (iii) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.	IDAPA 58.01.25.201 (Modification, or Revocation and Reissuance of IPDES Permits) and IDAPA 58.01.25.203 (Termination of IPDES Permits) include all the federal permit modification and termination requirements reflected in 40 CFR 122.62, 40 CFR 122.64 and 40 CFR 124.6. IDAPA 58.01.25.203.03 specifically provides that permits may be terminated for noncompliance with any condition of a permit; obtaining the permit by misrepresentation; and a change in any condition that requires either a temporary or permanent reduction or elimination of any discharge.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
CWA Section 402(b)(1)(D) provides that a State NPDES program must have adequate authority to issue permits which control the disposal of pollutants into wells.	IDAPA 58.01.25.303.09 includes the applicable requirements regarding the disposal of pollutants into wells set forth in 40 CFR 122.50. In addition, Idaho, through the Idaho Department of Water Resources, operates an EPA approved injection well program under the Safe Drinking Water Act. The Rules are at IDAPA 37.03.03.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program. In addition, the IDWR injection well program is authorized by Idaho Code sections 42-3913, 42-3914 and 42-3915.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
CWA section 402(b)(2)(A) and (B) provide that a State program must have the authority to issue permits which apply, and insure compliance with, all applicable requirements of section 308 of the CWA, or to inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of the CWA.	DEQ's Rules and Statutes provide authority to inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of the CWA. IDAPA 58.01.25.300.09 provides that all permits shall include a provision under which the permittee shall provide DEQ's inspectors, or authorized representatives, including authorized contractors acting as representatives of DEQ, upon presentation of credentials and other documents as may be required by law, access to enter upon the premises where a regulated facility or activity is located or conducted, or where records must be kept; access to any records that must be kept under the permit and to copy such records; inspect any facilities equipment, practices or operations, and sample or monitor at reasonable times for purposes of assuring permit compliance or as otherwise	Idaho Code section 39-175E(1) provides that all investigation, inspection and enforcement authorities and requirements set forth in the Environmental Protection and Health Act, Idaho Code sections 39-101 through 39-130, shall be available to DEQ and shall apply with respect to the IPDES program. This includes Idaho Code section 39-105(2), which grants the Director broad authority to establish *any* rules necessary to deal with problems generally related to water pollution. In addition, Idaho Code section 39-108(1) provides the Director with similarly extensive authority to investigate alleged violations by unpermitted sources. Per Idaho Code section 39-108(1)-(2), this investigatory authority includes broad powers to conduct a program of surveillance, entry, and regular or periodic inspection, as well as to enter at all reasonable times upon any private or public property, upon presentation of appropriate credentials, for the purpose of inspecting or investigation to ascertain possible violations of DEQ rules, permits, requirements or orders. These authorities are operative to the fullest extent allowed by U.S. and Idaho constitutional search and seizure law.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
	authorized by the CWA. DEQ has also included all monitoring requirements in 40 CFR 122.48 in IDAPA 58.01.25.304 (Monitoring and Reporting Requirements). IDAPA 58.01.25.105.01-.02 provides DEQ with express discretionary authority to modify or revoke and reissue permits at “the Department’s initiative” upon receipt of “any pertinent information.” Such pertinent information includes “material and substantial alterations [to the facility or activity]” or any “new information.” Finally, DEQ has included provisions in its Rules that address confidential information submitted to DEQ and that ensure that information required to be available to the public under 40 CFR 122.7 is available. This is found in the rules at IDAPA 58.01.25.002.	Idaho Code section 74-114(1) is part of Idaho's public records law, and provides that the information listed in 40 CFR 122.7 is available to the public.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
CWA section 402(b)(3) provides that State programs must have authority to insure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application.	DEQ has included all the public notice, public hearing, and response to comment provisions that are required by 40 CFR 123.25 (see discussion above). IDAPA 58.01.25.109 specifically provides that DEQ will provide notice to the public, including affected States, of permitting decisions, including notice of a draft permit, intent to deny a permit, the scheduling of a public meeting and a new source determination.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
CWA section 402(b)(4) provides that State programs must have authority to insure that the Administrator of EPA receives notice of each application for a permit.	IDAPA 58.01.25.109.01.d provides that DEQ shall provide notice to EPA of permit decisions, including notice of a draft permit, intent to deny a permit application, the scheduling of a public meeting and a new source determination.	Idaho Code Section 39-175C authorizes DEQ to enter into a Memorandum of Agreement with EPA regarding the IPDES program. The MOA includes specific provisions, as outlined in 40 CFR 123.41 through 123.44 dealing with the sharing of information.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
CWA Section 402(b)(5) provides that State programs must have authority to insure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing.	IDAPA 58.01.25.109 provides that DEQ shall send notice of IPDES permitting actions, including a draft permit, to affected State agencies with jurisdiction over fish, shellfish, wildlife and other natural resources. 109.02 further provides that any person, which includes an affected State, may submit comments on a draft permit. If during public comments, an affected state agency with jurisdiction over fish, wildlife or public health advices DEQ in writing that the imposition of specified conditions upon the permit is necessary to avoid substantial impairment of fish, shellfish or wildlife resources, DEQ may include the conditions in the permit. 109.03 requires that DEQ provide a response to all comments, and section 107.04 provides that DEQ must provide notice to any person who commented regarding the final permit decision. The response to comments is	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
	available to any member of the public. In addition, IDAPA 58.01.25.302.06.c provides that requirements must be included in a permit if necessary to conform to applicable water quality requirements under CWA section 402(b)(5). IDAPA 58.01.25.103.03 provides that DEQ cannot issue a permit if it cannot insure compliance with applicable water quality requirements of all affected States.	

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
CWA Section 402(b)(6) provides that State programs must have authority to insure that no permit will be issued if, in the judgement of the Secretary of the Army acting through the Chief of Engineers, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby.	IDAPA 58.01.25.103.04 provides that DEQ will not issue an IPDES permit for a discharge when, in the judgment of the Secretary of the US Army through the Army Corp Chief of Engineers, anchorage and navigation would be substantially impaired by the discharge.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
CWA Section 402(b)(7) provides that State programs must have authority to abate violations of the permit or the permit program, including civil and criminal penalties and other ways or means of enforcement.	As noted above, DEQ has included in its Rules and Statutes all the requirements for compliance evaluation and enforcement authority set forth in 40 CFR 123.26 and 40 CFR 123.27. Therefore, DEQ has the authority required in CWA section 402(b)(7).	As noted above, DEQ has included in its Rules and Statutes all the requirements for compliance evaluation and enforcement authority set forth in 40 CFR 123.26 and 40 CFR 123.27. Therefore, DEQ has the authority required in CWA section 402(b)(7).

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
CWA Section 402(b)(8) provides that State programs must have authority to insure that any permit for a discharge from a POTW includes conditions to require the identification in terms of character and volume of pollutants of any significant source introducing pollutants subject to pretreatment standards under section 1317(b) of the CWA and a program to assure compliance with such pretreatment standards.	DEQ has incorporated by reference the federal pretreatment requirements set forth in 40 CFR 403 in IDAPA 58.01.25.003.02.x. *See* also IDAPA 58.01.25.370 (Pretreatment Standards). These provisions of the IPDES Rules, along with the general permit provisions contained in 58.01.25.300 through 305, provide authority to DEQ for a program to assure compliance with pretreatment standards. In addition, IDAPA 58.01.25.302.12 provides that a POTW permit must include pretreatment program conditions requiring the permittee to identify, in terms of character and volume of pollutants, any Significant Industrial Users discharging into the POTW subject to Pretreatment Standards under the CWA section 307(b) and 40 CFR 403, and include conditions requiring the permittee to submit a local program when required by and	In addition to those general statutory provisions that authorize DEQ to adopt rules and to otherwise take all actions necessary to implement a IPDES program, Idaho Code section 39-175E(2) provides specific authority for DEQ to enforce pretreatment standards, including local limits.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
	in accordance with 40 CFR 403 to ensure compliance with pretreatment standards to the extent applicable under the CWA section 307(b).	

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
CWA Section 402(b)(8) provides that State programs must have authority to insure that any permit for a discharge from a POTW includes conditions to require notice to the permitting agency of (A) new introduction into the POTW from any source which would be a new source under section 1316 if the pollutants were discharged directly, and (B) new introduction into a POTW of pollutants which would be subject to section 1311 if the pollutants were discharged directly, or (C) a substantial change in volume or character of pollutants being introduced into the POTW.	DEQ has incorporated by reference the federal pretreatment requirements set forth in 40 CFR 403 in IDAPA 58.01.25.003.02.x. *See* also IDAPA 58.01.25.370 (Pretreatment Standards). These provisions of the IPDES Rules, along with the general permit provisions contained in 58.01.25.300 through 305, provide authority to DEQ for a program to assure compliance with pretreatment standards. In addition, IDAPA 58.01.25.301.02 requires that all POTWs provide the notice required in section 402(b)(8).	In addition to those general statutory provisions that authorize DEQ to adopt rules and to otherwise take all actions necessary to implement a IPDES program, Idaho Code section 39-175E(2) provides specific authority for DEQ to enforce pretreatment standards, including local limits.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
CWA Section 402(b)(9) provides that State programs must have authority to insure that any industrial user of any POTW will comply with sections 1284(b), 1317 and 1318 of the CWA.	DEQ has incorporated by reference the federal pretreatment requirements set forth in 40 CFR 403 in IDAPA 58.01.25.003.02.x. *See* also IDAPA 58.01.25.370 (Pretreatment Standards). These provisions of the IPDES Rules, along with the general permit provisions contained in 58.01.25.300 through 305, provide authority to DEQ for a program to assure compliance with pretreatment standards by industrial users.	In addition to those general statutory provisions that authorize DEQ to adopt rules and to otherwise take all actions necessary to implement a IPDES program, Idaho Code section 39-175E(2) provides specific authority for DEQ to enforce pretreatment standards, including local limits.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
CWA section 405(a) provides that where the disposal of sewage sludge resulting from the operation of a treatment works would result in any pollutant entering navigable waters, such disposal is prohibited except in accordance with a permit issued under section 402 of the CWA. CWA section 405 (c) provides that any State desiring to administer its own permit program for disposal of sewage sludge entering navigable waters may do so in accordance with section 402. The authorities necessary for a State to obtain approval of a NPDES program are set forth in 40 CFR 123. The substantively equivalent authorities for sewage sludge permitting are set forth in 40 CFR 501. This includes the authorities for permitting (40 CFR 501.15) compliance evaluation programs (40 CFR 501.16) enforcement authorities (40 CFR 501.17) and prohibitions (40 CFR 501.18).	The authorities necessary for a State to obtain approval of a sludge management permitting program are substantively identical to the corresponding requirements for States to obtain approval of a NPDES permitting program set forth in 40 CFR 123. As set forth above, DEQ has all the authorities for permitting set forth 40 CFR 123. In addition, DEQ has incorporated by reference in IDAPA 58.01.25.003.02.z the sewage sludge standards set forth in 40 CFR 503. *See* also 58.01.25.380 (Sewage Sludge). The permit provisions in the IPDES rules specifically require any person who discharges a pollutant from any point source into waters of the United States or who owns or operates a sludge-only facility whose sewage sludge use or disposal practice is regulated by 40 CFR 503 to obtain an IPDES permit.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
CWA section 405(f) provides that requirements for the final use or disposal of sewage sludge generated during the treatment of domestic sewage that is not subject to a permit under section 402 may be implemented through a permit, or may be implemented through direct enforcement of the requirements. DEQ has determined to issue permits to implement the requirements.	As set forth above, DEQ has all the authorities for permitting set forth in 40 CFR 123. The permit requirements are applicable to those facilities whose final use or disposal of sewage sludge is regulated under 40 CFR 503. Thus, IDAPA 58.01.25.102.01 provides that any person who owns or operates a sludge-only facility whose sewage sludge use or disposal practice is regulated by 40 CFR 503 or the IPDES rules must obtain a permit. IDAPA 58.01.25.102.03 provides that all new and currently permitted treatment works treating domestic sewage (TWTDS) whose sewage sludge use or disposal practices are regulated by 40 CFR 503 must submit an application for an IPDES permit. (*See* also IDAPA 58.01.25.105.17 permit application required for TWTDS.). In addition, the IPDES rules contain specific requirements for sewage sludge facilities and practices. IDAPA 58.01.25.302.04.b provides that standards for sewage sludge use or disposal under the CWA	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program.

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
	section 405(d), section 380 of the IPDES rules and the State Wastewater Rules shall be applied as permit conditions. In the event there are no applicable sewage sludge standards, IDAPA 58.01.25.302.04.c provides that the permit may include requirements to protect public health and the environment from sewage sludge. IDAPA 58.01.25.302.12.d requires sludge-only facilities to develop pretreatment programs under certain circumstances, and IDAPA 58.01.25.302.17 provides that IPDES permits must include any requirements under CWA section 405 governing disposal of sewage sludge for which regulations have been established. The IPDES rules also incorporate at IDAPA 58.01.25.003.02.z. the sewage sludge requirements set forth in 40 CFR 503. *See also* IDAPA 58.01.25.380 (Sewage Sludge).	

Clean Water Act (CWA) Requirement	State Rule Citation Idaho Administrative Procedure Act (IDAPA)	State Statutory Citation (Idaho Code)
Given the number of sections of the regulations that will be incorporated by reference, DEQ should clarify the State's procedures for adopting revisions to federal regulations. CWA Section 402(c)(2) provides that State programs must be in accordance with section 402 of the Act and guidelines promulgated pursuant to section 304(i)(2). Additionally, 40 CFR 123.62 (e) requires that state programs which require revisions to conform shall be so revised within one year of the date of promulgation unless a State must amend or enact a statute in order to make the required revision shall take place within 2 years.	IDAPA 58.01.25.003 lists all of the federal regulations incorporated by reference into the IPDES Rules. The DEQ will engage when necessary in an annual update of the IPDES Rules to update and incorporate any relevant revisions to the Code of Federal Regulations occurring in the preceding year. If there are no changes to federal regulations, no update will be necessary. This has been the practice in the RCRA program and will be mirrored in the IPDES program.	Idaho Code section 39-175(A) through 175(C) provide authority for DEQ to adopt rules and take any other actions necessary to obtain approval of and implement a state NPDES program, including rules necessary to maintain program approval. Idaho Code Title 67 Chapter 52 (Administrative Procedures Act) provides direction to Idaho's executive branch agencies on how to proceed when proposing changes to the rules. This process includes public participation in the negotiated rulemaking process. DEQ will engage when necessary in an annual update of the IPDES Rules to update and incorporate any relevant revisions to the Code of Federal Regulations occurring in the preceding year. If there are no changes to federal regulations, no update will be necessary. In addition, Idaho Code 67-5229 governs the process of incorporating federal regulations into the IPDES Rules by reference.