

<p><b>Docket Number:</b> <u>58-0116-0801</u>  <b>Effective Date:</b> <u>2009 Sine die</u>  <b>Rules Title:</b> <u>Wastewater Rules</u>  <b>Agency Contact and Phone:</b> <u>Michael Stambulis, 373-0123</u></p>	<p style="text-align: center;"><b>Public Notice</b></p> <p><b>Hearings:</b> <span style="float: right;">[ ]Yes [X] No</span>  <b>Locations and Dates:</b> N/A  <b>Written Comment Deadline:</b> September 3, 2008</p>
<p><b>Descriptive Summary of Rule as Initially Proposed:</b> Under the provisions of IDAPA 58.01.16, Wastewater Rules, sewer expansions such as major collection and interceptor sewer projects, whether approved for construction by the Idaho Department of Environmental Quality (DEQ) or by a qualified licensed professional engineer (QLPE), require a facility plan or a facility plan update unless the existing approved facility plan covers the entire scope of the proposed extension. Facility plans are currently not required for minor or routine collection system projects. However, the determination of classification as major or minor collection interceptor sewer projects is currently made by DEQ based on review of the owner's recommended classification. In 2005 the Idaho Legislature revised Idaho Code § 39-118 to allow sewer main extensions to be approved for construction by a QLPE without prior review by DEQ (2005 Senate Bill 1220). The requirement for an updated facility plan may preclude QLPE-approved sewer main extensions. A requirement by DEQ that all portions of the system affected by the sewer main extension must be in compliance with the current rules, even though the system has sufficient capacity in the new service area, may also preclude QLPE-approved sewer main extensions.</p> <p>DEQ is proposing this rule revision to allow a QLPE or DEQ review engineer to approve construction of a simple sewer main extension without first providing DEQ with an updated facility plan, provided that the sewer system has sufficient capacity to service the area served by the sewer main extension. The rules define a simple sewer main extension as a new or replacement wastewater main(s) that will be connected by gravity, without the use of pumps or lift stations, to existing wastewater collection facilities that have the capacity to carry the additional wastewater flow. The objective of this rulemaking is to modify the recently updated Wastewater Rules so that the engineering community can approve simple sewer main extensions as intended by 2005 Senate Bill 1220 as codified at Idaho Code § 39-118.</p> <p>The following list sets out the major issues included in the proposed rules:</p> <ol style="list-style-type: none"> <li>(1) Add and/or revise definitions (Section 010) and revise rule sections as necessary;</li> <li>(2) Revise Sections 400 and 401, review of plans and specifications;</li> <li>(3) Add new Section 409, Demonstration of Technical, Financial, and Managerial Capacity;</li> <li>(4) Modify the content of facility plans and preliminary engineering reports contained in Sections 410 and 411, respectively;</li> <li>(5) Clarify the requirements for operation and maintenance manuals (Section 425);</li> <li>(6) Clarify Subsection 430.02.o., Non-Potable Pipelines in Relation to Potable Water Pipelines;</li> <li>(7) Streamline the rules for private municipal wastewater treatment plants (Section 455);</li> <li>(8) Revise the lagoon separation distance requirement and clarify seepage testing requirements (Section 493);</li> <li>(9) Add requirements for septage transfer stations (Section 519);</li> <li>(10) Clarify operating criteria for public wastewater systems; and</li> <li>(11) Add new Section 660, Waivers.</li> </ol> <p>DEQ recommends that the Board adopt the rule, as presented in the final proposal, as a pending rule with the final effective date coinciding with the adjournment <i>sine die</i> of the First Regular Session of the Sixtieth Idaho Legislature. The rule is subject to review by the Legislature before becoming final and effective.</p>	<p><b>Negotiated Rule Making:</b> <span style="float: right;">[X] Yes [ ] No</span>  <b>Groups Involved:</b> Sign-in sheets attached.</p> <p>On April 2, 2008, the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol. 08-4, pages 40-41, and a preliminary draft rule was made available for public review. Meetings were held on April 22 and May 6, 2008. Several members of the public participated in this negotiated rulemaking process by attending the meetings and by submitting written comments.</p> <p><b>Costs To the Agency:</b> None anticipated.</p> <p><b>Costs To the Regulated Community:</b> The regulated community will realize a positive fiscal impact. The community will be able to proceed with simple sewer main extensions without procuring an engineering company to first update facility plans.</p> <p><b>Relevant Statutes:</b> Chapters 1 and 36, Title 39, Idaho Code</p> <p><b>Idaho Code § 39-107D Statement:</b> See attached.</p> <p><b>Idaho Code § 67-5221(1)(c) Fiscal Impact Statement:</b> The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable.</p>

Temporary Rule       Necessary to protect public health, safety or welfare  
 Compliance with deadlines in amendments to governing law or federal programs  
 Conferring a benefit

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Section	Section Title	Summary of Rule Changes Based on Public Comment
004	<b>Incorporation by Reference</b>	No comments received. No change.
007	<b>Use of Guidance in Design and Review</b>	No comments received. No change.
010	<b>Definitions</b>	No comments received. No change.  <i>Prior to adoption of this rule docket at its October 8, 2008 meeting, the Board of Environmental Quality revised the definition of "reasonably accessible" for clarification purposes (Subsection 010.68).</i>
201	<b>Point Source Wastewater Treatment Requirements</b>	No comments received. No change.
400	<b>Review of Plans for Municipal Wastewater Treatment or Disposal Facilities</b>	No comments received. No change.
401	<b>Review of Plans for Nonmunicipal Wastewater Treatment or Disposal Facilities</b>	No comments received. No change.
409	<b>Facility and Design Standards for Municipal Wastewater Treatment or Disposal Facilities – Demonstration of Technical, Financial, and Managerial Capacity</b>	No comments received. No change.
410	<b>Facility and Design Standards for Municipal Wastewater Treatment or Disposal Facilities – Facility Plans</b>	No comments received. No change.
411	<b>Facility and Design Standards for Municipal Wastewater Treatment or Disposal Facilities – Preliminary Engineering Reports</b>	No comments received. No change.
425	<b>Facility and Design Standards for Municipal Wastewater Treatment or Disposal Facilities – Operation and Maintenance Manuals</b>	No comments received. No change.

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Section	Section Title	Summary of Rule Changes Based on Public Comment
430	<b>Facility and Design Standards for Municipal Wastewater Treatment or Disposal Facilities – Design and Construction of Wastewater Pipelines</b>	No comments received. No change.
441	<b>Facility and Design Standards for Municipal Wastewater Treatment or Disposal Facilities – Individual Residence Wastewater Pumping Stations</b>	No comments received. No change.
450	<b>Facility and Design Standards for Municipal Wastewater Treatment or Disposal Facilities – Wastewater Treatment Facilities - General</b>	No comments received. No change.
455	<b>Private Municipal Wastewater Treatment Plants</b>	No comments received. No change.
490	<b>Facility and Design Standards for Municipal Wastewater Treatment or Disposal Facilities – Biological Treatment</b>	No comments received. No change.
493	<b>Facility and Design Standards for Municipal Wastewater Treatment or Disposal Facilities – Wastewater Lagoons</b>	No comments received. No change.
500	<b>Facility and Design Standards for Municipal Wastewater Treatment or Disposal Facilities - Disinfection</b>	No comments received. No change.
519	<b>Facility and Design Standards for Municipal Wastewater Treatment or Disposal Facilities – Septage Transfer Stations</b>	No comments received. No change.
660	<b>Waivers</b>	No comments received. No change.

**IDAHO CODE SECTION 39-107D STATEMENT:** Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations, or which propose to regulate an activity not regulated by the federal government. There is no federal law or regulation that is comparable to plan and specification review and facility standard provisions set forth in the Wastewater Rules. Therefore, the changes to the rules are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which "proposes to regulate an activity not regulated by the federal government." The Wastewater Rules address the review and approval of plans and specifications for sewage treatment plants and other waste treatment and disposal facilities and the standard by which the agency does the review and approval. This is not an activity regulated by the federal government. Therefore, Section 39-107D, Idaho Code, applies.

Section 39-107D(3), Idaho Code, provides that any rule subject to 39-107D that proposes a standard necessary to protect human health and the environment must also include in the rulemaking record and in the notice of rulemaking additional information. This additional information includes any estimates of risk accomplished, identification of populations or receptors addressed by any estimates, and other information related to an estimation of risk. The Wastewater Rules include facility and design standards which are intended to protect human health and the environment. The standards, however, are for the design and construction of wastewater systems. The rules are not based upon any express estimate or analysis of risk to public health or the environment. Instead, the facility and design standards are based upon guidelines set forth in documents, such as the "Recommended Standards for Wastewater Facilities", that are generally accepted and used throughout the United States by engineers and state regulators.