

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.12 - RULES FOR ADMINISTRATION OF WATER POLLUTION CONTROL LOANS

DOCKET NO. 58-0112-0801

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Sixtieth Idaho Legislature unless prior to that date the rule is rejected by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

**DESCRIPTIVE SUMMARY:** A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, June 4, 2008, Vol. 08-6, pages 85 through 103. DEQ received no public comments; however, the rule has been revised at Sections 004 and 007. In Section 004, DEQ's web address has been added as a means of obtaining a copy of the Wastewater Facilities Loan Handbook of Procedures. In Section 007, the proposed definitions of "applicant" and "qualifying entity/individual" have been deleted so that DEQ can more fully explore the implications of expanding the pool of applicants for nonpoint source water pollution control loans. In addition, the definition of "eligible applicant," which was struck out in the proposed rule, has been revised by removing the word "eligible" for clarification purposes, the definition of "nonpoint source project sponsor" has been revised by replacing the term "qualifying/entity individual" with "applicant," and the definition of "facility plan" has been revised to correct a typographical error. The remainder of the rule has been adopted as proposed. The Rulemaking and Public Comment Summary can be obtained at [http://www.deq.idaho.gov/rules/air/58\\_0112\\_0801\\_pending.cfm](http://www.deq.idaho.gov/rules/air/58_0112_0801_pending.cfm) or by contacting the undersigned.

**IDAHO CODE SECTION 39-107D STATEMENT:** This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

**FISCAL IMPACT STATEMENT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this rulemaking, contact Tim Wendland at [tim.wendland@deq.idaho.gov](mailto:tim.wendland@deq.idaho.gov), (208)373-0439.

Dated this 12th day of November, 2008.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton  
Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov)

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Substantive changes have been made to the pending rule.  
*Italicized text that is underscored is new text that has been added to the pending rule.*

Only those sections or subsections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-6, June 4, 2008, pages 85 through 103.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 58-0112-0801

*Section 004 is being reprinted in its entirety*

**004. INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED MATERIAL.**

**01. Incorporation by Reference.** These rules do not contain documents incorporated by reference. (3-30-01)(\_\_\_\_)

**02. Availability of Referenced Material.** The "Wastewater Facilities Loan Handbook of Procedures" (Handbook) is available at the Idaho Department of Environmental Quality, Water Quality Division Loan Program, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502, <http://www.deq.idaho.gov>. (\_\_\_\_)

*Subsections 007.01, 007.14, 007.24, and 007.30*

**0057. DEFINITIONS.**

For the purpose of the rules contained in this chapter, the following definitions apply: (12-31-91)

**007.01**

**091. Eligible Applicant.** A municipality or nonpoint source project sponsor which has the ability to establish and maintain a loan repayment source. Individuals and for-profit corporations are not eligible. (3-30-01)(\_\_\_\_)

**007.14**

**134. Facility Plan.** ~~Systematic evaluation by a professional engineer of feasible treatment alternatives considering demographic, topographic, hydrologic and institutional characteristics of a project area to demonstrate that the scheduled alternative is cost effective.~~ A plan that describes the overall system, including collection, treatment processes and facilities, and waste disposal. It is a comprehensive planning document for the existing infrastructure and includes the plan for the future of the system/facility, including upgrades and additions. The plan also includes a systematic evaluation of feasible alternatives considering demographic, topographic, hydrographic, and institutional characteristics of a project area to demonstrate that the selected alternative is cost effective and environmentally sound. A facility plan is sometimes referred to as a master plan or facilities planning study and is an overall system-wide plan as opposed to a project specific plan. A facility plan shall be prepared by or under the supervision of an Idaho licensed professional engineer and shall bear the imprint of the engineer's seal. Guidance on how to prepare a facility plan may be found in the Handbook. (5-3-03)(\_\_\_\_)

**007.24**

**24. Nonpoint Source Project Sponsor.** Any ~~county, city, special service district, nonprofit corporation, or other governmental entity, or a combination thereof~~ applicant for water pollution control loan funds for a nonpoint source pollution project. (3-30-01)(    )

***New Subsection 007.30 is being removed***

- 30. Rehabilitation.** The repair or replacement of limited segments of interceptor or collector sewers. (5-3-03)
- 31. Reserve Capacity.** That portion of the treatment works that is designed and incorporated in the constructed facilities to handle future sewage flows and loadings. (1-1-89)
- 32. Sewer Use Ordinance/Sewer Use Resolution.** An ordinance ~~adopted pursuant to Title 42, Chapter 32, Idaho Code, or other applicable law~~ or resolution which requires new sewers and connections to be properly designed and constructed, prohibits extraneous sources of inflow and prohibits introduction of wastes into the sewer in an amount that endangers the public safety or the physical or operational integrity of the wastewater treatment facility. (1-1-89)(    )
- 33. State.** The state of Idaho. (12-31-91)
- 34. Supplemental Grants.** A grant awarded ~~to a municipality~~ in conjunction with a loan from the water pollution control loan account. (3-30-01)(    )
- 35. Suspension.** An action by the Director to suspend a loan contract prior to project completion for a specified cause. Suspended contracts may be reinstated. (1-1-89)
- 36. Unified Watershed Assessment.** Federal watershed assessment that encompasses the State list of impaired waters. (3-30-01)
- 37. Termination.** An action by the Director to permanently terminate a loan contract prior to project completion for a specific cause. Terminated contracts will not be reinstated. (1-1-89)
- 38. User Charge System.** A system of rates and service charges applicable to specific types of users, including any legal enforcement mechanism as may be required and which provides sufficient reserves and/or revenues for debt retirement, operation and maintenance, and replacement of the installed equipment or structures. (3-30-01)
- 39. Wastewater.** A combination of the liquid and water-carried wastes from dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any groundwater, surface water and storm water that may be present; liquid and water that is physically, chemically, biologically, or rationally identifiable as containing excreta, urine, pollutants or domestic or commercial wastes; sewage. (1-1-89)
- 40. Wastewater Treatment Facility.** Any facility, including land, equipment, furnishings and appurtenances thereof, used for the purpose of collecting, treating, neutralizing or stabilizing wastewater and removing pollutants from wastewater including the treatment plant, collectors, interceptors, outfall and outlet sewers, pumping stations, sludge treatment and handling systems, land disposal systems; a sewage treatment plant. (1-1-89)
- 41. Water Pollution Control Project.** Any project that contributes to the removal, curtailment, or mitigation of pollution of the surface waters or groundwater of the state, or the restoration of the quality of said waters, and conforms to any applicable planning document which has been approved and/or adopted such as the State Water Quality Management Plan. This includes the planning, design, construction/implementation or any other distinct stage or phase of a project. (3-30-01)